



**Clerk's Department**

**MEMORANDUM**

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**TO:** Mayor and Members of Council

**FROM:** Sheila Birrell, Town Clerk

**DATE:** 2007-11-01

**SUBJECT:** Fireworks By-Law

At the General Committee held on October 22<sup>nd</sup>, 2007, the Committee approved the following resolution to be presented to Council on November 13<sup>th</sup>, 2007:

“That the deputation from Ms. S. Greiner, All Star Fireworks, in opposition to the proposed amendments to Fireworks By-law 2001-137 be received;

And that the deputation from Ms. E. Costello, Aird and Berlis LLP, on behalf of the Canadian Pyrotechnic Council, in support of the proposed amendments, with reservations, be received;

And that By-Law No. 2001-137, “Being a By-Law Respecting the Regulating, Licensing, Sale and Discharge of Fireworks” be repealed and a new by-law respecting the regulating, sale and discharge of fireworks be enacted for the purpose of:

- Allowing the sale of family fireworks from businesses and mobile sales premises by permit during the seven days immediately proceeding Victoria and Canada Day;
- Prohibiting mobile vendors from locating or operating from any municipal street, boulevard or road allowance;
- Requiring insurance in the amount of two million dollars as a condition of obtaining a permit;
- Requiring unsold fireworks in excess of 25 kilograms gross weight be returned to the manufacturer or the distributor within seven days of Canada Day and Victoria Day to avoid the potential for inappropriate storage;
- Requiring all permit holders to attend or have someone attend a fireworks training and information seminar and to ensure a trained person is on site during business operations;
- Requiring a permit for the discharge of display and theatrical fireworks and compliance with the Town’s Noise By-Law prior to the issuance of the permit;

And that staff report back to Council on November 13, 2007 regarding issues raised at General Committee by Ms. E. Costello, Aird and Berlis, on behalf of the Canadian Pyrotechnics Society, regarding inconsistencies in the proposed by-law;

And that By-Law No. 2002-276, “The Fee By-Law” be amended to provide for a \$150 fee for the required permit for sale of fireworks and the cost of training, with provision for the waiver of the fee for not-for-profit corporations;

And that Staff be authorized to make an application for set fine to assist with enforcement of the by-law;

And that Staff be authorized and directed to do all things necessary to give effect to this resolution.”

Staff met with representatives of the Canadian Pyrotechnic Council to discuss their concerns expressed at the October 22<sup>nd</sup> meeting. The concerns were:

- The restricted time provided for the discharge of family fireworks, i.e. on Victoria Day or Canada Day;
- The allowable total weight permitted for sale at one time; and
- Inconsistency with discharge and sale of fireworks.

Mayor and Members of Council:

**Timing for the Discharge of Family Fireworks**

Staff concur with the need to expand the timing for the discharge to provide for inclement weather and to allow families to discharge their fireworks on a night when their children are not required to attend school the next day. The draft by-law has been revised to provide for the discharge of family fireworks on the preceding day to both Victoria Day and Canada Day.

**Gross Weight**

Staff discussed the gross weight issue with the Explosives Regulatory Division (ERD) (Natural Resources Canada). The original intent of the maximum possession of 10 kg gross weight family fireworks by an individual was because the "Explosives Act" indicates this is the maximum amount a residential occupancy can have stored without taking special precautions. Once the gross weight exceeds the 10 kg weight, it is necessary to have it stored in a secured and locked box (up to a maximum of 100 kg gross weight in a residential occupancy). This means a resident could store up to 100 kg gross weight of family fireworks provided it is in a secured and locked box. The box is required to be signed indicating "Fireworks" and "No Smoking". If the homeowner's garage was detached from the home, they would be permitted to store up to 1000 kg weight of family fireworks without having to be licensed by the ERD. Consequently, the draft by-law has been amended to remove the restriction to 10 kg of fireworks per sale from the by-law. It has also been amended to show due diligence and include it in the training seminar. The training sessions will include slides strictly aimed at the storage of family fireworks within residential occupancies. It is anticipated the vendor will relay the information along to the purchaser.

Bulletin #51 of the Explosives Branch of the Natural Resources Canada, which summarizes the regulatory requirements regarding fireworks, is attached hereto as Schedule "A".

