

**THE CORPORATION OF THE CITY OF TEMISKAMING SHORES
BY-LAW NO. 2009 - XXX
BEING A BY-LAW ADOPT A MUNICIPAL FIREWORKS POLICY
FOR THE CITY OF TEMISKAMING SHORES**

WHEREAS s. 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;

and further that a by-law may prohibit the manufacture or storage of explosives unless a permit is obtained, and may impose conditions of obtaining or continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS s. 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 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 425 (1) of the *Municipal Act, S.O. 2001, c. 25*, as amended, provides a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 429 (1) of the *Municipal Act, S.O. 2001, c. 25*, as amended, provides a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act ;

AND WHEREAS Section 446 (1) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that if a municipality has the authority under any Act or under a bylaw under any Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

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

NOW THEREFORE the Council of the Corporation of the City of Temiskaming Shores hereby enacts as follows:

1. That Council adopts a by-law to provide for the sale of fireworks and the setting off of fireworks and pyrotechnics within the City identified as Schedule "A", attached hereto and forming part of this by-law;
2. That By-law No. 78-16 Being a By-law In Respect To The Sale And Use Of Fireworks And Firecrackers, and that By-law No. 90-30 Being A By-law To Amend By-law 78-16 are hereby repealed.
3. That the Clerk of the City of Temiskaming Shores is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-law and schedule, after the passage of this By-law, where such modifications or corrections do not alter the intent of the By-law.
4. That this By-Law shall come into force and take effect on the date of its final passing.

Read a FIRST and SECOND time this xxx day of XXXXXXXX, 2009.

Mayor

Clerk

Read a THIRD time and FINALLY passed this xxx day of XXXXXXXX, 2009.

Mayor

Clerk

**CORPORATION OF THE CITY OF TEMISKAMING SHORES
SCHEDULE "A" TO BY-LAW NO. 2009 - XXX
BEING A BY-LAW TO ADOPT A MUNICIPAL FIREWORKS POLICY
FOR THE CITY OF TEMISKAMING SHORES**

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**PART 1
GENERAL PROVISIONS**

SECTION

1.1 Short Title

This By-Law shall be cited as the "*Fireworks Policy*".

1.2 Scope

The provisions of this By-law, which includes the Schedules and Appendixes annexed hereto and the Schedules and Appendixes are hereby declared to form part of this by-law shall apply to all property within the geographic limits of the *City*, except where other wise provided.

1.3 Enforcement

This By-law shall be enforced by a *By-law Enforcement Officer* or a *Fire Prevention Officer*, or a *Fire Chief*, or a *Police Officer*.

1.4 Conflicts with other by-law

Where a provision of this By-law conflicts with a provision of another by-law in force in the City of Temiskaming Shores, the provisions of this By-law shall prevail in order to protect the health, safety and welfare of the general public.

**PART 2
DEFINITIONS**

Definitions of words, phrases and terms used in this By-law that are not included in the list of definitions in this section shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law.

The words, phrases and terms defined in this section have the following meaning for the purposes of this By-law.

SECTION

2.1 "**Act**" means the Explosives Act, revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted there under as amended from time to time or any Act and Regulations enacted in substitution therefore;

2.2 "**Authorized Persons**" means, as the context requires, a) in the case of *Display Fireworks* those persons working under the direct supervision of the *fireworks supervisor*, who have been as a minimum, certified as an apprentice as required by the Explosives Regulatory Division of Natural Resources Canada, and b) in the case of *pyrotechnic special effects fireworks*, those persons working under the direct supervision of the pyrotechnician, who have been as a minimum, certified as a theatrical user as required by the Explosives Regulatory Division of Natural resources Canada.

2.3 "**By-law Enforcement Officer**" means the *person* or *persons* duly appointed by *Council* as Municipal Law Enforcement Officers for the purpose of enforcing regulatory by-laws of the *City*.

2.4 "**Chief Fire Official**" means the assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief under Article 1.1.1.2. of Division C or a person appointed by the Fire Marshal under Article 1.1.1.1. of Division C.

2.5 "**City**" or "**City of Temiskaming Shores**" means The Corporation of the City of Temiskaming Shores or the geographical area of the City of Temiskaming Shores as the context requires.

