

# THE CORPORATION OF THE TOWN OF TILLSONBURG

## BY-LAW NUMBER 3510

**BEING A BY-LAW to regulate the sale, display and discharge of fireworks within the Town of Tillsonburg and to repeal By-Law 3369.**

WHEREAS THE Council of the Corporation of the Town of Tillsonburg deems it expedient and necessary to repeal By-Law 3369;

**AND WHEREAS** the Municipal Act, 2001, S.O. 2001, c. 25, as amended, clause (a) of section 121, provides that a municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

**AND WHEREAS**, a By-Law pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, clause (b) of section 121, may prohibit the sale and the discharging of fireworks unless a permit is obtained and may impose conditions for obtaining, continuing to hold and renewing the permit including requiring the submission of plans;

**AND WHEREAS** the Council of The Corporation of the Town of Tillsonburg deems it necessary to regulate the sale and setting off of fireworks.

**Now therefore the Council of the Corporation of the Town of Tillsonburg hereby enacts as follows:**

### **1. SHORT TITLE**

1.1. This By-Law shall be known as the "Fireworks By-Law".

### **2. DEFINITIONS**

"Act" means the *Explosives Act (R.S., 1985, c. E-17)* (Canada) and the regulations enacted there under.

"**Chief Fire Official**" means the Chief Fire Official of the Town of Tillsonburg appointed under the authority of the Fire Prevention and Protection Act, designate or authority having jurisdiction.

"**Display Fireworks Manual**" means the manual released by Natural Resources Canada: Explosives Regulatory Division as amended.

"**Firecracker**" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes devices commonly known as Chinese firecrackers.

"**Fireworks**" means Display Fireworks, Pyrotechnic Special Effects Fireworks and Family Fireworks and:

"**Consumer Fireworks**" means an outdoor, low hazard article designed for recreational use and they are classed as Subdivision 1 of Division 2 of Class 7 Fireworks under the Act (1.4G in the Transportation of Dangerous Goods (TDG) Regulations). They include fireworks showers, fountains, golden rain, lawnlights, pin wheels, Roman candles and volcanoes, but do not include sparklers, Christmas crackers or caps for toy guns containing not in excess of twenty-five on hundredth of a grain of explosive used per cap.

**"Display Fireworks"** means an outdoor, high hazard, recreational firework that is classed as Subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illuminations, set pieces, and pigeons but does not include firecrackers.

**"Display Supervisor"** means a Person who is an approved purchaser of Display Fireworks and who is qualified under the Act to supervise the discharge of Display Fireworks.

**"License"** means a license or permit issued by the Licensing Officer for the Corporation of the Town of Tillsonburg.

**"Licensing Officer"** means the Clerk / Manager of Council Services, or designate.

**"Municipal Law Enforcement Officer"** means a person appointed by the Council for the Town of Tillsonburg for the purpose of enforcing Municipal by-laws and for the purposes of this By-Law shall include the Ontario Provincial Police or any other police agency.

**Town of Tillsonburg** means The Corporation of the Town of Tillsonburg.

**"Owner"** means the Person who owns the Property and, for the purposes of this By-Law, shall include any owner, occupant, tenant or lessee.

**"Person"** means the Owner and may also include any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however constituted, joint venture, syndicate or any other legal entity, and includes all successors, assigns or other legal representatives of any such entities. A person shall not include a Pyrotechnician as defined in this By-Law.

**"Property"** means any parcel of land or registered water lot and, without limiting the generality of the foregoing, shall mean lands and premises appurtenant to a building or structure whether residential or commercial but shall exclude any building or structure.

**"Pyrotechnic Special Effects"** means compositions, articles and devices created for the purpose of entertainment through the use of pyrotechnic, propellant and explosive materials.

**"Pyrotechnician"** means the Person certified by Natural Resources Canada to conduct a public or private Pyrotechnic Special Effects Display.

**"Pyrotechnics"** means the science of materials capable of undergoing self-contained and self-sustained exothermic chemical reactions for the productions of heat, light, gas, smoke and / or sound.

**"Pyrotechnics Special Effects Manual"** means the manual released by Natural Resources Canada: Explosives Regulatory Division as amended.

**"Retail Sale"** means a sale for the purpose of consumption or use and not for resale and includes sale by auction.

**"Vehicle"** shall include a motor vehicle, trailer, recreational vehicle, camper, all terrain vehicle, mobile home, boat, watercraft, traction engine, farm tractor, road-building machine and a vehicle drawn, propelled or driven by any kind of power, including a motorized snow vehicle, or the cars of electric or steam railways running only upon rails.

