

**THE CORPORATION OF THE TOWN OF TILLSONBURG
BY-LAW NUMBER 4293**

A BY-LAW To Regulate the Sale, Display And Discharge of Fireworks within The Town of Tillsonburg, and to repeal By-Law 3510.

WHEREAS section 9 of the Municipal Act, S.O. 2001, c. 25 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND 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 of fireworks and the setting off of fireworks, and further that a by-law may prohibit those activities unless a permit is obtained for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS section 151 of the Municipal Act, 2001, c. 25, as amended provides that a local municipality may establish a system of licences with respect to a business;

AND WHEREAS subsection 7.1 (1) of the Fire Protection and Prevention Act, 1997, c. 4, as amended provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of spreading fires;

AND WHEREAS the Council of The Corporation of the Town of Tillsonburg deems it necessary to regulate the sale and setting off of fireworks,

NOW THEREFORE the Council of the Corporation of the Town of Tillsonburg hereby enacts as follows:

1. Short Title

1.1. This By-Law shall be known as the "Fireworks By-Law".

2. Definitions

"Act" means the Explosives Act (R.S., 1985, c. E-17) (Canada) and the regulations enacted there under.

"Applicable Laws" means any and all applicable federal, provincial, or municipal laws, statutes, by-laws, rules, regulations, policies, orders, directives and codes, including, but not limited to, the Explosives Act, the Fire Protection and Prevention Act, 1997, the Fire Code, and the Transportation of Dangerous Goods Act, 1992 (1992, c.34), as each may be amended from time to time.

"Chief Fire Official" means the Chief Fire Official of the Town of Tillsonburg appointed under the authority of the Fire Prevention and Protection Act, or designate.

"Consumer Fireworks" means low hazard recreational fireworks (Canadian class 7.2.1 / F.1) such as small fountains, volcanoes, pinwheels, cakes, preload articles, sparklers and Roman Candles, and other similar devices.

"Corporation" means a corporation incorporated pursuant to the Business Corporations Act, as amended, the Corporations Act, as amended, or the Canadian Business Corporations Act, R.S.C. 1985, c. C-44, as amended.

"Discharge" means when used in relation for fireworks, prohibited fireworks and firecrackers, includes firing, igniting, exploding and setting off such articles.

"Display Assistant" means a Person who has successfully completed the Display Fireworks Safety and Legal Awareness course and who works under the direct supervision of the Supervisor in Charge to put on outdoor fireworks displays.

"Display Fireworks" means high hazard fireworks (Canadian class 7.2.2 / F.2), such as aerial shells, mines and larger Roman Candles, designed for use at public gatherings. Only Supervisors in Charge are permitted to fire display fireworks.

"Display Fireworks Manual" means the display fireworks manual as published from time to time by the Explosives Branch of Natural Resources Canada, or any publication in substitution therefor that applies to display fireworks.

"Display Supervisor" means a person who has certification of basic proficiency in the field of fireworks.

"Explosives Act" means the Explosives Act (R.S. 1985, c.E-17) and the regulations enacted thereunder from time to time or any Act or Regulations enacted in substitution therefor.

"Explosives Regulations" means the Explosives Regulations, C.R.C., c.599, as amended, issued under the Explosives Act, and any regulations enacted from time to time in substitution therefor.

"Fire Chief" means the Chief Fire Official (Fire Chief) of the Town of Tillsonburg appointed under the authority of the Fire Prevention and Protection Act, or designate.

"Fire Code" means Ontario Regulation 213/07 made under Part IV of the Fire Protection and Prevention Act, 1997, as may be amended from time to time, and any regulations enacted from time to time in substitution therefor.

"Fire Prevention Inspector" means a fire prevention inspector for the Town of Tillsonburg and includes an Assistant to the Fire Marshal.

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

"Firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing not more than 0.25 of a grain of explosive or average per cap, devices for use with such caps, safety flare, or marine rockets.

"Fireworks" means a device that explodes or burns to produce visual or sound effects, including Display Fireworks, Pyrotechnic Special Effects Fireworks and Consumer Fireworks.

"License" means a license or permit issued by the Licensing Officer for the Corporation of the Town of Tillsonburg.

"Licensing Officer" means the Clerk of the Town of Tillsonburg , or designate.

