

BY-LAW NUMBER 140-2005
OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

A By-law to amend By-law Number # 44-2005
of the Corporation of the Municipality of Chatham-Kent (A
By-law to regulate the sale and setting off of fireworks or
any class or classes thereof)

FINALLY PASSED the 5th day of July, 2005.

WHEREAS Council of the Corporation of The Municipality of Chatham-Kent passed By-law 44-2005 at its meeting on the 7th day of March, 2005;

AND WHEREAS the Corporation of the Municipality of Chatham-Kent now deems it expedient to amend certain provisions (contained in Schedule "A" if applicable) of said By-Law #44-2005;

NOW THEREFORE the Municipal Council of the Corporation of The Municipality of Chatham-Kent enacts as follows:

1. That By-law #44-2005 be and the same is hereby amended by removing section 2.1 (b) as follows:

"Sell any family fireworks to any person except on Canada Day and on the day fixed by proclamation of the Governor-General for the observance of Victoria Day, or such day as is proclaimed by the Council as suitable for patriotic celebration, and the preceding seven (7) days in each case."

2. That By-law #44-2005 be and the same is hereby amended by inserting section 2.1 (b) as follows:

"Sell any family fireworks to any person except on Canada Day and on the day fixed by proclamation of the Governor-General for the observance of Victoria Day, or such day as is proclaimed by the Council as suitable for patriotic celebration, and the preceding seven (7) days and the following seven (7) days in each case."

3. Said By-Law #44-2005 of the Corporation of the Municipality of Chatham-Kent as heretofore amended from time to time is hereby ratified and confirmed in all respects save and except as amended hereby.

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

READ A FIRST, SECOND AND THIRD TIME this 5th day of July, 2005.

Original Signed by:

Mayor Diane Gagner

Original Signed by:

Clerk – Elinor Mifflin

APPENDIX A

APPLICATION TO PURCHASE CLASS 7.2.2. HIGH HAZARD FIREWORKS

- 1. Applicant must be the person supervising the fireworks
- 2. Submit your application to supplier with your order
- 3. Please print

Name of Applicant		Age
Mailing Address		
Postal Code	Telephone with area code	

I hereby make application to purchase 7.2.2. fireworks Myself or:

Sponsoring Organization		
Address		
Location of Display	Date	Time

I CERTIFY THAT I HAVE COMPLETED A COURSE FOR FIREWORKS SUPERVISORS, HAVE READ, UNDERSTAND AND WILL BE GUIDE BY THE PRINCIPLES AND SAFETY RULES OF THE FIREWORKS MANUAL AND THE SPECIFIC INSTRUCTIONS OF THE MANUFACTURER GOVERNING A PARTICULAR FIREWORK.

Fireworks Supervisor Card Number	Expiry Date
Date	Signature of Applicant

PERMISSION OF LOCAL AUTHORITY

TO BE COMPLETED BY THE LOCAL AUTHORITY HAVING JURISDICTION OVER FIREWORKS DISPLAYS (FIRE CHIEF OR DESIGNATE)

The applicant has complied with local requirements and has permission to hold a fireworks display at the location and time mentioned above .

Signature of Local Authority	Name
Title	

BY-LAW NUMBER 44-2005

OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A by-law to regulate the sale and setting off of fireworks or any class or classes thereof

FINALLY PASSED the 7TH day of March, 2005

WHEREAS Section 120 of the Municipal Act 2001 authorizes councils of all local municipalities to pass by-laws to regulate the manufacture, storage and transportation of explosives and dangerous substances;

AND WHEREAS Section 121 of the Municipal Act 2001 authorizes councils of all local municipalities to regulate the sale and setting off of fireworks or any class or classes thereof;

THEREFORE the Municipal Council of The Corporation of the Municipality of Chatham-Kent enacts as follows:

1. DEFINITIONS

In this by-law:

“Display Fireworks” means high-hazard fireworks for recreation, including firecrackers, that are classified under Class 7, Division 2, Subdivision 2 under the Explosives Act R.S.O. 1993, c.E-17, as amended, and applicable regulations, and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons.

