

THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE

BY-LAW NUMBER 2019-077-FR

BEING A BY-LAW to regulate the sale and setting off of fireworks and the holding of fireworks displays and to repeal By-law 2016-094-FR (Fireworks By-law).

WHEREAS Section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may prohibit and regulate the sale and setting off of fireworks;

AND WHEREAS Section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may require that permits be obtained for fireworks displays, and may impose conditions for obtaining, continuing to hold and renewing such permits, including requiring the submission of plans.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE ENACTS AS FOLLOWS:

1. DEFINITIONS

- a) "Act" means the *Explosives Act, R.S.C. 1985, c.E-17* and the Regulations enacted there under, as amended from time to time, or any Act or Regulations enacted in substitution therefore;
- b) "Assistant to the Fire Marshall" means a person as outlined in Section 11(1) of the *Fire Protection and Prevention Act, 1997*
- c) "Council" means the Council of The Corporation of the Town of Whitchurch-Stouffville;
- d) "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 corresponding meaning;
- e) "Fire Chief" means the Chief or his/her designate of the Fire and Emergency Services Department of the Town of Whitchurch-Stouffville;
- f) "Fireworks" shall include the following devices:
 - i) "Display Fireworks", which are outdoors, high hazard recreational fireworks classed as subdivision 2 of Division 2 of Class 7 fireworks under the Act, and which include rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, but do not include Firecrackers,
 - ii) "Family Fireworks", which are devices recognized as class 7.21 fireworks under the Act,
 - iii) "Pyrotechnic Special Effects Fireworks", which are high hazard fireworks classed as subdivision 5 of Division 2 of Class 7 fireworks under the Act, and which are used to produce special pyrotechnic effects for indoor or outdoor performances, and which include black powder bombs, bullet effects, flash powder, air bursts and smoke composition,

- iv) "Firecrackers", which are pyrotechnic devices that explode when ignited and do not make any subsequent display or visible effect after exploding, and which include those devices commonly known as Chinese Firecrackers. For the purposes of this By-law, Christmas crackers, caps used in cap pistols, safety flares and marine rockets shall not be considered Firecrackers, and
- v) "Prohibited Fireworks", which include, but are not limited to, cigarette loads or plugs, 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, cracking balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and battle skyrockets, 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 by the Explosives Regulatory Division of Natural Resources Canada, or its successor;
- g) "FPPA" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 and the Regulations enacted hereunder, as amended from time to time, or any Act or Regulations enacted in substitution therefore;
- h) "Permit" means written permission to hold a Fireworks display issued by the Town pursuant to this By-law and signed by the Fire Chief or the Assistant to the Fire Marshall;
- i) "Person" includes a natural person or his legal representative (including, if such Person is a minor, his parent or guardian), a corporation, partnership or other form of business association, and a receiver or mortgagee in possession;
- j) "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;
- k) "Sale" includes all attempts or offers to sell or invitations to purchase, whether by expressed act or implication;
- l) "Sky Lanterns" means a small hot air balloon with an opening at the bottom where a small fire may be suspended, and which is not under anyone's control.
- m) "Town" means The Corporation of the Town of Whitchurch-Stouffville and or the geographic area within the Town of Whitchurch-Stouffville, as the context requires.

2. PROHIBITED FIREWORKS AND FIRECRACKERS

- a) No Person shall possess, offer for sale, cause or permit to be sold, or sell any Firecrackers, prohibited Fireworks or Sky Lanterns in the Town.
- b) No Person shall discharge any Firecrackers or other prohibited Fireworks in the Town.
- c) No person shall ignite Sky Lantern or release any ignited Sky Lantern.

3. GENERAL PROHIBITIONS

- a) No Person shall sell or offer for sale at retail in the Town any Fireworks of any kind or description whatsoever on any day during the year, except:
 - i) On Victoria Day and the seven days immediately preceding Victoria Day; and

- ii) On Canada Day and the seven days immediately preceding Canada Day;

provided that nothing in this Section shall prevent the sale of Fireworks on any day for the purpose of a Fireworks display to a Person who is the holder of a Display Fireworks Permit pursuant to Section 5 of this By-law, or the sale of Pyrotechnic Special Effects Fireworks to a Person who is the holder of a Pyrotechnic Special Effects Fireworks Permit pursuant to Section 7 of this By-law.

