



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 096-2010

**A BY-LAW RESPECTING THE SALE AND THE SETTING OFF OF FIREWORKS
WITHIN THE TOWN OF COBOURG**

WHEREAS Section 121(a) of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121(b) of the Municipal Act, 2001 provides that a municipality may prohibit the sale of fireworks and the setting off of fireworks unless a permit is obtained from the municipality for the sale of fireworks and the setting off of fireworks and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

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

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

SECTION 1.00 – DEFINITIONS AND INTERPRETATION

1.01 In this by-law, unless the context requires otherwise:

“accelerant” means any substance which accelerates the spread of fire or makes fire more intense.

“Act” means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the regulations enacted, as amended or any other Act and Regulations enacted in substitution.

“burn ban” means a time frame declared by the Fire Chief when no open air burning is permitted within the Town.

“certificate” means written authorization issued by the Ministry of Natural Resources Canada, Explosives Regulatory Division, to a person qualified to be a fireworks supervisor.

“consumer fireworks” means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of 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 not in excess of twenty-five one-hundredths of a grain of explosive used per cap. This type of fireworks may also be referred to as “family fireworks”.

“Consumer Fireworks Sales Permit” means a permit as issued in accordance with Section 8.00.

“**Council**” or “**Town Council**” means the Municipal Council of the Corporation of the Town of Cobourg.

“**discharge**” means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off. The words “discharged” and “discharging” have a similar meaning.

“**display fireworks**” means an outdoor, high hazard, recreational firework that is 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, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, but does not include firecrackers.

“**Fire Chief**” means the person appointed by Council to carry out the duties of the Fire Chief for the Town and his or her delegate(s).

“**firecracker**” means a 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 but does not include caps for toy guns or Christmas crackers.

“**fire inspector**” means a person appointed by the Fire Chief to carry out the duties of a fire inspector and includes an Assistant to the Fire Marshal.

“**fireworks**” means display fireworks, pyrotechnic special effects fireworks and consumer fireworks.

“**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 fireworks.

“**FPPA**” means the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 as amended, and the Regulations enacted as amended from time to time or any Act and Regulations enacted in substitution.

“**magazine**” means magazine as defined in the Explosives Act, R.S.C. 1985, c. E-17.

“**manual**” or “**list**” means the Pyrotechnics Special Effects Manual issued by the Explosives Regulatory Division of Natural Resources Canada.

“**minor**” means a person who has not reached the age of 18 years.

“**motor vehicle**” means motor vehicle as defined in the Highway Traffic Act, R.S.O. 1990, C. H.8.

“**non-profit**” is an adjective used to describe an applicant who meets one or more of the following requirements:

- (a) is registered in Ontario as a non-profit corporation by the applicable provincial or federal authority or ministry.
- (b) is a minor sports association or organization.
- (c) is a community service organization or group that returns 100% of its net proceeds to the community for the community's benefit.

“**offer for sale**” includes the display of goods as an invitation to treat.

“**owner**” means the person having effective control over, or apparent possession of, property or the relevant portion thereof, and where that person cannot be determined, the registered owner of that property.

"permit" means authorization issued under this by-law to sell or to discharge fireworks.

"police officer" means a Chief of Police or other police officer employed by the Cobourg Police Service.

"prohibited firework" 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.

"property" means any public or private land, building, structure or other real property within the Town of Cobourg.

"public exhibition" means the discharge, firing, or setting off of any consumer fireworks or display fireworks that is open to:

- (a) the general public;
- (b) persons who have purchased tickets to attend the display or a related event;
- (c) members of the organization sponsoring the display or a related event, or
- (d) persons who have been invited to attend the display or a related event,

but does not include a backyard display.

"pyrotechnics" means pyrotechnics as described in the Pyrotechnics Special Effects Manual issued by the Explosives Regulatory Division of Natural Resources Canada.

"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.

