

THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING

BY-LAW 2011/47

BEING A BY-LAW TO REGULATE THE SALE AND USE OF
FIREWORKS IN THE MUNICIPALITY OF WEST NIPISSING

WHEREAS the Council for the Municipality of West Nipissing deems it advisable to enact a By-law regulating the sale and setting-off of fireworks;

NOW THEREFORE THE COUNCIL OF THE MUNICIPALITY OF WEST NIPISSING ENACTS AS FOLLOWS:

1. **INTERPRETATION**

In this By-law:

- a) **'By-law Enforcement Officer'** means a member of the West Nipissing Police Services, or any other person appointed by the Council for the Municipality of West Nipissing, for the enforcement of municipal by-laws, including this By-law;
- b) **'Discharge'** means to light, fire or set off firecrackers or fireworks;
- c) **'Display'** means the setting of or firing of a series of exhibition fireworks in succession, as a special event, for the purpose of putting on a show for the public, or for a segment of the public, and whether or not an admission fee is charged;
- d) **'Display permit'** means a permit issued by the Fire Chief pursuant to this By-law to permit the conduct of a display;
- e) **'Exhibition fireworks'** means a manufactured pyrotechnic device producing spectacular effects of light or sound and which are of a nature not classed as shop goods under the *Explosives Act, R.S.C. 1985, c. E-17*, as amended;
- f) **'Family fireworks'** means a pyrotechnic device producing quantities or effects of light, sound or smoke by the combustion of explosive or flammable composition and includes devices commonly known as firework showers, fountains, golden rain, lawn lights, pin wheels, roman candles, sparklers, volcanoes and mines, but does not include:
 - i) firecrackers; or
 - ii) articles or devices not classed as shop goods under the *Explosives Act*;
- g) **'Fire Chief'** means the Fire Chief for the Municipality of West Nipissing and includes his or her designate(s);
- h) **'Firecracker'** means a pyrotechnic device that explodes instantaneously when ignited and does not make any subsequent display or visible effect after the explosion and includes devices commonly known as Chinese firecrackers, but does not include paper caps containing not more than an average of twenty-five one-hundredths (25/100) of a grain of explosive per cap, or device for use with such caps;
- i) **'Municipality'** means the Municipality of West Nipissing;
- j) **'Owner'** means a person in lawful control of the property, building, or portion thereof under consideration or his or her authorized agent, and includes an occupant;
- k) **'Person'** means an individual, a corporation, officers and directors of a corporation, a partnership and a group or association.

2. **APPLICATION**

This By-law shall apply to all persons in the Municipality of West Nipissing.

3. **SHORT TITLE**

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

4. FIRECRACKERS

No person shall:

- a) sell or offer to sell firecrackers;
- b) give firecrackers away without charge;
- c) distribute firecrackers to another person or persons;
- d) discharge any firecrackers, or cause any firecrackers to be discharged; or
- e) have firecrackers in his or her possession.

5. FAMILY FIREWORKS

1) No person shall:

- a) sell, offer to sell, give away without charge or distribute fireworks to any person under the age of 18 years.

2) No person shall discharge any family fireworks or permit any other person to discharge family fireworks unless the person:

- a) is at least 18 years of age;
- b) discharges the family fireworks between dusk and 11 o'clock in the evening;
- c) is an owner of the land on which the discharge of the family fireworks occurs; and
- d) ensures that all reasonable safety procedures are followed to prevent harm to persons and to property.

3) Despite subsection 5. ii) a), an owner of land on which family fireworks are being discharged may permit a person under the age of 18 years to discharge family fireworks provided that the minor is under the direct and constant supervision and control of a person who is at least 18 years of age.

6. EXHIBITION FIREWORKS

1) No person shall:

- a) sell, offer for sale, give away without charge or distribute any exhibition fireworks to any person:
 - i) under the age of 18 years of age; or
 - ii) over the age of 18 years of age unless that person is the holder of an appropriate, valid and subsisting license under the *Explosives Act*.

2) No person shall, or permit another person to:

- a) discharge exhibition fireworks unless that person so discharging the exhibition fireworks:
 - i) is over the age of 18 years of age;
 - ii) holds an appropriate, valid and subsisting license under the *Explosives Act*, to discharge exhibition fireworks; and
 - iii) holds a current and valid display permit for that display issued by the Fire Chief under this By-law;
- b) discharge exhibition fireworks except as part of a display for which a permit has been issued by the Fire Chief under this By-law.

7. PERMIT APPLICATION

1) Any person who wishes to obtain an exhibition permit to hold a display shall apply in writing to the Fire Chief, no later than one week prior to the date of the proposed display.

2) The applicant for a display permit shall submit:

- a) an application in the form established by the Fire Chief from time to time and signed by the applicant; and
- b) such supporting documentation, material and information as may be required by the Fire Chief in his or her sole discretion.