- b) No Person shall sell at retail or wholesale in the Town any Fireworks or Sky Lantern of any kind or description whatsoever to any Person under eighteen (18) years of age.
- c) No Person shall sell or offer for sale at retail Fireworks of any kind or description in the Town except in accordance with the following regulations:
 - i) Fireworks shall not be exhibited in any display window or adjacent to any required exit door, but imitations of such Fireworks may be displayed provided there are no explosives or chemicals contained therein; and
 - ii) A copy of this By-law shall be posted in a conspicuous place inside the store in which Fireworks are offered for sale so that it may be read by all customers.
- d) No Person shall set off Fireworks in or on any public highway, street, lane, square or other public place which members of the public use or may use at any time, without the prior written approval of the Fire Chief.
- e) No Person shall be in possession of Fireworks unless such Person is at least eighteen (18) years of age and is fully aware of the applicable legislative requirements at all levels of Government regarding the discharge of Fireworks.

4. FAMILY FIREWORKS

- a) No Person shall offer for sale, cause or permit to be sold, sell or possess Family Fireworks unless such Fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Regulatory Division of Natural Resources Canada, or its successor.
- b) No Person shall offer for sale, cause or permit to be sold, sell or possess Family Fireworks unless such Fireworks are displayed in lots that do not exceed 25 kilograms each in gross weight.
- c) No Person shall set off Family Fireworks except on Victoria Day or the two days immediately preceding or following Victoria Day, or on Canada Day or the two days immediately preceding or following Canada Day except with special permission granted in writing by the Fire Chief.
- d) No Person shall set off Family Fireworks in or on any public highway, street, lane, square or other public place which members of the public use or may use at any time, without prior written approval from the Fire Chief.
- e) Family Fireworks may be set off on land appurtenant to a private residence by the owner or occupant of such residence provided that:
 - i) The location is clear of any overhead obstacles such as trees and power lines;
 - ii) The location has a minimum size of thirty (30) by thirty (30) metres (or one hundred by one hundred feet); and
 - iii) The location is a minimum of 10 metres (or 32 feet, 10 inches) from the nearest building.

- f) No Person shall set off Family Fireworks into, inside of or on any building, structure or motor vehicle.
- g) Property damage or injury as a result of Family Fireworks shall be the responsibility of the Person setting off such Fireworks.
- h) The Person responsible for setting off Family Fireworks shall specify the location where such Fireworks are to be set off, the methods and means which may be used to set off the Fireworks, the manner and means of restraining unauthorized Persons from attending too near the location where the Fireworks are being set off, and the manner in which unused Fireworks are to be disposed of. The Person responsible shall designate the Persons authorized to handle and set off the Fireworks, all of whom shall be responsible and competent individuals at least eighteen years of age, in accordance with the requirements established by the Explosives Regulatory Division of Natural Resources Canada, or its successor.
- i) No Person under the age of eighteen years shall set off Family Fireworks except under the direct supervision and control of a 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.
- j) 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 a 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.
- k) No Person shall set off or hold a display of Family Fireworks on any land that is not owned or occupied by him or her, unless written permission for the setting off or the holding of a display of Family Fireworks on a date clearly specified in the written permission has been obtained from the owner or Person in charge of the land.
- l) The Person responsible for setting off the Family Fireworks shall provide and maintain fully operational fire extinguishing equipment ready for immediate use which shall be present at all times while Family Fireworks are being set off and for a reasonable period thereafter, at the location of the setting off or holding of a display of Family Fireworks.
- m) The Person responsible for the Family Fireworks shall permit the inspection of the Family Fireworks themselves, any equipment to be used in connection with same, and any site where the Family Fireworks are stored, set off or displayed, by anyone authorized to enforce this By-law forthwith upon demand.
- n) No Person shall set off or display Family Fireworks in a manner that creates or may create a nuisance, an unsafe condition, danger from fire, or risk of accident, injury or damage to or in respect of any Person, property or thing.
- o) The Person responsible for the Family Fireworks shall be responsible for any damage to property resulting from the Family Fireworks.

