

**THE CORPORATION OF THE TOWNSHIP OF EAR FALLS**

**BY-LAW NO. 2031-16**

**A By-Law to Regulate the Sale of Fireworks and  
the Setting Off of Fireworks in the Township of Ear Falls**

**WHEREAS** Township of Ear Falls By-Law No. 720-96, dated December 4<sup>th</sup>, 1996, regulates the sale and setting off of Fireworks; and

**WHEREAS** amended provisions have been recommended by the Fire Chief in order to ensure congruence with health and safety best practices and current legislation; and

**WHEREAS** Section 121 of *the Municipal Act, 2001, S.O. 2001, c.25*, as amended, provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks and to prohibit such activities unless a permit is obtained from the municipality for those activities and may impose conditions; and

**WHEREAS** Section 130 of *the Municipal Act, 2001, S.O. 2001, c.25*, as amended provides that a municipality may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality; and

**WHEREAS** Council of The Corporation of the Township of Ear Falls deems it necessary for the safety and well-being of the community to prohibit and regulate the setting off of fireworks and for requiring permits within the geographic limits of the Township of Ear Falls;

**NOW THEREFORE** Council of the Corporation of the Township of Ear Falls  
**HEREBY ENACTS AS FOLLOWS:**

**1. DEFINITIONS**

For the purpose of this By-Law, the following words shall have the meaning given herein:

**“Competent Person”** means a person who is at least 18 years of age and is fully aware of applicable legislative requirements at all levels of Government, with regards to the discharging of fireworks.

**“Council”** means the Council of The Corporation of the Township of Ear Falls.

**“Display Fireworks”** means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Explosives 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.

**“Explosives Act”** means the *Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17* and the Regulations enacted thereunder as amended from time to time or Act and Regulations enacted in substitution therefore.

**“Family Fireworks”** means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Explosives 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 twenty-five one-hundredths of a grain of explosive used per cap.

**“Firecracker”** means a pyrotechnic device that explodes when ignited primarily causing noise and does not make any subsequent display or visible effect after the

explosion. For the purpose of this By-Law, Christmas crackers and caps used in cap pistols, shall not be deemed as “firecrackers”.

“**Fireworks**” means display fireworks, pyrotechnic special effects fireworks and family fireworks but does not includes sparklers.

“**Fire Chief**” means the person appointed as the Fire Chief for the Township or designate.

“**Fire Department**” means the Ear Falls Fire Department.

“**Minor**” means a person who is under 18 years of age.

“**Motor Vehicle**” means motor vehicle as defined in the *Highway Traffic Act, R.S.O. 1990 c.H.8* as amended.

“**Permit**” means an Application for Display Fireworks Permit.

“**Person**” includes a partnership, a corporation and a natural individual. Where a person is a minor “person” includes the parent or guardian of the minor.

“**Pyrotechnician**” means a person who is certified under the *Explosives 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 Explosives Act.

“**Pyrotechnic Special Effect Firework**” means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Explosives 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, bergs, lances and wheels.

“**Retail Business Holidays Act**” means the *Retail Business Holidays Act, R.S.O. 1990, CHAPTER R.30*, as amended, and any regulations enacted thereunder as amended from time to time or Act and Regulations enacted in substitution therefore.

“**Sale**” includes all attempts or offers to sell or cause or permit to sell or invitations to purchase, whether by express act or implication.

“**Township**” means the geographic limits of the Township of Ear Falls.

## 2. SALE OF FIREWORKS

- 2.1. No person shall display, offer for sale, or sell fireworks within the Township, except on Victoria Day or Canada Day and for a period of 14 calendar days prior to each of the above holidays.
- 2.2. Subject to section 2.1 herein, no person shall display, offer for retail sale, or sell fireworks in the Township unless:
  - 2.2.1. the fireworks are displayed in a package, glass case or other suitable receptacle away from inflammable goods;
  - 2.2.2. the fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat;
  - 2.2.3. the fireworks are displayed inside of a building and a minimum of 3 metres from any window;

- 2.2.4. the fireworks are displayed in or near an area where smoking or igniting of any smoking or other substance or device is prohibited; and
- 2.2.5. the fireworks are displayed in or near any areas where cooking or heating of food or beverage or other substance is prohibited.
- 2.3. No person who offers for sale or sells fireworks shall fail to post the location where the fireworks are kept as a “No Smoking Area”.
- 2.4. No person shall sell or cause or permit to be sold, fireworks to a person who is not a competent person.

