

THE CORPORATION OF THE TOWN OF AURORA

By-law Number 5373-11

BEING A BY-LAW to prohibit and regulate the sale and setting off of fireworks in the Town of Aurora.

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 WHEREAS paragraph (a) of section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that the Town may prohibit and regulate the Sale of Fireworks and the setting off of Fireworks, as defined in this By-law;

AND WHEREAS paragraph (b) of section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that local municipalities may prohibit the Sale and setting off of Fireworks unless a permit is obtained and may impose conditions for obtaining, continuing to hold, and renewing the Permit, as defined in this By-law;

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;

AND WHEREAS on December 13, 2005, the Council of the Town passed By-law Number 4736-05.P to prohibit and regulate the Sale and setting off of Fireworks in the Town;

AND WHEREAS the Council of the Town deems it necessary and expedient to regulate the Sale and the setting off of Fireworks within the Town and the repeal of By-law Number 4736-05.P.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AURORA ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-Law the following words shall have the following meanings:

- (a) "Council" means the Council of The Corporation of the Town of Aurora;
- (b) "*Explosives 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;
- (c) "Fire Chief" means the person appointed by By-law to be the Fire Chief of Central York Fire Services for the Town or his/her designate;
- (d) "*Fire Protection and Prevention Act*" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, and any regulations enacted thereto or

any act or regulations enacted in substitution thereof;

(e) "Fireworks" shall consist of the following devices:

- i. "Display Fireworks" means high hazard fireworks generally used for recreation that are classified under Class 7, Subdivision 2 of Division 2, as described in subsection 14(6) of Regulation C.R.C., c. 599 of the *Explosives Act* and includes but is not limited to: rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons, but excluding Firecrackers;
 - ii. "Family Fireworks" means low hazard fireworks generally used for recreation that are classified under Class 7, Subdivision 1 of Division 2, as described in subsection 14(5) of Regulation C.R.C., c. 599 of the *Explosives Act*, and includes but is not limited to, fireworks showers, fountains, golden rain, lawn lights, pinwheels, Roman candles, volcanoes, sparklers and other similar devices, but excluding Christmas crackers and caps for toy guns;
- (f) "Firecracker" means a noise-producing device which uses a chemical compound and entwined fuses and which are designed and used primarily as noisemakers;
- (g) "Permit" means a Display Fireworks Permit issued by Central York Fire Services, the form of which may be amended from time to time by Central York Fire Services;
- (h) "Person" means and includes both a corporation and a natural individual. Where a Person is a minor, "Person" includes the parent or guardian of the minor.
- (i) "Sale" or "Sell" means and shall include all attempts or offers to sell or invitations to purchase, whether by express act or implication; and
- (j) "Town" means The Corporation of the Town of Aurora.

2. SALE OF FIREWORKS AND FIRECRACKERS

- (a) No Person shall Sell or otherwise provide Firecrackers in the Town, with the exception of Christmas crackers and caps for toy guns.
- (b) No Person shall Sell or otherwise provide Family Fireworks in the Town except for a period of seven (7) days prior to and including Victoria Day, and for a period of seven (7) days prior to and including Canada Day.
- (c) No Person shall Sell or otherwise provide Family Fireworks to any Person less than eighteen (18) years of age.
- (d) No Person shall Sell or otherwise provide Display Fireworks to any Person under the age of twenty-one (21) years. The purchaser or recipient of the Display Fireworks must be certified, at a minimum, as a "display supervisor" under the *Explosives Act*.
- (e) Where Family Fireworks are offered for Sale, they must be displayed in such a manner that they are not accessible as a self-serve item and shall not be located at or near a means of access or egress to any building or room.
- (f) No Person shall Sell Family Fireworks in the Town without displaying in his or her shop or place of business in a clearly visible location at a point adjacent to the Fireworks being sold, the provisions contained in sections 2, 3, 5 and 8 of this By-Law.

3. DISPLAY & STORAGE OF FIREWORKS

The display, storage, Sale and handling of Fireworks shall be in conformance with the *Fire Protection and Prevention Act*, the *Explosives Act*, and all other applicable legislation.

4. SETTING OFF OF FIRECRACKERS

No Person shall set off Firecrackers in the Town, with the exception of Christmas crackers and caps for toy guns.

