

**CITY OF HAMILTON**

**BY-LAW NO. 02-285**

**To Regulate the Sale and Use of Fireworks**

**WHEREAS** the *Municipal Act* authorizes the prohibition and regulation of the sale and use of fireworks ;

**AND WHEREAS** the Council of the former municipalities comprising the City of Hamilton enacted diverse by-laws to prohibit and regulate the sale and setting off of fireworks within their respective geographic areas;

**AND WHEREAS** it is in the interest of the people of the new City of Hamilton to standardize the regulations and prohibitions applicable to the sale and use of fireworks.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

**1. Interpretation**

1.1 In this By-law

- (a) “child” means a person who is under 18 years of age;
- (b) “City” means the City of Hamilton;
- (c) “Chief of Police” means the Chief of Police for the City;
- (d) “display fireworks” means high-hazard fireworks for recreation, including firecrackers, that are classed under Class 7, Division 2,

Subdivision 2 under the *Explosives Act*, R.S.C. 1985, c. E-17, as amended, and the *Explosives Regulations* under that Act, and includes but is not limited to the classes of fireworks known within the firework industry as rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

- (e) “family fireworks” means low hazard fireworks for recreation that are classed under Class 7, Division 2, Subdivision 1 of the *Explosives Act*, R.S.C. 1985, c. E-17 as the *Explosives Regulations* under that Act, and includes but is not limited to fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper caps containing not more than twenty-five one-hundredths of a grain of explosive;
- (f) “Family Fireworks Sales Permit” means a permit as issued in accordance with section 8;
- (g) “Fire Chief” means the City’s Director of Emergency Services;
- (h) “firecracker” means a pyrotechnic device that is designed to explode after being ignited without subsequent display or simultaneous visible effect, but does not include paper caps containing not more than twenty-five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares, or marine rockets;
- (i) “Fire Department” means the Hamilton Emergency Services-Fire;
- (j) “General Manager” means the General Manager of Community Services;
- (k) “magazine” means magazine as defined in the *Explosives Act*, R.S.C. 1985, c. E-17;
- (l) “motor vehicle” means motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8;

- (m) “Permit” means permission to hold a fireworks display granted by the City issued under this By-law;
- (n) “Pyrotechnics” means pyrotechnics as described in the *Pyrotechnics Special Effects Manual* issued by the Explosives Regulatory Division of Natural Resources Canada;
- (o) “public display” means every setting off or other display of family fireworks or display fireworks except for a display within the scope of section 6.1, and for the sake of greater certainty but without limiting the generality of the foregoing, includes any display that is open to
  - (i) the general public;
  - (ii) persons who have purchased tickets to attend the display or a related event; or
  - (iii) members of the organization sponsoring the display or a related event;
- (p) “offer for sale” includes the display of goods as an invitation to treat;
- (q) “owner” means the person having effective control over or apparent possession of property or the relevant portion thereof, or 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;
- (r) “prohibited fireworks” means firecrackers, and also those types of fireworks more particularly described in Schedule “A” hereto annexed;
- (s) “property” means any public or private land, building, structure or other real property within the City;

- (t) “retail sale” means a sale for the purpose of consumption or use and not for resale;
- (u) “set off” includes any method of detonating or igniting a firework;
- (v) “shop” means a building or part of a building, booth, stall or place where goods are exposed or offered for sale.
- (w) “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,
  - (i) such a vehicle if attached to a motor vehicle; or
  - (ii) a farm trailer.

1.2 In this By-law,

- (a) a word importing the masculine, feminine or neuter gender only includes members of the other genders;
- (b) a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa;
- (c) a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefor or amendment thereof;
- (d) the headings to each section are inserted for convenience of reference only and do not form part of the By-law;
- (e) words and abbreviations which have well-known technical or trade meanings are used in the By-law in accordance with those recognized meanings; and
- (f) where an officer of the City is named, or a reference is made to an office of the City, that reference shall be deemed to include a reference to the

designate of that person, as appointed in accordance with policies and procedures of the City in force from time to time.

**2. Ban Against Possession or Use of Firecrackers and Prohibited Fireworks**

- 2.1 No person within the City shall possess, offer for sale, cause or permit to be sold, or sell any firecrackers or other prohibited fireworks.
- 2.2 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.
- 2.3 The prohibition against the possession of firecrackers under subsection 2.1 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.

**3. Sale and Possession of Family Fireworks, etc.**

- 3.1 No person shall offer for sale, cause or permit to be sold, sell or otherwise distribute family fireworks unless the vendor has obtained a Family 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 package, glass case or other suitable receptacle away from inflammable goods; and
  - (d) the fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat.
- 3.2 No person shall offer for sale, cause or permit to be sold, or sell family fireworks from an outdoor stand, tent, unenclosed trailer, or motor vehicle.

**4. Trailer Sales**

- 4.1 A vendor applying for a Family Fireworks Sales Permit to sell family 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.
- 4.2 A Family Fireworks Sales Permit granted for the sale of family fireworks from a trailer is valid only for the sale location specified in that permit.
- 4.3 A person selling family 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.

