

B Y - L A W N U M B E R 136-2004

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

Passed the 10th day of May, 2004.

WHEREAS it is deemed expedient to regulate the sale and setting off of fireworks in the City of Windsor;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

DEFINITIONS

1. In this by-law:

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

"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;

"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;

"Chief Fire Official" means the Chief of Windsor Fire and Rescue Services or his designate(s);

"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 who is qualified under the Act to supervise the discharge of display fireworks;

"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 poppers 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 and any fireworks not on the approved list of the Ministry of National Resources Explosives Branch as amended from time to time;

"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

"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.

2. If any section, subsection or part thereof be declared illegal or *ultra vires*, such section, subsection or part shall be deemed to be severable and all other parts to be separate and independent.

SALE OF FIREWORKS AND FIRECRACKERS

3. (1) No person shall sell any firecrackers, except for displays as permitted by the Chief Fire Official under subsection 6(4).
- (2) No person shall sell any prohibited fireworks.
- (3) No person shall sell consumer fireworks except on the following days:
 - (a) Victoria Day, Canada Day, the Fourth of July, New Year's Eve, and
 - (b) each of the ten business days immediately preceding Victoria Day and the Fourth of July, and the seven business days preceding New Year's Eve.
- (4) Every person in charge of a store shall ensure that fireworks displayed in store windows shall be mock samples only and not contain explosive composition.

DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS

4. (1) No person shall discharge any firecrackers, except as per subsection 6(4) herein.
- (2) No person shall discharge any prohibited fireworks.

CONSUMER FIREWORKS

5. (1) No person shall discharge consumer fireworks except on the following days:
 - (a) Victoria Day, or the day immediately preceding or following Victoria Day;
 - (b) The day preceding Canada Day and the following days up to and including the Fourth of July; and
 - (c) New Year's Eve.
- (2) A person eighteen (18) years of age or older 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.
- (3) No person shall discharge any consumer fireworks 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 discharging of any fireworks.
- (4) No person shall discharge any consumer fireworks in or into any building, doorway, or automobile.
- (5) No person shall discharge any consumer fireworks in or on or into any highway, street, lane, square or other public place.

- (6) 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.
- (7) 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.

DISPLAY FIREWORKS

6.
 - (1) No person or group of persons shall hold a display of display fireworks without first having obtained a permit to do so issued by the Chief Fire Official.
 - (2) No person or group of persons shall discharge any display fireworks, without first having obtained a permit issued by the Chief Fire Official authorizing the display of display fireworks.
 - (3) No display fireworks shall be permitted on any City property without first having obtained the approval of City Council as well as the required permit from the Chief Fire Official.
 - (4) No person or group shall hold a display of firecrackers without first having obtained a permit issued by the Chief Fire Official.
7. Every application for a permit shall be made to the Chief Fire Official a minimum of 30 days prior to the event when the proposed discharge of display fireworks is to occur.
8. Every application for a permit shall include:
 - (a) a description of the event including,
 - (i) the date and time of the proposed discharge of display fireworks,
 - (ii) the type and kind of display fireworks that may be discharged,
 - (iii) the discharge techniques to be used,
 - (iv) the manner and means of restraining unauthorized persons from attending too near the discharge site,
 - (v) the manner in which unused display fireworks are to be disposed of, and
 - (vi) the number of persons authorized to handle and discharge the display fireworks;
 - (b) a site plan providing a description of the discharge site to be used for the discharging of the display fireworks;
 - (c) a description of the fire emergency procedures;
 - (d) the name and address of the applicant and the sponsoring organization, if applicable;
 - (e) proof of certification of the applicant as a Fireworks Supervisor;
 - (f) proof of the consent of the owner of the property to the discharge of display fireworks in writing;
 - (g) a processing fee as noted in the City of Windsor fee structure.
 - (h) proof of insurance and indemnification in accordance with Sections 10 and 11; and
 - (i) such other information as required by the Chief Fire Official.

9. 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 under the auspices of an established club, association or group of persons, or
- (d) 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.

INSURANCE

10. The applicant 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 City of Windsor as an additional insured thereunder. 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 City of Windsor with (30) days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to the City of Windsor prior to the issuance of a permit.