- 2.6 **"Consumer Firework"** means an outdoor, low hazard, recreational firework that is classed as a 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 and volcanoes, but does not include sparklers, Christmas crackers and caps for a toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap;
- 2.7 **"Discharge"** means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off and the words "discharged" and "discharging" have a similar means;
- 2.8 **"Display Fireworks"** 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, bombardoes, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;
- 2.9 **"Display of Fireworks"** means a display of display fireworks which may include consumer fireworks;
- 2.10 **"Firecracker"** means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly know as Chinese firecrackers;
- 2.11 **"Fire Prevention Officer"** means the *person* or *persons* duly appointed by *Council* as Fire Prevention Officer;
- 2.12 **"Fireworks 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;
- 2.13 **"Police Officer"** means a member of the Ontario Provincial Police Service.
- 2.14 **"FPPA"** means the Fire Protection and Prevention Act, 1997, c.4, as amended and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution therefore;
- 2.15 **"Provincial Offences Act"** means the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 2.16 **"Prohibited Fireworks"** includes but is not limited to cigarette loads or plugs, 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 cracking balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle 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;
- 2.17 **"Pyrotechnician"** means a person who is certified under the Act as a Theatrical User, an Assistant, a Pyrotechnician or Special effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Act;
- 2.18 **"Pyrotechnic Special Effect Firework"** means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Act and that 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; and;
- 2.19 **"Sell"** includes offer for sale, cause or permit to be sold and to posses for the purpose of sake and the words "selling;" and sold" have a similar meaning.

**PART 3
REGULATIONS**

SECTION

3.1 SALE OF FIREWORKS AND FIRECRACKERS

No person or persons within the *City of Temiskaming Shores* shall:

- i) Sell any type of *firecrackers*
- ii) Sell any *prohibited fireworks*
- iii) Sell any *consumer fireworks* except on the following day:
 - a) Victoria Day and Canada Day
 - b) One week immediately preceding Victoria Day and Canada Day
 - c) At such other times and such other dates permitted by Council.
- iv) Display in any store window, any type of fireworks, within the *City of Temiskaming Shores*.
- v) Display for *sale* within the *City of Temiskaming Shores* any type of fireworks in any manner other than in such a place that the fireworks are not exposed of the rays of the sun or to excess heat from any other source.
- vi) *Sell* or give to any person under the age of 18 years any type of consumer or *display fireworks* within the *City of Temiskaming Shores*.
- vii) *Sell* consumer fireworks in a building within the *City of Temiskaming Shores* unless the provisions of the Ontario Fire Code and all other applicable Acts and Regulations are complied with.
- viii) Display for *sale* within the *City of Temiskaming Shores* any consumer firework in lots that exceed 22.68 kilograms gross weight (50 pounds gross weight)
- ix) Display for *sale* within the *City of Temiskaming Shores* any consumer fireworks in any manner other than in a package, glass case or other suitable receptacle, away from any other flammable goods.

3.2 DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS

No person or persons within the *City of Temiskaming Shores* shall:

- i) Discharge any *firecrackers*, except with the appropriate federal approvals and for the purpose of cultural celebrations.
- ii) Discharge any *prohibited fireworks*.

3.3 CONSUMER FIREWORKS

- i) No person within the *City of Temiskaming Shores* shall discharge *consumer fireworks* except:
 - a) between dusk and 11:00 pm on Victoria Day;
 - b) between dusk and 11:00 pm on Canada Day;
 - c) as part of a *display fireworks* for which a permit has been obtained and for which all conditions and requirements of the permit have been met or;
 - d) at such other times and such other dates as permitted by Council.
- ii) A person eighteen (18) year of age or older may hold a display of *consumer fireworks* on any land belonging to him or her or on any other privately owned

- land where the owner thereof has given permission for such display or discharge of fireworks.
- iii) 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 of age or over.
 - iv) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to discharge any *consumer fireworks* except when such parent or guardian of some other responsible person of eighteen (18) years of age or over is in direct supervision and control.
 - v) No person shall discharge any *consumer fireworks* in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the discharging of any fireworks.
 - vi) No person shall discharge any *consumer fireworks* in or into any building, dwelling, doorway, or automobile.
 - vii) No person shall discharge any *consumer fireworks* in or on or into any park, highway, street, lane, square, or other public place, unless under a *display fireworks* permit to do so issued by the *Chief Fire Official*.

