

BY-LAW 57-2021

THE CORPORATION OF THE TOWN OF ST. MARYS

Being a By-law to prohibit and regulate the sale of fireworks and the setting off of fireworks and pyrotechnics in the Town of St. Marys.

WHEREAS: The *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a local municipality may,

- a) prohibit and regulate the manufacture of explosives in the municipality;
- b) prohibit and regulate the storage of explosives and dangerous substances in the municipality;
- c) regulate the keeping and transportation of explosives and dangerous substances in the municipality;

and further that a by-law may prohibit the manufacture or storage of explosives unless a permit is obtained, and may impose conditions of obtaining or continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS: Section 121 of the *Municipal Act, 2001*, as amended, provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks and further that a by-law may prohibit those activities unless a permit is obtained for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS: Section 130 of the *Municipal Act, 2001*, as amended, provides that a municipality may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS: Section 7.1(1) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of spreading fires;

NOW THEREFORE: Council of The Corporation of the Town of St. Marys hereby enacts as follows;

1.0 DEFINITIONS

- 1) For the purpose of 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;

“Authorized Persons” means, as the context requires, a) in the case of Display Fireworks those persons working under the direct supervision of the Fireworks Supervisor, and b) in the case of Special Effects Pyrotechnics, those persons working under the direct supervision of the Pyrotechnician;

“Consumer Fireworks” means low hazard fireworks generally used for recreation, which may be classified as type F.1 explosives under the Act, including: showers, golden rain, lawn lights, pin wheels, roman candles, and volcanoes, but does not include Christmas crackers, sparklers and caps for toy guns containing not in excess of 2 mg of explosive substance;

“Council” means the Council for The Corporation of the Town of St. Marys;

“Discharge” means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off and the words “discharged” and “discharging” have a similar meaning;

“Display Fireworks” means high hazard fireworks that is classed as F.2 under the Act, and includes 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 the Fire Chief for the Town or designate;

“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;

“Fire Department” means the St. Marys Fire Department;

“Fireworks” means display fireworks, consumer fireworks, and Special Effects Pyrotechnics but does not includes sparklers;

“Fireworks Supervisor” means a person who is a ‘display supervisor in charge’ under the Act;

“Minor” means a person who is under 18 years of age;

“Prohibited Firework” 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 down torpedoes and cracking balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle 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;

“Pyrotechnician” means a person who is ‘pyrotechnician in charge’ under the Act;

“Special Effect Pyrotechnics” means explosives 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; smokeless black powder and hazard category PE 3 black powder substitutes; initiation systems classified as type I under the Act such as blasting accessories; and detonating cord classified as type E.1 under the Act;

“Sale” includes all attempts or offers to sell or cause or permit to sell or invitations to purchase, whether by express act or implication; and

“Town” means The Corporation of the Town of St. Marys.

2.0 SALE OF FIREWORKS AND FIRECRACKERS

- 1) No person shall sell any Firecrackers.
- 2) No person shall sell any Prohibited Fireworks.
- 3) No person shall sell Special Effect Pyrotechnics or Display Fireworks unless the person holds a licence to do so under the Act.
- 4) No person shall sell Consumer Fireworks without obtaining a permit from the Fire Chief.
- 5) As provided in Schedule A of this By-law, every application for a permit to sell shall include:
 - a) the name and address of the applicant (business or vendor name);
 - b) the date, time and location of the proposed sale of Consumer Fireworks;
 - c) a site plan providing a description of where and how the Consumer Fireworks will be stored and displayed; and
 - d) such other information as required by the Fire Chief.
- 6) No person shall sell Consumer Fireworks except on the following days:
 - a) Victoria Day and Canada Day, and
 - b) 10 calendar days prior to each of the above holidays.
- 7) No person shall display Consumer Fireworks in the Town unless:
 - a) the Consumer Fireworks are displayed in a package, glass case or other suitable receptacle away from inflammable goods;
 - b) the Consumer Fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat;
 - c) the Consumer Fireworks are displayed inside of a building and a minimum of 3 meters from any window;

