

THE CORPORATION OF THE TOWN OF ERIN

BY-LAW # 20 XXXXX

Being a By-law to Prohibit and Regulate the sale of fireworks and the setting off of fireworks.

WHEREAS Section 121 (a) of the Municipal Act, 2001, S.O 2001 c.25 provides that the Council may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121 (b) of the Municipal Act, 2001, S.O. 2001 c.25 provides that the Council may prohibit the activities described in Section 121 (a), above, unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS Council for the Corporation of the Town of Erin deems it necessary for the safety and wellbeing of the community to prohibit and regulate the setting off of fireworks and for requiring permits within the Corporation of the Town of Erin.

NOW THEREFORE, The Council of the Corporation of the Town of Erin enacts as follows:

1. Definitions:

- a. **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.
- b. **Consumer Fireworks** (class 7.2.1/F.1 as classified in the Authorization Guidelines for Consumer and Display Fireworks in accordance with Part 3 of Explosives Regulations, 2013, SOR/2013-211), outdoor, low-hazard recreational fireworks such as showers, fountains, golden rain, Roman candles, volcanoes, sparklers and caps for toy guns.
- c. **Chief Fire Official** means the Assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief under Article 1.1.1.2 of Division C of the Ontario Fire Code.
- d. **Designated Days** means Victoria Day (dusk until 11:00 pm), Canada Day (dusk until 11:00 pm), and New Year's Eve (dusk until 1:00 am of the following day).
- e. **Designated Period** means Victoria Day, Canada Day and New Year's Eve and the 7 calendar days immediately preceding Victoria Day, Canada Day, and New Year's Eve.
- f. **Display Fireworks** (class 7.2.2/F.2 as classified in the Authorization Guidelines for Consumer and Display fireworks in accordance with Part 3 of Explosives Regulations, 2013, SOR/2013-211), outdoor, high-hazard recreational fireworks such as display shells, bombshells, large wheels, barrages, bombardos, waterfalls and mines.
- g. **Firecracker** means a pyrotechnic device that explodes when ignited and does not produce any visible effect after the explosion, but does not include caps for toy guns or Christmas crackers.
- h. **Fireworks** as used in general terms within this by-law are considered to be either Display or Consumer Fireworks.
- i. **Fireworks Permit** a permit authorizing the firing of fireworks from the Chief Fire Official.

- j. **Flying Lanterns** are also known as sky lanterns, Kongming lantern or Chinese lantern. They are small hot air balloons made of paper, with an opening at the bottom where a small fire is suspended. These lanterns are then released into the air, generally on mass, for various types of events.
- k. **Private Fireworks display** means an exhibition of consumer Fireworks or display Fireworks on private property not open to the public.
- l. **Prohibited Fireworks** include trick fireworks such as cigarette loads or plugs, dancing crackers, exploding golf balls, 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 cracking balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle sky rockets, and fake firecrackers.
- m. **Public Fireworks Display** means an exhibition of Consumer Fireworks or Display Fireworks in an open air assembly or occupancy, to which the public is invited, attends or is admitted, with or without a fee being charged.
- n. **Special Effects Pyrotechnics** (typically class 7.2.5/F.3 as classified in the Authorization Guidelines for Consumer and Display fireworks in accordance with Part 3 of Explosives Regulations, 2013, SOR/2013-211), Pyrotechnic special effects are created through the firing of pyrotechnic, propellant and explosive materials and devices are used by the entertainment industry for indoor and outdoor performances. Examples are bullet effects, flash powders, smoke compositions, gerbs, lances and saxons.

2. Sale of fireworks and Firecrackers

- a. No person shall sell any *Firecrackers*.
- b. No person shall sell any *Prohibited Fireworks*.
- c. No person shall sell *Consumer Fireworks* except during the *Designated Period*.
- d. No person shall, within the Town of Erin, display in any store window, any type of *Fireworks*.
- e. No person shall display for sale within the Town of Erin any type of *Fireworks* in and manner other than in such a place that the *Fireworks* are not exposed to the rays of the sun or to excess heat from any other source.
- f. Every person retailing Consumer Fireworks shall only display fireworks that contain mock samples and that do not contain explosive compound.
- g. No person shall, within the Town of Erin, sell or give to any person under the age of 18 years any type of *Consumer Fireworks* or *Display Fireworks*.
- h. No person shall sell *Consumer Fireworks* in a building unless the provisions of the Ontario Fire Code and all other applicable Acts and Regulations are complied with.
- i. No person shall display for sale with the Town of Erin any *Consumer Fireworks* in lots that exceed 22.8 kilograms gross weight (50 pounds gross weight)
- j. No person shall display for sale within the Town of Erin any *Consumer Fireworks* in any manner other than in a package, glass case or other suitable receptacle, away from any other flammable goods.

- k. No person retailing *Consumer Fireworks* shall store consumer fireworks less than 8 metres away from: fuel dispensers at a fuel dispensing station, retail propane-dispensing tanks and cylinders; above-ground storage tanks for flammable substances; or dispensing facilities for compressed natural gas.
- l. No person retailing *Consumer Fireworks* from a temporary sales establishment shall store *Consumer Fireworks* less than 3 metres away from any vehicle parking area.
- m. Every person retailing *Consumer Fireworks* from a temporary sales establishment shall ensure that the fireworks are attended at all times. A “No Smoking” sign shall be posted in the display area.
- n. No person shall sell *Special Effect Pyrotechnics* or *Display Fireworks* unless the person holds a licence to do so under the *Act*.