5. SETTING OFF OF FAMILY FIREWORKS

- (a) No Person shall set off Family Fireworks except on Canada Day and the day preceding Canada Day and Victoria Day and the day preceding Victoria Day.
- (b) No Person shall set off Family Fireworks except between sunset and 11:00 p.m. on the days designated above in subsection 5(a) of this By-law.
- (c) No Person shall set off Family Fireworks in any building or vehicle.
- (d) No Person less than eighteen (18) years of age shall set off Family 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 Family Fireworks are being set off.
- (e) No parent or guardian of any Person less than eighteen (18) years of age shall allow or permit that underage Person to set off Family 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 Family Fireworks are being set off.
- (f) No Person shall set off Family Fireworks on any land that is not owned or legally possessed by him or her, unless written permission for the setting off of Family Fireworks has been obtained from the owner or Person in charge of the land.
- (g) No Person shall set off Family Fireworks in any Town park, on Town-owned land, or in any other public place, without prior written approval from Council.
- (h) Every Person who sets off or is responsible for the setting off of Family Fireworks shall provide and maintain fully operational fire extinguishing equipment, including portable fire extinguishers and a water supply, ready for immediate use and present at all times and for at least thirty (30) minutes after the setting off of Family Fireworks has terminated, at the location of the setting off of Family Fireworks.
- (i) No Person shall permit or cause any debris or matter from Family Fireworks to land on any building, fence, hedge, tree, highway, or public or private property other than the property where the Family Fireworks are being set off from.
- (j) Every Person who sets off Family Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure that no harm to persons or damage to property shall result from the setting off of or use of Family Fireworks.
- (k) The Person responsible for the setting off of Family Fireworks shall be responsible for any injury or damage to any Person or any property resulting from the setting off of Family Fireworks, and shall hold and save the Town harmless from any and all liability.

6. SETTING OFF OF DISPLAY FIREWORKS

- (a) No Person shall set off Display Fireworks in the Town of Aurora except pursuant to the terms of a Permit issued by the Fire Chief for such purpose and in compliance with the provisions of this By-Law and all other applicable laws.
 - (b) The Fire Chief is hereby delegated the authority to issue a Permit; however, the Fire Chief may issue a Permit only if the following criteria and conditions are met:
 - i. Each Permit application shall include a completed application form and payment of any applicable fees for the Permit as set by Central York Fire Services, and shall state: the name of the Person the Permit is issued to; the purpose of the Display Fireworks; the place at which and date on which the Display Fireworks may be set off; and the name of the Person under whose supervision the Display Fireworks shall be set off, together with any special conditions imposed by the Fire Chief to promote the health and safety of the public at the event.
 - ii. A Permit may only be issued to a Person, service club, association, or group.
 - iii. A Permit may only be issued for the purpose of celebrating Victoria Day or Canada Day. Where an applicant wishes to celebrate any other event, it must obtain the approval in writing of Council prior to the issuance of a Permit.
 - iv. If the Display Fireworks are to be set off in any Town park, on Town-owned land, or in any other public place, the approval in writing of Council must be obtained by the applicant prior to the issuance of a Permit.
 - (c) Display Fireworks shall only be set off under the supervision of a Person who is, at a minimum, certified as a "display supervisor" under the *Explosives Act*.
 - (d) No permit shall be issued for Display Fireworks for a location that is contrary to the minimum distance separations as set out in the *Explosives Act*.
 - (e) The applicant for a Permit shall provide proof of, and maintain, Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) 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 Town and Central York Fire Services as an additional insured thereunder. Such insurance shall include coverage for displays or the setting-off of Display Fireworks. Such insurance policy shall contain an endorsement to provide the Town within thirty (30) calendar days prior written notice of cancellation or of a material change that would diminish coverage.
7. Every Person who sets off Display Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure that no harm to Persons or damage to property shall result from the setting off of or use of Display Fireworks.
8. It is hereby declared for greater certainty that for the purposes of this By-Law, the setting off of Family Fireworks on Victoria Day or Canada Day or the day immediately preceding Victoria Day or Canada Day on land appurtenant to a private residence by the owner or tenant of such residence or a Person authorized by him or her to do so shall not be deemed to be Display Fireworks as defined in this By-law. Furthermore, the Sale or setting off of pyrotechnical signalling devices for marine, military or railway purposes shall not be deemed to be respectively the Sale or setting off of Fireworks.

9. **PENALTY**

Any Person convicted of a violation of any of the provisions of this By-law is guilty of an offence and, upon conviction, is liable to a penalty of not more than Five Thousand Dollars (\$5,000.00) exclusive of costs, and all such penalties shall be recoverable under the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

10. **REPEAL**

(a) By-law Number 4736-05.P be and is hereby repealed.

(b) Section 5 of By-law Number 4752-05.P be and is hereby repealed.

11. **SHORT TITLE**

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

12. **EFFECTIVE DATE**

This By-law shall come into full force and effect on the date of final passage hereof.

READ A FIRST AND SECOND TIME THIS 22ND DAY OF NOVEMBER, 2011.

READ A THIRD TIME AND FINALLY PASSED THIS 22ND DAY OF NOVEMBER, 2011.



GEOFFREY DAWE, MAYOR



JOHN D. LEACH, TOWN CLERK

Approved as to Form
By Legal Services
Signature: Wana Ma
Date: Nov. 18, 2011