

**THE CORPORATION OF THE VILLAGE OF POINT EDWARD
BY-LAW NUMBER 09 OF 2016**

Being a By-Law Respecting the Sale and the Setting Off of Fireworks within
the Village of Point Edward

WHEREAS it is deemed expedient to regulate the sale and setting off of fireworks in the Village of Point Edward

THEREFORE the Council of the Corporation of the Village of Point Edward enacts as follows:

DEFINITIONS

1. In this by-law

“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 any Act and Regulations enacted in substitution thereof;

“Family fireworks” means an outdoor, low hazard, recreational fireworks that is classed as a Subdivision 1 of Division 2 of Class 7 Fireworks under the Act, and includes, but is not limited to, 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;

“Display fireworks” means an outdoor, high hazard, recreational fireworks that is classed as a Subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes but is not limited to rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;

“Fire Chief” means the Fire Chief of the Village of Point Edward or their designate(s);

“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;

“Fireworks” means display fireworks, pyrotechnic special effects fireworks and Family fireworks;

“Fireworks 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

or practical jokes as included on the most recent list of prohibited fireworks as published from time to time under the Act and any fireworks not on the approved list of the Ministry of Natural Resources Explosives Branch as amended from time to time;

“Pyrotechnician” means a person who is certified under the Act as a Theatrical User, an Assisatant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Act;

“Pyrothechnic special effect firework” means a high hazard firework that is classed as a Subdivision 5 of Division 2 of Class 7 Firework 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; and

“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.

2. If any section, subsection or part thereof be declared illegal or ultra vires, such section, subsection or part shall be deemed to be severable and all other parts to be separate and independent.

SALE OF FIREWORKS AND FIRECRACKERS

3. (a) No person shall sell any firecrackers in the Village of Point Edward.
(b) No person shall sell, offer for sale, give or distribute fireworks in the Village of Point Edward.
(c) No person shall sell any fireworks.

DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS

4. (a) No person shall discharge any firecrackers, except as per subsection 6(d) herein.
(b) No person shall discharge any prohibited fireworks.

FAMILY FIREWORKS

5. (a) Within the Village of Point Edward no person shall discharge family fireworks except on the following days:
 - a. Victoria Day, or the day immediately preceding or following Victoria Day;
 - b. Memorial Day , or the day immediately preceding or following Memorial Day;
 - c. Canada Day, or the day immediately preceding or following Canada Day;
 - d. The Fourth of July, or the day immediately preceding or following the Fourth of

- (c) No person shall discharge any family fireworks in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the discharging of any fireworks.
- (d) No person shall discharge any family fireworks in, from or into any building, doorway, or automobile.
- (e) No person shall discharge any family fireworks in or on or into any highway, street, lane, square or other public place, including public parks, beaches, or any other municipal property, without the written permission of the Village of Point Edward.
- (f) No person shall discharge, set off, or cause to be set off any fireworks inside or closer than 6 metres to any building, tent, trailer, shelter or motor home.
- (g) No person under the age of 18 years may discharge, fire, set off, or cause to be set off any family fireworks unless under the direct supervision of a person 18 years of age or older.
- (h) No person being the parent or guardian of any child under the age of 18 years shall permit said child to discharge, fire, set off or cause to be set off any fireworks, except when such parent or guardian or other responsible person of at least 18 years of age is in direct supervision or control.

DISPLAY FIREWORKS

- 6. (a) No person or group of persons shall discharge or hold a display of display fireworks without first having obtained a permit to do so issued by the Municipality.
 - (b) No person or group of persons shall discharge any display fireworks except under the direct supervision and control of a qualified supervisor.
 - (c) No display fireworks shall be permitted on any Municipal property without first having obtained the approval of the Municipal Council as well as the required permit.
 - (d) No person or group shall hold a display of firecrackers without first having obtained a permit.
7. Every application for a permit shall be made to the Municipality a minimum of 30 days prior to the event when the proposed discharge of display fireworks is to occur.
8. Every application for a permit shall include:
- (a) A description of the event including,
 - 1. The date and time of the proposed discharge of display fireworks.
 - 2. The type and kind of display fireworks that may be discharged.
 - 3. The discharge techniques to be used.
 - 4. The manner and means of restraining unauthorized persons from attending too near the discharge site.
 - 5. The manner in which unused display fireworks are to be disposed of.
 - 6. The number of persons authorized to handle and discharge the display fireworks.

(f) Proof of the consent of the owner of the property to the discharge of display fireworks in writing.

(g) A processing fee of \$50.

(h) Proof of insurance and indemnification in accordance with sections 10 and 11.

(i) Such other information as required by the Municipality.

9. An applicant for a permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:

(a)The application is incomplete.

(b)The applicant is not a Fireworks Supervisor.

(c)The display is not being held under the auspices of an established club, association or group of persons.

(d)There are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law or the Act.

