

FIREWORKS BY-LAW 2022-30

CORPORATION OF THE TOWNSHIP OF ALFRED AND PLANTAGENET

A By-law to prohibit and to regulate the sale and discharging of fireworks in the Township of Alfred and Plantagenet.

WHEREAS Subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended permits council of local municipalities to pass by-laws and make regulations for the health, safety and well-being of persons within the municipality;

AND WHEREAS Subsection 120(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended provides that a local municipality may: (a) prohibit and regulate the manufacture of explosives in the municipality; (b) prohibit and regulate the storage of explosives and dangerous substances in the municipality; (c) regulate the keeping and transportation of explosives and dangerous substances in the municipality; and (d) prohibit the manufacture or storage of explosives 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

AND WHEREAS Paragraph (a) of section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may prohibit and regulate the Sale of Fireworks and the discharging of Fireworks, as defined in this by-law;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, states that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with a by-law of the municipality passed under this Act, a direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act, a condition of a licence issued under a by-law of the municipality passed under this Act or an order made under section 431 of this Act;

AND WHEREAS paragraph 7.1(1)(a) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of spreading fires;

NOW THEREFORE the Council of the Corporation of the Township of Alfred and Plantagenet enacts as follows:

DEFINITIONS

1. In this By-law:

- a) **“Act”** means the *Explosives Act, R.S.C. 1985, c. E-17*, as amended, and any regulations enacted thereto, or any act or regulations enacted in substitution thereof;
- b) **“Authorization”** means a permission of the Council of the Township of Alfred and Plantagenet granted by resolution or amendment to permit the discharging of fireworks;
- c) **“Corporation”** shall mean the Corporation of the Township of Alfred and Plantagenet.
- d) **“Council”** shall mean the Council of the Corporation of the Township of Alfred and Plantagenet.

- l) **“FPPA”** see 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 therefore;
- m) **“Highway”** means and includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- n) **“Municipal Law Enforcement Officer”** shall mean the Municipal Law Enforcement Officer of the Township of Alfred and Plantagenet;
- o) **“Municipal Building”** means any building, or structure to which the Township holds right or ownership to;
- p) **“Municipal Property”** means any land and any indoor or outdoor facilities or installations located on this land which is owned, leased or operated by the Corporation of the Township of Alfred and Plantagenet;
- q) **“Outdoor”** means the whole or part of any outdoor area, and for the greater certainty includes any open space which is outside of a building, structure, including any temporary building, structure or part thereof, whether covered by a roof or not;
- r) **“Person”** shall mean an include any individual, corporation, partnership, company, association or party and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law;
- s) **“Permit”** means a Display Fireworks, or a Pyrotechnic Special Effects Fireworks Permit issued by the Township of Alfred and Plantagenet By-law Enforcement Department with the written approval of the Township of Alfred and Plantagenet Fire Services, the form of which may be amended from time to time;
- t) **“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;
- u) **“Sale” or “Sell”** means and shall include all attempts to offer to sell or invitations to purchase whether by express act or implication;
- v) **“Township”** shall mean the Township of Alfred and Plantagenet;
- w) **“Vehicle”** shall mean a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power;

INTERPRETATION

- 2. Where a situation arises, that is not covered by a specific regulation or where two or more regulations are equally applicable, all provisions shall be complied with or, where it is not possible to comply with all the provisions applicable, the most restrictive provisions shall prevail.

GENERAL

- 3. No person shall possess or discharge any fireworks that are not authorized by the *Explosive Act*.
- 4. No person shall discharge fireworks when there is a fire ban in place.
- 5. No person shall discharge firecrackers.
- 6. No person shall ignite, release, or set off into the air an ignited Flying Lantern.

SALE OF FIREWORKS

7. No person shall knowingly sell or supply fireworks to a person less than eighteen (18) years of age.
8. No person shall sell or supply fireworks to a person who appears to be under the age of twenty-five (25) without a proof of age.
9. A person who accepts money from a person less than eighteen (18) years of age or apparently less than twenty-five (25) years of age without proof of age in return for fireworks purchased from a licensed retailer is deemed to have sold or supplied fireworks in contravention to section 7 or 8 of this by-law.

