

# THE CORPORATION OF THE TOWN OF AJAX

## BY-LAW NUMBER 35-2022

### A By-law to regulate the Sale and Discharging of Fireworks

WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25., provides that a municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks; and

WHEREAS a by-law pursuant to the Municipal Act, 2001, S.O. 2001, c. 25., may prohibit the sale and setting off of fireworks 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 the Council of the Corporation of the Town of Ajax deems it necessary to prohibit and regulate the sale of fireworks and the discharging of fireworks within the Town.

NOW THEREFORE, the Council of The Corporation of the Town of Ajax HEREBY ENACTS as follows:

#### 1. SHORT TITLE

1.1 This By-law may be cited as the Fireworks By-law.

#### 2. DEFINITIONS

2.1 In this By-law:

- a) "Act" means the Explosives Act, R.S.C., 1985, c E-17, as amended;
- b) "Applicant" means a person applying for a permit under this By-law;
- c) "consumer fireworks" means recreational fireworks (Canadian class 7.2.1 / F.1) such as small fountains, volcanoes, pinwheels, cakes, preloaded articles, sparklers and Roman candles. These items are classified as "low hazard";
- d) "Council" means the Council of The Corporation of the Town of Ajax;
- e) "designated location" means an area or site approved by the Town, used for the purpose of selling Consumer Fireworks;
- f) "display fireworks" means High-hazard recreational fireworks (Canadian class 7.2.2), such as aerial shell, mines and larger Roman candles, designed for use at public gatherings;
- g) "Fire Chief" means the person appointed by Council to act as Fire Chief for the Town as defined in the Fire Protection and Prevention Act (Ontario);
- h) "firecracker" means a small cylinder filled with explosive fireworks composition and designed to produce a sound effect. They range in size from a baby's finger (ladyfinger) to a man's thumb(M-80);
- i) "fireworks" means a devices that explode or burn to produce visual or sound;
- j) "Fireworks Portable Display Unit" means a stand, container, cart, seat, display rack, trailer or other moveable display unit used for the purposes of sale by retail of Consumer Fireworks, but does not include a motor vehicle;
- k) "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 Display Fireworks;
- l) "Inspector" means a duly appointed Fire Prevention Inspector;
- m) "motor vehicle" includes an automobile, truck, motorcycle and any other vehicle propelled or driven otherwise than by muscular power but does not include a motorized snow vehicle, motor-assisted vehicle or trailer;

- n) "Officer" means a duly appointed Municipal Law Enforcement Officer;
- o) "owner" means the owner of the Fireworks Portable Display Unit;
- p) "permit" means a permit issued under the provisions of this By-law;
- q) "person" includes a corporation and its directors and officers, and their heirs, executors, assignees and administrators or other legal representatives of an individual and their respective successors and assignees;
- r) "pyrotechnics special effect firework" means a high hazard firework that is classed under the Act, that is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels;
- s) "premises" includes lands and any fences, buildings, sheds or similar structures situated thereon;
- t) "prohibited fireworks" includes, any fireworks not included on the most recent list of authorized fireworks published by the Explosives Regulatory Division of Natural Resources Canada;
- u) "Public Fireworks Display" means an exhibition of Consumer or Display Fireworks in an open air assembly, occupancy to which the public is invited or admitted, with or without a fee being charged;
- v) "sale or sell" includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale;
- w) "separation barrier" means either a natural or man-made blockade which provides adequate division between Designated Locations;
- x) "Town" means The Corporation of the Town of Ajax.