5. DISPLAY FIREWORKS

- a) No Person shall offer for sale, cause or permit to be sold, sell or possess Display Fireworks unless such Fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Regulatory Division of Natural Resources Canada, or its successor.
- b) No Person shall exhibit, display, offer for sale, cause or permit to be sold or sell Display Fireworks unless, prior to the sale, such Fireworks are kept and maintained in a magazine licensed by the Explosives Regulatory Division of

Natural Resources Canada, or its successor.

- c) No Person shall give, offer for sale, cause or permit to be sold or sell Display Fireworks to any Person unless that Person:
 - i) Is eighteen (18) years of age or older;
 - ii) Holds a valid Fireworks Supervisor's Card; and
 - iii) Holds a valid Display Fireworks Permit issued by the Town.
- d) No Person shall set off or hold a display of Display Fireworks in the Town without a Permit issued by the Town and signed by the Fire Chief or an Assistant to the Fire Marshal.
- e) Any Person eighteen (18) years of age or over who is duly authorized and approved under the Act as a Fireworks Supervisor by the Chief Inspector of Explosives may make application in writing to the Town's Fire Chief for a Permit to set off or hold a display of Display Fireworks.
- f) Display Fireworks Permits shall specify the location where such Fireworks are to be set off, the type and kind of Fireworks which may be set off, the methods and means which may be used to set off the Fireworks, the manner and means of restraining unauthorized Persons from attending too near the location where the Display Fireworks are being set off, the manner in which unused Fireworks are to be disposed of, and the number of Persons authorized to handle and set off the Fireworks, all of whom shall be responsible and competent individuals at least eighteen years of age.
- g) Every application for a Display Fireworks Permit shall include a description of the site to be used for the setting off of the Display Fireworks that is sufficient to identify and locate the site, and where more than one site is proposed; a separate application shall be made for each site. The submission of the site description is required a minimum of thirty (30) days prior to the date when the Display Fireworks are to be set off.
- h) A minimum of fifteen (15) days prior to the date when the display Fireworks are to be set off, the applicant shall submit to the Fire Chief the firing sequence for the Display Fireworks.
- i) If a Display Fireworks is to be held in or on any public highway, street, lane, square or other public place which members of the public use or may use at any time, the approval of an "Assistant to the Fire Marshall" must be obtained during the Permit process.
- j) Every Display Fireworks Permit shall specify the name of the applicant, the name of the sponsoring organization, if applicable, the date and time of the display, a sufficient description of the site upon which the setting off or display of Display Fireworks is to be held to enable it to be identified and located, the purpose of the display, and the name of the Person under whose supervision the display is to be held.
- k) No Person shall set off or hold a display of Display Fireworks at a date, time or site other than that specified in the Permit.
- l) No Person shall set off or hold a display of Display Fireworks without the written permission of the owner of the site upon which the setting off or display of Display Fireworks is to be held or an authorized representative thereof, or without the written permission of the owner of all neighbouring lands upon which debris may be reasonably expected to fall or an authorized representative thereof.

- m) Every application for a Display Fireworks Permit shall include proof of insurance and identification in accordance with Section 9 and 10 of this By-law;
- n) Every Person to whom a Display Fireworks Permit is issued shall permit the inspection of the Display Fireworks themselves, any equipment to be used in connection with same, and any site where the Display Fireworks are stored, set off or displayed by anyone authorized to enforce this By-law forthwith upon demand.
- o) No Person who is not the holder of a valid Fireworks Supervisor's Card shall set off any Display Fireworks.
- p) The Fireworks Supervisor who is named on the Permit application shall be personally present at the display and at all times during which the display is being set up, fired and cleaned up, and shall perform test firing as required by the Fire Chief.
- q) No Person shall set off Display Fireworks into, inside of or on any building, structure or motor vehicle.
- r) No Person shall set off display Fireworks within three hundred (300) metres of any place where explosives, gasoline or other highly inflammable substances are manufactured or stored in bulk.
- s) No Person shall set off Display Fireworks within one hundred and fifty (150) metres of a nursing home, public hospital or home for the aged.
- t) No Person shall set off Display Fireworks within one hundred and fifty (150) metres of a church or a school unless the consent in writing of the owner of such church or school, or of an authorized agent or representative of such owner, is first obtained.
- u) No Person shall set off or display, Display Fireworks in a manner that creates or may create a nuisance, an unsafe condition, danger from fire, or risk of accident, injury or damage to or in respect of any Person, property or thing.

