

# **THE CORPORATION OF THE TOWN OF AJAX**

## **BY-LAW NUMBER 40-2005**

A By-law to regulate the Sale and Discharging of Fireworks

WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25., 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., 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 including requiring the submission of plans; and

WHEREAS the Council of the Corporation of the Town of Ajax deems it necessary to prohibit and regulate the sale of fireworks and the setting off of fireworks within the Town.

NOW THEREFORE, the Council of The Corporation of the Town of Ajax HEREBY ENACTS as follows:

### **1. DEFINITIONS**

- 1.1 “Act” means the Explosives Act, R.S.C., 1985, c E-17, as amended.
- 1.2 “Clerk” means the Clerk of the Town and includes any staff officially acting on his behalf.
- 1.3 “Consumer Fireworks” means low-hazard fireworks such as showers, fountains, roman candles, sparklers, and caps for toy guns, as defined in the Act.
- 1.4 “Council” means the Council of The Corporation of the Town of Ajax.
- 1.5 “Designated Location” means an area or site approved by the Town, used for the purpose of selling Consumer Fireworks.
- 1.6 “Display Fireworks” means an outdoor, high-hazard recreational fireworks such as bombshells, aerial shells, large wheels and bombardos, as defined in the Act.
- 1.7 “Fire Chief” means the person appointed by Council to act as Fire Chief for the Town as defined in the Fire Protection and Prevention Act (Ontario).
- 1.8 “Firecracker” means a pyrotechnic device that is designed to explode after being ignited without subsequent display or visible effect, but does not include caps for toy guns, safety flares, or marine rockets.
- 1.9 “Fireworks” means a pyrotechnic device or a substance that is made, manufactured or used to produce an explosion or detonation and includes Fireworks composition and manufactured Fireworks as defined in the Explosives Regulation made pursuant to the Act.
- 1.10 “Fireworks Portable Display Unit” means a stand, container, cart, seat, display rack, trailer or other moveable display unit used for the purposes of sale by retail of Consumer Fireworks, but does not include a motor vehicle.
- 1.11 “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 Fireworks.
- 1.12 “Officer” means a duly appointed Municipal Law Enforcement Officer.

- 1.13 “Motor Vehicle” includes an automobile, truck, motorcycle and any other vehicle propelled or driven otherwise than by muscular power but does not include a motorized snow vehicle, motor-assisted vehicle or trailer.
- 1.14 “Owner” means the owner of the Fireworks Portable Display Unit.
- 1.15 “Permit” means a permit issued under the provisions of this By-law.
- 1.16 “Person” includes a corporation and its directors and officers, and their heirs, executors, assignees and administrators or other legal representatives of an individual and their respective successors and assignees.
- 1.17 “Pyrotechnics Special Effect Firework” means a high hazard firework that is classed under the Act, 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.
- 1.18 “Premises” includes lands and any fences, buildings, sheds or similar structures situated thereon.
- 1.19 “Prohibited Fireworks” includes, but is not limited to, cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clips, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down torpedoes and crackling balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers 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.
- 1.20 “Public Fireworks Display” means an exhibition of Consumer or Display Fireworks in an open air assembly, occupancy to which the public is invited or admitted, with or without a fee being charged.
- 1.21 “Separation Barrier” means either a natural or man-made blockade which provides adequate division between Designated Locations.
- 1.22 “Town” means The Corporation of the Town of Ajax.

## **2. GENERAL PROHIBITIONS**

- 2.1 No Person shall sell or offer for sale any Consumer Fireworks except on the Statutory Holidays known as Victoria Day, Canada Day, and the seven (7) days immediately preceding each of them, within the corporate limits of the Town.
- 2.2 No person shall set off any Consumer Fireworks on any public street or roadway within the corporate limits of the Town, at any time.
- 2.3 No Person shall set off Consumer Fireworks on any land of which they are not the registered owner, without obtaining the prior written permission of the registered owner to do so.
- 2.4 No person shall set off any Consumer Fireworks within the corporate limits of the Town except on the Statutory Holidays known as Victoria Day and Canada Day and the two days immediately preceding and following each of those days.
- 2.5 No Person shall set off any Display Fireworks within the corporate limits of the Town unless:
- 2.5.1 Such Person is currently a qualified Fireworks Supervisor;
- 2.5.2 Such Person has received a Permit to set off the Display Fireworks;

- 2.5.3 The Display Fireworks are set off only on the day or days specified on the Permit; and
- 2.5.4 The Display Fireworks are set off only at the location specified on the Permit.
- 2.6 No Person shall sell or give to any Person under the age of 18 years any type of Fireworks.
- 2.7 No Person shall use, sell, discharge, or store or cause to be used, sold, discharged or store Prohibited Fireworks, including Firecrackers within the corporate limits of the Town.

