

R.M. of ELLICE – ARCHIE
BY-LAW# 03-2020
BURNING BY-LAW

Being a By-Law of the Rural Municipality of Ellice – Archie for the prevention and control of fires and burning within the Rural Municipality of Ellice – Archie.

WHEREAS it is deemed expedient and advisable to pass a By-Law to provide generally for the protection of life and property from damages by fire and to regulate burning within The Rural Municipality of Ellice – Archie; and

WHEREAS Section 232(1) of *The Municipal Act* provides that a Council may pass By-Laws for municipal purposes respecting the following matters pertaining to:

- a) The safety, health, protection and well-being of people from fire;
- b) The safety and protection of property from fire;
- c) Implementing various programs and or laws for fire prevention purposes;
- d) Implementing various programs for the purposes of fire suppression;
- e) Enforcement of any provincial or municipal statutes as they may apply.

NOW THEREFORE the Council of the Rural Municipality of Ellice – Archie, in council duly assembled, enacts as follows:

1. SHORT TITLE

- 1.1. THAT this By-Law be referred to as “*The Burning By-Law*”.

2. DEFINITIONS

- 2.1 **Authority Having Jurisdiction (AHJ):** the Municipal Council and the duly appointed agents thereof.
- 2.2 **Barbecue:** a small contained fire that is set in a barbecue, grill or similar device used to cook food.
- 2.3 **Fire Pit:** a fire built in a designated containment structure that is kindled by dry firewood and would be easily covered.
- 2.4 **Designate:** any person authorized by the AHJ to enforce this By-Law on behalf of the AHJ.
- 2.5 **Officer:** the Fire Chief, any member of the Fire Service or any person acting on behalf of the AHJ, appointed as a fire guardian for the purpose of *The Wildfires Act*.
- 2.6 **Outdoor Fire:** a fire that is started outdoors including crop residue burning, land clearing, and grass burning.
- 2.7 **Open Burning:** the outdoor burning of combustible material where smoke is allowed to discharge into the open air from the ground, or other burning device, but does not include the burning of a Fire Pit.
- 2.8 **Yard Waste Burning:** the outdoor burning of yard vegetation waste which includes leaves and dried garden vegetation.
- 2.9 **Restricted Yard Waste Burning:** the outdoor burning of branches but does not include the burning of leaves or dried garden vegetation.
- 2.10 **Nuisance Burning:** the burning in the open of tires, plastics, rubber, creosote soaked or pressure treated wood, oil products, manure, and refuse. This shall not be so interpreted to include gas, charcoal, wood barbecues, or devices used for the preparation of food or Yard Waste Burning.

3. DELEGATION HAVING AUTHORITY

- 3.1 THAT the Authority Having Jurisdiction, Chief Administrative Officer, or designate of the Rural Municipality of Ellice – Archie, be appointed as Officers for the purpose of enforcing Provincial statutes, regulations, as well as this By-Law.

4. RESPONSIBILITIES

- 4.1 ALL burning within the Municipality shall be subject to the conditions and provisions of *The Wildfires Act*, and the *Manitoba Crop Burning Residue Burning Regulation – MR 77/93*.
- 4.2 AUTHORIZATION to conduct outdoor fire burning does not exempt or excuse a person from the responsibility, consequences, damages, or injuries resulting from the authorized burning, and does not excuse a person from complying with other applicable laws, ordinances or regulations.

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- a) Any outdoor fire shall be supervised by the owner or occupier of the land, or a person authorized by the owner or occupier of the land.
- b) No person shall an outdoor fire on any land without taking sufficient precautions that are reasonably necessary to protect persons and the property of others from the fire.
- c) No person shall start an outdoor fire unless all precautions are taken to ensure that the fire can be kept under control, or when weather conditions are conducive to a fire burning out of control.
- d) No person shall cause an outdoor fire to be started in order to guard property; clear land or burn debris; burn crop, stubble or grass; unless the land on which the fire is started is completely surrounded by a fire guard consisting of:
 - i. A strip of land free of flammable material, or of sufficient width to control the fire, of not less than 50 feet;
 - ii. By natural or man-made barriers, water, or
 - iii. By a combination of (i) and (ii).
- e) The smoke from an outdoor fire shall not pose unreasonable hazard to the health of any person, or reduce the visibility on any road or highway.
- f) A sufficient water supply and means of fire suppression capable of extinguishing the outdoor fire based on its fuel loading and size, shall be available on site.
- g) All fires must be extinguished when unsupervised.

