



As amended by By-law 96-2019

By-law 36-2019

By-law 59-2014

By-law 49-2021

of The Corporation of the City of Oshawa

being a by-law to repeal and replace By-law 103-73 (the “Fireworks By-law”).

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes municipalities to prohibit the setting off of fireworks without a permit and to impose conditions for obtaining, continuing to hold and renew a permit, including the submission of plans.

AND WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, also provides that municipalities may pass by-laws for the health, safety and well-being of Persons.

AND WHEREAS the Council of The Corporation of the City of Oshawa desires to regulate the sale, possession and discharge of fireworks within the City of Oshawa.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. SHORT TITLE

1.0 This by-law may be cited as the “Fireworks By-law”.

2. INTERPRETATION

2.0 In this by-law:

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Chief Fire Official” means the Fire Chief, the Deputy Fire Chief, the Chief Fire Prevention Officer, any Fire Prevention Officer or any Fire Prevention Inspector within Oshawa Fire Services.

“City” means The Corporation of the City of Oshawa.

“Consumer Fireworks” means low hazard fireworks classified under Class 7, Division 2, Subdivision 1 under the *Explosives Act* generally used for recreation such as showers, fountains, golden rain, lawn lights, pin wheels, and roman candles.

“Council” means the Council of the Corporation of the City of Oshawa.

“Discharge”, when used in relation to Fireworks, includes firing, igniting, exploding and setting off Fireworks.

“Display Fireworks” means high hazard fireworks as defined under the *Explosives Act* generally used for recreation such as rockets, serpents, shells, bombshells, tourbillons, maroons, large wheel, bouquets, barrages, bambardos, waterfalls, batteries, illumination, set pieces and pigeons.

“*Explosives Act*” means the *Explosives Act*, R.S.C. 1985, c. E-17, and the regulations thereto, as may be amended from time to time.

“Fireworks” means Consumer Fireworks, Display Fireworks and Pyrotechnic Special Effects.

“Fireworks Discharge Permit” means an authorization under this By-law to Discharge Display Fireworks or Pyrotechnic Special Effects.

“Fireworks Sales Permit” means a Permit issued under this By-law to sell Consumer Fireworks.

“Fireworks Supervisor” means a Person who is qualified under the *Explosives Act* to Discharge Display Fireworks and Pyrotechnic Special Effects.

“Officer” means a Municipal Law Enforcement Officer appointed to enforce the by-laws of the City and/or a Fire Prevention Officer and/or Inspector from the Fire Prevention Division of Oshawa Fire Services, including the Fire Chief and any member of Oshawa Fire Services designated by the Chief Fire Official.

“Permanent Sales Location” means a building or structure with a permanent foundation, which exists in the same location 365 days per year.

“Person” includes a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association, or a receiver or mortgagee in possession.

“Prohibited Fireworks” means those fireworks prohibited by the *Explosives Act*, including but not limited to cigarette loads or pings, exploding matches, sparkling 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 and step on torpedoes, and crackling balls, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, firecrackers, fake firecrackers, etc

“Pyrotechnic Special Effects” means authorized explosives as defined under the *Explosives Act*, that are made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theater or television production or as a performance, before a live audience;

“Temporary Sales Unit” means an enclosed portable stand, cart, display rack, cargo container or trailer, or other display unit that can be moved from one location to another and is used for the sale of Consumer Fireworks. No Temporary Sales Unit may remain in the same location for more than nine (9) consecutive days. A Temporary Sales Unit does not include a motor vehicle as defined in the *Highway Traffic Act*.

