

THE CORPORATION OF THE CITY OF CORNWALL

By-law # 2017-098

A By-law to repeal and replace By-law 113-2004 and By-law 2014-048 and to regulate the Sales of Fireworks within the limits of the City of Cornwall

WHEREAS under Section 120 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a local council may prohibit and regulate the manufacture, storage, keeping and transportation of explosives and dangerous substances; and

WHEREAS Section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes councils of all local municipalities to prohibit and regulate the sale and setting off of fireworks, may prohibit these activities unless a permit is obtained, 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, S.O. 1997, C. 4, as amended, provides that a council of a municipality may pass By-laws regulating fire prevention, including the prevention of spreading fire.

1. DEFINITIONS:

In this By-law:

- a) **“act”** means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted there under as amended from time to time or any Act and Regulations enacted in substitution therefore;
- b) **“applicant”** means a person over 18 years of age, a company, club or an organization requesting consent from the City of Cornwall to hold a display of fireworks or a pyrotechnic special effect fireworks display;
- c) **“City” or “City of Cornwall”** means the municipal Corporation of the City of Cornwall or the geographic area of the City of Cornwall as the

context requires;

- d) “**Chief Fire Official**” means the Fire Chief of the City of Cornwall or authorized delegate;
- e) “**Consumer Firework**” means an outdoor, low hazard, recreational fireworks 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, devices for use with such caps, safety flares, or marine rockets.
- f) “**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;
- g) “**display firework**” means 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, bomardoes, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers.
- h) “**firecracker**” means a small fused cylinder filled with explosive fireworks composition and designed to produce a sound effect. Range in approximate size: from a baby’s finger (ladyfinger) to a man’s thumb (M-80);
- i) “**fireworks**” means a device containing an explosive capable of , or discharged for the purpose of, producing a pyrotechnic special effects, a pyrotechnic signal or a sound signal (consumer firework) and includes display firework and firecracker;
- j) “**Firework Supervisor**” means a person employed to conduct a (public/private) fireworks display. This person is certified by Natural Resources Canada – Explosives Regulatory Division who is an approved purchaser of Display Fireworks and who is qualified at the appropriate level under the *Explosives Act* to supervise the discharge of Display Fireworks. The Fireworks Supervisor is responsible for ensuring that all fireworks are properly installed and that all appropriate safety measures have been taken.

- k) “**FPPA**” means the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, and the Regulations enacted there under as amended from time to time or any Act and Regulations enacted in substitution therefore;
- l) “**permit holder**” means the Certified Fireworks Supervisor who will supervise and perform a display of fireworks or the Certified Special Effects Pyrotechnician who will supervise and perform a pyrotechnic special effects display;
- m) “**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 poppers 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;
- n) “**pyrotechnic special effect firework**” means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Act and that is used in the entertainment industry through the use of pyrotechnic, propellant and explosive materials and devices to produce a special pyrotechnic effect for flash powder, air bursts, smoke compositions, gerbs, lances and wheels. Also, any pyrotechnic composition and/or commercial high explosives used with other fuels (diesel, gasoline, propane, napalm, etc., whether liquid, gas, or solid) to produce a special-purpose effect.
- o) “**pyrotechnician**” means a person who is:
- Responsible for pyrotechnic safety and who controls, initiates, or creates pyrotechnic special effects;
 - Certifies under the Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician;
 - Responsible for storing, setting up, and removing pyrotechnic material and devices after a scene or performance and;
 - Qualified to purchase and supervise the display of pyrotechnic special effects fireworks under the Act.
- p) “**temporary sales unit**” means an enclosed portable stand, cart,

display rack, cargo container or trailer, or other display unit that can be moved from one location to another and is used for the sale of Consumer Fireworks. No temporary sales unit may remain in the same location for more than nine (9) consecutive days. A temporary sales unit does not include a motor vehicle as defined in the Highway Traffic Act.