“Family Fireworks” means low-hazard fireworks for recreation that are classified under Class 7, Division 2, subdivision 1 of the Explosives Act, R.S.O. 1993, c.E-17, as amended, and applicable regulations, and includes, but is not limited to, fireworks showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper caps containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares, or marine rockets.

“Fire Chief” means the Chief of the Fire Department of the Municipality of Chatham-Kent.

“Firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares, or marine rockets.

“Fireworks Supervisor” means a person certified by the Explosives Branch, Natural Resources Canada to conduct firework displays.

“Licence” means a business licence issued by the Municipality of Chatham-Kent pursuant to the Municipal Act.

“Licensing Officer” means the person or persons authorized by the Council to act on their behalf in all matters relating to this by-law.

“Magazine” means magazine as defined in the Explosives Act, R.S.O. 1993, c.E-17, as amended.

“Motor Vehicle” means motor vehicle as defined in the Highway Traffic Act, R.S.O. 1990, c.11.3, as amended.

“Municipality” means the Corporation of the Municipality of Chatham-Kent.

“Permit” means permission to hold a fireworks display granted by the Municipality of Chatham-Kent on a completed form, signed and issued by the Fire Chief or his designate.

“Person” means a natural person and a person as defined in the Interpretation Act, R.S.O. 1990, c.1.11, as amended.

“Prohibited Fireworks” includes, but is not limited to, cigarette loads or plugs, exploding 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 smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle skyrockets, 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 by the Explosives Branch, Natural Resources Canada, or their successors.

“Retail Sale” means a sale for the purpose of consumption or use and not for resale.

“Shop” means a building or part of a building, booth, stall or places where goods are exposed or offered for sale.

2. SALE OF FAMILY FIREWORKS

2.1 No person, firm, corporation, partnership or any combination thereof shall, by retail:

- (a) Sell any family fireworks to any person under the age of eighteen (18) years.
- (b) Sell any family fireworks to any person except on Canada Day and on the day fixed by proclamation of the Governor-General for the observance of Victoria Day, or such day as is proclaimed by the Council as suitable for patriotic celebration, and the preceding seven (7) days in each case.
- (c) Sell to any person any family fireworks of a type the setting off of which is prohibited by the provisions of this by-law.

2.2 All persons, firms, corporations, partnerships or any combination thereof, carrying on business in the Municipality of Chatham-Kent who propose to sell family fireworks of any kind or description at retail shall observe the following regulation:

- (a) No display of any such family fireworks shall be exhibited in any display window. This prohibition shall not apply to prevent imitations of such family fireworks being displayed provided there are no explosives or chemicals contained in such imitations.

3. LICENSING REQUIREMENTS

- 3.1** There shall be taken out by every person carrying on the business of selling, or offering for sale Family Fireworks, a licence from the Municipality authorizing the carrying on of the business in the Municipality and no person shall carry on the sale of such family fireworks within the Municipality of Chatham-Kent without a licence so to do
- 3.2** An application for a licence, or a renewal thereof, shall be duly completed on the form(s) provided by the Municipality's Licensing Division.
- 3.3** A completed application for a licence or renewal thereof, shall be delivered to the Municipality's Licensing Office and shall be accompanied by:
- (a) The fee in the appropriate amount, as set out by the Municipality's Licensing Division.
 - (b) If the Applicant is a corporation, a certified copy of the Articles of Incorporation, showing the name and addresses of all Directors and Officers.
 - (c) If the Applicant is a registered partnership, a certified copy of the registered Declaration of Partnership, showing the names and addresses of all partners.

4. STORAGE AND DISPLAY WITHIN TRAILERS, ROADSIDE STANDS OR OTHER VEHICLES OR CONVEYANCES

- 4.1** No person shall in any trailer:
- (a) Display or sell family fireworks other than family fireworks displayed behind or under glass that is not exposed to direct sunlight.
 - (b) Store family fireworks in amounts exceeding 1,000 kilograms unless the wholesaler or retailer is licensed by the Explosives Division, Department of Energy, Mines and Resources.
 - (c) Allow or permit an ignition source within six (6) metres of any family fireworks kept or displayed for sale, any lighted:
 - i) match
 - ii) lighter
 - iii) pipe
 - iv) cigar
 - v) cigarette
 - (d) Allow or permit an ignition source within six (6) metres of a trailer in which any family fireworks are kept or displayed for sale, any lighted:
 - i) match
 - ii) lighter
 - iii) pipe
 - iv) cigar
 - v) cigarette