"pyrotechnic special effect firework" means a high hazard firework that is classed, under the Act, as a Subdivision 5 of Division 2 of Class 7 Firework and is used to produce a special pyrotechnic effect for indoor or outdoor performances. This would include, but is not limited to: black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels.

"sell" includes offer for sale, cause or permit to be sold and to possess for the purpose of sale. The words "selling" and "sold" shall have similar meaning.

"set off" includes any method of detonating or igniting a firework.

"shop" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale.

"Town", "Town of Cobourg" or "Cobourg" means The Corporation of the Town of Cobourg.

"Town Clerk" means the person appointed by Council to carry out the duties of the Clerk described in Section 228 of the Municipal Act, 2001.

"trailer" means an enclosed vehicle designed so that it may be attached to, or drawn by, a motor vehicle and intended for the transport of goods, but does not include:

- a) such a vehicle if attached to a motor vehicle; or
- b) a farm trailer.

"use of" includes any method of detonating, igniting or setting off a firework.

1.02. **Interpretation:**

- (a) The regulations established by this by-law apply to the entire municipality.
- (b) The sale, handling and discharge of fireworks shall conform to Subsection 5.2.2. of the Ontario Fire Code.
- (c) The words "include" and "including" are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (d) Nothing in this by-law shall be interpreted so as to alleviate the need for individuals to comply fully with all applicable Municipal, Provincial and Federal legislation and regulations, as amended from time to time and includes, but is not limited to, other municipal by-laws, the Ontario Fire Code, the Explosives Act, R.S.C. 1985, c.E-17 and the Police Services Act, R.S.O. 1990, c.P.15.

1.03 **Statutes:** References to law in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

SECTION 2.00 - BAN AGAINST POSSESSION OR USE OF FIRECRACKERS AND PROHIBITED FIREWORKS

2.01 **Selling:** No person within the Town shall possess, offer for sale, cause or permit to be sold, or sell any firecrackers or other prohibited fireworks.

2.02 **Discharge:** No person within the Town shall discharge, fire, set off or cause, or permit to be discharged, fired or set off any firecrackers or other prohibited fireworks.

SECTION 3.00 – SALE AND POSSESSION OF CONSUMER FIREWORKS, ETC.

3.01 No person shall offer for sale, cause or permit to be sold, sell, or otherwise distribute consumer fireworks unless the vendor has obtained a consumer fireworks sales permit issued under this by-law and:

- a) The fireworks are included on the most recent list of authorized explosives, as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada) or its successor; and
- b) The fireworks are sold only to persons who are at least 18 years of age.

- 3.02 No person shall sell any consumer fireworks to any person at any time except:
- a) On the statutory holidays known as Victoria Day and Canada Day and the seven days immediately preceding such days; or
 - b) For the wholesale selling of consumer fireworks as permitted by the Explosives Act.
- 3.03 No person shall sell consumer fireworks from a motor vehicle.
- 3.04 Every retail purchaser of consumer fireworks will be provided a copy of a "Consumer Fireworks Safety Bulletin" as prepared by the Cobourg Fire Department.
- 3.05 No person shall possess or discharge fireworks in the Town of Cobourg except in accordance with the provisions of this by-law.
- 3.06 Anyone selling consumer fireworks wholesale shall keep records of all sales transactions to retailers located in the Town of Cobourg. Such records to be made available to the Fire Chief upon request.

SECTION 4.00 – TRAILER SALES – CONSUMER FIREWORKS

- 4.01 A vendor applying for a consumer fireworks sales permit to sell consumer fireworks from a trailer shall provide to the Town, together with that application, the written permission of the owner of the land on which the trailer is to be parked.
- 4.02 A Consumer Fireworks Sales Permit granted for the sale of consumer fireworks from a trailer is valid only for the sale location specified in that permit.
- 4.03 A person selling consumer fireworks from a trailer shall comply with the guidelines set by the Fire Chief with respect to the sale location for which the permit has been granted.