- d) the Consumer Fireworks are displayed in or near an area where smoking or igniting of any smoking or other substance or device is prohibited;
 - e) the Consumer Fireworks are displayed in or near any areas where cooking or heating of food or beverage or other substance is Prohibited; and
 - f) the Consumer Fireworks are displayed in lots that do not exceed 22.68 kgs (50lbs) gross weight.
- 8) No person shall sell or give to any Minor person any type of Consumer or Display Fireworks.
- 9) No person shall sell Consumer Fireworks in a building unless the provisions of the Ontario Fire Code and all other applicable Acts and Regulations are complied with.
- 10) Notwithstanding the provisions of this Section, retail sales of Consumer Fireworks may be permitted from detached storage units or tractor trailer units outside of a building, provided that the units are located at least:
- a) 6 metres from any combustible material;
 - b) 6 metres from any building or any other temporary retail outlet;
 - c) at least 3 metres from any vehicle parking; and
 - d) with the prior approval of the Fire Chief or designate, for the location.

3.0 DISCHARGE OF FIRECRACKERS AND PROHIBITED FIREWORKS

- 1) No person shall Discharge any Firecrackers, except with the appropriate federal approvals and for the purpose of cultural celebrations.
- 2) No person shall Discharge any Prohibited Fireworks.

4.0 DISCHARGE OF CONSUMER FIREWORKS

- 1) No person shall Discharge Consumer Fireworks in the Town except:
 - a) between dusk and 11:00 pm on Victoria Day or two days preceding or following Victoria Day;
 - b) between dusk and 11:00 pm on Canada Day or two days day preceding or following Canada Day;
 - c) as part of a display of Display Fireworks for which a permit has been obtained and for which all conditions and requirements of the permit have been met; or
 - d) at such other times and such other dates as permitted by Council by by-law.
- 2) A person eighteen (18) years of age or older may hold a display of Consumer 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.
- 3) No person under the age of eighteen (18) shall Discharge any Consumer Fireworks except under the direct supervision of and control of a person eighteen (18) years of age or over.

- 4) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to Discharge any Consumer Fireworks except when such parent or guardian or some other responsible person of eighteen (18) years of age or over is in direct supervision and control.
- 5) No person shall Discharge any Consumer Fireworks in, or into or on any building, doorway, or motor vehicle.
- 6) No person shall store, handle or Discharge any Consumer 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.
- 7) No person shall Discharge any Consumer Fireworks in or on or into any park, highway, street, land, square or other public place, unless under a Display Fireworks permit to do so issued by the Fire Chief.

5.0 DISCHARGE OF DISPLAY FIREWORKS

- 1) No person shall hold or Discharge Display Fireworks in the Town without first having obtained a permit to do so issued by the Fire Chief.
- 2) Every application for a permit shall be submitted to the Fire Chief a minimum of thirty (30) calendar days prior to the event when the proposed Discharge of the Display Fireworks is to occur.
- 3) As provided in Schedule B, every application for a permit shall be submitted by the Fireworks Supervisor and shall include:
 - a) the name and address of the applicant (Fireworks Supervisor) and the sponsoring organization, if applicable;
 - b) the date and time of the proposed Discharge of Display Fireworks;
 - c) the type and kind of Display Fireworks that may be Discharged;
 - d) the Discharge techniques to be used;
 - e) the manner and means of restraining unauthorized persons from attending too near the Discharge site;
 - f) the manner in which unused Fireworks are to be disposed of;
 - g) the number of Authorized Persons on site during the event to handle and Discharge the Display Fireworks;
 - h) a site plan providing a description of the Discharge site to be used for the Discharging of the Display Fireworks;
 - i) a description of the fire emergency procedures;
 - j) proof of certification of the applicant as a Fireworks Supervisor;
 - k) proof of consent of the owner of the property to the Discharge of Display Fireworks in writing;

