



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____ - 2022

To regulate and prohibit the sale and discharge of fireworks, to provide for the issuance of permits for the discharge of fireworks, to repeal By-law 163-2016 and to amend By-law 218-2019 (Administrative Penalties –Non-Parking)

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 and possession 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 that 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 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 City of Brampton 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 By-law 218-2019 “Administrative Penalties (Non-Parking) By-law” was enacted to provide for a system of administrative monetary penalties for designated by-laws;

AND WHEREAS Council for The Corporation of the City of Brampton passed Resolution No. CW-376-2022 on November 28, 2022 to prohibit the use, purchase, discharge, possession, sale and offer to sell all fireworks including Consumer Fireworks, Display Fireworks, Pyrotechnics and Prohibited Fireworks;

AND WHEREAS the Council of The Corporation of the City of Brampton deems it expedient to enact a by-law to regulate and prohibit the sale, possession and discharge of fireworks, and repeal By-law 163-2016;

AND WHEREAS Council for The Corporation of the City of Brampton deems it appropriate to provide for administrative penalties for violations of this By-law;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

DEFINITIONS

1. 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 or regulations enacted in substitution therefor;

"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, sparklers, flying lanterns, barrages, cakes, comets, mines, missiles, skyrockets, fountains, wheels, ground spinners, burning school houses and flying ghosts;

"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;

"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;

"Film Production Company" means a company that is responsible for producing video content intended for broadcast, theatrical or digital distribution and advertisement;

"Fire Chief" means the Fire Chief of the City or authorized designate(s);

"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.

"Fireworks Display Supervisor Certification" authorizes a person to purchase and set off Display Fireworks;

"Fireworks Permit" is a permit to discharge fireworks issued by the Fire Chief. Without limiting this definition, a Fireworks Permit may be for Display Fireworks, or for Consumer Fireworks, Pyrotechnics or a combination.

"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;

"Officer" includes municipal law enforcement officers, fire inspectors, fire prevention officers, police officers, and any person appointed by Council to enforce this by-law;

"Person" means an individual, property owner, 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;

"Prohibited Fireworks" means fireworks included on the most recent list of prohibited fireworks or explosives set out in the Act, including but not limited to flying lanterns, sparkling matches, cherry bombs, M-80's, silver salutes and flash bombs and smoke bombs, fake firecrackers and other similar trick devices or practical joke devices;

"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;

"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.

UNAUTHORIZED FIREWORKS

2. No Person, or group of Persons, shall use, sell, offer to sell, display, purchase, distribute, possess or set off or discharge, or cause or permit to be used, sold, offered for sale, purchased, distributed, possessed, set off or discharged, any fireworks or explosives not authorized by the Explosives Regulatory Division of the Government of Canada.
3. No Person, or group of Persons, shall use, set off, discharge, fire, sell, offer to sell, purchase, display, distribute, possess or cause or permit to be used, fired, sold, offered for sale, purchased, distributed, possessed, set off or discharged, any Fireworks.
4. When Fireworks are discharged from a private property, the property owner is deemed to have permitted, allowed or caused the setting off of the Fireworks, unless there is evidence to the contrary, the proof of which lies with the property owner.
5. Notwithstanding sections 3 and 4, Fireworks may be discharged or set off by Film Production Companies or the City of Brampton in accordance with the provisions of this by-law.