SALE OF FIREWORKS

3. PROHIBITED ACTIVITIES

3.1 No Person shall:

- (a) sell any Consumer Fireworks to any Person at any time except seven (7) days immediately prior to and on the statutory holidays known as Victoria Day, Canada Day and the celebration known as Diwali Day, unless a Consumer Fireworks Prohibition is in effect. (96-2019) (49-2021)
 - (a.1) sell any Consumer Fireworks to any Person at any time when a Consumer Fireworks Prohibition is in effect (49-2021)
- (b) sell or supply Fireworks to any Person under the age of eighteen (18) years;
- (c) sell, store or supply Prohibited Fireworks;
- (d) sell Consumer Fireworks from a Temporary Sales Unit without first having obtained a Fireworks Sales Permit;
- (e) sell Consumer Fireworks in a manner that is not in conformance with the *Explosives Act*;
- (f) sell Display Fireworks or Pyrotechnic Special Effects unless otherwise permitted under the *Explosives Act*; or
- (g) sell Consumer Fireworks from a motor vehicle as defined in the *Highway Traffic Act*

4. FIREWORKS SALES PERMITS

- 4.0 An application for a Fireworks Sales Permit to sell Consumer Fireworks from a Temporary Sales Unit seven (7) days immediately prior to and on the statutory holidays known as Victoria Day, Canada Day and the celebration known as Diwali Day shall be made at the office of the Chief Fire Official on the form prescribed. The Chief Fire Official may prescribe any information to be given therein and other necessary papers to be completed or submitted by the applicant in conjunction with the application. (96-2019) (49-2021)
- 4.1 Applications for Fireworks Sales Permits shall be made no less than twenty-one (21) days prior to the first sales date.
- 4.2 Separate Fireworks Sales Permit applications must be made for each proposed Temporary Sales Unit location.
- 4.3 Fireworks Sales Permits shall be valid only seven (7) days immediately prior to and on the statutory holidays known as Victoria Day, Canada Day and the celebration known as Diwali Day (49-2021)

- 4.4 Every Fireworks Sales Permit application shall be submitted to the Chief Fire Official and be accompanied by:
- (a) the appropriate non-refundable fee as set out in the City's General Fees and Charges By-law, as may be amended from time to time;
 - (b) if the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information filed or, if a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration;
 - (c) a description of the Consumer Fireworks to be sold;
 - (d) proof of commercial general liability insurance in an amount no less than \$5,000,000.00, naming the City as an additional insured and containing a cross liability clause;
 - (e) an indemnification and hold harmless undertaking in favour of the City and signed by the applicant or by an individual having the authority to bind the applicant;
 - (f) the operating dates of the Temporary Sales Unit and a letter of authorization from the owner of the property on or from which the Temporary Sales Unit is proposed to be located containing:
 - (i) the name of the owner of the Temporary Sales Unit; and
 - (ii) the proposed location on the property of the Temporary Sales Unit; and
 - (g) such other information as the Chief Fire Official may require.
- 4.5 The Chief Fire Official may revoke a Fireworks Sales Permit where, in his or her sole opinion, the applicant has not complied or is not complying with the provisions of this By-law.
- 4.6 Where the Chief Fire Official revokes a Fireworks Sales Permit, Consumer Fireworks shall no longer be sold from the sales location for the remainder of the term of the Fireworks Sales Permit.
- 4.7 Where a Fireworks Sales Permit is revoked, the applicant is not entitled to a return of any fee paid to obtain the Fireworks Sales Permit.
- 4.8 Notwithstanding Subsections 4.7 and 4.8, where a Fireworks Sales Permit is revoked, the applicant may apply for a new Fireworks Sales Permit subject to the provisions of Section 4 for the next proposed sales period.
- 4.9 Receipt of the application and/or the Fireworks Sales Permit fee by the City shall not represent approval of the application for the issuance of a Fireworks Discharge Permit nor shall it obligate the City to issue a Fireworks Sales Permit.
- 4.10 No Person shall transfer or assign his or her Fireworks Sales Permit.
- 4.11 In the event that a Person attempts to transfer or transfers his or her Fireworks Sales Permit, the Fireworks Discharge Permit is void and there shall be no return of any fee paid.
- 4.12 No Permit shall be transferred or assigned and if a person Permitted pursuant to this By-law sells, leases or otherwise disposes of his/her interest in the discharge or sales of fireworks, his/her Permit shall, notwithstanding any other provision of this By-law, be revoked.
- 5. TEMPORARY SALES UNITS**
- 5.0 A Person holding a Fireworks Sales Permit shall:
- (a) ensure that a minimum of 2 signs are posted in prominent locations on the outside of the Temporary Sales Unit indicating that Persons shall not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within 8 metres of the Temporary Sales Unit; (36-2019)
 - (b) ensure that there are two 2A10BC rated fire extinguisher is available at each