SECTION 5.00 – DISPLAY OF CONSUMER FIREWORKS FOR SALE

- 5.01 No person who offers for sale any consumer fireworks shall, at any time, keep or permit the keeping of any consumer fireworks in any location in a shop or trailer, unless the location is designated and posted as a "no smoking" area.
- 5.02 No person storing consumer fireworks for sale shall store them, except as permitted under the Explosives Act.
- 5.03 Consumer fireworks on display must be separated into lots not exceeding 25 kg. The separation must be sufficient to prevent fire from spreading rapidly from one lot to the next.
- 5.04 Fireworks must be kept away from accelerants.
- 5.05 Fireworks on display must be in consumer packs or locked up or otherwise inaccessible to the public.

- 5.06 No person shall exhibit fireworks in any store, shop, trailer or place where they can come in contact with direct sunlight.

SECTION 6.00 – USE OF CONSUMER FIREWORKS

- 6.01 No person shall set off, or cause to be set off, any fireworks (including backyard displays) on any day other than
- a) the three days prior to the holiday known as Victoria Day and on the Victoria Day holiday, or
 - b) the three days prior to the holiday known as Canada Day, July 1 and on the Canada Day holiday, July 1.
 - c) This section does not apply where a permit has been issued under this by-law.
- 6.02 No person shall hold a public exhibition of consumer fireworks at any time without a permit issued under this by-law.
- 6.03 No person under the age of 18 shall discharge any fireworks, other than a sparkler where that person is under the supervision of an adult at all times.
- 6.04 No parent, guardian or person standing in the place of a parent with respect to a person under the age of 18 shall permit that person to discharge any firework, other than a sparkler where the person under 18 is under the supervision of an adult at all times.
- 6.05 No person shall discharge consumer fireworks on any land of which he or she is not the owner, without obtaining the prior written permission of the owner to do so.
- 6.06 No person shall discharge consumer fireworks into, inside of, or on any building, accessory building, structure or motor vehicle.
- 6.07 No person shall discharge consumer fireworks closer to any structure or property line than 15 meters, or the recommendation from the manufacturer, whichever is greater.
- 6.08 No person shall discharge consumer fireworks closer than 100 meters to a church, school, residential care facility or place where explosives are sold or stored.
- 6.09 No person shall discharge consumer fireworks during an imposed burn ban.
- 6.10 No person shall discharge fireworks except between dusk and 11:00 PM. on the day(s) specified in a permit unless otherwise specified in the permit.
- 6.11 No person shall store, handle or discharge consumer fireworks in an unsafe manner, or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of fireworks.

SECTION 7.00 – DISPLAY FIREWORKS

- 7.01 No person shall sell or otherwise distribute, offer for sale, cause or permit to be sold, any display fireworks without having first obtained a permit issued under Section 8 of this by-law.
- 7.02 No person shall sell or otherwise distribute, offer for sale, cause or permit to be sold, or possess for the purposes of sale or distribution, any display fireworks unless:
- a) Those fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada) or its successor;
 - b) The fireworks are kept and maintained in a magazine licensed by the Explosives Branch of the Department of Natural Resources (Canada); and
 - c) A copy of the magazine license has been provided to the fire department.
- 7.03 No person shall give, offer for sale, cause or permit to be sold, or sell display fireworks to any person unless that person is at least eighteen years old and is a fireworks supervisor, as defined by the Act.
- 7.04 No person shall discharge display fireworks within the Town, without having first obtained an appropriate permit issued under Section 8 of this by-law.

SECTION 8.00 – PERMITS AND FEES

- 8.01 The fees for permits that shall be paid to the Town with respect to the sale and discharge of fireworks and shall be the amount set forth herein:
- a) Trailer Retail Sales Permit –
 - Consumer Fireworks \$100.00 per year
 - b) Fixed Site Retail Sales Permit –
 - Consumer Fireworks \$100.00 per year
 - c) Display Fireworks Permit \$100.00 per event
 - d) Consumer Fireworks Public Exhibition Permit (required for displays over 100kg.) \$100.00 per event
 - e) Consumer Fireworks Permit (required for displays over 10 kg. but under 100 kg.) No Fee

An exemption of fee, as set out in 8.01 (c) and 8.01 (d) shall apply to a non-profit organization operating either a display fireworks or a consumer fireworks show at a community event.