FIREWORKS PERMITS

6. Every Film Production Company shall obtain a Fireworks Permit for the use of Fireworks.
7. Only Persons who hold a valid Fireworks Display Supervisor Certification or a Pyrotechnician Certification shall be eligible to apply for a Fireworks Permit.
8. The Fire Chief may impose such conditions upon the issuance of a Fireworks Permit as he or she considers are required to ensure the safety of the public.
9. The Fire Chief has absolute discretion to refuse a Fireworks Permit for any reason whatsoever and without limiting the generality of the discretion, a reason may include any of the provisions of this by-law, any other by-law, the Fire Code, the Act or Regulations, the past history of the applicant; the proposed locale of the display; insurance; the safety measures to be taken or lack thereof; any environmental consideration; or any consideration regarding the safety of the public or property.
10. Persons who discharge Fireworks under the authority of a Fireworks Permit shall comply with all the provisions of this by-law. However, the Fire Chief may relieve a Person who obtains a Fireworks Permit from any of the provisions of this by-law.
11. Every application for a Fireworks Permit shall be made to the Fire Chief a minimum of ten (10) days prior to the event when the proposed discharge or display of Fireworks is to occur.
12. (1) Every application for a Fireworks Permit shall include:
 - (a) a complete application form in the form provided by the City's Fire and Emergency Services department;
 - (b) proof of comprehensive general liability insurance in an amount not less than five million dollars (\$5,000,000.00) per occurrence, naming The Corporation of the City of Brampton as an additional insured, and where required by the City's Manager of Risk Management, naming the neighbouring properties as an additional insured, and containing a cross liability clause acceptable to the City's Manager of Risk Management;
 - (c) payment of all non-refundable application fees in the amount as described in the applicable City's User Fees By-law;

- (d) where the application is for a Fireworks Permit to discharge or hold a display of Fireworks or Pyrotechnics, proof of certification of the applicant as a Display Supervisor or Pyrotechnician; and
 - (e) such further and other information as the Fire Chief may require.
- (2) The Fire Chief:
 - (a) may issue a Fireworks Permit; or
 - (b) shall refuse to issue a Fireworks Permit where:
 - i. the application is incomplete;
 - ii. the applicant for a Fireworks Permit does not meet the certification criteria for the proposed Fireworks;
 - iii. the purpose of the discharge or display is not for either a Film Production Company or an event hosted or sponsored by The Corporation of the City of Brampton;
 - iv. 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
 - v. in the opinion of the Fire Chief, there are not adequate fire prevention safeguards or protections from fire hazards in place.
- 13. (1) The following conditions shall apply to a Fireworks Permit issued under this by-law:
 - (a) the Fireworks Permit is valid only for the discharge or display at the place and on the date or dates set forth in the Fireworks Permit;
 - (b) the Fireworks 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 Fireworks Permit;
 - (c) where the location set out in the Fireworks 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 permit holder shall restrain unauthorized Persons from attending near the location where the Consumer Fireworks, Display Fireworks or Pyrotechnics are being discharged; and
 - (f) 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.
- (2) In addition to the conditions set out in subsection 13(1), the Fire Chief may impose any conditions on a Fireworks 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.
- (3) No permit holder shall discharge or hold a display of Fireworks, except in accordance with the conditions of the Fireworks Permit.

REVOCATION AND GENERAL PERMIT REGULATIONS

14. The Fire Chief may revoke, without prior notice to the permit holder or any other Person, any Fireworks Permit issued pursuant to this by-law:
 - (1) where the, use, setting off, discharge, firing or holding any display of Consumer Fireworks, Display Fireworks, Prohibited Fireworks or Pyrotechnics is contrary to:
 - (a) the provisions of this By-law;
 - (b) any conditions upon which the Fireworks Permit was issued; or
 - (c) any other applicable law;
 - (2) if the Fireworks Permit was issued on mistaken, false or incorrect information;
 - (3) 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;
 - (4) if the Fireworks Permit was issued in error; or
 - (5) if the permit holder requests in writing to the Fire Chief that Fireworks Permit be revoked.
15. No Person shall use, set off, discharge, fire or cause or permit to be used, set off, discharged, or fired, Fireworks, or hold a display of Fireworks,:
 - (1) without a Fireworks Permit issued by the Fire Chief; or
 - (2) in contravention of the provisions of the Fireworks Permit issued to that Person.
16. Any Fireworks Permit issued pursuant to this by-law is non-transferrable.
17. Every permit holder shall produce their Fireworks Permit upon being so directed by the Fire Chief or Officer.
18. The issuance of any Fireworks Permit by the Fire Chief shall not relieve the permit holder from compliance with any other applicable law.

