

THE CORPORATION OF THE TOWN OF GREATER NAPANEE

BY-LAW NO. 06 – 16

**A By-Law to Regulate the Sale and Discharge of Fireworks
in the Town of Greater Napanee**

WHEREAS Section 121(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121(2) of the *Municipal Act, 2001* authorizes a municipality to require a permit for the sale and setting off of fireworks and to prescribe the conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS the Council of the Town of Greater Napanee deems it advisable to enact such a By-law;

NOW THEREFORE the Council of the Town of Greater Napanee hereby enacts as follows:

INTERPRETATION

1. In this By-law:

“*By-law Enforcement Officer*” means a person appointed by Council of the Town of Greater Napanee to enforce Town by-laws;

“*display*” means the setting off or firing of a series of display fireworks in succession, as a special event, for the purpose of putting on a show for the public, or for a segment of the public, whether or not an admission fee is charged;

“*display fireworks*” means a manufactured pyrotechnic device producing spectacular effects of light or sound and which are of a nature not classed as shop goods under the *Explosives Act*, R.S.C. 1985, c. E-17;

“*display permit*” means a permit issued by the Fire Chief pursuant to this by-law to permit the conduct of a display;

“*family fireworks*” means a pyrotechnic device producing quantities or effects of light, sound or smoke by the combustion of explosive or flammable composition and includes devices commonly known as firework showers, fountains, golden rain, lawn lights, pin wheels, roman candles, sparklers, volcanoes and mines, but does not include:

(a) firecrackers; or

- (b) articles or devices not classed as shop goods under the *Explosives Act*, R.S.C. 1985, C. E-17;

“*Fire Chief*” means the Fire Chief of the Town of Greater Napanee and includes his or her designate;

“*firecracker*” means a pyrotechnic device that explodes instantaneously when ignited and does not make any subsequent display or visible effect after the explosion and includes devices commonly known as Chinese firecrackers, but does not include paper caps containing not more than an average of twenty-five one-hundredths (25/100) of a grain of explosive per cap, or device for use with such caps;

“*owner*” means a person in lawful control of the premises, building, or portion thereof under consideration, or his or her authorized agent, and includes an occupant;

“*permitted days*” means the days permitted under this by-law for the discharge, setting off or firing of family fireworks or display fireworks;

“*person*” includes an individual, a corporation, a partnership and a group or association; and

“*Town*” means the Corporation of the Town of Greater Napanee.

APPLICATION

2. This by-law shall apply to all persons in the Town of Greater Napanee.

SHORT TITLE

3. This by-law shall be known as the ‘Fireworks Discharge By-law’.

FIRECRACKERS

4. No person in the Town shall:
- (a) sell or offer to sell firecrackers;
 - (b) give firecrackers away without charge;
 - (c) distribute firecrackers to another person or persons;
 - (d) discharge, fire or set off any firecrackers, or cause any firecrackers to be discharged, fired or set off; or
 - (e) have firecrackers in his or her possession.

FAMILY FIREWORKS

5. No person in the Town shall:
 - (a) sell, offer to sell, give away without charge or distribute family fireworks except on the following permitted days and on each of the three days immediately preceding the permitted days:
 - i. Victoria Day;
 - ii. Canada Day; and
 - iii. any other day authorized by the Fire Chief in writing, for the discharging, firing or setting off of family fireworks;
 - (b) sell, offer to sell, give away without charge or distribute family fireworks to any person under 18 years of age;
 - (c) display functional family fireworks for sale in store windows or elsewhere.
6. Every person in the Town who sells, offers to sell, gives away without charge or distributes family fireworks must comply with the *Explosives Regulations - Consumer Fireworks Regulations* under the *Explosives Act*, R.S.C. 1985, c. E-17.
7. No person in the Town shall discharge, set-off or fire any family fireworks or permit any other person to discharge, set-off or fire family fireworks unless:
 - a) the person discharging, setting off or firing the family fireworks is at least 18 years of age, or if under 18 years of age, is under the direct and constant supervision and control of a person who is at least 18 years of age;
 - b) he or she discharges, sets off or fires the family fireworks between one hour prior to dusk and 11:00 pm on the permitted days;
 - c) the person owns the land on which the discharge, setting off or firing of the family fireworks occurs; and
 - d) he or she ensures that all reasonable safety procedures are followed to prevent harm to persons and to property.
8. No person in the Town shall discharge, set-off or fire any family fireworks or permit any other person to discharge, set-off or fire family fireworks in the event that a burning ban is declared and in effect for the Town or the part of the Town in which the family fireworks were to take place.

DISPLAY FIREWORKS

9. No person in the Town shall:
 - (a) sell, offer for sale, give away without charge or distribute any display fireworks to any person:
 - (i) under 18 years of age; or
 - (ii) over 18 years of age, unless that person is the holder of an appropriate, valid and subsisting licence under the *Explosives Act*; or
 - (b) have functional display fireworks on display in a store window or elsewhere.

