

The Corporation of the City of Owen Sound

By-law No. 2022-050

A By-law to regulate the sale and discharge
of fireworks in the City of Owen Sound

WHEREAS subsection 5(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “Municipal Act”) requires that the powers of a municipality be exercised by its Council and subsection 5(3) requires that such powers be exercised by by-law including a capacity, right, power and privilege under section 9 unless specifically authorized to do otherwise; and

WHEREAS section 11 of the Municipal Act provides broad authority for lower-tier municipalities to pass by-laws protecting the health, safety and well-being of persons; and

WHEREAS section 121 of the Municipal Act provides that a municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks and require a permit from the municipality to sell and set off fireworks; and

WHEREAS section 151 of the Municipal Act provides that a municipality may license, regulate, and govern any business carried on within the municipality; and

WHEREAS subsection 425(1) of the Municipal Act permits Council to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence; and

WHEREAS subsection 429(1) of the Municipal Act provides that a municipality may establish a system of fines for offences under a by-law of the municipality; and

WHEREAS the *Explosives Act*, R.S.C., 1985, c. E-17 (the “Explosives Act”) governs the manufacture, testing, sale, storage, transportation and importation of explosives and the use of fireworks in Canada; and

WHEREAS on May 6, 2013, the Council of the Corporation of the City of Owen Sound (the “City”) passed Fireworks By-law No. 2013-089 to govern the sale and discharge of fireworks in the City of Owen Sound; and

WHEREAS on April 25, 2022, City Council passed Resolution No. R-220425-012 directing staff to bring forward a by-law to repeal By-law No. 2013-089 and replace it with an updated by-law to govern the sale and discharge of fireworks in the City, in consideration of staff report CR-22-036 presented to the Corporate Services Committee on March 24, 2022;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Short Title, Purpose and Scope

Short Title

1. This by-law shall be known as the “Fireworks By-law”.

Purpose

2. This by-law has been enacted to address issues of public safety and responsible use of fireworks to advance and maintain a high quality of life for City residents and visitors.

Scope

3. This by-law applies to all persons and fireworks vendors and all uses of fireworks in the City, except for the use of fireworks for:
 - a. occupational purposes by trained personnel following all applicable standards, act, and regulations; and
 - b. emergency warning or signaling purposes.

Part II. Interpretation**Headings**

4. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

References to Applicable Law

5. All references to applicable law are ambulatory and apply as amended from time to time.

Definitions

6. For the purposes of this by-law:

“City” means the Corporation of the City of Owen Sound or the geographic area of the City of Owen Sound as context requires;

“Council” means Council of the City;

“Explosives Act” means the *Explosives Act, R.S.C. 1985, c. E-17*;

“Fire Prevention and Protection Act” means the *Fire Prevention and Protection Act, 1997, S.O. 1997, c. 4*;

“Fireworks” means any chemical compound or preparation of explosive substance manufactured for the production of pyrotechnic effects, pyrotechnic signals or sound signals and includes low hazard fireworks, high hazard firework, low hazard flares, and high hazard flares and signals, as defined herein, but does not include Christmas crackers, caps for toy guns or sparklers;

“Fireworks Vendor” means any person, as defined herein, that sells or offers for sale fireworks from a permanent or temporary location;

“High Hazard Fireworks” means ‘display fireworks’ generally used for public recreation purposes, including rockets, serpents, shells, bombshells, skyrockets, torpedoes, Daygo bombs, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces, pigeons, firecrackers and any other like products described in Class 7, Division 2, Subdivision 2 of the Explosives Regulations under the Explosives Act;

“High Hazard Flares and Signals” means large distress signals, sound, pyrotechnic and smoke signals, railway track signals, distress and linethrowing rockets, salutes, theatrical effects, wildlife control devices and any other like products described in Class 7, Division 2, Subdivision 5 of the Explosives Regulations under the Explosives Act;

"Low Hazard Fireworks" means and includes "consumer fireworks" and "family fireworks" generally used for personal recreation purposes which are relatively innocuous in themselves and are not liable to explode violently or all at once and shall include showers, golden rain, lawn lights, pinwheels, roman candles and volcanoes and other like products described in Class 7, Division 2, Subdivision 1 of the Explosives Regulations under the Explosives Act;

"Low Hazard Flares" means highway flares, fuses and other small distress signals having practical use and other like products described in Class 7, Division 2, Subdivision 4 of the Explosives Regulations under the Explosives Act;

"Municipal Act" means the *Municipal Act, 2001, SO 2001, c 25*;

