

April 1, 2015

CORPORATE SERVICES – LEGISLATIVE SERVICES 2015-06

TO: Committee of the Whole

SUBJECT: Regulations and Sale of Fireworks

ORIGIN: Director, Legislative Services/Town Clerk & Supervisor of By-laws

RECOMMENDATIONS

THAT Corporate Services Report – Legislative Services 2015-06 dated April 1, 2015 regarding “Regulation and Sale of Fireworks” be received and the following recommendations be adopted:

1. THAT Council adopt the Draft Fireworks By-law attached as Appendix A;
2. AND THAT the following fees be included in the Fees and Charges By-law for the 2015 Budget:

Service Provided	Fees
License to sell at a Mobile Sales Premise	\$337.00
Appeals Fee	\$155.00

3. AND THAT Council repeal By-law 2002-151 Schedule 11.

COMMENTS

In consultation Central York Fire Services (CYFS) and with input from residents and affected businesses, staff undertook a comprehensive review of the Town’s fireworks regulations (By-law 2001-151), which has been in place since 2001. The review and resulting Draft Fireworks By-law (attached as Appendix A) reflects current and best practices in health and safety standards; enforcement authority to address noise complaints; and standards intended to protect Town and private property.

Key components of the draft By-law include:

- Updated definitions, reflecting federal fireworks regulations;
- Standards related to the sale and setting off of categories of fireworks, including prohibited fireworks, consumer fireworks, display fireworks and pyrotechnic special effects fireworks;
- Enforcement authority for the sale and setting off various categories of fireworks;
- Licensing the sale of consumer fireworks on and the seven days preceding Victoria Day and Canada Day through the Town of Newmarket;

- Allowing for the setting off of consumer fireworks for special occasions such as weddings, anniversaries and milestones outside of Victoria Day and Canada Day through a permit issued by CYFS;
- A provision for a licence appeal (where revoked, suspended or refused through the arms-length Appeal Committee; and,
- Permitting the setting off of display fireworks and pyrotechnic special effects fireworks through CYFS.

A chart summarizing current and recommended regulations and any public comments is outlined in Appendix B.

Next Steps

Should Council approve the Draft Fireworks By-law, staff will undertake a communication and education program for residents and affected businesses in advance of Victoria Day and Canada Day.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report relates to the Well-equipped and Managed link of the Town's Community Vision – implementing policy and processes that reflect sound and accountable governance.

CONSULTATION

The Draft Fireworks By-law was prepared in consultation with CYFS, Legal Services and Recreation and Culture departments. Information was also gathered from York Regions' eight local municipalities.

On February 25, 2015, a public information centre was held to provide an overview of the key components of the Draft Fireworks By-law and to provide for public input. Input from the public information centre (if any) has been included in Appendix B. The Draft Fireworks By-law was also provided to affected businesses. No comments have been received from affected businesses.

Staff have received complaints in the past with regard to residents setting off consumer fireworks in Town parks, for example, the Environmental Park at the corner of Gilpin Drive and Woodspring Avenue. Conversely, staff have also received requests that fireworks be permitted in Town parks and property (such as a cul-de-sac). The Draft Fireworks By-law continues to prohibit setting off of consumer fireworks in Town parks in order to protect the Town's property from damage and litter and to mitigate any liability associated with personal damage claims that may result from the misuse of consumer fireworks.

The Town organizes and funds a Canada Day fireworks display and residents are encouraged to attend this event. Staff do not recommend that a CYFS and/or Town supervised public space (such as a Town park) be established to allow resident-bought consumer fireworks to be let off on Victoria Day or Canada Day due to additional resources required, and liability associated with

personal damage claims that may result from the misuse of consumer fireworks in a municipally supervised setting.

HUMAN RESOURCE CONSIDERATIONS

Communications, education, administration and enforcement activities associated with the Draft Fireworks By-law are accommodated within existing staff levels.

BUDGET IMPACT

Currently, mobile sales premises which sell consumer fireworks are required to obtain a licence and pay a \$337.00 fee under the Hawkers and Peddler By-law (By-law 2001-151, schedule 12). The proposed "Mobile Sales Premise" fee of \$337.00 in the Fees and Charges By-law is an administrative change with no impact to the existing businesses.

Other businesses which continue to be licensed and pay the \$337.00 fee include temporary flowers and Christmas tree premises.

After a period of implementation; staff will review if any fees are warranted for temporary sales premises to be reflected in the 2016 budget cycle.

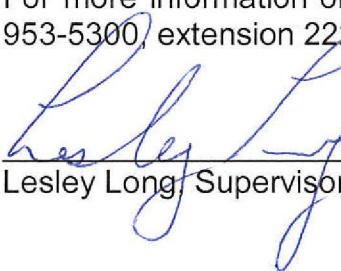
Appendices

Appendix A – Final Draft Fireworks By-law

Appendix B – Summary of Amendments to Fireworks By-law

CONTACT

For more information on this report, contact Lesley Long, Supervisor, By-law Enforcement, 905-953-5300, extension 2222 or via email at llong@newmarket.ca.



Lesley Long, Supervisor, Bylaw Enforcement



Andrew Brouwer, Director, Legislative Services/ Town Clerk



Anita Moore, Commissioner of Corporate Services





CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2015-XX

A BY-LAW FOR THE LICENSING, REGULATING THE SALE AND SETTING OFF OF FIREWORKS (Fireworks By-law).

WHEREAS section 151(1) of the *Municipal Act, 2001*, S.O. 2001c. 25 (the "Act") as amended authorizes *Council* to license, regulate and govern any business wholly or partly carried on with the municipality even if the business wholly or partly carried on with the municipality even if the business is being carried on from location outside the municipality;

AND WHEREAS section 121 of the Act authorizes Council to enact by-law for prohibiting or regulating the sale and setting off of fireworks and requiring a permit for the holding of fireworks displays;

AND WHEREAS section 11 (3) 11 permits Council of a local municipality to enact by-laws respecting business licensing;

AND WHEREAS the Council of the Corporation of the Town of Newmarket wishes to enact the measures herein in order to provide a mechanism for the regulating, permitting, safe sale and discharge of fireworks within the municipality;

AND WHEREAS it is deemed necessary to repeal by-law 2002-151 Schedule 11.

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1.0 DEFINITIONS:

In this By-law, the following words have the meanings assigned thereto:

"APPEALS COMMITTEE" means a committee that is appointed from time to time by Council for the purpose of hearing appeals regarding the revocation, suspension, cancellation or refusal to issue or renew a licence pursuant to this by-law;

"APPLICANT" means a person applying for a licence, permit or fireworks special occasions permit under this by-law;

"BUILDING" means any structure used or intended for supporting or sheltering any use or occupancy;

"COUNCIL" means the Council of the Corporation of the Town of Newmarket;

"CONSUMER FIREWORKS" means low-hazard fireworks for recreation that are classified as Type F.1 in the Explosives Act and Regulations including, but not limited to, fireworks showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, but does not include Christmas crackers and caps for toy guns, Display Fireworks, Pyrotechnics Special Effects Fireworks and Prohibited Fireworks such as terms are defined within this by-law;

"DIRECTOR" means the Director, Legislative Services of the Town or authorized designate;

"DISCHARGE" means when used in relation to fireworks and prohibited fireworks, includes firing, igniting, exploding and setting-off such articles;

"DISPLAY FIREWORKS" means high hazard fireworks generally used for recreation, as classified as Type F.2, in the *Explosives Act* and Regulations including, but not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illuminations, set pieces, pigeons;

"EXPLOSIVES ACT" means the *Explosives Act, R.S.C. 1985*, as amended from time to time and the regulations enacted there under from time to time or any act or regulation enacted in substitution therefore;

"FEES AND CHARGES BY-LAW" means the Licensing Fees and Charges By-law, as amended for the Legislative Services Department and Central York Fire Services;

"FIRE EXTINGUISHING EQUIPMENT" means sufficient personnel and/or equipment, which may include items such as fire extinguishers, water hose, pails and sand, as necessary dependent on the type and size of the fireworks being discharged;

"FIRE CHIEF" means the Fire Chief for the Central York Fire Services Town of Newmarket and his or her designate;

"FIRECRACKER" means a pyrotechnic device that is designed to explode when ignited without subsequent display or visible effect, but does not include caps for toy guns;

"FIREWORKS" means Display Fireworks, Consumer Fireworks and Pyrotechnic Special Effect Fireworks but excludes, any fireworks not listed on the List of Approved Explosives as published from time to time under the *Explosives Act*;

"FIREWORKS SPECIAL OCCASION PERMIT" means a Consumer Fireworks Permit issued by Central York Fire Services for dates other than Victoria Day and Canada Day or on the day immediately preceeding or on the day immediately after Victoria Day and Canada Day , the form of which may be amended from time to time by Central York Fire Services;

"FIREWORKS SUPERVISOR" means a person certified as a supervisor under the *Explosives Act* and regulations to conduct displays of Fireworks;

"FPPA" means the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4*, as amended from time to time and the regulations enacted there under from time to time or any act or regulation enacted in substitution therefore;

"LICENCE" means the authorization obtained, granted or issued pursuant to this by-law to a Temporary Fireworks Premises or a Mobile Sales Premise;

"LICENSEE" means a person licensed under this by-law;

"MOBILE SALES PREMISE" means a mobile or portable premise from which Fireworks are sold and includes a trailer;

"OFFICER" means a Police Officer as defined under the *Police Services Act, R.S.O. 1990, c. P15*, as amended, an individual appointed by the Town as a Municipal Law Enforcement Officer pursuant to section 15 of the *Police Services Act*, as amended, or any other individual designated by the Town to enforce this By-law;

"PERMIT" means a Display Fireworks or Pyrotechnic Special Effect Fireworks Permit issued by Central York Fire Services, the form of which may be amended from time to time by Central York Fire Services;

"PERSON" includes (a) a natural individual and his/her heirs, executors, administrators or other legally appointed representatives, (b) a corporation, partnership or other form of business association and includes its officers, partners and shareholders, (c) a trustee or receiver, and (d) a mortgagee in possession;

"PROHIBITED FIREWORKS" means any fireworks that are not included on the most recent list of authorized fireworks as published from time to time by the Explosives Regulatory Division of Natural Resources Canada, or their successors, and includes, but not limited to, firecrackers, sky lanterns, 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; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers and other trick devices or practical jokes;

"PYROTECHNIC SPECIAL EFFECT FIREWORKS" means an explosive classified as type F.3, in the *Explosives Act and Regulations* thereunder the following types of explosive if they will be used to produce a special effect in a film or television production or a performance before a live audience;

"PYROTECHNICIAN" means the person certified as a Pyrotechnician under the *Explosives Act and Regulations* to conduct displays of Fireworks;

"SALE OR SELL" includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale;

"TEMPORARY FIREWORKS PREMISE" means a premise within a Building or part thereof where a retailer only sells Consumer Fireworks on Victoria Day, Canada Day or the seven (7) day period before Victoria Day and Canada Day and whose principal business is not the sale of Fireworks;

"TOWN" means the Corporation of the *Town* of Newmarket;

"VENDOR" means a person authorized under this by-law to sell Fireworks.