"Municipal Law Enforcement Officer" means a person appointed by the Council for the Town of Tillsonburg for the purpose of enforcing Municipal by-laws and for the purposes of this By-Law shall include the Ontario Provincial Police or any other police agency.

"Net Explosive Quantity (NEQ)" means the mass of the explosives excluding the mass of any packaging or container. If the net explosive quantity cannot reasonably be determined for any Consumer Fireworks, the net explosive quantity is calculated as 25% of the gross mass of the article.

"Owner" means the Person who owns the Property and, for the purposes of this By-Law, shall include any owner, occupant, tenant or lessee.

"Person" means the Owner and may also include any individual, company,

corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however constituted, joint venture, syndicate or any other legal entity, and includes all successors, assigns or other legal representatives of any such entities. A person shall not include a Display Supervisor or Pyrotechnician as defined in this By-Law.

“Prohibited Fireworks” means any fireworks that are not included on the most recent list of authorized fireworks as published from time to time by the Explosives Regulatory Division of Natural Resources Canada, or their successors, and 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 and step on torpedoes, and crackling balls, exploding golf balls, stink bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, and fake firecrackers.

"Property" means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises appurtenant to a building or structure whether residential or commercial and includes any building, structure mobile buildings, mobile structures, temporary mobile retail outlets and vacant land.

"Pyrotechnics" means the science of materials capable of undergoing self-contained and self-sustained exothermic chemical reactions for the productions of heat, light, gas, smoke and/or sound.

"Pyrotechnic Special Effect" includes explosives 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; smokeless black powder and hazard category PE 3 black powder substitutes; initiation systems classified as type I under the Act such as blasting accessories; and detonating cord classified as type E.1 under the Act.

"Pyrotechnician" means the person certified by Natural Resources Canada to conduct a public or private Pyrotechnic Special Effects Display.

"Retail Sale" includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale other than wholesale.

“Retail Outlet” means a building or part of a building, booth, stall, tent, trailer, place or other movable, temporary shelter used for the purposes of the sale of consumer fireworks that meets the requirements of the Explosives Act, but does not include a motorized vehicle.

"Vehicle" shall include a motor vehicle, trailer, recreational vehicle, camper, all terrain vehicle, mobile home, boat, watercraft, traction engine, farm tractor, road-building machine and a vehicle drawn, propelled or driven by any kind of power, including a motorized snow vehicle, or the cars of electric or steam railways running only upon rails.

“Special Effects Pyrotechnics Manual” means the manual released by Natural Resources Canada: Explosives Regulatory Division as amended or any publication in substitution therefor that applies to Pyrotechnic Special Effects.

“Town” or “Town of Tillsonburg” means The Corporation of the Town of Tillsonburg or the geographic area of the Town of Tillsonburg as the context requires.

3. General Provisions

3.1. Application

3.1.1. This By-law applies to all lands and premises within the Town of

Tillsonburg.

- 3.1.2. This By-law does not apply to the following recreational low hazard fireworks of Class 7, Subdivision 1 of Division 2 of the Explosives Regulations: Christmas crackers and paper caps for toy guns containing not more than 0.25 of a grain of explosives on average per cap.
- 3.1.3. This By-law does not apply to the following low hazard fireworks having a practical use: highway safety flares, fuses and other small distress signals classed as Class 7, Subdivision 4 of Division 2 of the Explosives Regulations.
- 3.1.4. This By-Law does not apply to the sale by wholesale of fireworks.

3.2. Prohibitions - General

- 3.1.1. No Person shall store, handle, sell, or display Fireworks within the Town of Tillsonburg except in accordance with the Act and the provisions of this By-Law.
- 3.1.2. No Person shall discharge any fireworks within the Town of Tillsonburg except in accordance with this By-law.
- 3.1.3. No Person shall store, handle, sell, or display Fireworks except in the Central Commercial (CC) or Service Commercial (SC) zones.
- 3.1.4. No Person shall store, handle, sell, or display Fireworks unless permitted by the Town of Tillsonburg to do so. No Person under the age of eighteen (18) years shall possess Fireworks.
- 3.1.5. No Person shall store for sale, display, sell or discharge fireworks within the Town of Tillsonburg in a manner contrary to the Criminal Code, R.S., 1985, c.C-46, as amended, the Explosives Act, the Fire Protection and Prevention Act, 1997 or any other applicable laws. If any provision in this By-law conflicts with the Explosives Act, the more stringent requirements will prevail.

