

**THE CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO. 5172-19**

A BY-LAW TO REGULATE THE SALE OF AND USE OF FIREWORKS  
WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE AND TO REPEAL BY-  
LAW 3637-02.

**WHEREAS** Section 11(2)(6) of the Municipal Act, 2001, provides that a lower-tier municipality may pass by-laws for the health, safety and well-being of persons.

**WHEREAS** Section 11(2)(8) of the Municipal Act, 2001, provides that a lower-tier municipality may pass by-laws for the protection of persons and property, including consumer protection.

**AND WHEREAS** Section 121(a) of the Municipal Act, 2001, provides for prohibiting or regulating the sale of fireworks and the setting off of fireworks;

**AND WHEREAS** Section 121(b) of the Municipal Act, 2001 provides for prohibiting the activities described in clause (a) unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**AND WHEREAS** it is deemed desirable to regulate the sale and use of fireworks within the Town of Niagara-on-the-Lake.

**NOW THEREFORE BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE** as follows:

1. That By-law No. 3637-02, being a by-law to regulate the sale of and use of fireworks within the Town of Niagara-on-the-Lake and Policy No. FS-MIS-001, procedures for public or non-consumer fireworks display be repealed in its entirety.
2. **Definitions**
  - (a) "Act" means The Explosives Act, R.S.C., 1985, C. E-17 and the Regulations enacted thereunder, as amended or any Act and Regulations enacted in substitution therefor;
  - (b) "Approval" means obtaining written consent from the Fire Chief acknowledging acceptance for discharging of Fireworks or selling of Fireworks;
  - (c) "Consumer Firework" means an outdoor, low hazard, recreational firework that is classed as an F.1 Consumer Firework under the Act and includes fireworks, showers, golden rain, lawn lights, pin wheels, roman candles, volcanoes, mines and sparklers, but does not include Christmas crackers, fire crackers, caps for toy guns containing not in excess of 25 one-hundredths of a grain of explosive used per cap;
  - (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 similar meaning;
  - (e) "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, illuminations, set pieces and pigeons, but does not include firecrackers;

- (f) "Display Supervisor" means a person who is qualified under the Act to supervise the Discharge of Display Fireworks;
- (g) "Fire Ban" means a prohibition on all burning, including the Discharge of fireworks, issued by the Fire Department of The Corporation of the Town of Niagara-on-the-Lake;
- (h) "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 Town of Niagara-on-the-Lake, or designate;
- (i) "Fireworks" means Display Fireworks, Pyrotechnic Special Effects Fireworks, and Consumer Fireworks;
- (j) "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;
- (k) "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;
- (l) "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;
- (m) "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;
- (n) "Prohibited Firework" includes, but is 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 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;
- (o) "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;
- (q) "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;

- (r) "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;
- (s) "Special Event" - An event which may occupy all or part of Town owned property or results in the disruption of the local flow of traffic. A special event may be defined as, but not limited to, a parade, festival, filming, bicycle race/tour, running event, procession, walk-athon, or any other activity that may have any of the following components:
  - a) Street Closures
  - b) Fireworks or pyrotechnics
  - c) Live entertainment
  - d) Temporary Structures/ Tents
  - e) Service of food or alcohol
  - f) Large volumes of vehicular or pedestrian traffic.

**3. Discharge of Prohibited Fireworks and Firecrackers**

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

- (a) No person shall Discharge Firecrackers.
- (b) No person shall Discharge Prohibited Fireworks.
- (c) No person shall Discharge a Flying Lantern.

**4. Sale of Consumer Fireworks**

The following are the regulations governing the sale of Consumer Fireworks:

- (a) No person shall Sell Consumer Fireworks without Approval obtained from the Fire Chief in accordance with this by-law.
- (b) Any persons wishing to Sell Consumer Fireworks shall submit a written request for Approval, identifying all required safety features specified within this section.
- (c) 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 Approval of the Fire Chief. Written consent shall be submitted to the Fire Chief.
- (d) No person shall Sell Consumer Fireworks except seven days prior to the holiday known as Victoria Day, on Victoria Day holiday, and two days immediately following Victoria Day holiday, and seven days prior to the holiday known as Canada Day July 1<sup>st</sup>, on Canada Day holiday July 1<sup>st</sup>, in each year, or on such other dates requested and authorized by the Fire Chief.
- (e) Approval to sell fireworks shall be valid only for the permitted dates, specified in Section 4(d), for the calendar year.
- (f) Approval to sell fireworks is valid only for the sale location specified in the request.
- (g) No person shall Sell Consumer Fireworks from a motor vehicle, uncovered trailer, or residential dwelling.
- (h) No person shall Sell Consumer Fireworks to persons under the age of 18.
- (i) 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.