2.0 ADMINISTRATION

- 2.1 This By-law shall be administered by the Director, with the exception of the issuance of a *Permit* for the Discharge of *Display, Pyrotechnic Special Effects* and *Special Occasions Permit* which shall be administered by the *Fire Chief*.

3.0 PROHIBITIONS

- 3.1 No *Person* shall offer for sale, cause or permit to be sold, sell or otherwise distribute any *Prohibited Fireworks, Display Fireworks or Pyrotechnic Special Effect Fireworks* within the *Town*.
- 3.2 No person or group of persons shall Discharge in the *Town* any Prohibited Fireworks. Any Discharge of Fireworks in the *Town* shall be in accordance with the requirements of this by-law.

- 3.3 *Consumer Fireworks* shall only be sold seven (7) days prior to and including Victoria Day and Canada Day.
- 3.4 No *Person* shall sell or give to any person under the age of 18 years any type of *Fireworks*.
- 3.5 No *Person* shall sell *Consumer Fireworks* in a *Building*, *Temporary Fireworks Premise* or *Mobile Sales Premise* unless the provisions of the Ontario Fire Code, *Explosives Act* and Regulations are complied with.
- 3.6 No *Person* shall display in any store window any type of *Fireworks*.
- 3.7 No *Person* shall display for sale or store 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.
- 3.8 No *Person* shall carry on or engage in the business or occupation of selling *Consumer Fireworks* without first obtaining a *Licence*.
- 3.9 No *Person* licensed to carry on any business or occupation pursuant to this By-law shall advertise or promote or carry on such business or occupation under any name other than the name listed in the *Licence*.
- 3.10 No *Person* or group of persons shall *Discharge* any *Fireworks* on *Town* property without first having obtained a *Permit* to do so issued by the *Fire Chief*.
- 3.11 No *Person* or group of persons shall *Discharge* any *Display Fireworks* or *Pyrotechnic Special Effect Fireworks* on private property without first having obtained a *Permit* to do so issued by the *Fire Chief*.

4.0 APPLICATION REQUIREMENTS FOR SALE OF CONSUMER FIREWORKS

- 4.1 Every *Applicant* for a *Licence* issued under this By-law shall submit the following documentation:
 - a) an application form established by the *Town*;
 - b) proof of payment of any applicable fee(s) established by the *Town*;
 - c) a Police Vulnerable Sector Screening Clearance Letter within your local police service issued 30 days of the application for the person engaged in the sale of *Consumer Fireworks*;
 - d) a letter of permission from the owner of the property;
 - e) a sketch and description of the *Building* or property for the proposed sale of *Consumer Fireworks*; and
 - f) such further and other information as the *Director* may require.
- 4.2 No *Licence* shall be transferred or assigned and if a person licensed under this By-law sells, leases or otherwise disposes of his/her interest in the business or occupation, his/her *Licence* shall, notwithstanding any other provision of this By-law, be revoked.
- 4.3 Every *Licence* shall have endorsed thereon the location of a *Mobile Sales Premise* and *Temporary Sales Premise* such endorsement shall be for the same location only.

- 4.4 Every application for a *Licence* for the sale of *Consumer Fireworks* shall include proof of commercial general liability insurance in an amount no less than Five Million Dollars (\$5,000,000), naming The Corporation of the *Town* of Newmarket as an additional insured and containing a cross liability clause.

5.0 REGULATIONS AFFECTING THE SALE OF CONSUMER FIREWORKS

- 5.1 All *Vendors* of *Consumer Fireworks* in the *Town* are required to conduct the sales of *Consumer Fireworks* within a *Temporary Fireworks Premise* or *Mobile Sales Premise* and in accordance with this By-law and all applicable law.
- 5.2 All *Vendors* of *Consumer Fireworks* from a *Temporary Fireworks Premise* or *Mobile Sales Premise* shall keep their *Licence* issued in respect of this By-law posted in a conspicuous place at all times.
- 5.3 Every *Vendor* of *Consumer Fireworks* from a *Temporary Fireworks Premise* or *Mobile Sales Premise* shall provide and maintain fully operational fire extinguishers, ready for immediate use, on site at all times.
- 5.4 Every *Vendor* of a *Mobile Sales Premises* shall be issued a license for a period of twelve (12) consecutive days which shall include the setting up and removal of the mobile sales premises and the selling of *Consumer Fireworks* shall not exceed eight (8) consecutive days
- 5.5 No person shall sell *Consumer Fireworks* from a *Mobile Sales Premise* except in accordance with the following regulations;
- a) not less than two (2) signs must be posted in prominent locations on the outside of the *Mobile Sales Premise* indicating that persons may 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 6 metres of the *Mobile Sales Premise*;
 - b) the public shall not be permitted to enter any *Mobile Sales Premise* for the purpose of purchasing *Consumer Fireworks* unless there are at least two operational doors providing means of access to and egress from the *Mobile Sales Premise*;
 - c) no more than fifteen (15) customers are permitted in a *Mobile Sales Premise* at the same time.
- 5.6 No *Person* shall display for sale any *Consumer Fireworks* in lots that exceed 22.68 kilograms gross weight (50 pounds gross weight).
- 5.7 No *Person* shall display for sale any *Consumer Fireworks* in any manner other than in a package, glass case or other suitable receptacle away from any other inflammable goods.

6.0 DISCHARGE OF CONSUMER FIREWORKS

- 6.1 No *Person* shall *Discharge Consumer Fireworks* except on Victoria Day and Canada Day or on the day immediately preceding or on the day immediately after Victoria Day and Canada Day unless the person has applied for and been issued a *Fireworks Special Occasion Permit*, in which case the *Consumer Fireworks* shall only be discharged at the date, time, location and site shown on the *Fireworks Special Occasion Permit*.