### **3. POSSESSION OF FIREWORKS**

- 3.1. No person, other than a competent person, shall be in possession of fireworks.

### **4. FIRECRACKERS**

- 4.1. No person shall set off firecrackers within the Township.
- 4.2. No person shall display, offer for sale or sell firecrackers within the Township.

### **5. SETTING OFF FAMILY FIREWORKS**

- 5.1. Family Fireworks shall only be permitted to be set off on private property.
- 5.2. No person shall set off fireworks on any land of which he or she is not the owner, without obtaining the prior written permission of the owner to do so.
- 5.3. Family Fireworks shall only permitted to be set off between the hours of 8:00 p.m. and 12:00 a.m. (midnight).
- 5.4. Only a competent person shall be in charge of setting off Family Fireworks in the Township.
- 5.5. Minors shall be permitted to set off sparklers under the direct supervision of a competent person at all times.
- 5.6. No person shall set off family fireworks inside or into:
  - 5.6.1. a building;
  - 5.6.2. a motor vehicle;
  - 5.6.3. a highway or roadway.
- 5.7. Every person who sets off Family Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure no harm to persons or property damage.
- 5.8. Property damage or injury as a result of family fireworks shall be the responsibility of the person setting off the fireworks.

- 5.9. The Fire Chief may impose restrictions on individuals that prohibit them from setting off family fireworks if related to protecting the health, safety and well-being of the inhabitants of the municipality. Restrictions shall be set out in writing, provided to the individual and a copy shall be filed with the Administrator.

## **6. STORAGE OF FAMILY FIREWORKS**

- 6.1. No person shall store, handle or set off family fireworks in an unsafe manner or in a manner that creates a nuisance, taking into account the noise, danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of fireworks.
- 6.2. A person who stores family fireworks shall use reasonable care to ensure that those fireworks are not accessible to a minor.

## **7. PERMITS FOR SETTING OFF DISPLAY FIREWORKS**

- 7.1. No person shall set off Display Fireworks in the Township unless they have applied for and been granted a permit to do so in accordance with the provisions of this By-Law.
- 7.2. No person shall set off Display Fireworks in the Township except on Victoria Day or Canada Day. In the event that weather conditions such as rain, fog, smog or wind, on Victoria Day or Canada Day make it impractical and/or unsafe to set off display fireworks, the Fire Chief may designate an alternate day and time.
- 7.3. For the celebration of a special event or community event in the Township, the Fire Chief may approve the setting off of Display Fireworks on a day other than Victoria Day or Canada, subject to the provisions of this By-Law.
- 7.4. A complete application, including the permit fee, to set off Display Fireworks shall be made to the Fire Chief at least 30 calendar days prior to the proposed event utilizing Display Fireworks. The Fire Chief may grant a permit for the setting off of Display Fireworks in a manner acceptable to the regulations and all applicable by-laws of the Township of Ear Falls. Filed with the application shall be a statement of the safety measures being implemented and a current and up to date site plan with dimensions showing:
  - 7.4.1. the location of the proposed Display Fireworks;
  - 7.4.2. the access to be provided for fire and emergency vehicles;
  - 7.4.3. the free zone area of clear distance between the point of launch and an occupied area.
- 7.5. The Fire Chief may require any additional information of the applicant to ensure the public's safety and may impose additional conditions on the issuance of a permit as deemed advisable in the particular circumstances of the application.
- 7.6. If, in the opinion of the Fire Chief, it is necessary for a firefighter or firefighters to be present at the setting off of Display Fireworks, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises for the purpose of

ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the firefighter(s) opinion is deemed necessary before any Display Fireworks are set off pursuant to the permit issued by the Fire Chief.

