

## **CITY OF NIAGARA FALLS**

### **By-law No. 2017- 101**

A by-law to regulate the sale and setting off of fireworks and pyrotechnic special effects within the City of Niagara Falls.

**WHEREAS** Section 121 of the *Municipal Act*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws to prohibit and regulate the sale of fireworks and the setting off of fireworks, including requirements that a permit be obtained from the municipality for the sale or setting off of such fireworks, and imposing conditions on such permits;

**AND WHEREAS** Section 120 of the *Municipal Act*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws to prohibit and regulate the storage, keeping and transportation of, explosives and other dangerous materials, including requirements that a permit be obtained from the municipality for the storage of explosives and imposing conditions on such permits;

**AND WHEREAS** Section 7.1 of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, provides that the council of a municipality may pass by-laws regulating fire prevention, including the spreading of fires;

**AND WHEREAS** the Council of the City of Niagara Falls deems it expedient and necessary for the safety and well-being of the community to prohibit and regulate the sale and use of fireworks and pyrotechnic special effects within the City of Niagara Falls;

**THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:**

#### **Definitions**

1. In this by-law:
  - 1.1 “Act” means the *Explosives Act*, R.S.C., 1985, c. E-17, and the Regulations enacted thereunder, as amended from time to time, or any Act and Regulations enacted in substitution therefor;
  - 1.2 “City” or “City of Niagara Falls” means the municipal Corporation of the City of Niagara Falls or the geographic area of the City of Niagara Falls as the context requires;
  - 1.3 “Consumer Firework” means an outdoor, low hazard, recreational firework that is classed as an F.1 Consumer 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 25 one-hundredths of a grain of explosive used per cap;

- 1.4 “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;
- 1.5 “Display Firework” means an outdoor, high hazard, recreational firework that is classed as an F.2 Display Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, but does not include firecrackers;
- 1.6 “Display Supervisor” means a person who is qualified under the Act to supervise the Discharge of Display Fireworks;
- 1.7 “Fire Ban” means a prohibition on all burning, including the Discharge of fireworks, issued by the Fire Department of The Corporation of the City of Niagara Falls;
- 1.8 “Fire Chief” means a Fire Chief appointed under Subsection 6(1) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, for The Corporation of the City of Niagara Falls, or designate;
- 1.9 “Firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers, but does not include paper caps containing not more than 25 one-hundredths of a grain of explosive on average per cap, or devices for use with such caps, safety flares, marine rockets, and other distress signals;
- 1.10 “Fireworks” means Display Fireworks, Pyrotechnic Special Effects Fireworks, and Consumer Fireworks;
- 1.11 “Fireworks Display” means an exhibition of fireworks in an outdoor assembly or open air occupancy to which the public is invited, attends, may attend, or is admitted with or without a fee being charged and includes private functions such as weddings, or other celebrations;
- 1.12 “Flying Lantern” means a small hot air balloon or similar device made of treated paper or any other material, with an opening at the bottom, which is propelled by an open flame generated by a small candle or fuel cell, allowing the balloon or similar device to rise and float in the air;
- 1.13 “FPPA” means the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, and the regulations enacted thereunder, as amended from time to time, or any Act and Regulations enacted in substitution therefor;
- 1.14 “Permit” means a Consumer Fireworks Sales Permit and/or a Public Fireworks Display Permit issued by the Fire Chief of the Niagara Falls Fire Department;

- 1.15 "Prohibited Firework" includes, but is not limited to, cigarette loads or plugs, 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 flashcrackers, throw down torpedoes and cracker balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and bottle rockets, fake firecrackers, champagne party poppers, snap caps, sprite bombs, 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;
- 1.16 "Pyrotechnician" means a person who is certified under the Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of Pyrotechnic Special Effect Fireworks under the Act;
- 1.17 "Pyrotechnic Special Effect Firework" means a high hazard firework that is classed as an F.3 Special Effect Pyrotechnics under the Act and 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;
- 1.18 "Sell" includes offer for sale, cause or permit to be sold and to possess for the purpose of sale, and the words "selling" and "sold" have a similar meaning; and
- 1.19 "Tent" means a portable shelter/structure made of cloth or other pliable material, supported by one or more poles which can be stretched tight by cords or loops, attached to pegs, driven into the ground or other measures sufficient to secure them.

### **Delegation of Authority**

2. The Municipal Council of the City of Niagara Falls hereby delegates the authority to the Fire Chief to issue and revoke a Fireworks Permit as set out herein.

### **Sale of Prohibited Fireworks and Firecrackers**

3. The following are the regulations governing the sale of Prohibited Fireworks and Firecrackers:
- 3.1 No person shall Sell Firecrackers.
- 3.2 No person shall Sell Prohibited Fireworks.

### **Discharge of Prohibited Fireworks and Firecrackers**

4. The following are the regulations governing the Discharge of Prohibited Fireworks and Firecrackers:

- 4.1 No person shall Discharge Firecrackers.
- 4.2 No person shall Discharge Prohibited Fireworks.
- 4.3 No person shall Discharge a Flying Lantern.

### **Sale of Consumer Fireworks**

- 5. The following are the regulations governing the sale of Consumer Fireworks:
  - 5.1 No person shall Sell Consumer Fireworks unless a Consumer Fireworks Sales Permit has been obtained from the Fire Chief in accordance with this by-law.
  - 5.2 A person applying for a Consumer Fireworks Sales Permit shall pay the prescribed application fee pursuant to the Schedule of Fees By-law of the City.
  - 5.3 Persons wishing to Sell Consumer Fireworks, at a location or on property that is not owned by the seller, shall obtain written consent from the property owner prior to the issuance of a Consumer Fireworks Sales Permit. Written consent shall be submitted to the Fire Chief with the Consumer Fireworks Sales Permit application.
  - 5.4 No person shall Sell Consumer Fireworks except during the annual period commencing on May 1st and ending on July 6th, or on such other dates as authorized by the Fire Chief.
  - 5.5 A Consumer Fireworks Sales Permit shall be valid only for the permitted dates, specified in Section 5.4, for the calendar year.
  - 5.6 A Consumer Fireworks Sales Permit is valid only for the sale location specified in that Permit.
  - 5.7 No person shall Sell Consumer Fireworks from a motor vehicle, uncovered trailer, or residential dwelling.
  - 5.8 No person shall Sell Consumer Fireworks to persons under the age of 18.
  - 5.9 A person shall only Sell Fireworks that are included on the most recent List of Authorized Explosives as published by the Explosives Branch of Natural Resources Canada or its successor.
  - 5.10 No person shall transport Consumer Fireworks except as permitted under the Act.
  - 5.11 No person shall exhibit or display Consumer Fireworks unless:

- 5.11.1 the Fireworks are separated into individual lots that do not exceed 25 kilograms in gross weight; and
- 5.11.2 such separation between lots is sufficient to prevent fire from spreading rapidly from one lot to the next by a fire break which may consist of:
  - 5.11.2(1) maintaining a minimum aisle width of 1.2 metres between lots;
  - 5.11.2(2) 6 mm plywood partition that extends 15 cm above the height of the lot or display shelf above; or
  - 5.11.2(3) any other method approved by the Fire Chief.
- 5.12 No person shall store Consumer Fireworks in areas that are not designated and approved.
- 5.13 No person shall display Consumer Fireworks that are not in consumer packs unless:
  - 5.13.1 the Fireworks are inaccessible to the public; and
  - 5.13.2 the Fireworks are displayed in a glass or plexiglass case, or other approved means.
- 5.14 No person, other than the seller, shall handle Fireworks that are not in consumer packs, until after the time of purchase.
- 5.15 No person shall exhibit or display Consumer Fireworks that are exposed to direct sunlight, open flame, excess heat, or within close proximity of accelerants or other sources of ignition.
- 5.16 No person shall smoke within eight (8) metres of any Consumer Fireworks.
- 5.17 No person shall Sell, or offer for sale, Consumer Fireworks in a location where prominent no smoking signs are not on display.
- 5.18 No person shall Sell or display Consumer Fireworks inside a building, Tent, trailer, or other enclosed location, unless there are a minimum of two (2) unobstructed, clearly identified exits to ensure that occupants can quickly evacuate in the event of a fire or emergency.
- 5.19 Tents used to Sell or display Consumer Fireworks shall conform to CAN/ULC S-109, "Standard Method for Flame Tests of Flame Resistant Fabrics and Film"

- 5.20 Each location, where Consumer Fireworks are offered for sale, shall have at least two (2) portable fire extinguishers having a minimum rating of 3A:10BC.
- 5.21 No person shall Sell or offer for sale Consumer Fireworks unless established procedures are in place and approved as per the Ontario Fire Code. Procedures shall be submitted to the Fire Chief and include the following:
- 5.21.1 the location and identification of storage and handling areas;
  - 5.21.2 the methods to control a fire emergency safely and efficiently;
  - 5.21.3 the names, addresses, and telephone numbers of persons to be contacted in case of fire during non-operating hours; and
  - 5.21.4 any other information deemed necessary by the Fire Chief.
- 5.22 The seller of Consumer Fireworks must offer the buyer either a copy of the table that describes safety instructions for using Consumer Fireworks, which is found at the end of Part 16 in the Explosives Regulations, 2013, or a document that includes the same information. See Schedule "A", forming part of this by-law, attached hereto.
- 5.23 No person shall offer for sale, display for sale, or Sell Consumer Fireworks in a manner that contravenes the sale of Consumer Fireworks regulations.

### **Discharge of Consumer Fireworks**

6. The following are the regulations governing the Discharge of Consumer Fireworks:
- 6.1 No person shall Discharge Consumer Fireworks except on:
    - 6.1.1 Victoria Day;
    - 6.1.2 the day immediately preceding Victoria Day;
    - 6.1.3 three (3) days immediately following Victoria Day;
    - 6.1.4 Canada Day;
    - 6.1.5 the day immediately preceding Canada Day;
    - 6.1.6 three (3) days immediately following Canada Day; or
    - 6.1.7 as permitted by the Fire Chief.
  - 6.2 No person shall Discharge Consumer Fireworks on the days specified in Section 6(1), except between 6:00 pm and 11:00 pm.

- 6.3 No person under the age of eighteen (18) years shall Discharge any Consumer Fireworks except under the direct supervision and control of a competent person twenty-one (21) years of age or over.
- 6.4 No parent or guardian of any person under the age of eighteen (18) years shall give, trade, or otherwise offer Consumer Fireworks, nor permit the person to Discharge any Consumer Fireworks, except when such parent or guardian or some other competent person of twenty-one (21) years of age or over, is in direct supervision and control of the Discharge.
- 6.5 No person shall Discharge Consumer Fireworks on a property, or at a location, without the knowledge and permission of the property owner.
- 6.6 No person shall Discharge Consumer Fireworks as to endanger, injure, harass, frighten, or constitute a nuisance, to any person or animal.
- 6.7 No person shall Discharge Consumer Fireworks in such a manner as to create a danger or fire hazard to any property.
- 6.8 No person shall Discharge Consumer Fireworks from, onto, or over any building, doorway, or motor vehicle.
- 6.9 No person shall Discharge Consumer Fireworks from, onto, or over any highway, street, laneway, sidewalk, park, or other public place.
- 6.10 No person shall Discharge Consumer Fireworks over any aerodrome, airstrip, helipad, railway, fuel dispensing station, fuel transfer/pumping station, fuel storage facility, or navigable waterway.
- 6.11 No person shall Discharge Consumer Fireworks under, or over, any utility lines or wires (hydro, telephone, cable).
- 6.12 No person shall Discharge Consumer Fireworks at, or near, any flammable or combustible liquids or gases.
- 6.13 No person shall permit Discharged Consumer Fireworks, casings, or other debris, to enter onto neighbouring properties, highways, streets, laneways, sidewalks, parks, or other public places.
- 6.14 No person shall Discharge any Consumer Fireworks when the wind speed is in excess of twenty (20) kilometres per hour, as indicated by the Weather Network Niagara Falls.  
(<https://www.theweathernetwork.com/ca/weather/ontario/niagara-falls>).
- 6.15 No person shall Discharge Consumer Fireworks unless a suitable means of extinguishment is readily available.

- 6.16 Every person shall ensure that Discharged Consumer Fireworks, casings, or other debris, are completely extinguished so as not to create a fire hazard.
- 6.17 No person shall Discharge Consumer Fireworks during a Fire Ban authorized by the Fire Chief.
- 6.18 No person or group of persons shall hold a Fireworks Display of Consumer Fireworks in the City of Niagara Falls, without first having obtained a Public Fireworks Display Permit issued by the Fire Chief.

### **Storage of Fireworks**

7. The following are the regulations governing the storage of Fireworks:

- 7.1 Storage of Fireworks shall be in accordance with the Act.

### **Permits**

8. The following are the regulations governing Permits:

- 8.1 No person or group of persons shall hold a Fireworks display of Consumer Fireworks, Display Fireworks, or Discharge any Pyrotechnic Special Effect Firework, in the City of Niagara Falls, without first having obtained a Public Fireworks Display Permit issued by the Fire Chief
- 8.2 Every application for a Public Fireworks Display Permit shall be made to the Fire Chief a minimum of 30 days prior to the event when the proposed Discharge of Fireworks is to occur.
- 8.3 Every application for a Permit shall include:
  - 8.3.1 a description of the event, including:
    - 8.3.1(1) the date and time of the proposed Discharge of Fireworks;
    - 8.3.1(2) the type, kind and quantity of Fireworks that may be Discharged;
    - 8.3.1(3) the Discharge techniques to be used;
    - 8.3.1(4) the manner and means of prohibiting unauthorized persons access to the Discharge site;
    - 8.3.1(5) the manner in which unused Fireworks are to be disposed of; and



- 8.3.1(6) the number of persons authorized to handle and Discharge the Fireworks.
  - 8.3.2 a site plan providing a description of the site to be used for the discharging of the Fireworks, including height, range, fallout, duration of the display, and storage locations;
  - 8.3.3 a description of the fire emergency procedures;
  - 8.3.4 the name and address of the applicant and the sponsoring organization, if applicable;
  - 8.3.5 proof of certification of the applicant as a Display Supervisor, Pyrotechnician, or person approved by the Fire Chief;
  - 8.3.6 written consent of the owner of the property to the Discharge of Fireworks;
  - 8.3.7 a fee pursuant to the Schedule of Fees By-law of the City;
  - 8.3.8 proof of insurance and indemnification in accordance with the City's standard form of Certificate and sections 8.11 and 8.14 of this by-law; and
  - 8.3.9 such other information as required by the Fire Chief.
- 8.4 A Permit issued under this by-law, for an event featuring Fireworks, shall be subject to the following conditions:
- 8.4.1 the Permit is valid only for the location and on the date or dates set forth in the Permit;
  - 8.4.2 the Permit holder or person approved by the Fire Chief shall supervise the Fireworks;
  - 8.4.3 the Permit holder or person approved by the Fire Chief shall Discharge the Fireworks;
  - 8.4.4 every Permit holder shall provide and maintain fully operational fire extinguishing equipment appropriate for the nature and size of the Fireworks;
  - 8.4.5 fire extinguishing equipment shall be ready for immediate use; and
  - 8.4.6 the Permit holder shall comply, at all times, with the provisions of the Act, FPPA, and the Display Fireworks Manual published by Natural Resources Canada or any successor publication.
- 8.5 A Permit may not be approved or may be revoked for any the following:

- 8.5.1 the application is incomplete;
- 8.5.2 the applicant is not a Display Supervisor, Pyrotechnician, or person approved by the Fire Chief;
- 8.5.3 there are reasonable grounds to believe that the Discharge of Fireworks may constitute a fire or safety hazard or result in a nuisance to the public;
- 8.5.4 the Permit application contains false or misleading information,
- 8.5.5 the Discharge of Fireworks is scheduled during a Fire Ban authorized by the Fire Chief; and
- 8.5.6 there are reasonable grounds to believe that the Discharge of the Fireworks will result in a breach of this by-law, the FPPA or the Act.
- 8.6 No person shall Discharge Fireworks except in accordance with the conditions of the Permit, the Act, and this by-law.
- 8.7 The Permit holder shall adhere to all conditions as set out in the Permit, the Act, and this by-law.
- 8.8 The Permit holder shall ensure that all unused Fireworks and all debris are removed and disposed of in a safe and appropriate manner.
- 8.9 A copy of the Public Fireworks Display Permit shall be kept at the site of the display from the time of initial event set up to the time of event conclusion.
- 8.10 Every holder of a Public Fireworks Display Permit shall produce the Permit upon being so directed by the Fire Chief or designate.
- 8.11 The Permit shall require that the applicant shall at their expense obtain and keep in force during the term of the Permit, Commercial General Liability insurance satisfactory to the City and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for bodily injury, death, property damage and personal injury, including the loss of use thereof, and shall include but not be limited to:
  - 8.11.1 a limit of liability of not less than five (5) million dollars (\$5,000,000.00) per occurrence;
  - 8.11.2 "Claims Made" insurance policies will not be permitted;
  - 8.11.3 adding the Municipality as an additional insured with respect to the operations of the Named Insured;