CONSUMER FIREWORKS

10. No person shall discharge Consumer Fireworks except on the days listed in Schedule A of this by-law.
11. No person shall discharge Consumer Fireworks except between sunset and 11:00 p.m. on the days designated in this by-law.
12. No person shall discharge Consumer Fireworks from, onto or over any building or vehicle.
13. No person less than eighteen (18) years of age shall discharge Consumer Fireworks except under the direct supervision and control of a person eighteen (18) years of age or older who shall, at all times remain physically present in the immediate area where the Consumer Fireworks are being discharged.
14. No parent or guardian of any person less than eighteen (18) years of age shall allow or permit that an underage person to discharge Consumer Fireworks except under the direct supervision and control of a person eighteen (18) years of age or older who shall at all times, remain physically present in the immediate area where the Consumer Fireworks are being discharged.
15. No person shall discharge Consumer Fireworks on any land that is not owned or legally possessed by him or her, unless written permission for the discharging of Consumer Fireworks has been obtained from the owner or person in charge of the land.
16. No person shall discharge Consumer Fireworks in any of the Township owned parks, land, building or in any other public place or storm water management land, without the prior authorization from Council.
17. No person shall discharge Consumer Fireworks from, onto or over any highway, street, lane, boulevard, roundabout private roadway or sidewalk.
18. Every person who sets off or is responsible for the discharging of Consumer Fireworks shall provide and maintain fully operational fire extinguishing equipment, including but not limited to portable fire extinguishers or a water supply, ready for immediate use and present at all times and for at least thirty (30) minutes after the discharging of the Consumer Fireworks has terminated, at the location of the discharging of Consumer Fireworks.
19. Every person who sets off Consumer Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure that no harm to persons, animals or damage to property shall result from the discharging of or use of Consumer Fireworks.

DISPLAY FIREWORKS

20. No person shall discharge Display Fireworks in the Township of Alfred and Plantagenet except pursuant to the terms of a permit issued by the Township of Alfred and Plantagenet for such purpose and in compliance with the provisions of this By-law and all other applicable laws.

21. Display Fireworks shall only be discharged under the supervision of a person who is, at a minimum, certified as “display supervisor” under the Explosives Act.

a) Every permit application shall include:

A description of the event including:

- i. The date and time of the proposed discharge of display fireworks;
 - ii. The type and kind of display fireworks that may be discharged;
 - iii. The discharge techniques to be used;
 - iv. The manner and means of restraining unauthorized persons from attending too close to the discharge site;
 - v. The manner in which unused display fireworks are to be disposed of; and
 - vi. The number of persons authorized to handle and discharge the display fireworks.
- b) A site plan providing a description of the discharge site to be used for the discharging of the display fireworks;
- c) A description of the fire emergency procedures;
- d) The name and address of the applicant and the sponsoring organization if applicable;
- e) Proof of certification of the applicant as a Firework Supervisor;
- f) Proof of consent of the owner of the property to the discharge of Display Fireworks in writing if the applicant is not the owner of the property;
- g) Proof of insurance and indemnification in accordance with Sections
- h) Such other information as required by the Municipal Law Enforcement Officer and/or the Fire Chief; and
- i) Payment of applicable fees as set out in Schedule B of this by-law;

22. The Municipal Law Enforcement Officer and/or Fire Chief may refuse any permit request if the application:

- a) Is incomplete;
- b) Is not submitted by a Fireworks Supervisor;
- c) There are reasonable grounds for belief that the holding of the display of fireworks will result in a breach of this by-law, the FPPA of the Act.

23. Every Permit holder who sets off Display Fireworks shall:

- a) Take all steps reasonably necessary, as would a reasonable and prudent person, to ensure that no harm to persons, animals or damage to property shall result from the discharging or use of Display Fireworks;
- b) Comply at all times with the requirements of the Act, FPPA and the Display Fire Works Manual published by Natural Resources Canada or any successor publication.

24. If the Display Fireworks are to be discharged in any Township Park, on Township owned land, or in any other public place, the approval in writing of Director of Parks and Recreation must be obtained by the applicant prior to the issuance of a permit.

25. A permit issued under this by-law may be revoked at any time if a breach of this by-law, the FPPA or the Act occurs.

PYROTECHNIC SPECIAL EFFECTS FIREWORKS

26. No person shall discharge pyrotechnic special effects fireworks in the Township of Alfred and Plantagenet except pursuant to the terms of permit issued by the

Township of Alfred and Plantagenet for such purpose and in compliance with the provisions of this by-law and all other applicable laws.

27. Every permit application pursuant to Section 28 shall be made to the Municipal By-law Enforcement Officer a minimum of 30 days prior to the event where the proposed discharging of pyrotechnic special effect fireworks is to occur.

