



Report to Council

Department: Office of the CAO
Division: Legal and Legislative Services
Date: July 5, 2021
Prepared by: Robert Auger, Town Solicitor/Clerk
Matthew Ducharme, Legal & Legislative Services Intern
Report Number: Legal and Legislative Services-2021-14
Subject: Fireworks By-Law Review and Updates
Number of Pages: 6 plus attachments

Recommendation(s)

That Legal and Legislative Services 2021-14 **entitled "Fireworks By-Law Review and Updates"** prepared by Robert Auger, Town Solicitor/Clerk and Matthew Ducharme, Legal & Legislative Services Intern and dated July 5, 2021 be received;

That By-Law 2011 attached hereto and being a by-law to prohibit and regulate the sale of fireworks and the setting off of fireworks in the Town of Essex be read a first, second and third time and be finally adopted on July 5, 2021; and further

That Council direct Administration to review the feasibility of an appropriate fee **for Council's** consideration relating to the processing of an Application for Fireworks Display.

Purpose

In accordance with **the Town's Strategic** Priority to create a safe, friendly and inclusive community, Administration reviewed By-Law #124 being a by-law regulating the sale and the setting off of fireworks in the Town of Essex passed on October 4, 1999. The purpose of this report is to summarize the concerns or issues with the current By-Law and outline the key aspects of the new proposed fireworks By-Law recommended for adoption by Council.

Background and Discussion

The current fireworks By-Law was passed shortly after amalgamation and now appears to be outdated as it does not address all of the contemporary health and safety concerns regarding fireworks and is impractical in its application for both residents and By-law enforcement.

Specifically, when reviewing the current By-Law #124, Administration identified the following major concerns:

1. The By-Law only allows for fireworks to be sold seven days before and on Victoria Day, Dominion Day (July 1), **and New Year's Eve. Many establishments wish to sell and** already do sell fireworks around other commonly celebrated holidays and for a longer period than 7 days;
2. The By-Law only allows residents to set off fireworks only on the single days of **Victoria Day, Dominion Day, and New Year's Eve. It is well known that residents light fireworks** during the entire weekend of these events during gatherings, not only the actual day of the holiday. Additionally, holidays with a fixed date, such as Canada Day, fall during the week and residents wish to set off fireworks either the weekend before or after the holiday;
3. The By-Law does not make a distinction between and define Family Fireworks, Display/High Powered Fireworks, and Pyrotechnic Special Effect Fireworks or explain the specific requirements for each type of firework;
4. The By-Law does not have safety requirements when storing, selling, displaying for sale, or setting off fireworks, which are vital to protecting residents.
5. The By-Law does not include a formal process for residents to make an Application for Fireworks Display and receive a permit to have such a display.

Administration reviewed the by-laws relating to fireworks of local municipalities and other municipalities across Ontario when drafting the proposed new By-Law. While provisions were

used from many by-laws to address the specific needs of the Town of Essex, the proposed By-Law was primarily modelled off of the Fireworks By-Law of the City of Stratford.

The key aspects of the proposed By-Law #2011 being a by-law to prohibit and regulate the sale of fireworks and the setting off of fireworks in the Town of Essex are outlined hereafter:

1. **Sale of Fireworks** – The proposed By-Law expands the list of holidays which fireworks can be sold on (adding Independence Day, Civic Holiday, and Labour Day) and extends the period of time that fireworks can be sold before each of the listed holidays from 7 days to 10 days. The proposed By-Law only permits fireworks to be sold:
 - a. 10 days before and on the third Monday of May, being Victoria Day
 - b. 10 days before and on July 1, being Canada Day
 - c. 10 days before and on July 4, being Independence Day (U.S.A.)
 - d. 10 days before and on the first Monday of August, being Civic Holiday
 - e. 10 days before and on the first Monday of September, being Labour Day
 - f. **10 days before and on December 31, being New Year’s Eve**
2. **Possession of Fireworks** – The proposed By-Law restricts the possession of fireworks to only competent person, defined in the By-Law as being at least 18 years of age and fully aware of the applicable legislative requirements, at all levels of Government, regarding the discharging of fireworks. This is an important safety provision.
3. **Firecrackers and Flying Lanterns** – The proposed By-Law prohibits the displaying, offering for sale, selling or setting off of firecrackers or flying lanterns (sky lanterns), as defined within the By-Law, at all times in the Town. These are currently prohibited within the Town but is not a formalized provision.
4. **Types of Fireworks** – The proposed By-Law makes a distinction between three (3) types of fireworks, each with their own definitions, restrictions and regulations. The current By-Law makes no distinction between types of fireworks and **doesn’t** provide safety precautions for each of them.
 - a. Family Fireworks

- b. Display / High Powered Fireworks
 - c. Pyrotechnic Special Effects Fireworks
5. **Setting Off Family Fireworks** – The proposed By-Law expands the list of holidays that Family Fireworks can be set off without a permit (adding Independence Day, Civic Holiday, and Labour Day) and adds a period of time before and/or after each holiday that Family Fireworks can be set off without a permit. Additionally, the proposed By-Law restricts Family Fireworks to only be permitted to be set off between dusk and **11:00 p.m. on the designated dates, and between dusk on New Year’s Eve and 12:30 a.m. the following day.** The proposed By-Law only permits Family Fireworks to be set off on the dates listed hereafter during the permitted times:
- a. 3 days before and on the third Monday of May, being Victoria Day
 - b. 3 days before and after and on July 1, being Canada Day
 - c. 3 days before and after and on July 4, being Independence Day (U.S.A.)
 - d. 3 days before and on the first Monday of August, being Civic Holiday
 - e. 3 days before and on the first Monday of September, being Labour Day
 - f. **December 31, being New Year’s Eve**
6. **Permits for Setting off Display / High Powered Fireworks** – The proposed By-Law prohibits the setting off of Display Fireworks unless a permit has been applied for and granted with the approval of the Fire Chief. A permit may be granted for the purposes of celebrating the holidays on the dates designated and permitted to set off Family Fireworks or for another event and/or day and time approved by the Fire Chief, subject to the additional requirements outlined in the proposed By-Law. Display Fireworks must be set off under the supervision of a person qualified for such purpose to the satisfaction of the Fire Chief.
7. **Pyrotechnic Special Effect Fireworks** – The proposed By-Law requires those who wish to set off Pyrotechnic Special Effect Fireworks to follow the same permit application process as outlined for Display Fireworks. However, Pyrotechnic Special Effect Fireworks must be set off under the supervision of a certified pyrotechnician.

In summary the proposed By-Law will address the health and safety concerns expressed by Administration to make the Fireworks By-Law more practical for residents and enforcement. This By-Law will be primarily administered by the Fire Chief or designates as it relates to permit applications. It will be **enforced by the Town's By-Law Enforcement Officers** and the Ontario Provincial Police. In order to assist with the enforcement thereof the By-law also contains proposed set-fines as a schedule to the By-law, said short-form wording to be sent for review and approval by the Attorney General.

Financial Impact

For every application processed, the Fire Chief or designates must process the application, ensuring all the requirements are attached which may include a site visit, when and if required. It is therefore recommended that Council consider the imposition of a standard fee to be charged for the processing of Applications for Fireworks Display.

Consultations

Rick Arnel, Fire Chief, Essex Fire and Rescue Services

Mike Diemer, By-Law/Property Standards Officer

Kevin Carter, Chief Building Official / Manager, Building Services

Lori Chadwick, Director, Development Services

Chris Nepszy, Chief Administrative Officer

Shelley Brown, Deputy Clerk, Legal and Legislative Services

Link to Strategic Priorities

- Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- Improve the Town's capacity to meet the ongoing and future service needs of its citizens** while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.