

THE CORPORATION OF THE TOWNSHIP OF TINY

BY-LAW NUMBER 21-102

Being a By-law regulating the sale and setting off of fireworks and to repeal By-law 07-054 and 12-057

WHEREAS Section 121, Subsection (a) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121, Subsection (b) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit the sale of fireworks and the setting off of fireworks 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;

NOW THEREFORE the Council for The Corporation of the Township of Tiny hereby enacts as follows:

TITLE

This by-law shall be known and may be cited as the "Fireworks By-law." In the text of the by-law, it is referred to as "this by-law."

1. DEFINITIONS

In this by-law:

- 1.1 "**Chief Fire Official**" means an assistant to the Fire Marshal who is the municipal fire chief or a member or members of the fire department as delegated by the municipal fire chief, as provided in the *Fire Protection and Prevention Act, 1997*, Part II, Article 6 (6).
- 1.2 "**Consumer Fireworks**" means outdoor low hazard Fireworks generally used for recreational purposes, classified as Type F.1 fireworks under the Explosives Act, R.S.C, 1985, c. E-17, and the Regulations enacted thereunder, including firework showers, fountains, gold rain, lawn lights, pin wheels, roman candles, volcanoes and sparklers but does not include Christmas Crackers or caps for toy guns.
- 1.3 "**Set Off**" includes firing, igniting, exploding or discharge as it relates to Fireworks or Firecrackers.
- 1.4 "**Display Fireworks**" means high hazard fireworks generally used for community celebrations, classified as Type F.2 fireworks under the Explosives Act, R.S.C, 1985, c. E-17, and the Regulations enacted thereunder, including bombshells, display shells, large wheels, bombardos, rockets, serpents, barrages, batteries, tourbillions, maroons, bouquets, waterfalls, fountains, illumination, set pieces and pigeons. These may only be acquired, stored or used by persons with a valid Fireworks Operator Certificate issued by Natural Resources Canada.

- 1.5 **"Firecracker"** means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, but does not include caps for toy guns or Christmas crackers.
- 1.6 **"Fireworks"** means Consumer Fireworks, Display Fireworks or Special Effect Pyrotechnics but does not include Firecrackers.
- 1.7 **"Highway"** includes a common and public highway, street, boulevard, court, centre, crescent, avenue, parkway, driveway, square, place, lane, 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.
- 1.8 **"Officer"** means a Municipal Law Enforcement Officer, a Police Officer, Chief Fire Official or any person designated by Council as responsible for the administration of this By-law from time to time.
- 1.9 **"Owner"** means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property.
- 1.10 **"Permit"** means a permit issued by the Chief Fire Official granting written permission to discharge or set off Display Fireworks or Special Effect Pyrotechnics pursuant to this By-law.
- 1.11 **"Special Effect Pyrotechnics"** means high-hazard fireworks designed for professional use, classified as Type F.3 fireworks under the Explosives Act, R.S.C, 1985, c. E-17, and the Regulations enacted thereunder, including articles such as gerbs, mines, comets, and crossettes, as well as special-purpose pyrotechnics made for live stage performances and the film and television industry.
- 1.12 **"Temporary Sales Establishment"** means a tent, trailer or other temporary shelter intended for the use of retail sales.
- 1.13 **"Township"** means the Corporation of the Township of Tiny.

2. GENERAL

- 2.1 No person shall Set Off any Fireworks when a fire ban is in effect.
- 2.2 No person shall Set Off any Fireworks when the wind velocity is reported to be greater than twenty (20) kilometers per hour.

3. FIRECRACKERS

- 3.1 No person shall sell, offer for sale, buy or offer to buy Firecrackers.
- 3.2 No person shall Set Off any Firecrackers.

4. CONSUMER FIREWORKS

- 4.1 No person shall hold a display of or Set Off Consumer Fireworks except on Victoria Day, Canada Day, New Year's Eve and New Year's Day.
- 4.2 In the event of inclement weather conditions, such as rain or wind velocity is report to be greater than twenty (20) kilometers per hour, on Victoria Day, Canada Day, that make it impractical to Set Off Fireworks, the next day following Victoria Day or Canada shall be designated the day.
- 4.3 No person shall Set Off any Consumer Fireworks except between dusk and 11:00 p.m. unless as permitted in Section 4.4.
- 4.4 Notwithstanding Section 4.3, no person shall Set Off Consumer Fireworks except between dusk on New Year's Eve and 1:00 a.m. of the following day.
- 4.5 No person shall display, offer for sale or sell Consumer Fireworks within the Township of Tiny except on Victoria Day, Canada Day, New Year's Eve and New Year's Day, or for a period of seven (7) calendar days immediately preceding these days.
- 4.6 No person shall display, offer for sale or sell or sell Consumer Fireworks within the Township of Tiny from a Temporary Sales Establishment without approval of the Chief Fire Official upon receiving comments from suitable municipal departments.
- 4.7 No person shall sell, supply or be in possession of Consumer Fireworks unless such person is at least eighteen (18) years of age.
- 4.8 No person shall Set Off any Consumer Fireworks in a manner that might create a danger to any person or property; and for greater clarity Setting Off Consumer Fireworks not in compliance with the manufacturer's specifications shall be deemed to be one whereon the Setting Off of Fireworks might create a danger.
- 4.9 No person shall Set Off any Consumer Fireworks on or into any building, structure, automobile, Highway or any land used for school purposes.
- 4.10 No person shall Set Off any Consumer Fireworks on or into any beach, park, parkette, trail, linear park, land used for storm water management, square or other public place or any land owned by the Township or any of their boards or agencies, without first having obtained permission from the Chief Fire Official, Director of Public Works and the Director of Recreation or their designate.
- 4.11 No person shall Set Off any Consumer Fireworks without limiting the generality of the foregoing, on any land whatsoever, except on land belonging to the person Setting Off the Fireworks, or on other privately-owned land where the consent of the owner has been obtained.

