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The Corporation of the Municipality of Clarington By-Law 2015-047 Office Consolidation

A by-law regulating the discharge and sale of fireworks.

Passed, by Council, on: June 15, 2015

Consolidated as of: April 3, 2023

Amendments:

Amending By-law	Date	Amendment Details
2023-022	April 3, 2023	Replace Section 2.2 (f)

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THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

BY-LAW NO. 2015-047

A by-law regulating the discharge and sale of fireworks.

WHEREAS section 121 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes a local municipality to enact by-laws to prohibit and regulate the sale of fireworks and setting off of fireworks, to prohibit such activities unless a permit is obtained from the municipality, and impose conditions for obtaining, continuing to hold and renewing the permit, including the submission of plans.

NOW THEREFORE the Council of The Corporation of the Municipality of Clarington enacts as follows:

1. Interpretation

Definitions

1.1. In this by-law,

"applicable laws" means all federal, provincial or municipal laws, statutes, by-laws, rules, regulations, policies, orders, directives and codes applicable to the storage, discharge or sale of fireworks including the Explosives Act, Explosives Regulation, Fire Protection and Prevention Act, 1997, Fire Code, and Transportation of Dangerous Goods Act, 1992;

"application" means an application for a permit;

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

"Class A Permit" means a permit to discharge Consumer Fireworks;

"Class B Permit" means a permit to discharge Display Fireworks or Special Effect Pyrotechnics;

"Class C Permit" means a permit to sell Consumer Fireworks from a Mobile Sales Location;

"Class D Permit" means a permit to sell Consumer Fireworks from a Temporary Sales Location;

"Clerk" means the Municipal Clerk or a designate;

"Consumer Fireworks" means low-hazard fireworks generally used by the public for recreation that are classified as Type F. 1 under the Explosives Regulations, and includes Roman candles, sparklers, fountains, wheels, volcanoes, mines, Christmas crackers, snakes and toy pistol caps;

"Council" means the Council of the Municipality;

"discharge" includes firing, igniting, exploding and setting-off, or causing or permitting the igniting, exploding and setting-off of fireworks;

"Discharge Permit" means a Class A Permit or Class B Permit;

"Display Fireworks" means high-hazard display fireworks designed for use by professionals that are classified as Type F.2 under the Explosives Regulations, and includes display shells, barrages, batteries, fountains, exhibition candles, flares, set-pieces, maroons, wheels, bouquets and firecrackers;

"Explosives Act" means the Explosives Act, R.S.C. 1985, c. E-17;

"Explosives Regulations" means the Explosives Regulations, 2013, SOR/2013-211;

"Fire Chief" means the Municipality's Director of Emergency and Fire Services or a designate;

"fireworks" means Consumer Fireworks, Display Fireworks and Special Event Pyrotechnics;

"Mobile Sales Location" means mobile or portable premises from which Consumer Fireworks may be sold in accordance with a Class C Permit;

"Municipality" means The Corporation of the Municipality of Clarington or the geographic area of Clarington, as the context requires;

"Temporary Sales Location" means an existing building or part thereof, other than a Mobile Sales Location from which Consumer Fireworks may be sold in accordance with a Class D Permit;

"Permit" means a permit of any kind issued under this by-law;

"Permit Issuer" means the person responsible for issuing permits which is (a) the Clerk in the case of a Class A Permit, Class C Permit or Class D; and (b) the Fire Chief in the case of a Class B Permit;

"person" includes a natural individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and their heirs or legal representatives;

"Sales Permit" means a Class C Permit or Class D Permit;

"sell" means offering for sale, causing or permitting to be sold and possessing for the purpose of sale; and

"Special Effect Pyrotechnics" has the same meaning as in section 361 of the Explosives Regulations.

References

- 1.2. In this by-law, reference to any Act, Regulation or By-law is reference to that Act, Regulation or By-law as it is amended or re-enacted from time to time.
- 1.3. Unless otherwise specified, references in this by-law to sections and Schedules are references to sections and Schedules in this by-law.

