

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 089-2023

A BY-LAW TO REGULATE AND PROHIBIT THE SALE AND DISCHARGE OF FIREWORKS, TO PROVIDE FOR THE ISSUANCE OF PERMITS FOR THE SALE AND DISCHARGE OF FIREWORKS AND TO REPEAL BY-LAW 037-2009

WHEREAS section 120 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a local municipality may:

- (a) prohibit and regulate the manufacture of explosives in the municipality;
- (b) prohibit and regulate the storage of explosives and dangerous substances in the municipality;
- (c) regulate the keeping and transportation of explosives and dangerous substances in the municipality;
- (d) prohibit the manufacture or storage of explosives 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;

AND WHEREAS section 121 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 further that a by-law may prohibit those activities unless a permit is obtained from the municipality who may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS sections 23.1 and 23.2 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, authorizes a municipality to delegate certain powers and duties;

AND WHEREAS section 391 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, enables a municipality to pass by-laws imposing fees or charges on persons;

AND WHEREAS section 7.1(1) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, provides that the council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS it is the opinion of the Council of The Corporation of the Town of Milton that the powers delegated through this by-law, having regard to the number of people, the size of the geographic area and the time period affected by an exercise of the powers, are of a minor nature;

AND WHEREAS the Council of The Corporation of the Town of Milton deems it expedient to enact this By-law to regulate and prohibit the sale and discharge of fireworks, and establish a permit system for the sale and discharge of fireworks;

NOW THEREFORE the Council of The Corporation of the Town of Milton hereby enacts as follows:

1 SHORT TITLE

1.1 This By-law may be cited as the “Fireworks By-law”.

2 SCOPE AND INTERPRETATION

2.1 Where the provisions of this By-law conflict with the provision of any other By-law in force in the *Town*, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

2.2 In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements adopted for the promotion of public health, safety, comfort, convenience and general welfare.

2.3 The *Fire Chief* shall have the authority to issue and administer *Permits* and impose conditions thereon.

3 DEFINITIONS

3.1 For the purposes of this By-law the following terms are defined and referenced in italics within:

(a) “*Act*” means the *Explosives Act*, Revised Statutes of Canada, 1985, Chapter E-17 and the regulations enacted thereunder as amended from time to time or any act or regulations enacted in substitution therefor;

(b) “*Consumer Fireworks*” means low hazard fireworks that are generally used for recreation and are classified as Type F.1 explosives under the *Act* such as roman candles, flying lanterns, barrages, cakes, comets, mines, missiles, skyrockets, fountains, wheels, ground spinners, burning school houses and flying ghosts;

(c) “*Display Fireworks*” means high hazard fireworks that are generally used for public display and designed for use by professionals and are classified as Type F.2 explosives under the *Act* such as aerial shells, waterfalls, lances, rockets, serpents, shells, bombshells, tourbillions, maroons, bouquets, bombardos, fountains, batteries, illumination set pieces and pigeons, and large wheels;

