

The Corporation of the City of Thorold

By-law No. 48-2018

Being a by-law to prohibit and regulate the sale and use of fireworks in the City of Thorold

Whereas Section 120 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, provides that a municipality may prohibit and regulate the manufacture of explosives in the municipality; prohibit and regulate the storage of explosives and dangerous substances in the municipality; regulate the keeping and transportation of explosives and dangerous substances in the municipality; and prohibit the manufacture or storage of explosives unless a permit is obtained from the municipality 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 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 that such a by-law may prohibit the activities described therein unless a permit is obtained from the municipality for those activities and such a by-law may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans; and

Whereas the Council of the Corporation of the City of Thorold deems it necessary and expedient for the abatement of nuisance, the promotion of fire prevention and for the public health and safety of its residents, to prohibit and regulate the sale and the setting off of fireworks within the Corporation of the City of Thorold; and

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

Section 1 – Definitions

- 1.1 “Act” means the *Explosives Act*, R.S.C. 1985, c. E-17, as amended and the regulations enacted thereunder as amended from time to time;
- 1.2 “Building” includes an edifice of structure, but does not included a trailer, or tent or motor vehicle of any kind;
- 1.3 “City” means The Corporation of the City of Thorold;
- 1.4 “Exhibition Fireworks” means a manufactured pyrotechnic device producing spectacular effects of light or sound classed under the *Act* as high hazard fireworks but does not include firecrackers;
- 1.5 “Family Fireworks” means a pyrotechnic device producing quantities or effects of light, sound, or smoke by the combustion of explosive or flammable composition and includes, but is not limited to, firework showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcano and sparklers, classed under the *Act* as low hazard fireworks, but does not include caps or toy guns or firecrackers;
- 1.6 “Firecracker” means a pyrotechnic that explodes instantaneously when ignited and does not produce any visible effect after the explosion, but does not include caps for toy guns containing not more than twenty-five one hundredth of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;
- 1.7 “Fireworks” includes Exhibition Fireworks, Family Fireworks and Firecrackers;
- 1.8 “Fire Chief” means the Fire Chief for the City, or his or her designate;
- 1.9 “Fireworks Supervisor” means the person who is an approved purchaser of Exhibition Fireworks and who is qualified under the *Act* to supervise the discharge of Exhibition Fireworks;

- 1.10 "Permit" means written permission to hold a fireworks display of Exhibition Fireworks as approved and granted by the City and issued under the provisions of this By-law;
- 1.11 "Pyrotechnic Special Effect" means an effect where a chemical mixture is used to produce visible or audible effects by combustion, deflagration, or detonation;
- 1.12 "Stores" means a commercial building or edifice, but does not include a trailer or a tent or a motor vehicle of any kind.

Section 2 – Sale of Fireworks

- 2.1 No person shall sell fireworks unless all requirements of the *Act*, this By-law, any other federal, provincial or municipal statute or regulation and any specific requirements of the Fire Chief, or his or her designate, have been complied with.
- 2.2 No person shall display, offer for sale, or sell Family Fireworks within the City at any time except ten (10) days immediately preceding Victoria Day and on Victoria Day and ten (10) days immediately preceding the holiday known as Canada Day (July 1st) and on Canada Day of each year.
- 2.3 Except for caps for toy guns, no person shall sell, give, or distribute Family Fireworks to any person under the age of eighteen (18) years of age in the City.
- 2.4 No person shall sell Exhibition Fireworks to a person who is not an approved purchaser under the *Act*.
- 2.5 Fireworks shall only be sold in stores in the City.
- 2.6 Fireworks that are displayed in a store shall be mock samples only and shall not contain explosive composition.
- 2.7 Fireworks shall not be accessible to the general public.
- 2.8 Fireworks shall be in a place where they are not exposed to the rays of the sun or to excess heat.

Section 3 – Discharge of Firecrackers

- 3.1 No person shall discharge, fire or set off, or cause to be discharged, fired, or set off, any firecrackers within the corporate boundaries of the City.

Section 4 – Displays of Family Fireworks

- 4.1 The setting off of Family Fireworks is prohibited except during the following prescribed days:
- Victoria Day: The two (2) days immediately before Victoria Day, Victoria Day, and the two (2) days immediately following Victoria Day.
- Canada Day: The two (2) days immediately before Canada Day, Canada Day, and the two (2) days immediately following Canada Day.
- 4.2 A person eighteen (18) years of age or over may hold and display Family Fireworks on any land belonging to him or her or any other privately owned land where the owner thereof has given permission for such display or discharge of fireworks.
- 4.3 No person shall use, set off, or all to be used or set off, any fireworks in such a place or in such a manner as to create a danger or constitute a nuisance to any person or property, or to do or allow to be done any unsafe act or omission at the time and place for setting off of any fireworks.

- 4.4 No person shall set off any fireworks in, into, or onto any building, doorway, or automobile, or any other place where such setting off might create a danger or nuisance to any person or property.
- 4.5 No person under the age of eighteen (18) years of age shall set off any fireworks.
- 4.6 Indoor pyrotechnics are not permitted in the City.