3) The Fire Chief shall review the application, supporting documentation and materials filed with the application, and shall in his or her sole discretion:

- a) approve the application;
- b) approve the application subject to such restrictions, regulations or conditions as the Fire Chief, in his or her sole discretion, considers advisable; or
- c) refuse to approve the application.

- 4) The Fire Chief shall record on the face of a display permit before issuing the permit:
 - a) the name of the applicant authorized to hold the display;
 - b) the name of the certified pyrotechnic authorized to discharge the exhibition fireworks;
 - c) the date, time and place for which the display is approved, and
 - d) that the permit is subject to compliance with:
 - i) the information in the application, and the documentation and material submitted as part of the application process;
 - ii) regulations and guidelines established by the Fire Chief from time to time for the holding of a display; and
 - iii) any restrictions, regulations or conditions imposed by the Fire Chief as a condition of approval of the display permit.
- 5) The Fire Chief shall issue a display permit by signing it and releasing it to the permit holder.
- 6) In the event that the proposed display will be part of a special event or special occasion for which a special event or special occasion permit must be issued by the Municipality, nothing herein shall require the person to apply for a display permit separately from the special event or special occasion permit required by the Municipality, and the documentation may be processed jointly.

8. OBLIGATIONS OF PERMIT HOLDER

- a) The holder of a display permit shall:
 - i) ensure that all reasonable safety procedures are followed to prevent harm to persons and to property.
 - ii) have possession of the display permit at the site of the display and produce it for examination upon request by the Fire Chief or by any By-law Enforcement Officer; and
 - iii) ensure that the site of the display and surrounding lands are cleared of debris resulting from the holding of the display and restored to their original condition within 24 hours of the holding of the display.

9. PERSONAL PERMIT

- a) Any permit for display issued by the Fire Chief is personal to the permit holder, and shall not be transferred or assigned.
- b) No person shall enjoy a vested right in the continuance of a permit and whether issued, renewed, expired, revoked or otherwise terminated, the display permit and any value of the display permit shall remain the property of the Municipality.
- c) Any person who holds a permit shall surrender it to the Fire Chief or a By-law Enforcement Officer in the event that the display permit is revoked.
- d) No person who holds a permit shall hold a display of exhibition fireworks other than on the day and at the place specified in the display permit.

10. REVOCATION

- a) The Fire Chief may, at any time, in his or her discretion, revoke the display permit for a display if he or she reasonably believes that:
 - i) any of the information in the application is not correct, and the information provided affected his or her decision to issue the display permit;
 - ii) the display will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or
 - iii) there are any other grounds to revoke which the Fire Chief, in his or her sole discretion, considers sufficient in the circumstances.
- b) Every display permit shall be automatically revoked without further action by the Fire Chief in the event that a restricted fire zone is declared under the *Forest Fires Prevention Act*, R.S.O. 1990, c. F.24, as amended, which affects the Municipality or the part of the Municipality in which the display authorized by the display permit was to take place.

11. PAPER CAPS

Nothing in this By-law shall prohibit a person from selling or offering to sell paper caps which contain no more than twenty-five one-hundredths (25/100) of a grain of explosive content per cap, or toy pistols, toy cannons or toy guns for the use of such caps.

12. GENERAL

- a) Nothing herein shall be deemed to authorize any person to sell or discharge any family fireworks or exhibition fireworks or perform any act which is not otherwise permitted under, or omit to do anything which is required under, the *Explosives Act* or other federal or provincial legislation or regulation thereunder.
- b) In the event of any conflict between the provisions of this By-law and any federal or provincial statute or regulation thereunder, the provisions of the said statute or regulation shall govern.
- c) If any section or part of this By-law is found to be illegal or beyond the power of the Municipality to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.

13. ADMINISTRATION

This By-law shall be administered by the Fire Chief.

14. PENALTY

Every person who contravenes any provision of this By-law is guilty of an offence and, on conviction, is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P33, as amended.

15. ENFORCEMENT

This by-law shall be enforced by the Fire Chief and the West Nipissing Police Services or by any other person appointed by the Council for the Municipality of West Nipissing, for the enforcement of municipal by-laws.

16. REPEAL

By-law no. 2002/66 is hereby repealed.

- 17. This by-law shall come into force and effect immediately upon being adopted.

ENACTED AND PASSED THIS 12th DAY OF JULY 2011 AS WITNESSED BY THE SEAL OF THE CORPORATION AND THE HANDS OF ITS PROPER OFFICERS.