- l) a permit fee as set out in the applicable Town Fees By-law;
 - m) proof of insurance and indemnification in accordance with Sections 7.0 and 8.0; and
 - n) such other information as required by the Fire Chief.
- 4) If, in the opinion of the Fire Chief, it is necessary for a firefighter or firefighters to be present at the Discharge of Display Fireworks, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises for the purpose of ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the opinion of the firefighter(s) is deemed necessary before any Display Fireworks are Discharged pursuant to the permit issued by the Fire Chief.
 - 5) The permit may be suspended or revoked by the Fire Chief if the conditions of the permit are not being met or it would be unsafe to allow the Display Fireworks.
 - 6) Every person to whom a permit is issued under this section shall:
 - a) provide and maintain approved fully operational fire extinguishing equipment ready for immediate use, throughout the time while the Display Fireworks is being set off or displayed and for a reasonable period thereafter, at the location or site of the setting off or holding of a Display Fireworks;
 - b) produce the permit on demand by the Fire Department or to any police officer, or any person authorized to enforce this By-law; and
 - c) permit the inspection of any site where the Display Fireworks may be stored, Discharged or displayed and the Fireworks themselves together with all associated equipment, by the Fire Department or anyone authorized to enforce this By-law, forthwith, upon demand.
 - 7) Every person to whom a permit is issued under this section, shall, immediately after the conclusion of the Discharge or holding of a Display Fireworks, carry out a site inspection and shall:
 - a) remove all unused or partly used Display Fireworks from the site;
 - b) gather together and remove all debris remaining after using or partial use of the Display Fireworks; and
 - c) return the site to the condition it was prior to the setting off or holding of the Display Fireworks.

6.0 SPECIAL EFFECTS PYROTECHNICS

- 1) No person shall hold or Discharge a display of Special Effect Pyrotechnics in the Town without first obtained a permit to do so issued by the Fire Chief.
- 2) As provided in Schedule B, every application for a permit shall be submitted by the Pyrotechnician and shall include:

- a. the name and address of the applicant (Pyrotechnician) and the sponsoring organization, if applicable;
 - b. the date and time of the proposed Discharge of Special Effect Pyrotechnics;
 - c. the type and kind of Special Effect Pyrotechnics that may be Discharged;
 - d. the Discharge techniques to be used;
 - e. the manner and means of restraining unauthorized persons from attending too near the Discharge site;
 - f. the manner in which unused Special Effect Pyrotechnics are to be disposed of;
 - g. the number of Authorized Persons on site during the event to handle and Discharge the Special Effect Pyrotechnics;
 - h. a site plan providing a description of the Discharge site to be used for the Discharging of the Special Effect Pyrotechnics;
 - i. a description of the fire emergency procedures;
 - j. proof of certification of the applicant as a Pyrotechnician;
 - k. proof of consent of the owner of the property to the Discharge of Special Effect Pyrotechnics in writing;
 - l. a permit fee as set out in the applicable Town Fees By-law;
 - m. proof of insurance and indemnification in accordance with Sections 7.0 and 8.0 respectively; and
 - n. such other information as required by the Fire Chief.
- 3) The Special Effect Pyrotechnics shall only be set off under the supervision of a Pyrotechnician.
- 4) If, in the opinion of the Fire Chief, it is necessary for a firefighter or firefighters to be present at the setting off of any Special Effect Pyrotechnics, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises for the purpose of ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the opinion of the firefighter(s) is deemed necessary before any Pyrotechnic Special Effect Fireworks are set off pursuant to the permit issued by the Fire Chief.

7.0 INSURANCE

- 1) The applicant for a permit shall provide and maintain Commercial General Liability insurance subject to the limits of not less than Five Million Dollars (\$5,000,000) 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 Corporation of the Town of St. Marys as an additional insured thereunder. Such insurance shall include coverage of displays of Special Effects Pyrotechnics,

Consumer Fireworks or Display Fireworks. Such insurance policy shall contain an endorsement to provide the Town of St. Marys within thirty (30) calendar days prior written notice of cancellation or of a material change that would diminish coverage, and a standard Certificate of Insurance evidencing such insurance coverage shall be provided to the Town prior to the issuance of a permit.

8.0 INDEMNIFICATION

1) The applicant for a permit shall indemnify and save harmless the Town from any and all claims, demands, causes of action, loss, costs or damages that the Town 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.

9.0 VALIDITY

1) If a court of competent jurisdiction declares any subsection, section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

10.0 CONFLICT WITH OTHER BY-LAWS

1) Nothing in this By-law shall exempt any person from complying with the requirements of any by-law in force or from obtaining any licence, permission, permit, authority or approval required under any by-law or legislation.