- 8.11.4 the policy shall contain a provision for Cross Liability and Severability of Interest Clause, Premises and Operations Liability, Blanket Contractual Liability, Products/Completed Operations, Personal Injury, and Non-Owned Automobile Liability in respect of the Named Insured; and
- 8.11.5 non-owned automobile coverage with a limit of not less than \$2,000,000 and shall include contractual non-owned coverage.
- 8.12 Such insurance shall include coverage for conducting displays of Pyrotechnic Special Effects Fireworks or Display Fireworks. Such insurance policy shall contain an endorsement to provide the City with (30) days prior written notice of cancellation or of a material change that would diminish coverage.
- 8.13 The applicant shall forward a Certificate of Insurance on the City's Standard Certificate of Insurance Form (no substitutes or omissions will be accepted) evidencing such insurance coverage and shall be provided to the City of Niagara Falls prior to the issuance of a Permit.
- 8.14 The Permit shall provide that the applicant shall indemnify and save harmless the City of Niagara Falls from any and all claims, demands, causes of action, loss, costs or damages that the City of Niagara Falls may suffer, incur, or be liable for, resulting from the performance of the applicant as set out in the by-law, whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

### **Administration and Enforcement**

- 9.1 The Fire Chief shall be responsible for the administration of the provisions of this by-law.
- 9.2 The Fire Chief may issue and/or revoke a Fireworks Permit as set out herein.
- 9.3 Members of the Fire Department and the Municipal By-law division shall be responsible for the enforcement of this by-law.
- 9.4 Any member of the Fire Department or Municipal By-law division may enter onto property in the course of their duty at any time, without prior notice, for the purpose of carrying out an inspection to determine whether the provisions of this by-law have been complied with.
- 9.5 The Niagara Falls Fire Department is exempt from this by-law for the purposes of training with, or the testing of, Fireworks.

- 9.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, a member of the Fire Department or Municipal By-law Division who is performing a duty which is authorized under this by-law.
- 9.7 No person shall knowingly furnish false or misleading information to the City or the Fire Department with respect to this by-law.
- 9.8 Any person, firm, or corporation who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time, or any replacement legislation.
- 9.9 The owner of a property who contravenes this by-law may have the costs associated with the Fire Department response to the contravention, as determined by the Schedule of Fees By-law of the City, in effect at the time of the attendance by the Fire Department, added to the property taxes for the property regardless of whether the Fireworks were Discharged with the permission or knowledge of the property owner or by Permit, and same shall be collected in the same manner as taxes in accordance with Section 446 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.
- 9.10 Neither the Fire Department nor the City shall be responsible to notify the owner of a property, in advance, of its intention to charge for services or costs associated with the response to the Discharge of Fireworks.

### **Severability**

- 10.1 Each provision of this by-law is independent of all other provisions, and if any provision of this by-law be declared by a Court of competent jurisdiction to be invalid, or of no force and effect, or beyond the power of Council to enact, such provisions shall be deemed to be severable from this by-law, and it is the intention of Council that the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.

### **Repeal By-laws**

- 11.1 By-law Nos. 2003-92, 70-86, 73-104, 73-198, 81-65, 88-321, and 91-10 are hereby repealed.

### **Short Title**

- 12.1 This by-law may be cited as the "Fireworks By-law".

### **Effect**

- 13.1 This by-law shall come into force and effect on the day it is passed.

Passed this twenty-sixth day of September, 2017.

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BILL MATSON, ACTING CITY CLERK

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JAMES M. DIODATI, MAYOR

First Reading: September 26, 2017.  
Second Reading: September 26, 2017.  
Third Reading: September 26, 2017.

## **Schedule “A” to By-law No. 2017- 101**

### **Safety Instructions for Firing Consumer Fireworks**

- Persons under 18 years of age must have the direct supervision of a competent person 21 years of age or older when discharging Consumer Fireworks.
- Choose a wide, clear site away from overhead obstacles (for example, 30 m x 30 m for firing Roman Candles) and ensure spectators stand at the perimeter. Spectators must be at the safe distance specified on the Fireworks label.
- Do not fire in windy conditions.
- Read all instructions on the Fireworks. Plan the order of firing before you begin.
- Use a good firing base, such as pails or non-combustible boxes filled with earth or sand.
- Bury Fireworks half their length if they have no standing base, unless the labelling on the Fireworks directs otherwise. Set them at a 10 degree angle, pointing away from people.
- Never light Fireworks in your hand or hold lighted Fireworks in your hand, other than a sparkler.
- Light carefully. Always light the fuse at its tip.
- Keep water nearby. Dispose of used Fireworks (including debris) in a pail of water.
- Never try to relight Fireworks that did not go off. Never try to fix Fireworks that are defective. Wait at least 30 minutes before approaching such Fireworks.
- Keep Fireworks in a cool, dry, ventilated place and in a locked container away from children.

For further information and requirements, please refer to Natural Resources Canada website and the City of Niagara Falls Fireworks By-law.