**5. Display of Fireworks for Sale**

- 5.1 Fireworks displayed in any shop window shall be mock samples only that contain no explosive compound.
- 5.2 No person who offers for sale any family fireworks shall, at any time, keep or permit the keeping of any family fireworks in any location in a shop or trailer unless the location is designated and posted as a “no-smoking” area.
- 5.3 No person shall offer for sale, cause or permit to be sold, or sell family fireworks except on Victoria Day, Canada Day, and during the seven day period immediately preceding each of those days.
- 5.4 No person shall offer for sale, cause or permit to be sold, or sell family fireworks to any person who is or who appears to be under the age of eighteen years.
- 5.5 No person storing family fireworks for sale shall store them except as permitted under the *Explosives Act*.

**6. Use of Family Fireworks**

- 6.1 Subject to subsection 6.2, no person shall set off family fireworks except on Victoria Day and Canada Day and the two days immediately preceding and following each of those days.

- 6.2 A person who has obtained a Permit to set off a public display of family fireworks as provided in this section may set off such fireworks on the day specified in that permit.
- 6.3 No child shall set off any fireworks, other than a sparkler where the child is under the supervision of an adult at all times.
- 6.4 No parent, guardian or person standing in the place of a parent with respect to a child shall permit that child to set off any firework, other than a sparkler where the child is under the supervision of an adult at all times.
- 6.5 No person shall set off family 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.
- 6.6 No person shall set off family fireworks into, inside of, or on any building, accessory building, structure, or motor vehicle.
- 6.7 No person shall store, handle or set off family 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.
- 6.8 A person who stores fireworks shall use reasonable care to ensure that those fireworks are not accessible to children.
- 6.9 No person shall hold a public display of family fireworks without a permit issued under this By-law.

## **7. Display Fireworks**

- 7.1 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).

- 7.2 No person shall give, offer for sale, cause or permit to be sold or sell Display fireworks to any person unless that person,
- (a) is at least eighteen years of age;
  - (b) holds a valid Fireworks Supervisor's Card, and
  - (c) holds a valid permit issued by the City of Hamilton,
- 7.3 No person shall set off display fireworks, or advertise that a public display of either display fireworks or family fireworks is to be held within the City, without an appropriate permit issued under section 8.

## **8. Permits**

- 8.1 Any person eighteen years of age or over, who is duly authorized under the Explosives Act (Canada) and approved thereunder as a Display Fireworks Supervisor by the Chief Inspector of Explosives, may apply to the General Manager of Community Services for a permit to set off or hold a display of Display or Family type fireworks.
- 8.2 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, set off and cleaned up after the conclusion of the display or other setting off of those fireworks.
- 8.3 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 display of display fireworks.
- 8.4 Before issuing a permit under this section, the General Manager of Community Services shall obtain a report from the Chief of Police confirming that there is no record of the applicant having been convicted of criminal offence relating to arson, malicious mischief, malicious destruction of property, or the improper, careless or willful misuse of fireworks or explosives, or a conviction under this by-law or any of its predecessors, during the 10 year period immediately preceding the date of the application.



- 8.5 The General Manager of Community Services shall not issue a permit under this section where it is of the opinion that the proposed site at which the fireworks are to be set off or the display is to be held is not suitable for that purpose.
- 8.6 An applicant for a permit under this section shall provide, together with his or her application,
- (a) such information or consents as is required under this By-law;
  - (b) a fully executed Hamilton Police Services Access to Information waiver authorizing the Chief of Police to disclose information relating to the criminal record of the applicant to the General Manager of Community Services;
  - (c) evidence of insurance on such terms and in such amount as the City's Manager of Risk Management may prescribe from time to time;
  - (d) proof that the applicant has been approved by the Chief Inspector of Fireworks as a Display Fireworks Supervisor;
  - (e) a description of the site to be used for the setting of the display fireworks or family fireworks, as the case may be, sufficient to identify each site for which application is made;
  - (f) such further information as the General Manager of Community Services may reasonably require.
- 8.7 No person shall set off or hold a display of display fireworks at a date, time location or site except,
- (a) on the date and at the time and site specified in the permit; and
  - (b) upon full compliance with all terms and conditions applicable with respect thereto; and
  - (c) where the fireworks are to be set-off on property of which the applicant is not the owner, with the prior written permission of the owner of that property.
- 8.8 A permit issued under this section may be made subject to such terms and conditions as the General Manager of Community Services 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.

- 8.9 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 thereafter, at the location or site of the setting off or holding of a display 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 a display 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, set off or displayed, and the display fireworks themselves together with all associated equipment, by anyone authorized to enforce this by-law, forthwith upon demand.
- 8.10 Every person to whom a permit is issued under this section shall, immediately after the conclusion of the setting off or holding of a display, 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.

