

THE CORPORATION OF THE MUNICIPALITY OF SHUNIAH



BY-LAW NO. 3292-23

Being a by-law to regulate the sale of fireworks within the limits of the Municipality of Shuniah, and for regulating the setting off of fireworks in the said Municipality, and for the holding of fireworks displays and for prescribing the conditions under which fireworks displays may be held under such permit and to repeal By-law Number 1982-99.

Recitals

- a) Section 121, Subsection (a) of the the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the Council of a municipality may enact a by-law for prohibiting or for regulating the sale of or the setting off of fireworks within the municipality.
- b) Section 121, Subsection (b) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a the Council of a 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.
- c) The Council of the Municipality of Shuniah deems it advisable and expedient to regulate the sale of fireworks and to regulate the setting off of fireworks within the limits of the Municipality of Shuniah, and to require a permit for the holding of fireworks displays.
- d) Section 326 authorizes a municipality to recover the expenses incurred by it in taking any action to so what another person has been directed or required to do by by-law.

THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF SHUNIAH ENACTS AS FOLLOWS:

1. DEFINITIONS: In this by-law:

- 1.1. **"Act"** means the Explosives Act, Statutes of Canada, Ch E-15 and the Regulations thereunder, as amended and revised from time-to-time.
- 1.2. **"Chief Fire Official"** means an assistant to the fire Marshall 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).
- 1.3. **"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.
- 1.4. **"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 pyrotechnical device that explodes instantaneously when ignited and does not make any substantial display or visual effect after explosion. Firecrackers are classified as high-hazard fireworks, and includes those devices commonly known as Chinese firecrackers, but, does not include paper caps containing not in excess of twenty-five one hundredths of a grain of explosive used per cap, or device for use with such caps.
- 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. **"Municipality"** means the Corporation of the Municipality of Shuniah.
- 1.9. **"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.
- 1.10. **"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.
- 1.11. **"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.
- 1.12. **"Set Off"** includes firing, igniting, exploding or discharge as it relates to Fireworks or Firecrackers.
- 1.13. **"Sky Lanterns"** means an unmanned sky candles, fire balloons, airborne lanterns, self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.
- 1.14. **"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.
- 1.15. **"Temporary Sales Establishment"** means a tent, trailer or other temporary shelter intended for the use of retail sales.

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.
- 2.3. The following regulations shall be observed on all occasions where fireworks are being set off:

At least two operators of the display shall constantly be on duty during the setting off of fireworks;

All persons watching fireworks displays who are not actively engaged in the setting off of fireworks shall be kept behind lines at least one hundred and fifty (150) feet from the point where the fireworks are set off and no person other than a person actively engaged in the setting off of the fireworks shall be permitted to approach inside such lines;

All fireworks that discharge a projectile of any kind shall be set up or placed in a vertical position as nearly as may be, provided however that where such fireworks are Set Off beside the shore of a lake, such fireworks may be inclined so that such projectiles will fall into the lake.

3. PROHIBITED:

3.1. No person shall sell, offer for sale, buy or offer to buy Firecrackers.

3.2. No person shall Set Off any Firecrackers.

3.3. No person shall ignite and/or release any Sky Lanterns.

4. CONSUMER FIREWORKS:

4.1. No Person shall hold a display of or Set Off Consumer Fireworks except on the following days:

4.1.1. Victoria Day

4.1.2. Canada Day

4.1.3. Civic Holiday

4.1.4. Labour Day

4.1.5. New Year's Eve

4.1.6. The day immediately preceding and the day immediately following any of the days referred to in 4.1.1 to 4.1.5.

4.2. No person shall Set Off any Consumer Fireworks except between dusk and 11:59 p.m. unless as permitted in Section 4.3.

4.3. Notwithstanding Section 4.2, no person shall Set Off Consumer Fireworks except between dusk on New Year's Eve and 1:00 a.m. of the following day.

4.4. No person shall display, offer for sale or sell Consumer Fireworks within the Municipality of Shuniah except on Victoria Day, Canada Day, Civic Holiday, Labour Day, and New Year's Eve, or for a period of fourteen (14) calendar days immediately preceding these days.

4.5. No person shall display, offer for sale or sell Consumer Fireworks within the Municipality of Shuniah from a Temporary Sales Establishment without approval of the Chief Fire Official upon receiving comments from suitable municipal departments.

4.6. No person shall sell, supply or be in possession of Consumer Fireworks unless such person is at least nineteen (19) years of age.

4.7. A copy of this By-law shall be posted in public view on the premises where consumer fireworks are sold during each of the lawful sale periods.

4.8. No person shall Set Off any Consumer Fireworks in a manner that might create a danger or a nuisance 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, trail, land used for storm water management or other public place or any land owned by the Municipality or any of their boards or agencies, without first having obtained permission from the Chief Fire Official 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.
- 4.12. Consumer Fireworks may be stored for not more than 30 days prior to any of the lawful dates for the sale thereof and not longer than 30 days after such dates.

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 fifteen (15) working days (Saturday, Sunday, Statutory and days on which the Municipality'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 Person holding a display of fireworks pursuant to a permit granted hereunder shall produce such a permit at the request of any Officer.
- 5.5. The Chief Fire Official has absolute discretion in granting approval and issuing a permit, except in any buildings within the Municipality 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.
- 5.6. 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 \$2,000,000.00 against bodily injury and property damage resulting from any one occurrence during the term of the Permit, naming The Municipality of Shuniah as an additional insured and containing a cross liability clause. Such insurance shall include coverage for displays of fireworks, and shall provide the Municipality with 30 calendar days prior written notice of cancellation or of material change that would diminish coverage.
- 5.7. All unused fireworks and all debris shall be removed by the person holding the display immediately following its conclusion, shall be safely disposed of.
- 5.8. 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 fees for inspection of a property by an Officer shall be as set out in the Municipality'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 Municipality'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. Everyone who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act.

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. SHORT TITLE

12.1. This by-law may be cited as the "Fireworks By-law"

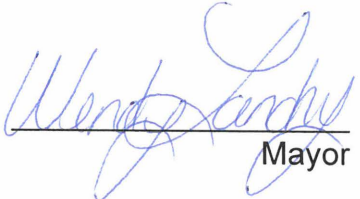
13. REPEAL

13.1. By-law Number 1982-99 is hereby repealed.

14. EFFECTIVE DATE

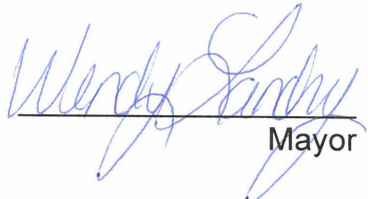
14.1. That this By-law shall come into force and take effect upon the final passing thereof.

READ A FIRST AND SECOND TIME THIS 11th DAY OF APRIL, 2023


Mayor


Clerk

READ A THIRD AND TIME AND FINALLY PASSED THIS 11th DAY OF APRIL, 2023


Mayor


Clerk