

# THE CORPORATION OF THE CITY OF PICKERING

## BY-LAW NO. 6783/07

Being a by-law to regulate the sale  
and the setting off of fireworks

WHEREAS clause (a) of section 121 of the *Municipal Act, 2001* provides that local municipalities may prohibit and regulate the sale of fireworks and the setting off of fireworks; and

WHEREAS clause (b) of section 121 of the *Municipal Act, 2001* provides that local municipalities may prohibit the sale and setting off of fireworks unless a permit is obtained and may impose conditions for obtaining, continuing to hold and renewing the permit; and

WHEREAS the City of Pickering deems it necessary to regulate the sale and the setting off of fireworks within the City.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PICKERING ENACTS AS FOLLOWS:

### PART I - INTERPRETATION

#### **Definitions**

1. In this by-law,
  - (a) “**Act**” means the *Explosives Act*, R.S.C. 1985, c. E-17 as amended and the regulations thereunder;
  - (b) “**City**” means the Corporation of the City of Pickering or the geographic area of the City of Pickering, as the context requires;
  - (c) “**Clerk**” means the City Clerk or a designate;
  - (d) “**consumer fireworks**” means low hazard fireworks classified under Class 7, Division 2, Subdivision 1 under the Act and the Explosives Regulations made thereunder generally used for recreation such as showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, sparklers, Christmas crackers and caps for toys guns;
  - (e) “**discharge**”, when used in relation to fireworks, includes firing, igniting, exploding and setting off of such articles;

- (f) “**display fireworks**” means high hazard fireworks classified under Class 7, Division 2, Subdivision 2 under the Act and the Explosives Regulations made thereunder generally used for recreation such as rockets, serpents,
- (g) shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bambardos, waterfalls, batteries, illumination, set pieces, and pigeons;
- (h) “**display permit**” a permit issued under this by-law to discharge display fireworks or theatrical explosives;
- (i) “**Fire Chief**” means the Fire Chief of the City or a designate;
- (j) “**firecracker**” means a pyrotechnic device that is designed to explode after being ignited without subsequent display or visible effect, but does not include caps for toy guns, safety flares or marine rockets;
- (k) “**fireworks**” means consumer fireworks, display fireworks and theatrical explosives;
- (l) “**fireworks supervisor**” means a person who is qualified under the Act to conduct displays of fireworks;
- (m) “**officer**” means a municipal by-law enforcement officer appointed by the City;
- (n) “**person**” includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- (o) “**portable sales unit**” means a stand, container, cart, seat, display rack, trailer or other moveable display unit used for the purpose of sale by retail of consumer fireworks, but does not include a motor vehicle as defined in the *Highway Traffic Act*;
- (p) “**prohibited fireworks**” means cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clips, 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 peppers and table bombs, table rockets and ballet sky rockets, fake firecrackers and all 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;
- (q) “**sales permit**” means a permit issued under this by-law to sell consumer fireworks from a portable sales unit;

- (r) “**sell**” includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale; and
- (s) “**theatrical explosive**” means an authorized explosive of a class set out in section 6 of the Explosives Regulations made under the Act that is manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theatre or television production, or with a performance before a live audience.

### **Application**

2. This by-law shall apply to all lands and premises within the City.

### **References to Legislation**

3. In this by-law, reference to any Act, regulation or by-law is reference to that Act, regulation or by-law as it is amended or re-enacted from time to time.

### **Word Usage**

4. This Agreement shall be read with all changes in gender or number as the context may require.
5. A grammatical variation of a word or expression defined has a corresponding meaning.

### **Construction**

6. Headings in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.
7. Unless otherwise specified, references in this by-law to sections and schedules are to sections and schedules in this by-law.

### **Severability**

8. Each section of this by-law is an independent section, and the holding of any section or part of any section of this by-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other section or parts of sections of this by-law.

## **PART II – SALE OF FIREWORKS**

### **Prohibitions**

9. No person shall sell any consumer fireworks to any person at any time except on the statutory holidays known as Victoria Day and Canada Day and the seven days immediately preceding such days.
10. No person shall sell or supply fireworks to any person under the age of 18 years.
11. No person shall sell, discharge, store or supply prohibited fireworks or firecrackers within the City.
12. No person shall sell consumer fireworks from a portable sales unit without first having obtained a sales permit.
13. No person shall sell consumer fireworks from a motor vehicle.

### **Sales Permit Applications**

14. An application for a sales permit shall be completed using forms provided by the Clerk.
15. Every sales permit application shall be submitted to the Clerk and be accompanied by,
  - (a) a sales permit fee in the amount of \$100.00;
  - (b) if the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information filed or, if a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration;
  - (c) a description of the consumer fireworks to be sold;
  - (d) a letter of authorization from the owner of the property on which the portable sales unit is proposed to be located containing,
    - (i) the name of the owner of the portable sales unit; and
    - (ii) the proposed location on the property of the portable sales unit;
  - (e) a current certificate of insurance providing proof of liability insurance in the minimum amount of \$2,000,000.00 and naming the City as an additional insured; and
  - (f) such other information as the City may require.

