



MUNICIPALITY OF **West Elgin**

The Corporation Of The Municipality Of West Elgin

By-Law No. 2023-16

Being a By-Law to Regulate the Display, Sale and Setting Off of Fireworks in the Municipality of West Elgin

Whereas the Council of the Corporation of the Municipality of West Elgin deems it necessary to prohibit and regulate the sale, storage, display and discharge of fireworks in the Municipality of West Elgin; and

Whereas Section 121 of the *Municipal Act, 2001*, SO. 2001, c.25, as amended, permits a municipality to pass by-laws prohibiting and regulating the sale and the setting off of fireworks; and

Whereas Section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, states that a municipality may require that a permit be obtained for the sale and setting off of fireworks, and that conditions may be prescribed by the municipality for obtaining, continuing to hold and renewing said permit;

Now Therefore, the Council of the Corporation of the Municipality of West Elgin enacts as follows:

1. Interpretation

In this By-law the following terms shall have the corresponding meanings:

- a) “**Display Unit**” means a bin, crate, box case or other device used to display fireworks to the public;
- b) “**Duty of Care**” means everyone who has an explosive substance in his or her possession or under his or her care and control is under a legal duty to use reasonable care to prevent bodily harm and death to persons, or damage to property by that explosive device;
- c) “**Family Fireworks**” shall mean low hazard fireworks generally used for recreation;

- d) “**Fire Chief**” shall mean the Fire Chief of West Elgin Fire Department and members of the fire department under the direction of the Fire Chief;
- e) “**Fireworks**” means any and all classes of fireworks, including and without limiting the generality of the foregoing the following clauses which are included in the *Federal Explosives Act, R.S.C., 1985, c #-17*, Ministry of Natural Resources;
 - (i) “**Low-hazard**” fireworks for recreation such as firework showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sparklers;
 - (ii) “**High-hazard**” fireworks for recreation such as rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardon, waterfalls, fountains, mines and firecrackers (also known as “display fireworks”).
- f) “**Fireworks vendor**” means any person, organization or company that sells, displays, or offers fireworks for sale;
- g) “**Flying Lanterns**” means a small hot air balloon made of treated paper or any other material, with an opening at the bottom which is propelled by an open flame generated by a small candle or fuel cell, allowing a balloon to rise and float in the air, uncontrollably while ignited;
- h) “**Mobile Vending Structure**” means any vehicle, roadside stand or temporary structure, tent or air-supported structure or other conveyance in or from which fireworks are displayed, sold or offered for sale;
- i) “**Person**” includes a corporation;
- j) “**Site**” means any area within the Municipality of West Elgin on which fireworks are displayed, sold or offered for sale;
- k) “**Site Plan**” means a drawing of a site which includes all applicable measurements of every vending structure and the surrounding area within 100 metres of the site on which all buildings and structures, streets or other landmarks are indicated;
- l) “**Temporary Vendor**” means any person, organization or company that sells displays or offers fireworks for sale from a mobile vending structure.

2. When Sales Permitted

Every person who sells fireworks in West Elgin shall only sell fireworks, as described in the by-law, on the following days:

- a) From one week (seven days) prior to Victoria Day weekend (May) until one week (seven days) following Labour Day weekend (September);
- b) One week (seven days) prior to New Year's Eve (December 31); and,
- c) One week (seven days) prior to Diwali.

3. Sales

No person shall display, offer for sale or sell fireworks unless the person is in compliance with all applicable provisions of this By-law.

4. By-law Posting

Every fireworks vendor shall ensure that a copy of this By-law is posted on the site in a conspicuous place visible to the public.

5. Sale to Minors Prohibited

- a) No person shall sell fireworks to any person under the age of eighteen (18) years;
- b) No person shall sell fireworks to any person without a sign being present on the site and clearly visible to the public, in each display unit, stating that sales to persons under eighteen (18) years of age are prohibited.