MAYOR


CLERK

SCHEDULE 'A' TO BY-LAW 2011/47

**BEING A BY-LAW TO REGULATE THE SALE AND DISCHARGE OF
FIREWORKS IN THE MUNICIPALITY OF WEST NIPISSING**

APPLICATION FOR FIREWORKS PERMIT

EXHIBITION/DISPLAY OF FIREWORKS PERMIT

Name(s) of applicant(s) and organization:		
Address of applicant(s):		
Postal Code:		ON.
Age of applicant(s):		
Date of exhibition/display of fireworks:		Time:
Other information re: Exhibition/display of fireworks:		
Type of fireworks to be exhibited/displayed:		
Quantity of fireworks to be exhibited/displayed:		
Other materials/documents requested by Fire Chief		
Safety procedures recommended:		
#1		
#2		
#3		
#4		
Date permit revoked		
Reason permit revoked		

Signature of applicant

Date

Signature of Fire Chief or designate

Date

**SCHEDULE 'B' TO BY-LAW 2011/47
BEING A BY-LAW TO REGULATE THE SALE AND DISCHARGE OF
FIREWORKS IN THE MUNICIPALITY OF WEST NIPISSING**

PART I – PROVINCIAL OFFENCES ACT

By-law 2011/47 Sale and discharge of fireworks

<u>ITEM</u>	<u>COLUMN 1</u> SHORT FORM WORDING	<u>COLUMN 2</u> PROVISION CREATING OR DEFINING OFFENCE	<u>COLUMN 3</u> SET FINE
1	Sell/offer to sell firecrackers	Sec. 4. a)	\$ 200.00
2	Give firecrackers away without charge	Sec. 4. b)	\$ 200.00
3	Distribute firecrackers to another	Sec. 4. c)	\$ 200.00
4	Discharge or cause discharge of firecrackers	Sec. 4. d)	\$ 200.00
5	Have firecrackers in possession	Sec. 4. e)	\$ 200.00
6	Sell family fireworks to person under 18 yrs. old	Sec. 5. 1) a)	\$ 200.00
7	Offer to sell family fireworks to person under 18 yrs. old	Sec. 5. 1) a)	\$ 200.00
8	Give away family fireworks to person under 18 yrs. old	Sec. 5. 1) a)	\$ 200.00
9	Discharge/permit discharge fireworks – under 18 yrs. old	Sec. 5. 2) a)	\$ 200.00
10	Discharge/permit discharge fireworks at time other than between dusk and 11 pm	Sec. 5. 2) b)	\$ 200.00
11	Discharge/permit discharge fireworks on land not being owner	Sec. 5. 2) c)	\$ 200.00
12	Discharge/permit discharge fireworks without ensuring safety procedures	Sec. 5. 2) d)	\$ 200.00
13	Sell exhibition fireworks to person under age of 18	Sec. 6. 1) a) i)	\$ 200.00
14	Offer for sale exhibition fireworks to person under age of 18	Sec. 6. 1) a) i)	\$ 200.00
15	Give away without charge exhibition fireworks to person under age of 18	Sec. 6. 1) a) i)	\$ 200.00
16	Distribute exhibition fireworks to person under age of 18	Sec. 6. 1) a) ii)	\$ 200.00
17	Sell exhibition fireworks to person over 18 yrs not licensed	Sec. 6. 1) a) ii)	\$ 200.00
18	Offer for sale to person over 18 yrs not licensed	Sec. 6. 1) a) ii)	\$ 200.00
19	Give Away without charge to person over 18 yrs not licensed	Sec. 6. 1) a) ii)	\$ 200.00
20	Distribute to person over 18 yrs not licensed under <i>Explosives Act</i>	Sec. 6. 1) a) ii)	\$ 200.00
21	Discharge/permit discharge- fireworks – under age of 18	Sec. 6. 2) a) i)	\$ 200.00
22	Discharge/ permit discharge- fireworks – not properly licensed under <i>Explosives Act</i>	Sec. 6. 2) a) ii)	\$ 200.00
23	Discharge exhibition fireworks as display without holding display permit	Sec. 6. 2) a) iii)	\$ 200.00
24	Discharge exhibition fireworks except as part of a permitted display	Sec. 6. 2) b)	\$ 200.00
25	Display fireworks without following safety procedures	Sec. 8. a) i)	\$ 200.00
26	Fail to produce display permit at display site	Sec. 8. a) ii)	\$ 200.00
27	Fail to clear display area of debris within 24 hours	Sec. 8. a) iii)	\$ 200.00
28	Fail to clear surrounding land of debris within 24 hrs.	Sec. 8. a) iii)	\$ 200.00
29	Transfer/assign display permit to another	Sec. 9. a)	\$ 200.00
30	Fail to surrender fireworks permit	Sec. 9. c)	\$ 200.00
31	Hold display at place and time other than on permit	Sec. 9. d)	\$ 200.00

Note: The penalty provision for the offences indicated above in Section 61 of the Provincial Offences Act, R.S.O. 1990, C. P. 33