

**CORPORATION OF THE TOWN OF SMITHS FALLS
BY-LAW NO. 8061-2007**

**A BY-LAW TO PROVIDE FOR THE SALE OF FIREWORKS AND THE SETTING OFF OF FIREWORKS
AND PYROTECHNICS WITHIN THE TOWN OF SMITHS FALLS, AND FOR REQUIRING A PERMIT
AND IMPOSING CONDITIONS.**

WHEREAS s. 120 of the *Revised Municipal Act, 2001, S.O. 2001, c. 25*, as amended provides that a local municipality may,

- (a) prohibit and regulate the manufacture of explosives in the municipality;
- (b) prohibit and regulate the storage of explosives and dangerous substances in the municipality;
- (c) regulate the keeping and transportation of explosives and dangerous substances in the municipality;
- (d) prohibit the manufacture or storage of explosives unless a permit is obtained, from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

AND WHEREAS s. 121 of the *Revised Municipal Act, 2001, S.O. 2001, c. 25*, as amended provides that a local municipality may:

- (a) prohibit and regulate the sale of fireworks and the setting off of fireworks;
- (b) prohibit the activities described in clause (a) unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

AND WHEREAS section 7.1(1) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of spreading fires;

NOW THEREFORE the Council of the Town of Smiths Falls enacts as follows:

DEFINITIONS:

1. In this by-law:

"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 therefore;

"Authorized Persons" means, as the context requires, a) in the case of Display Fireworks those persons working under the direct supervision of the fireworks supervisor, who have been as a minimum, certified as an apprentice as required by the Explosives Regulatory Division of Natural Resources Canada, and b) in the case of Pyrotechnic Special Effects Fireworks, those persons working under the direct supervision of the pyrotechnician, who have been as a minimum, certified as a theatrical user as required by the Explosives Regulatory Division of Natural Resources Canada.

"consumer firework" means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Act and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, and volcanoes, but does not include sparklers, Christmas crackers, and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap;

"discharge" means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off and the words "discharged" and "discharging" have a similar meaning;

"display firework" means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells,

tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;

“display of display fireworks” means a display of display fireworks which may include consumer fireworks;

“Fire Chief” means the Chief of Fire Department of the Town of Smiths Falls or authorized designate(s);

“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;

“Fireworks Supervisor” means a person who is an approved purchaser of display fireworks and who is qualified under the Act to supervise the discharge of display fireworks;

“FPPA” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution therefore;

“prohibited firework” includes but is not limited to cigarette loads or plugs, exploding matches, sparking matches, ammunition for miniature tie clip, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down torpedoes and cracking balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle sky rockets, fake firecrackers and other trick devices or practical jokes as included on the most recent list of prohibited fireworks as published from time to time under the Act;

“pyrotechnician” means a person who is certified under the Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Act;

“pyrotechnic special effect firework” means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Act and that is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels; and

“sell” includes offer for sale, cause or permit to be sold and to possess for the purpose of sale and the words “selling” and “sold” have a similar meaning.

“Town or “Town of Smiths Falls” means The Corporation of the Town of Smiths Falls or the geographic area of the Town of Smiths Falls as the context requires;

INTERPRETATION

2. (1) In this by-law:
 - (a) words importing the singular number only, include more persons, parties or things of the same kind than one and the converse, and
 - (b) a word interpreted in the singular number has a corresponding meaning when used in the plural.
- (2) It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

SALE OF CONSUMER FIREWORKS AND FIRECRACKERS

3. (1) No person shall sell any firecrackers.
- (2) No person shall sell any prohibited fireworks.
- (3) No person shall sell fireworks without a valid permit (must be renewed annually). The fee for such permit is \$75 for the first year, \$50 subsequent year and \$25 if concurrent with business licencing process.
- (4) No person shall sell fireworks without a valid business licence issued by the Town of Smiths Falls.
- (5) No person shall, within the Town of Smiths Falls, display in any store window, any type of fireworks.
- (6) No person shall display for sale within the Town of Smiths Falls any type of fireworks in any manner other than in such a place that the fireworks are not exposed to the rays of the sun or to excess heat from any other source.
- (7) No person shall, within the Town of Smiths Falls, sell or give to any person under the age of 18 years any type of consumer or display fireworks.
- (8) No person shall sell consumer fireworks in a building unless the provisions of the Ontario Fire Code and all other applicable Acts and Regulations are complied with.
- (8) No person shall display for sale within the Town of Smiths Falls any consumer fireworks in lots that exceed 22.68 kilograms gross weight (50 pounds gross weight).
- (9) No person shall display for sale within the Town of Smiths Falls any consumer fireworks in any manner other than in a package, glass case or other suitable receptacle, away from any other flammable goods.
- (10) An application for a permit must be made annually (calendar year) to the Fire Chief in order to sell or display fireworks or firecrackers.
- (11) A permit is valid for one sales/display location only. Maximum of one permit will be issued per store.
- (12) Sales Permit and notice in the form prescribed by the Fire Chief respecting by-law must be displayed in public view.
- (13) Fireworks By-law to be available in the store.
- (14) Sale of fireworks shall be subject to any other conditions as required by the Fire Chief.

DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS

4. (1) No person shall discharge any firecrackers, except with the appropriate federal approvals and for the purpose of cultural celebrations.
- (2) No person shall discharge any prohibited fireworks.

DISCHARGE OF CONSUMER FIREWORKS

5. (1) No person shall discharge consumer fireworks except:
 - (a) between dusk and 11:00 p.m. on Victoria Day;
 - (b) between dusk and 11:00 p.m. on Canada Day;
 - (c) between dusk and 11:00 p.m. on July 4 (Independence Day);
 - (d) between dusk and 1:00 a.m. on New Years Eve
 - (e) as part of a display of display fireworks for which a permit has been obtained and for which all conditions and requirements of the permit have been met; or
 - (f) at such other times and such other dates as permitted by Council by by-law.
- (2) A person eighteen (18) years of age or older may hold a display of consumer 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 under the age of eighteen (18) years shall discharge any consumer fireworks except under the direct supervision of and control of a person eighteen (18) years of age or over.
- (4) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to discharge any consumer fireworks except when such parent or guardian or some other responsible person of eighteen (18) years of age or over is in direct supervision and control.
- (5) No person shall discharge any consumer fireworks 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 discharging of any fireworks.
- (6) No person shall discharge any consumer fireworks in or into any building, doorway, or automobile.
- (7) No person shall discharge any consumer fireworks in or on or into any park, highway, street, lane, square or other public place, unless under a display fireworks permit to do so issued by the Fire Chief.

DISPLAY FIREWORKS

6. (1) No person or group of persons shall hold a display of display fireworks in the Town of Smiths Falls without first having obtained a permit to do so issued by the Fire Chief.
- (2) No person or group of persons shall discharge any display fireworks in the Town of Smiths Falls, without first having obtained a permit issued by the Fire Chief authorizing the display of display fireworks.
7. Every application for a permit shall be made to the Fire Chief a minimum of twenty-one (21) calendar days prior to the event when the proposed discharge of display fireworks is to occur.
8. Every application for a permit shall be submitted by the Fireworks Supervisor and shall include:
 - (a) a description of the event including,
 - (i) the date and time of the proposed discharge of display fireworks,
 - (ii) the type and kind of display fireworks that may be discharged;

- (iii) the discharge techniques to be used,
 - (iv) the manner and means of restraining unauthorized persons from attending too near the discharge site,
 - (v) the manner in which unused display fireworks are to be disposed of, and
 - (vi) the number of Authorized Persons on site during the event to handle and discharge the display fireworks;
 - (vii) property owner's authorization;
 - (viii) Any other conditions as required by the Fire Chief.
- (b) a site plan providing a description of the discharge site to be used for the discharging of the display fireworks;
 - (c) a description of the fire emergency procedures;
 - (d) the name and address of the applicant (Fireworks Supervisor) and the sponsoring organization, if applicable;
 - (e) proof of certification of the applicant as a Fireworks Supervisor;
 - (f) proof of consent of the owner of the property to the discharge of display fireworks in writing;
 - (g) The fee for such permit is \$100/permit (non refundable).
 - (h) proof of insurance and indemnification in accordance with Sections 10 and 11; and
 - (i) such other information as required by the Fire Chief or as required on the Application (Schedule A)
9. 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; or
 - (c) there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this or another by-law, the FPPA or the Act.

INSURANCE

10. The applicant for a permit shall provide and maintain Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall be in the name of the applicant and shall name The Corporation of the Town of Smiths Falls as an additional insured thereunder. Such insurance shall include coverage for displays of pyrotechnic special effects fireworks, consumer fireworks or display fireworks. Such insurance policy shall contain an endorsement to provide the Town of Smiths Falls within thirty (30) calendar days prior written notice of cancellation or of a material change that would diminish coverage, and a standard Town of Smiths Falls Certificate of Insurance evidencing such insurance coverage shall be provided to the City prior to the issuance of a permit.

INDEMNIFICATION

11. The applicant for a permit shall indemnify and save harmless the Town of Smiths Falls from any and all claims, demands, causes of action, loss, costs or damages that the Town of Smiths Falls may suffer, incur or be liable for resulting from the performance of the applicant as set out in the by-law whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

CONDITIONS APPLYING TO PERMIT FOR DISPLAY FIREWORKS

12. The Fire Chief may issue permits for display of display fireworks on the conditions set forth in Section 13, and each such permit shall state the name of the sponsoring club, association or group, the purpose of the display, the place and date at which the same may be held, and the name of the Fireworks Supervisor under whose supervision the display shall be held.
13. The following conditions shall apply to the holding of a display of display fireworks 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 permit holder shall supervise the display of display fireworks;
 - (c) the permit holder shall discharge the display fireworks and any consumer fireworks;
 - (d) every permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use, and
 - (e) the permit holder shall comply at all times with the provisions of the Act, FPPA and the Display Fireworks Manual published by Natural Resources Canada or any successor publication.
 - (f) Any other conditions as required by the Fire Chief.
14. No permit holder shall discharge display fireworks or consumer fireworks except in accordance with the conditions of the permit.
15. The permit holder holding the display of display fireworks shall ensure that all unused fireworks and all debris are removed, in compliance with the Act, FPPA and the Display Fireworks Manual published by Natural Resources Canada or any successor publication.
 - (a) All permits granted by the Fire Chief may be revoked whenever, in the Fire Chief's discretion, the holder of such permit is in non-compliance with its conditions or requirements, or the Fire Chief has concerns for public safety.

