

# THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

## BY-LAW NUMBER 16-2008

Being a By-law Respecting the Sale and the Setting Off of Fireworks within the Municipality of Lambton Shores

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**WHEREAS** it is deemed expedient to regulate the sale and setting off of fireworks in the Municipality of Lambton Shores

**THEREFORE** the Council of the Corporation of the Municipality of Lambton Shores enacts as follows:

### DEFINITIONS

1. In this by-law:

"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 and Regulations enacted in substitution therefore;

"Family fireworks" means an outdoor, low hazard, recreational fireworks that is classed as a Subdivision 1 of Division 2 of Class 7 Fireworks under the Act, and includes, but is not limited to, fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, and sparklers but does not include Christmas crackers and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap;

"Flying Lantern" means a small hot air balloon or other device designed to carry an open flame as an airborne light, also known as sky lanterns, Chinese lanterns, kongming lantern, wish lantern, sky candle & fire balloon

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

"Fire Chief" means one of the Fire Chiefs of the Municipality of Lambton Shores or his designate(s);

"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 known as Chinese firecrackers;

"Fireworks" means display fireworks, pyrotechnic special effects fireworks and Family fireworks;

"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;

"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;

"Pyrotechnician" means a person who is certified under the Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Act;

"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

"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 a similar meaning.

"Woodlands" means land with at least:

- (a) 1,000 trees, of any size, per hectare;
- (b) 750 trees, measuring over five centimetres in diameter, per hectare; or
- (c) 500 trees, measuring over 12 centimetres in diameter, per hectare; or
- (d) 250 trees, measuring over 20 centimetres in diameter, per hectare.

For the purpose of the definition of woodlands, all measurements of the trees are to be taken at 1.37 metres from the ground

2. If any section, subsection or part thereof be declared illegal or *ultra vires*, such section, subsection or part shall be deemed to be severable and all other parts to be separate and independent.

## **SALE OF FIREWORKS AND FIRECRACKERS**

3. (a) No person shall sell any firecrackers, except for displays as permitted by the Fire Chief under subsection 6(d).

- (b) No person shall sell, offer for sale, give or distribute fireworks to anyone under the age of 18.
- (c) No person shall sell any prohibited fireworks.
- (d) Every person in charge of a store shall ensure that fireworks displayed in store windows are mock samples only and do not contain explosive composition.
- (e) No person shall display or offer for sale individual fireworks unless the fireworks are kept within an enclosed, non-combustible display unit, locked and accessible only to employees of the fireworks vendor. Boxed fireworks must be displayed in such a manner that they are not available as a self serve item.
- (f) Where fireworks are offered for sale, they must not be located at or near a means of entrance or exit to any building or room.
- (g) No outside sales or displays of fireworks are permitted.
- (h) Within the Village of Grand Bend (Ward 1), no person shall sell family fireworks except on the following days:
  - (i) Victoria Day, Memorial Day (American holiday) Canada Day, the Fourth of July (American holiday), New Year's Eve, and
  - (ii) each of the seven business days immediately preceding Victoria Day, Canada Day, Memorial Day, Fourth of July, and New Year's Eve.
  - (iii) In all other areas of the Municipality of Lambton Shores other than the Village of Grand Bend (Ward 1); no person shall sell any fireworks on any day during the year except during the period from the 5th day of May to the 15th day of September, inclusive, in each year, with the exception of New Years Day and the seven business days immediately preceding New Years Day, when sales will be permitted.
- (i) All family fireworks sale displays will be removed from the store sales area at all other times.

**DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS**

- 4. (a) No person shall discharge any firecrackers, except as per subsection 6(d) herein.
- (b) No person shall discharge any prohibited fireworks.

**FLYING LANTERNS**

- 5 (a) No person or corporation shall offer for sale, cause or permit to be sold, sell or otherwise distribute a Flying Lantern within the Municipality of Lambton Shores.

(b) No person shall ignite a Sky Lantern within the Municipality of Lambton Shores.

(c) No person shall release an ignited Sky Lantern into the air within the Municipality of Lambton Shores.