- 8.11 The grounds on which display fireworks are set off or at which a display of such fireworks is held shall be kept under continual surveillance, by a person eighteen years of age or older, until the final site inspection has been completed by permit-holder identified under section 8.10.
- 8.12 No person shall set off display fireworks,
- (a) into, inside of, or closer than 10 meters to, any building, accessory building or structure, or motor vehicle;
  - (b) within 200 meters of any premises or place where explosives, gasoline or other highly inflammable substances are manufactured, or stored in bulk; or
  - (c) within 200 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.
- 8.13 No person shall store, handle or set off 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.
- 8.14 A person who stores display fireworks shall use reasonable care to ensure that those fireworks are not accessible to children.
- 8.15 Except where a permit has been issued for that purpose under section 8, no person shall set off display fireworks, into, in, or on any highway, street, lane, alley, square or other public place.
- 8.16 A permit issued under this By-law is not transferable.
- 8.17 Where fireworks cannot be set off or displayed on the date provided in a permit, by reason of weather or some other cause that in the opinion of the General Manager of Community Services or the Fire Chief is sufficient, the Fire Chief may direct the issue of a new permit for some other date.
- 8.18 Where any holder of a permit fails or refuses to comply with a term or condition to which the permit is subject, the General Manager of Community Services or

the Fire Chief shall immediately revoke the permit and shall forthwith send a written notice of that revocation to the permit holder.

8.19 The General Manager of Community Services may require an applicant for a permit under this By-law to provide such information as the General Manager of Community Services 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 Department may refuse to issue that permit.

## **9. Offences**

Every person who contravenes any provision of this By-law is guilty of an offence, and upon conviction, is liable to the penalties specified by Section 61 of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.

## **10. Enforcement**

10.1 The following persons are authorized to enforce this By-law:

- (a) the General Manager of Community Services and every authorized by-law enforcement officer for the City; and
- (b) the Fire Chief, the Chief Fire Prevention Officer, and each member of the Fire Department designated as an Assistant to the Fire Marshall; and
- (c) every police constable.

10.2 From time to time, the General Manager of Community Services may approve all such forms as may be contemplated under this By-law, including forms of permit and applications for permit, and an applicant for any permit under this By-law shall use the appropriate form of application and provide all information required thereon.

## 11. Pyrotechnics

11.1 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, 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.

11.2 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 practice 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.

11.3 For the purposes of this section, "certificate" means a current certificate issued by or under the authority of Natural Resources Canada.

**12. Miscellaneous**

12.1 The following By-laws regulating the sale and display of fireworks and usage of pyrotechnics are repealed:

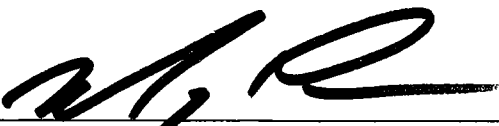
- (a) By-law No. 79-128, of the former City of Hamilton;
- (b) By-law No. 90-198 of the former City of Hamilton;
- (c) By-law No. 3811-93 of the former City of Stoney Creek;
- (d) By-law No. 95-30 of the former Town of Ancaster,

and all amendments thereto.

12.2 This by-law comes into force and effect on the date of its passing and enactment.

12.3 This by-law may be cited as the *Fireworks By-law*.

**PASSED and ENACTED** this 9th day of October, 2002 .

  
A/MAYOR - Murray Ferguson

  
CLERK

## SCHEDULE "A"

### Prohibited Fireworks

COMMODITY	DESCRIPTION
Cigarette loads or plugs	Small explosive charges designed for insertion in cigarettes or cigars which will cause them to explode after the victim takes a few pulls.
Exploding matches	Resemble ordinary book matches and are designed to explode after a certain delay, usually about the time they are in position to light a cigarette.
Sparkling matches	Also resemble the normal book matches but send out a shower of sparks.
Ammunition for miniature tie clip, cufflink or key chain pistols	A violent type of blank ammunition made up for use as a novelty.
Auto alarms or jokers	Supposedly designed as burglar alarms but are really for a practical joke; when wired to the ignition system of a car they operate with a loud screeching whistle followed by copious emission of smoke and a loud explosion.
"Cherry" bombs, M-80 and silver salutes and flash crackers	Very violent firecrackers which annually cause serious injuries; they are considered far too violent and contain an excessive charge of a prohibited fireworks composition.
Throw-down and step-on torpedoes, and cracking balls	Small objects designed to explode on impact; some of the latter are so shaped and coloured as to look like children's breakfast cereal or candy balls.
Exploding golf balls	Designed to explode and emits a cloud of smoke on impact.
Stink bombs and smoke bombs	Often made to resemble cherry bombs and salutes; are used for practical jokes (also prohibited from importation under Memorandum D33-1 Importation of Offensive Weapons).
Tear gas pens and launchers	Resemble a pen, may contain a mechanism activated by an explosive, and are supposedly for protection against muggers, but are more commonly used as offensive weapons or as practical jokes (also prohibited under Memorandum D33-1).
Party poppers and	Designed to project paper streamers or dispense party favours.

table bombs	The smaller ones are made of coloured plastic, shaped like champagne bottles.
Table rockets and bottle skyrockets	Small fireworks designed to be launched from a table or a bottle and bursting in a shower of sparks or a cloud of smoke.
Fake firecrackers and other trick devices or practical jokes	Any article which employs or stimulates an explosive or a pyrotechnic for a trick or a joke.