5. DISPLAY FIREWORKS or SPECIAL EFFECT PYROTECHNICS

- 5.1 No person shall hold a display of or Set Off Display Fireworks or Special Effect Pyrotechnics without first obtaining a Permit to do so, issued by the Chief Fire Official.
- 5.2 Only persons who hold a valid Fireworks Operator Certificate issued by Natural Resources Canada are eligible to apply for a Permit to display or Set Off Display Fireworks or Special Effects Pyrotechnic.
- 5.3 Application for a Permit shall be submitted no less than thirty (30) working days (Saturday, Sunday, Statutory and days on which the Township's administrative offices are closed are excluded) prior to the proposed event and shall include the information required by the Natural Resources Canada Display Fireworks Manual.
- 5.4 The Chief Fire Official has absolute discretion in granting approval and issuing a permit, except in any buildings within the Township where display or Setting Off of fireworks shall be expressly prohibited, and may solicit additional information from the applicant to complete an accurate assessment of the request.
- 5.5 Every applicant shall provide a copy of the General Liability insurance policy or a certificate of Insurance issued by the insurer in an amount no less than \$5,000,000.00 against bodily injury and property damage resulting from any one occurrence during the term of the Permit, naming The Township of Tiny as an additional insured and containing a cross liability clause. Such insurance shall include coverage for displays of fireworks, and shall provide the Township with 30 calendar days prior written notice of cancellation or of material change that would diminish coverage.
- 5.6 The Chief Fire Official may impose conditions as they consider necessary to ensure the safety of the public.

6. ENTRY AND INSPECTION

- 6.1 An Officer may at any time, enter onto land to determine whether this by-law is being complied with.
- 6.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this by-law.
- 6.3 Notwithstanding any provision of this by-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless:
- 6.3.1 The consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O. 1990, as amended.

6.3.2 A warrant issued under the Provincial Offences Act, R.S.O. 1990, as amended is obtained.

7. OBSTRUCTION

- 7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this by-law.
- 7.2 Any person who has been alleged to have contravened any of the provisions of this by-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of their duties.

8. FEES

- 8.1 The cost for obtaining a Permit shall be as set out in the Township's Fee Schedule By-law, as amended.
- 8.2 Upon the fire department attending to extinguish a fire that is a result of the Setting Off of Fireworks not in accordance with any section of this by-law, the owner may be responsible to pay fees as set out in the Township's Fee Schedule By-law, as amended.

9. PENALTY

- 9.1 Every person who contravenes any of the provisions of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty an offence under the provisions of the Municipal Act, 2001, S.O. 2001 c. 25, as amended.
- 9.2 Every person who contravenes the provisions of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not be less than \$300 and the maximum shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 9.3 For the purposes of continuous offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

9.3.1 Despite section 9.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.

9.4 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

9.4.1 Despite section 9.4 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.

10. ADMINISTRATION AND ENFORCEMENT

10.1 An Officer is hereby vested with the authority of enforcing the provisions of this by-law.

10.2 Any Permit issued under this by-law may be revoked if in the opinion of the Chief Fire Official, or their designate, or the Municipal Law Enforcement Officer the user is in contravention of this by-law.

11. VALIDITY AND SEVERABILITY

11.1 Every provision of this by-law is declared to be severable from the remainder and if any provision of this by-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder.

12. REPEAL OF PREVIOUS BY-LAWS

12.1 That By-law 07-054 and 12-057 are hereby repealed.

13. EFFECTIVE DATE

13.1 This by-law shall come into full force and take effect on the date if passing.

BY-LAW READ A FIRST AND SECOND TIME THIS 24TH DAY OF NOVEMBER, 2021.

READ A THIRD TIME AND FINALLY PASSED THIS 24TH DAY OF NOVEMBER, 2021.

THE CORPORATION OF THE TOWNSHIP OF TINY



MAYOR, George Cornell



CLERK, Sue Walton