- 6.2 No *Person* shall *Discharge* any *Consumer Fireworks* in such a manner which creates a danger to any person or property, or to cause or allow any unsafe act or omission at the time and place for the discharging of any *Consumer Fireworks*.
- 6.3 No *Person* shall *Discharge* any *Consumer Fireworks* in or into any *Building*, doorway, or automobile.
- 6.4 No *Person* eighteen (18) years of age or older may discharge *Consumer Fireworks* on any land not belonging to him/her or on any other privately owned land unless the owner thereof has given written permission for the *Discharge of Consumer Fireworks*.
- 6.5 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.
- 6.6 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.
- 6.7 No *Person* shall *Discharge* any *Consumer Fireworks* except between the hours of dusk and 11:00 p.m.
- 6.8 No person shall permit, allow, or cause the *Discharge* of any *Consumer Fireworks* if the front lot line if the property is less than eighteen (18) metres (59') in width.

7.0 APPLICATION REQUIREMENTS FOR A FIREWORKS SPECIAL OCCASIONS PERMIT

- 7.1 Every application for a *Fireworks Special Occasions 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 Consumer Fireworks* is to occur.
- 7.2 Every application for a *Fireworks Special Occasions Permit* shall be submitted by the *Applicant* and shall include description of the event including:
- a) the date and time of the proposed *Discharge of Consumer Fireworks*;
 - b) proof of written consent of the owner of the property to *Discharge of Consumer Fireworks* if the *Applicant* is not the owner of the property ;
 - c) proof that the *Applicant* is over the age of 18;
 - d) a description of the fire emergency procedures;
 - e) proof of insurance in accordance with Section 14.1;
 - f) proof of insurance when *Fireworks Special Occasion Permit* is for residential property in accordance with Section 14.2;
 - g) applicable fee(s) established by the *Town*; and
 - h) such other information as required by the *Fire Chief*.
- 7.3 An *Applicant* for a *Fireworks Special Occasions Permit* is subject to the provisions of this By-law and entitled to be issued the *Fireworks Special Occasions Permit*, except where:

- a) the Application is incomplete;
- b) a residential property that has been previously issued a *Fireworks Special Occasions Permit* in the same calendar year; or
- c) there are reasonable grounds for belief that the holding of the *Consumer Fireworks* will result in a breach of this or any other by-law, the *FPPA* or the *Explosives Act*.

8.0 **APPLICATION REQUIREMENTS FOR DISPLAY FIREWORKS**

- 8.1 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.
- 8.2 Every application for a *Permit* shall be submitted by the *Fireworks Supervisor* and shall include description of the event including:
 - a) the date and time of the proposed *Discharge of Display Fireworks*;
 - b) a list of all *Display Fireworks* that may be discharged;
 - c) the discharge techniques to be used;
 - d) the manner and means of restraining unauthorized persons from attending too near the discharge site;
 - e) the manner in which unused *Display Fireworks* are to be disposed of;
 - f) the number of authorized persons on site during the event to handle and *Discharge the Display Fireworks*;
 - g) a site plan providing a description of the discharge site to be used for the discharging of the *Display Fireworks*;
 - h) a description of the fire emergency procedures;
 - i) the name and address of the *Applicant (Fireworks Supervisor)* and the sponsoring organization, if applicable;
 - j) proof of certification of the *Applicant* as a *Fireworks Supervisor*;
 - k) proof of written consent of the owner of the property to *Discharge Display Fireworks* if the *Applicant (Fireworks Supervisor)* is not the owner of the property;
 - l) a *Permit* fee as set out in the applicable *Fees and Charges By-law*;
 - m) proof of insurance in accordance with Section 14.1; and
 - n) such other information as required by the *Fire Chief*.
- 8.3 An *Applicant* for a *Permit* is subject to the provisions of this By-law and 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 any other by-law, the *FPPA* or the *Explosives Act*.

9.0 APPLICATION REQUIREMENTS FOR PYROTECHNIC SPECIAL EFFECT FIREWORKS

- 9.1 Every application for a *Permit* for *Pyrotechnic Special Effect Fireworks* shall be made to the *Fire Chief* a minimum of twenty-one (21) calendar days prior to the event where the proposed *Discharge of Pyrotechnic Special Effect Fireworks* is to occur.
- 9.2 Every application for a *Permit* shall be submitted by the *Pyrotechnician* and shall include a description of the event including:
 - a) date and time of the proposed event using *Pyrotechnic Special Effect Fireworks*;
 - b) a list of all *Pyrotechnic Special Effect Fireworks* to be discharge;
 - c) sequence of firing;
 - d) the manner and means of restraining unauthorized persons from attending too near the discharge site;
 - e) the manner in which unused *Pyrotechnic Special Effect Fireworks*; are to be disposed of;
 - f) the number of authorized *Persons* on site during the event to handle and *Discharge the Pyrotechnic Special Effect Fireworks*;
 - g) a site plan of the facility and room capacity, the stage and the *Pyrotechnic Special Effect Fireworks* storage area;
 - h) description of fire emergency procedures;
 - i) name and address of the *Applicant (Pyrotechnician)* and the sponsoring business or organization, if applicable;
 - j) proof of certification of the *Applicant* as a *Pyrotechnician*;
 - k) proof of written consent of the owner of the property to *Discharge Pyrotechnic Special Effect Fireworks* if the *Applicant (Pyrotechnician)* is not the owner of the property;
 - l) a *Permit* fee as set out in the applicable *Fees and Charges By-law*;
 - m) proof of insurance in accordance with Section 14.1;
 - n) location of all *Pyrotechnic Special Effect Fireworks*;
 - o) height, range of effect, fallout and duration of the *Pyrotechnic Special Effect Fireworks*;
 - p) location of the audience and all exits;
 - q) such other information as required by the *Fire Chief*.
- 9.3 An *Applicant* for a *Permit* is subject to the provisions of this by-law and entitled to be issued the *Permit*, except where:

- a) the application is incomplete;
- b) the *Applicant* is not a *Pyrotechnician* under the *Explosives Act*, or
- c) there are reasonable grounds for belief that the holding of the *Pyrotechnic Special Effect Fireworks* will result in a breach of this or any other by-law, the *FPPA* or the *Explosives Act*.