6. CONDITIONS APPLYING TO DISPLAY FIREWORKS PERMITS

- a) The following conditions shall apply to the holding of a display of Display Fireworks under a Permit issued pursuant to this By-law:
 - i) the Permit is valid only for the display at the place and on the date or dates set forth in the Permit,
 - ii) the Permit holder shall supervise the display of Display Fireworks,
 - iii) the Permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use,
 - iv) the Permit holder shall comply at all times with the provisions of the Act, the FPPA and the Display Fireworks Manual published by Natural Resources Canada or any successor publication,
 - v) the Permit holder shall ensure that all debris and unused Fireworks are removed from the site, and
 - vi) the Permit holder shall observe such other conditions as are specified by the Fire Chief.
- b) No Permit holder shall discharge Display Fireworks except in accordance with the conditions of the Permit issued to him.

- c) Every holder of a Display Fireworks Permit shall produce his Permit upon being so directed by the Fire Chief.

7. PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- a) No Person shall discharge or hold a display of Pyrotechnic Special Effect Fireworks in the Town without a Permit issued by Town and signed by the Fire Chief or an Assistant to the Fire Marshal.
- b) Every application for a Permit pursuant to this Section 7 shall be made to the Fire Chief a minimum of thirty (30) days prior to the event where the proposed discharge of Pyrotechnic Special Effect Fireworks is to occur, and shall contain:
 - i) a description of the event, including,
 - (1) a site plan of the facility where the event is to take place, which shall depict the stage and the Pyrotechnic Special Effect Fireworks storage area,
 - (2) a list of all the Pyrotechnic Special Effect Fireworks to be employed,
 - (3) the location of all Pyrotechnic Special Effects Fireworks,
 - (4) the height, range of effect, fallout and duration of the display of Pyrotechnic Special Effects Fireworks
 - (5) the sequence of firing,
 - (6) the location of the audience and all exits, and
 - (7) the date and time of the proposed event;
 - ii) a description of the fire emergency procedure;
 - iii) the name and address of the applicant and the sponsoring business or organization, if applicable;
 - iv) proof of certification of the applicant as a Pyrotechnician;
 - v) proof of insurance and indemnification in accordance with Sections 9 and 10 of this By-law;
 - vi) the written permission of the owner of the site upon which the display is to be held or an authorized representative thereof;
 - vii) the purpose of the display; and
 - viii) such other information as is required by the Fire Chief.
- c) A Pyrotechnic Special Effects Fireworks Permit shall not be issued if:
 - i) the application therefore is incomplete,
 - ii) the applicant is not a Pyrotechnician, or
 - iii) there are reasonable grounds for believing that the holding of Pyrotechnic Special Effects Fireworks display will result in a breach of this By-law, the FPPA or the Act.

8. CONDITIONS APPLYING TO PYROTECHNIC SPECIAL EFFECTS FIREWORKS PERMITS

- a) The following conditions shall apply to the holding of a display of Pyrotechnic Special Effects Fireworks under a Permit issued pursuant to this By-law:
 - i) the Permit is valid only for the display at the place and on the date or dates set forth in the permit,
 - ii) the Permit holder shall discharge and supervise the display of Pyrotechnic Special Effects Fireworks,
 - iii) the Permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use,
 - iv) the Permit holder shall comply at all times with the requirements of the Act, the FPPA and the Pyrotechnic Special Effects Manual published by Natural Resources Canada or any successor publication,
 - v) the Permit holder shall ensure that all debris and unused Fireworks are removed from the site, and
 - vi) such other conditions as are specified by the Fire Chief.
- b) No Permit holder shall discharge Pyrotechnic Special Effects Fireworks except in accordance with the conditions of the Permit issued to him.
- c) Every holder of a Pyrotechnic Special Effects Fireworks Permit shall produce his Permit upon being so directed by the Fire Chief.

9. INSURANCE

Every applicant for a Pyrotechnic Special Effects Fireworks Permit or a Display Fireworks Permit shall provide and maintain Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, including loss of use thereof. Such insurance shall be in the name of the applicant, shall name The Corporation of the Town of Whitchurch-Stouffville and The Regional Municipality of York, where applicable, as additional named insureds. Such insurance shall include coverage for displays of Pyrotechnic Special Effects Fireworks or Display Fireworks. The policy in respect of such insurance shall contain a term obliging the insurer to provide the Town with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage. A Certificate of Insurance evidencing such insurance coverage shall be provided to the Town prior to the issuance of a Permit under this By-law.