**Inconsistency with Discharge and Sale of Fireworks**

Staff are recommending no action be taken on the request for year round sales in the Town of Markham. There is one Markham operated outlet that wholesales and that would address purchases for large events, such as the community festivals, that are not on either Victoria Day or Canada Day. Staff have advised the Canadian Pyrotechnic Council of their right to appear in delegation to lodge their concerns in that regard.

  
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Sheila Birrell,  
Town Clerk.

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## Explosives Branch

### Bulletin # 51

May 2007

## CONSUMER FIREWORKS – SUMMARY OF REGULATORY REQUIREMENTS

Fireworks are controlled by the federal *Explosives Act* and its regulations. The Act is administered and enforced by inspectors with the Explosives Regulatory Division (ERD) of Natural Resources Canada. The Act may also be enforced by officers with the RCMP, OPP, SQ, or municipal police bomb squads. The following sections summarize the requirements for each of the activities covered by the Explosives Regulations.

Municipalities may have their own by-laws and regulations regarding fireworks, e.g., many jurisdictions restrict the sale of fireworks to certain holidays during the year. The *Explosives Act* does not exempt anyone from complying with local requirements that may be more stringent.

### Classification

- Consumer fireworks are low-hazard articles designed for recreational use and they are classed 7.2.1 in the Explosives Regulations and 1.4G in the Transportation of Dangerous Goods (TDG) Regulations.
- They include fountains, wheels, Roman candles, sparklers, Christmas crackers, volcanoes, mines, snakes, and toy pistol caps.

### Sale

- Consumer fireworks may be sold to persons who are at least 18 years of age.
- Customers are not permitted to handle any fireworks articles that are not in approved packaging until the articles have been purchased.
- The retailer must display fireworks for sale in accordance with the following section.

### Displaying Consumer Fireworks

- Consumer fireworks on display must be separated into lots not exceeding 25 kg gross weight. The separation must be sufficient to prevent fire from spreading rapidly from one lot to the next and may consist, for example, of:
  - an aisle with a minimum width of 1.1 metres, or
  - a 6-mm plywood partition that extends 15 cm above the height of the lot or to the display shelf above.
- No more than 10% of the area of a display shelf should contain holes or other openings.
- The fireworks must be kept away from flammable goods and not be exposed to the sun or direct heat.

- Fireworks on display must be in approved packaging (e.g., family or blister pack), a glass case, or other suitable receptacle (e.g., shelves that are out of reach of the public). Fireworks articles not in approved packaging must be inaccessible to the public.
- It is unacceptable to set up display boards that employ live fireworks, even if the fuses are removed (the alteration of fireworks is prohibited by the *Explosives Act*). The display boards should contain only inert articles, which may be obtained from your distributor or the product manufacturer.
- A “NO SMOKING” sign must be posted in the display area.
- Fireworks on display must be attended by an employee.
- If fireworks are displayed indoors or in a van or trailer, there must be two unobstructed exits to ensure that employees and the public can quickly evacuate in the event of fire.
- Any fireworks not on display must be put in storage as described in the following section.

## **Storage**

- A building may house up to 1000 kg gross weight of consumer fireworks provided that it is detached from a dwelling and that the building, or a dedicated portion of it, is:
  - closed to public access,
  - well constructed, and
  - used exclusively for fireworks storage.
- If the building does not meet these requirements, the fireworks may be kept in a lockable secure bin within the building, but the storage limit is reduced to 100 kg gross weight.
- Storage quantities in excess of 1000 kg gross weight require a magazine licence issued by ERD.
- The storage facility must display warning signs marked “FIREWORKS” and “NO SMOKING.”
- Storage in vehicles, e.g., trucks or vans, is prohibited.

## **Transportation**

- The road transportation of fireworks is governed in part by the TDG regulations and in part by the Explosives Regulations, Part VI.
- Flammable goods must not be carried with fireworks.
- Smoking is prohibited within 8 metres of a loaded vehicle.
- TDG orange 1.4G placards must be displayed when transporting more than 1000 kg gross weight (250 kg NEQ) of consumer fireworks.
- Fireworks must not be transported in the passenger compartment of a vehicle. When transporting fireworks in a car, use the trunk, or in a mini-van or sport-utility vehicle, use the cargo compartment; the maximum quantity for these types of vehicles is 300 kg (75 kg NEQ).

