

CORPORATION OF THE TOWN OF HAWKESBURY

BY-LAW N° 42-2024

Being a by-law to regulate fireworks and firecrackers

WHEREAS section 121 of the *Municipal Act*, R.S.O. 2001, as amended, allows a local municipality to prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 11 (1) and (2) of the *Municipal Act*, 2001, provides that a lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public respecting health, safety and well-being and protection of persons and property;

AND WHEREAS By-law N° 31-96 should be updated;

AND WHEREAS Sections 23.2, 23.3 and 23.5 of the *Municipal Act*, 2001 provide that a municipality may delegate its administrative and hearing powers;

AND WHEREAS Section 391 of the *Municipal Act*, 2001 authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 434.1 (1) of the *Municipal Act*, 2001, provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law passed under the *Municipal Act*, 2001;

AND WHEREAS subsection 5.2.1.4 of Section 5.2 of the *Ontario Fire Code* (Ontario Regulation R.R.O. 1990, Reg. 454) provides that the handling and discharge of fireworks and pyrotechnics shall comply with the NRCan, "Display Fireworks Manual" and NRCan Pyrotechnics Special Effect Manual.

THEREFORE the Council of the Corporation of the Town of Hawkesbury enacts as follows:

1. DEFINITIONS

In this by-law:

"Act" means the *Explosives Act*, Revised Statutes of Canada, 1985, C. E-17, and the Regulations enacted thereunder as amended from time to time, or any Act and Regulations enacted in substitution therefore;

“By-Law Enforcement Officer” means a By-Law Enforcement Officer of the Corporation of the Town of Hawkesbury;

“Police Officer” means an officer of the Hawkesbury detachment of the Ontario Provincial Police;

“Consumer firework” 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.

“Corporation” means the Corporation of the Town of Hawkesbury;

“Display firework” 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.

“Discharge” means to fire, ignite explode, or set off or cause to be fire, ignited, exploded, or set off and the words “discharging” have a similar meaning.

“Fire Chief” means the Chief of the Fire Department of the Corporation of the Town of Hawkesbury or his authorized subordinates or assistants;

“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;

“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 qualified under the Act.

“Owner” means any person, firm, corporation or any association controlling the property;

“Person” means not only an individual, but also a partnership and body corporate and any association.

“Pyrotechnic special effects fireworks” 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.

“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.

“Sky lantern” means those devices also known as Flying, Chinese, Kongming or Wish lanterns, or other similar devices constructed of paper and a frame containing a fuel pack, which fuel pack is usually a petroleum or wax-based fuel that when lit causes the lantern to rise.

“Town” means the Corporation of the Town of Hawkesbury.

2. SALE OF FIREWORKS AND FIRECRACKERS

2.1. No person shall sell or offer for sale any firecrackers.

2.2. No person shall sell consumer fireworks except on the following days:

- a) Victoria Day, Canada Day and St-Jean-Baptiste Day;
- b) Each of the seven business days immediately preceding Victoria Day, Canada Day and St-Jean-Baptiste Day.

2.3. Fireworks displayed in store windows shall be mock samples only and not contain explosive composition.

2.4. No person shall sell consumer and/or display fireworks if not in possession of a valid Business Licence issued by the Town.

2.5. For reference purposes, subsection 5.2.1.4 of Section 5.2 of the *Ontario Fire Code* (Ontario Regulation R.R.O. 1990, Reg. 454) provides as follows:

- a) The handling and discharge of fireworks and pyrotechnics shall comply with the NRCan, “Display Fireworks Manual” and “NRCan Pyrotechnics Special Effect Manual”.

2.6. No person shall knowingly sell any explosive to a person who:

- a) is under 18 years of age; or
- b) appears to be under 18 years of age and does not produce evidence that they are 18 years of age or older.

2.7. For the purposes of this section, “explosive” does not include:

- a) caps for toy guns included in Subdivision 1 of Division 2 of Class 7 fireworks; or
- b) pyrotechnic distress signals or lifesaving devices that fall within the description of any class of explosives set out in Part 1.

3. DISCHARGE OF FIRECRACKERS, SKY LANTERNS AND PROHIBITED FIREWORKS

3.1. No person shall discharge, fire or set off, or cause to be discharged, fired or set off, any firecrackers, sky lanterns and prohibited fireworks.

4. CONSUMER FIREWORKS

4.1. The setting off of consumer fireworks is prohibited except on the following days:

- a) Victoria Day;
- b) the day immediately preceding Victoria Day;
- c) the day immediately following Victoria Day;
- d) Canada Day;
- e) the day immediately preceding Canada Day;
- f) the day immediately following Canada Day;
- g) St-Jean-Baptiste Day;
- h) the day immediately preceding St-Jean-Baptiste Day;
- i) the day immediately following St-Jean-Baptiste.