Word Usage

- 1.4. This by-law shall be read with all changes in gender or number as the context requires.
- 1.5. In this by-law, a grammatical variation of a word or expression defined has a corresponding meaning.

Severability

- 1.6. Each section of this by-law is an independent section, and the holding of any section or part of any section of this by-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other sections of this by-law.

Schedule

- 1.7. Schedule "A" (APPLICATION FEES) is attached to and forms part of this by-law.

Application

- 1.8. This by-law applies to the sale, storage and discharge of fireworks within the Municipality.

2. Permits

Applications

- 2.1. Every application shall be completed and submitted on forms prescribed by the Permit Issuer.
- 2.2. Every application shall include,
 - a) contact information for the applicant;

- b) where the applicant is not the owner of the property on which the proposed discharges or sales are to occur, the owner's written consent to the proposed discharges or sales;
- c) proof that the applicant is at least 18 years of age or, if the applicant is a corporation, copies of the letters of incorporation or other incorporating documents that have been duly certified by the proper authorities and that show the full corporate name, officers and directors of the applicant;
- d) the dates and times of the proposed discharges or sales and, if applicable, alternate dates and times in the event of inclement weather;
- e) a property description and site plan drawing showing the location of any proposed storage, discharge and sale of fireworks;
- f) proof of commercial general liability insurance in an amount not less than \$2,000,000 in the case of a Class C Permit or Class D Permit, or \$5,000,000 in the case of a Class B Permit, naming the Municipality as an additional insured and containing a cross liability clause;
- g) the applicable application fee set out in Schedule "A"; and
- h) such further information as the Permit Issuer may require.

2.3. Application fees are non-refundable.

2.4. In addition to the requirements of section 2.2, an application for a Discharge Permit shall include,

- a) a description of the type and kind of fireworks which may be discharged, the discharge techniques to be used, the manner and means of restraining unauthorized persons from attending too near the discharge location, the manner in which unused fireworks are to be disposed of, and the number of persons authorized to handle and discharge the fireworks; and
- b) where the proposed discharge location is within 300 metres of a hospital, nursing home, home for the aged, church or school, written consent from the owner of such properties.

2.5. In addition to the requirements of sections 2.2 and 2.4, an application for a Class B Permit shall include proof that the applicant holds the necessary fireworks operator certificate(s) from Natural Resources Canada.

2.6. No applicant shall give false, incorrect or misleading information for the purpose of obtaining a permit.

Deadline

2.7. The deadline for submitting a permit application is 15 days prior to date of the proposed discharge or sale.

Review

2.8. The Permit Issuer is authorized to receive and consider all applications, and to conduct all investigations necessary to determine whether a permit should be issued.

2.9. The Permit Issuer may issue or refuse to issue any permit, and may include such conditions in a permit as he or she deems appropriate.

2.10. Prior to making a decision on any application, the Permit Issuer shall consult with such Municipal Departments and other persons or agencies as he or she considers necessary.

Refusal

2.11. The Permit Holder shall refuse to issue a permit where,

- a) the applicant is not at least 18 years of age;
- b) the application is incomplete;
- c) the applicant has knowingly submitted false, incorrect or misleading information in support of the application;
- d) the applicant has an outstanding debt to the Municipality relating to a previous permit;
- e) there are reasonable grounds to believe that the proposed storage, discharge or sale of fireworks would pose an unacceptable risk to the health and safety of any person or damage to property;
- f) there are reasonable grounds to believe that the proposed storage, discharge or sale of fireworks will result in a breach of this by-law or any other applicable law; or
- g) in the case of Sales Permits, the Municipality's zoning by-laws do not permit the use.

2.12. The applicant shall be notified in writing by the Permit Issuer of any refusal to issue a permit, and such notification shall include the reasons for the refusal.

