

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2007 - 236

A BY-LAW RESPECTING THE SALE AND THE SETTING OFF OF FIREWORKS
WITHIN THE CITY OF KAWARTHA LAKES

Recitals

1. Section 121(a) of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks.
2. Section 121(b) of the *Municipal Act, 2001* provides that a municipality may prohibit the sale of fireworks and the setting off of fireworks unless a permit is obtained from the municipality for the sale of fireworks and the setting off of fireworks and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.
3. Council considers it advisable to regulate the sale and setting off of fireworks within the City of Kawartha Lakes.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2007-236.

Section 1.00: Definitions and Interpretation

1.01 **Definitions:** In this by-law,

"**Act**" means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted, as amended or any other Act and Regulations enacted in substitution.

"**burn ban**" means a time frame declared by the fire chief when no open air burning is permitted within the City.

"**certificate**" means written authorization issued by the Ministry of Natural Resources Canada, Explosives Regulatory Division to a person qualified to be a Fireworks Supervisor

"**City**", "**City of Kawartha Lakes**" or "**Kawartha Lakes**" means The Corporation of the City of Kawartha Lakes;

"**City Clerk**" means the person appointed by Council to carry out the duties of the clerk described in section 228 of the *Municipal Act, 2001*;

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

"**consumer fireworks sales permit**" means a permit as issued in accordance with Section 8.00.

"**Council**" or "**City Council**" means the Council of the City of Kawartha Lakes;

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

"**display fireworks**" means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;

"**fire chief**" means the person appointed by Council to carry out the duties of the fire chief of the City and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers but does not include caps for toy guns or Christmas crackers;

"fire inspector" means the person appointed by the Fire Chief to carry out the duties of a fire inspector of the City and his or her delegate(s) or, in the event of organizational changes, another person designated by the Fire Chief or Council;

“fireworks” means display fireworks, pyrotechnic special effects fireworks and consumer fireworks;

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

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

"magazine" means magazine as defined in the *Explosives Act*, R.S.C. 1985, c. E-17;

“manual” or **“list”** means the *Pyrotechnics Special Effects Manual* issued by the Explosives Regulatory Division of Natural Resources Canada;

"minor" means a person who has not reached the age of 18 years;

"motor vehicle" means motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8.

“municipal law enforcement officer” means a person appointed by Council under section 15 of the *Police Services Act*, R.S.O. 1990, c.P.15 to enforce the by-laws of the City and reports to the Manager of Building and By-law Enforcement;

"municipal service centre" means a designated Municipal Service Centre of the City which provides local government services;

“non-profit” is an adjective used to describe an applicant who meets one or more of the following requirements:

- (a) it is registered in Ontario as a non-profit corporation by the applicable Provincial or Federal authority or Ministry;
- (b) it is certified by an Accountant (to the satisfaction of the Fire Chief) as a Person that makes no profit and intends to make no profit in its day to day business operations;
- (c) it files no income tax return as a commercial or for profit business; or
- (d) it is a minor sports association or organization
- (e) it is a Community Betterment Organization or Group that returns 100% of its net proceeds to the community for the community's benefit.

"offer for sale" includes the display of goods as an invitation to treat;

"owner" means the person having effective control over or apparent possession of property or the relevant portion thereof, and where that person cannot be determined, the registered owner of that property, and for the purposes of this by-law, a mortgagee-in-possession of property, or a receiver and manager, personal representative or trustee in bankruptcy who has taken possession of that property shall be deemed to have effective control over the property.

"permit" means permission to hold a fireworks exhibition granted by the City issued under this By-law;

"police officer" means a chief of police or other police officer in a police service which is responsible for enforcing the by-laws;

“prohibited firework” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes

and flash crackers, throw down 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 as included on the most recent list of prohibited fireworks as published from time to time under the Act;

"property" means any public or private land, building, structure or other real property within the City;

"public exhibition" means every setting off or other display of consumer fireworks or display fireworks and for the sake of greater certainty but without limiting the generality of the foregoing, includes any display that is open to:

- a) the general public;
- b) persons who have purchased tickets to attend the display or a related event;
- c) members of the organization sponsoring the display or a related event; or
- d) persons who have been invited to attend the display or a related event.

"pyrotechnics" means pyrotechnics as described in the *Pyrotechnics Special Effects Manual* issued by the Explosives Regulatory Division of Natural Resources Canada;

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

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

"retail sale" means a sale for the purpose of consumption or use and not for resale;

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

"set off" includes any method of detonating or igniting a firework;

"shop" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale;

"trailer" means an enclosed vehicle designed so that it may be attached to or drawn by a motor vehicle, and intended for the transport of goods, but does not include,

- a) such a vehicle if attached to a motor vehicle; or
- b) farm trailer.