10.0 CONDITIONS FOR APPLICANT FOR FIREWORKS SPECIAL OCCASIONS PERMIT

- 10.1 The *Fire Chief* may issue a *Fireworks Special Occasions Permit* for *Discharge of Consumer Fireworks* on the conditions set forth in Section 6 and 7. Each such *Fireworks Special Occasions Permit* shall state the name of the sponsoring club, business, organization, association or group, the purpose of the display, the place, date and time at which the same may be held, and the name of the *Applicant* under whose supervision the display shall be held.
- 10.2 The following conditions shall apply to the *Applicant* of a *Fireworks Special Occasions Permit* issued under this By-law:
 - a) The *Fireworks Special Occasions Permit* is valid only for the display at the place, and on the date or dates set forth in the *Fireworks Special Occasions Permit*;
 - b) the *Applicant* shall supervise the *Discharge of Consumer Fireworks*;
 - c) every *Applicant* shall provide and maintain fully operational, *Fire Extinguishing Equipment* ready for immediate use; and
 - d) the *Applicant* shall comply at all times with the provisions of this or any other by-law, the *FPPA* or the *Explosives Act*.
- 10.3 No *Applicant* shall *Discharge Consumer Fireworks* except in accordance with the conditions of the *Fireworks Special Occasions Permit*.
- 10.4 The *Applicant* holding the *Fireworks Special Occasions Permit* of *Consumer Fireworks* shall ensure that all unused *Consumer Fireworks* and all debris are removed, in compliance with this or any other by-law, the *FPPA* and the *Explosives Act*.

11.0 CONDITIONS FOR APPLICANT FOR DISCHARGE PERMIT

- 11.1 The *Fire Chief* may issue a *Permit* for *Discharge of Display Fireworks* or *Pyrotechnical Special Effect Fireworks* on the conditions set forth in Sections 8 or 9 and each such *Permit* shall state the name of the sponsoring club, business, organization, 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* or *Pyrotechnician* under whose supervision the display shall be held.
- 11.2 The following conditions shall apply to the *Applicant* of 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 *Applicant* shall supervise the *Discharge of Display Fireworks* or *Pyrotechnic Special Effect Fireworks*;

- c) every *Applicant* shall provide and maintain fully operational, *Fire Extinguishing Equipment* ready for immediate use;
 - d) every applicant shall ensure that Display Fireworks or Pyrotechnical Special Effect Fireworks are not set off within three hundred (300) metres of any premise or place where explosives, gasoline or other highly flammable substances are manufactured or stored in bulk;
 - e) every applicant shall ensure that Display Fireworks or Pyrotechnical Special Effect Fireworks are not set off within three hundred (300) metres of a hospital, nursing home, home for the aged, church or school unless the consent of the owner or authorized representative thereof is obtained; and
 - f) the *Applicant* shall comply at all times with the provisions of this or any other by-law, the *FPPA*, *Explosives Act*, and the Display Fireworks Manual or Pyrotechnic Special Effects Manual published by Natural Resources Canada or any successor publication.
- 11.3 No *Applicant* shall *Discharge Display Fireworks* or *Pyrotechnic Special Effect Fireworks* except in accordance with the conditions of the *Permit*.
- 11.4 The *Applicant* holding the *Permit* of *Display Fireworks* or *Pyrotechnic Special Effect Fireworks* shall ensure that all unused *Fireworks* and all debris are removed, in compliance with this or any other by-law, the *FPPA*, the *Explosives Act* and the Display Fireworks Manual or Pyrotechnic Special Effects Manual published by Natural Resources Canada or any successor publication.

12.0 EXEMPTIONS

- 12.1 This By-law shall not apply to any *Fireworks* used or stored for government or other public purposes by the *Town*, the Regional Municipality of York, or any Provincial or Federal governmental authority.

13.0 FEES

- 13.1 Fees shall be paid upon submission of an application for a *Licence*, *Permit* or *Fireworks Special Occasions Permit* as set out in the *Fees and Charges By-law*.

14.0 INSURANCE

- 14.1 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 *Town* as an additional insured and containing a cross liability clause. Such insurance shall include coverage for displays of *Display Fireworks* or *Pyrotechnic Special Effect Fireworks*. Such insurance policy shall contain an endorsement to provide the *Town* within thirty (30) calendar days prior written notice of cancellation or of a material change that would diminish coverage, and a standard *Town* Certificate of Insurance evidencing such insurance coverage shall be provided to the *Town* prior to the issuance of a *Permit* or *Licence*.
- 14.2 The *Applicant* for a *Fireworks Special Occasions Permit* shall provide proof of home owner's insurance.

15.0 GROUNDS FOR REFUSAL TO ISSUE A LICENCE OR TO REVOKE

15.1 The *Director* shall refuse to issue a *Licence* where the *Applicant* would not be entitled to a *Licence* for reasons set out in this By-law.

