

# The Corporation of the Township of Whitewater Region

By-law Number 24-06-1694

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## **A by-law to Regulate the sales and use of Fireworks**

**WHEREAS** section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate the sale and possession of fireworks and the setting off of fireworks, and further that a by-law may prohibit those activities unless a permit is obtained from the municipality that may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**AND WHEREAS** sections 23.1 and 23.2 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to delegate certain powers and duties;

**AND WHEREAS** section 7.1(1) of the *Fire Protection and Prevention Act, 1997*,

S.O. 1997, c. 4, as amended, provides that the council of a municipality may pass by- laws regulating fire prevention, including the prevention of the spreading of fires;

**AND WHEREAS** By-law 218-2019 "Administrative Penalties (Non-Parking) By- law" was enacted to provide for a system of administrative monetary penalties for designated by-laws;

**AND WHEREAS** the Council of The Township of Whitewater Region deems it expedient to enact a by-law to regulate and prohibit the sale, possession and discharge of fireworks.

**AND WHEREAS** Council for The Township of Whitewater Region deems it appropriate to provide for administrative penalties for violations of this By-law;

**Whereas**, Section 425 (1) allows a municipality to pass by-laws providing

**Now Therefore the Council of the Corporation of the Township of Whitewater Region enacts as follows:**

### **Short Title**

This by-law shall be known and may be cited as the "Fireworks By-law."

### **Definitions**

As used in this by-law, the following terms shall have the meaning hereinafter ascribed to them:

**"Act"** means the *Explosives Act*, R.S.C. 1985, c. E-17 and the regulations enacted thereunder as amended from time to time or any act or regulations enacted in substitution therefor;

**"Consumer Fireworks"** means low hazard fireworks that are generally used for recreation and are classified as Type F.1 explosives under the Act such as roman candles, sparklers, flying lanterns, barrages, cakes, comets, mines, missiles, skyrockets, fountains, wheels, ground spinners, burning school houses and flying ghosts;

**"Display Fireworks"** means high hazard fireworks that are generally used for public display and designed for use by professionals and are classified as Type F.2 explosives under the Act such as aerial shells, waterfalls, lances, rockets, serpents,

shells, bombshells, tourbillions, maroons, bouquets, fountains, batteries, illumination set pieces and pigeons, and large wheels;

**"Display 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;

**"Film Production Company"** means a company that is responsible for producing video content intended for broadcast, theatrical or digital distribution and advertisement.

**"Chief Fire Official"** means the Fire Chief of the Township or authorized designate(s).

**"Fireworks"** include but not limited to any fireworks or explosives not authorized by the Explosives Regulatory Division of the Government of Canada, any Consumer Fireworks, Display Fireworks, Prohibited Fireworks or Pyrotechnics.

**"Fireworks Display Supervisor Certification"** authorizes a person to purchase and set off Display Fireworks.

**"Fireworks Permit"** is a permit to discharge fireworks issued by the Fire Chief. Without limiting this definition, a Fireworks Permit may be for Display Fireworks, or for Consumer Fireworks, Pyrotechnics or a combination.

**"FPPA"** means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, and the regulations enacted thereunder as amended from time to time or any act or regulations enacted in substitution therefore.

**"Officer"** includes municipal law enforcement officers, fire inspectors, fire prevention officers, police officers, and any person appointed by Council to enforce this by-law.

**"Person"** means an individual, property owner, association, firm, partnership, corporation, trust, incorporated company, organization and includes the directors and officers of a corporation, a corporation created under the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended, and the trustees, agents, heirs, executors or other legal representatives of a person to whom the context can apply according to law.

**"Prohibited Fireworks"** means fireworks included on the most recent list of prohibited fireworks or explosives set out in the Act, including but not limited to flying lanterns, sparkling matches, cherry bombs, M-80's, silver salutes and flash bombs and smoke bombs, fake firecrackers and other similar trick devices or practical joke devices.

**"Pyrotechnician"** means a Person who is certified under the Act as 'pyrotechnician', 'senior pyrotechnician', 'special effects pyrotechnician' or 'special effects pyrotechnician detonating cord' and is qualified to purchase and supervise the display of 'pyrotechnic special effects' under the Act.

**"Pyrotechnics"** includes high hazard fireworks used to produce a special effect in a film or television production or a performance before a live audience; explosives which may be classified as Type F.3 in the Act; fireworks accessories which may be classified as Type F.4 in the Act; black powder and hazard category PE 1 black powder substitutes which may be classified as Type P.1 in the Act; smokeless black powder and hazard category PE 3 black powder substitutes which may be classified as Type P.2 in the Act; initiation systems classified as Type I under the Act such as blasting accessories; and detonating cord classified as Type E.1 under the Act.

### **3.0 Unauthorized Fireworks**

3.1 No Person, or group of Persons, shall use, sell, offer to sell, display, purchase, distribute, possess or set off or discharge, or cause or permit to be used, sold, offered for sale, purchased, distributed, possessed, set off or discharged, any fireworks or explosives not authorized by the Explosives Regulatory Division of the Government of Canada.

- 3.2 No Person, or group of Persons, shall use, set off, discharge, fire, sell, offer to sell, purchase, display, distribute, possess or cause or permit to be used, fired, sold, offered for sale, purchased, distributed, possessed, set off or discharged, any Fireworks without a permit issued by the Township of Whitewater.
- 3.3 When Fireworks are discharged from a private property, the property owner is deemed to have permitted, allowed or caused the setting off of the Fireworks, unless there is evidence to the contrary, the proof of which lies with the property owner.
- 3.4 Notwithstanding sections 3, Fireworks may be discharged or set off by Film Production Companies or the Township of Whitewater Region in accordance with the provisions of this by-law.
- 3.5 No persons shall discharge fireworks between the hours of 1 a.m. and 4 p.m.

#### **Types of Fireworks Permits**

- 4.1 Consumer Fire Works Permit: For personal use of Fire Works on Private property.
- 4.2 Display Fire Works Permit: For Display Fire Works or Consumer Fire Works used on Public Property

#### **Fireworks Permits**

- 5.1 No person shall discharge fireworks without first obtaining the appropriate Fireworks Permit for the use of Fireworks.
- 5.1 Only Persons who hold a valid Fireworks Display Supervisor Certification or a Pyrotechnician Certification shall be eligible to discharge display fireworks.
- 5.2 The Fire Chief may impose such conditions upon the issuance of a Fireworks Permit as he/she considers are required to ensure the safety of the public.
- 5.3 The Fire Chief has absolute discretion to refuse a Fireworks Permit for any reason whatsoever and without limiting the generality of the discretion, a reason may include any of the provisions of this by-law, any other by-law, the Fire Code, the Act or Regulations, the past history of the applicant; the proposed locale of the display; insurance; the safety measures to be taken or lack thereof; any environmental consideration; or any consideration regarding the safety of the public or property.
- 5.4 Persons who discharge Fireworks under the authority of a Fireworks Permit shall comply with all the provisions of this by-law. However, the Fire Chief may relieve a Person who obtains a Fireworks Permit from any of the provisions of this by-law.
- 5.5 Every application for a Fireworks Permit shall be made to the Fire Chief a minimum of ten (10) days prior to the event when the proposed discharge or display of Fireworks is to occur.
- 5.6 Every application for a Fireworks Permit shall include:
  - (a) a complete application form in the form through Whitewater Region Burn Permits provided by the Whitewater Region Fire Department.
  - (b) payment of all non-refundable application fees in the amount as described in the applicable User Fees Schedule.
  - (c) where the application is for a Fireworks Permit to discharge or hold a display of Fireworks or Pyrotechnics, proof of

certification of the applicant as a Display Supervisor or Pyrotechnician; and

- (d) such further and other information as the Fire Chief may require.

