

BY-LAW NUMBER 2011-012

OF

THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE

BEING A BY-LAW TO PROHIBIT AND REGULATE
THE SALE AND DISCHARGE OF FIREWORKS AND
TO REPEAL BY-LAW NO. 70-9

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes Council to enact By-laws respecting the health, safety and well being of persons;

AND WHEREAS Section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes Council to prohibit and regulate the sale of fireworks and the setting off of fireworks and to impose the requirement for a permit for the holding of fireworks displays;

AND WHEREAS the Council of the Corporation of the Township of Uxbridge now wishes to enact the measures herein to provide a mechanism for the regulating, permitting, safe sale and discharge of fireworks within the Township;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE HEREBY ENACTS A BY-LAW AS FOLLOWS:

DEFINITIONS

1. In this By-law, the following words have the meanings assigned thereto:

“**Building**” means any structure used or intended to be used for supporting or sheltering any use or occupancy;

“**Council**” means the Council of the Corporation of the Township of Uxbridge

“**Explosives Act**” means the *Explosives Act*, R.S.C. 1985, c.E-17, and the regulations therein;

“**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 flare or marine rockets;

“**Fireworks**” means Display Fireworks, Family Fireworks and Theatrical Fireworks;

“**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 regulations made thereunder and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillion, maroon, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

“**Family Fireworks**” means low-hazard Fireworks for recreation that are classified under Class 7, Division 2, Subdivision 1 of the *Explosives Act* and the Regulations made therein 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;

“**Prohibited Fireworks**” includes, but is not limited to, cigarette loads or pings, exploding matches, sparking 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 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 on the most recent list of prohibited Fireworks, as published from time to time under the *Explosives Act*;

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

“**Theatrical Fireworks**” means an authorized explosive of a class set out in Section 6 of the *Explosives Act*, 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;

“**Licensing Officer**” means a person appointed by the Township to issue permits;

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

“**Mobile Sales Premise**” means a mobile or portable premise from which Fireworks are sold and includes a trailer, roadside stand and a motor vehicle;

“**Owner**” means the registered owner of the land as shown on the most recent tax assessment roll and includes the authorized agent of the owner, a lessee or any person authorized by the owner to be in charge of the lands;

“**Permanent Fireworks Premise**” means a premise located within a building or part thereof in which the principal year round business is the sale of Fireworks;

“**Permit**” means an authorization under the By-law to sell Fireworks from a business premises or a Mobile Sales Premise or to discharge fireworks;

“**Person**” includes a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession;

“**Temporary Fireworks Premise**” means a premise within a building or part thereof where a retailer only sells Family Fireworks on Victoria Day, on Canada Day or the 7-day period before Victoria Day and Canada Day but whose principal business is not the sale of Fireworks;

“**Temporary Lease Fireworks Premise**” means a premise where a retailer leases a Building or part thereof on a temporary basis solely for the purpose of selling Family Fireworks on Victoria Day, on Canada Day or the 7-day period before Canada Day and Victoria Day;

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

“**Sell**” includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale’

“**Township**” means The Corporation of the Township of Uxbridge;

PROHIBITIONS

- 2.1 No person shall discharge Family Fireworks except on the day preceding Victoria Day, on Victoria Day, on the day preceding Canada Day and on Canada Day or pursuant to a Permit.
- 2.2 No person shall possess or discharge Fireworks except in accordance with the provisions of this By-law.
- 2.3 No person shall possess or discharge any Firecrackers or other Prohibited Fireworks.
- 2.4 No person shall sell any Firecrackers or Prohibited Fireworks.
- 2.5 No person shall sell any Fireworks except in accordance with the provisions of the By-law.
- 2.6 No person may discharge or possess for the purpose of discharge any Display Fireworks or Theatrical Fireworks except pursuant to a Permit.
- 2.7 In circumstances where a Permit is obtained for the discharge of Fireworks, no permit 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.
- 2.8 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.
- 2.9 No person shall discharge Fireworks into, in or on any highway, street, lane, square, school yard, public park or other public place, without previously obtaining a Permit for such purpose.
- 2.10 No person shall store Fireworks unless such storage is in compliance with the *Explosives Act*, R.S.C. 1985, c.E-17, and the regulations thereto.

REGULATIONS AFFECTING THE DISCHARGE OF FAMILY FIREWORKS

- 3.1 No parent or guardian of any person under the age of eighteen years shall allow or permit that person to discharge Family Fireworks, except under the direct supervision and control of a person eighteen years of age or older, who shall, at all times, remain physically present in the immediate area where the Family Fireworks are being discharged.
- 3.2 No person shall discharge or hold a display of Family Fireworks on any land that is not owned by him or her, unless written permission for the discharging 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.