Conditions

2.13. In addition to any other conditions that the Permit Issuer may deem appropriate, every permit shall be subject to the following conditions:

- a) The permit holder shall comply with all applicable laws;
- b) The permit holder shall indemnify and save harmless the Municipality, its officers, employees and agents from and against all manner of actions, causes of action, claims, demands, losses and costs that may arise, be sustained, or prosecuted against the Municipality for or by reason of the granting of the permit or the performance of the permit holder under the permit.
- c) The permit holder shall not use the Municipality's corporate logos for any purpose.

2.14. In addition to the conditions set out in section 2.13, every Discharge Permit shall include the following conditions:

- a) No person other than the permit holder shall discharge any fireworks.
- b) The permit holder shall be present in person at all times during which the fireworks are being set up, discharged and cleaned up.
- c) The permit holder shall provide and maintain fully operational fire extinguishing equipment at the location of the discharge.
- d) The permit holder shall comply with the provisions of the current issue of the Display Fireworks Manual published by Natural Resources Canada, or any similar or successor publication applicable to the handling and discharge of the fireworks authorized in the permit.
- e) Fireworks shall not be discharged except between dusk and 11:00 PM on the day authorized in the permit or the next day.

2.15. In addition to the conditions set out in section 2.13, every Sales Permit shall include the following conditions:

- a) Only consumer fireworks may be sold.
- b) Fireworks may only be sold during the 7 days immediately preceding Canada Day or the day set for the observance of Victoria Day, as the case may be.
- c) The permit holder shall comply with all of the provisions applicable to retailers set out in Division 1 of Part 16 of the Explosives Regulations.
- d) Fireworks displayed in any shop window shall be mock samples only and shall not contain explosive composition.

- e) Fully operational fire extinguishers shall be provided and maintained within the sales location at all times.
- f) Fireworks shall not be sold to any person under the age of 18 years.
- g) Employees shall not sell fireworks without first receiving proper training and instructions regarding permit conditions and all applicable laws.
- h) The permit shall be posted in a conspicuous place within the sales location at all times during its currency.

2.16. In addition to the conditions set out in sections 2.13 and 2.15, every Class C Permit shall include the following conditions:

- a) At least 2 signs shall be posted in prominent locations outside of the Mobile Sales Location indicating that smoking is prohibited within 9 metres of the Mobile Sales Location.
- b) With the exception of its entrance and exit, every Mobile Sales Location shall have a "no encroachment zone" of at least 3 metres established around its perimeter by means of a barrier, such as snow fencing or pylons to exclude the public from this area.

2.17. Permits shall be valid only for the purposes, locations, dates and times specified in the permit.

2.18. A permit holder shall comply with all permit conditions.

Suspension and Revocation

2.19. The Permit Issuer may suspend or revoke a permit at any time without prior notice to the permit holder if,

- a) it was issued in error;
- b) it was issued as a result of false, incorrect or misleading information that was knowingly submitted by the applicant;
- c) there are reasonable grounds to believe that the holding or continuation of activities authorized by the permit would pose an unacceptable risk to the health and safety of any person or damage to property;
- d) the permit holder is not in compliance with any provision of this by-law; or
- e) the permit holder is not in compliance with any permit condition.

2.20. A suspended permit shall not be reinstated until the Permit Issuer is able to confirm that the conditions leading to the suspension have been remedied.

General

2.21. Permits are not transferrable.

2.22. No amendment shall be made to a permit unless authorized by the Permit Issuer.

3. Prohibited Activities

Discharge of Fireworks

3.1. No person shall discharge fireworks without a Discharge Permit.

Exemption

3.2. No Discharge Permit shall be required to discharge Consumer Fireworks on, or within the 3 days immediately preceding, Canada Day or the day set for the observance of Victoria Day.