### **3. PERMIT REQUIRED**

- 3.1 No Person being the owner of property shall permit the sale of Consumer Fireworks from a Fireworks Portable Display Unit on said property unless a Permit has been issued to a Person under this By-law.
- 3.2 No Owner of a Fireworks Portable Display Unit shall operate or permit to be operated a Fireworks Portable Display Unit within the corporate limits of the Town, unless the Owner has been issued a Permit under this By-law.
- 3.3 No Person shall sell or permit to be sold, any Consumer Fireworks from a Fireworks Portable Display Unit within the corporate limits of the Town, unless a Permit has been issued under this By-law.

### **4. APPLICATION FOR A PERMIT**

- 4.1 An application for a Permit shall be completed on the forms provided by the Clerk.
- 4.2 Each executed application for a Permit shall be submitted to the Clerk and be accompanied by:
  - 4.2.1 The fee in the appropriate amount as set out in Schedule “A” to this By-law;
  - 4.2.2 If the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information filed or, if a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration.
  - 4.2.3 Every application for a Permit made under this By-law shall be accompanied by a description of the Consumer Fireworks to be sold; and
  - 4.2.4 Where the Fireworks Portable Display Unit is a trailer, a current provincial permit for the trailer issued and in good standing from the Ministry of Transportation of Ontario shall be supplied.
  - 4.2.5 A letter of authorization including the following information from the property owner where the Fireworks Portable Display Unit is to be located:
    - 4.2.5.1 The name of the Fireworks Portable Display Unit Owner;
    - 4.2.5.2 A plan of the private property showing the Designated Location on the property where the Fireworks Display Unit will be located; and
    - 4.2.5.3 The term for which the approval is granted by the property owner.
  - 4.2.6 A certificate of insurance endorsed to provide that the Clerk will be given at least ten (10) days notice in writing prior to any cancellation, expiration or change in the amount of the policy and that the insured has policy coverage

in respect to any one accident of a liability limit of at least \$5,000,000.00, naming the Town as an additional insured.

4.2.7 Notwithstanding Subsection 4.2.1 herein, nonprofit organizations and service groups who offer Consumer Fireworks for sale are exempt from the required permit fee, provided they comply with all provisions of this By-law.

4.3 The Designated Location shall only be approved where:

4.3.1 The Designated Location is not within thirty (30) metres (98 feet) of any intersection;

4.3.2 The Designated Location is not within one hundred (100) metres (328 feet) of the entrance to any public park;

4.3.3 The Designated Location is not within one hundred (100) metres (328 feet) of any land occupied by a school;

4.3.4 The Designated Location is not within five hundred (500) metres (1,640 feet) of another approved Designated Location except where there is a Separation Barrier;

4.4 Every Person holding a Permit under this By-law shall ensure that:

4.4.1 No Smoking signs are posted on the Fireworks Portable Display Unit;

4.4.2 A 2A 10BC rated fire extinguisher is available to the Owner and each employee in attendance during the times sales are taking place;

4.4.3 No Consumer Fireworks are sold to anyone under the age of eighteen (18) years; and

4.4.4 The Fireworks Portable Display Unit is set up and operated only at the Designated Location indicated on their Permit.

4.5 A Fireworks Portable Display Unit Owner must make a separate application for a Permit for each of the Designated Locations at which the Owner intends to use the Fireworks Portable Display Unit.

4.6 Each executed application for a Permit shall be submitted to the Clerk and be accompanied by:

4.6.1 The fee in the appropriate amount as set out in Schedule "A" to this By-law.

4.7 Where an application for a Permit is refused, the fees paid pursuant to this By-law shall be fully refunded.

4.8 No individual shall obtain a Permit under this By-law unless the individual is eighteen (18) years of age or over.

## **5. PERMIT TERMS AND CONDITIONS**

5.1 Notwithstanding any other provisions of this By-law, Council may issue a Permit subject to terms and conditions including special conditions as are necessary to give effect to this By-law and the attached Schedule and may include, but are not limited to, conditions restricting the hours of business, conditions relating to the locations where the business may operate or that the Owner has employees in attendance at the business location during the hours of operation to ensure public safety and comfort.