- 3.3 Every person who discharges Family Fireworks shall:
- a) provide and maintain fully operational fire extinguishing equipment ready for immediate use;
 - b) ensure that such fire extinguishing equipment is present at all times and for a reasonable period of time thereafter, at the location or site where the discharge of Family Fireworks is to take place;
 - c) possess knowledge of the operating procedures of such fire extinguishing equipment and be capable of employing such fire extinguishing equipment;
 - d) permit the inspection of any location or site where the Family Fireworks may be stored, discharged or displayed, and of the Family Fireworks themselves, together with all associated equipment, by anyone authorized to enforce this By-law, forthwith upon demand;
 - e) ensure that all fireworks are discarded in accordance with the manufacturers instructions;
 - f) comply with minimum distance requirements as outlined on the fireworks.
- 3.4 No person shall discharge Family Fireworks into, inside of, or on a building, accessory building, structure, or motor vehicle.

PERMITS FOR THE DISCHARGE OF FAMILY FIREWORKS (7.2.1), DISPLAY FIREWORKS (7.2.2) OR THEATRICAL FIREWORKS (7.2.5)

- 4.1 Every application for a permit shall be made to the Uxbridge Fire Department.
- 4.2 The fees for permits are set out in the Township of Uxbridge By-Law to establish and requiring the payment of fees for information, services, activities and use of Township property.
- 4.3 No permit shall be issued to any person under eighteen years of age.
- 4.4 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 discharging of the Fireworks sufficient to identify and locate the site upon the property where the discharge is proposed;
 - c) proof from the owner of the land that authorization has been granted to use those lands for the discharge of Fireworks;
 - d) the name of the applicant and the name of the sponsoring organization, if applicable;
 - e) the date and time of the proposed discharge of Fireworks and an alternate date and time in the event of inclement weather;

- 4.5 Every application for a Permit for Family Fireworks, Display Fireworks or Theatrical Fireworks shall include:
- a) proof of commercial general liability insurance in an amount not less than Two Million Dollars (\$2,000,000.), naming The Township 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 Permit;
 - c) an Indemnification and Hold Harmless Undertaking in favour of the Township and signed by the applicant or by an individual having the authority to bind the applicant;
 - d) such further and other information as the Uxbridge Fire Department may require.
- 4.6 Every person to whom a Permit is issued shall:
- a) provide and maintain fully operational fire extinguishing equipment ready for immediate use, and shall be present at all times and for a reasonable period thereafter, at the location or site of the discharge of Fireworks;
 - b) possess knowledge of the operating procedures of such fire extinguishing equipment and be capable of employing such fire extinguishing equipment;
 - c) 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;
 - d) produce the Permit on demand by any person authorized to enforce this By-law; and
 - e) permit the inspection of the Fireworks and any site where the Fireworks may be stored or discharged together with all associated equipment.
- 4.7 Every Permit issued shall include the following conditions
- a) that the Permit holder shall only discharge the Fireworks at the date(s), time(s), location and discharge site shown on the Permit;
 - b) that no person, except a Fireworks Supervisor, shall discharge any Display or Theatrical Fireworks;
 - c) that 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) that no person shall discharge 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) that no person shall discharge Display or Theatrical Fireworks within three hundred (300) metres of a hospital, nursing home,

home for the aged, church or school unless the owner of such premises has provided consent in writing.

- 4.8 The Chief Fire Official or designate of the Uxbridge Fire Department may, at his discretion, attach additional conditions to the Permit upon issuance of the permit.

REGULATIONS AFFECTING THE SALE OF ALL FIREWORKS

- 5.1 All vendors of Fireworks in the Township are required to conduct the sales of Fireworks within a Permanent Fireworks Premise, Temporary Fireworks Premise or Temporary Lease Fireworks Premise, and in accordance with this By-law and all applicable law.
- 5.2 Notwithstanding 5.1, a Mobile Sales Premises may be approved within the Township provided the vendor conforms to Section 7 of this By-law.
- 5.3 No person shall sell Fireworks unless:
- a) the Fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of Natural Resources Canada, or their successors;
 - b) the Fireworks are sold in accordance with the standards of Natural resources Canada;
 - c) the Fireworks are displayed for sale in a package, glass case or other suitable receptacle away from flammable goods; and
 - d) the Fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door.
- 5.4 All vendors of Fireworks in the Township must display and make available to purchasers of Fireworks, a manufacturer's brochure outlining the safe handling of Fireworks.
- 5.5 Within an area of six (6) metres in every direction from the area in which Fireworks are sold or stored for the purposes of sale shall be designated and posted as a "non-smoking" area and no person may smoke or ignite any flammable material, or have in his possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device in such area;
- 5.6 No person shall sell Fireworks to any person under the age of eighteen years;
- 5.7 No vendor of Fireworks may permit any employee to sell Fireworks without first instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations.
- 5.8 All vendors of Fireworks within the Township must hold a valid and appropriate license from the Explosives Branch of Natural Resources Canada, or its successors, if required.
- 5.9 All locations and buildings used for the sale of Fireworks must comply with the Township's Zoning By-law, as may be amended from time to time.