- 7.7. Each permit / application shall state the name of the business, corporation, club, association or group to whom it is issued, the place and date at which and on which it may be held, the type and kind of Display Fireworks that will be set off, the name of the person under whose supervision it shall be held and such other information as required by the Fire Chief. Any special conditions imposed by the Fire Chief to promote health and safety of the public at the event shall also be listed on the permit.
- 7.8. A Display Fireworks permit may be issued for the purpose of celebrating Victoria Day or Canada Day or such other event approved by the Fire Chief, subject to the following:
  - 7.8.1. If Display Fireworks are to be held on municipal property, approval of Council must be obtained prior to applying for a permit.
  - 7.8.2. No permit shall be issued for a location within 150 metres of any place where explosives, gasoline or other highly flammable substances are stored.
  - 7.8.3. Every applicant shall provide with the permit, proof of Liability Insurance with a minimum coverage of two million Canadian dollars (\$2,000,000) with The Corporation of the Township of Ear Falls to be named as an additional insured.
  - 7.8.4. The fee for a permit is prescribed in the Schedule of Fees By-Law as amended from time to time by Council.
- 7.9. No person shall set off Display Fireworks in the Township except on the day or days specified by the permit and between the hours of 8:00 pm and 12:00 am (midnight) of the same day(s).
- 7.10. The permit may be suspended or revoked by the Fire Chief if the conditions of the permit are not being met or it would be unsafe to allow the Display Fireworks.
- 7.11. No person shall set off Display Fireworks or advertise that a Display Fireworks event is to be held in the Township without a permit issued by the Fire Chief.
- 7.12. Every person to whom a permit is issued under this Section shall:
  - 7.12.1. provide and maintain approved fully operational fire extinguishing equipment ready for immediate use, throughout the time while the Display Fireworks is being set off or displayed and for a reasonable period thereafter, at the location or site of the setting off or holding of a Display Fireworks;
  - 7.12.2. produce the permit on demand by the Fire Department or to any police officer, or any person authorized to enforce this By-Law; and

- 7.12.3. permit the inspection of any site where the Display Fireworks may be stored, set off or displayed and the fireworks themselves together with all associated equipment, by the Fire Department, police officer or anyone authorized to enforce this By-Law, immediately upon demand.
- 7.13. Every person to whom a permit is issued under this Section, shall, immediately after the conclusion of the setting off or holding of a Display Fireworks, carry out a site inspection and shall:
  - 7.13.1. remove all unused or partly used fireworks from the site;
  - 7.13.2. gather together and remove all debris remaining after using or partial use of the Display Fireworks; and
  - 7.13.3. return the site to the condition it was prior to the setting off or holding of the display.

## **8. SETTING OFF DISPLAY FIREWORKS**

- 8.1. No person shall set off Display Fireworks in the Township without first receiving a permit from the Fire Chief.
- 8.2. Display fireworks shall only be set off under the supervision of a person who is qualified for such purpose to the satisfaction of the Fire Chief.
- 8.3. Every person who sets off Display Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure no harm to persons or property damage.
- 8.4. Conditions set out in the permit as well as legislative requirements at all levels of Government shall be adhered to.
- 8.5. Property damage or injury as a result of Display Fireworks shall be the responsibility of the person setting off the fireworks.

## **9. PYROTECHNIC SPECIAL EFFECTS FIREWORKS**

- 9.1. No person shall hold a display of Pyrotechnic Special Effect Fireworks in the Township without having first obtained a permit to do so issued by the Fire Chief.
- 9.2. No person shall set off any Pyrotechnic Special Effect Fireworks in the Township without having first obtained a permit to do so issued by the Fire Chief authorizing the pyrotechnic special effect fireworks.
- 9.3. The Fire Chief may require any additional information of the applicant to ensure the public's safety and may impose additional conditions on the issuance of a permit as he deems advisable in the particular circumstances of the application.
- 9.4. The Pyrotechnic Special Effect Fireworks shall only be set off under the supervision of a pyrotechnician.
- 9.5. If, in the opinion of the Fire Chief, it is necessary for a firefighter or firefighters to be present at the setting off of any Pyrotechnic Special Effect Fireworks, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises

for the purpose of ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the firefighter(s) opinion is deemed necessary before any Pyrotechnic Special Effect Fireworks are set off pursuant to the permit issued by the Fire Chief.

#### **10. VALIDITY**

10.1. If any provisions of this By-Law are for any reason held to be invalid, it is declared to the intention, that all remaining provisions shall remain in full force and effect until repealed, notwithstanding that one or more provision shall be been declared invalid.

#### **11. CONFLICT WITH OTHER BY-LAWS**

11.1. Nothing in this By-Law shall exempt any person from complying with the requirements of any by-law in force or from obtaining any licence, permission, permit, authority or approval required under any by-law or legislation.

#### **12. OFFENCES AND ENFORCEMENT**

12.1. This By-Law will be enforced by the Fire Chief or designate.

12.2. Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000.00 exclusive of costs as provided for in the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

#### **13. REPEAL**

13.1. Upon the passage of this By-Law, By-Law No. 720-96 and all amendments thereto, shall be repealed.

#### **14. ENACTMENT**

14.1. This By-Law shall come into force and effect immediately upon the passing thereof.

**PASSED** this 21<sup>st</sup> day of September, 2016.

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Mayor

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Clerk