3.2. Prohibitions - Firecrackers

- 3.2.1. No Person shall offer for sale, cause to be sold, or sell Firecrackers.
- 3.2.2. No Person shall set off, or cause to be set off any Firecrackers.
- 3.2.3. No Person shall possess Firecrackers.

4. Consumer Fireworks

4.1. Consumer Fireworks – Sale

- 4.1.1. No Person shall sell any Consumer Fireworks to any Person under the age of eighteen (18) years.
- 4.1.2. No Person shall display and/or sell any Consumer Fireworks except on Canada Day, Labour Day, New Year's Eve, and on the day fixed by proclamation for the observance of Victoria Day, or any other such day as is proclaimed by the Town of Tillsonburg as a suitable patriotic celebration, and the proceeding seven (7) days in each case.
- 4.1.3. No Person shall advertise the sale of Consumer Fireworks except on Canada Day, Labour Day, New Year's Eve, and on the day fixed by proclamation for the observance of Victoria Day, or any other such day as is proclaimed by the Town of Tillsonburg as a suitable patriotic celebration, and the preceding twenty-one (21) days in each case.
- 4.1.4. No Person shall sell to any person any Consumer Fireworks, of a type or the setting off of which is prohibited by the provisions of this By-Law or the Act.
- 4.1.5. No Person shall display, sell or offer or expose for sale any Consumer Fireworks without first obtaining a License to do so from the Licensing Office by completing in its entirety a "Retail of Consumer Fireworks Application " and such License application is approved by the Chief Fire Official and after paying the appropriate non-refundable application fees as set out in the current Town of Tillsonburg Rates and Fees By-Law. Said License is non-transferable by owner and/or location or premise.
- 4.1.6. The holder of a License issued under Subsection 4.1.5. shall prominently display the License in the place of business where the Fireworks are being offered for sale and such License shall be produced to any Municipal Law Enforcement Officer or Fire Prevention Inspector upon request.

- 4.1.7. A License issued under Subsection 4.1.5. shall be valid only for the duration of the calendar year in which it was issued.
- 4.1.8. Upon receiving written authorization by the Chief Fire Official pursuant to this By-law, a Permit issued under Subsection 4.1.5. can be renewed for additional calendar year(s). Said renewal can only be granted upon completing and submitting a renewal application to the Chief Fire Official and after paying the appropriate non-refundable renewal application fee(s) as set out in the current Town of Tillsonburg Rates and Fees By-law. Said License renewal is non-transferable by owner and/or location or premise.
- 4.1.9. Every Person displaying or storing Fireworks shall post a clearly visible sign prohibiting smoking in letters or symbols at least 100 mm high in the display area and on each door to the storage unit, or on the container being used as a storage unit.
- 4.1.10. No Person shall smoke or use an open flame, such as a light, match or torch, in a room or space where Fireworks are stored or displayed or in any case less than three (3) metres from any fireworks.

4.2. Consumer Fireworks – Discharging

- 4.2.1. No Person shall ignite, set off or have a display of Consumer Fireworks on any Property unless such Person is the owner of that Property or has written permission to do so by the owner of such Property.
- 4.2.2. No Person shall ignite, set off or have a display of Consumer Fireworks without the supervision of a responsible Person of at least eighteen (18) years of age.
- 4.2.3. The Person in Subsection 4.2.2. shall have the necessary means readily at hand to summons the Fire Department.
- 4.2.4. No Person shall ignite, discharge or set off any Consumer Fireworks into or inside of any building, structure, vehicle, or on any other place of Property where such ignition, discharge or setting off may create a nuisance or safety hazard to any Person or Property.
- 4.2.5. No Person shall ignite, discharge or set off any Consumer Fireworks into or on Municipal Property including without limitation, streets, lanes, squares or other public places without written approval of the Licensing Officer.
- 4.2.6. No Person shall ignite, discharge or set off any Consumer Fireworks off of, or from the roof of any building or structure, or anywhere with less clearance to persons and combustible property as is prescribed by the manufacturer on the exterior of the firework article without written approval of the Chief Fire Official or designate.
- 4.2.7. No Person shall ignite, discharge or set off any Consumer Fireworks after the hour of 11 p.m. local time on the day of, two (2) days previous to, or two (2) days following the days established by Section 4.1.2.
- 4.2.8. A Display Supervisor may make application to use Consumer Fireworks outside of the dates established in Subsection 4.1.7. by following the procedures established by Section 5.2.