- (d) “*Display Supervisor*” means a Person who is an approved purchaser of *Display Fireworks* and who is qualified under the *Act* to supervise the discharge of *Display Fireworks*;
- (e) “*Fee*” means the applicable fee set out in the *Town User Fees By-law*;
- (f) “*Fire Chief*” means the *Fire Chief* of the Town or authorized designate(s);
- (g) “*Fireworks*” include but not limited to any fireworks or explosives not authorized by the Explosives Regulatory Division of the Government of Canada, any *Consumer Fireworks*, *Display Fireworks*, *Prohibited Fireworks* or *Pyrotechnics*;
- (h) “*Fireworks Ban*” means a period of time during which the *Fire Chief*, in their absolute discretion, declares a total ban on the sale or setting off of any *Non-Aerial Consumer Fireworks*, *Aerial Consumer Fireworks*, *Display Fireworks* and *Pyrotechnics*;
- (i) “*Fire Protection and Prevention Act (FPPA)*” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, and the regulations enacted thereunder as amended from time to time or any act or regulations enacted in substitution therefor;
- (j) “*Officer*” means a municipal law enforcement *Officer*, fire inspector, police *Officer* and any Person appointed by Council to enforce this by-law;
- (k) “*Order*” means an order issued under this By-law;
- (l) “*Permit*” is a permit to discharge *Fireworks* issued by the *Fire Chief*. Without limiting this definition, a *Permit* may be for *Display Fireworks*, or for *Consumer Fireworks*, *Pyrotechnics* or a combination thereof;
- (m) “*Person*” means an individual, association, firm, partnership, corporation, trust, incorporated company, organization and includes the directors and officers of a corporation, a corporation created under the Condominium Act, 1998, S.O. 1998, c. 19, as amended, and the trustees, agents, heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- (n) “*Prohibited Fireworks*” means *Fireworks* included on the list of *Prohibited Fireworks* or explosives set out under the *Act, as amended*, including but not limited to trick fireworks (such as flying lanterns, 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’s, silver salutes and flash bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers and other similar trick devices or practical joke devices) and explosives containing chemicals that are not compatible with one another;
- (o) “*Pyrotechnician*” means a Person who is certified under the *Act* as ‘pyrotechnician’, ‘senior pyrotechnician’, ‘special effects pyrotechnician’ or ‘special effects pyrotechnician – detonating cord’ and is qualified to

purchase and supervise the display of 'pyrotechnic special effects' under the Act;

- (p) "*Pyrotechnics*" includes high hazard fireworks used to produce a special effect in a film or television production or a performance before a live audience; explosives which may be classified as Type F.3 in the Act; fireworks accessories which may be classified as Type F.4 in the Act; black powder and hazard category PE 1 black powder substitutes which may be classified as Type P.1 in the Act; smokeless black powder and hazard category PE 3 black powder substitutes which may be classified as Type P.2 in the Act; initiation systems classified as Type I under the Act such as blasting accessories; and detonating cord classified as Type E.1 under the Act;
- (q) "*Town*" means the Corporation of the *Town* of Milton;
- (r) "*User Fees By-Law*" means the applicable *Town* by-law setting the user fees in respect to *Permits*;

4 PROHIBITION: UNAUTHORIZED AND PROHIBITED FIREWORKS

- 4.1 No *Person* shall distribute, possess or set off any fireworks or explosives not authorized by the Explosives Regulatory Division of the Government of Canada or any successor thereto.
- 4.2 No *Person* shall sell, distribute, use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired *Prohibited Fireworks* or hold a display of *Prohibited Fireworks*.
- 4.3 No *Person* shall sell, distribute any *Consumer Fireworks, Display Fireworks* or *Pyrotechnics*.

5 PERMITS REQUIRED

- 5.1 No *Person* shall use, set off, discharge, fire, cause, display or permit the use of *Consumer Fireworks, Display Fireworks* or *Pyrotechnics* in the *Town* without first having obtained a *Permit* issued by the *Fire Chief*, and in accordance with the requirements and conditions set out therein.
- 5.2 Every application for a *Permit* shall be made to the *Fire Chief* a minimum of fifteen (15) days prior to the event when the proposed discharge or display of *Consumer Fireworks, Display Fireworks* or *Pyrotechnics* is to occur.
- 5.3 Every application for a *Permit* to discharge *Consumer Fireworks* or hold a display of *Consumer Fireworks* shall;
 - (a) be submitted by a *Display Supervisor, Pyrotechnician*, or a *Person* who is certified under the *Act* as a 'display assistant'.
 - (b) be submitted by a *Display Supervisor* holding a valid certificate.