15.2 An *Applicant* is entitled to be licensed except where:

- a) The past conduct of the *Applicant* affords reasonable grounds for the belief that the *Applicant* will not carry on the activity for which he is to be licensed in accordance with the law and with integrity and honesty; or
- b) The *Applicant* is carrying on activities that are or will be, if the *Applicant* is licensed, in contravention of this By-law, any other municipal by-law or other applicable law; or
- c) The past or present conduct of the applicant, or of any partner, in the case of an applicant which is a partnership, or of any director or officer of the corporation, if the applicant is a corporation, affords reasonable grounds to believe that the business in respect of which the application is made will not be carried on in accordance with the law and with integrity and honesty, or
- d) The applicant has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of a by-law enacted by the Town; or
- e) There are reasonable grounds to believe that the equipment, vehicles and other personal property used in connection with the carrying on of or engaging in the business licensed hereunder is dangerous or unsafe; or
- f) The fee payable in respect of the license applied for has not been paid.

16.0 POWER TO REVOKE OR SUSPEND A LICENCE

16.1 The *Director* may revoke or suspend a *Licence* where this *Licensee* fails to comply with any of the provisions of this By-law.

16.2 A *Licence* may be revoked or suspended when:

- a) the *Applicant* has been convicted of an offence under this By-law or the *Explosives Act*;
- b) in the opinion of the *Director* the conduct of the *Applicant*, during the period in which the *Licence* is effective affords reasonable grounds for belief that the *Applicant* has not, is not, or will not carry on the selling of *Consumer Fireworks* in accordance with this By-law and any other applicable law;
- c) the *Applicant* has provided false or misleading information in respect of the *Licence* application; or
- d) in the opinion of the *Director*, the premise in which the *Applicant* has sold or intends to sell *Consumer Fireworks* does not comply with provisions of this By-law or any other applicable law.

17.0 PROCEDURE WHEN LICENCE REVOKED, SUSPENDED OR REFUSE TO ISSUE

- 17.1 When, for any of the grounds set out in the applicable section of this By-law, an *Applicant* or *Licensee* is not entitled to be licenced or a *Licence* may be subject to revocation, the *Director* shall refuse to issue the *Licence*, suspend or revoke the *Licence*, or issue a *Licence* subject to terms and conditions.
- 17.2 The *Director* shall provide written notice to be given to the *Applicant*;
- a) setting out the grounds for the revocation, refusal to issue, suspension or the terms and conditions of a *Licence*;
 - b) give reasonable particulars of the grounds;
 - c) be signed by the *Director*;
 - d) inform the *Applicant* or *Licensee* of his/her right to a hearing before an *Appeals Committee* appointed by *Council* if he delivers a written request for such a hearing within seven (7) days following the date of service.
- 17.3 On receipt of a written request for a hearing from an *Applicant* or a *Licensee*, the *Director* shall schedule the hearing and shall give the *Applicant* or *Licensee* reasonable written notice of the date, time and place of the hearing.
- 17.5 The *Director* shall make a recommendation to the *Appeals Committee* with respect to revocation, suspension, cancellation or refusal or issue a *Licence* or recommend that a *Licence* be issued subject to terms and conditions.
- 17.6 When an *Applicant* or *Licensee* who has been given written notice of the hearing does not attend at the appointed time and place, the *Appeals Committee* may proceed with the hearing in their absence and the *Applicant* or *Licensee* shall not be entitled to any further notice of the proceedings.
- 17.7 Upon final decision of the *Appeals Committee* the *Director* shall send by either personal delivery or registered mail, a written notice of the *Appeals Committee* decision.
- 17.8 The decision of the *Appeals Committee* is final binding.
- 17.9 A *Licensee* who's *Licence* has been revoked or suspended shall return the *Licence* and documentation issued by the *Director* within twenty-four (24) hours of the service of notice of revocation. An Inspector may enter upon the business premises of the *Licensee* for the purpose of receiving, taking or removing the said *Licence*.
- 17.10 No *Person* who's *Licence* has been revoked or suspended shall refuse to deliver the *Licence* to the *Director* in any way obstruct or prevent the *Director* from receiving or taking the same.

- 17.11 Notwithstanding any decision of or statement by *Appeals Committee* respecting the granting of a *Licence* or application therefore, no *Person* shall be deemed to be licensed until the *Applicant* has paid the required fee and has received the physical *Licence*.

18.0 NOTIFICATION OF CHANGE OF INFORMATION

- 18.1 When a *Licensee* changes his name, address, or any information relating to the *Licence*, the *Licensee* shall notify the *Director* within seven (7) business days after the change, of information relating to the *Licence* and shall if required by the *Director* return the *Licence* immediately to the *Director* for amendment.

19.0 ORDER:

- 19.1 Where the *Town* is satisfied that a contravention of this By-law has occurred, the *Town* may make an order requiring the *Vendor* to do work to correct the contravention.
- 19.2 An order under Section 19 of this By-law shall set out:
- a) reasonable particulars to identify the contravention, the location of the contravention and the date by which the *Vendor* must be brought into compliance with this By-law;
 - b) that the *Vendor* shall comply with all contraventions identified on the order within forty-eight (48) hours of the order being served;
 - c) an order under Section 19 may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force; and
 - d) any *Person* who contravenes an order under Section 19 of this By-law is guilty of an offence.

20.0 SERVICE OF NOTICES OR ORDERS

- 20.1 Any notices or orders required to be given pursuant to this By-law by the *Director* shall be deemed to be sufficiently served if delivered personally or sent by registered mail or by prepaid first class mail addressed to the *Person* to whom service is to be made at the address on the application or the last known address on file in the Legislative Service Office.
- 20.2 Any notices or orders served by either registered mail or by prepaid first class mail shall be deemed to have been received on the fifth (5) day following the mailing of the notice or order.