## **6. INSPECTION**

6.1 On receipt of an application for a Permit or as a condition of the continuation or

renewal of a Permit, an Officer may, at any reasonable time make an inspection to ensure that all the provisions of this By-law have been satisfied.

6.2 No Person shall obstruct the Officer inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer.

## **7. DISPLAY OF PERMIT**

7.1 A Permit shall be displayed at all times when the sale of Consumer Fireworks is being conducted.

7.2 If requested, the Permit holder shall produce the Permit upon request by the Clerk, an Officer or a peace officer.

## **8. PERMIT NON-TRANSFERABLE**

8.1 A Permit issued under this By-law is not transferable.

## **9. CHANGE OF PERMIT**

9.1 No Person to whom a Permit has been issued under this By-law shall alter, erase or modify or permit the alteration, erasure or modification of the Permit or any part thereof, unless approved by the Clerk.

## **10. TERM OF PERMIT**

10.1 The Permits issued pursuant to this By-law shall be valid, subject to the other provisions of the By-law, for a period of time not to exceed seven (7) days immediately preceding the Statutory Holidays known as Canada Day and Victoria Day.

## **11. RETURN OF PERMIT**

11.1 Where a Permit has been revoked, the holder of the Permit shall return the Permit to the Clerk within twenty-four (24) hours of receipt of notification of revocation.

11.2 Where the Permit is not returned within twenty-four (24) hours as set out in Section 11.1, the Officer may enter upon the premises of the holder of the Permit for the purpose of receiving or taking the said Permit and no Person shall refuse to deliver or in any way obstruct or prevent the Officer from obtaining the Permit.

## **12. PYROTECHNICS**

12.1 No Person, other than a Person who holds a current and appropriate level of Certificate for the type, size, number and location of the Pyrotechnic materials in question for the type of Pyrotechnic Special Effect Firework materials being used shall:

12.1.1 Have in their custody or control, any Pyrotechnic materials, unless that Person is:

12.1.1.1 A manufacturer, wholesaler or retailer of such materials who holds all requisite licences to act in that capacity, and the materials in question are in that Person's custody solely in connection with that business; or

12.1.1.2 Lawfully carrying the Pyrotechnic materials in transit through the Town, whether as a public carrier or as an employee of a Person described in Subsection 12.1.1; or

12.1.1.3 Perform or carry out any Pyrotechnic display, special effects,

event, exhibition or operation.

12.2 Every Pyrotechnic display, special effects, event exhibition or operation carried out within the corporate limits of the Town shall be performed or carried out safely, in accordance with:

12.2.1 Prevailing best practice in the Pyrotechnic trade; and

12.2.2 The specifications, recommendations or requirements, as the case may be, set down in the Pyrotechnics Special Effects Manual as issued and updated from time to time by the Explosives Regulatory Division of Natural Resources Canada.

12.3 For the purposes of this section, "Certificate" means a current Certificate issued by or under the authority of the Explosives Regulatory Division of Natural Resources Canada.

**13. PENALTY**

13.1 Every Person who contravenes any provisions of this By-law is guilty of an offence and on conviction is liable to a fine, exclusive of costs, for each offence, pursuant to the Provincial Offences Act.

**14. VALIDITY**

14.1 If a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

14.2 The Schedule annexed to this By-law is hereby incorporated into and forms a part of this By-law.

**15. REPEAL**

15.1 By-law Number 48-98 is hereby repealed.

READ a first and second time this  
Eleventh day of April, 2005

READ a third time and passed this  
Eleventh day of April, 2005

---

Mayor

---

Clerk

**SCHEDULE "A"**

**TO BY-LAW 40-2005**

**RELATING TO FEES**

**1. TYPE OF PERMIT**

|     |                                 |          |
|-----|---------------------------------|----------|
| 1.1 | Fireworks Portable Display Unit | \$200.00 |
| 1.2 | Display Fireworks (High Hazard) | \$200.00 |