- entrance during the times sales are taking place; (36-2019)
- (c) ensure that at least 2 operational doors are available to provide means of access to and egress from the Temporary Sales Unit;
 - (d) ensure that no more than 15 customers are in a Temporary Sales Unit at the same time;
 - (e) ensure that no Consumer Fireworks are exposed to direct sunlight;
 - (f) ensure that, with the exception of its entrance and exit, access to an area at least eight (8) metres around the perimeter of the Temporary Sales Unit is restricted by means of a barrier, such as snow fencing, pylons or other material satisfactory to the City;
 - (g) ensure that the Fireworks Sales Permit is posted in a conspicuous place on the Temporary Sales Unit at all times during the term of the Fireworks Sales Permit;
 - (h) permit the inspection by the Chief Fire Official of the Consumer Fireworks and any site where the Consumer Fireworks may be stored, displayed or Discharged together with all associated equipment and documentation pertaining to the storage, display or Discharge of Consumer Fireworks; or
 - (i) not locate a Temporary Sales Unit:(36-2019)
 - (i) within eight (8) metres of any combustible or flammable substance, ignition source, heat producing equipment or spark emitting device; (36-2019)
 - (ii) within eight (8) metres of any parked vehicle or parking space that is not fenced off in accordance with Subsection 5.1(f) of this By-law; (36-2019)
 - (iii) within fifteen (15) metres of any highway, street, roadway, laneway or thoroughfare; (36-2019)
 - (iv) within twenty-five (25) metres of any facility, including a retail gas station, that contains any fuel dispensing pump or venting pipe or which dispenses, sells or refills:
 - a. gasoline or fuel;
 - b. propane tanks or cylinders;
 - c. any compressed natural gas or other compressed flammable substance; (36-2019)
 - (v) within twenty-five (25) metres of any building not included within Subsections 5.1(i)(vi) or 5.1(i)(vii) of this By-law; (36-2019)
 - (vi) within one hundred (100) metres of any public park, hospital, nursing home, home for the aged, retirement home, church or school; (36-2019)
 - (vii) within one hundred (100) metres of any land where explosives, gasoline or other flammable substances are:
 - a. manufactured;
 - b. stored within a manufacturing facility or fuel distribution station not used as a retail gas station; (36-2019)
 - (viii) within any location not permitted by the City's Zoning By-law 60-94, as amended; (36-2019)

6. PERMANENT SALES LOCATIONS

- 6.0 A Fireworks Sales Permit is not required to sell Fireworks from a Permanent Sales Location.
- 6.1 Notwithstanding Subsection 6.1, no Person shall fail to comply with the *Explosives Act* when selling, storing, or displaying Fireworks from a Permanent Sales Location.