3.4

DISPLAY FIREWORKS

- i) **Holding and Discharging**
 - a) No person or group of persons shall hold a display of *display fireworks* in the *City of Temiskaming Shores* without first having obtained a permit to do so, issued by the *Chief Fire Official* in substantially the form set out in Appendix "2" of Schedule "A" attached to this by-law.
 - b) No person or group of persons shall discharge any *display fireworks* in the *City of Temiskaming Shores*, without first having obtained a permit issued by the *Chief Fire Official* authorizing the display of *display fireworks* in substantially the form set out in Appendix "2" of Schedule "A" attached to this by-law.
- ii) Every application for a permit shall be made to the *Chief Fire Official* a minimum of twenty-one (21) calendar days prior to the event when the proposed discharge of *display fireworks* is to occur.
- iii) Every application for a permit shall be submitted by the *Fireworks Supervisor* and shall include:
 - a) a description of the event including:
 - the date and time of the proposed discharge of *display fireworks*;
 - the type and kind of *display fireworks* that may be discharged;
 - the discharge techniques to be used;
 - the manner and means of restraining unauthorized person from attending too near the discharge site;
 - the manner in which unused *display fireworks* are to be disposed of, and
 - the number of *authorized persons* on site during the event to handle and discharge the *display fireworks*;

- b) a site plan providing a description of the discharge site to be used for the discharging of the *display fireworks*;
 - c) a description of the fire emergency procedures;
 - d) the name and address of the applicant (*Fireworks Supervisor*) and the sponsoring organization, if applicable;
 - e) proof of certification of the applicant as a *Fireworks Supervisor*;
 - f) proof of consent of the owner of the property to the discharge of the *display fireworks* in writing;
 - g) a permit fee as set out in the applicable *City of Temiskaming Shores Fees By-law 2008-001* as amended;
 - h) proof of insurance and indemnification in accordance with Sections 2.5 and 2.6; and
 - i) such other information as required by the *Chief Fire Official*.
- iv) An applicant for a permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
- a) the application is incomplete;
 - b) the applicant is not a *Fireworks Supervisor*;
 - c) there are reasonable grounds for belief that they holding of the *display fireworks* will result in a breach of this or another by-law, the FPPA or the *Act*.

3.5 INSURANCE

The applicant for a permit shall provide and maintain Commercial General Liability Insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) 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 applicant and shall name the Corporation of the *City of Temiskaming Shores* as an additional insured there under. Such insurance shall include coverage for displays of pyrotechnic special effects fireworks, consumer fireworks, or display fireworks. Such insurance policy shall contain an endorsement to provide the *City of Temiskaming Shores* with thirty (30) calendar days prior written notice of cancellation or of a material change that would diminish coverage, and a standard *City of Temiskaming Shores* Certificate of Insurance evidencing such insurance coverage shall be provided to the city prior to the issuance of a permit.

3.6 INDEMNIFICATION

The applicant for a permit shall indemnify and save harmless the *City of Temiskaming Shores* from any and all claims, demands, causes of action, loss, costs or damages that the *City of Temiskaming Shores* may suffer, incur or be liable for resulting from the performance of the application as set out in the by-law whether with or without negligence on the part of the applicant, the applicants employees, directors, contractors and agents.

3.7 CONDITIONS APPLYING TO PERMIT

- i) The *Chief Fire Official* may issue permits for display of *display fireworks* on the conditions set forth below, and each such permit shall state the name of the sponsoring club, association or group, the purpose of the display, the

- place and date at which the same may be held, and the name of the *Fireworks Supervisor* under whose supervision the display shall be held.
- ii) The following conditions shall apply to the holding of a display of *display fireworks* under a permit issued under this by-law;
 - a) the permit is valid only for the display at the place and on the date or dates set forth in the permit.
 - b) The permit holder shall supervise the display of *display fireworks*;
 - c) The permit holder shall discharge the display fireworks and any consumer fireworks;
 - d) Every permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use, and
 - e) The permit holder shall comply at all times with the provisions of the *Act*, FPPA and the *Display Fireworks Manual* published by Natural Resources Canada or any successor publication.
 - iii) No permit holder shall discharge *display fireworks* or *consumer fireworks* except in accordance with the conditions of the permit.
 - iv) The permit holder holding the display of *display fireworks* shall ensure that all unused fireworks and all debris are removed, in compliance with the *Act*, FPPA, and the *Display Fireworks Manual* published by Natural Resources Canada or any successor publication.