4.2. A person eighteen (18) years of age or over may hold a display of consumer fireworks on any land belonging to him or her or on any other privately owned land where the owner thereof has given permission for such display or discharge of fireworks.

4.3. No person shall use, set off or allow to be used or set off any consumer firework in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the setting off of any fireworks.

4.4. No person shall set off any family firework in or into any building, doorway, automobile, or other place where such setting off might create a danger or nuisance to any person or property.

4.5. No person shall set off any consumer firework in or into any highway, street, lane, square or other public place.

4.6. No person under the age of eighteen (18) years shall set off any firework except under the direct supervision of and control of a person eighteen (18) years or over.

4.7. No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to set off any firework except when such parent or guardian or some other responsible person of eighteen (18) years or over is in direct supervision and control.

5. DISPLAYS FIREWORKS

5.1. No person or group of persons shall set display fireworks or shall discharge, fire or set off, or cause to be discharged, fired or set off, any display firework in the Town of Hawkesbury, without first having obtained a permit to do so issued by the Fire Chief.

5.2. An applicant for a permit shall:

- a) be a Fireworks Supervisor;
- b) supervise the display fireworks;
- c) if the display fireworks is to be held on property of the Town:
 - i. Procure a policy of insurance for comprehensive general liability insurance, including fireworks endorsement, in an amount of not less than five million (\$5,000,000.00) dollars inclusive, per occurrence for bodily injury, death and damage to property, including loss of use thereof, that may result or arise out of the holding of the display fireworks. The policy shall comply with the following:
 - o the insurance policy shall be in the name of the applicant and shall name the Town as an additional insured thereunder;
 - o the insurance policy shall preclude subrogation claims by the Insurer against anyone insured thereunder;
 - o the insurance shall contain an endorsement to provide all named Insured with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage.
 - o A Certificate of Insurance evidencing such insurance coverage shall be provided to the Town prior to the issuance of a permit.
 - ii. If the display fireworks is to be held in a municipal park, make the arrangements with the Director of Recreation and Tourism or authorized representative for the use of the park for the display fireworks, and provide evidence of insurance referred to in subsection i. and they must also obtain proper resolution from Council prior to the event.
- d) If the display fireworks is to be held on a property not referred to in subsection c), and not owned or occupied by the applicant:
 - i. obtain the consent of the owner of such property in writing and submit a copy of it with the application, and
 - ii. upon request from the Fire Chief, any person making application for display fireworks permit shall provide Commercial General Liability insurance, in an amount of not less than five million (\$5,000,000.00) dollars inclusive, per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall include

permission to conduct displays of pyrotechnic special effects fireworks or display fireworks. Such insurance policy shall contain an endorsement to provide the Town of Hawkesbury with (30) days prior written notice of cancellation or of a material change that would diminish coverage.

5.3. Every application for a permit shall include:

- a) a description of the event;
- b) the date and time of the proposed discharge of displays fireworks;
- c) the type and kind of display fireworks that may be discharged;
- d) the discharge techniques to be used;
- e) the manner and means of restraining unauthorized persons from attending too near the discharge site;
- f) the manner in which unused display fireworks are to be disposed of;
- g) the number of persons authorized to handle and discharge the display fireworks;
- h) a site plan providing a description of the discharge site to be used for the discharging of the display fireworks;
- i) a description of the fire emergency procedures;
- j) the name and address of the applicant and the sponsoring organization, if applicable;
- k) proof of certification of the applicant as a Fireworks Supervisor;
- l) proof of consent of the owner of the property to the discharge of display fireworks in writing;
- m) a processing fee as listed in the Schedule D of the Administrative fees By-law;
- n) proof of insurance and indemnification in accordance with Sections 5.2 c) or d);
- o) such other information required by the Fire Chief;

5.4. An applicant for a permit is, subject to the provisions of this By-law, entitled to be issued the permit, except where:

- a) The application is incomplete;
- b) The applicant is not a Fireworks Supervisor;
- c) The display is not being held by or under the auspices of an established club, association or group or persons;
- d) The purpose of the display is not of civic, national or international significance or not of special significance for particular interest groups; or
- e) if there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this By-law or the Act.

5.5. The following conditions shall apply for the holding of a display fireworks under 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 display is not being held within one hundred and eighty-two (182 m) metres of a nursing home, public hospital, home for the aged, any premises or place where explosives, gasoline, or other highly inflammable substances are manufactured, sold or stored, or within one hundred and eighty-two (182 m) metres of a church or a public, separate, secondary school or other school unless the consent of the owner of such church or school or an agent or representative of such owner is obtained;
- c) the persons present at the display other than those engaged in the conduct or supervision thereof shall be kept back at least forty-six (46 m) metres from the place at which the fireworks are being discharged; and
- d) every person to whom a permit is issued shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use and present always and for a reasonable period thereafter, at the location or site of the setting off or holding of the display of display fireworks.

6. PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- 6.1. No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the Town without first having obtained a permit to do so issued by the Fire Chief.
- 6.2. No person or group of persons shall discharge any pyrotechnic special effect fireworks in the Town without first having obtained a permit issued by the Fire Chief authorizing the display of pyrotechnic special effect fireworks.
- 6.3. Every application for a permit pursuant to Section 6.1 shall be made to the Fire Chief a minimum of 30 days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.
- 6.4. Every application for a permit shall include:
 - a) a description of the event including
 - a site plan of the facility and room capacity, the stage, and the pyrotechnic special effect fireworks storage area;
 - a list of all the pyrotechnic special effect fireworks to be employed;
 - location of all pyrotechnic special effect fireworks;
 - height, range of effect, fallout, and duration of the display of pyrotechnic special effect fireworks;
 - sequence of firing;
 - location of the audience and all exits;
 - date and time of the proposed event using pyrotechnic special effect fireworks;
 - b) description of fire emergency procedures;
 - c) name and address of the applicant and the sponsoring business or organization, if applicable;
 - d) proof of certification of the applicant as a pyrotechnician;

- e) proof of insurance and indemnification in accordance with Sections 5.2 c) and d);
- f) proof of consent of the owner of the property to the discharge of pyrotechnic special effect fireworks in writing, if the applicant is not the owner of the property;
- g) a processing fee as listed in the Administrative fees By-law;
- h) such other information as required by the Fire Chief.

6.5. An applicant for a permit subject to the provisions of this by-law, entitled to be issued the permit, except where:

- a) the application is incomplete,
- b) the applicant is not a pyrotechnician under the Act, or
- c) there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law, the FPPA or the Act.

7. CONDITIONS APPLYING TO PERMIT FOR PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- 7.1. The Fire Chief may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 7.2 and each such permit shall state the name of the sponsoring business, club, association or group, the purpose of the display, the place and date at which the display may be held, and the name of the pyrotechnician under whose supervision the same shall be held.
- 7.2. The following conditions shall apply to the holding of a display of pyrotechnic special effect fireworks under 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 permit holder shall supervise the display of pyrotechnic special effect fireworks,
 - c) the permit holder shall discharge the pyrotechnic special effects fireworks,
 - d) the permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use, and
 - e) the permit holder shall comply at all times with the requirements of the Act, FPPA and the "Pyrotechnics Special Effects Manual" published by Natural Resources Canada, or any successor publication.
- 7.3. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.
- 7.4. The permit holder holding the display of pyrotechnic special effect fireworks shall ensure that all unused fireworks and all debris are removed.

8. ENFORCEMENT

- 8.1. The provisions of this By-law shall be enforced by the Fire Chief, or other individual duly appointed for the purpose of enforcing this By-law.
- 8.2. The Fire Chief may carry out an inspection to determine if the provisions of this By-law are being complied and shall have the right to enter lands pursuant to the *Municipal Act, 2001*.
- 8.3. No person shall hinder or obstruct or attempt to hinder or obstruct the Fire Chief or other individual duly appointed to inspect or enforce this By-law.

9. OFFENCES AND PENALTIES

- 9.1. Any person who contravenes any provision of this By-law shall be liable to pay the Town an Administrative Monetary Penalty, upon issuance of a penalty notice in accordance with the Town of Hawkesbury's Administrative Monetary Penalties System (AMPS) By-law, as may be amended from time to time.
- 9.2. Each day that a person contravenes with the provisions of this By-law, may constitute a separate offence.
- 9.3. When a person has been convicted of an offence under this by-law, the court of competent jurisdiction may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted, directed towards the continuation or repetition of the offence.

10. SEVERABILITY

- 10.1. If a court of competent jurisdiction should declare any paragraph or part of a paragraph of this by-law to be invalid or ultra vires such paragraph or part of a paragraph shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

11. SHORT TITLE

- 11.1. The short title of this by-law shall be "Fireworks By-law".

12. REPEAL

12.1. That by-law N° 31-96 is hereby repealed.

13. EFFECTIVE DATE

13.1. This By-law shall come into force and effect on the date of its adoption.

READ A FIRST, SECOND AND ADOPTED UPON THIRD READING THIS 3rd DAY OF JUNE 2024.

Robert Lefebvre, Mayor

Sonia Girard, Clerk