## **Authorization**

- Only fireworks authorized pursuant to the Explosives Regulations may be imported into or manufactured, transported, possessed or used in Canada.
- Contraband items such as “cherry bombs,” snaps, “silver salutes,” “M-80 salutes,” flash crackers, throwdown torpedoes, cigarette loads, trick matches, and all trick fireworks are prohibited.
- The *List of Authorized Explosives* is published on the ERD web site at [www.nrcan.gc.ca/mms/explosif/auth-list/auth-list\\_e.htm](http://www.nrcan.gc.ca/mms/explosif/auth-list/auth-list_e.htm).
- The properties and characteristics of all legally manufactured or imported fireworks are tested for compliance with specific safety and reliability criteria set by the Chief Inspector of Explosives, e.g., chemical stability and sensitivity. Another requirement is for any instructions to be in both English

and French; if a firework has unilingual instructions, it is likely that the firework is not an authorized product.

### **Importation**

- An Importation Permit is required to import fireworks, with the exception of Christmas crackers. A permit will only be granted for fireworks that appear on the *List of Authorized Explosives*.
- For information on obtaining a permit, contact the ERD headquarters office by telephone at 613-948-5200.

### **Inspector Powers**

- Inspectors may enter and inspect any place in which fireworks are being stored, transported or used; they may open and inspect any room, container or package.
- Any fireworks acquired, transported, sold or stored in contravention of the Act may be seized by an inspector.
- Persons present during inspections are obliged to do any of the following if requested:
  - provide assistance so that the inspectors can carry out their duties,
  - produce, extract or copy any relevant documents, and
  - comply with any safety measures as directed by inspectors.
- Any person who obstructs an inspector is guilty of an offence under the Act and is liable to a fine of up to \$5000 and/or imprisonment of up to six months.



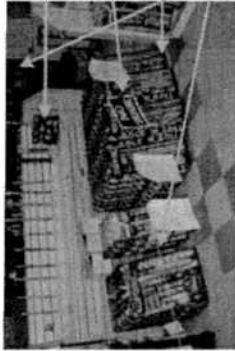
Chris Watson, Ph.D.  
Chief Inspector of Explosives

Att. (1)



Natural Resources  
Canada

Ressources naturelles  
Canada



Acceptable

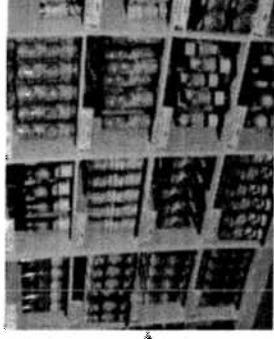
Display board with live fireworks  
out of public reach

"No Smoking" sign

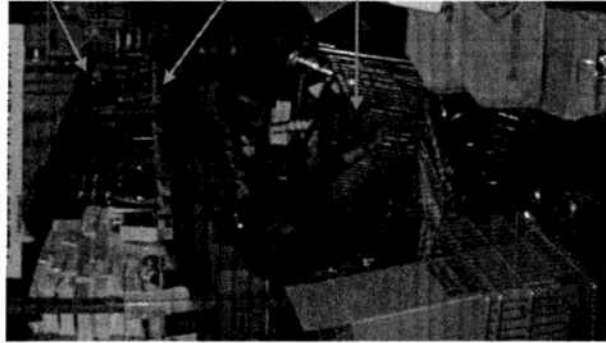
Approved packaging

Shelves out of reach of public

Consumer fireworks on display must be separated into lots not exceeding 25 kg gross weight. The separation must be sufficient to prevent fire from spreading rapidly from one lot to the next, e.g., a 6-mm plywood partition that extends 15 cm above the height of the lot or to the display shelf above.



Acceptable



Unacceptable

Consumer fireworks on display must be separated into lots not exceeding 25 kg gross weight. The separation must be sufficient to prevent fire from spreading rapidly from one lot to the next and may consist, for example, of:

- an aisle with a minimum width of 1.1 metres, or
- a 6-mm plywood partition that extends 15 cm above the height of the lot or to the display shelf above.



Unacceptable

Fireworks on display must be in approved packaging (e.g., family or blister pack), a glass case, or other suitable receptacle (e.g., shelves that are out of reach of the public). Fireworks articles not in approved packaging must be made inaccessible to the public.

Customers are not permitted to handle any fireworks articles that are not in approved packaging until the articles have been purchased.



Exit not identified

Obstructed exit

Unacceptable

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