NOTE: A Hawkers and Peddlers Permit may also be required.

- 8.02 Any permit issued under this by-law shall be issued by the Fire Chief.
- 8.03 Every person applying for a permit shall deliver to the Town, at the time of application, payment in full, either by cash or cheque payable to the Town, the permit fee as set out in this by-law.
- 8.04 The fireworks supervisor who is named as the applicant in an application under this by-law shall be present in person at all times during which the fireworks are being set up, discharged and during clean up after the conclusion of the display or other setting off of those fireworks.

- 8.05 Every application for a permit under this section shall be made at least seven (7) days before the date scheduled for the setting off or holding of the exhibition of fireworks.
- 8.06 The Fire Chief shall not issue a permit under this section where it is of the opinion of the Fire Chief that the proposed site is not suitable for that purpose.
- 8.07 An applicant for a permit under this section shall provide, together with his or her application:
- a) such information or consents, as is required under this by-law;
 - b) evidence of insurance on such terms and in such amount as the Town may prescribe from time to time;
 - c) where the application is for the setting off of consumer fireworks as a public exhibition, proof that the applicant has been approved by the Chief Inspector of Explosives as a Fireworks Supervisor;
 - d) a description of the site to be used for the setting of the display fireworks or consumer fireworks, as the case may be, sufficient to identify each site for which application is made;
 - e) where the fireworks are to be set-off on property of which the applicant is not the owner, written permission of the owner of that property;
 - f) such further information as the Fire Chief may reasonably require.
- 8.08 A permit issued under this section may be made subject to such terms and conditions as the Fire Chief may consider necessary in the interests of public safety or to minimize inconvenience to the general public, or advisable in the circumstances or to give effect to the objects of this by-law, and every permit holder shall comply with those terms and conditions.
- 8.09 Every person to whom a permit is issued under this section shall:
- a) provide and maintain approved, fully operational fire extinguishing equipment ready for immediate use, throughout the time while the fireworks are being set off or displayed and, for a reasonable period thereafter, at the location or site of the setting off or holding of an exhibition of fireworks;
 - b) conform to the provisions of the current issue of the fireworks manual as published from time to time by the Explosives Branch of the Department of Natural Resources (Canada), or any successor publication, for the setting off or holding of an exhibition of display fireworks;
 - c) produce the permit on demand to any inspector, police officer or other person authorized to enforce this by-law; and
 - d) permit the inspection of any site where the fireworks may be stored, discharged or displayed, and the fireworks themselves, together with all associated equipment, by the Authority Having Jurisdiction forthwith upon demand.
- 8.10 Every person to whom a permit is issued under this section shall, immediately after the conclusion of the setting off or holding of an exhibition, carry out a site inspection and shall
- a) remove all unused or partly used fireworks from the site;
 - b) gather together and remove all debris remaining after use or partial use of the fireworks; and
 - c) return the site to the condition it was in prior to the setting off or holding of the display.