"use of" includes any method of detonating, igniting or setting off a firework.

1.02 **Interpretation:**

- (a) The regulations established by this by-law apply to the entire municipality.
- (b) The sale, handling and discharge of fireworks shall conform to Subsection 5.2.2. of the Ontario Fire Code.
- (c) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (d) The words "include" and "including" are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

- (e) Nothing in this by-law shall be interpreted so as to alleviate the need for individuals to comply fully with all applicable Provincial and Federal legislation and regulations, as amended from time to time and includes but is not limited to the Ontario Fire Code, the Explosives Act, R.S.C. 1985, c.E-17, the Police Services Act, R. S. O. 1990, c.P.15.

- 1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.
- 1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Ban Against Possession or Use of Firecrackers and Prohibited Fireworks

- 2.01 **Selling:** No person within the City shall possess, offer for sale, cause or permit to be sold, or sell any firecrackers or other prohibited fireworks.
- 2.02 **Discharge:** No person within the City shall discharge, fire set off or cause, or permit to be discharged, fired or set off any firecrackers or other prohibited fireworks.
- 2.03 **Exemption:** The prohibition against the possession of firecrackers under subsection 2.01 does not apply with respect to firecrackers that are within the City solely as a result of their being in transit while being transported by a railway, airline, trucking company or other public carrier or falls within the exemption outlined within Section 11.02.

Section 3.00: Sale and Possession of Consumer Fireworks, etc.

- 3.01 No person shall offer for sale, cause or permit to be sold, sell or otherwise distribute consumer fireworks unless the vendor has obtained a Consumer Fireworks Sales Permit under this By-law and,
- a) the fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada), or its successor;
 - b) the fireworks are displayed in individual lots that do not exceed 25 kilograms in gross weight;
 - c) the fireworks are displayed in a sealed package, must be locked in a secure cabinet away from inflammable goods and clearly marked as fireworks; and
 - d) the fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat.
- 3.02 No person shall offer for sale, cause or permit to be sold, or sell consumer fireworks from an outdoor stand, tent, unenclosed trailer, or motor vehicle.

Section 4.00: Trailer Sales – Consumer Fireworks

- 4.01 A vendor applying for a consumer fireworks sales permit to sell consumer fireworks from a trailer shall provide to the City the written permission of the owner of the land on which the trailer is to be parked, together with that application.
- 4.02 A consumer fireworks sales permit granted for the sale of consumer fireworks from a trailer is valid only for the sale location specified in that permit.
- 4.03 A person selling consumer fireworks sold from a trailer shall comply with the guidelines set by the fire chief with respect to the sale location for which the permit has been granted.

Section 5.00: Display of Consumer Fireworks for Sale

- 5.01 No person shall exhibit fireworks in any window of any store, shop or place where they can come in contact with direct sunlight within the City.

- 5.02 No person who offers for sale any consumer fireworks shall, at any time, keep or permit the keeping of any consumer fireworks in any location in a shop or trailer unless the location is designated and posted as a "no-smoking" area.
- 5.03 No person shall offer for sale, cause or permit to be sold, or sell consumer fireworks to any person who is or who appears to be under the age of eighteen years.
- 5.04 No person storing consumer fireworks for sale shall store them except as permitted under the *Explosives Act*.

Section 6.00: Use of Consumer Fireworks

- 6.01 No person shall hold a public exhibition of consumer fireworks at any time without a permit issued under this By-law.
- 6.02 No child shall discharge any fireworks, other than a sparkler where the child is under the supervision of an adult at all times.
- 6.03 No parent, guardian or person standing in the place of a parent with respect to a child shall permit that child to discharge any firework, other than a sparkler where the child is under the supervision of an adult at all times.
- 6.04 No person shall discharge consumer fireworks on any land of which he or she is not the owner, without obtaining the prior written permission of the owner to do so.
- 6.05 No person shall discharge consumer fireworks into, inside of, or on any building, accessory building, structure, or motor vehicle.
- 6.06 No person shall discharge consumer fireworks closer to any structure or property line than 30 metres or the recommendation from the manufacturer whichever is greater.
- 6.07 As outlined in the Explosives Act regulations, no person shall discharge consumer fireworks closer than 100 metres to a church, school, residential care facility or place where explosives are sold or stored.
- 6.08 No person shall discharge consumer fireworks during an imposed burn ban.
- 6.09 No person shall store, handle or discharge consumer fireworks in an unsafe manner, or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of fireworks.
- 6.10 A person who stores fireworks shall use reasonable care to ensure that those fireworks are not accessible to children.

Section 7.00: Display Fireworks

- 7.01 No person shall sell or otherwise distribute, offer for sale, cause or permit to be sold, or possess for the purposes of sale or distribution, any display fireworks unless:
- a) those fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada) or its successor.
 - b) the fireworks are kept and maintained in a magazine licensed by the Explosives Branch of the Department of Natural Resources (Canada).
- 7.02 No person shall give, offer for sale, cause or permit to be sold or sell display fireworks to any person unless that person, is eighteen years of age and is a fireworks supervisor as defined.
- 7.03 No person shall discharge display fireworks, or advertise that a public exhibition of display fireworks is to be held within the City, without an appropriate permit issued under Section 8.

Section 8.00: Permits and Fees

- 8.01 The fees for permits that shall be paid to the City in respect of the sale and discharge of fireworks shall be the amount set forth herein at the end of the description of each permit:
- | | | | |
|-----|--|---|--------------------|
| (a) | Trailer Retail Seller – Consumer Fireworks | - | \$1000.00 per year |
| (b) | Local Vendor Retail Consumer Fireworks Seller Permit | | \$ 100.00 per year |
| (c) | Display Fireworks Permit | - | \$0.00 per event |
| (d) | Consumer Fireworks Permit | | \$0.00 per event |
- An exemption of fee as set out in 8.01 (c) and 8.01 (d) shall apply to a non profit organization, as defined within this by-law, operating a display fireworks or consumer fireworks show at a Community Event.
- 8.02 Every person applying for a permit, shall deliver to the City at the time of application, payment in full, by cash or certified cheque payable to the City, the permit fee as set out in this by-law.
- 8.03 Any person eighteen years of age or over, who is duly authorized under the Explosives Act (Canada) and approved as a Fireworks Supervisor by the Chief Inspector of Explosives, shall apply to the fire chief for a permit to discharge or hold a public exhibition of display or consumer fireworks in the City of Kawartha Lakes.
- 8.04 The fireworks supervisor who is named as the applicant in an application under this by-law shall be present in person at all times during which the fireworks are being set up, discharge and cleaned up after the conclusion of the display or other setting off of those fireworks.
- 8.05 Every application for a permit under this section shall be made at least 30 days before the date scheduled for the setting off or holding of the exhibition of display fireworks.
- 8.06 The fire chief shall not issue a permit under this section where it is of the opinion of the fire chief that the proposed site at which the fireworks are to be discharge or the display is to be held is not suitable for that purpose.
- 8.07 An applicant for a permit under this section shall provide, together with his or her application:
- such information or consents as is required under this by-law;
 - evidence of insurance on such terms and in such amount as the City may prescribe from time to time;
 - proof that the applicant has been approved by the Chief Inspector of Explosives as a Fireworks Supervisor;
 - a description of the site to be used for the setting of the display fireworks or consumer fireworks, as the case may be, sufficient to identify each site for which application is made;
 - where the fireworks are to be set-off on property of which the applicant is not the owner, written permission of the owner of that property;
 - such further information as the Fire Chief may reasonably require.
- 8.08 A permit issued under this section may be made subject to such terms and conditions as the Fire Chief may consider to be necessary in the interests of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances or to give effect to the objects of this by-law, and every permit holder shall comply with those terms and conditions.
- 8.09 No person shall discharge or hold a public exhibition of display fireworks at a date, time location or site except,
- on the date and at the time and site specified in the permit; and
 - upon full compliance with all terms and conditions specified in the permit; and
 - where the fireworks are to be set-off on property of which the applicant is not the owner, the written permission of the owner of that property.

- 8.10 Every person to whom a permit is issued under this section shall:
- a) provide and maintain approved fully operational fire extinguishing equipment ready for immediate use, throughout the time while the display fireworks are being set-off or displayed, and for a reasonable period, at the location or site of the setting off or holding of an exhibition of display fireworks.
 - b) conform to the provisions of the current issue of the fireworks manual as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada), or any successor publication, for the setting off or holding of an exhibition of display fireworks.
 - c) produce the permit on demand to any police officer or any person authorized to enforce this by-law; and
 - d) permit the inspection of any site where the display fireworks may be stored, discharge or displayed, and the display fireworks themselves together with all associated equipment, by anyone authorized to enforce this by-law, forthwith upon demand.
- 8.11 Every person to whom a permit is issued under this section shall, immediately after the conclusion of the setting off or holding of an exhibition, carry out a site inspection and shall
- a) remove all unused or partly used display fireworks from the site;
 - b) gather together and remove all debris remaining after use or partial use of the display fireworks; and
 - c) return the site to the condition it was in prior to the setting off or holding of the display.
- 8.12 The grounds on which display fireworks are discharged or at which an exhibition of such fireworks is held shall be kept under continual surveillance, by the permit holder.
- 8.13 As outlined in the Explosives Act regulation, no person shall discharge display fireworks,
- a) closer to any building, accessory building or structure, or motor vehicle than as outlined within 10 meters of solid, fire-resistant uninhabited structures within 100 meters of motor vehicles, including crew vehicle (except service vehicles)
 - b) within 300 meters of any premises or place where explosives, gasoline or other highly inflammable substances are manufactured, or stored in bulk;
 - c) within 300 meters of a hospital, nursing home, home for the aged, church or school unless the consent of the Fire Chief and the owner or authorized representative of that facility has been obtained; or
 - d) during an imposed burn ban unless the consent of the Fire Chief has been obtained.
- 8.14 No person shall store, handle or discharge display fireworks in an unsafe manner, or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of such fireworks.
- 8.15 A person who stores display fireworks shall use reasonable care to ensure that those fireworks are not accessible to children.
- 8.16 Except where a permit has been issued for that purpose under section 8.00, no person shall discharge display fireworks, into, in or on any highway, street, lane, alley, square or other public place.
- 8.17 A display fireworks permit issued under this by-law is not transferable.
- 8.18 Where fireworks cannot be set off or discharged on the date provided in a permit, the Fire chief may direct the issue of a new permit for some other date outside the listed rain dates.
- 8.19 Where any holder of a permit fails or refuses to comply with a term or condition to which the permit is subject, the fire chief shall immediately revoke the permit and shall forthwith send a written notice of that revocation to the permit holder.
- 8.20 The fire chief may require an applicant for a permit under this by-law to provide such information as the fire chief considers necessary or advisable in his or her reasonable judgment to make an informed decision as to whether or not to grant

a permit under this by-law, and where that information is not provided in the form and manner required by the fire chief, the fire chief may refuse to issue a permit.

Section 9.00: Pyrotechnics

- 9.01 No person shall discharge any pyrotechnic special effect fireworks in the City of Kawartha Lakes without first having obtained a display permit issued by the Fire Chief authorizing the discharge and use of pyrotechnic special effect fireworks.
- 9.02 No person, other than a person who holds a current and appropriate level of certificate for the type, size, number and location of the pyrotechnic materials in question for the type of pyrotechnic materials being used for display fireworks, shall:
- a) have in his or her custody or control, any pyrotechnic materials, unless that person is,
 - i) a manufacturer, wholesaler or retailer of such materials who holds all requisite licenses to act in that capacity, and the materials in question are in that person's custody solely in connection with that business, or
 - ii) lawfully carrying the pyrotechnic materials in transit through the City, whether as a public carrier or as an employee of a person described in sub-clause i); or
 - b) perform or carry out any pyrotechnic display, special effects, event, exhibition or operation.
- 9.03 Every pyrotechnic display, special effects, event, exhibition or operation carried out in the City shall be performed or carried out safely, in accordance with
- a) prevailing best practices in the pyrotechnic trade, and
 - b) the specifications, recommendations or requirements, as the case may be, set down in the Pyrotechnics Special Effects Manual as issued and updated from time to time by the Explosives Regulatory Division of Natural Resources Canada.
- 9.04 For the purposes of this section, "certificate" means a current certificate issued by or under the authority of Natural Resources Canada.

Section 10.00: Enforcement and Penalties

- 10.01 **Enforcement:** This by-law may be enforced by every police officer, every municipal law enforcement officer, fire chief, and fire inspector.
- 10.02 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.
- 10.03 **Offence and Penalty:** It is an offence for a person to contravene any provision of this by-law, and every person who contravenes this by-law is guilty of an offence and, on conviction, is liable to a penalty not to exceed \$1,000.00 exclusive of costs in accordance with the provisions of the *Provincial Offences Act* and to any other applicable penalty.
- 10.04 **Multiple Offences:** The conviction of a person for the contravention of any provision of this by-law shall not operate as a bar to a prosecution against the same person for any subsequent or continued contravention of this by-law.
- 10.05 **Court Order:** If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Section 11.00: General Provisions

- 11.01 **Administration of the By-law:** This by-law shall be administered by the fire chief and the city clerk.

11.02 **Exemption:** For the purposes of this by-law respecting the sale or setting off of pyrotechnical signaling devices for marine, military, police, railway or highway purposes shall not be deemed to be, respectively, the sale or setting off of fireworks under this by-law.

11.03 **Effective Date:** This by-law comes into force as of January 1, 2008.

By-law read a first, second and third time, and finally passed, this 30th day of October, 2007.

Mayor

Clerk