5.8 The Fire Chief may issue a Fireworks Permit; or shall refuse to issue a Fireworks Permit where:

- (a) the application is incomplete.
- (b) the applicant for a Fireworks Permit does not meet the certification criteria for the proposed Fireworks.
- (c) the purpose of the discharge or display is not for either a Film Production Company or an event hosted or endorsed by The Township of Whitewater Region;
- (d) there are reasonable grounds to believe that the discharge or display will result in a breach of this by-law, the Act or any applicable statute, regulation or by-law; or
- (e) in the opinion of the Fire Chief, there are not adequate fire prevention safeguards or protections from fire hazards in place.

5.9 The following conditions shall apply to a Fireworks Permit issued under this by-law:

5.10 The Fireworks Permit is valid only for the discharge or display at the place and on the date or dates set forth in the Fireworks Permit.

5.11 The Fireworks Permit is valid only for the discharge or display of the type of firework(s) (Consumer Fireworks, Display Fireworks or Pyrotechnics) set forth in the Fireworks Permit.

5.12 Where the location set out in the Fireworks Permit for the discharge or display is not on property owned by the permit holder, the permit holder shall obtain the permission of the owner of the property for the discharging or holding of a display.

5.13 The permit holder shall supervise the discharge or display.

5.14 The permit holder shall restrict access near the location of any unauthorized Persons where the Consumer Fireworks, Display Fireworks or Pyrotechnics are being discharged; and the permit holder shall always comply with the provisions of the Act, the FPPA, the 'Display Fireworks Manual' published by Natural Resources Canada or any successor publication.

<https://natural-resources.canada.ca/our-natural-resources/minerals-mining/mining/explosive-regulations/display-fireworks-manual-2010/9903#C3>

5.15 In addition to the conditions set out in subsection 13(1), the Fire Chief may impose any conditions on a Fireworks Permit that the Fire Chief considers necessary in the interest of public safety, or that are advisable in the circumstances, or to give effect to the objects of this by-law.

5.16 No permit holder shall discharge or hold a display of Fireworks, except in accordance with the conditions of the Fireworks Permit.

## **6.0 Revocation and General Permit Regulations**

6.1 The Fire Chief may revoke, without prior notice to the permit holder or any other Person, any Fireworks Permit issued pursuant to this by-law:

- a. Where the use, setting off, discharge, firing or holding any display of Consumer Fireworks, Display Fireworks, Prohibited Fireworks or Pyrotechnics is contrary to:
    - i. the provisions of this By-law.
    - ii. any conditions upon which the Fireworks Permit was issued; or
    - iii. any other applicable law.
    - iv. if the Fireworks Permit was issued on mistaken, false or incorrect information.
    - v. if the Fire Chief has concerns that the use, setting off, discharge, firing or holding any display of Consumer Fireworks, Display Fireworks or Pyrotechnics poses a serious risk to public safety;
    - vi. if the Fireworks Permit was issued in error; or
    - vii. if the permit holder requests in writing to the Fire Chief that the Fireworks Permit be revoked.
- 6.2 No Person shall use, set off, discharge, fire or cause or permit to be used, set off, discharged, or fired, Fireworks, or hold a display of Fireworks,:
- a. without a Fireworks Permit issued by the Fire Chief; or
  - b. in contravention of the provisions of the Fireworks Permit issued to that Person.
- 6.3 Any Fireworks Permit issued pursuant to this by-law is non-transferrable.
- 6.4 Every permit holder shall produce their Fireworks Permit upon being so directed by the Fire Chief or Officer.
- 6.5 The issuance of any Fireworks Permit by the Fire Chief shall not relieve the permit holder from compliance with any other applicable law.