"Officer" means and includes a Police Officer, City By-law Enforcement Officer, Fire Inspector, Fire Marshal, assistant to the Fire Marshal, and the Fire Chief, Fire Inspector or Fire Prevention Officer of Owen Sound Fire and Emergency Services;

"Occupant" means a person or persons over the age of eighteen years in possession or control of a property;

"Owner" means any registered owner, occupant, resident, lessee or tenant of residential dwelling and includes any person managing any residential building on behalf of the owner;

"Person" means an individual, firm, corporation, association or partnership and, for greater clarity, includes an owner and an occupant;

"Provincial Offences Act" means the *Provincial Offences Act, R.S.O, 1990, c. P.33*; and

"Use, Uses and Used," when referring to Fireworks, means and includes the lighting, discharge, setting off, ignition, detonation or otherwise causing the explosion, sound or pyrotechnic effect of a firework.

Part III. Sale of Fireworks

General Provisions

7. No person shall sell or offer for sale high hazard fireworks in the City.
8. No person shall sell or offer for sale low hazard fireworks and sparklers to any person less than 18 years of age.

Premises of Fireworks Vendors

9. Every fireworks vendor shall ensure that their premises, building, or location:
 - a. is subject to inspection by an officer;
 - b. has the required safety equipment and fire exits;
 - c. has the Fireworks Safety Guide, outlined in Schedule 'A' of this by-law, posted where it can easily be viewed by the public; and
 - d. is situated at least eight (8) metres away from fuel or propane dispensing equipment.

Fireworks Merchandising

10. Every fireworks vendor shall comply with all the following provisions:
 - a. fireworks packaged as single units shall be inaccessible to the public;

- b. bundles or lots of fireworks shall not exceed twenty-five kilograms (25 kg) in gross weight; and
- c. all fireworks being offered for sale or stored on site shall comply with manufacturing, packaging, and storage provisions of the Explosives Act.

Part IV. Use of Fireworks

Age Restriction

- 11. No person under the age of eighteen (18) shall be permitted to handle or use fireworks in the City.

Prohibited Locations

- 12. No person shall use fireworks in the City in the following areas;
 - a. on City or other public property at any time without the express written consent of the City or owner of the property;
 - b. within one hundred metres (100 m) of a hospital, nursing home or group home;
 - c. within one hundred metres (100 m) of a place where explosives, gasoline, or other highly flammable substances are commercially manufactured, stored or sold; and
 - d. the district where open air burning is prohibited by the City's Open Air Burning By-law.

Authorized Days and Times

- 13. No person shall use low hazard fireworks on any occasion except the following:
 - a. between the hours of 19:00 (7:00 p.m.) and 23:00 (11:00 p.m.) on:
 - i. Victoria Day and three (3) calendar days before;
 - ii. Canada Day and the closest Friday and Saturday;
 - iii. Civic Holiday and three (3) calendar days before;
 - iv. Diwali;
 - v. Labour Day and three (3) calendar days before; and
 - b. between the hours of 19:00 (7:00 p.m.) on December 31 and 01:00 (1:00 a.m.) on January 1 immediately following.

Permits

- 14. Owen Sound Fire and Emergency Services may, at their discretion, issue a permit that allows for the use of low hazard fireworks on private property on a day or time other than those authorized by this by-law, and every person shall obtain a permit before such use.
- 15. Fireworks permits which are issued:
 - a. are subject to the fee outlined in the City's Fees and Charges By-law;
 - b. are not transferable; and
 - c. may require a site inspection by Owen Sound Fire and Emergency Services staff to assess safety.

High Hazard Fireworks

16. No person shall use high hazard fireworks or high hazard flares and signals in the City without:
 - a. complying with all requirements of the Explosives Act and any other act or regulation;
 - b. providing a certificate of insurance to the satisfaction of the City;
 - c. ensuring a review of the proposed use is undertaken by Owen Sound Fire and Emergency Services staff; and
 - d. receiving an exemption to this by-law, which exemption shall be granted by Council by resolution or by-law.

Exemptions by Council

17. Council may, at their discretion, provide an exemption by resolution or by-law to any provision of this by-law, subject to any conditions Council may see fit to impose, including but not limited to, requiring liability insurance naming the City as an additional insured.
18. Where an exemption to this by-law has been granted by Council, breach of any of the terms or conditions of the exemption may, at the discretion of an officer, render the exemption null and void.