6. Storage and Display of Fireworks

- a) When fireworks are displayed for sale within any building, the fireworks vendor shall ensure that no lot, bin or bundle of fireworks exceeds a weight of 25 kilograms and shall not expose fireworks to direct sunlight;
- b) Where the total stock of fireworks on a site exceeds a weight of 1,000 kilograms, the fireworks vendor shall obtain a license from the Explosives Division, Department of Energy, Mines and Resources;
- c) Every fireworks vendor shall ensure that all fireworks displayed or offered for sale are kept within an enclosed, in a locked, non-combustible display unit, and are accessible only to employees of the fireworks vendor;
- d) No person shall have in his or her possession a lighted match, lighted lighter, lighted pipe, lighted cigar, lighted cigarette or any other lighted fire producing device within six (6) metres of any fireworks kept or displayed for sale;
- e) Every fireworks vendor shall ensure that all fireworks that remain unsold at the expiration of the selling period (specified in Section 2 of this By-law) are immediately stored in a cool, dry place, which is remote from flammable materials and inaccessible to the public;
- f) Every person or organization who stores fireworks shall use reasonable care to ensure that those fireworks are not accessible to children;
- g) No person shall display, offer to sell or sell any flying lanterns.

7. Temporary Vendor

Temporary vendors are not permitted to sell, display or offer to sell fireworks from a mobile vending structure in the Municipality of West Elgin.

8. Discharge of Fireworks

- a) No person shall discharge any fireworks on municipally-owned lands without first obtaining permission from the Municipal Council. Such permission may be subject to terms and conditions, including but not limited to, the provision of liability insurance, in the amount of \$5,000,000.00, naming the Municipality of West Elgin as an additional insured;
- b) No person shall discharge any fireworks within the Municipality at any time except on the four (4) long weekends of summer observed as Victoria Day (May), Canada Day (July), Civic Day (August) and Labour Day (September) New Year's Eve (December 31) or Diwali; unless permission to do so has been given by Fire Chief;
- c) In addition to subsection (a) and (b) of this section, no person shall discharge any fireworks within the Municipality except between the hours of dusk and 11:00 p.m. on the day such discharge is permitted;
- d) Every person who discharges family fireworks shall be mindful of their duty of care to individuals and property.

9. Fireworks Displays

- a) No person or organization shall conduct a fireworks display using high-hazard fireworks within the Municipality without first obtaining approval to do so from the Council or the Fire Chief;
- b) No person or organization approved by the Fire Chief to conduct a high-hazard fireworks display shall do so without first obtaining a permit from the Municipality of West Elgin Fire Department to conduct the fireworks display;
- c) No person shall be permitted to set off high-hazard fireworks in fireworks display without first successfully completing a fireworks supervisor course and holding a valid Fireworks Supervisor Card;
- d) No person shall use any fireworks in fireworks display other than those authorized pursuant to the *Explosives Act* Regulations of the Ministry of Natural Resources. Every person having control of any fireworks to be used in a fireworks display shall ensure that such fireworks are stored in a cool, dry place remote from flammable materials and inaccessible to the public;
- e) No person shall set off any flying lanterns in the Municipality of West Elgin;
- f) Every person or organization that conducts a fireworks display shall ensure that all fireworks that failed to fire are immediately disposed of in a safe manner having regard to the particular type of fireworks involved;
- g) Every person or organization that conducts a fireworks display shall ensure that all unfired fireworks are subsequently stored in accordance with Section 6(e) of this By-law;
- h) Every person or organization that conducts a fireworks display shall submit a fireworks permit for approval by Fire Chief.

10. **Offence**

It shall be an offence for any person to contravene any provision of this By-law.

11. **Penalties**

Any person who contravenes any provision of this bylaw is guilty of an offence and upon conviction shall be liable to a penalty as set out in Section 61 of the *Provincial Offences Act, R.S.O. 1990*, Chapter P.33 or any successor thereof.

12. **Enforcement & Investigation**

a) **Enforcement Officers and Powers**

The Municipality of West Elgin, for the purposes of enforcement of this By-law appoints the following persons to do enforcement:

- West Elgin Fire Chief & Members of the West Elgin Fire Department;
- Members of the Ontario Provincial Police;
- By-law / Provincial Offences Officers appointed by the Municipality;
- Any person appointed by the Municipality to enforce this regulation.

b) **Investigation**

Anyone who is appointed for the purposes of enforcement can enter onto private property to determine if a violation of this regulation is taking place and or to inspect to ensure that this regulation is taking place and or to inspect to ensure that this regulation is being obeyed and guidelines being followed.

13. **Short Title**

This By-law shall be known as the "FIREWORKS BY-LAW".

This By-law shall come into force and effect upon the final passing thereof.