ENFORCEMENT

19.
 - (1) Any Officer shall be responsible for the enforcement of this by-law.
 - (2) Any Officer or any agent acting on behalf of the City may at any reasonable time enter upon land and into structures for the purpose of carrying out an inspection to determine whether this by-law is being complied with and any power of entry shall be exercised in accordance with Part XIV of the *Municipal Act, 2001*.
 - (3) Where an inspection is conducted in accordance with subsection 19(2) of this by-law, an officer may:
 - (a) require the production of documents and things for review that may be relevant to the inspection;
 - (b) inspect and remove documents or things which may be relevant to the inspection for the purpose of making copies;
 - (c) require any information from any Person concerning a matter related to the inspection, including but not limited to names, addresses, contact information, and proof of identity or other identification; 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.

20. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this by-law.

ORDERS

21. (1) Where an Officer believes that a contravention of this By-law has occurred they may issue:

- (a) an order to discontinue the contravening activity;
- (b) an order to correct the contravention; or,
- (c) an order to discontinue the contravening activity and correct the contravention.

(2) Orders issued pursuant to subsection 21(1) shall be in writing and set out:

- (a) the name of the Person who is believed to have contravened this By-law and the municipal address or the legal description of the land to which the contravention applies;
- (b) reasonable particulars of the contravention;
- (c) the date by which there must be compliance with the order;
- (d) if applicable, the work to be done and the date by which the work must be done; and,
- (e) if applicable, a statement that the City may have the work done at the expense of the owner of the property if the work is not done in compliance with the order.

(3) An order issued under this by-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Officer and a copy of the order may be posted on any property to which the contravention applies.

(4) If an order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.

(5) Every Person who fails to comply with an order made under this section is guilty of an offence.

OFFENCES AND PENALTIES

22. (1) Every Person who contravenes any provision of this by-law is guilty of an offence and every director or officer of a corporation who knowingly concurs in the contravention of this by-law by their corporation is guilty of an offence.

(2) Every Person who is charged with an offence under this by-law by the filing of a certificate of offence under Part I of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, upon conviction is liable to a fine as provided for by the aforesaid act.

(3) Every 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*, R.S.O. 1990, c. P.33, as amended, upon conviction is liable, pursuant to the fine provisions of the *Municipal Act, 2001*, to a fine as follows:

- (a) to a minimum fine of \$500 and to a maximum fine of \$100,000;
- (b) for each day or part of a day that the offence continues, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all daily fines for the offence is not limited to \$100,000; and
- (c) in the case of multiple offences, for each offence included in the multiple offence, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all fines for each included offence is not limited to \$100,000.

SEIZURE

23. Any Officer who observes a contravention of the provisions of this by-law may seize any fireworks in the possession of the person or corporation who committed the contravention.

ADMINISTRATION

24. This by-law may be referred to as the "Fireworks By-law".

ADMINISTRATIVE MONETARY PENALTIES

25. Administrative Penalties (Non-Parking) By-law 218-2019, as amended, applies to this by-law.
26. Every Person who contravenes a provision of this by-law designated in Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019, as amended, shall upon issuance of a Penalty Notice be and is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019, as amended.
27. Section 4 of Schedule “A” to Administrative Penalties (Non-Parking) By-law 218-2019 be amended by deleting the table and replacing it with the following:

Item	Column 1 Designated Provision	Column 2 Short Form Wording	Column 3 Administrative Penalty
1	Section 3	Discharge or be in possession of fireworks without permit	\$500.00
2	Section 3	Sell, distribute, display or offer for sale fireworks	\$1000.00
3	Section 3	Person permit, allow or cause to be set off fireworks on their property without permit	\$500.00
4	Section 21(5)	Fail to comply with an order	\$1000.00

SEVERABILITY

26. Should any provision, or any part of a provision, of this by-law be declared by a court of competent jurisdiction to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that the same shall not affect the validity of the remaining provisions.

REPEAL

27. By-law 163-2016 is hereby repealed.

ENACTMENT

28. This by-law shall come into full force and effect on the day of its passing.

ENACTED and PASSED this 14th day of December, 2022.

Approved as to
form.

2022/12/13

Colleen Grant

Patrick Brown, Mayor

Approved as to
content.

2022/12/13

Andrew von Holt

Peter Fay, City Clerk