## **FAMILY FIREWORKS**

6. (a) Within the Village of Grand Bend (Ward 1); no person shall discharge family fireworks except on the following days:
- (i) Victoria Day, or the day immediately preceding or following Victoria Day;
  - (ii) Memorial Day, or the day immediately preceding or following Memorial Day;
  - (iii) Canada Day, or the day immediately preceding or following Canada Day
  - (iv) the Fourth of July, or the day immediately preceding or following the Fourth of July;
  - (iii) New Years Eve or the day immediately preceding or following New Years Eve; and
  - (iv) at such other times and such other dates as permitted by Council by permit.
- (b) (i) In all other areas of the Municipality of Lambton Shores other than the Village of Grand Bend (Ward 1); no person shall discharge any family fireworks on any day during the year except during the period from the 5th day of May to the 15th day of September, inclusive, in each year, with the exception of New Years Day and the day immediately preceding or following New Years Day.
- (ii) At such other times and such other dates as permitted by Council by permit.
- (c) A person eighteen (18) years of age or older may hold a display of Family 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.
- (d) No person shall discharge any family 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.
- (e) No person shall discharge any family fireworks in, from or into any building, doorway, or automobile.
- (f) No person shall discharge any family fireworks in or on or into any highway, street, lane, square or other public place, including public parks, beaches, or

any other municipal property, without the written permission of the Municipality.

- (g) No person shall discharge, set off, or cause to be set off any fireworks inside or closer than 6 metres to any building, tent, trailer, shelter or motor home.
- (h) No person under the age of 18 years may discharge, fire, set off, or cause to be set off any family fireworks unless under the direct supervision of a person 18 years of age or older.
- (i) No person being the parent or guardian of any child under the age of 18 years shall permit said child to discharge, fire, set off or cause to be set off any fireworks, except when such parent or guardian or other responsible person of at least 18 years of age is in direct supervision or control.
- (j) No person shall set off, discharge, fire, or cause or permit to be set off, discharged, or fired fireworks in a manner or at a location that causes the discharge, smoke, residue or fallout of the fireworks onto the land of another person or to encroach on the property of another person, or that creates a nuisance, or that creates or may create an unsafe condition, danger from fire or risk of accident, injury or damage at or in respect of any place, location or site, or in respect of any person, property or thing.
- k) No person shall set off any fireworks in the Municipality within 500 feet of any woodlands;

## **DISPLAY FIREWORKS**

- 7.
  - (a) No person or group of persons shall discharge or hold a display of display fireworks without first having obtained a permit to do so issued by the Municipality, including the approval of the appropriate Area Fire Chief.
  - (b) No person or group of persons shall discharge any display fireworks except under the direct supervision and control of a qualified supervisor.
  - (c) No display fireworks shall be permitted on any Municipal property without first having obtained the approval of Municipal Council as well as the required permit.
  - (d) No person or group shall hold a display of firecrackers without first having obtained a permit.
- 8. Every application for a permit shall be made to the Municipality a minimum of 30 days prior to the event when the proposed discharge of display fireworks is to occur.
- 9. Every application for a permit shall include:
  - (a) a description of the event including,
    - (i) the date and time of the proposed discharge of display fireworks,

- (ii) the type and kind of display fireworks that may be discharged,
  - (iii) the discharge techniques to be used,
  - (iv) the manner and means of restraining unauthorized persons from attending too near the discharge site,
  - (v) the manner in which unused display fireworks are to be disposed of, and
  - (vi) the number of persons authorized 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 and the sponsoring organization, if applicable;
  - (e) proof of certification of the applicant as a Fireworks Supervisor;
  - (f) proof of the consent of the owner of the property to the discharge of display fireworks in writing;
  - (g) a processing fee as noted in the Municipality of Lambton Shores fee structure.
  - (h) proof of insurance and indemnification in accordance with Sections 10 and 11; and
  - (i) such other information as required by the Fire Chief.
10. 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) the display is not being held under the auspices of an established club, association or group of persons, or
  - (d) there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law or the Act.

## **INSURANCE**

11. Prior to the issuance of a permit, the applicant 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 Municipality of Lambton Shores as an additional insured thereunder. Such insurance shall include permission to conduct displays of pyrotechnic special effects fireworks or display fireworks. Such insurance policy shall contain an endorsement to provide the Municipality of Lambton Shores with (30) days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to the Municipality of Lambton Shores prior to the issuance of a permit.

### **INDEMNIFICATION**

12. The applicant shall indemnify and save harmless the Municipality of Lambton Shores from any and all claims, demands, causes of action, loss costs or damages that the Municipality of Lambton Shores 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, the applicant's employees, directors, contractors and agents.

### **CONDITIONS APPLYING TO PERMIT**

13. The Municipality may issue permits for displays of fireworks on the conditions set forth in Section 13, 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 person under whose supervision the display shall be held.
14. 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 display is not being held within two hundred metres (200 m) of a nursing home, home for the aged, any premises or place where explosives, gasoline, or other highly flammable substances are manufactured, sold or stored or within two hundred metres (200m) of a church or a public or separate secondary school or other school unless the consent of the owner or an agent or representative of the owner of such church or school is obtained, or within 60 metres from the nearest building, or 15 metres from any hydro line, tree or overhead obstruction.
  - (c) Spectators are no closer than 100 metres from the place at which the fireworks are being set off or discharged.