- 5.4 Every application for a *Permit* to discharge Pyrotechnics or hold a display of Pyrotechnics shall be submitted by a *Pyrotechnician* holding a valid certificate.
- 5.5 Every application for a *Permit* shall include:
- (a) a complete application form in the form provided by the *Town's* Fire and Rescue Services:
 - (i) proof of comprehensive general liability insurance in an amount not less than five million dollars (\$5,000,000.00);
 - (ii) naming The Corporation of the *Town* of Milton as an additional insured and where required by the *Town's* Manager of Risk Management;
 - (iii) naming the neighbouring properties as an additional insured; and
 - (iv) containing a cross liability clause acceptable to the *Town's* Manager of Risk Management;
 - (b) a signed indemnity agreement in a form prescribed by the *Town*, whereby the applicant agrees to indemnify and save harmless The Corporation of the *Town* of Milton from any and all claims, demands, causes of action, loss, costs or damages that the *Town* may suffer, incur or be liable for resulting from the performance of the applicant as set out in the by-law, whether with or without negligence on the part of the applicant, or the applicant's employees, directors, contractors and agents;
 - (c) payment of all applicable *Fees* including without restriction the application *Fee* and any *Fees* required for displays occurring on *Town-owned property*;
 - (d) where the application is for a *Permit* to discharge or hold a display of *Consumer Fireworks*, proof of certification of the applicant as a *Display Supervisor, Pyrotechnician*, or a 'display assistant' certified under the *Act*;
 - (e) where the application is for a *Permit* to discharge or hold a display of *Display Fireworks*, a complete list of fireworks is to be submitted with the application;
 - (f) where the application is for a *Permit* to discharge or hold a display of *Display Fireworks*, proof of certification of the applicant as a *Display Supervisor*;
 - (g) where the application is for a *Permit* to discharge or hold a display of Pyrotechnics, proof of certification of the applicant as a *Pyrotechnician*;
 - (h) a description of the site to be used for setting off the *Consumer Fireworks, Display Fireworks* or *Pyrotechnics* sufficient to identify and locate the site, the discharge or firing area, the fallout area, and the safety distance from the audience or any member of the public, and, where more than one site is proposed, a separate application shall be made for each site;

- (i) a description of the manner and means of restraining unauthorized Persons from attending near the location where the *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* are being set off, discharged or fired;
- (j) a description of the manner in which unused *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* will be disposed of;
- (k) an indication of the number of Persons authorized to handle and discharge the *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics*, each of whom shall be a responsible and competent individual of at least eighteen (18) years of age;
- (l) such further and other information as the *Fire Chief* may require.

6 ISSUANCE OR REFUSAL OF A PERMIT

6.1 the *Fire Chief*:

- (a) may issue a *Permit*;
- (b) may issue a *Permit* with conditions; or
- (c) shall refuse to issue a *Permit* where:
 - (i) the application is incomplete;
 - (ii) the applicant for a *Permit* to discharge or hold a display of *Consumer Fireworks* is not a *Display Supervisor*, *Pyrotechnician*, or a 'display assistant' certified under the *Act*;
 - (iii) the applicant for a *Permit* to discharge or hold a display of *Display Fireworks* is not a *Display Supervisor*;
 - (iv) the applicant for a *Permit* to discharge or hold a display of *Pyrotechnics* is not a *Pyrotechnician*;
 - (v) the purpose of the discharge or display is not for either:
 - 1) the production of a theatrical stage show, film, television show or music video intended for public consumption; or
 - 2) an occasion of civic, national or international significance and held under the auspices of an established club, association or group of *Persons*;
 - (vi) there are reasonable grounds to believe that the discharge or display will result in a breach of this By-law, the *Act* or any applicable statute, regulation or by- law; or
 - (vii) in the opinion of the *Fire Chief*, there are not adequate fire prevention safeguards or protections from fire hazards in place.

7 CONDITIONS OF A PERMIT

7.1 In addition to any conditions imposed by the *Fire Chief* in issuing a *Permit*, The following conditions shall apply to a *Permit* issued under this By-law:

- (a) the *Permit* is valid only for the discharge or display at the place and on the date or dates set forth in the *Permit*;
- (b) the *Permit* is valid only for the discharge or display of the type of firework(s) (*Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics*) set forth in the *Permit*;
- (c) where the location set out in the *Permit* for the discharge or display is not on property owned by the *Permit* holder, the *Permit* holder shall obtain the permission of the owner of the property for the discharging or holding of a display;
- (d) the *Permit* holder shall supervise the discharge or display;
- (e) the *Display Supervisor*, *Pyrotechnician*, or *Person* certified under the *Act* as a 'display assistant' named in the *Permit* shall be present in person at all times when the *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* are being used, set up, set off, discharged or fired and when the site is being cleaned up;
- (f) the *Permit* holder shall restrain unauthorized Persons from attending near the location where the *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* are being discharged;
- (g) the *Permit* holder shall provide and maintain fully operational, fire extinguishing equipment, including portable extinguishers or charged garden hose, present and ready for immediate use, and for reasonable time thereafter, at the site where the *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* are discharged;
- (h) the *Permit* holder shall ensure that all unused *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* and all debris are removed;
- (i) the *Permit* holder shall comply at all times with the provisions of the *Act*, the FPPA, the '*Display Fireworks Manual*' published by Natural Resources Canada or any successor publication; and
- (j) Where a *Fireworks Ban* comes into effect, on the day set out in the *Permit* for the discharge of *Fireworks*, the *Permit*, no *Fireworks* may be discharged.

7.2 In addition to the conditions set out in section 7.1, the *Fire Chief* may impose any conditions on a *Permit* that the *Fire Chief* considers necessary in the interest of public safety, or that are advisable in the circumstances, or to give effect to the objects of this by-law.

- 7.3 No *Permit* holder shall not discharge or hold a display of *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* except in accordance with all *Permit* conditions.

8 REVOCATION AND GENERAL *PERMIT* REGULATIONS

- 8.1 The *Fire Chief* may revoke, without prior notice to the *Permit* holder or any other Person, any *Permit* issued pursuant to this By-law:

- (a) if the *Permit* was issued on mistaken, false or incorrect information;
- (b) if the *Fire Chief* has reason to believe the this By-law, including any *Permit* condition, will be contravened;
- (c) if the *Fire Chief* has concerns that the use, setting off, discharge, firing or holding any display of *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* poses a serious risk to public safety; or
- (d) if the *Permit* holder requests in writing to the *Fire Chief* that the *Permit* be revoked.

- 8.2 No Person shall use, set off, discharge, fire or cause or permit to be used, set off, discharged, or fired *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* or hold a display of *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics*:

- (a) in a manner that creates or is likely to create danger, an unsafe condition or a risk of accident, injury or damage;
- (b) in a manner that is likely to cause a disturbance or nuisance to any reasonable Person or property;
- (c) on land owned, leased or occupied by the *Town*, including without restriction all *Town* road and road allowances, except as permitted by this By-law;
- (d) into or on a highway, street, lane, road allowance, park, public parking lot, square or any other public place;
- (e) into or on any building, doorway or automobile;
- (f) within three hundred (300) meters of any industrial premises, agricultural premises gas or service station, or any other place where explosives, gasoline or other highly flammable liquids or gas substances of compounds are manufactured or stored in bulk; and
- (g) within three hundred (300) meters of a hospital, nursing home, home for the aged, church, school, day-care or other similar type of occupancy unless the written consent of the owner is obtained.

- 8.3 Any *Permit* issued pursuant to this by-law is non-transferrable.

- 8.4 The issuance of any *Permit* by the *Fire Chief* shall not relieve the *Permit* holder from compliance with any other applicable law.

9 FIREWORKS BAN

- 9.1 The *Fire Chief* is authorized to declare a *Fireworks Ban* when they believe it is in the interests of public safety or when there is a declared emergency in the *Town*.
- 9.2 A *Fireworks Ban* shall:
- (a) come into effect at 11:59 p.m. on the day that it is declared;
 - (b) remain in effect until the *Fire Chief* declares the *Fireworks Ban* is lifted; and
 - (c) be publicized on the *Town* website for the duration of the *Fireworks Ban*.
- 9.3 No Person, including the holder of any *Permit* holder, shall use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired any *Consumer Fireworks*, *Display Fireworks* or *Pyrotechnics* when a *Fireworks Ban* is in effect.

10 PERMIT PRODUCTION

- 10.1 Every person issued a *Permit* under this By-law shall, when requested by an Inspector, Municipal Law Enforcement *Officer*, or any person acting under their lawful authority, immediately produce their *Permit*, and other relevant documents required under this By-law.