### **3. GENERAL PROHIBITIONS**

- 3.1 No Person shall sell or offer for sale any consumer fireworks except on the Statutory or Cultural Holidays known as the Lunar New Year, Eid al-Fitr, Victoria Day, Canada Day, and Diwali the seven (7) days immediately preceding each of them, within the corporate limits of the Town.
- 3.2 No person shall set off any consumer fireworks on any public street or roadway within the corporate limits of the Town, at any time.
- 3.3 No Person shall set off consumer fireworks on any land of which they are not the registered owner, without obtaining the prior written permission of the registered owner to do so.
- 3.4 No person shall set off any consumer fireworks within the Town after 11:00pm or before 11am on any day.
- 3.5 No person shall set off any consumer fireworks within the corporate limits of the Town except on the Statutory or Cultural Holidays known as the Lunar New Year, Eid al-Fitr, Victoria Day, Canada Day, and Diwali the one day immediately preceding and following each of those days.
- 3.6 No person shall set off any display fireworks within the corporate limits of the Town unless:
  - a) Such person is currently a qualified Fireworks Supervisor;
  - b) Such person has received a permit to set off the display fireworks;
  - c) The display fireworks are set off only on the day or days specified on the permit; and
  - d) The display fireworks are set off only at the location specified on the permit.

- 3.7 No person shall sell or give to any person under the age of 18 years any type of fireworks.
- 3.8 No person shall use, sell, discharge, store or cause to be used, sold, discharged or store prohibited fireworks, including firecrackers within the corporate limits of the Town.

#### 4. PERMIT REQUIRED

- 4.1 No person being the owner of property shall permit the sale of consumer fireworks from a Fireworks Portable Display Unit on said property unless a permit has been issued to a person under this By-law.
- 4.2 No owner of a Fireworks Portable Display Unit shall operate or permit to be operated a Fireworks Portable Display Unit within the corporate limits of the Town, unless the owner has been issued a permit under this By-law.
- 4.3 No person shall sell or permit to be sold, any consumer fireworks from a Fireworks Portable Display Unit within the corporate limits of the Town, unless a permit has been issued under this By-law.

#### 5. APPLICATION FOR A PERMIT

- 5.1 An application for a permit shall be completed on the forms provided by the Town.
- 5.2 Each executed application for a permit shall be submitted to the Town and be accompanied by:
- a) The fee in the appropriate amount as set out in the Town's Fees and Charges By-law;
  - 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) Every application for a permit made under this By-law shall be accompanied by a description of the consumer fireworks to be sold; and
  - d) Where the Fireworks Portable Display Unit is a trailer, a current provincial permit for the trailer issued and in good standing from the Ministry of Transportation of Ontario shall be supplied;
  - e) A letter of authorization including the following information from the property owner where the Fireworks Portable Display Unit is to be located:
    - i. The name of the Fireworks Portable Display Unit owner;
    - ii. A plan of the private property showing the designated location on the property where the Fireworks Display Unit will be located; and
    - iii. The term for which the approval is granted by the property owner.
  - f) A certificate of insurance endorsed to provide that the Town will be given at least ten (10) days notice in writing prior to any cancellation, expiration or change in the amount of the policy and that the insured has policy coverage in respect to any one accident of a liability limit of at least \$5,000,000.00, naming the Town as an additional insured.
  - g) Notwithstanding subsection 5.2(a) herein, non-profit organizations and service groups who offer consumer fireworks for sale are exempt from the required permit fee, provided they comply with all provisions of this By-law.
- 5.3 The designated location shall only be approved where:
- a) It is not within eight (8) metres (26 feet) of any of the following:
    - (i) a fuel dispensing station,

- (ii) a retail propane-dispensing tanks and cylinders; or
- (iii) a facility for the dispensing of compressed natural gas.

- b) It is not within thirty (30) metres (98 feet) of any intersection of a Municipal or Regional road or;
- c) It is not within one hundred (100) metres (328 feet) of the entrance to any public park;
- d) It is not within one hundred (100) metres (328 feet) of any land occupied by a school;
- e) It is not within one hundred (100) meters (328 feet) from all above-ground storage tanks for flammable substances in bulk; and
- f) It is not within five hundred (500) metres (1,640 feet) of another approved Designated Location except where there is a Separation Barrier.

5.4 Every Person holding a permit under this By-law shall ensure that:

- a) No smoking signs are posted on the Fireworks Portable Display Unit;
- b) A 10BC rated fire extinguisher is available to the owner and each employee in attendance during the times sales are taking place;
- c) No consumer fireworks are sold to anyone under the age of eighteen (18) years;
- d) The Fireworks Portable Display Unit is set up and operated only at the Designated Location indicated on their Permit; and
- e) The storage and sales of consumer fireworks shall be in accordance with the Explosives Regulations made pursuant to the Act.

