



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2015-18

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 *License* 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 licenced 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 licenced, 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 SERVE 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    11<sup>th</sup>                      DAY OF                      MAY,                      2015.

\_\_\_\_\_  
Tony Van Bynen, Mayor

\_\_\_\_\_  
Andrew Brouwer, Town Clerk