- 8.11 No person shall discharge display fireworks,
- a) within 10 meters of solid, fire-resistant uninhabited structures;
 - b) within 100 meters of any building, accessory building or structure, motor vehicles, including crew vehicle (except service vehicles), highway or the entrance to any public park;
 - c) within 300 meters of any premises or place where explosives, gasoline or other highly flammable substances are manufactured or stored in bulk;
 - d) within 300 meters of a hospital, nursing home, home for the aged, church or school unless the consent of both the Fire Chief and the owner or authorized representative of that facility has been obtained; or
 - e) during an imposed burn ban;
 - f) unless the consent of the Fire Chief is otherwise obtained.
- 8.12 No person shall store, handle or discharge display fireworks in an unsafe manner, or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of such fireworks.
- 8.13 Except where a permit has been issued for that purpose under Section 8.00, no person shall discharge fireworks into, in or on any highway, street, lane, alley, square or other public place.
- 8.14 A display fireworks permit issued under this by-law is not transferable.
- 8.15 Where fireworks cannot be set off or discharged on the date provided in the permit, the Fire Chief may direct the issue of a new permit for some other date outside the listed rain dates.
- 8.16 Where any holder of a permit fails or refuses to comply with a term or condition to which the permit is subject, the Fire Chief shall immediately revoke the permit.
- 8.17 The Fire Chief may require an applicant for a permit under this by-law to provide such other information as the Fire Chief considers necessary or advisable in his or her reasonable judgment to make an informed decision as to whether or not to grant a permit under this by-law, and where that information is not provided in the form and manner required by the Fire Chief, the Fire Chief may refuse to issue a permit.

SECTION 9.00 – PYROTECHNICS

- 9.01 No person shall discharge any pyrotechnic special effect fireworks in the Town of Cobourg without first having obtained a display permit, issued by the Fire Chief, authorizing the discharge and use of pyrotechnic special effects fireworks.
- 9.02 No person, other than a person who holds a current and appropriate level of certificate for the type, size, number and location of the pyrotechnic materials in question shall:
- a) have in his or her custody or control, any pyrotechnic materials unless that person is:

- i) a manufacturer, wholesaler or retailer of such materials who holds all requisite licences to act in that capacity, and the materials in question are in that person's custody solely in connection with that business, or
 - ii) lawfully carrying the pyrotechnic materials in transit through the Town, whether as a public carrier or as an employee of a person described in sub-clause i); or
 - b) perform or carry out any pyrotechnic display, special effects, event, exhibition or operation.
- 9.03 Every pyrotechnic display, special effects, event, exhibition or operation carried out in the Town shall be performed or carried out safely in accordance with:
- a) prevailing best practices in the pyrotechnic trade, and
 - b) the specifications, recommendations or requirements, as the case may be, set down in the Pyrotechnics Special Effects Manual, as issued and updated from time to time by the Explosives Regulatory Division of Natural Resources Canada, and
 - c) the terms and conditions as specified in the permit.
- 9.04 For the purposes of this section, "certificate" means a current certificate issued by or under the authority of Natural Resources Canada.

SECTION 10.00 – ENFORCEMENT AND PENALTIES

- 10.01 **Enforcement:** This by-law may be enforced by every police officer, the Town's fire chief and fire inspectors, unless otherwise stated in the by-law.
- 10.02 **Obstruction:** No person shall hinder, obstruct or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.
- 10.03 **Offence and Penalty:** It is an offence for a person to contravene any provision of this by-law, and every person who contravenes this by-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the provisions of the Provincial Offences Act and to any other applicable penalty.
- 10.04 **Multiple Offences:** The conviction of a person for the contravention of any provision of this by-law shall not operate as a bar to a prosecution against the same person for any subsequent or continued contravention of this by-law.
- 10.05 **Court Order:** If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

SECTION 11.00 – GENERAL PROVISIONS

- 11.01 **Administration of the By-law:** This by-law shall be administered by the Fire Chief .

11.02 **Exemption:** For the purposes of this by-law, respecting the sale or setting off of pyrotechnical signaling devices for marine, military, police, railway or highway purposes shall not be deemed to be, respectively, the sale or setting off of fireworks under this by-law.

11.03 **Effective Date:** This by-law shall come into force and take effect on the 1st day of January, 2011.

11.04 By-Law # 2425 and By-Law # 104-99 are hereby repealed.

READ a first, second and third time and finally passed in Open Council this
22nd day of November , 2010.


MAYOR


MUNICIPAL CLERK