



CITY COUNCIL RESOLUTION

Date: July 15, 2013

Agenda Item

MOVED BY
SECONDED BY

Councillor
Councillor

S. Butland

~~F. Manzo~~ J. Krumpalich

RESOLVED THAT BY-LAW 2013-146 being a by-law to regulate the sale and setting off of fireworks and to repeal By-law 73-107 be PASSED in open Council this 15th day of July, 2013.

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|---|---|----------------------------------|-----------------------------------|
| <input checked="" type="checkbox"/> CARRIED | <input type="checkbox"/> DEFEATED | <input type="checkbox"/> AMENDED | <input type="checkbox"/> DEFERRED |
| <input type="checkbox"/> REFERRED | <input type="checkbox"/> OFFICIALLY READ NOT DEALT WITH | | |

SIGNATURE

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| <input type="checkbox"/> C.A.O. | <input type="checkbox"/> Comm. Community Services | <input type="checkbox"/> Mayor |
| <input checked="" type="checkbox"/> City Solicitor | <input type="checkbox"/> Comm. P.W. & Transportation | <input type="checkbox"/> Dir. Libraries |
| <input checked="" type="checkbox"/> Comm. Finance/Treasurer | <input type="checkbox"/> City Clerk | <input type="checkbox"/> E.D.C. |
| <input checked="" type="checkbox"/> Comm. Eng. & Planning | <input type="checkbox"/> Fire Chief | <input type="checkbox"/> Cons. Authority |
| <input type="checkbox"/> Comm. Human Resources | <input type="checkbox"/> Police Chief | <input type="checkbox"/> |

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW 2013-146

REGULATIONS (FIREWORKS): (R1.16) A by-law to regulate the sale and setting off of fireworks and to repeal By-law 73-107.

WHEREAS pursuant to the provisions of section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25, by-laws may be passed by the Councils of local municipalities to regulate the sale and setting off of fireworks;

AND WHEREAS City Council deems it expedient to regulate the sale and setting off of fireworks in the City of Sault Ste. Marie;

NOW THEREFORE the Council of the Corporation of the City of Sault Ste. Marie **ENACTS** as follows:

1. **DEFINITIONS**

In this by-law:

"Act" means the *Explosives Act*, R.S.C., 1985, c. E-17, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution thereof;

"Chief Fire Official" means the Fire Chief for the Corporation of the City of Sault Ste. Marie, or his or her designate;

"Consumer Firework" means an outdoor, low hazard, recreational firework that is classed as Subdivision 1 of Division 2 of Class 7 Fireworks under the *Act*, and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, and sparklers but does not include:

- a) Sparklers less than two (2) feet in length,
- b) Christmas crackers, and
- c) Caps for toy guns;

"Exhibition Firework" means an outdoor, high hazard, recreational firework that is classed as a Subdivision 2 of Division 2 of Class 7 Fireworks under the *Act*, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;

"Firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion;

"Fireworks" means Consumer Fireworks, Firecrackers, Exhibition Fireworks, or Pyrotechnic Special Effects Fireworks;

"Fireworks Supervisor" means a person who is an approved purchaser of Exhibition Fireworks and who is qualified under the *Act* to supervise the discharge of Exhibition Fireworks;

"Highway" has the same definition as in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended from time to time;

"Model Rocket Engine" means a firework that is classed as Subdivision 3 of Division 2 of Class 7 Fireworks under the *Act*, and includes model rocket engines (toy propellant devices) containing a propellant the total impulse of

which does not exceed 80 Newton-seconds (17.92 pound-seconds) and does not exceed a net propellant weight of 125 grams (approximately four ounces);

"Permit Holder" means a person who is in possession of a Permit to Discharge Consumer Fireworks, a Permit to Discharge Firecrackers, a Permit to Discharge Exhibition Fireworks, or a Permit to Discharge Pyrotechnic Special Effects Fireworks issued by the Chief Fire Official in accordance with this By-law;

"Person" includes a corporation;

"Possession" means actual physical possession, meaning that the Permit Holder has the Permit to Discharge Consumer Fireworks, Permit to Discharge Firecrackers, Permit to Discharge Exhibition Fireworks or Permit to Discharge Pyrotechnic Special Effects Fireworks as the case may be on the Permit Holder's person at all times that the applicable Fireworks are being discharged in accordance with this By-law;

"Practical Use Fireworks" means a low hazard firework that is classed as Subdivision 4 of Division 2 of Class 7 Fireworks under the *Act*, and includes highway flares, fusees and other small distress signals;

"Prohibited Firework" includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, 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 poppers 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* and any fireworks not on the approved list of the Ministry of National Resources Explosives Branch as amended from time to time;

"Pyrotechnic Special Effects Firework" means a high hazard firework that is classed as Subdivision 5 of Division 2 of Class 7 Fireworks under the *Act*, and 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;

"Pyrotechnician" means a person who is certified under the *Act* as a Theatrical User, and Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of Pyrotechnic Special Effects Fireworks under the *Act*; and

"Sell" includes offer for sale, cause or permit to be sold and to possess for the purpose of sale, and the words "selling" and "sold" have similar meaning.

2. SALE AND STORAGE OF FIREWORKS AND FIRECRACKERS

- a) No person shall sell any Prohibited Fireworks in the City of Sault Ste. Marie.
- b) No person shall sell any Fireworks to a person under the age of eighteen (18) years.
- c) No person shall sell any Firecrackers in the City of Sault Ste. Marie except to a Permit Holder for Firecrackers.

- d) No person shall sell any Exhibition Fireworks or Pyrotechnical Special Effects Fireworks in the City of Sault Ste. Marie unless such person is qualified to sell such Exhibition Fireworks or Pyrotechnical Special Effects Fireworks under the *Act*.
- e) A person qualified to sell Exhibition Fireworks as set out in Section 2(d) to this By-law shall only sell such Exhibition Fireworks to a Fireworks Supervisor who is also a Permit Holder for Exhibition Fireworks.
- f) A person qualified to sell Pyrotechnic Special Effects Fireworks as set out in Section 2(d) to this By-law shall only sell such Pyrotechnical Special Effects Fireworks to a Pyrotechnician who is also a Permit Holder for Pyrotechnic Special Effects Fireworks.
- g) A person selling Fireworks shall ensure that store displays of Fireworks shall be mock samples only, and shall not contain explosive composition.
- h) All persons who store Fireworks within the City of Sault Ste. Marie shall ensure that same are stored in accordance with the *Act*.

3. DISCHARGE OF PROHIBITED FIREWORKS AND FIRECRACKERS

- a) No person shall discharge a Prohibited Firework in the City of Sault Ste. Marie.
- b) No person shall discharge a Firecracker in the City of Sault Ste. Marie, except in accordance with Sections 6 and 8 of this By-law.

4. DISCHARGE OF FIREWORKS ON CITY PROPERTY

No person shall discharge any Fireworks on property owned by the City of Sault Ste. Marie without first having obtained the approval of City Council and the applicable permit for the discharge of such Fireworks from the Chief Fire Official in accordance with this By-law.

5. DISCHARGE OF CONSUMER FIREWORKS

- a) No person shall discharge any Consumer Fireworks except on the following days:
 - (i) Victoria Day and the day immediately preceding and following Victoria Day;
 - (ii) Canada Day, the day immediately preceding Canada Day and the days following Canada Day up to and including the 5th of July; and
 - (iii) The day(s) outlined on a Permit to Discharge Consumer Fireworks, issued to that person by the Chief Fire Official in accordance with Section 7 of this By-law.
- b) A person eighteen (18) years of age or older may only on those days specified in section 5(a) herein, discharge the aforesaid Consumer Fireworks:
 - (i) on land belonging to him or her; or
 - (ii) on any other privately owned land where the owner thereof has given written permission for the discharge of such Consumer Fireworks, which written permission shall be in the possession of the person discharging the said Consumer Fireworks at the time the aforesaid Consumer Fireworks are being discharged.

- c) No person under the age of eighteen (18) years shall discharge any Consumer Fireworks, except under the direct supervision of and control of a person eighteen (18) years or over, and in accordance with this By-law.
- d) No person being the parent or guardian of a child under the age of eighteen (18) years shall allow the child to discharge any Consumer Fireworks, except when such parent or guardian or other responsible person of eighteen (18) years or over is in direct supervision and control of the said person discharging Consumer Fireworks and all other provisions of this By-law are being followed.
- e) No person shall discharge Consumer Fireworks in such a manner as might create a danger, or do, cause or allow any unsafe act or omission at the time and place for the discharging of Consumer Fireworks.
- f) No person shall discharge Consumer Fireworks:
 - (i) in or into any building, doorway, or automobile; and
 - (ii) in, on or into any Highway, street, lane, square or other public place unless so permitted in accordance with Section 7 of this By-law.

6. DISCHARGE OF FIRECRACKERS, EXHIBITION FIREWORKS AND PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- a) No person shall discharge Firecrackers in the City of Sault Ste. Marie, except on those date(s) and time(s) and in the location(s) set out in a Permit to Discharge Firecrackers issued by the Chief Fire Official under Section 8 of this By-law.
- b) No person shall discharge Exhibition Fireworks in the City of Sault Ste. Marie, except on those date(s) and time(s) and in the location(s) set out in a Permit to Discharge Exhibition Fireworks issued by the Chief Fire Official under Section 8 of this By-law.
- c) No person shall discharge Pyrotechnic Special Effects Fireworks in the City of Sault Ste. Marie, except on those date(s) and time(s) and in the location(s) set out in a Permit to Discharge Pyrotechnic Special Effects Fireworks issued by the Chief Fire Official under Section 8 herein.

7. PERMIT FOR THE DISCHARGE OF CONSUMER FIREWORKS IN ACCORDANCE WITH SECTION 5(A)(III) OF THIS BY-LAW

- a) No person shall discharge Consumer Fireworks outside of the days permitted in Sections 5(a)(i) and (ii) inclusive of this By-law without first:
 - (i) completing an Application for a Permit to Discharge Consumer Fireworks in accordance with this Section of the By-law to the satisfaction of the Chief Fire Official;
 - (ii) being issued a Permit to Discharge Consumer Fireworks by the Chief Fire Official authorizing the discharge of the said Consumer Fireworks; and
 - (iii) otherwise complying with all of the provisions of this By-law and the *Act*.
- b) Every Application for a Permit to Discharge Consumer Fireworks shall be made to the Chief Fire Official a minimum of thirty (30) days prior to the event when the proposed discharge of Consumer Fireworks is to occur.

- c) Every Application for a Permit to Discharge Consumer Fireworks shall include:
- (i) A description of the event including:
 - a) the date(s) and time(s) of the proposed discharge of Consumer Fireworks;
 - b) the type, kind and number of Consumer Fireworks that are proposed to be discharged;
 - c) the discharge techniques to be used;
 - d) the manner and means of restraining unauthorized persons from attending too near the discharge site;
 - e) the manner in which unused Consumer Fireworks are to be disposed of; and
 - f) the names and contact information of persons authorized to handle and discharge the Consumer Fireworks;
 - (ii) A site plan providing a description of the site to be used for the discharging of the Consumer Fireworks;
 - (iii) A description of the fire emergency procedures;
 - (iv) The name and address of the sponsoring organization, if applicable;
 - (v) Written proof of the consent of the owner of the property to the discharge of Consumer Fireworks;
 - (vi) Such other information as required by the Chief Fire Official.
- d) The Chief Fire Official may, at his or her sole discretion, issue a Permit to Discharge Consumer Fireworks applied for under this Section of the By-law, with or without conditions, or deny same.
- e) Subject to the *Act*, the Permit Holder for Consumer Fireworks shall comply with the following conditions in discharging Consumer Fireworks in accordance with a Permit to Discharge Consumer Fireworks issued under this By-law:
- (i) the Consumer Fireworks shall be discharged at the location(s) and on the date(s) and time(s) set forth in the Permit to Discharge Consumer Fireworks;
 - (ii) the Consumer Fireworks shall be discharged under the direct supervision of the Permit Holder for Consumer Fireworks;
 - (iii) the Consumer Fireworks shall be discharged in a manner consistent with the *Act* and all safety procedures outlined for such discharge of Consumer Fireworks; and
 - (iv) the Consumer Fireworks and debris shall be removed and safely disposed of by the Permit Holder immediately after the discharge of same.

8. PERMIT FOR THE DISCHARGE OF FIRECRACKERS, EXHIBITION FIREWORKS AND PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- a) No person or group of persons shall discharge Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks without first:
- (i) completing an Application for a Permit to Discharge Firecrackers, an Application for a Permit to Discharge Exhibition Fireworks or an Application for a Permit to Discharge Pyrotechnic Special Effects Fireworks in accordance with this Section of the By-law to the satisfaction of the Chief Fire Official;
 - (ii) being issued a Permit to Discharge Firecrackers, a Permit to Discharge Exhibition Fireworks or a Permit to Discharge Pyrotechnic Special Effects Fireworks authorizing the discharge of same; and
 - (iii) Otherwise complying with all of the provisions of this By-law and the Act.
- b) Every Application for a Permit to Discharge Firecrackers, Application for a Permit to Discharge Exhibition Fireworks, and Application for a Permit to Discharge Pyrotechnic Special Effects Fireworks shall be made to the Chief Fire Official a minimum of thirty (30) days prior to the event when the proposed discharge is to occur.
- c) Every Application for a Permit to Discharge Firecrackers, Application for a Permit to Discharge Exhibition Fireworks, and Application for a Permit to Discharge Pyrotechnic Special Effects Fireworks shall include:
- (i) A description of the event including:
 - a) the date(s) and time(s) of the proposed discharge of Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks as the case may be;
 - b) the type, kind and number of Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks that are proposed to be discharged;
 - c) the discharge techniques to be used;
 - d) the manner in which unused Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks are to be disposed of; and
 - e) the names and contact information of persons authorized to handle and discharge the Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks.
 - (ii) The method of restraining persons present at the discharge of Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks as the case may be to the distance required by section 9(e)(vii) of this By-law;
 - (iii) A site plan providing a description of the discharge site to be used for the discharging of the Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks as the case may be;
 - (iv) A description of the fire emergency procedures;
 - (v) The name and address of the sponsoring organization, if applicable;

- (vi) Written proof of the consent of the owner of the property to the discharge of Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks;
 - (vii) Proof of insurance and indemnification in accordance with Sections 9 and 10 of this By-law;
 - (viii) In an Application for a Permit to Discharge Exhibition Fireworks, proof that the Applicant is a Fireworks Supervisor;
 - (ix) In an Application for a Permit to Discharge Pyrotechnic Special Effects Fireworks, proof that the Applicant is a Pyrotechnician; and
 - (x) Such other information as required by the Chief Fire Official.
- d) The Chief Fire Official may, at his or her sole discretion, issue a Permit to Discharge Firecrackers, a Permit to Discharge Exhibition Fireworks or a Permit to Discharge Pyrotechnic Special Effects Fireworks with or without conditions, or deny same.
- e) A Permit Holder of a Permit to Discharge Firecrackers, a Permit to Discharge Exhibition Fireworks and a Permit to Discharge Pyrotechnic Special Effects Fireworks issued pursuant to this By-law shall comply with the following additional conditions, subject to the *Act*:
- (i) the Firecrackers, Exhibition Fireworks and Pyrotechnic Special Effects Fireworks shall be discharged at the location(s) and on the date(s) and time(s) set forth in the applicable Permit;
 - (ii) Firecrackers shall be discharged under the direct supervision of the Permit Holder for Firecrackers;
 - (iii) Exhibition Fireworks shall be discharged under the direct supervision of the Permit Holder for Exhibition Fireworks who shall be a Fireworks Supervisor;
 - (iv) Pyrotechnic Special Effects Fireworks shall be discharged under the direct supervision of the Permit Holder for Pyrotechnic Special Effects Fireworks who shall be a Pyrotechnician;
 - (v) Firecrackers, Exhibition Fireworks and Pyrotechnic Special Effects Fireworks shall be discharged in a manner consistent with the *Act* and all safety procedures outlined for the discharge of same;
 - (vi) all persons present at the discharge of Firecrackers, Exhibition Fireworks and/or Pyrotechnic Special Effects Fireworks, other than those involved in their discharge or supervision thereof, shall be kept back at least fifty (50m) meters from the place where the Firecrackers, Exhibition Fireworks and Pyrotechnic Special Effects Fireworks; and
 - (vii) Firecrackers, Exhibition Fireworks and Pyrotechnic Special Effects Fireworks and the debris from same shall be removed and safely disposed of by the Permit Holder immediately after the discharge of same.

9. INSURANCE

Together with an Application for a Permit to Discharge Firecrackers, an Application for a Permit to Discharge Exhibition Fireworks or an Application for a Permit to Discharge Pyrotechnic Special Effects Fireworks as the case may be, the proposed Permit Holder shall provide the Chief Fire Official proof of and thereafter

maintain Commercial General Liability insurance subject to limits of not less than Five Million (\$5,000,000.00) Dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall be in the name of the Permit Holder or such other person responsible for the event, and shall name the City of Sault Ste. Marie as an "Additional Insured" thereunder. Such insurance shall include the permission to conduct displays of Firecrackers, Exhibition Fireworks or Pyrotechnic Special Effects Fireworks, as applicable. Such insurance policy shall contain an endorsement to provide the City of Sault Ste. Marie with thirty (30) days' prior written notice of cancellation or of a material change that would diminish coverage. The proposed Permit Holder shall provide the Chief Fire Official with a Certificate of Insurance evidencing such insurance coverage prior to the issuance of any applicable Permit.

10. INDEMNIFICATION

The Permit Holder of a Permit to Discharge Consumer Fireworks, a Permit to Discharge Firecrackers, a Permit to Discharge Exhibition Fireworks and a Permit to Discharge Pyrotechnic Special Effects Fireworks issued pursuant to this By-law shall indemnify and save harmless the City of Sault Ste. Marie from all costs and expenses caused to or incurred by the City of Sault Ste. Marie and from all claims and demands, awards, losses, costs, damages, actions, suits or other proceedings, by whomsoever made, brought or prosecuted, in any manner based upon, arising out of or connected with, the performance of the Permit Holder as set out in this By-law whether with or without negligence on the part of the Permit Holder, the Permit Holder's employees, directors, contractors, subcontractors, agents and assigns.

11. GENERAL PERMIT REQUIREMENTS

- a) Every Permit Holder shall produce the applicable Permit immediately upon being so directed by the Chief Fire Official.
- b) A Permit issued under this By-law may be revoked at any time by the Chief Fire Official in the event of non-compliance with the provisions of this By-law, the *Act* or the terms of the said Permit.
- c) All Permits issued under this By-law are personal, non-transferable, and issued subject to this By-law.
- d) All Permits issued under this By-law are deemed revoked during any fire ban instituted by the Ministry of Natural Resources.

12. FIREWORKS NOT DEEMED FIREWORKS DISPLAYS

- a) For greater certainty, it is hereby declared that for the purposes of this By-law, the sale, storage or setting off of Practical Use Fireworks, Model Rocket Engines and pyrotechnic signaling devices for marine, military or railway purposes shall not be deemed to be respectively the sale, storage or setting off of Fireworks when sold, stored or set off for their intended purpose.
- b) The provisions of the *Act* do not apply to the sale, storage or setting off of Practical Use Fireworks, Model Rocket Engines and pyrotechnic signaling devices for marine, military or railway purposes.

13. PENALTY

Every person who contravenes any of the provisions of this By-law is guilty of an offence, and upon conviction, is liable to a fine pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

14. SEVERABILITY

In the event that any portion of this By-law is declared by a court of competent jurisdiction to be invalid for any reason the same shall not affect the validity of the remaining provisions of this By-law.


15. EFFECTIVE DATE

This By-law is effective on the date of its final passing.

16. BY-LAW 73-107 REPEALED

By-law 73-107 is hereby repealed.

PASSED in Open Council this 15th day of July, 2013.


MAYOR – DEBBIE AMAROSO


CITY CLERK – MALCOLM WHITE