DISCHARGING FIREWORKS

7. FIREWORKS DISCHARGE PERMITS

- 7.0 A Fireworks Discharge Permit is required to Discharge Display Fireworks and Pyrotechnic Special Effects at any time.
- 7.1 No Fireworks Discharge Permit is required to Discharge Consumer Fireworks between dusk and 11 p.m. on the statutory holidays known as Victoria Day, Canada Day and the celebration known as Diwali Day. (96-2019)
- 7.2 An application for a Fireworks Discharge Permit to Discharge Display Fireworks and/or Pyrotechnic Special Effects shall be made at the office of the Chief Fire Official on the form prescribed and the Chief Fire Official may prescribe any information to be given therein and other necessary papers to be completed or submitted by the applicant in conjunction with his application. (49-2021)
- 7.3 Every Fireworks Discharge Permit application shall be submitted to the Chief Fire Official a minimum of twenty-one (21) days prior to the proposed Discharge date and be accompanied by:
- (a) the appropriate non-refundable fee as set out in the City's General Fees and Charges By-law, as may be amended from time to time;
 - (b) a description of the Display Fireworks and/or Pyrotechnic Special Effects to be Discharged, the Discharge techniques to be used, and the manner and means of restraining Persons from being too near the Discharge location;
 - (c) a description of the proposed location for the Display Fireworks and/or Pyrotechnic Special Effects display;
 - (d) a letter of authorization from the owner of the property on which the Display Fireworks and/or Pyrotechnic Special Effects will be Discharged consenting to the display;
 - (e) a current certificate of insurance providing proof of liability insurance in the minimum amount of \$5,000,000.00, naming the City as an additional insured and containing a cross liability clause;
 - (f) a copy of the permit issued pursuant to the *Explosives Act* for the Fireworks Supervisor who will be handling and discharging the Display Fireworks and/or Pyrotechnic Special Effects;
 - (g) where deemed applicable by the Chief Fire Official, written confirmation from the Durham Region Police Service that appropriate arrangements have been made by the applicant for traffic and crowd control during the display; and
 - (h) such further and other information as the Chief Fire Official may require.
- 7.4 In addition to the requirements set out in this By-law, all Persons applying for or holding a Fireworks Discharge Permit to Discharge Display Fireworks and/or Pyrotechnic Special Effects shall comply at all times with the *Explosives Act*.
- 7.5 Where the proposed display location is City-owned property, the applicant shall obtain written approval from the City to Discharge Display Fireworks and/or Pyrotechnic Special Effects on the property and shall provide the Chief Fire Official with an agreement indemnifying and saving harmless the City with respect to any and all actions either directly or indirectly from the display.

- 7.6 Separate Fireworks Discharge Permit applications must be made for each and every proposed display location.
- 7.7 The Chief Fire Official may revoke a Fireworks Discharge Permit where, in his or her sole opinion, the applicant has not complied or is not complying with the provisions of this By-law.
- 7.8 Where a Fireworks Discharge Permit is revoked, the applicant is not entitled to a return of any fee paid to obtain the Fireworks Discharge Permit.
- 7.9 Receipt of the application and/or the Fireworks Discharge Permit fee by the City shall not represent approval of the application for the issuance of a Fireworks Discharge Permit nor shall it obligate the City to issue a Fireworks Discharge Permit.
- 7.10 No Person shall transfer or assign his or her Fireworks Discharge Permit.
- 7.11 In the event that a Person attempts to transfer or transfers his or her Fireworks Discharge Permit, the Fireworks Discharge Permit is void and there shall be no return of any fee paid.

8. PROHIBITED ACTIVITIES

8.1 No Person shall:

- (a) possess or Discharge Fireworks except pursuant to this By-law;
- (b) Discharge Consumer Fireworks except between dusk and 11 p.m. on the statutory holidays known as Victoria Day, Canada Day and the celebration known as Diwali Day unless a Consumer Fireworks Prohibition is in effect; (96-2019) (49-2021)
 - (b.1) Discharge Consumer Fireworks at any time when a Consumer Fireworks Prohibition is in effect (49-2021)
- (c) possess or Discharge any Prohibited Fireworks;
- (d) Discharge Fireworks on any property, without obtaining the written authorization of the legal owner of the property, including into, in or on any highway, street, lane, square, public park or other public place;
- (e) fail to provide and maintain operational fire multi-purpose ABC extinguishing equipment ready for immediate use, and present at all times and for a reasonable period thereafter, at the location or site of the Discharge of Consumer Fireworks (including having knowledge of the operational procedures associated with said fire multi-purpose extinguishing equipment);
- (f) fail to follow the manufacturer's requirements for the Discharge of Fireworks;
- (g) fail to permit the inspection by the Chief Fire Official of the Fireworks and any site where the Fireworks may be Discharged together with all associated equipment and documentation pertaining to the Discharge of Fireworks;
- (h) being under the age of 18 years, possess or Discharge Fireworks;
- (i) permit any Person under the age of 18 years to Discharge Fireworks;
- (j) Discharge Fireworks into, inside of, or on a building, accessory building, structure, or motor vehicle;
- (k) Discharge Consumer Fireworks,
 - (i) within 300 metres of any premises or place where explosives, gasoline or other flammable substances are manufactured or stored in bulk,
 - (ii) in, on or onto any land occupied by a hospital, nursing home, home for the aged, church or school
- (l) Discharge Display Fireworks and/or Pyrotechnic Special Effects,
 - (i) within one hundred (100) metres of any highway or entrance to a public park,