- (k) No person shall transport Consumer Fireworks except as permitted under the Act.
- (l) No person shall exhibit or display Consumer Fireworks unless:
  - (i) the Fireworks are separated into individual lots that do not exceed 25 kilograms in gross weight; and
  - (ii) 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:
    - maintaining a minimum aisle width of 1.2 metres between lots;
    - 6 mm plywood partition that extends 15 cm above the height of the lot or display shelf above; or
    - any other method approved by the Fire Chief.
- (m) No person shall store Consumer Fireworks in areas that are not designated and approved.
- (n) No person shall display Consumer Fireworks that are not in consumer packs unless:
  - (i) the Fireworks are inaccessible to the public; and
  - (ii) the Fireworks are displayed in a glass or plexiglass case, or other approved means.
- (o) No person, other than the seller, shall handle Fireworks that are not in consumer packs, until after the time of purchase.
- (p) 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.
- (q) No person shall smoke within eight (8) metres of any Consumer Fireworks.
- (r) No person shall Sell, or offer for sale, Consumer Fireworks in a location where prominent no smoking signs are not on display.
- (s) 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.
- (t) 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".
- (u) 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.
- (v) 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:
  - (i) the location and identification of storage and handling areas;
  - (ii) the methods to control a fire emergency safely and efficiently;
  - (iii) the names, addresses, and telephone numbers of persons to be contacted in case of fire during non-operating hours; and
  - (iv) any other information deemed necessary by the Fire Chief.
- (w) 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.

- (x) No person shall offer for sale, display for sale, or Sell Consumer Fireworks in a manner that contravenes the sale of Consumer Fireworks regulations.

**5. Discharge of Consumer Fireworks**

- (a) No person shall Discharge Consumer Fireworks, except on the days specified in Section 4(d) and then only between 6:00 pm and 11:00 pm, and in accordance with the Town's Noise By-law.
- (b) 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.
- (c) 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.
- (d) No person shall Discharge Consumer Fireworks on a property, or at a location, without the knowledge and permission of the property owner.
- (e) No person shall Discharge Consumer Fireworks as to endanger, injure, harass, frighten, or constitute a nuisance, to any person or animal.
- (f) No person shall Discharge Consumer Fireworks in such a manner as to create a danger or fire hazard to any property.
- (g) No person shall Discharge Consumer Fireworks from, onto, or over any building, doorway, or motor vehicle.
- (h) No person shall Discharge Consumer Fireworks from, onto, or over any highway, street, laneway, sidewalk, park, or other public place, unless Approved by the Fire Chief.
- (i) 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.
- (j) No person shall Discharge Consumer Fireworks under, or over, any utility lines or wires (hydro, telephone, cable).
- (k) No person shall Discharge Consumer Fireworks at, or near, any flammable or combustible liquids or gases.
- (l) 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.
- (m) No person shall Discharge any Consumer Fireworks when the wind speed is in excess of fifteen (15) kilometres per hour.
- (n) No person shall Discharge Consumer Fireworks unless a suitable means of extinguishment is readily available.



- (o) Every person shall ensure that Discharged Consumer Fireworks, casings, or other debris, are completely extinguished so as not to create a fire hazard.
- (p) No person shall Discharge Consumer Fireworks during a Fire Ban authorized by the Fire Chief.
- (q) No person or group of persons shall hold a Fireworks Display of Consumer Fireworks in the Town of Niagara-on-the-Lake, without having first obtained Approval by the Fire Chief.

**6. Storage of Fireworks**

- (a) Storage of Fireworks shall be in accordance with the Act.

**7. Public Firework Display**

- (a) 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 Town of Niagara-on-the-Lake, without first having obtained Approval by the Fire Chief.
- (b) Every application for a Public Fireworks Display shall be made through the Clerks Department, forming part of a Special Event permit application, requesting Approval from the Fire Chief a minimum of 30 days prior to the event when the proposed Discharge of Fireworks is to occur.
- (c) Every application for Approval shall include:
  - (i) a completed Special Event permit application
  - (ii) a description of the event, including:
    - the date and time of the proposed Discharge of Fireworks;
    - the type, kind and quantity of Fireworks that may be Discharged;
    - the Discharge techniques to be used;
    - the manner and means of prohibiting unauthorized persons access to the Discharge site;
    - the manner in which unused Fireworks are to be disposed of; and
    - the number of persons authorized to handle and Discharge the Fireworks.
  - (iii) a site plan providing a description of the site to be used for the discharging of the Fireworks, including height, range, fallout area, duration of the display, storage locations and minimum distances to spectators;
  - (iv) a description of the fire emergency procedures;
  - (v) the name and address of the applicant and the sponsoring organization, if applicable;
  - (vi) proof of certification of the applicant as a Display Supervisor, Pyrotechnician, or person approved by the Fire Chief;
  - (vii) written consent of the owner of the property to the Discharge of Fireworks;
  - (viii) Inspection fees pursuant to the Fire and Emergency Services Fee Schedule in affect at the time of application;
  - (ix) proof of insurance and indemnification in accordance with Section 7(k) and 7(n) of this bylaw; and
  - (x) such other information as required by the Fire Chief.
- (d) Approval granted under this by-law, for a Fireworks Display, shall be subject to the following conditions:
  - (i) the Approval is valid only for the location and on the date or dates set forth in the Permit;
  - (ii) the Display Supervisor(s) approved by the Fire Chief shall supervise the Fireworks;
  - (iii) the Display Supervisor(s) approved by the Fire Chief shall Discharge the Fireworks;