11.0 SHORT TITLE

1) This by-law shall be known as the Fireworks By-law.

12.0 OFFENCES

1) Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.;

2) Every person who is convicted of an offence under this By-law is liable to a fine:

- a. Upon a first conviction to a maximum fine of five thousand dollars (\$5,000);
- b. Upon a subsequent conviction to a maximum fine of ten thousand dollars (\$10,000).

13.0 REPEAL

1) That By-law 61-2011, Fireworks, is hereby repealed.

14.0 ENACTMENT

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

Read a first, second and third time and finally passed this 8th day of June 2021.

Signed by Mayor
Mayor Al Stratheed

Signed by Clerk
Jenna McCartney, Clerk

Schedule A to By-Law 57-2021 APPLICATION FOR A PERMIT TO SELL FIREWORKS

	FOR OFFICE USE ONLY License # Valid Until: (Permit Valid for One Year)
Date of Application: _____	
Business/Vendor's Name: _____ _____	
Address	Street: _____
	City: _____ Postal Code: _____ Phone: _____
	Email Address: _____
Date of Sales: _____	
Location of Sales: _____	
Description of structure of which the fireworks will be sold	
Store: _____	
Other (describe fully): _____	
Where and how will fireworks be stored and displayed? _____ _____	
(Attach a Site Plan pursuant to Section 4.3 of this by-law)	
Number and type of fire extinguishers in structure: _____ _____	
Fire and explosion safeguards to be undertaken: _____ _____	
Name of manufacturer of fireworks: _____	
The undersigned hereby releases the Corporation of the Town of St. Marys from any or all claims for damage which may arise in the carrying on of business within the Municipality under which the undersigned is licensed by the Municipality to do so.	
FOR OFFICE USE ONLY	

Department	Date Circulated	Response	Amount Paid:	Date:
Fire Dept:			Insurance:	
Planning:			Expiry:	
Approved:			Co-Insured:	
Not Recommended for Approval: Reason:			Site Plan Record:	
Appealed:				
Council Decision:			Comments:	Permission: Property Owner: Agent:
Personal information collected on this form is collected pursuant to the Municipal Act. S.O. 2001, c.25 and will be used for the purpose of responding to your request. Questions about this collection should be directed to the Clerk.				

Schedule B to By-Law 57-2021

Display Fireworks or Special Effects Pyrotechnics Permit

Applicant Name:	Address, Telephone Number and Email:
Sponsoring Organization	Permit: <input type="checkbox"/> Display Fireworks <input type="checkbox"/> Special Effects Pyrotechnics
Purpose of the Display:	
Location of the Event:	Date(s) and time of Event:
Number of Authorized Persons (handling and Discharging Display Fireworks):	
Type and kind of Display Fireworks or Special Effects Pyrotechnics:	
Proposed Technique for Discharging Display Fireworks or Special Effects Pyrotechnics:	
How will unauthorized persons be restricted from Discharge site:	
How will unused Display Fireworks or Special Effects Pyrotechnics be disposed of?	

To Be Included:

- a) Site Plan providing a description of the Discharge site
- b) A description of Fire Emergency Procedures;
- c) Proof of Fireworks Supervisor or Pyrotechnician certification;
- d) Proof of consent of the owner of the property to the Discharge of the Display Fireworks of Special Effects Pyrotechnics in writing;
- e) Permit fee
- f) Proof of insurance and indemnification in accordance with sections 7.0 and 8.0

I _____, having the appropriate Fireworks accreditation from (Fireworks Supervisor or Pyrotechnician)

Natural Resources Canada, will supervise and control all Fireworks or Special Effects Pyrotechnics to be set off in the Corporation of the Town of St. Marys. I agree to abide by the terms and conditions set out in Sections 7.0 and 8.0 of the Fireworks By-law and have attached proof of Liability Insurance with a minimum coverage of five million Canadian dollars (\$5,000,000.00 CA) with The Corporation of the Town of St. Marys to be named as an additional insured.

Signature

Date

FOR OFFICE USE ONLY

Additional conditions for display (use extra sheet if necessary):

Accepted:

Declined:

Fire Chief:

Date: