



# **The Municipal Corporation of the Town of Fort Erie**

**BY-LAW NO. 70-09**

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## **BEING A BY-LAW TO REGULATE THE SALE OF AND USE OF FIREWORKS WITHIN THE TOWN OF FORT ERIE AND TO REPEAL BY-LAW NO. 85-92**

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**WHEREAS**, Section 121 of the *Municipal Act 2001*, S.O. 2001, c.25 provides that by-laws may be passed to prohibit and regulate the sale of fireworks and the setting of fireworks, and for requiring a permit for the sale and or the setting off of fireworks and prescribing the conditions for obtaining, continuing to hold and renewing the permit;

**WHEREAS** it is deemed desirable to regulate the sale and use of fireworks within the Town of Fort Erie, and

**NOW THEREFORE** the Municipal Council of the Town of Fort Erie hereby enacts as follows:

1. **DEFINITIONS:**

- (1) "Act" means *The Explosives Act*, R.S.C. 1985, C. E-17 and the Explosives Regulations made thereunder as amended from time to time and any *Act* or any Regulation enacted in substitution;
- (2) "consumer fireworks" means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 or 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 content in excess of twenty-five one-hundredths of a grain of explosive per cap;
- (3) "discharge" means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off and the words "discharged" and "discharging" have a similar meaning;
- (4) "display firework" means an outdoor, high hazard, recreational firework 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, barrages, bombardos, waterfalls, fountains, mines, batteries, illumination, set pieces and pigeons but does not include firecrackers;
- (5) "Fire Chief" means the Fire Chief of the Town of Fort Erie or designate;
- (6) "firecracker" means 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;
- (7) "fireworks" means display fireworks, pyrotechnic special effects fireworks and consumer fireworks;

- (8) "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;
- (9) "permit" means a current and valid permit issued by the Fire Chief authorizing a person to fire or set off fireworks;
- (10) "prohibited fireworks" 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 peppers 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*;
- (11) "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*;
- (12) "pyrotechnic special effect fireworks" means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the *Act* and is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes but is not limited to; black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels;
- (13) "sell" includes offer for sale, cause or permit to be sold and to possess for the purposes of sale and the words "selling" and "sold" have similar meaning;
- (14) "shop" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale; and
- (15) "Town" means the Municipal Corporation of the Town of Fort Erie.
2. The Municipal Council of the Town of Fort Erie hereby delegates to the Fire Chief the authority to issue permits for the sale and setting off of fireworks as set out herein.
3. **SALE OF FIREWORKS AND FIRECRACKERS**
- (1) No person shall sell any firecrackers.
- (2) No person shall sell any prohibited fireworks.
- (3) No person shall sell consumer fireworks except during the annual period commencing on May 1<sup>st</sup> and ending on July 8<sup>th</sup>, or on such other date(s) authorized in a Permit issued by the Fire Chief.

- (4) No person shall sell consumer fireworks unless they have a current and valid business license for the sale of fireworks issued by the Town Clerk.
- (5) No person shall sell individual consumer fireworks unless prior to sale, the fireworks are kept and maintained under a locked glass cover or within a non-combustible container, which is not accessible to the public. Sealed packages of consumer fireworks may be displayed prior to sale in a location accessible to the public that is approved by the Fire Chief.
- (6) No person shall exhibit or display consumer fireworks for sale in such manner that they are exposed, or may be exposed, to the direct action of the sun's rays.
- (7) No person shall exhibit or display consumer fireworks in shop windows that contain explosive composition. Only mock samples that do not contain explosive composition may be displayed in shop windows.
- (8) No person shall sell or store consumer fireworks in a location that is not designated and approved for such use.
- (9) No person shall store or transport consumer fireworks for sale except in conformance with the *Act*.
- (10) No person shall sell consumer fireworks to any person(s) under the age of 18.

4. **DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS**

- (1) No person shall discharge any firecrackers.
- (2) No person shall discharge any prohibited fireworks.

5. **CONSUMER FIREWORKS**

- (1) No person shall discharge consumer fireworks except on the following days:
  - a. Victoria Day and Canada Day.
  - b. Each of the ten (10) days immediately preceding and the three (3) days immediately following Victoria Day and Canada Day.
  - c. American Independence Day.
  - d. Each of the three (3) days immediately preceding and the three (3) days immediately following the American Independence Day.
  - e. The date(s) authorized in a current and valid Permit issued by the Fire Chief.
- (2) A person 18 years of age or over may hold a display of consumer fireworks in accordance with the provisions of this By-Law, on any land belonging to him or her or on any other privately owned land, where the owner thereof has given permission in writing for such a display or discharge of fireworks.
- (3) No person shall discharge any consumer firework in such a place or in such a manner as to create a danger or constitute a nuisance to any person or property.

- (4) No person shall commit, or cause or allow to be done any unsafe act or omission at the time and place for the discharging of any consumer fireworks.
- (5) For the purposes of subsection (4) the discharging of any consumer firework in or onto any building, doorway or automobile shall be deemed to create a danger, and to be an unsafe act.
- (6) No person shall discharge any consumer firework in or onto any highway, street, land, square, public park, or other public place, except in accordance with a current and valid Permit issued by the Fire Chief authorizing such display.
- (7) No person under the age of eighteen (18) years shall discharge any consumer firework except under the direct supervision of and control of a person(s) eighteen (18) years of age or over.
- (8) 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 firework, 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.