5.5 A Fireworks Portable Display Unit owner must make a separate application for a Permit for each of the designated locations at which the owner intends to use the Fireworks Portable Display Unit.

5.6 Each application for a permit shall be submitted to the Town and shall be accompanied by the appropriate fee as outlined in the Town's Fees and Charges By-law.

5.7 Where an application for a permit is refused, the fees paid pursuant to the Fees and Charges By-law shall be fully refunded.

5.8 No individual shall obtain a permit under this By-law unless the individual is eighteen (18) years of age or over.

## **6. PERMIT TERMS AND CONDITIONS**

6.1 Notwithstanding any other provisions of this By-law, Council may issue a permit subject to terms and conditions including special conditions as are necessary to give effect to this By-law and the attached Schedule and may include, but are not limited to, conditions restricting the hours of business, conditions relating to the locations where the business may operate or that the owner has employees in attendance at the business location during the hours of operation to ensure public safety and comfort.

## **7. INSPECTION**

7.1 On receipt of an application for a permit or as a condition of the continuation or renewal of a permit, an Officer or Inspector may, at any reasonable time make an inspection to ensure that all the provisions of this By-law have been satisfied.

7.2 No person shall obstruct the Officer or Inspector inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer or Inspector.

## **8. DISPLAY OF PERMIT**

- 8.1 A permit shall be displayed at all times when the sale of consumer fireworks is being conducted.
- 8.2 If requested, the permit holder shall produce the permit upon request by an Officer, an Inspector, or a peace officer.

## **9. PERMIT NON-TRANSFERABLE**

- 9.1 A permit issued under this By-law is not transferable.

## **10. CHANGE OF PERMIT**

- 10.1 No person to whom a permit has been issued under this By-law shall alter, erase modify or permit the alteration, erasure or modification of the permit or any part thereof, unless approved by the Town.

## **11. TERM OF PERMIT**

- 11.1 The permits issued pursuant to this By-law shall be valid, subject to the other provisions of the By-law, for a period of time not to exceed seven (7) days immediately preceding the Statutory or Cultural Holidays known as the Lunar New Year, Eid al-Fitr, Victoria Day, Canada Day, and Diwali.

## **12. RETURN OF PERMIT**

- 12.1 Where a permit has been revoked, the holder of the permit shall return the permit to the Town within twenty-four (24) hours of receipt of notification of revocation.
- 12.2 Where the permit is not returned within twenty-four (24) hours as set out in Section 12.1, the Officer or Inspector may enter upon the premises of the holder of the Permit for the purpose of receiving or taking the said permit and no person shall refuse to deliver or in any way obstruct or prevent the Officer or Inspector from obtaining the permit.

## **13. PYROTECHNICS**

- 13.1 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 for the type of pyrotechnic special effect firework materials being used shall:
- a) Have in their 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 subsection 13.1 a); or
    - iii. Perform or carry out any pyrotechnic display, special effects, event, exhibition or operation.
- 13.2 Every pyrotechnic display, special effects, event exhibition or operation carried out within the corporate limits of the Town shall be performed or carried out safely, in accordance with:
- a) Prevailing best practice 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.
- 13.3 For the purposes of this section, "Certificate" means a current Certificate issued by or under the authority of the Explosives Regulatory Division of Natural Resources Canada.

**14. PENALTY**

14.1 Every person who contravenes any provisions of this By-law is guilty of an offence and on conviction is liable to a fine, exclusive of costs, for each offence, pursuant to the Provincial Offences Act.

**15. VALIDITY**

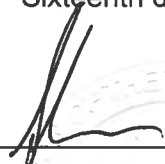
15.1 If a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

**16. REPEAL**

16.1 That By-law Number 40-2005 is hereby repealed.

READ a first and second time this  
Sixteenth day of May, 2022

READ a third time and passed this  
Sixteenth day of May, 2022

  
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Mayor

  
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Interim D-Clerk