10. INDEMNIFICATION

The applicant shall indemnify and save harmless the Town from any and all claims, demands, causes of action, losses, costs and damages that the Town may suffer, incur or be liable for as a result of any Fireworks display for which a Permit is required under this By-law.

11. OFFENCE AND PENALTY

Every person who contravenes any provision of this By-law is guilty of an offence, and upon conviction is liable to a fine or penalty pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33.

12. INTERPRETATION

- a) Schedule "A" and "B" hereto shall form part of this By-law.

- b) In this By-law, unless the context otherwise requires, words importing the singular number shall include the plural, words importing the masculine gender shall include the feminine, and words importing the feminine gender shall include the masculine.

13. SEVERABILITY

Every provision of this By-law is declared to be severable from the remainder of the By-law, and if a court of competent jurisdiction shall declare any provision of this By-law invalid, such declaration shall not affect the validity of the remainder hereof.

14. REPEAL

By-law 2016-094-FR is hereby repealed.

15. SHORT TITLE

The short title of this by-law shall be the "Fireworks By-law".

READ a first and second time this 18th day of June, 2019.

READ a third time and passed this 18th of June, 2019.



Iain Lovatt, Mayor



Gillian Angus-Traill, Clerk



Whitchurch-Stouffville Fire & Emergency Services
 100 Weldon Road, Stouffville, ON L4A 1N2

Tel: (905) 640-9595
 Fax: (905) 640-9517
www.townofws.ca

Schedule "A" to By-law Number 2019-077-FR

APPLICATION FORM FOR DISPLAY FIREWORKS PERMIT

Permit Number: FPW

Date and Time of Display:

Location:

Name and Address of Display Fireworks Supervisor (must be 18 years of age or older) and must have approval from the Chief Inspector of Explosives.

Approved under Section 5(i) of By-Law **2019-077-FR** Yes No

Has permission been obtained from the property owner? Yes No

Types and kinds of Fireworks to be used _____ **7.2.2. Fireworks**

Manner and means of restraining unauthorized Persons from attending too near the location where the Fireworks are being set off:

- (a) Display to be held at least 100 metres away from audience (area to be roped off)
- (b) At least 60 metres from nearest buildings, highway or railroad.
- (c) At least 15 metres from a hydro line, tree, or overhead obstruction.
- (d) No Display Fireworks to be held during any windstorm in which the wind reaches a velocity of more than 30 miles per hour.
- (e) Other than listed above _____

Manner in which unused Fireworks are to be disposed of: _____

Proof of Insurance:

Card Number	
Company Name & Address	
Policy Number	

Approved by:	Date:
--------------	-------

**Proudly Protecting People & Property
 Through Public Education, Fire Prevention & Emergency Response**



Whitchurch-Stouffville Fire & Emergency Services
 100 Weldon Road, Stouffville, ON L4A 1N2

Tel: (905) 640-9595
 Fax: (905) 640-9517
www.townofws.ca

Schedule "B" to By-law Number 2019-077-FR

APPLICATION FORM FOR PYROTECHNIC SPECIAL EFFECT FIREWORKS

Date: _____ **Permit Number: FPW**

Date and Time of Event:

Rain Date:

Name and Address of Applicant and the sponsoring business or organization if applicable:

Name and Address of Pyrotechnician: _____

Proof of certification attached: Yes No

Location of Display:

Approved under Section 5(i) of By-Law **2019-077-FR** Yes No

Permission from the property owner attached? Yes No

List of pyrotechnical special effect fireworks to be employed:

Attached: Site plan of the facility and room capacity, the stage and the pyrotechnic special effect fireworks storage area, location of all pyrotechnic special effect fireworks and location of the audience and all exits.

Height, range and effect, fallout and duration of the display of pyrotechnic special effect Fireworks: _____

Sequence of firing: _____

Description of fire emergency procedures:

Manner in which unused Fireworks are to be disposed of: _____

Proof of Insurance:

Card Number	
Company Name & Address	
Policy Number	

Approved by:	Date:
--------------	-------

Proudly Protecting People & Property
Through Public Education, Fire Prevention & Emergency Response