

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

BY-LAW NUMBER 600-05

Being a By-law respecting the sale and discharge of fireworks.

WHEREAS Section 121 (1) of the Municipal Act, 2001 (herein, the "Act") authorizes Municipalities to enact by-laws to prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121 (2) of the Act authorizes a municipality to require that a permit be obtained for the setting off of fireworks and that a municipality may impose conditions for obtaining, continuing to hold and renewing the permit including requiring the submission of plans;

AND WHEREAS Section 150 of the Act permits municipalities to licence, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS the Council deems it necessary to regulate the possession, sale and discharge of fireworks, for the health and safety of its residents and for the control of nuisance caused by noise,

NOW THEREFORE THE COUNCIL FOR THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON ENACTS AS FOLLOWS:

PART 1

PURPOSE AND DEFINITIONS

1. This by-law regulates the storing, handling, selling and discharge of fireworks for the purpose of reducing the risk of personal injury and property damage and to help prevent nuisance caused by noise.
2. In this by-law:
 - a) "Council" means The Council of The Corporation of the Municipality of Leamington.

- b) "Discharge" means firing, igniting, exploding and setting off fireworks.
- c) "Explosive Act" means the Explosive Act c. E-17 R.S.O. 1993 as amended and regulations thereto.
- d) "Firecracker" means a pyrotechnic that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing less than 25/100 of a grain of explosives on average per cap, devices for use of such caps, safety flares or marine rockets.
- e) "Fireworks" means display fireworks, family fireworks, theatrical fireworks and prohibited fireworks.
- (i) "display fireworks" means high-hazard fireworks for recreation that are classified Class 7, Division 2, Subdivision 1 under the Explosive Act. The explosives regulations made thereunder, and includes, but are not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and kitchens.
- (ii) "family fireworks" means low-hazard fireworks for recreation that are classified under Class 7, Division 2, Subdivision 2 of the Explosives Act, and the explosives regulations made under, and includes but is not limited to, firework 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 25/100 grain of explosives on average per cap, devices for use with such caps, safety flares or marine rockets.

- (iii) "prohibited fireworks" includes but is not limited to firecrackers, cigarette loads or kings, exploding matches, sparkling matches, ammunition for miniature tie clip, cuff link, or keychain 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 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 in the list of Prohibited Fireworks as published from time to time under the Explosives Act.
- (iv) "theatrical fireworks" means an authorized explosive of a class set out in Section 6 of the Explosives Act, Explosives Regulations (C.R.C. c. 599), that is made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theatre or television production or as a performance before a live audience.
- f) "Fireworks Supervisor" means a person certified as a technician to conduct displays of fireworks pursuant to the Explosives Act.
- g) "Licence" means an authorization by the Municipality to sell fireworks from a mobile sales premise or to sell display fireworks or theatrical fireworks.
- h) "Licensing Officer" means the Municipal Clerk or designate.
- i) "Magazine" means magazine as defined under the Explosives Act
- j) "Mobile Sales Premise" means a mobile or portable premise from which fireworks are sold and includes a trailer, roadside stand and a motor vehicle.
- k) "Municipality" means The Corporation of the Municipality of Leamington.
- l) "Permit" means a permit issued by the Municipality pursuant to this by-law to allow the possession or discharge of fireworks.

- m) "Sell" means offering for sale, causing or permitting to be sold or possessing for the purpose of sale.

**PART 2
SALE OF FIREWORKS**

3. No person shall sell prohibited fireworks.
4. No person shall sell fireworks or sparklers to any person who is younger than 18 years of age.
5. No person shall sell fireworks unless;
 - a) the fireworks are included in the most recent list of authorized explosives as published from time to time by the Explosives Branch of Natural Resources Canada;
 - b) the fireworks are displayed for sale in a package, glass case or other suitable receptacle away from flammable goods;
 - c) the fireworks are displayed in a place that is not exposed to the rays of the sun or excess heat or adjacent to any exit door;
 - d) the fireworks are displayed for sale or stored in an area where signs are posted establishing it as a non-smoking area.
 - e) a manufacturer's brochure outlining the safe handling of fireworks is made available to every purchaser of fireworks.
 - f) every employee who sells fireworks has been instructed about the provisions of this by-law.
6. No person shall smoke, ignite any flammable material or have in his possession any lighted mach, lighter, pipe, cigar, cigarette, open flame or spark making device within six metres of any location where fireworks are displayed for sale or stored.

7. No person shall sell any fireworks from an outdoor stand, tent, trailer or motor vehicle without making obtaining a licence issued by the Municipality specifically permitting the sale of fireworks from the location authorized on such licence.
8. Every outdoor stand, tent, trailer or motor vehicle from which fireworks are sold shall have a "No Encroachment Zone" of at least six metres established around its perimeter by means of a barrier, such as snow fence, pylons, or other material satisfactory to the licensing officer to exclude the public from this area.
9. No person shall sell display fireworks or theatrical fireworks without obtaining a licence issued by the Municipality to permit such activity.