INSURANCE

10. Prior to the issuance of a permit, the applicant shall provide and maintain Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000) 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 and shall name the Village of Point Edward insured thereunder. Such insurance shall include permission to conduct displays of pyrotechnic special effects fireworks or display fireworks. Such insurance policy shall contain an endorsement to provide the Village of Point Edward with 30 days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to the Village of Point Edward prior to the issuance of the permit.

INDEMNIFICATION

11. The applicant shall indemnify and save harmless the Village of Point Edward from any and all claims, demands, causes of action, loss costs or damages that the Village of Point Edward 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.

CONDITIONS APPLYING TO PERMIT

12. The Village may issue permits for displays of fireworks on the conditions set forth in Section 13, and each such permit shall state the name of the sponsoring club, association or group, the purpose of the display, the place and date at which the same

- (b) The display is not being held within two hundred metres (200m) of a nursing home, home for the aged, any premises or place where explosives, gasoline, or other highly flammable substances are manufactured, sold or stored or within two hundred metres (200m) of a church or a public or private separate school or other school unless the consent of the owner or an agent or representative of the owner of such church or school is obtained, or within 60 metres (60m) from the nearest building, or 15 metres (15m) from any hydro line, tree or overhead obstruction.
 - (c) Spectators are no closer than 100 metres (100m) from the place at which the fireworks are being set off or discharged.
 - (d) The permit holder shall supervise the display of display fireworks,
 - (e) The permit holder or his licensed designate shall discharge the display fireworks,
 - (f) Every permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use at each firing site,
 - (g) The permit holder shall comply at all times with the provisions of the Act, the Fire Protection and Prevention Act, 1997, and the Display Fireworks Manual published by Natural Resources Canada or any successor publication, and
 - (h) A demonstration of the display or portions of the display shall be conducted upon request of the Fire Chief.
14. No permit holder shall discharge display fireworks except in accordance with the conditions of the permit.
15. The permit holder holding the display of display fireworks shall ensure that all unused fireworks and all debris are removed from the site at the conclusion of the event.

PYROTECHNIC SPECIAL EFFECTS FIREWORKS

16. (a) No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the Village of Point Edward without first having obtained a permit to do so issued by the Municipality.
- (b) No person or group of persons shall discharge any pyrotechnic special effect fireworks in the Village of Point Edward, without first having obtained a permit issued by the Fire Chief authorizing the display of pyrotechnic special effect fireworks.
17. Every application for a permit pursuant to Section 13 shall be made to the Municipality a minimum of 30 days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.
18. Every application for a permit shall include:

- V. Sequence of firing,
 - VI. Location of the audience and all exits, and
 - VII. Date and time of the proposed event using pyrotechnic special effect fireworks;
- (b) Description of fire emergency procedures;
 - (c) Name and address of the applicant and the sponsoring business or organization, if applicable;
 - (d) Proof of certification of the applicant as a Pyrotechnician
 - (e) Proof of insurance and indemnification in accordance with Sections 10 and 11;
 - (f) Proof of consent of the owner of the property to the discharge of pyrotechnic special effect fireworks in writing if the applicant is not the owner of the property;
 - (g) A processing fee as noted in the Village of Point Edward fee structure; and
 - (h) Such other information as required by the Fire Chief.
19. An applicant for a permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
- a) The application is incomplete,
 - b) The applicant is not a Pyrotechnician under the Act, or
 - c) There are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law, or any law.

CONDITIONS APPLYING TO PERMIT

20. The Village may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 18 and each such permit shall state the name of the sponsoring business, club, association or group, the purpose of the display, the place and date at which the display may be held, and the name of the Pyrotechnician under whose supervision the same shall be held.
21. The following conditions shall apply to the holding of a display of pyrotechnic special effect fireworks under a permit 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,
 - b) The permit holder shall supervise the display of pyrotechnic special effect fireworks,
 - c) The permit holder shall discharge the pyrotechnic special effects fireworks,
 - d) The permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use,
 - e) The permit holder shall carry at all times with the requirements of the Act and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication and,
 - f) A demonstration of the display or portions of the display be conducted upon request of the Fire Chief.
22. No permit holder shall discharge pyrotechnic special effect fireworks except in

25. All permits granted by the Fire Chief may be revoked whenever, in their discretion, the holder of such permit is in non-compliance with its terms or has concerns for the safety of the public.

CONFLICT

26. If any portion of this By-law is found to be in conflict with any other provision of any other by-law of the Municipality, the provision which establishes the higher standard or greatest restriction shall prevail.

OFFENCES AND PENALTIES

27. a) Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- b) Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990 P. 33.

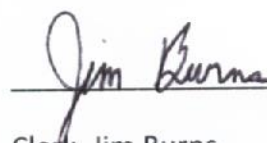
REPEAL

28. All previous by-laws regulating the sale and setting off of Fireworks in the Village of Point Edward are hereby repealed.
29. This by-law may be referred to as the "Fireworks By-Law".
30. This by-law shall come into force and take effect on the day of the final passing thereof.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 23rd day of February, 2016.



Mayor, Larry MacKenzie



Clerk, Jim Burns