- q) **“fireworks sales permits”** means a permit to sell Consumer Fireworks issued by the Chief Fire Official. The Chief Fire Official may prescribe any information to be given therein and other necessary papers to be completed or submitted by the applicant in conjunction with the application.
- r) **“Sky Lantern”** means those devices also known as Flying, Chinese, Kongming or Wish lanterns, or other similar device constructed of paper and a frame containing a fuel pack, which fuel pack is usually a petroleum or wax based fuel that when lit causes the lantern rise.

2. SALE OF CONSUMER AND DISPLAY FIREWORKS

2.1 No person shall:

- a) Sell any Consumer Fireworks to any person at any time without appropriate business licence issued by the City of Cornwall;
- b) Sell any Consumer Fireworks to any person at any time without a fireworks Sales Permit as issued by the Cornwall Fire Services;
- c) Sell or supply fireworks to any person under the age of eighteen (18) years;
- d) Sell, store or supply Prohibited Fireworks;
- e) Sell Consumer Fireworks from a Temporary Sales Unit;
- f) Sell Consumer Fireworks in a manner that is not in conformance with the Explosive Act;
- g) Sell display fireworks or pyrotechnic special effects unless otherwise permitted under the Explosive Act; or
- h) Sell consumer fireworks from a motor vehicle as defined in the Highway Traffic Act;
- i) Sell or store any Consumer Fireworks in a building unless the provisions of the *Ontario Fire Code*, the *Explosives Act* of Canada, this By-law and all other Acts and Regulations have been complied with.

2.2 The holder of a Fireworks Sales Permit issued under the provisions of this By-law shall prominently display the Permit in the place of business where the Fireworks are being offered for sale and such Permit shall be

... shall prominently display the Permit in the place ...
produced to any Enforcement Officer upon request.

2.3 No Person shall sell any Display Fireworks to any Person unless the purchaser provides evidence of certification at the appropriate level by Natural Resources Canada – Explosives Regulatory Division as a Display Fireworks Supervisor.

3. PERMIT APPLICATION

3.1 Every Fireworks Sales Permit application shall be submitted to the Chief Fire Official and be accompanied by;

- a) The appropriate non-refundable fee as set out in the City's General Fees and Charges By-law, as amended from time to time;
- 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) Proof of commercial general liability insurance in an amount no less than \$5,000,000.00;
- e) Detailed storage description and plans;
- f) Fire Safety Plan for the building (s) which may be involved in the storage of and sales of fireworks;
- g) An indemnification and hold harmless undertaking in favor of the City and signed by the applicant or by an individual having the authority to bind the applicant;

3.2 The Chief Fire Official may revoke a Fireworks Sales Permit where, in his or her sole opinion, the applicant has not complied or is not complying with the provisions of this By-law;

3.3 Where a Fireworks Sales Permit is revoked, the applicant is not entitled to a return of any fee paid to obtain the Fireworks Sales Permit.

4. STORAGE WITHIN BUILDINGS

No person shall store Fireworks within a building except as follows:

- a) The storage of Fireworks within buildings shall meet the requirements of the *Explosives Act* . Where there is any conflict between this By-law and the *Explosives Act* , the more restrictive provision shall apply.
- b) A building may house up to 1000 kg gross weight of Consumer Fireworks provided that it is detached from a dwelling and that the building, or a dedicated portion of it is closed to public access, well-constructed, and used exclusively for Fireworks storage.
- c) If the building does not meet the requirements of Section 4 (b) of this By-law, the Fireworks may be kept in a lockable secure purposely built bin within the building, but in this case the storage limit is reduced to 100 kg gross weight. At any time when not in use, the bin shall be locked.
- d) The storage facility must display warning signs marked "FIREWORKS" and "NO SMOKING."
- e) At least one fire extinguisher of suitable size shall be mounted on a wall in the proper location for use in the case of a fire.
- f) Exhibit actual Fireworks that are for sale in a store display. Pictures or other representations of the Fireworks is permitted.

5. STORAGE WITHIN VEHICLES

- a) Storage of Fireworks in a Vehicle is prohibited.