### **3. GENERAL PROVISIONS**

#### **3.1 General**

- (a) No Person shall store, handle, sell, or display Fireworks except in the Central Commercial (CC) or Service Commercial (SC) zones.
- (b) Fireworks shall not be sold out of a vehicle; which includes a booth, stall, trailer, motor vehicle, recreational vehicle, camper, all terrain vehicle, mobile home, but shall only be sold from a commercial building or accessory structure in the required zone.
- (c) No Person shall store, handle, sell, or display Fireworks except in accordance with the Act and this By-Law as an accessory use only.
- (d) No Person shall store, handle, sell, or display Fireworks without written permission of the Chief Fire Official.
- (d) No Person under the age of eighteen (18) years shall possess Fireworks.

#### **3.2 Firecrackers**

- (a) No Person shall offer for sale, cause to be sold, or sell Firecrackers.
- (b) No Person shall set off, or cause to be set off any Firecrackers.
- (c) No Person shall possess Firecrackers.

#### **3.3 Consumer Fireworks - Sale**

- (a) No Person shall sell any Consumer Fireworks to any Person under the age of eighteen (18) years.
- (b) No Person shall display and / or sell any Consumer Fireworks except on Canada Day, Labour Day, New Year's Eve, and on the day fixed by proclamation for the observance of Victoria Day, or any other such day as is proclaimed by the Town of Tillsonburg as a suitable patriotic celebration, and the proceeding seven (7) days in each case.
- (c) No Person shall advertise the sale of Consumer Fireworks except on Canada Day, Labour Day, New Year's Eve, and on the day fixed by proclamation for the observance of Victoria Day, or any other such day as is proclaimed by the Town of Tillsonburg as a suitable patriotic celebration, and the preceding twenty-one (21) days in each case.
- (d) No Person shall sell to any person any Consumer Fireworks, of a type or the setting off of which is prohibited by the provisions of this By-Law or the Act.
- (e) No Person shall display, sell or offer or expose for sale any Consumer Fireworks without first obtaining a License to do so from the Licensing Office by completing in its entirety a "Retail of Consumer Fireworks Form" and such License application is approved by the Chief Fire Official and after paying the appropriate non-refundable application fees as set out in the Town of Tillsonburg By-Law. Said License is non-transferable by owner and/or location or premise.
- (f) The holder of a License issued under Subsection 3.3 (e) shall prominently display the License in the place of business where the Fireworks are being offered for sale and such License shall be produced to any Municipal Law Enforcement Officer upon request.

- (g) Every Person displaying or storing Fireworks shall post a clearly visible sign prohibiting smoking in letters or symbols at least 10 cm high in the display area and on each door to the storage unit, or on the container being used as a storage unit.
- (h) No Person shall smoke or use an open flame, such as a light, match or torch, in a room or space where Fireworks are stored or displayed or in any case less than 3 metres from any fireworks.

#### **3.4 Consumer Fireworks - Discharging**

- (a) No Person shall ignite, set off or have a display of Consumer Fireworks on any Property unless such Person is the owner of that Property or has written permission to do so by the owner of such Property.
- (b) No Person shall ignite, set off or have a display of Consumer Fireworks without the supervision of a responsible Person of at least eighteen (18) years of age.
- (c) The Person in Subsection 3.4 (b) shall have the necessary means readily at hand to summons the Fire Department.
- (d) No Person shall ignite, discharge or set off any Consumer Fireworks into or inside of any building, structure, vehicle, or on any other place of Property where such ignition, discharge or setting off may create a nuisance or safety hazard to any Person or Property.
- (e) No Person shall ignite, discharge or set off any Consumer Fireworks into or on Municipal Property including without limitation, streets, lanes, squares or other public places without written approval of the Licensing Officer.
- (f) No Person shall ignite, discharge or set off any Consumer Fireworks off of, or from the roof of any building or structure, or anywhere with less clearance to persons and combustible property as is prescribed by the manufacturer on the exterior of the firework article without written approval of the Chief Fire Official or designate.
- (g) No Person shall ignite, discharge or set off any Consumer Fireworks after the hour of 11 p.m. (local time) on the day of, 2 days previous to, or 2 days following the days established by Section 3.3 (b)

#### **3.5 Display Fireworks - Sale**

- (a) No Person shall sell any Display Fireworks to any Person under the age of eighteen (18) years or to any Person unless they are qualified as a Fireworks Supervisor.