Safety Guidelines

19. Every person shall adhere to the Fireworks Safety Guide, outlined in Schedule 'A' of this by-law, when using fireworks in the City.
20. Every person shall immediately dispose of fireworks that fail to discharge in a safe manner having regard to:
 - a. the instructions or guidelines provided by the manufacturer; and
 - b. proper fireworks handling procedures, including those contained in the Fireworks Safety Guide, outlined in Schedule 'A' of this by-law.
21. No person shall use fireworks in the City except in accordance with this by-law and the Explosives Regulations of the Explosives Act.

Part V. Enforcement and Penalty**Enforcement**

22. This by-law shall be enforced by an officer as defined in this by-law.
23. Any officer may enter private property at any time for the purpose of upholding the provisions of this by-law.

Penalty

24. Any person, owner, occupant, organization or business who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to the penalty set out in the Provincial Offences Act.

Part VI. Conflict and Transition**Conflict**

25. Where a provision of this by-law respecting the keeping and manufacturing of explosives is inconsistent with a provision of Part IV of the Fire Prevention and Protection Act, the provision that is the most restrictive shall prevail.

- 26. Where a provision of this by-law is inconsistent with the Explosives Act or the Municipal Act, their regulations, or any other act or regulations, the provision of the act or regulation shall prevail.

Terms Severable

- 27. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the by-law shall remain in full force and effect.

Repeal

- 28. By-law No. 2013-089 is hereby repealed.

Enactment

- 29. This by-law shall come into full force and effect on the date it is passed at which time all by-laws, policies and resolutions that are inconsistent with the provisions of this by-law are hereby repealed insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this 9th day of May 2022.

Signature on file
Mayor Ian C. Boddy

Signature on file
Briana M. Bloomfield, City Clerk

Schedule A to By-law No. 2022-050
Fireworks Safety Guide

Clearly post this guide where fireworks are sold

For details consult Owen Sound Fire and Emergency Services or the City's Fireworks By-law.

Use and Sale of Fireworks in the City

- Vendors may not sell or offer for sale fireworks to anyone under the age of 18.
- Do not use "High Hazard" fireworks for public displays in the City.
- Do not use "Low Hazard" personal, recreational fireworks except:
 - on private property, outside the restricted Open Air Burning District and 100 meters away from a hospital, nursing home, group home, or business which sells fireworks, gas or flammable substances; and
 - between 7:00 pm and 11:00 pm on approved days for celebrating Victoria Day, Diwali, Canada Day, Civic Holiday or Labour Day or between 7:00 pm and 1:00 am on New Years Eve.
- Anyone who uses fireworks must follow the Fireworks Safety guidelines outlined below.
- All fireworks vendor's premises are subject to inspection by an officer of the City to ensure conformity to the Fireworks By-law.

Fireworks Permits

If you wish to use "Low Hazard" fireworks for personal, recreational use at a time or location not allowed by the Fireworks By-law:

- Apply for a permit from Owen Sound Fire and Emergency Services.
- Fireworks permits require the payment of a fee, are not transferable, and may require a safety inspection.
- The holder of a fireworks permit must comply with the provisions of the Fireworks By-law, any other by-laws, and any other applicable laws or regulations.

Fireworks Safety

- Understand and follow all laws, regulations, by-laws, instructions, and warnings.

Before Using Fireworks

- Store unused fireworks in a closed box away from the firework being lit.
- Do not smoke around fireworks.
- Ensure children are supervised at all times.
- Do not use fireworks when impaired by alcohol or drugs.

- Spectators must be 7.6 metres (25 feet) away from fireworks.
- All trees, buildings, vehicles, and furniture must be 9.14 metres (30 feet) away from fireworks.
- Ensure the wind speed is less than 15km per hour and blowing away from spectators.
- Have a bucket of water, charged garden hose, or working fire extinguisher on hand.
- Only adults (18 years or over) are permitted to handle fireworks.

Using Fireworks

- Never try to create your own fireworks.
- Wear protective eye glasses and gloves and keep hair and clothes away from fire sources.
- To light a firework:
 - set the firework in a large, deep bucket of sand on a hard, flat and level surface;
 - light only one firework at a time with a long handled BBQ lighter at arm's length; and
 - stand well back.
- Never lean over fireworks.
- Never hold a lighted firework item in your hand.
- Never point a firework toward someone else.
- Never attempt to re-light a "dud" or defective firework.

Cleanup

- Sparklers should be immersed in a bucket of sand or water to cool down after burning out, as they remain very hot for some time.
- Fireworks should be disposed of safely and properly by immersing in water and then disposing them into the garbage.

Any person who contravenes the provisions of the Fireworks By-law is guilty of an offense and upon conviction may be subject to a fine of up to \$5,000 under the Ontario Provincial Offences Act.