## **7.0 Enforcement and enactment**

- 7.1 The CFO or designate shall be responsible for the enforcement of this by-law.
- a. Any Officer or any agent acting on behalf of the Township may at any reasonable time enter upon land and into structures for the purpose of carrying out an inspection to determine whether this by-law is being complied with and any power of entry shall be exercised in accordance with Part XIV of the *Municipal Act, 2001*.
  - b. Where an inspection is conducted in accordance with subsection 19(2) of this by-law, an officer may:
    - i. require the production of documents and things for review that may be relevant to the inspection;
    - ii. inspect and remove documents or things which may be relevant to the inspection for the purpose of making copies;
    - iii. require any information from any Person concerning a matter related to the inspection, including but not limited to names, addresses, contact information, and proof of identity or other identification; and
    - iv. alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

## **8.0 Orders**

- 8.1 Where the CFO or Designate believes that a contravention of this By-law has occurred they may direct Bylaw Enforcement Officer to issue:
- a. an order to discontinue the contravening activity;
  - b. an order to correct the contravention; or,
  - c. an order to discontinue the contravening activity and correct the contravention.
  - d. Orders issued pursuant to subsection 21(1) shall be in writing and set out:
    - i. the name of the Person who is believed to have contravened this By- law and the municipal address or the legal description of the land to which the contravention applies;
    - ii. reasonable particulars of the contravention;
    - iii. the date by which there must be compliance with the order;
    - iv. if applicable, the work to be done and the date by which the work must be done; and,
    - v. if applicable, a statement that the City may have the work done at the expense of the owner of the property if the work is not done in compliance with the order.
- 8.2 An order issued under this by-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Officer and a copy of the order may be posted on any property to which the contravention applies.
- 8.3 If an order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.
- 8.4 Every Person who fails to comply with an order made under this section is guilty of an offence.

## **9.0 Offences and penalties**

- 9.1 Every Person who is charged with an offence under this by-law by the filing of a certificate of offence under Part I of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, upon conviction is liable to a fine as provided for by the aforesaid act.
- 9.3 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, as amended.
- 9.5 Each day a contravention continues may be deemed to be a separate offence.
- 9.6 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an officer, employee and/or agent of the Corporation in the lawful exercise of a power or duty under this by-law.
- 9.7 Every person shall comply with any Order or Notice issued under the authority of this bylaw.

## **10.0 Seizers**

10.1 Any Officer who observes a contravention of the provisions of this by-law may seize any fireworks in the possession of the person or corporation who committed the contravention.

## **11.0 Fines**

11.1 Every Person who contravenes a provision of this by-law designated in Township of Whitewater Region's User Fees and Charges By-law as amended, shall upon issuance of a Penalty Notice be and is liable to pay to the Township of Whitewater Region an administrative penalty.

## **12.0 Severability**

12.1 It is hereby declared that each and every of the foregoing provisions of this By-law is severable and that, if any provision of this By-law should for any reason be declared invalid by any Court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

## **13.0 Effective Date**

13.1 This by-law shall come into force and effect on the day of passing.

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**Neil Nicholson, Mayor**

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**Carmen Miller, Clerk**

**Township of Whitewater Region  
Part I Provincial Offences Act  
By-Law 24-06-1694 A by-law to Regulate the sales and use of  
Fireworks**

<b>Item</b>	<b>Column 1 Designated Provision</b>	<b>Column 2 Provision creating or defining offence</b>	<b>Column 3 Set Fine</b>
<b>1</b>	<b>Section 3.1</b>	<b>Discharge or possess fireworks not authorized</b>	<b>\$250.00</b>
<b>2</b>	<b>Section 3.2</b>	<b>Sell, distribute, display or offer for sale fireworks</b>	<b>\$500.00</b>
<b>3</b>	<b>Section 3.4</b>	<b>discharge fireworks between the hours of 1 a.m. and 4 p.m.</b>	<b>\$250.00</b>
<b>4</b>	<b>Section 5.1</b>	<b>Failure to obtain the appropriate Fireworks Permit</b>	<b>\$500.00</b>
<b>5</b>	<b>Section 9.6</b>	<b>Hinder an officer</b>	<b>\$500.00</b>
<b>6</b>	<b>Section 9.7</b>	<b>Fail to comply with an order</b>	<b>\$1000.00</b>

**NOTE: The penalty provision for the offences indicated above is section 9.1 of by-law no. 24-06-1694, a certified copy of which has been filed**