3. **Storage of *Consumer Fireworks***

- a. For *Consumer Fireworks* that remain unsold at the expiration of the *Designated Period*, vendors shall immediately store said *fireworks* in a cool, dry place, remote from flammable material and inaccessible to the public.

4. **Discharge of *Firecrackers* and *Prohibited Fireworks***

- a. No person shall discharge any *Firecrackers*, except with the appropriate federal approvals and for the purpose of cultural celebrations.
- b. No person shall discharge any *Prohibited Fireworks*
- c. No person shall discharge any type of fireworks with or without a permit on town owned lands, including public streets and roadways, at any time unless they have specific written permission from the Town of Erin.
- d. No person shall discharge, launch, or use any *Flying Lanterns*.

5. **Requirements for the discharge of *Fireworks***

- a. *Consumer Fireworks* being fired for a *Private Fireworks Display* may be fired on *Designated Days* without a *fireworks permit*.
- b. *Consumer Fireworks* being fired on any other day not defined as *Designated Days* shall not be fired without a *fireworks permit*.
- c. *Consumer Fireworks* being fired for a *Public Fireworks Display* shall not be fired without a *fireworks permit*.
- d. *Display Fireworks* being fired for a *Public Fireworks Display* shall not be fired without a *fireworks permit* in accordance with the *Act* and this By-Law.
- e. *Display Fireworks* being fired for a *Private Fireworks Display* shall not be fired without a *fireworks permit* in accordance with the *Act* and this By-Law.
- f. *Special Effects Pyrotechnics* shall not be fired without a *fireworks permit* in accordance with the *Act* and this By-Law.

6. **Fireworks Permit**

- a. The *fireworks permit* shall be as set out in Schedule A to this by-law.
- b. A valid *fireworks permit* is signed and issued by the *Chief Fire Official* once all of the following requirements are met:
 - i. Where the individual or company responsible for the firing of the *Fireworks* is not the land owner, written permission to conduct the *Fireworks* or *Special Effects Pyrotechnics* display shall be obtained and submitted to the *Chief Fire Official*;
 - ii. A site plan is provided showing the adequate clearances for the type of fireworks being fired as per the *Act*:
 1. Clearances include the safety zones for those watching the *Fireworks*;
 2. Clearances include the safety distances from combustibles; and
 3. Clearances factor the wind speed and direction.
 - iii. A safety plan is provided showing how incipient fires will be dealt with and any first aid measures that may be required;
 - iv. A listing of the *Fireworks* being fired is provided;
 - v. A copy of the certification for the Display Assistant, Display supervisor, and/or Display Supervisor with Endorsements as defined by the *Act*;
 - vi. A copy of the current First Aid certificates for those involved in the firing and for those required to provide first aid measures within the safety plan.
 - vii. Insurance certificate naming the Town of Erin as additional insured in the amount pertaining to the Town Insurance Policy.
 - viii. The *fireworks permit* is on hand for inspection should the *Chief Fire Official* or an Officer from Natural Resources Canada, or the OPP request to see it.
 - ix. Any other thing required by the *Act*.
- c. *Fireworks* shall only be fired in accordance with the *fireworks permit* and this by-law.
- d. The *fireworks permit* may be suspended or revoked by the *Chief Fire Official* if, in the opinion of the *Chief Fire Official*, the conditions of the *fireworks permit* and/or plans are not being met or it would be unsafe to allow the *Private Fireworks Display* or the *Public Fireworks Display*.
- e. Notwithstanding the forgoing sections, the *Chief Fire Official* may require any additional information of the applicant to ensure the public's safety and may impose additional conditions on the issuance of a *fireworks permit* as deemed advisable in the particular circumstances of the application.
- f. A *fireworks permit* shall not be issued if, in the opinion of the *Chief Fire Official*, the above requirements have not been met.
- g. *Fireworks permit* fees shall be in accordance with the Town of Erin Fee By-Law as amended from time to time.

7. **Exemptions**

- a. In respect of the *Designated Days*, a grace period will be provided due to weather related delays for a total of seven (7) days.

- b. In accordance with clause 4. (a), and in consideration of the Insurance Certificate requirements listed in clause 5 (a) (vii) of this By-Law, an insurance certificate is not required.

8. Insurance

- a. In accordance with 5 (a) (vii) of this By-Law, those obtaining a permit will provide an insurance certificate naming the Town of Erin as additional insured in an amount not less than \$5,000,000.00 as per the Town's Insurance Policy.

9. Indemnification

- a. The Town assumes no liability for property damage or personal injury resulting from any persons selling or setting off fireworks and/or Special Effects Pyrotechnics whether with or without a permit.

10. Severability

- a. Should any section, subsection, clause, paragraph of provision of this By-Law be declared by a Court of competent jurisdiction to be invalid or illegal for any other reason, such offending section or part shall be deemed to have been severed from this By-Law and the remaining sections or parts shall continue in full force and effect and shall remain valid and binding.

11. Offences and Penalties

- a. Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000.00 as provided for in the Provincial Offences Act R.S.O. 1990, chapter P33, as amended.

12. THAT this By-Law shall take effect on the date of passing.