6. **DISPLAY FIREWORKS**

- (1) No person or group of persons shall discharge or hold a display of display fireworks without having first obtained a permit to do so issued by the Fire Chief.
- (2) No permit holder shall discharge display fireworks except in accordance with the conditions of the permit.
- (3) No permit holder shall discharge or hold a display of display fireworks at a date, time location or site other than as specified in the permit.
- (4) Every application for a permit shall be made to the Fire Chief a minimum of 28 days prior to the event when the proposed discharge of fireworks is to occur.
- (5) 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 transporting and storing the fireworks prior to and after the event;
    - 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. the prescribed fee;
  - h. proof of insurance and indemnification; in accordance with this by-law; and
  - i. such other information as required by the Fire Chief.
- (6) 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, or
  - c. there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law, the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended and the Regulations enacted thereunder or the *Act*.
- (7) The permit holder holding the display of display fireworks shall ensure that all unused or partly used fireworks and all debris are removed.
- (8) A site inspection may be required at the discretion of the Fire Chief, and the Applicant for a private display fireworks permit shall pay the prescribed fee for this inspection.
- (9) The applicant shall provide and maintain Commercial General Liability insurance subject to limits of not less than Two Million Dollars (\$2,000,000.00) 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 Town as an additional insured thereunder. Such insurance shall include permission to conduct displays of pyrotechnic special effects fireworks or display fireworks. The Fire Chief at his sole discretion may increase the amount of insurance required.
- (10) The applicant shall indemnify and save harmless the Town from any and all claims, demands, causes of action, loss costs or damages that the Town 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.

## **7. CONDITIONS APPLYING TO DISPLAY FIREWORKS PERMITS**

- (1) Each 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.
- (2) 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 permit holder shall provide direct, immediate and physical supervision of the display of display fireworks,
  - c. the permit holder shall discharge the display fireworks,
  - d. every permit holder shall provide and maintain fully operational, fire extinguishing equipment, including a pail of water and either a 2A10BC rated fire extinguisher (5 lb. Dry Chemical) or charged garden house, ready for immediate use, and present at all times and for a reasonable period thereafter, at the location or site specified in the permit, and
  - e. the permit holder shall comply at all times with the provisions of the *Act*, the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended and the Regulations enacted thereunder and the Display Fireworks Manual published by Natural Resources Canada or any successor publication.
- (3) The permit holder holding the display of display fireworks shall ensure that all unused or partly used fireworks and all debris are removed.
- (4) Where the *Act* requires that there be a Fire Department pumper and crew on location, the permit holder shall pay the prescribed fee for this standby duty and supervision.

#### 8. PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- (1) No person or group of persons shall hold a display of pyrotechnic special effects fireworks in the Town without having first obtained a permit to do so issued by the Fire Chief.
- (2) No permit holder shall discharge pyrotechnic special effects fireworks except in accordance with the conditions of the permit.
- (3) Every holder of a display fireworks or pyrotechnic special effect fireworks permit shall produce his or her permit upon being so directed by the Fire Chief.
- (4) Every application for a permit shall be made to the Fire Chief a minimum of 28 days prior to the event when the proposed discharge of pyrotechnic special effects fireworks is to occur.
- (5) 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 this by-law;
  - 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. the prescribed fee; and
  - h. such other information as required by the Fire Chief.
- (6) 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, the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended and the Regulations enacted thereunder or the *Act*.
- (7) 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 Town as an additional insured thereunder. Such insurance shall include permission to conduct displays of pyrotechnic special effects fireworks or display fireworks.
- (8) The applicant shall indemnify and save harmless the Town from any and all claims, demands, causes of action, loss costs or damages that the Town 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.

9. **CONDITIONS APPLYING TO PYROTECHNIC SPECIAL EFFECTS PERMITS**

- (1) Each 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.
- (2) 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, and

- (3) The permit holder shall comply at all times with the requirements of the Act, the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended and the Regulations and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication.
- (4) The permit holder holding the display of display fireworks shall ensure that all unused fireworks and all debris are removed.

10. **GENERAL**

- (1) No provisions of this By-law shall oblige the Town to authorize the issuance of a permit.

11. **OFFENCES AND PENALTIES**

- (1) Every person who contravenes any provision of this by-law is guilty of an offence and is liable upon conviction to a fine pursuant to the provisions of the *Provincial Offences Act*, R.S.O., 1990, Chapter P 33.

12. **SHORT TITLE**

- (1) This by-law may be referred to as the "Fireworks By-law".

13. **ADMINISTRATION**

- (1) By-law No. 85-92 of the Corporation of the Town of Fort Erie is repealed.
- (2) Pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantically or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 11<sup>TH</sup> DAY OF MAY, 2009.

  
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MAYOR  
\_\_\_\_\_  
CLERK

I, Carolyn J. Kett, the Clerk, of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true certified copy of By-law No. 70-09 of the said Town. Given under my hand and the seal of the said Corporation this day of \_\_\_\_\_, 200 .

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