28. Every permit application shall include:

- a. a description of the event including:
 - i. a site plan of the area, the stage and the pyrotechnic special effect fireworks storage area;
 - ii. a list of all the pyrotechnic special effect fireworks to be employed;;
 - iii. the location of all the pyrotechnic special effects fireworks; and
 - iv. the height, range of effect, fallout and duration of the display of pyrotechnic special effect fireworks.,
- b. a description of the fire emergency procedures;
- c. the name and address of the applicant and the sponsoring business or organization if applicable;
- d. a proof of certification of the applicant as a pyrotechnician;
- e. a proof of insurance and indemnification in accordance to section 37;
- f. a proof of consent of the owner of the property to the discharge or pyrotechnic effect fireworks in writing if the applicant is not the owner of the property;
- g. such other information as required by the Municipal Law Enforcement Officer and/or the Fire Chief; and
- h. payment of applicable fees as set out in Schedule "A".

29. The Municipal By-law Enforcement Officer and / or Fire Chief may refuse any permit request if the application:

- a. is incomplete;
- b. there are reasonable grounds for belief that the holding of the display of fireworks will result in a breach of this by-law, the FPPA or the Act.

30. The following conditions shall apply to the holding of a display of pyrotechnic special effect fireworks under an authorization form the Municipal By-law Enforcement Officer and/or the Fire Chief issued under this by-law:

- a. the permit is valid only for the display at the place and on the date or dates set forth in the permit; or as approved by the Fire Chief;
- b. the permit holder shall supervise the display of pyrotechnic special effect fireworks;
- c. the permit holder shall provide and maintain a fully operational fire extinguishing equipment ready for immediate use; and
- d. the permit holder shall comply at all times with the requirements of the Act, FPPA and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication.

31. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.

32. The permit holder shall ensure that all unused fireworks and all debris are removed.

33. Every permit holder shall produce his or her permit upon being so directed by any person authorized to enforce this by-law.

34. Every person who sets off pyrotechnic special effect fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure that no harm to persons, animals or damage to property shall result from the discharging off or use of Display Fireworks.
35. If pyrotechnic special effects fireworks are to be discharged in any Township Park, on Township-owned land, or in any other public space, the approval in writing of Director of Parks and Recreation must be obtained by the applicant prior to the issuance of a permit.
36. A permit issued under this by-law may be revoked at any time if a breach of this by-law, the FPPA or the Act occurs.

INSURANCE

37. The applicant for a permit of Display Fireworks and Pyrotechnic Special Effects Fireworks shall put insurance in effect and maintain it in full force with an insurer acceptable to the Township:
- a) Commercial general liability insurance issued on an occurrence basis for an amount of not less than \$5,000,000.00 per occurrence / \$5,000,000. Annual aggregate for any negligent acts or omissions by the Vendor / Supplier / Applicant relating to their obligations under the Fireworks by-law. Such insurance shall include but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property & operations; non-owed automobile; broad form property damage; Owners & Contractors protective; occurrence property damage; products; broad form completed operations; employees and volunteers as additional Insured(s); contingent employer's liability; tenant's legal liability; cross liability and severability of interest clause. Such insurance shall not contain an exclusion for discharging fireworks.
 - b) The insurance shall add the Corporation of the Township of Alfred and Plantagenet as additional Insured. This insurance shall be non-contributing with and be primary to any insurance available to the Township.
 - c) Automobile liability insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than \$2,000,000 inclusive for each and every loss.
 - d) Any and all deductibles applicable to the above-noted insurance policies shall be the sole responsibility of the Named Insured, and the Township shall bear no cost towards such deductibles.
 - e) The vendors / contractors / applicants are responsible to effect physical damage on their assets/equipment-failure to do so will no impose any liability on the Township.
 - f) The vendors / contractors / applicants shall provide the Township with a certificate of insurance evidencing coverage as noted above. Such policies shall not be cancelled, changed or lapsed unless the Insurer notifies the Township in writing at least thirty (30) days prior to the effective date of such cancellation, material change or lapse. The insurance policy will be in a form and with a company licensed to write business in the province of Ontario and which are, in all respects, acceptable to the Township.
 - g) The Township reserves the right to assess exposures and add additional insurance requirements where it is deemed necessary.
 - h) The applicant for a permit of Display Fireworks and Pyrotechnic Special Effects Fireworks shall indemnify and save harmless the Corporation of the Township of Alfred and Plantagenet, their elected officials, officers, employees, volunteers and agents from and against any and all claims, actions, losses,

expenses, fines, costs (including legal costs), interest, or damages of every nature and kind whatsoever, including, but not limited to, bodily injury or damage to or destruction of tangible property including loss of revenue arising out of or allegedly attributable to the negligence, acts, errors, omissions, whether willful or otherwise by the Vendor / Supplier / Applicant, their officers employees, volunteers, guests, invitees, agents, or others to who the Vendor / Supplier / Applicant is legally responsible. This indemnity shall be in addition to an not in lieu of any insurance to be provided by the Vendor / Supplier / Applicant in accordance with this agreement and shall survive this agreement.