10. Mock display fireworks which do not contain any explosive components may be used in any such display.
11. No person in the Town shall himself or herself or permit another person to:
 - a) light, discharge or set off display fireworks, unless that person so lighting, discharging or setting off the display fireworks:
 - (i) is 18 years of age or older;
 - (ii) holds an appropriate, valid and subsisting licence under the *Explosives Act*, to light, discharge or set off display fireworks; and
 - (iii) holds a current and valid display permit for that display issued by the Fire Chief under this by-law;
 - b) light, discharge or set off display fireworks except as part of a display for which a permit has been issued by the Fire Chief under this by-law; or hold a display, except on the following permitted days:
 - (i) Victoria Day;
 - (ii) Canada Day; and
 - (iii) any other day authorized by Council in writing.
12. Any person who wishes to obtain a permit to hold a display on a permitted day shall apply in writing to the Fire Chief, no later than one week prior to the date of the proposed display, for a display permit.
13. The applicant for a display permit shall submit:
 - (a) an application in the form established by the Fire Chief from time to time and signed by the applicant; and
 - (b) such supporting documentation, material and information as may be required by the Fire Chief in his or her sole discretion.
14. The Fire Chief shall review the application, supporting documentation and materials filed with the application, and shall in his or her sole discretion:
 - (a) approve the application;
 - (b) approve the application subject to such restrictions, regulations or conditions as he or she in his or her sole discretion considers advisable; or
 - (c) refuse to approve the application.
15. The Fire Chief shall record on the face of a display permit before issuing:
 - a) the name of the applicant authorized to hold the display;
 - b) the name of the certified pyrotechnic authorized to set off, fire or discharge the display fireworks;
 - c) the date, time and place for which the display is approved; and
 - d) the fact that the permit is subject to compliance with:
 - (i) the information in the application, and the documentation and material submitted as part of the application process;
 - (ii) regulations and guidelines established by the Fire Chief from time to time for the holding of a display; and

- (iii) any restrictions, regulations or conditions imposed by the Fire Chief as a condition of approval of the display permit.
- 16. The Fire Chief shall issue a display permit by signing it and releasing it to the permit holder.
- 17. In the event that the proposed display will be part of a special event or special occasion for which a special event or special occasion permit must be issued by the Town, nothing herein shall require the person to apply for a display permit separately from the special event or special occasion permit required by the Town, and the documentation may be processed jointly.
- 18. The holder of a display permit shall:
 - a) ensure that all reasonable safety procedures are followed to prevent harm to persons and to property;
 - b) keep the display permit at the site of the display and produce it for examination upon request by the Fire Chief or by any By-law Enforcement Officer; and
 - c) ensure that the site of the display and surrounding lands are cleared of debris resulting from the holding of the display and restored to their original condition within 24 hours of the holding of the display.
- 19. Any permit for a display issued by the Fire Chief is personal to the permit holder, and shall not be transferred or assigned.
- 20. No person shall enjoy a vested right in the continuance of a permit and whether issued, renewed, expired, revoked or otherwise terminated, the display permit and any value of the display permit shall remain the property of the Town.
- 21. Any person who holds a permit shall surrender it to the Fire Chief or a By-law Enforcement Officer in the event that the display permit is revoked.
- 22. No person who holds a display permit shall hold a display of display fireworks other than on the day and at the place specified in the display permit.
- 23. The Fire Chief may, at any time, in his or her sole discretion, revoke the display permit for a display if he or she reasonably believes that:
 - a) any of the information in the application is not correct, and the information provided affected his or her decision to issue the display permit;
 - b) the display will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or
 - c) there are any other grounds to terminate which the Fire Chief, in his or her sole discretion considers sufficient in the circumstances.
- 24. Every display permit shall be automatically revoked without further action by the Fire Chief in the event that a burning ban is declared and in effect for the Town or the part of the Town in which the display authorized by the display permit was to take place.

PAPER CAPS

25. Nothing in this By-law shall prohibit a person from selling or offering to sell paper caps which contain not more than twenty-five one-hundredths (25/100) of a grain of explosive content per cap, or toy pistols, toy cannons or toy guns for the use of such caps.

GENERAL

26. Nothing herein shall be deemed to authorize any person to sell or to set off, discharge or fire any family fireworks or display fireworks or do anything or act which is not otherwise permitted under, or omit to do anything or any act which is required under the *Explosives Act*, or other federal or provincial legislation or regulation thereunder.
27. In the event of any conflict between the provisions of this by-law and any federal or provincial statute or regulation thereunder, the provisions of the said statute or regulation shall govern.

ADMINISTRATION

28. This By-law shall be administered by the Fire Chief.

PENALTY

29. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
30. Set fines for contraventions of this by-law shall be in accordance with Schedule "A" to this by-law.

REPEAL

31. By-law No. 399-81 of the former Town of Napanee is hereby repealed.
32. Where a By-law of a former municipality is repealed by this By-law, the repeal does not:
- (a) affect the previous operation of any by-law so repealed;
 - (b) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the by-law so repealed;
 - (c) affect any offence committed against any by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or

- (d) affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

33. This by-law shall come into force and take effect upon final passage.

Read a first and second time and finally passed this 24th day of April, 2006.

Gordon Schermerhorn, Mayor

Rebecca Murphy, Clerk

Schedule “A”

**Set Fines for Infractions under Part I of the *Provincial Offences Act*
for the Town of Greater Napanee By-Law No. 06 – 16**

A By-Law to Regulate the Sale and Discharge of Fireworks
in the Town of Greater Napanee

ITEM NO.	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Selling family fireworks not on a permitted day	5 (a)	\$100.00
2	Selling family fireworks to any person under 18 years of age	5 (b)	\$100.00
3	Failing to comply with Consumer Fireworks Regulations	6	\$100.00
4	Discharging family fireworks contrary to the by-law	7	\$50.00
5	Discharging family fireworks when a burning ban in effect	8	\$50.00
6	Selling display fireworks contrary to the by-law	9 (a)	\$100.00
7	Discharging display fireworks contrary to the by-law	11	\$200.00
8	Discharging display fireworks contrary to display permit	22	\$100.00

NOTE: The general offence and penalty provisions for the offences listed above are in Section 20 of By-law No. 06-16, a certified copy of which has been filed, and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.