5. Display Fireworks

5.1. Display Fireworks – Sale

- 5.1.1. No Person shall sell any Display Fireworks to any Person under the age of eighteen (18) years or to any Person unless they are qualified as a Display Supervisor.

5.2. Display Fireworks – Event Approval

- 5.2.1. No Person shall ignite, set off, or have a display of Display Fireworks without first obtaining a License to do so from the Chief Fire Official by completing in its entirety the current "Display Fireworks Event Form" and such Town of Tillsonburg Special Events application, and after paying the appropriate non-refundable application fees as set out in the Town of Tillsonburg Fees By-Law.
- 5.2.2. No Person shall ignite, set off, or have a display of Display Fireworks except in accordance with the information provided on the "Display Fireworks Event Form" required in Subsection 5.2.1.

- 5.2.3. Every application shall be made not less than twenty-one (21) days prior to the setting off of the Display Fireworks.
- 5.2.4. Every application for a License must include proof of liability insurance coverage for the setting off or holding of a display of Display Fireworks in the minimum amount of \$5,000,000 and shall name the Town of Tillsonburg as an additional named insured.
- 5.2.5. Every application shall state the name and contact information in which the License is to be issued, state the date, time, and location or site of the setting of the Display Fireworks and state the name and phone number of the Display Supervisor.

5.3. Display Fireworks – Discharging

- 5.3.1. No Person shall ignite, set off, or have a display of Display Fireworks on any Property unless such person is the owner of the Property or has written permission to do so by the owner of that Property.
- 5.3.2. No Person shall ignite, set off, or have a display of Display Fireworks unless such Person is qualified as a certified Display Supervisor with applicable endorsements, if any.
- 5.3.3. A Display Supervisor shall produce a current certificate of qualification as issued by the Explosive Regulatory Division upon the request of any Municipal Law Enforcement Officer or Fire Prevention Inspector.
- 5.3.4. No Person shall ignite, set off, or have a display of Display Fireworks unless there is provided and maintained fully operational fire extinguishing equipment, ready for immediate use and present at all times and for a reasonable period thereafter at the location or site of the discharge of Display Fireworks.
- 5.3.5. No Person shall transport, setup, ignite, or operate Display Fireworks except in accordance with the requirements outlined in the Display Fireworks Manual and this By-Law.
- 5.3.6. Upon conclusion of the display, the Display Supervisor shall walk the display site and fallout area. Any unused fireworks and all debris resulting there from shall be removed immediately and safely disposed of by the License holder.

6. Pyrotechnics

- 6.1. No Person shall conduct an event including Pyrotechnic Special Effects without the approval of the Chief Fire Official or designate.
- 6.2. No Person shall transport, setup, ignite, or operate Pyrotechnic Special Effects without having first obtained a Permit issued by the Fire Chief authorizing the display of Pyrotechnic Special Effects. All displays of Pyrotechnic Special Effects shall be in accordance with the requirements outlined in the Special Effects Pyrotechnics Manual.
- 6.3. No Person shall transport, setup, ignite, or operate Pyrotechnic Special Effects without having first obtained a Permit issued by the Fire Chief authorizing the display of Pyrotechnic Special Effects. All displays of Pyrotechnic Special Effects shall be in accordance with the requirements outlined in the Special Effects Pyrotechnics Manual.
- 6.4. An application for event approval shall be made using a current "Pyrotechnic Special Event Approval Form" approved by the Chief Fire Official, a "Pyro Effects plan" for live entertainment containing the requirements as set out by the Chief Fire Official of a "Letter of Intent" for film productions containing the requirements as required by the Chief Fire Official, and a letter from the venue's owner or agent granting permission for the use of pyrotechnics special effects. All forms must be submitted to the Chief Fire Official at least 1 month prior to the event, and after paying the appropriate non-refundable application fees as set out in the current Town of Tillsonburg Rates and Fees By-Law.
- 6.5. No person who discharges pyrotechnics shall fail to:
 - 6.5.1. comply with all conditions set out in the Pyrotechnic Special Event Approval;
 - 6.5.2. take all steps reasonably necessary, as would a reasonable and