21.0 INSPECTIONS AND POWER OF ENTRY

- 21.1 No *Person* shall hinder or obstruct, or attempt to hinder or obstruct, any *Officer* who is exercising a power or performing a duty under this By-law.
- 21.2 An *Officer* may enter on Land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with this By-law:
- a) the provisions of this By-law;
 - b) an order issued under this By-law; or

c) an order made under section 431 of the Act.

21.3 Where an inspection is conducted by an *Officer*, the person conducting the inspection may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any *Person* concerning a matter related to the inspection; and
- d) alone or in conjunction with a *Person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

21.4 The *Town* may undertake an inspection pursuant to an order issued under Section 438 of the Act.

21.5 The *Town's* power of entry may be exercised by an *Officer* as well by any *Person* under his or her direction.

22.0 OFFENCE

22.1 Every *Person* who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence and, upon conviction, is liable to a fine as provided for in the *Provincial Offences Act*.

22.2 If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be designated as a continuing offence for each day or part of a day that the contravention remains uncorrected.

22.3 If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be designated as a continuing offence for each day or part of a day that the order is not complied with.

22.4 For purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is designated as a multiple offence.

22.5 For purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered for the same offence at an earlier date.

23.0 PENALTY

23.1 Every *Person* who is guilty of an offence under this By-law on conviction is liable to the following penalties:

- a) Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;
- b) Upon a second or any subsequent conviction, the minimum fine shall be \$500.00 and the maximum fine shall be \$100,000.00;

- c) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues; and
- d) Upon conviction for a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.

24.0 LIABILITY

- 24.1 In addition to any other Person who commits an offence under this by-law, the owner of the premises on which the Fireworks or Prohibited Fireworks are or were sold, stored, displayed or discharged in contravention of this by-law shall be deemed to commit the same offence.

25.0 SEVERABILITY

- 25.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.

26.0 SHORT TITLE

This By-law shall be referred to as the "Fireworks By-law".

ENACTED THIS DAY OF 2015.

Tony Van Bynen, Mayor

Andrew Brouwer, Town Clerk

Appendix B “Summary of Amendments to Fireworks By-law”

Sale of Fireworks



Mobile Sales Premise






Temporary Sales Premise

	Regulation	Comments
Current Bvlaw	<ul style="list-style-type: none">• Sale of Consumer Fireworks is not regulated in current by-law	<ul style="list-style-type: none">• No requirement to obtain a licence to sell Consumer Fireworks through the current by-law
Final Draft Bvlaw	<ul style="list-style-type: none">• Requires a Licence to sell Consumer Fireworks in a Mobile or Temporary Sales Premise• Includes regulations regarding the sale of Consumer Fireworks	<ul style="list-style-type: none">• Provides for licensing and sales of Consumer Fireworks• Ability to revoke, suspended or refuse Licence with ability for appeal through Director and Appeal Committee

Appendix B “Summary of Amendments to Fireworks By-law”

Discharge of Consumer Fireworks

Regulation		Comments
 Fountain	<ul style="list-style-type: none"> Discharge allows for the day of and preceding and after Victoria Day and Canada Day Current by-law does not specifically include regulations regarding discharge of consumer fireworks 	 Roman Candles
	 Wheel	<ul style="list-style-type: none"> Lack of regulations in support of health and safety and to mitigate nuisances Staff rely on Display Fireworks regulations which allow for discharge on the day of and preceding and after Victoria Day and Canada Day
Final Draft Bylaw		Comments
Comments from Public Consultation <ul style="list-style-type: none"> Only to allow for fireworks to be discharged until 11 p.m. Residential frontage requirement Total ban on Consumer Fireworks Allow in parks for some groups 		
Final Draft Bylaw <ul style="list-style-type: none"> Regulates the discharge of Consumer Fireworks on the day of and preceding and after Victoria Day and Canada Day Only discharge between the hours from Dusk to 11:00pm Must have an 18 metre (59 foot) frontage on residential property Must have permission to discharge if not on own property. Prohibited on Town property Must be 18 years of age or older or supervised by a person 18 years of age or older 		<ul style="list-style-type: none"> Supports health and safety standards More specific regulations and requirements, ensuring greater clarity Consistent with noise by-law

Appendix B “Summary of Amendments to Fireworks By-law”

Fireworks Special Occasions Permit



Consumer Fireworks

Regulation		Comments
Current Bylaw	<ul style="list-style-type: none">Fireworks discharge other than on permitted days must receive approval through Council	<ul style="list-style-type: none">Lengthy process to seek approval from Council
Final Draft Bylaw	<ul style="list-style-type: none">Fireworks Special Occasion permit must be submitted through CYFSApplication must be submitted a minimum of 21 days before the eventOnly allows for discharge of Consumer FireworksMust have liability insuranceConditions may be prescribed as part of permitPermitted once annually at each residential propertyEvent venues may apply for any number of permits annually	<ul style="list-style-type: none">To allow individual groups or organizations to celebrate Special Occasions such as weddings, anniversaries and milestones
Comments from Public Consultation		
<ul style="list-style-type: none">Received request in the past to allow discharging Consumer Fireworks other than allowed in by-law for special occasions.		