3.8

PYROTECHNIC SPECIAL EFFECTS FIREWORKS

- ii) **Holding and Discharging**
 - a) No person or group of persons shall hold a display of *pyrotechnic special effect fireworks* in the *City of Temiskaming Shores* without first having obtained a permit to do so, issued by the *Chief Fire Official* in substantially the form set out in Appendix "2" of Schedule "A" attached to this by-law.
 - b) No person or group of persons shall discharge any *pyrotechnic special effect fireworks* in the *City of Temiskaming Shores*, without first having obtained a permit issued by the *Chief Fire Official* authorizing the display of *pyrotechnic special effect fireworks* in substantially the form set out in Appendix "2" of Schedule "A" attached to this by-law.
- iii) Every application for a permit for *pyrotechnical special effects fireworks* shall be made to the *Chief Fire Official* a minimum of twenty one (21) calendar days prior to the event where the proposed discharge of *pyrotechnic special effect fireworks* is to occur.
- iv) Every application for a permit shall be submitted by the *pyrotechnician* and shall include:
 - a) a description of the event including:
 - a site plan of the facility and room capacity, the stage and the *pyrotechnic special effect fireworks* storage area;
 - a list of all *pyrotechnic special effect fireworks* to be employed;
 - location of all *pyrotechnic special effect fireworks*;
 - height, range of effect, fallout and duration of the display of *pyrotechnic special effect fireworks*;
 - sequence of firing;

- location of the audience and all exists;
 - date and time of proposed event using *pyrotechnic special effect fireworks*; and
 - the number of authorized persons on site during the even to handle and discharge the *pyrotechnic special effect fireworks*.
- b) description of fire emergency procedures;
 - c) name and address of the applicant (*pyrotechnician*) and the sponsoring business or organization if applicable;
 - d) proof of certification of the applicant as a *pyrotechnician*;
 - e) proof of insurance and indemnification in accordance with sections 2.5 and 2.6 of this by-law
 - f) proof of written consent of the owner of the property to the discharge of *pyrotechnic special effects fireworks* if the applicant (*pyrotechnician*) is not the owner of the property;
 - g) a permit fee as set in the applicable *City of Temiskaming Shores Fees By-law No. 2008-001* as amended; and
 - h) such other information as required by the *Chief Fire Official*.
- v) Notwithstanding the above section, where *pyrotechnic special effect fireworks* will be used for film or television productions or similar events, every applicant for a permit may include a Letter of Intent approved by the *Chief Fire Official*, as provided in the *Pyrotechnics Special effects Manual* published by Natural Resources Canada or any successor publication thereto, and where such Letter of Intent is provided, the requirements of the above section need not be met.
 - vi) An applicant for a permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
 - the application is incomplete;
 - the Applicant is not a *pyrotechnician* under the *Act*, or
 - there are reasonable grounds for belief that the holding of the display of *pyrotechnic special effect fireworks* will result in a breach of this or another by-law, the FPPA or the *Act*.

3.9 GENERAL REQUIREMENT

Every holder of a *display fireworks* or *pyrotechnic special effect fireworks* permit shall produce his or her permit upon being so directed by a *By-law Enforcement Officer*, a *Chief Fire Official*, a *Fire Prevention Officer*, or a *Police Officer*.

3.10 OFFENCES AND PENALTIES

- (i) Every person who contravenes any of the provisions of By-law 209-XXX is guilty of an offence and upon conviction is liable to a fine not less than \$100.00 exclusive of costs or as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.
- (ii) The following persons are authorized to enforce this By-law;
 - a) Every authorized *By-law Enforcement Officer* for the *City*; and
 - b) the *Chief Fire Official*,
 - c) the *Fire Prevention Officer*; and

d) every *Police Officer*.

3.11 Validity of By-law

If any section, clause, or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

SECTION

4.1 PERMIT FEES

The fees for the issuance of *Display Fireworks Permit* shall be twenty five (\$25.00) dollars.

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