6. STORAGE WITHIN TRAILERS

No Person shall:

- a) Store Fireworks in any Trailer in amounts exceeding 1000 kilograms unless the wholesaler or retailer is licensed by the Explosives Division, Natural Resources Canada.
- b) Allow or permit an Ignition Source within six (6) metres of a Trailer in which any Consumer Fireworks are kept or displayed for sale.

- c) Permit access by customers to Fireworks stored within any Trailer, unless the Trailer has two separate operative doors and signs posted at every point of access to the Trailer stating that all Ignition Sources are prohibited within six (6) meters of the Trailer.
- d) Locate any Trailer containing Fireworks less than twenty (20) meters from any road or parking space or less than forty (40) meters from buildings, dwellings and gas stations.
- e) Permit more than ten (10) persons within the Trailer at any one time.
- f) Locate any portable electrical power supply and/or fuel supply less than twelve (12) meters from the Trailer.

7. RESTRICTIONS

- a) No person shall set off any type of "fireworks", whatsoever, in the City of Cornwall except as herein after provided; and
- b) No person shall hold or store "fireworks" within the limits of the City of Cornwall, without having first been issued a Fireworks Sales Permit to do so.
- c) No person shall sell or set off/release Sky Lanterns of any type, in the City of Cornwall.

8. SETTING OFF CONSUMER FIREWORKS

- a) No person shall set off consumer fireworks except as follows:
 - In a safe location approved by the Chief Fire Official;
 - At a safe distance from all combustible materials and all highways, railroads, overhead wires, buildings and other structures
- b) No person or group of persons shall use consumer fireworks in the City of Cornwall without first obtaining a Fireworks Use Permit to do so issued by the Chief Fire Official.

9. SETTING OFF DISPLAY FIREWORKS AND/OR PYROTECHNICS

- a) No person shall set off display fireworks except as follows:

- In public places approved by the Chief Fire Official
 - At a safe distance from all combustible materials and all highways, railroads, overhead wires, buildings and other structures; and
 - Under the supervision of a Fireworks Supervisor holding appropriate certification from Natural Resources Canada.
- b) No person or group of persons shall discharge or hold a display of fireworks in the City of Cornwall without first having the Fireworks Supervisor obtained a Fireworks Use Permit to do so issued by the Chief Fire Official.
- c) Every application for a Display Fireworks permit shall be made to the Chief Fire Official at least twenty (20) working city days prior to the event when the proposed discharge of display is to occur.
- d) Every application for a Fireworks Use Permit shall include:
- The name, address and signature of the applicant sponsoring the display fireworks;
 - The name, address, certification number and signature of the Fireworks Supervisor;
 - A copy of each crew members' current evidence of certification in accordance with the Explosives Act;
 - The date, and time of the proposed display fireworks;
 - A scale drawn Site Plan which demonstrates the safety of spectators, showing the point from where the fireworks will be discharged, the location of all highways, railroads, overhead wires and obstructions, buildings and other structures, and the lines behind which the audience will be restrained;
 - If the fireworks event is to occur on property owned or controlled by the City, a copy of the approved User Permit or Special Event Permit;
 - If the fireworks event is to occur on property that is not owned by the applicant and not owned or controlled by the City, a written agreement from the owner of the property on which the display fireworks will be held;
 - A Fire Safety Plan specific to the proposed event;
 - The size, number and type of all fireworks being discharged, including the number of set pieces, shells, and other items. Shells must be described by diameter and specify single, multiple break or salute; as well as a detailed list of MATERIALS SAFETY DATA SHEETS (MSDS) for the pyrotechnic material(s) and/or gas effects to be used;
 - The manner and place of storage of all fireworks prior to, during and after the display is the responsibility of the Fireworks Supervisor and

shall be carried out as per outlined by Natural Resources Canada, Explosives Regulatory Division;