- (d) the permit holder shall supervise the display of display fireworks,
  - (e) the permit holder or his licensed designate shall discharge the display fireworks,
  - (f) every permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use at each firing site,
  - (g) the permit holder shall comply at all times with the provisions of the Act, the Fire Protection and Prevention Act, 1997, and the Display Fireworks Manual published by Natural Resources Canada or any successor publication, and
  - (h) a demonstration of the display or portions of the display shall be conducted upon request of the Fire Chief.
15. No permit holder shall discharge display fireworks except in accordance with the conditions of the permit.
16. The permit holder holding the display of display fireworks shall ensure that all unused fireworks and all debris are removed from the site at the conclusion of the event.

### **PYROTECHNIC SPECIAL EFFECTS FIREWORKS**

17. (a) No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the Municipality of Lambton Shores without first having obtained a permit to do so issued by the Municipality.
- (b) No person or group of persons shall discharge any pyrotechnic special effect fireworks in the Municipality of Lambton Shores, without first having obtained a permit issued by the Fire Chief authorizing the display of pyrotechnic special effect fireworks.
18. Every application for a permit pursuant to Section 16 shall be made to the Municipality a minimum of 30 days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.
19. Every application for a permit shall include:
- (a) a description of the event including,
    - (i) a site plan of the facility and room capacity, the stage and the pyrotechnic special effect fireworks storage area,
    - (ii) a list of all the pyrotechnic special effect fireworks to be employed,
    - (iii) location of all pyrotechnic special effect fireworks,
    - (iv) height, range of effect, fallout and duration of the display of pyrotechnic special effect fireworks,
    - (v) sequence of firing,
    - (vi) location of the audience and all exits, and



- (vii) date and time of the proposed event using pyrotechnic special effect fireworks;
  - (b) description of fire emergency procedures;
  - (c) name and address of the applicant 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 10 and 11 ;
  - (f) proof of consent of the owner of the property to the discharge of pyrotechnic special effect fireworks in writing if the applicant is not the owner of the property;
  - (g) a processing fee as noted in the Municipality of Lambton Shores fee structure ; and
  - (h) such other information as required by the Fire Chief.
20. 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 pyrotechnician under the Act, or
  - (c) there are reasonable grounds for belief that the holding of the display fireworks will result in a breach of this by-law, or any law.

**CONDITIONS APPLYING TO PERMIT**

22. The Municipality may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 21 and each such permit shall state the name of the sponsoring business, club, association or group, the purpose of the display, the place and date at which the display may be held, and the name of the pyrotechnician under whose supervision the same shall be held.
22. The following conditions shall apply to the holding of a display of pyrotechnic special effect 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 pyrotechnic special effect fireworks,

- (c) the permit holder shall discharge the pyrotechnic special effects fireworks,
  - (d) the permit holder shall provide and maintain fully operational, fire extinguishing equipment ready for immediate use,
  - (e) the permit holder shall comply at all times with the requirements of the Act and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication and,
  - (f) a demonstration of the display or portions of the display shall be conducted upon request of the Fire Chief.
23. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.
24. The permit holder holding the display of pyrotechnic special effect fireworks shall ensure that all unused fireworks and all debris are removed.

#### **GENERAL REQUIREMENT**

25. Every holder of a display fireworks or pyrotechnic special effect fireworks permit shall produce his or her permit upon being so directed by the Fire Chief.
26. All permits granted by the Fire Chief may be revoked whenever, in his discretion, the holder of such permit is in non-compliance with its terms or he has concerns for the safety of the public.

#### **CONFLICT**

27. If any portion of this By-law is found to be in conflict with any other provision of any other by-law of the Municipality, the provision which establishes the higher standard or greatest restriction shall prevail.

#### **OFFENCES AND PENALTIES**

28. (a) Every person who contravenes any of the provisions of this by-law is guilty of an offence.
- (b) Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offenses Act, R.S.O. 1990, Chapter P.33.

#### **REPEAL**

29. All previous by-law regulating the sale and setting off of Fireworks in Lambton Shores or its predecessor municipalities are hereby repealed.
30. This by-law may be referred to as the "Fireworks By-law".

31. This by-law shall come into force and take effect on the day of the final passing thereof.

Read a first and second time this 19<sup>th</sup> day of February, 2008

READ A THIRD TIME AND FINALLY PASSED THIS 19th DAY OF FEBRUARY, 2008

“MAYOR – Gord Minielly”

“CLERK – Carol McKenzie”

As amended by 47-2010  
June 7, 2010 – Section 3e

As amended by 25-2014  
Re: Flying lanterns and Woodlands