EXEMPTION

38. This by-law shall not apply to any Consumer Fireworks, Display Fireworks or Pyrotechnic Special Effect Fireworks being discharged by or on behalf of the Township of Alfred and Plantagenet.

ENFORCEMENT

39. This by-law shall be enforced by the Municipal Law Enforcement Officer of the Township of Alfred and Plantagenet, the Fire Chief or his or her designate.

OBSTRUCTION

40. No person shall obstruct, hinder, or interfere with a Municipal Law Enforcement Officer, or the Fire Chief in the lawful performance of their duties.

OFFENCES AND PENALTIES

41. If any person/applicant or permit holder or contravenes any provision of this by-law, the Fire Department may enter upon any lands to extinguish the fire.

42. The owner of the land may be liable to any fees in relation to section 43 of this by-law.

43. Should the Fire Department cause work to be done under section 41 of this by-law, the owner shall be responsible for any damage to property or injury to persons or animal occasioned by the said discharge of fireworks and shall be liable to pay any fees together with any cost including but not limited to personnel, equipment and apparatus necessary and called in to extinguish the said fireworks. Such total amount, together with the administrative fee, shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interests charges as real property taxes, and shall be collected in the like manner and with the same remedies as real property taxes.

44. Before the certificate of the Clerk of the Corporation is issued under section 43 of this by-law, an interim certificate shall be delivered to the owner of the property that is used to the lien, as well as to all prior mortgagees or other encumbrances and the affected owner, mortgagees or other encumbrances shall have two (2) weeks from the date of the receipt of the interim certificate to appeal the amount shown thereon to the Council of the Corporation.

45. Any person who contravenes, causes, or permits any contraventions of any of the provisions of this by-law is guilty of an offence and upon conviction, il liable to a fine as provided for in the Provincial Offences Act or any successor.

46. In addition to the imposing of a fine or other remedy, a Court of competent jurisdiction may, upon conviction of an offence under this By-law, issue an order;

- a) Prohibiting the continuation or repetition of the violation by the person convicted; and
- b) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

RIGHT OF ENTRY

47. Every person enforcing this by-law shall have the right of entry on any property or into any building not actually being used as a dwelling for the purpose of carrying out an inspection to determine whether this by-law is being complied with and for the enforcement of this by-law pursuant to section 436 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended from time to time.

SEVERABILITY

48. Every provision of this by-law is severable and if any provisions of this by-law should for any reason be declared invalid by any court, it is the intention and the desire of this Council that the remaining provisions shall remain in full force and effect.

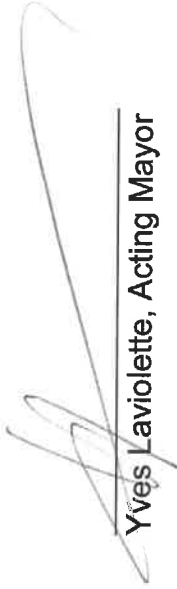
49. Where a provision of this by-law conflicts with the provision of another by-law in force within the Township of Alfred and Plantagenet, the provision that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

50. Nothing in this by-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other by-law of the Township of Alfred and Plantagenet.

SHORT TITLE

51. This by-law may be referred to as the "Fireworks By-law".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 21st DAY OF JUNE 2022.


Yves Laviolette, Acting Mayor
Annie Rochefort, Clerk

SCHEDULE “A”

2022-30 Fireworks By-law

Fireworks shall only be permitted on the following days:

- Two days before and two days after New Year
- Two days before and two days after Victoria Day
- Two days before and two days after St-Jean Baptiste (June 24th)
- Two days before and two days after Canada Day

Fees for fireworks permit:

Consumer Fireworks permit: \$25.00

Display Fireworks permit: \$250.00

Yearly Display Fireworks permit for businesses: \$250.00