Read a first, second, and third time and finally passed this 23rd day of February, 2023.

Richard Leatham
Deputy Mayor

Jana Nethercott
Clerk

The Corporation of the Municipality of West Elgin
SCHEDULE “A”

BY-LAW NO. 2023-16: Fireworks By-Law

SET FINE SCHEDULE

PART 1 – Provincial Offences Act

| ITEM | COLUMN 1 – SHORT FORM WORDING | COLUMN 2 – PROVISION CREATING OR DEFINING OFFENCE | COLUMN 3 – SET FINE |
|-------------|---|--|--------------------------------|
| 1 | Selling of fireworks prohibited | 2 | \$500.00 |
| 2 | Display fireworks in bundles greater than 25 kilograms | 6.a | \$500.00 |
| 3 | Display fireworks in direct sunlight | 6.a | \$500.00 |
| 4 | Failure to obtain license from Explosives Division, Department of Energy, Mines And Resources | 6.b | \$500.00 |
| 5 | Failure to keep fireworks in enclosed, non-combustible and locked display unit | 6.c | \$500.00 |
| 6 | Possessing lighted match or other fire producing device within 6 metres of fireworks | 6.d | \$500.00 |
| 7 | Inadequate storage of fireworks | 6.e | \$500.00 |
| 8 | Display, sell, offer to sell any flying lantern | 6.g | \$500.00 |
| 9 | Discharge fireworks on municipal property without permission | 8.a | \$500.00 |
| 10 | Discharge fireworks within Municipality, when prohibited | 8.b | \$500.00 |
| 11 | Discharge fireworks before dusk or after 11:00 p.m. on permitted days(s) | 8.c | \$500.00 |
| 12 | Conducting a high-hazard fireworks display without permission of Council or Fire Chief | 9.a | \$500.00 |
| 13 | Conducting a high-hazard fireworks display without a permit | 9.b | \$500.00 |
| 14 | Set-off any flying lanterns | 9.e | \$500.00 |

The Penalty Provision for the offences listed above is Section 11 of By-law #2023-16, a certified copy of which has been filed.

SCHEDULE "B"
Fireworks Display Application

Please read and review the attached Fireworks By-Law and submit the following completed items to Firecheif@westelgin.net

- ☐ Fireworks Display Application
- ☐ Copy of Valid Fireworks Supervisor Card
- ☐ Written permission from Property Owner
- ☐ Copy of Liability Insurance - \$5,000,000
- ☐ Site Plan

Event Information

| | |
|------------------------|--|
| Event Date & Time | |
| Alternate Date & Time | |
| Event Location Address | |

Contact Information

| Applicant | |
|--|--|
| Name/Organization | |
| Address | |
| Telephone # | |
| Email | |
| Fireworks Vendor | |
| Fireworks Vendor Name | |
| Address | |
| Telephone # | |
| Email | |
| Supervisor Name | |
| Supervisor Card # | |
| Supervisor Level | |
| Supervisor Telephone # | |
| <i>Copy of Valid Fireworks Supervisor Card attached</i> | |
| Property Owner | |
| <input type="checkbox"/> Same as Applicant | |
| Property Owner Name | |
| Address | |
| Telephone # | |
| Email | |
| <i>Written permission from Property Owner attached</i> | |

Insurance Information

| | |
|---|--|
| Company | |
| Policy # | |
| Dates of Coverage | |
| <i>Copy of Liability Insurance in the amount of \$5,000,000 attached</i> <i>Note: If fireworks display is to take place on Municipal property, the Municipality of West Elgin must be named as additional insured.</i> | |

Safety Plan Information

| | |
|--|--|
| Type of fireworks to be discharged | |
| Discharge Method [Electrical, Hand-fired, Combination, etc.] | |
| Method of disposal of unused fireworks | |
| Security Barriers/Measures in place | |
| Emergency Procedures | |
| Any other safety measures being implemented | |

Site Plan

Please **attach a drawing with dimensions of the proposed site** and include the following:

- ☐ Location of the proposed fireworks display
- ☐ Proposed access of fire and emergency vehicles
- ☐ Free zone, have a clear distance between the point of launch and occupied area

Firework's Vendor Signature _____

Date _____

Applicant Signature _____

Date _____

Permission of Authority having jurisdiction Signature _____

Date _____