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16. Proposed sales locations shall only be approved where they are not,
- (a) within one hundred (100) metres of the entrance to any public park;
  - (b) within one hundred (100) metres of any land occupied by a school;
  - (c) on any premises or place where explosives, gasoline or other flammable substances are manufactured or stored in bulk including a gas station;
  - (d) within twenty (20) metres of any road or occupied parking space; and
  - (e) within fifty (50) metres of any occupied building or residence.
17. Every person holding a sales permit shall ensure that,
- (a) at least two signs are posted in prominent locations on the outside of the portable sales unit indicating that persons may not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within six (6) metres of the portable sales unit;
  - (b) a 2A 10BC rated fire extinguisher is available during the times sales are taking place;
  - (c) at least two operational doors are available to provide means of access to and egress from the portable sales unit;
  - (d) no more than fifteen (15) customers are in a portable sales unit at the same time;
  - (e) no portable power supply to the portable sales unit is located within twelve (12) metres of the portable sales unit;
  - (f) no fireworks are exposed to direct sunlight;
  - (g) with the exception of its entrance and exit, access to an area at least 6 metres around the perimeter of the portable sales unit is restricted by means of a barrier, such as snow fencing or pylons or other material satisfactory to the City; and
  - (h) the sales permit is posted in a conspicuous place on the portable sales unit at all times during the term of the sales permit.
18. Separate sales permit applications must be made for each and every proposed sales location.

**Term of Permit**

19. Sales permits shall be valid only on the statutory holidays known as Victoria Day and Canada Day and the seven days immediately preceding such days.

**Return of Permit**

20. Where a sales permit has been revoked, the holder of the permit shall return it to the Clerk within twenty-four (24) hours of receipt of notification of revocation.
21. Where the sales permit is not returned within twenty-four (24) hours as set out in section 15, an officer may enter upon the premises of the holder of the sales permit for the purpose of receiving or taking the sales permit and no person shall refuse to deliver or in any way obstruct or prevent the officer from obtaining the sales permit.

**PART III - DISCHARGING FIREWORKS****Prohibitions**

22. No person shall discharge any fireworks on any land owned by the City without obtaining a display permit from the City.
23. No person shall discharge any fireworks on any public highway within the City.
24. No person shall discharge any fireworks on any private property without obtaining the permission of the owner of the property to do so.
25. No person shall discharge any display fireworks or theatrical explosives except in accordance with all of the conditions contained in a display permit issued to such person.
26. No person shall discharge fireworks at any time other than on the statutory holidays known as Victoria Day and Canada Day or during a long weekend containing Victoria Day or Canada Day, unless permitted in a display permit.

**Display Permit Applications**

27. An application for a display permit shall be completed using forms provided by the Clerk.
28. Every display permit application shall be submitted to the Clerk and be accompanied by,
  - (a) a display permit fee in the amount of \$100.00;

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- (b) a description of the fireworks to be discharged, the discharge techniques to be used, and the manner and means of restraining unauthorized persons from being too near the discharge location;
  - (c) a description of the proposed location for the fireworks display;
  - (d) a letter of authorization from the owner of the property on which the fireworks will be discharged consenting to the display;
  - (e) a current certificate of insurance providing proof of liability insurance in the minimum amount of \$2,000,000.00 and naming the City as an additional insured;
  - (f) a copy of a license issued pursuant to the Act for the fireworks supervisor who will be handling and discharging the fireworks;
  - (g) written confirmation from the Durham Region Police Service that appropriate arrangements have been made by the applicant for traffic and crowd control during the display; and
  - (h) such other information as the City may require.
29. Where the proposed display location is City-owned property, the applicant shall provide the Clerk with an agreement indemnifying and saving harmless the City with respect to any and all actions arising either directly or indirectly from the display.
30. Proposed display locations shall only be approved where they are not within,
- (a) one hundred (100) metres of any highway;
  - (b) one hundred (100) metres of the entrance to any public park;
  - (c) three hundred (300) metres of any hospital, nursing home, home for the aged, church or school;
  - (d) within three hundred (300) metres of any premises or place where explosives, gasoline or other flammable substances are manufactured or stored in bulk;
  - (e) fifty (50) metres of any occupied building or residence; and
  - (f) five hundred (500) metres of another approved display location.
31. Separate display permit applications must be made for each and every proposed display location.

**Additional Permit Conditions**

32. Every display permit shall include the following conditions:
- (1) The permit holder shall only discharge the fireworks on the day or days and at the times specified in the display permit.
  - (2) The permit holder shall only discharge the fireworks at the location specified in the display permit.
  - (3) The fireworks supervisor named in the display permit shall be present in person at all times during the set up of the fireworks display area, the handling and discharge of the fireworks, and the clean up of the fireworks display area.
  - (4) The permit holder shall take all such safety precautions as are required by the Fire Chief for the handling and discharge of the fireworks.

**PART IV - ENFORCEMENT****Inspections**

33. On receipt of an application for a sales permit or a display permit, or as a condition of the continuation or renewal of a permit, an officer may, at any reasonable time, enter upon any land for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been complied with.
34. For purposes of an inspection, an officer may,
- (a) require the production for inspection of any document or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and
  - (d) 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.
35. No person shall obstruct the officer inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by the officer.

**Penalties**

- 36. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the *Provincial Offences Act*.

**PART V – GENERAL**

**Permit Terms and Conditions**

- 37. Notwithstanding any other provision of this by-law, the City may issue a sales permit or a display permit subject to such terms and conditions as it considers necessary in order to ensure public safety.
- 38. Sales permits and display permits shall not be issued to any person under the age of 18 years.

**Representations**

- 39. No person shall make a false or intentionally misleading recital fact, statement or representation in any agreement, declaration or application form required under this by-law.

**Permits Non-Transferable**

- 40. Display permits and sales permits are not transferable.

**Short Title**

- 41. This by-law may be referred to as the “Fireworks By-law”.

**Repeal**

- 42. By-law No. 4168/72 is repealed in its entirety.

**Effective Date**

- 43. This by-law shall come into force on the day of its passing.

BY-LAW read a first, second and third time and finally passed this 23rd day of July, 2007.

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David Ryan, Mayor

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Debi A. Bentley, Clerk