- (e) Permit access to family fireworks stored within any trailer, unless the trailer has two separate operative doors and signs stating that the items listed in subsections (c) and (d) are prohibited within six (6) metres of the trailer and are posted at every point of access to the trailer.
- (f) Locate any trailer less than twenty (20) metres from any road or parking space and not less than forty (40) metres from occupied buildings, dwellings and gas stations.
- (g) Permit more than fifteen (15) customers in the trailer at any one time.
- (h) Locate any portable electrical power supply and/or fuel supply less than twelve (12) metres, from the trailer.

4.2 Any person selling from a trailer shall erect pylons or snow fence to form and maintain a “no encroachment zone” surrounding the trailer by the general public.

4.3 The seller shall have obtained, and filed with the Municipality, a letter of permission from the owner of lands on which the trailer/roadside stand or vehicle will be parked.

4.4 A site plan must be provided to the Municipality, prior to the placing of the trailer on a property, showing the location of the trailer from public roadways, buildings on the property, and parking areas.

4.5 At least a 4A 60BC (10-lbs size) fire extinguisher shall be provided for each employee to combat possible fires that are NOT part of the family fireworks themselves. In the case of fire involving the commodity of family fireworks, the licence holder will ensure immediate evacuation of staff and customers, and call 911 for emergency services.

4.6 There shall be a list of emergency telephone numbers and “No Smoking” signs posted at each operative door to the trailer.

5. SETTING OFF OF FAMILY FIREWORKS

5.1 The setting off of family fireworks, except for display fireworks as set out in the provisions of this by-law, is hereby prohibited except on Victoria Day, Canada Day, or such day as is proclaimed by the Council as suitable for patriotic celebration, and the preceding seven (7) days and the following seven (7) days in each case.

5.2 No person shall set off or allow to be set off any family fireworks in such a place or in such a manner as might create danger to any person or property, or do or cause or allow any unsafe act or omission at the time and place of the setting off of any family fireworks, and, without restricting the generality of the foregoing:

- (a) No person under the age of eighteen (18) years shall set off any family fireworks except under the direct supervision and control of a parent or other responsible adult.

- (b) No person under the age of eighteen (18) years shall hold in his or her hand any family fireworks when ignited.
- (c) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow him or her to set off any family fireworks except when such parent or guardian or some other responsible person is in direct supervision and control.
- (d) No person shall set off any family fireworks in or into any highway, street, lane, square or other public place.
 - (i) Provided that this shall not be deemed to prohibit a fireworks display in a public park or other public place in accordance with a permit issued under the provisions of this by-law.
- (e) No person shall set off any family fireworks in or into any building, doorway, automobile or other place where such setting off might create danger to any person or property.

6. DISPLAY FIREWORKS

6.1 Permit Required

No person shall use any display fireworks without first having obtained a permit to do so, signed by the Fire Chief of the Municipality of Chatham-Kent or his designate to whom such authority has been given, and such display shall be conducted in accordance with the regulations set forth in Appendix A "Application to Purchase".

6.2 Issue of Permit

No person, other than a person who has successfully completed a Fireworks Supervisor's course and who holds a valid "Fireworks Supervisor" card, issued pursuant to the Explosives Act, R.S.O. 1993, c.E-17, as amended, shall set off or cause to be set off recreational high hazard fireworks or pyrotechnics for an audience.

6.3 Removal of Debris

It shall also be a condition of the issuing of a permit for a fireworks display, that all fireworks and all debris shall be removed by the permit-holder immediately after the display, and safely disposed of.

7. OFFENCES AND PENALTIES

7.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence.

7.2 Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8. SEVERABILITY

- 8.1** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which will continue to operate in full force.

This by-law repeals Chatham-Kent By-law 334-2004 and shall come into full force and effect upon the final passing thereof.

READ A FIRST, AND SECOND AND THIRD TIME this 7TH day of March, 2005.

SIGNED

Mayor – Diane Gagner

SIGNED

Clerk – Elinor Mifflin