Sale of Family Fireworks

10. In addition to the provisions of Sections 3-9 inclusive, no person shall sell family fireworks unless:
 - a) the fireworks are displayed for sale in lots that do not exceed more than 25 kilograms each in gross weight;
 - b) the fireworks displayed in shop windows shall be mock samples only and shall not contain explosive composition, and
 - c) any unsold family fireworks must be returned to the manufacturer or distributor within seven days immediately following Victoria Day and Canada Day.
11. No person shall sell family fireworks or possess family fireworks for the purpose of sale except on Victoria Day, Canada Day and each of the seven days immediately preceding Victoria Day and Canada Day.

Sale of Fireworks from Mobile Sales Premises

12. In addition to Sections 3-11 inclusive, no person shall sell fireworks from a mobile sales premise except in accordance with the following regulations;
- a) The weight of fireworks stored at the mobile sales premise cannot exceed 100 kilograms (220 pounds) unless the vendor is licensed by Natural Resources Canada Explosives Division.
 - b) Not less than two (2) signs must be posted in prominent locations on the outside of the mobile sales premise indicating that persons may not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within six (6) metres of the mobile sales premise.
 - c) A mobile sales premise may not be located within twenty (20) metres of any road or occupied parking space and may not be located within forty (40) metres of any occupied building, or any dwelling or gas station.
 - d) The public shall not be permitted to enter any mobile sales premise for the purpose of purchasing fireworks unless there are at least two operational doors providing means of access to and egress from the mobile sales premise.
 - e) More than fifteen (15) customers are not permitted in a mobile sales premise at the same time.
 - f) Any portable power supply to the mobile sales trailer must be located not less than twelve (12) metres from the mobile sales premise.
 - g) With the exception of its entrance and exit, every mobile sales premise shall have a "No Encroachment Zone" of at least six (6) metres established around its perimeter by means of a barrier, such as snow fencing or pylons or other material satisfactory to the Licensing Officer to exclude the public from this area; and

- h) Every vendor of fireworks from a mobile sales premise shall keep their licence posted in a conspicuous place on the mobile sales premise, at all times during the currency of the licence.
 - i) Every licence shall have endorsement for the location of a mobile sales premise and such endorsement shall be for one location only and such licence shall be valid only for the location endorsed thereon.
13. Every permit applicant shall during the regular operating hours of the mobile sales premise and at all times when fireworks are provided therein make available for inspection by the Licensing Officer, a Provincial Offences Officer, or a By-law Enforcement Officer the original of any document or record referred to in this By-law.
14. Every permit applicant and every person discharging fireworks shall, at all times during the set-up, discharge and dismantling of the fireworks, permit the entry by and the inspection of the site where the fireworks will be discharged by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer or a Peace Officer.
15. No person may obstruct or hinder the entry or the inspection of a mobile sales premise by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer or a Peace Officer.

Licence Application to Sell Fireworks

16. Every licence issued pursuant to this by-law shall expire on December 31st in the year the licence is issued.
17. Every applicant for a licence to sell fireworks from a mobile sales premise or to sell display fireworks or theatrical fireworks shall complete the application attached as Schedule B to this by-law and pay the fee established in Schedule A to this by-law.

18. Every person applying for a licence shall file with the Licensing Officer, documentation satisfactory to the Licensing Officer demonstrating the applicant's right to possess or occupy the premises and if any applicant is not the registered owner of the property upon which the mobile sales premise is to be located, such person shall file with the Licensing Officer a copy of the lease, if any, and a copy of any other document constituting or affecting the legal relationship relating to the said lands or premises between said applicant and the registered owner or owner in fee simple of the said real property.

19. The Licensing Officer shall:
 - a) Receive and process all applications for licenses to be issued under this By-law.
 - b) Co-ordinate the enforcement of this By-law.
 - c) Generally perform all the administrative functions conferred by this By-law.
 - d) Make or cause to be made a circulation respecting the application which shall include circulation of the licence application.
 - e) Make or cause to be made all investigations and inspections necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws.
 - f) Issue licences to persons who meet the requirements of this By-law and suspend licences pursuant to the provisions of this By-law.

20. The Licensing Officer may suspend a licence where there is reason to believe that a breach of this By-law has occurred. Such suspension shall take effect upon service of written notice thereof to the licensee and the licence shall remain suspended for no more than fifteen days from the date of service of this notice. In order to continue this suspension beyond the fifteen day period or to revoke the licence, the Licensing Officer must prepare a report and receive Council's direction in this regard. Where any licence is suspended, it shall not be reinstated until the Licensing Officer is able to confirm that the conditions leading to the suspension have been remedied.

**PART 3
DISCHARGE OF FIREWORKS**

21. No person shall possess or discharge any firecrackers or other prohibited fireworks.
22. In circumstances where a permit is obtained for the discharge of fireworks, no applicant shall discharge fireworks at a date, time, location or site other than that specified in the permit and all conditions of such permit shall be observed.
23. No person shall 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 from risk of 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.
24. No person shall discharge fireworks into, in or on any highway, street, lane, square, public park or other public place, without previously obtaining a permit for such purpose.

