

CORPORATION OF THE TOWN OF HAWKESBURY

By-Law N° 31-96

repealer 116-95

**Being a by-law respecting
fireworks and firecrackers**

WHEREAS the Municipal Act, R.S.O. 1990, c. M. 45, s. 210, s.s. 37 as amended, and amendments thereto, empowers the Council of local municipalities to enact by-laws for making such regulations for regulating the sale of fireworks or any class thereof and for prohibiting the sale of fireworks or any class thereof on any days during the year specified in the by-law;

AND WHEREAS the Municipal Act, R.S.O. 1990, c. M. 45, s. 102 empowers every Council to pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and not contrary to law;

AND WHEREAS the Municipal Act, R.S.O. 1990, c. M. 45, s. 210, s.s. 38 empowers the Council to enact by-laws for prohibiting or regulating the setting off of fireworks or any class or classes thereof in the municipality or in any defined area or areas thereof and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit.

THEREFORE the Council of the Corporation of the Town of Hawkesbury enacts as follows:

TITLE

Short Title

1. The short title of this by-law is "The Fireworks and Firecrackers By-Law".

DEFINITIONS

2. In this by-law:

- (a) "Act" means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution therefor;
- (b) "By-Law Enforcement Officer" means the officer in charge of By-Law Enforcement of the Corporation of the Town of Hawkesbury or his authorized subordinates or assistants;
- (c) "Chief of Police" means the Chief of the Police Department of the Corporation of the Town of Hawkesbury or his authorized subordinates or assistants;
- (d) "Corporation" means the Corporation of the Town of Hawkesbury;
- (e) "display firework" means a firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks other than firecrackers under the Act, and

- (i) includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, and
 - (ii) does not include firecrackers;
- (f) "family firework" means a firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks other than Christmas crackers and caps for toy guns under the Act, and
- (i) includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, and sparklers, and
 - (ii) does not include Christmas crackers and paper caps for toy pistols, toy cannons or toy guns;
- (g) "Fire Chief" means the Chief of the Fire Department of the Corporation of the Town of Hawkesbury or his authorized subordinates or assistants;
- (h) "firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers;
- (i) "fireworks" means display fireworks and family fireworks;
- (j) "Fireworks Supervisor" means a person who is an approved purchaser of display fireworks under paragraphs (d) and (e) of section 121 of the Explosive Regulations C.R.C., c. 599, as amended.
- (k) "Owner" means any person, firm, corporation or any association controlling the property;
- (l) "person" means not only an individual, but also a partnership and body corporate and any association.

GENERAL

Requirements

SALE OF FIREWORKS AND FIRECRACKERS

3. (1) No person shall sell or offer for sale any firecrackers.
- (2) The sale of family fireworks is prohibited except on the following days:
- (a) Victoria Day, Canada Day and St-Jean-Baptiste Day,
 - (b) each of the six business days immediately preceding Victoria Day, Canada Day and St-Jean-Baptiste Day.
- (3) Fireworks displayed in store windows shall be mock samples only and not contain explosive composition.
- (4) For reference purposes, subsection 5.2.2. of Section 5.2 of the Ontario Fire Code (Ontario Regulation R.R.O. 1990, Reg. 454) provides as follows:

"Subsection 5.2.2. Fireworks

- 5.2.2.1. The manufacture, storage, transportation and sale of fireworks shall be in conformance with the Explosives Act (Canada) and the Explosives Regulations made thereunder.
- 5.2.2.2. The handling and discharge of fireworks shall conform to the Fireworks Manual, as published by the Explosives Division, Department of Energy, Mines and Resources of the Government of Canada."

and section 120 of the Explosives Regulations provides as follows:

- "120. (1) No person shall knowingly sell any explosive to a person who
- (a) is under 18 years of age; or
 - (b) appears to be under 18 years of age and does not produce evidence that he is 18 years of age or older.
- (2) For the purposes of this section, "explosive" does not include
- (a) caps for toy guns included in Subdivision 1 of Division 2 of Class 7 fireworks; or
 - (b) pyrotechnic distress signals or lifesaving devices that fall within the description of any class of explosives set out in Part I."

DISCHARGE OF FIRECRACKERS

4. No person shall discharge, fire or set off, or cause to be discharged, fired or set off, any firecrackers.

FAMILY FIREWORKS

5. (1) The setting off of family fireworks is prohibited except on the following days:
- (a) Victoria Day,
 - (b) the day immediately preceding Victoria Day,
 - (c) the day immediately following Victoria Day,
 - (d) Canada Day,
 - (e) the day immediately preceding Canada Day,
 - (f) the day immediately following Canada Day,
 - (g) St-Jean-Baptiste Day,
 - (h) the day immediately preceding St-Jean-Baptiste Day,
 - (i) the day immediately following St-Jean-Baptiste.
- (2) A person eighteen (18) years of age or over may hold a display of family fireworks on any land belonging to him or her or on any other privately owned land where the owner thereof has given permission for such display or discharge of fireworks.
- (3) No person shall use, set off or allow to be used or set off any family firework in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the setting off of any fireworks.

- (4) No person shall set off any family firework in or into any building, doorway, automobile, or other place where such setting off might create a danger or nuisance to any person or property.
- (5) No person shall set off any family firework in or on or into any highway, street, lane, square or other public place.
- (6) No person under the age of eighteen (18) years shall set off any firework except under the direct supervision of and control of a person eighteen (18) years or over.
- (7) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to set off any firework except when such parent or guardian or some other responsible person of eighteen (18) years or over is in direct supervision and control.