Appendix B “Summary of Amendments to Fireworks By-law”

Display Fireworks



Barrage



Display Fireworks



Rockets

	Regulation	Comments
Current Bylaw	<ul style="list-style-type: none"> No regulations around the sale of Display Fireworks All discharge permits issued by CYFS Must be 21 years of age to obtain a display fireworks permit in accordance with legislation No display shall be within 500 feet of a church, hospital, nursing or rest home, schools or a place where gasoline or other highly flammable substance is manufactured, sold or stored. 	<ul style="list-style-type: none"> Lack of regulations in support of health and safety and to mitigate nuisances
Final Draft Bylaw	<ul style="list-style-type: none"> Sale of Display fireworks prohibited Must be certified through the federal Ministry of Natural Resources and Forestry as a fireworks supervisor Must also comply with the provision of the Explosives Act and the Display Fireworks Manual published by the federal Ministry of Natural Resources and Forestry 	

Appendix B “Summary of Amendments to Fireworks By-law”

Pyrotechnic Special Effect Fireworks



Pyrotechnic Special Effect Fireworks

Regulation		Comments
Current Bylaw	<ul style="list-style-type: none">No regulations around the sale of Pyrotechnical Special Effects FireworksAll discharge permits obtained through CYFSMust be 21 years of age to hold a display fireworks permit in accordance with legislationNo display shall be within 500 feet of a church, hospital, nursing or rest home, schools or a place where gasoline or other highly flammable substance is manufactured, sold or stored	<ul style="list-style-type: none">Lack of regulations in support of health and safety and to mitigate nuisances
Final Draft Bylaw	<ul style="list-style-type: none">Sale of Pyrotechnic Special Effects Fireworks prohibitedMust be certified through the federal Ministry of Natural Resources and Forestry as a PyrotechnicianMust also comply with the provision of the Explosives Act and the Pyrotechnic Special Effects Manual published by the federal Ministry of Natural Resources and Forestry	

Appendix B “Summary of Amendments to Fireworks By-law”

Licence Revocation Suspend or Refuse To Issue Process

Process		Comments
<ul style="list-style-type: none"> No licence revocation process in place 		
Current Bylaw		
Final Draft Bylaw	<p>A licence may be revoked where it:</p> <ul style="list-style-type: none"> Does not comply with by-law Does not comply with regulations from any other government authority with jurisdiction Licence issued result of false, mistaken, incorrect, or misleading statements Fees under the fees and charges by-law have not been paid Licence issued in error Appeal process through Director and Appeal Committee 	<ul style="list-style-type: none"> The decision of the Appeal Committee is final and binding

Appendix B “Summary of Amendments to Fireworks By-law”

Enforcement Process

	Process	Comments
Current Bylaw	<ul style="list-style-type: none">• Reactive enforcement• Complaint driven	<ul style="list-style-type: none">• Set Fines for selling fireworks to persons under 18 years of age, prohibited days and locations
Final Draft Bylaw	<ul style="list-style-type: none">• Educational process which will include brochures to Temporary and Mobile Sales premises• Vendor must comply within 48 hours of Order to Comply• Reactive enforcement	<ul style="list-style-type: none">• Set Fines will be applied through the Attorney General's Office following authorization by Council

Appendix B “Summary of Amendments to Fireworks By-law”

Housekeeping - Administrative Changes

Areas Addressed	Current Bylaw	Final Draft Bylaw
Definitions		
Consumer Fireworks	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> Low hazard fireworks classified as type F1 in the Explosives Regulation
Discharge	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> Includes firing, igniting, exploding and setting-off such fireworks
Display Fireworks	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> high hazard fireworks generally used for recreation, as classified as type F2 in the Explosives Regulations
Firecracker	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> designed to explode when ignited without subsequent display or visible effect
Fireworks	<ul style="list-style-type: none"> Designed to produce colourful effects with or without which includes firecrackers 	<ul style="list-style-type: none"> Includes all types of fireworks but excludes prohibited fireworks
Fireworks Supervisor	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> person certified as a supervisor under the Explosives Act and regulations
Licence	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> authorization granted for Temporary Fireworks Premises or a Mobile Sales Premise
Mobile Sales Premise	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> mobile or portable premise from which Fireworks are sold
Permit	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> Display Fireworks or Pyrotechnic Special Effects Fireworks Permit issued by Central York Fire Services
Prohibited Fireworks	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> any fireworks that are not included on the most recent list of authorized fireworks as published by the Explosives

Appendix B “Summary of Amendments to Fireworks By-law”

		Regulatory Division of the Ministry of Natural Resources and Forestry
Pyrotechnic Special Effects Fireworks	<ul style="list-style-type: none"> Defined as Display Fireworks 	<ul style="list-style-type: none"> an explosive classified as type F3 in the Explosives Act & Regulations
Pyrotechnician	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> person certified as a Pyrotechnician under the Explosives Act and Regulations to conduct displays of Fireworks
Special Occasion Permit	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> Consumer Fireworks Permit issued by Central York Fire Services for dates other than dates permitted by by-law
Temporary Fireworks Premise	<ul style="list-style-type: none"> Not Defined 	<ul style="list-style-type: none"> a premise within a Building or part thereof where a retailer only sells Consumer Fireworks on Victoria Day, Canada Day or the seven (7) day period before Victoria Day and Canada Day and whose principal business is not the sale of Fireworks
Fees and Charges	<ul style="list-style-type: none"> Currently fee issued under Hawker and Peddler by-law 	<ul style="list-style-type: none"> a fee for license of Mobile Sales Premise, Special Occasions Permit, Display Permit or Pyrotechnics Permit and appeals. Charitable and Non Profit organizations shall be exempt from the fees and charges.
Exemptions	<ul style="list-style-type: none"> pyrotechnical signaling devices for marine, military or railway purposes shall not be deemed to be respectively the sale or setting off of fireworks 	<ul style="list-style-type: none"> used or stored for government or other public purposes by the Town, the Regional Municipality of York, or any Provincial or Federal governmental authority.
Insurance	<ul style="list-style-type: none"> no insurance currently required 	<ul style="list-style-type: none"> Display Fireworks and Pyrotechnic Special Effects Fireworks will require \$5,000,000.00 general liability