- The manner and means of restraining unauthorized persons from attending too near the discharge site;
 - Proof of Insurance coverage and Indemnification as per Sections 3 and 11 of this By-law.
- e) The Chief Fire Official may refuse to issue a Fireworks Use Permit for a display of fireworks if, in his opinion, the display fireworks or its proposed location:
- Constitutes a fire hazard to any neighboring properties;
 - Will be inadequately equipped with fire safety or suppression equipment;
 - Constitutes a danger to the health or safety of anyone with the City; or
 - Such other reasons as the Chief Fire Official may seem just.
- f) A display fireworks shall only be held on the terms set out in the Fireworks Use Permit.
- g) The Chief Fire Official may temporarily or permanently suspend or terminate any display fireworks if, in his opinion;
- It is, or is threatening to become , a danger to any property or to the health or safety of anyone with the City; or
 - Is inadequately equipped with fire safety or suppression equipment; or
 - Such other reasons as the Chief Fire Official may deem just.
- h) All unused fireworks from and all debris created by a display fireworks must be safely removed and disposed of by the responsible Fireworks Supervisor immediately after the display fireworks.

10. SETTING OFF PYROTECHNICS AND/OR SPECIAL EFFECTS FIREWORKS

- a) A pyrotechnic special effect fireworks display shall be held only:
- In public places approved by the Chief Fire Official;
 - Under the supervision of a Special Effects Pyrotechnician
- b) No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the City of Cornwall, without first having the Special Effects Pyrotechnician obtain a Use of Fireworks Permit to do

so issued by the Chief Fire Official.

- c) No person or group of persons shall discharge a pyrotechnics special effect fireworks in the City of Cornwall, without first having the Special Effects Pyrotechnician obtain a Use of Fireworks Permit issued by the Chief Fire Official authorizing the display of pyrotechnic special effect fireworks.
- d) Every application for a permit shall be made to the Chief Fire Official at least twenty (20) working days prior to the event when the proposed discharge of pyrotechnic special effect fireworks is to occur.
- e) Every application for a permit shall include:
- The name, address and signature of the applicant sponsoring the pyrotechnics display;
 - The name, address, certification number and signature of the Special Effects Pyrotechnician supervisor;
 - A copy of each crew members' current evidence of certification, in accordance with the Explosives Act;
 - The Date and time of the proposed pyrotechnics display;
 - A pyrotechnics display plan showing:
 1. a site plan of the facility, room capacity, the stage and the pyrotechnic special effects fireworks storage area;
 2. the exact distance of all pyrotechnic materials and devices from the audience, performers, staging, sets, properties and curtains;
 3. a list of all devices that will be used; as well as a detailed list of MATERIAL SAFETY DATA SHEETS (MSDS) for the pyrotechnic material(s) and/or gas effects, etc. to be used;
 4. the ceiling height of the facility;
 5. sequence of firing;
 6. if the pyrotechnic event is to occur on property owned or controlled by the City, a copy of the approved User Permit or Special Event Permit;
 7. if the pyrotechnic event is to occur on property that is not owned by the applicant and not owned or controlled by the City, a written agreement from the owner of the property on which the pyrotechnic special effects fireworks will be held.
 - Proof of Insurance coverage and indemnification as per Sections 3 and 11 of this By-law;
- f) The Chief Fire Official may refuse to issue a permit for a pyrotechnic

special effects fireworks display if, in his opinion, the display of its proposed location;

- Constitutes a fire hazard to the building or any neighboring properties;
 - Will be inadequately equipped with fire safety or suppression equipment;
 - Constitutes a danger to the health or safety of anyone within its surroundings; or
 - Such other reasons as the Chief Fire Official may deem just.
- g) A pyrotechnic special effects fireworks display shall only be held on the terms set out in the permit.
- h) The Chief Fire Official may temporarily or permanently suspend or terminate any pyrotechnic special effects fireworks display if, in his opinion:
- It is, or is threatening to become, a danger to any property or to the health or safety of anyone within its surroundings; or
 - Is inadequately equipped with fire safety or suppression equipment; or
 - Such other reasons as the Chief Fire Official may deem just.
- i) All debris created by a pyrotechnics and/or special effects Fireworks must be safely removed and disposed of by the responsible Fireworks Supervisor immediately after the event.