PYROTECHNIC SPECIAL EFFECTS FIREWORKS

16. (1) No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the Town of Smiths Falls without first having obtained a permit to do so issued by the Fire Chief.

- (2) No person or group of persons shall discharge any pyrotechnic special effect fireworks in the Town of Smiths Falls, without first having obtained a permit issued by the Fire Chief authorizing the display of pyrotechnic special effect fireworks.
17. Every application for a permit pursuant to Section 16 shall be made to the Fire Chief a minimum of thirty-one (31) calendar days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.
18.
 - (1) Every application for a permit shall be submitted by the pyrotechnician and shall include:
 - (a) a description of the event including,
 - (i) a site plan of the facility and room capacity, the stage and the pyrotechnic special effect fireworks storage area;
 - (ii) a list of all pyrotechnic special effect fireworks to be employed,
 - (iii) location of all pyrotechnic special effect fireworks;
 - (iv) height, range of effect, fallout and duration of the display of pyrotechnic special effect fireworks;
 - (v) sequence of firing;
 - (vi) location of the audience and all exits;
 - (vii) date and time of the proposed event using pyrotechnic special effect fireworks; and
 - (viii) the number of Authorized Persons on site during the event to handle and discharge the pyrotechnic special effect fireworks.
 - (b) description of fire emergency procedures;
 - (c) name and address of the applicant (pyrotechnician) and the sponsoring business or organization, if applicable;
 - (d) proof of certification of the applicant as a pyrotechnician;
 - (e) proof of insurance and indemnification in accordance with Sections 10 and 11;
 - (f) proof of written consent of the owner of the property to the discharge of pyrotechnic special effect fireworks if the applicant (pyrotechnician) is not the owner of the property;
 - (g) a permit fee as set out in the applicable Town of Smiths Falls fees and charges by-law; and
 - (h) such other information as required by the Fire Chief.
 - (2) Notwithstanding section 18(1)(a), where pyrotechnic special effect fireworks will be used for film or television productions or similar events, every applicant for a permit may include a Letter of Intent approved by the Fire Chief, as provided in the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication thereto, and where such Letter of Intent is provided, the requirements of section 18(1)(a) need not be met.

19. 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 pyrotechnician under the Act, or
 - (c) there are reasonable grounds for belief that the holding of the display of pyrotechnic special effect fireworks will result in a breach of this or another by-law, the FPPA or the Act or represent a safety concern.

CONDITIONS APPLYING TO PERMIT FOR PYROTECHNIC SPECIAL EFFECT FIREWORKS

20. The Fire Chief may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 21 and each such permit shall state the name of the sponsoring business, club, association or group, the purpose of the display, the place and date at which the display may be held, and the name of the pyrotechnician under whose supervision the display shall be held.
21. The following conditions shall apply to the holding of a display of pyrotechnic special effect fireworks under a permit issued under this by-law:
- (a) permit is valid only for the display at the place and on the date or dates set forth in the permit;
 - (b) the permit holder shall supervise the display of pyrotechnic special effect fireworks;
 - (c) the permit holder shall discharge the pyrotechnic special effects fireworks;
 - (d) the permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use, and
 - (e) the permit holder shall comply at all times with the requirements of the Act, FPPA and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication.
22. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.
23. The permit holder holding the display of pyrotechnic special effect fireworks shall ensure that all unused fireworks and all debris are removed.
24. All permits granted by the Fire Chief may be revoked whenever, in the Fire Chief's discretion, the holder of such permit is in non-compliance with its conditions or requirements, or the Fire Chief has concerns for public safety.

GENERAL REQUIREMENT

25. Every holder of a display fireworks, sale of consumer fireworks, or pyrotechnic special effect fireworks permit shall produce his or her permit upon being so directed by the Fire Chief.

OFFENCES AND PENALTIES

- 26. (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- (2) Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

REPEAL AND AMENDMENTS

27. THAT By-law 3303-65 is hereby repealed.

EFFECTIVE DATE

28. The provisions of this By-law shall come into force and take effect upon the passing thereof.

SHORT TITLE

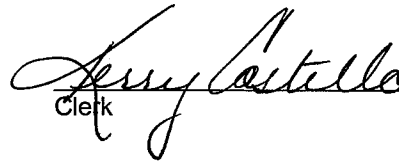
29. This by-law may be referred to as the "Fireworks By-law".

Read a first and second time this 4th day of June, 2007

Read a third time and passed this 4th day of June, 2007



Mayor



Clerk