- (ii) within three hundred (300) metres of,
 - 1. any premises or place where explosives, gasoline or other flammable substances are manufactured or stored in bulk, or
 - 2. any land occupied by a hospital, nursing home, home for the aged, church or school; or
- (iii) within five hundred (500) metres of another approved Display Fireworks and/or Pyrotechnic Special Effects display location;
- (m) Discharge Display Fireworks or Pyrotechnic Special Effects without a Fireworks Discharge Permit;
- (n) who holds a Fireworks Discharge Permit,
 - (i) Discharge or permit to be Discharged Display Fireworks and/or Pyrotechnic Special Effects on a day or at times other than the day or days and times specified in the Fireworks Discharge Permit,
 - (ii) Discharge or permit to be Discharged Display Fireworks and/or Pyrotechnic Special Effects at a location other than the location specified in the Fireworks Discharge Permit,
 - (iii) permit any Person other than a Fireworks Supervisor to Discharge Display Fireworks and/or Pyrotechnic Special Effects,
 - (iv) fail to be present in Person at all times during the setup of the display area, the handling and Discharge, and the cleanup of the Display Fireworks and/or Pyrotechnic Special Effects,
 - (v) fail to ensure that a Fireworks Supervisor is present at all times during the setup of the display area, the handling and Discharge, and the cleanup of the Display Fireworks and/or Pyrotechnic Special Effects, or
 - (vi) fail to take all such safety precautions as are required by the Chief Fire Official for the handling and Discharge of Display Fireworks and/or Pyrotechnic Special Effects.
- (o) Discharge Fireworks in a manner that creates a nuisance or that creates an unsafe condition, danger from fire or from risk of accident, injury or damage at or in respect of any place, location or site, or to or in respect of any Person, property or thing.

9. ADMINISTRATIVE PENALTIES

9.0 Consumer Fireworks Prohibition (49-2021)

9.0.1 The Chief Fire Official may declare a Consumer Fireworks Prohibition when, in his or her sole opinion, conditions exist which would make the discharge of Consumer Fireworks unsafe. These conditions may include atmospheric or environmental conditions, to help implement restrictions intended to reduce the transmission of disease, as well as any local circumstances which may prevent the safe discharge of Consumer Fireworks. (49-2021)

9.0.2 The public shall be notified that a Consumer Fireworks Prohibition is in effect on the City of Oshawa's website. (49-2021)

9.1 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this by-law.

9.2 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty in the amount of \$125 for each day on which the contravention occurs or continues.

10. OFFENCES

- 10.1 Each person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine of:
- (a) not less than \$300 and not more than \$5,000;
 - (b) not less than \$400 and not more than \$10,000 for a second conviction of the same offence; and
 - (c) not less than \$500 and not more than \$25,000 for a third or subsequent conviction of the same offence.
- 10.2 Prosecution under this by-law shall not preclude any other legal actions required to recover damages required to repair, replace or restore damaged real or personal property, as the case may be.

11. CONFLICT

- 11.1 This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.
- 11.2 If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard to protect the health and safety of the public and to maintain clean and tidy condition on land shall apply.

12. SEVERABILITY

- 12.1 If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in certain circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

13. EFFECTIVE DATE

- 13.1 This By-law is effective on July 3, 2014.
- 13.2 By-law 103-73 is hereby repealed.

By-law passed this twentieth day of May, 2014.