



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2009-056

A By-law to Regulate the Discharge of Fireworks

WHEREAS section 121 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the "*Act*") authorizes Council to enact by-laws to prohibit and regulate the setting off of fireworks;

AND WHEREAS section 121 of the *Act* authorizes Council to prohibit the setting off of fireworks unless a permit is obtained from the municipality for those activities;

AND WHEREAS section 121 of the *Act* authorizes the municipality to impose conditions for obtaining, continuing to hold and renewing a permit, including requiring the submission of plans;

AND WHEREAS the Council of the Corporation of the Town of Oakville deems it desirable to regulate the setting off of fireworks.

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

"Council" means the Council of The Corporation of the Town of Oakville;

"Discharge" when used in relation to Fireworks, Prohibited Fireworks and Firecrackers, includes firing, igniting, exploding and setting off such articles;

"Display Fireworks" means high-hazard fireworks for recreation, including firecrackers that are classified under Class 7, Division 2, Subdivision 2 under the *Explosives Act* and the Explosives Regulations made thereunder and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

"Explosives Act" means the *Explosives Act* R.S.1985, c. E-17, as amended and regulations thereto;

“Family Fireworks” means low-hazard fireworks for recreation that are classified under Class 7, Division 2, Subdivision 1 of the *Explosives Act* and the Explosives Regulations made thereunder, and includes but is not limited to fireworks showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;

“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 twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;

“Fireworks” means Display Fireworks, Family Fireworks or Theatrical Fireworks;

“Fireworks Supervisor” means a person certified as a technician under the *Explosives Act* to conduct displays of fireworks;

“Magazine” means magazine as defined in the *Explosives Act*;

“Permit” means a permit to discharge Display or Theatrical Fireworks issued pursuant to this By-law;

“Permit Officer” means a person in the Fire Prevention Division of the Town of Oakville Fire Department appointed by the Fire Chief to issue permits under this By-law;

“Person” means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

“Prohibited Fireworks” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, or 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, 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 *Explosives Act*;

“**Theatrical Fireworks**” means an authorized explosive of a class set out in Section 6 of the Explosives Regulation made under the *Explosives Act* that is made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theater, or television productions, or as performances before a live audience; and

“**Town**” means the Corporation of The Town of Oakville.

2. PROHIBITIONS

In the Town of Oakville no Person shall:

- a) possess or discharge Fireworks except in accordance with the provisions of this By-law.
- b) discharge Family Fireworks except between dusk and 11:00pm on the day of, the day before, or the day after, the following:
 - i. Victoria Day
 - ii. Canada Day
 - iii. New Years Day
 - iv. Any religious or cultural celebrations where fireworks are used to celebrate the religious or cultural event.
- b) discharge Display or Theatrical fireworks except at the time described in the permit
- c) discharge Fireworks in a manner that creates or may create a nuisance or that creates or may create an unsafe condition, danger from fire or risk from accident, injury or damage at or in respect of any place, location or site, or to or in respect of any person, property or thing.
- d) possess or discharge any Firecrackers or other Prohibited Fireworks;
- e) discharge or possess any Display Fireworks or Theatrical Fireworks except pursuant to a permit and the conditions thereof, issued by the Town of Oakville Fire Department and in accordance with the criteria issued from time to time by Natural Resources Canada.
- f) discharge Family Fireworks except on the days outlined in Section 2(b).
- g) discharge Fireworks onto, in or on any highway, street, lane, square, public park or other public place, unless in accordance with a permit issued for such purpose;
- h) discharge Fireworks unless such person has reached eighteen years of age;

- i) discharge or hold a display of Fireworks on any land that is not owned by him or her without the consent of the owner;
- j) discharge Fireworks unless they:
 - i. provide and maintain fully operational fire extinguishing equipment ready for immediate use at the location or site of the setting off of Fireworks;
 - ii. ensure that the Fireworks are extinguished prior to their disposal; and
 - iii. permit the inspection of any site where the Fireworks may be stored or set off and of the Fireworks themselves, together with all associated equipment, by anyone authorized to enforce this By-law, forthwith upon demand;
- k) discharge Fireworks into, inside of, or on any building, accessory building, structure or motor vehicle; or
- l) possess more than 10 kilograms of Family Fireworks, other than a Vendor of Fireworks.

3. **PERMITS FOR THE DISCHARGE OF DISPLAY FIREWORKS AND THEATRICAL FIREWORKS**

- a) Every application for a Permit for the discharge of Display or Theatrical Fireworks shall be made to the Fire Prevention Division of the Town of Oakville Fire Department upon such application form as may be provided by the Fire Prevention Division from time to time.
- b) No Permit shall be issued to any person under eighteen years of age.

3.1 Every applicant for a permit for Display Fireworks and Theatrical Fireworks shall include:

- a) Proof of comprehensive general liability insurance in an amount no less than One Million Dollars (\$1,000,000.) naming The Corporation of the Town of Oakville as an additional insured and containing a cross liability clause;
- b) Proof that the applicant has been approved by the Chief Inspector of Explosives pursuant to the *Explosives Act* as a Fireworks Supervisor by providing a copy of Fireworks Supervisor's License;
- c) The fee required under Section 4;
- d) Such further and other information as the Permit Officer may require; and
- e) An Indemnification/Liability agreement signed by the applicant or by an individual having the authority to bind the applicant.

3.2 Every Permit issued shall include the following conditions:

- a) The Permit holder shall only discharge the fireworks at the date, time, location and discharge site shown on the Permit;
- b) No person, except a Fireworks Supervisor, shall set off any Display or Theatrical fireworks;
- c) The Fireworks Supervisor, who is named on the Permit application, shall be present in person at the display at all times during which the display is being set up, discharged and cleaned up;
- d) No person shall set off Display or Theatrical fireworks within three hundred (300) metres of any premises or place where explosives, gasoline or other highly flammable substances are manufactured or stored in bulk; and
- e) No person shall set off Display or Theatrical Fireworks with three hundred (300) metres of a hospital, nursing home, home for the aged, church or school unless the consent of the owner or authorized representative thereof is obtained.

4. **FEES**

Every application for a Permit to discharge Display and/or Theatrical Fireworks shall be accompanied by a fee as described in the Fire Cost Recovery By-law that may be amended from time to time.

5. **OFFENCE**

- a) Every person who contravenes any provision of this by-law is guilty of an offence.
- b) The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.

6. **PENALTY**

- a) Every person who is convicted of an offence is liable to a fine of not less than \$300 and not more than \$5,000 for the first offence and to a fine of not more than \$10,000 for a subsequent offence
- b) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence and not as provided in subsection a) above.

c) For the purposes of subsections a) and b) above, an offence is a subsequent offence if there has been a previous conviction under this By-law.

7. **SEVERABILITY**

Should any section, clause or provision of this By-law be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

8. **REPEAL**

By-law 1986-174 is hereby repealed.

PASSED this 6th day of April, 2009

MAYOR

CLERK