INDEMNIFICATION

11. The applicant shall indemnify and save harmless the City of Windsor from any and all claims, demands, causes of action, loss costs or damages that the City of Windsor may suffer, incur or be liable for resulting from the performance of the applicant as set out in the by-law whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

CONDITIONS APPLYING TO PERMIT

12. The Chief Fire Official may issue permits for displays of fireworks on the conditions set forth in Section 13, and each such permit shall state the name of the sponsoring club, association or group, the purpose of the display, the place and date at which the same may be held, and the name of the person under whose supervision the display shall be held.
13. The following conditions shall apply to the holding of a display of 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 metres (182m) of a nursing home, public hospital, home for the aged, any premises or place where explosives, gasoline, or other highly flammable substances are manufactured, sold or stored or within one hundred and eighty-two metres (182m) of a church or a public or separate secondary school or other school unless the consent of the owner or an agent or representative of the owner of such church or school is obtained,
 - (c) the permit holder shall supervise the display of display fireworks,

- (d) the permit holder or his licensed designate shall discharge the display fireworks,
- (e) every permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use at each firing site,
- (f) the permit holder shall comply at all times with the provisions of the Act, the Fire Protection and Prevention Act, 1997, and the Display Fireworks Manual published by Natural Resources Canada or any successor publication, and
- (g) a demonstration of the display or portions of the display shall be conducted upon request of the Chief Fire Official.

14. No permit holder shall discharge display fireworks except in accordance with the conditions of the permit.

15. The permit holder holding the display of display fireworks shall ensure that all unused fireworks and all debris are removed.

PYROTECHNIC SPECIAL EFFECTS FIREWORKS

16. (1) No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the City of Windsor without first having obtained a permit to do so issued by the Chief Fire Official.

- (2) No person or group of persons shall discharge any pyrotechnic special effect fireworks in the City of Windsor, without first having obtained a permit issued by the Chief Fire Official authorizing the display of pyrotechnic special effect fireworks.

17. Every application for a permit pursuant to Section 16 shall be made to the Chief Fire Official a minimum of 30 days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.

18. Every application for a permit shall include:

- (a) a description of the event including,
 - (i) a site plan of the facility and room capacity, the stage and the pyrotechnic special effect fireworks storage area,
 - (ii) a list of all the pyrotechnic special effect fireworks to be employed,
 - (iii) location of all pyrotechnic special effect fireworks,
 - (iv) height, range of effect, fallout and duration of the display of pyrotechnic special effect fireworks,
 - (v) sequence of firing,
 - (vi) location of the audience and all exits, and
 - (vii) 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 10 and 11 ;
- (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 noted in the City of Windsor fee structure ; and
- (h) such other information as required by the Chief Fire Official.

19. 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 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, or any law.

CONDITIONS APPLYING TO PERMIT

20. The Chief Fire Official may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 21 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.

21. 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,
- (e) the permit holder shall comply at all times with the requirements of the Act and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication and,
- (f) a demonstration of the display or portions of the display shall be conducted upon request of the Chief Fire Official.

22. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.

23. The permit holder holding the display of pyrotechnic special effect fireworks shall ensure that all unused fireworks and all debris are removed.

GENERAL REQUIREMENT

24. Every holder of a display fireworks or pyrotechnic special effect fireworks permit shall produce his or her permit upon being so directed by the Chief Fire Official.

25. All permits granted by the Chief Fire Official may be revoked whenever, in his discretion, the holder of such permit is in non-compliance with its terms or he has concerns for the safety of the public.

OFFENCES AND PENALTIES

- 26. (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- (2) Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offenses Act, R.S.O. 1990, Chapter P.33.

REPEAL

- 27. By-Law number 2480 and all amending by-laws to By-law Number 2480 are hereby repealed.
- 28. This by-law may be referred to as the “Fireworks By-law”.
- 29. This by-law shall come into force and take effect on the day of the final passing thereof.

EDDIE FRANCIS, MAYOR

DEPUTY CLERK

First Reading - May 10, 2004
Second Reading - May 10, 2004
Third Reading - May 10, 2004