#### **3.6 Display Fireworks - Discharging**

- (a) No Person shall ignite, set off, or have a display of Display Fireworks on any Property unless such person is the owner of the Property or has written permission to do so by the owner of that Property.
- (b) No Person shall ignite, set off, or have a display of Display Fireworks unless such Person is qualified as a Fireworks Supervisor.
- (c) A Display Supervisor shall produce a current certificate of qualification as issued by the Explosive Regulatory Division upon the request of any Municipal Law Enforcement Officer.

- (d) No Person shall ignite, set off, or have a display of Display Fireworks unless there is provided and maintained fully operational fire extinguishing equipment, ready for immediate use and present at all times and for a reasonable period thereafter at the location or site of the discharge of Display Fireworks.
- (e) No Person shall transport, setup, ignite, or operate Display Fireworks except in accordance with the requirements outlined in the Display Fireworks Manual and this By-Law.

### **3.7 Display Fireworks - Licensing**

- (a) No Person shall ignite, set off, or have a display of Display Fireworks without first obtaining a License to do so from the Licensing Officer by completing in its entirety the current "Display Fireworks Event Form" and such License application is approved by the Chief Fire Official, and after paying the appropriate non-refundable application fees as set out in the Town of Tillsonburg Fees By-Law.
- (b) No Person shall ignite, set off, or have a display of Display Fireworks except in accordance with the information provided on the "Display Fireworks Event Form" required in Subsection 3.7 (a)
- (c) Every application shall be made not less than twenty-one (21) days prior to the setting off of the Display Fireworks.
- (d) Every application for a License must include proof of liability insurance coverage for the setting off or holding of a display of Display Fireworks in the minimum amount of \$2,000,000 and shall name the Town of Tillsonburg as an additional named insured.
- (e) Every application shall state the name and contact information in which the License is to be issued, state the date, time, and location or site of the setting of the Display Fireworks and state the name and phone number of the Fireworks Supervisor.
- (f) Upon conclusion of the display, the Fireworks Supervisor shall walk the display site and fallout area. Any unused fireworks and all debris resulting there from shall be removed immediately and safely disposed of by the License holder.

### **3.8 Pyrotechnics**

- (a) No Person shall conduct an event including Pyrotechnic Special Effects without the approval of the Chief Fire Official or designate.
- (b) No Person shall transport, setup, ignite, or operate Pyrotechnic Special Effects except in accordance with the requirements outlined in the Pyrotechnic Special Effects Fireworks Manual.
- (c) An application for event approval shall be made using a current "Pyrotechnic Special Event Approval Form" approved by the Chief Fire Official, a "Pyro Effects plan" for live entertainment containing the requirements as set out by the Chief Fire Official of a "Letter of Intent" for film productions containing the requirements as required by the Chief Fire Official, and a letter from the venue's owner or agent granting permission for the use of pyrotechnics special effects. All forms must be submitted to the Chief Fire Official at least 1 month prior to the event.

**4. ENFORCEMENT**

- (a) This By-law shall be enforced by any Municipal Law Enforcement Officer.
- (b) Any Municipal Law Enforcement Officer shall determine what shall constitute a health, fire or safety hazard.
- (c) Any Municipal Law Enforcement Officer or the Licensing Officer may revoke a License issued pursuant to this By-Law at any time. Terms and conditions of the Town of Tillsonburg Licensing By-Law as amended shall apply to Licenses issued under this By-Law.
- (d) In the case of a health, fire or safety hazard, any Municipal Law Enforcement Officer may compel that said hazard be removed forthwith without notice.

**5. PENALTY**

Every Person who contravenes this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, as amended.

**6. SEVERABILITY**

In the event that any of the provisions of this By-Law are deemed to be beyond the scope of this by-law by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

This By-law cannot override any other applicable municipal by-laws or and Provincial or Federal legislation.

**7. FEE**

The Fee shall be in accordance with the current Rates and Fees By-Law for the Town of Tillsonburg.

**8. REPEAL**

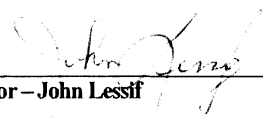
Former By-law #3369

**9. EFFECTIVE DATE**

THAT this By-Law is passed pursuant to the Municipal Act, 2001 S.O. 2001, and shall come into full force and effect on the day of passing.

READ A FIRST AND SECOND TIME THIS 24th DAY OF MAY , 2011.

READ A THIRD AND FINAL TIME AND PASSED THIS 24th DAY OF MAY, 2011.

  
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Mayor – John Lessif

  
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Clerk – Donna Hemeryck