11. **INSURANCE REQUIREMENTS**

A display permit holder shall, at its own expense, secure and maintain a Commercial General Liability insurance policy with an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) for each occurrence with respect to third party liability claims for bodily injury, death, property damage.

The Comprehensive General Liability insurance policy shall:

- a) Include the location and operations necessary or incidental to the fireworks event;
- b) Include the pre and post dates of coverage of the preparation on site showing the:
- Set up date;

- Fire date; and
 - Clean up date.
- c) Include “Broad Form” Property Damage coverage on an occurrence basis, including loss of use of property;
- d) Include, but not necessarily be limited to, the following coverage:
- Contingent Employers Liability;
 - Owners and Contractors Protective Liability;
 - Contractual Liability assumed with respect to the event;
 - Non-owned and hired auto;
 - Personal Injury Liability;
 - Severability of Interest and Cross Liability clauses;
- e) Name the Corporation of the City of Cornwall as an “Additional Insured” thereunder;
- f) be primary and non-contributing with respect to any insurance carried by the City;
- g) include permissions to conduct displays of pyrotechnic special effects fireworks and/or display fireworks;
- h) contain an “endorsement” to provide the City of Cornwall with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to the City of Cornwall prior to the issuance of a permit;
- i) be underwritten by a licensed and responsible insurance company or companies that meet with the reasonable approval of the City.

The City of Cornwall reserves the right to request such higher limits of insurance or other types of policies appropriate to such events as the City may reasonably require from time to time.

12. INDEMNIFICATION

The permit holder indemnifies and holds harmless the Corporation of the City of Cornwall, its elected officials, its employees, officers, servants, volunteers, agents and contractors from and against any and all manner of actions or causes of action, damages, costs, loss or expenses of whatever

kind (including, without limitation, legal fees) which the City, its elected officials, employees, officers, servants, volunteers, agents, contractors may sustain incur, or be put by reason of or arising out of:

- a) The issuance of the applicable permit
- b) The fireworks event, including, without limitation, the handling, storage, firing, setting off, exploding or other use of fireworks in connection therewith;
- c) The use of occupation of the location upon which the fireworks event is to occur;
- d) Any act or omission of the permit holder or any person for whom the permit holder is at law, responsible, including, without limitation, the non-observance or non-performance of any obligation imposed by any provisions of the "Act", "FPPA" and the Display Fireworks Manual or the Pyrotechnics Special Effects Manual (as the case may apply) published by Natural Resources Canada or any successor publication.

13. ENFORCEMENT

- a) A permit shall be deemed cancelled if the permit holder:
 - Fails to comply with any terms or conditions of the permit without the prior written consent of the Chief Fire Official;
 - Violates or breaches any of the provisions of this By-law.
- b) Any person who contravenes any provision of this By-law or who hinders or obstructs or otherwise interferes with the Chief Fire Official in the conduct of the Chief Fire Official's duties is guilty of an offence and, upon conviction, is subject to any applicable fines or penalties as provided in the Provincial Offences Act.

14. INTERPRETATION

1. In this By-law
 - a) Words importing the singular number only, include more persons, parties or things of the same kind than one and the converse, and
 - b) A word interpreted in the singular number has a corresponding meaning when used in the plural

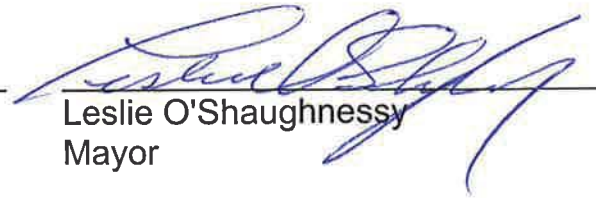
2. Severability:

It is declared that if any section, subsection, part or parts, sentence, clause or phrase thereof be declared by an Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts, sentence, clause or phrase shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

Read, signed and sealed in open Council this 26th day of June, 2017.



Manon L. Levesque
City Clerk



Leslie O'Shaughnessy
Mayor