- prudent person, to ensure no harm to persons or property;
- 6.5.3. conform to the provisions of the Explosives Act and the Special Effects Pyrotechnics Manual that apply to the discharge of pyrotechnics authorized in the Pyrotechnic Special Event Approval;
- 6.5.4. ensure that adequate fire prevention measures and equipment, conforming to the requirements of the Special Effects Pyrotechnics Manual, are available at the discharge location;
- 6.5.5. ensure that persons present at the discharge of pyrotechnics are kept at a safe distance from the location of the discharge of pyrotechnics as outlined in the Special Effects Pyrotechnics Manual;
- 6.5.6. produce the Pyrotechnic Special Event Approval on demand by any person authorized to enforce this By-law; and
- 6.5.7. Immediately after the pyrotechnics have been discharged, inspect the site and:
 - 6.5.7.1. remove all unused or partly used pyrotechnics and debris from the site;
 - 6.5.7.2. return the site to its pre-event condition.
- 6.5.8. Every Pyrotechnic Special Event Approval shall include and be subject to the following conditions:
 - 6.5.8.1. The Pyrotechnic Special Event Approval holder shall only discharge the pyrotechnics at the date, time, location and discharge site shown of the pyrotechnic Special Event Approval form;
 - 6.5.8.2. No Person, except a pyrotechnician, shall discharge pyrotechnics;
 - 6.5.8.3. The pyrotechnician who is named on the Pyrotechnic Special Event Approval form shall be present in person at the site specified in the Pyrotechnic Special Event Approval at all times during which the pyrotechnics are being set up, discharged and cleaned up; and
 - 6.5.8.4. The Pyrotechnic Special Event Approval form shall conform to the provisions of the Explosives Act and the Special Effects Pyrotechnics Manual that apply to the discharge of pyrotechnics authorized in the permit and all other applicable laws.

7. Enforcement and Inspections

- 7.1. The enforcement rights of law enforcement officers under this By-law are in addition to, and do not limit any enforcement rights under any other legislation, including, without limitation, any rights of inspection, seizure rights or rights to issue orders of compliance or close and prevent entry to land or premises under the Fire Protection and Prevention Act, 1997.
- 7.2. Any Municipal Law Enforcement Officer shall determine what shall constitute a health, fire or safety hazard.
- 7.3. Any Municipal Law Enforcement Officer, the Chief Fire Official or designate, or the Licensing Officer may revoke a License issued pursuant to this By-Law at any time. Terms and conditions of the Town of Tillsonburg Licensing By-Law as amended shall apply to Licenses issued under this By-Law.
- 7.4. In the case of a health, fire or safety hazard, any Municipal Law Enforcement Officer may compel that said hazard be removed forthwith without notice.
- 7.5. Subject to compliance with section 436 of the Municipal Act, 2001, a municipal law enforcement officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not this By-law, including a condition of a Permit issued under this By-law, or that an order or direction of the Town of Tillsonburg or a law enforcement officer issued in accordance with this By-law is being complied with.
- 7.6. For the purposes of any inspection, a municipal law enforcement officer may:

- 7.6.1. require the production for inspection of documents or things relevant to the inspection;
- 7.6.2. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- 7.6.3. require information from any person concerning a matter related to the inspection; and
- 7.6.4. 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.
- 7.7. No person shall fail or refuse to comply with a request from a Municipal Law Enforcement Officer to produce for inspection any documents or thing or information relevant to the inspection carried out by the Municipal Law Enforcement Officer in accordance with this By-law.
- 7.8. A Municipal Law Enforcement Officer may, where the Municipal Law Enforcement Officer has been prevented or is likely to be prevented from exercising his or her powers under this By-law, undertake an inspection pursuant to an order issued under section 438 of the Municipal Act, 2001.

8. Penalty

Every Person who contravenes this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, as amended.

9. Severability

In the event that any of the provisions of this By-Law are deemed ultra vires by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

10. Repeal

Former By-law No. 3510

11. Effective Date

This By-Law shall come into force and take effect immediately upon the final passing thereof.

READ A FIRST AND SECOND TIME THIS 23rd day of April, 2019.

READ A THIRD AND FINAL TIME AND PASSED THIS 23rd day of April, 2019.

MAYOR – Stephen Molnar

TOWN CLERK – Donna Wilson