5. PROVISIONS

5.1 THAT burning within the Municipality shall be as set out on the following table, and shall be *prohibited* where marked with an “X”, and shall be *permitted* where marked with a “P”.

| | Nuisance Burning | Open Burning | Fire Pit / Barbecues | Yard Waste Burning | Restricted Yard Waste Burning |
|--|------------------|--------------|----------------------|--------------------|-------------------------------|
| Burning within the limits of the Municipality – <i>except as indicated below</i> | X | P | P | P | P |
| St. Lazare – Residential Area | X | X | P | X | X |
| McAuley – Residential Area | X | X | P | X | X |
| Manson – Residential Area | X | X | P | X | X |

- 5.2 THAT with exception to Fire Pit(s) and Barbecue(s), burning shall be restricted to daylight hours.
- 5.3 THAT with the exception to Fire Pit(s) and Barbecue(s) any person wishing to set a fire in accordance with this By-Law shall notify the Fire Department or RM office nearest them of the time, date, and location of the fire, and shall in addition notify the Fire Department when the fire has been extinguished.
- 5.4 THAT any person setting a fire in accordance with this By-Law shall not leave the permitted fire unattended at any time while it is burning or smoldering, and shall ensure that sufficient appliances and equipment are at the site to prevent the fire from getting beyond control, or causing damage, or becoming dangerous at the fire site.
- 5.5 THAT any person setting a fire in accordance with Section 4.2 shall take into consideration such factors as:
 - a) The proximity of adjacent buildings, combustible materials, and woodlands;
 - b) The site and height of the combustibles to be burned;
 - c) Prevailing wind direction and velocity; such that no nuisance to any neighboring resident and/or highway occurs.

6. EXCLUSIONS

6.1 THE Municipal Waste Disposal / Nuisance Grounds are excluded from the provisions of this By-Law, as they are regulated by their respective Operating Permits for burning on site, in specific situation only and as per the terms of the operating permit(s).

7. BURNING RESTRICTION

7.1 THE Reeve, or in absence of the Reeve, the Deputy Reeve, may at his or her discretion, restriction on burning (including in some cases, fires contained within fire pits, and solid fuel burning appliances) in the Rural Municipality of Ellice – Archie.

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- 7.2 Restricted Burning for the Municipality would require anyone planning a controlled burn to report this burn to the RM office or directly to the Fire Chief.
- 7.3 During a burning restriction the ratepayer takes full responsibility for their controlled burn. Should the fire department be called during this time, the ratepayer shall be held fully financially responsible for all costs associated with the fire department responding to the call.

8. BURNING BAN

- 8.1 THE Reeve, or in absence of the Reeve, the Deputy Reeve, may at his or her discretion, ban BURNING (including in some cases, fires contained within fire pits, and solid fuel burning appliances) in the Rural Municipality of Ellice – Archie, if conditions exist where, in the opinion of the Municipality, fires are of extremely high risk, and such a ban would prevent wildfires from occurring.
- 8.2 Burning Bans for the Municipality will be based on a three tier “level of danger” as outlined in the following table. The “level of danger” is to be determined with input from the local Fire Chief(s) and Municipal Administration. Fire Bans may be downgraded once the trend of dropping levels of danger develops.

Levels of Danger – Fire Bans


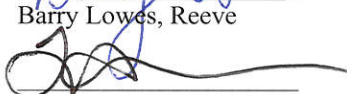
| | Open Burning | Fire Pit / Barbecues | Yard Waste Burning | Restricted Yard Waste Burning |
|---------|--------------|-------------------------|-----------------------|-------------------------------------|
| Level 1 | B | A | A | A |
| Level 2 | B | A | B | B |
| Level 3 | B | B | B | B |

A = Allowed
B = Banned

9. OFFENCES AND PENALTIES

- 9.1 IT is an offense to contravene any provisions of this By-Law. Any conviction of an offense is subject to a penalty of not less than \$250.00, or not more than \$1,000.00.
- 9.2 WHERE a person is in contravention under this By-Law, in addition to imposing a fine, the Municipality is entitled to be reimbursed by the person(s) for costs incurred by the Municipality in fire protection and suppression operations that were undertaken as a result of the person(s) acts or omissions that resulted in the costs to be incurred.

DONE AND PASSED as a by-law of The Rural Municipality of Ellice - Archie at McAuley in the Province of Manitoba this 8th day of May, 2020.


 Barry Lowes, Reeve

 Trisha Huberdeau, CAO

Read a first time this 9th day of April, 2020.
 Read a second time this 8th day of May, 2020.
 Read a third time this 8th day of May, 2020.