- (iv) every Display Supervisor provides and maintains fully operational fire extinguishing equipment appropriate for the nature and size of the Fireworks;
  - (v) fire extinguishing equipment shall be ready for immediate use; and
  - (vi) the Display Supervisor(s) 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.
- (e) Approval may not be granted or may be revoked for any the following:
- (i) the application is incomplete;
  - (ii) the applicant is not a Display Supervisor, Pyrotechnician, or person approved by the Fire Chief;
  - (iii) 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;
  - (iv) the application contains false or misleading information,
  - (v) the Discharge of Fireworks is scheduled during a Fire Ban authorized by the Fire Chief; and
  - (vi) 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.
- (f) No person shall Discharge Fireworks except in accordance the Act, this by-law and any conditions within the Special Event Permit.
- (g) The Display Supervisor shall adhere to all conditions as set out in the Act, and this by-law and any conditions within the Special Event Permit.
- (h) The Display Supervisor shall ensure that all unused Fireworks and all debris are removed and disposed of in a safe and appropriate manner.
- (i) A copy of the Special Event permit shall be kept at the site of the display from the time of initial event set up to the time of event conclusion.
- (j) Every holder of a Special Event permit shall produce the permit upon being so directed by the Fire Chief or designate.
- (k) The Special Event 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 Town 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:
- (i) a limit of liability of not less than five (5) million dollars (\$5,000,000.00) per occurrence;
  - (ii) "Claims Made" insurance policies will not be permitted;
  - (iii) adding the Municipality as an additional insured with respect to the operations of the Named Insured;
  - (iv) 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 (iv) the Named Insured; and
  - (v) non-owned automobile coverage with a limit of not less than \$2,000,000 and shall include contractual non-owned coverage.

- (l) 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 Town with (30) days prior written notice of cancellation or of a material change that would diminish coverage.
- (m) The applicant shall forward a Certificate of Insurance evidencing such insurance coverage and shall be provided to the Town of Niagara-on-the-Lake prior to the issuance of a Permit.
- (n) The Permit shall provide that the applicant shall indemnify and save harmless the Town of Niagara-on-the-Lake from any and all claims, demands, causes of action, loss, costs or damages that the Town of Niagara-on-the-Lake 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.

**8. Administration and Enforcement**

- (a) The Fire Chief shall be responsible for the administration of the provisions of this by-law.
- (b) The Fire Chief may grant Approval or revoke a Special Event permit for Firework Displays as set out herein.
- (c) The Fire Chief and the Municipal By-law division shall be responsible for the enforcement of this by-law.
- (d) The Fire Chief 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.
- (e) The Town of Niagara-on-the-Lake Fire and Emergency Services is exempt from this by-law for the purposes of training with, or the testing of, Fireworks.
- (f) No person shall hinder or obstruct, or attempt to hinder or obstruct, the Fire Chief or Municipal By-law Division who is performing a duty which is authorized under this by-law.
- (g) No person shall knowingly furnish false or misleading information to the Town or the Fire Department with respect to this by-law.

**9. PENALTY**

- (a) Any person, firm, or corporation who contravenes any provision of this bylaw 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, or any replacement legislation.
- (b) 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 Fire and Emergency Services Fee Schedule, in effect at the time of the attendance by the Fire Department, will be billed to the property owners regardless of whether the Fireworks were discharged with the permission or knowledge of the property owner or by granted Approval, and if not paid within a reasonable amount of time, will be added to the property taxes for the property, 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.
- (c) Neither the Fire Department nor the Town 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.

10. **THAT** the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal.
11. **THAT** this By-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 15TH DAY OF JULY 2019**

  
LORD MAYOR BETTY DISERO

  
TOWN CLERK PETER TODD