REGULATIONS AFFECTING THE SALE OF FAMILY FIREWORKS

- 6.1 In addition to the regulations affecting the sale of Fireworks, no person shall sell Family Fireworks unless;
- a) the Fireworks are displayed for sale in lots that do not exceed twenty five (25) kilograms each in gross weight;
 - b) the Fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door; and
 - c) the Fireworks displayed in any shop window are mock samples only and do not contain explosive composition.
- 6.2 No person shall sell Family Fireworks or possess Family Fireworks for the purpose of sale, except on Victoria Day, on Canada Day and on each of the seven (7) days immediately preceding Victoria Day and Canada Day
- 6.3 All unsold Fireworks that exceed twenty five (25) kilograms shall be returned to the manufacturer or distributor within seven (7) days immediately following Victoria Day and Canada Day; and
- 6.4 All remaining unsold Fireworks that do not exceed twenty five (25) kilograms in gross weight shall be deemed in compliance with subsection 6.3 provided such Fireworks are immediately stored in a cool, dry place removed from flammable materials, and fuel fired appliances and are not accessible to the public.
- 6.5 The weight of Family Fireworks stored on site cannot exceed 1,000 kilograms in gross weight unless the vendor holds a valid and appropriate license to do so from the Explosives Branch of Natural Resources Canada, or its successors.

REGULATIONS AFFECTING MOBILE SALES OF FIREWORKS

- 7.1 In addition to the regulations affecting the sale of Fireworks, no person shall sell Fireworks from a Mobile Sales Premise except in accordance with the following regulations:
- a) that no fewer than two (2) signs are posted in prominent locations on the outside of the Mobile Sales Premise indicating that persons shall 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;
 - b) that the Mobile Sales Premise is not be located within twenty (20) metres of any road or occupied parking space and is not be located within forty (40) metres of any occupied building, or any dwelling or gas station and as otherwise regulated by the Explosives Branch of Natural Resources Canada, or its successors;
 - c) that the public shall not be permitted to enter any Mobile Sales Premise for the purpose of purchasing Fireworks unless there are at least two (2) operational doors providing means of access to and egress from the Mobile Sales Premise;
 - d) that no more than fifteen (15) customers are permitted in a Mobile Sales Premise at the same time;

- e) that any portable power supply to the Mobile Sales Trailer is located not less than twelve (12) metres from the Mobile Sales Premises;
- f) that, with the exception of its entrance and exit, every Mobile Sales Premise has 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;
- g) that such barrier will exclude the public from this area;
- h) that every vendor of Fireworks from a Mobile Sales Premise provides and maintains fully operational fire extinguishing equipment, ready for immediate use, on site at all times; and
- i) possess knowledge of the operating procedures of such fire extinguishing equipment and be capable of employing such fire extinguishing equipment.

APPLICATION, RENEWAL AND REVOCATION OF PERMIT

- 8. The Licensing Officer shall:
 - a) co-ordinate the enforcement of this By-law;
 - b) perform all the administrative functions conferred upon him by this By-law;
 - c) make or cause to be made all investigations and inspections which he deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws.

OFFENCE, PENALTY AND ENFORCEMENT

- 9. Any person who contravenes the provisions of the By-law is guilty of an offence and, upon conviction is liable to a fine as set out in the Provincial Offences Act, as may be amended from time to time.
- 10. 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 and may result in the revocation of a permit issued hereunder.
- 11. Every person shall comply with the provisions of this By-law whether or not that person is licensed under this By-law.
- 12. Every vendor shall during the regular operating hours of the premises or Mobile Sales Premise and at all times when Fireworks are provided therein, make available for inspection by the Licensing Officer, a Peace Officer, a Provincial Offences Officer, or a Municipal By-law Enforcement Officer the original of any document or record referred to in this By-law.
- 13. 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 to a Municipal Law Enforcement Officer, a Provincial Offences Officer, a Licensing Officer or a Peace Officer.

14. No person shall obstruct or hinder the entry of the inspection of a premise or Mobile Sales Premise by a Municipal Law Enforcement Officer, a Provincial Offences Officer, a Licensing Officer or a Peace Officer for the purposes of inspecting or for the enforcement of this By-law.

ADMINISTRATION

15. This By-law shall be enforced by a Municipal Law Enforcement Officer, Licensing Officer employed by the Township, Chief Fire Official or their designate or by a Peace Officer or Provincial Offences Officer.

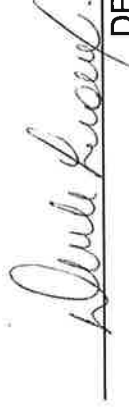
MISCELLANEOUS

16. The provisions of this By-law shall apply to all lands and premises within the Township.
17. 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.
18. 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 Permit or other material filed with the Township or to the Owner as shown on the most recent tax assessment roll.
19. This By-law shall come into force and effect upon third reading hereof.
20. The short title of the By-law shall be the "Fireworks By-law"
21. By-law No. 70-9 is repealed in its entirety.

READ a FIRST, SECOND and THIRD time and finally passed this 24th day of January, 2011.



GERRI LYNN O'CONNOR
MAYOR



DEBBIE LEROUX
CLERK