Section 5 – Exhibition Fireworks

- 5.1 No person or group of persons shall hold a display of Exhibition Fireworks without first having obtained a permit therefor from the Office of the Fire Chief.
- 5.2 No person shall hold a display of Exhibition Fireworks on City owned property without written permission from the Director of Public Works and Community Services of the City, or his or her designate, and a permit issued by the Fire Chief, or his or her designate, who shall issue permits for display of Exhibition Fireworks on the conditions set forth therein.
- 5.3 An application for a permit to hold a display of Exhibition Fireworks shall be made at least thirty (30) days prior to the date in which it is desired to hold the display. The application shall disclose:
- a. the name of the club, association or group to whom the permit is anticipated to be issued to;
 - b. the name of the person under whose supervision the display shall be held;
 - c. the purpose of the display;
 - d. the place, date, and time on which the display is to be held; and
 - e. the method of restraining a person present at the display to the distance required by the *Act*.
- 5.4 No person other than a person who has successfully completed a Firework's Supervisor Course and who holds a valid Firework's Supervisor Card issued pursuant to the *Act* shall set off, or cause to be set off, recreational high-hazard fireworks and pyrotechnics.
- 5.5 A display of Exhibition Fireworks shall be conducted in a manner consistent with all safety precautions with regards to all persons and public and private property in the area where the display is held.
- 5.6 Every person to whom a permit is issued under this section of this By-law shall, immediately after the conclusion of the setting off or holding of a display carry out a site inspection and:
- a. remove all unused, or partly used, Exhibition Fireworks from the site;
 - b. gather together and remove all debris remaining after use, or partial use, of the Exhibition Fireworks; and
 - c. return the site to the condition it was prior to the setting off or holding of the display.
- 5.7 The grounds on which the display of Exhibition Fireworks are set off, or at which a display of such fireworks is held, shall be kept under the continual surveillance, by a person eighteen (18) years of age or older until the final site inspection has been completed by the permit holder.

- 5.8 A permit issued under this section may be revoked at any time by the Fire Chief, or his or her designate, in the event of non-compliance with the provisions of this By-law, or any other applicable legislation or regulation.

Section 6 – Display of Exhibition Fireworks

- 6.1 The display of Exhibitions Fireworks shall be held by, or under the auspices of the club, association, or group to whom the permit is issued, at the place and time set forth in the permit.
- 6.2 The display of Exhibition Fireworks shall be conducted under the direct supervision of the person to whom the permit is issue, or some other qualified responsible person whose name and address shall be furnished to the Fire Chief in writing not less than three (3) days prior to the display and who has been certified as a Fireworks Supervisor under the *Act*.
- 6.3 No person shall hold a display of Exhibition Fireworks without first having provided written notice to the Niagara Regional Police Services thirty (30) days in advance of the day of such display.
- 6.4 Every applicant for a permit for a display of Exhibition Fireworks on City owned property shall deposit with the Director of Public Works and Community Services of the City proof of liability insurance in the minimum amount as approved from time to time in the City's insurance coverage policies and shall name the City as an additional insured.
- 6.5 The display of Exhibition Fireworks shall be conducted in a manner consistent with all safety procedures as outlined in the *Act*.
- 6.6 If the display of Exhibition Fireworks is to be held on property other than that owned or operated by the applicant, the applicant shall obtain the prior written consent of the owner or occupant of such property and a copy of this consent shall be submitted with the application for a permit for a display of Exhibition Fireworks to the Office of the Fire Chief at Thorold Fire and Emergency Services in the City.
- 6.7 The application for a permit with respect to a display of Exhibition Fireworks shall be made in writing to the Fire Chief at least thirty (30) days in advance of the day of such display.
- 6.8 Copies of the Exhibition Fireworks application shall be provided, by the applicant, to the Director of Public Works and Community Services for the City and the Niagara Regional Police Services.
- 6.9 The Fireworks Supervisor setting off Exhibition Fireworks must also submit he approval for purchase Exhibition Fireworks thirty (30) days prior to the proposed display to the Office of the Fire Chief for the City.
- 6.10 Every person to whom a display of Exhibition Fireworks permit is issued shall comply with the provisions of this By-law even if these provisions are more onerous than the provisions of the *Act*.
- 6.11 It is the responsibility of the Fireworks Supervisor to be aware of all relevant legislation and regulations and to ensure that the most restrictive legislation and regulations shall prevail at all times.
- 6.12 The Fire Chief shall have the authority upon issuing permits for the display of Exhibition Fireworks to impose any condition he or she deems appropriate for the safety of the public including the requirement of having a firefighter present at the setting off of any fireworks at the cost of the permit holder.

- 6.13 Such firefighter shall have the right to enter any premises in order to administer the provisions of the *Act* and this By-law and any other relevant legislation or regulation and shall not be hindered or obstructed in any way whatsoever.
- 6.14 Such firefighter shall have the right to require any precautions for the prevention of fire which to him or her seem necessary before any fireworks may be set off.
- 6.15 The Fire Chief, or designate, or any Municipal By-law Enforcement Officer may, at any time, inspect any premises for Exhibition Fireworks being stored or offered for sale to the public.
- 6.16 At least two (2) 4A-60BC fire extinguishers shall be provided for all sites where fireworks are, or are proposed to be, discharged.

Section 7 – Enforcement

- 7.1 The following persons are authorized to enforce this By-law:
- a. the Fire Chief or Fire Prevention Officer of the City, or designate, and
 - b. every authorized Municipal By-law Enforcement Officer for the City; and
 - c. The Director of Public Works and Community Services of the City; and
 - d. any Police Officer.

Section 8 – Offences

- 8.1 Any persons who contravenes any of the provisions of the By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.

Section 9 – Validity

- 9.1 If any section, subsection, or part of this By-law be declared illegal or *ultra vires*, such section, subsection, or part thereof shall be deemed to be severable and all other parts shall be separate and independent therefrom.

Section 10 – Commencement

- 10.1 By-law No. 42-2012 is hereby repealed.
- 10.2 This By-law shall come into force and effect on the date of its passing and enactment.
- 10.3 This By-law may be known as the Fireworks By-law.

Read a first, second and third time and finally passed by Council this 1st day of May, 2018.


A. T. (Ted) Luciani, Mayor


Donna Delvecchio, City Clerk