PUBLIC FIREWORKS DISPLAYS

6. No person or group of persons shall hold a display of display fireworks or shall discharge, fire or set off, or cause to be discharged, fired or set off, any display firework in the Town of Hawkesbury, without first having obtained a permit to do so issued by the Fire Chief authorizing the display of display fireworks.
7. An applicant for a permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
 - (a) the application is incomplete,
 - (b) the applicant is not a Fireworks Supervisor,
 - (c) the display is not being held by or under the auspices of an established club, association or group of persons,
 - (d) the purpose of the display is not of civic, national or international significance, or not of special significance for particular interest groups, or
 - (e) there are reasonable grounds for belief that the holding of the fireworks display will result in a breach of this by-law or the Act.
8. An applicant for a permit shall:
 - (1) be a Fireworks Supervisor,
 - (2) if the fireworks display is to be held on property of the Corporation,
 - (a) procure a policy of insurance for comprehensive general liability insurance, including fireworks endorsement, in an amount of not less than one million (\$1,000,000.00) dollars inclusive, per occurrence for bodily injury, death and damage to property, including loss of use thereof, that may result or arise out of the holding of the fireworks display that complies with the following:
 - (i) the insurance policy shall be in the joint names of the Corporation and the holder of the public fireworks display permit,
 - (ii) the insurance shall preclude subrogation claims by the Insurer against anyone insured thereunder,
 - (iii) the insurance shall contain an endorsement to provide all named Insureds with prior notice of changes and cancellations. Such endorsement shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until thirty (30) days after written notice of such change or cancellation shall have been given to all Named Insured."

- (iv) the insurance shall indemnify and save harmless the Corporation from any and all claims, demands, causes of action, loss, costs or damages, the Corporation may suffer, incur or be liable for, resulting from the holding of the fireworks display,
 - (b) that is in a park, make the arrangements with the Director of Recreation and Culture or authorized representative for the use of the park for the display, and provide evidence of insurance in the form of a certificate of insurance, or a certified copy of insurance if requested, to the Director of Recreation and Culture of the Corporation or authorized representative and obtain proper resolution from Town Council prior to the holding of the fireworks display,
 - (3) (a) if the fireworks display is to be held on property not referred to in subsection (2), and not owned or occupied by the applicant, obtain the consent of the owner of such property in writing and submit a copy of it with the application, and
 - (b) upon request from the Fire Chief, any person making application for a fireworks display permit shall provide Comprehensive General Liability insurance, including fireworks endorsement, in an amount of not less than one million (\$1,000,000.00) dollars inclusive, per occurrence for bodily injury, death and damage to property including loss of use thereof that may result or arise out of the holding of the fireworks display,
 - (4) supervise the fireworks display.
9. The following conditions shall apply to the holding of a public fireworks display under a permit issued under this by-law:
- (a) the permit is valid only for the display at the place and on the date or dates set forth in the permit,
 - (b) the display is not being held within one hundred and eighty-two (182 m) metres of a nursing home, public hospital, home for the aged, any premises or place where explosives, gasoline, or other highly inflammable substances are manufactured, sold or stored, or within one hundred and eighty-two (182 m) metres of a church or a public, separate, secondary school or other school unless the consent of the owner of such church or school or an agent or representative of such owner is obtained,
 - (c) the applicant shall supervise the fireworks display,
 - (d) the persons present at the display other than those engaged in the conduct or supervision thereof shall be kept back at least forty-six (46 m) metres from the place at which the fireworks are being discharged, and
 - (e) every person to whom a permit is issued shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use and present at all times and for a reasonable period thereafter, at the location or site of the setting off or holding of the display of display fireworks.

10. The Fire Chief may issue permits for displays of fireworks on the conditions set forth in Section 9 and each such permit shall state the name of the club, association or group to whom the same is issued, the purpose of the display, the place and date at which and on which the same may be held, and the name of the person under whose supervision the same shall be held.

OFFENCES

11. Any person who contravenes any of the provisions of this by-law is guilty of an offence, and on conviction is liable to a fine of not more than Five Thousand (\$5,000.00) Dollars, exclusive of costs, recoverable under the Provincial Offences Act, R.S.O., 1990, c.P. 33.

PENALTIES

12. (1) Tags and tickets may be issued by the Chief of Police, the Fire Chief or the By-Law Enforcement Officer.

(2) Any person who contravenes any of the provisions of this by-law is guilty of an offence and shall be liable to pay a penalty as set out in this by-law.

(3) The receipt of payment signed by the person assigned to the duty of receiving payments out of Court, shall be evidence of payment of the penalty provided for the violation.

13. When a person has been convicted of an offence under this by-law, the court of competent jurisdiction may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted, directed towards the continuation or repetition of the offence.

SEVERABILITY


14. If a court of competent jurisdiction should declare any paragraph or part of a paragraph of this by-law to be invalid or ultra vires such paragraph or part of a paragraph shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.


15. That By-Law No. 116-95 is hereby repealed.

DATE OF EFFECT

16. This by-law shall become into force on the date that it is enacted by the Council of the Town of Hawkesbury.

READ a first, second and enacted upon third reading this 29th day of April 1996.


Town Clerk or Acting Clerk


Mayor or Reeve