Sale of Fireworks

3.3. No person shall sell any Consumer Fireworks without a Sales Permit.

Prohibited Fireworks

3.4. (1) In this section,

"firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, but does not include paper caps containing fewer than 0.25 of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;

"prohibited fireworks" means any fireworks that are not authorized fireworks under the Explosives Regulations including ammunition for tie-clips, cufflinks and key chains pistols, auto-toolers, cherry bombs, m-80 and silver salutes, flash crackers, cigarette loads, dancing crackers, exploding or smoking golf balls, helicopters (or similar items such as "planes", "whiz-bangs" or "missiles"), parachute shells, party poppers, rockets (as opposed to model rockets), stink or smoke bombs, table bombs, table or bottle rockets, tear gas pens and launchers, throw downs (also called snap caps) and trick matches; and

"sky lanterns" means airborne paper lanterns, also known as Chinese Lanterns, wish lanterns, sky candles or fire balloons, which may be constructed from oiled rice paper on a bamboo frame, or similar material, and contain a small candle or fuel cell composed of a waxy flammable material, which when lit, the flame heats the air inside the lantern, thus lowering its density causing the lantern to rise into the air.

- (2) No person shall sell, possess or discharge any firecrackers, prohibited fireworks or sky lanterns.

Consumer Fireworks

- 3.5. No person shall discharge Consumer Fireworks except between dusk and 11:00 PM on, or within the 3 days immediately preceding, Canada Day or the day set for the observance of Victoria Day.
- 3.6. No person shall discharge Consumer Fireworks in a manner that creates or may create an unsafe condition or risk of accident, injury or damage to any person or property.
- 3.7. No person shall discharge Consumer Fireworks into, in or on any highway, lane, square, public park or other public place without a permit issued pursuant to this by-law.
- 3.8. No person shall discharge Consumer Fireworks within 300 metres of any premises where explosives, gasoline or other highly flammable substances are manufactured or stored in bulk.
- 3.9. No person under the age of 18 shall discharge Consumer Fireworks unless they are supervised by a person who is at least 18 years old.
- 3.10. No person shall discharge Consumer Fireworks on land that is owned by another person without the owner's written permission.
- 3.11. No person shall discharge Consumer Fireworks into, inside of, or on a building or motor vehicle.
- 3.12. Every person who discharges Consumer Fireworks shall provide and maintain fully operational fire extinguishing equipment ready for immediate use at the location of the discharge.

4. Enforcement

Inspections

- 4.1. (1) In this section, "Officer" means a municipal law enforcement officer, a provincial offences officer, fire prevention officer, police officer or peace officer.
- (2) An Officer may,
- a) enter upon any property (other than a dwelling unit) for the purpose of carrying out an inspection of any property used for the storage, sale or discharge of fireworks in order to determine whether the provisions of this by-law have been complied with;

- b) require the production for inspection of any document or thing relevant to the inspection;
- c) require the production of information relevant to the inspection; and
- d) make examinations or take tests, samples or photographs necessary for the inspection.

4.2. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken in accordance with this by-law.

Offences and Penalties

4.3. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33.

4.4. When a person has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

5. General

Short Title

5.1. The short title of this by-law is the "Fireworks By-law".

Repeal

5.2. By-law 92-160 is repealed.

Effective Date

5.3. This by-law shall be effective on the date that it is passed.

By-law passed this 15th day of June, 2015.

ORIGINAL BY-LAW SIGNED

Schedule "A" – Application Fees

Class A (Permit to Discharge Consumer Fireworks)	\$50
Class B (Permit to Discharge Display Fireworks or Special Effect Pyrotechnics)	\$75
Class C (Permit to Sell from a Mobile Sales Location)	\$100
Class D (Permit to Sell from a Temporary Sales Location)	\$50

Note 1: There is an additional fire inspection fee of \$75.00 for all Permits other than a Class A Permit.

Note 2: The fee for a Class A Permit is waived for cultural or religious holidays.

Note 3: HST is applicable and will be added to all fees.