11 INSPECTIONS AND ORDERS

- 11.1 An *Officer* or Inspector may at any reasonable time, enter upon and inspect the land of any person to ensure that the provisions of this By-law are complied with, which may in accordance with section 436(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25
- 11.2 For the purposes of conducting an inspection pursuant to this By-law, an *Officer* may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and

- (d) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 11.3 No *Person* shall prevent, hinder, or obstruct, or attempt to prevent, hinder or obstruct, an *Officer* or Inspector who is lawfully exercising a power or performing a duty under this By-law.
- 11.4 Where an *Officer* has reason to believe that any provision of this By-law or any condition of a *Permit* has been contravened, the *Officer* may issue an *Order* requiring the *Permit* holder or any other *Person* who contravened this By-law or who caused or permitted the contravention to discontinue the contravention or to do work or take action to correct the contravention or to refrain from any future contravention.
- 11.5 Delivered verbally or in writing, but where delivered verbally shall be followed by a written *Order* with the information set out in subsection 11.4. A verbal *Order* shall be deemed to be in effect immediately.
- 11.6 An *Order* in writing shall include:
 - (a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date by which there must be compliance with the *Order* and the work to be done or the conduct to be discontinued by that date.
- 11.7 Every *Person* shall comply with an *Order* made pursuant to subsection 11.4.
- 11.8 No *Person* who has notice of an *Order* shall assist in any way in the violation of the terms of an *Order*, regardless of whether said *Person* is named in the *Order*.
- 11.9 Where the *Person* or *Persons* to whom an *Order* is issued fails to perform the work or action required by the *Order* within the time stipulated in the *Order*, the *Town* may without further notice perform such work or action as it deems appropriate.
- 11.10 Where the *Town* undertakes work or any action pursuant to section 11.4, the *Person* or *Persons* shall be jointly and severally responsible for all costs of the *Town* incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the *Town*, shall constitute a charge under the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll of property held by the Licensee, owner or other person in the manner provided for therein.

11.11 An *Order* in writing under this By-law may be served by any of the following means:

- (a) Delivered personally;
- (b) Posted on the property that is subject to the *Order*;
- (c) Emailed to the last known email address of the person to whom the *Order* is directed;
- (d) Deposited in the mailbox or mail slot of the person to whom the *Order* is directed;
- (e) Sent by prepaid regular mail to the last known address of the person to whom the *Order* is directed; or
- (f) Sent by registered mail to the last known address of the person to whom the *Order* is directed.

11.12 Where service is effected by:

- (a) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
- (b) registered mail, it shall be deemed to be made on the second (2nd) day after the date of mailing;
- (c) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or deposited; or
- (d) service by multiple means, it shall be deemed effective on earliest applicable date set out in this section.

11.13 Where an *Order* is posted, no person may remove the *Order* without the written authorization of the *Town*.

12 ENFORCEMENT

12.1 Any *Officer* shall be responsible for the enforcement of this by-law.

13 SEVERABILITY

13.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue to be in force unless the court makes an *Order* to the contrary.

14 PENALTY

14.1 Each *Person* who contravenes any provision of this By-law, an *Order* or a condition of a *Permit* is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33,

as amended (the “*Provincial Offences Act*”) and the *Municipal Act, 2001*, S.O. 2001, c. 25.

- 14.2 Where a contravention is committed on or continues for more than one day, the person who commits the contravention is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an *Order*, a contravention continues for every day or part of a day past the date set out in the *Order* by which the work must be complete, action taken or discontinued, as the case may be.
- 14.3 In addition to section 16.2, any person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:
- (a) a minimum fine of \$500 and a maximum fine of \$100,000; and
 - (b) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500 per day, and a maximum fine of \$10,000 per day, but the total of all daily fines for the offence is not limited to \$100,000.

15 REPEAL

- 15.1 By-law 037-2009, as amended is hereby repealed upon the coming into force and effect of this By-law.

16 ENACTMENT

- 16.1 This By-law shall come into force and effect on November 13, 2023.

PASSED IN OPEN COUNCIL ON NOVEMBER 13, 2023

_____ Mayor
Gordon A. Krantz

_____ Town Clerk
Meaghan Reid