Discharge of Family Fireworks

25. No person shall discharge family fireworks except:
 - a) On Victoria Day and the two days immediately preceding, or,
 - b) Between June 29th and July 4th inclusive.
26. No parent or guardian of any person under the age of eighteen years shall allow or permit that person to set off family fireworks, except under the direct supervision and control of the natural person eighteen years of age or older, who shall, at all times, remain physically present in the immediate area where the fireworks are being set off.
27. No person shall set off or hold a display of family fireworks on any land that is not owned by him or her, unless written permission for the setting off or the holding of a display of family fireworks on a date to be clearly specified in the written permission, has been obtained from the owner, lessee or person in charge of the land.

28. Every person who sets off family fireworks shall:
- a) Provide and maintain fully operational fire extinguishing equipment ready for immediate use, and present at all times and for a reasonable period thereafter, at the location or site of the setting off of family fireworks, and,
 - b) Permit the inspection of any site where the family fireworks may be stored, set off or displayed, and the family fireworks themselves together, together with all associated equipment, by anyone authorized to enforce this By-law, forthwith upon demand.
29. No person shall set off family fireworks into, inside of, or on any building, accessory building, structure, or motor vehicle.

Fireworks Discharge Permit

30. No person shall discharge display fireworks or theatrical fireworks without a permit issued by the Licensing Officer for that purpose.
31. Every permit issued shall be for a single event.
32. The fees for permits are established in Schedule A to this by-law.
33. No permit shall be issued to any person under eighteen years of age.
34. Every permit application shall include:
- a) A description of the type and kind of fireworks which may be discharged, the discharge techniques to be used, the manner and means of restraining unauthorized persons from attending too near the discharge location, the manner in which unused fireworks are to be disposed of and the number of persons authorized to handle and discharge the fireworks;
 - b) A description of the discharge site to be used for the setting off of the fireworks sufficient to identify and locate the site upon the property where the discharge is proposed;

- c) Proof of authorization of the owner of the land that fireworks may be discharged at such location;
 - d) The name of the applicant and the name of the sponsoring organization, if applicable, and
 - e) The date and time of the proposed discharge of fireworks and an alternate date and time in the event of inclement weather.
35. Every application for a permit for display fireworks and theatrical fireworks shall include:
- a) Proof of comprehensive general liability insurance in an amount no less than five million dollars (\$5,000,000.00), naming The Municipality 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 Licence;
 - c) Such further and other information as the Licensing Officer may reasonably require, and
 - d) An Indemnification/Liability Agreement signed by the applicant or by an individual having authority to bind the applicant.
36. Every person to whom a permit is issued shall:
- a) Provide and maintain fully operational fire extinguishing equipment for immediate use, and present at all times and for a reasonable period thereafter, at the location or site of the discharge 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 Natural Resources Canada, or any successor publication, applicable to the discharge of fireworks authorized in the permit;

- c) Produce the permit on demand by any person authorized to enforce this By-law, and
 - d) Permit the inspection of the fireworks and any site where the fireworks may be stored or discharged together with all associated equipment.
37. 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 Supervisory, 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 within 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.

PART 4

OFFENCE, PENALTY AND ENFORCEMENT

38. Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction pursuant to the provisions of the Provincial Offences Act (as amended), is liable to the maximum fine applicable pursuant to said Act.

39. 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.

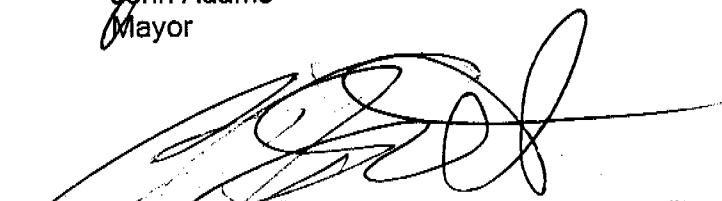
**PART 5
MISCELLANEOUS**

40. Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-law shall continue in full force and effect.
41. All Schedules referred to in this By-law are deemed to be part of the By-law.
42. Wherever notice or materials are required to be served upon or provided to any person pursuant to this By-law, such provision shall be deemed effective upon mailing of such materials by registered mail to the last address of that person as indicated upon licence or other material filed with the Municipality or to the last assessed business address for the person indicated upon the Assessment rolls.
43. This By-law shall come into force and effect upon third reading hereof.
44. The short title of this By-law shall be the "Fireworks By-law".
45. By-law 2278 is repealed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS
16th DAY OF MAY, 2005.**



John Adams
Mayor



Brian R. Sweet
Municipal Clerk

**SCHEDULE "A" TO BY-LAW 600-05
LICENCE AND PERMIT FEES**

Mobile Sales Premise Licence	\$100.00
Display/Theatrical Fireworks Permit	\$100.00
Family Fireworks Permit	\$25.00