



# Memorandum

Corporate By-law Number BL 86/2021

---

**TO:** Office of the City Clerk **FILE:**

**FROM:** Doug Vincent  
Development & Emergency Services - Licensing & Enforcement

**DATE:** 11/09/2021

**SUBJECT:** BL 86/2021 - Fireworks By-law

**MEETING DATE:** City Council - 11/22/2021 (mm/dd/yyyy)

---

**By-law Description:** A By-law relating to the regulation and control of the sale and discharge of fireworks within the City of Thunder Bay, including the unlawful nuisance discharges that negatively affect both persons and pets.

**Authorization:** Report R 87/2021 (Development and Emergency Services/Licensing & Enforcement) - Committee of the Whole - June 14, 2021.

**By-law Explanation:** The purpose of this by-law is to reduce the negative impacts of Fireworks Discharge on persons and pets and to modernize the regulatory controls of fireworks sale and discharge within the City of Thunder Bay.

**Schedules and Attachments:**

APPENDIX "A" - LIST OF "NAMED DAYS"

APPENDIX "B" - DISCHARGE DAYS ONLY - NO IMMEDIATE DISPLAY/SALES DATES

**Amended/Repealed By-law Number(s):**



THE CORPORATION OF THE CITY OF THUNDER BAY  
BY-LAW NUMBER BL 86/2021

A By-law relating to the regulation and control of the sale and discharge of fireworks within the City of Thunder Bay, including the unlawful nuisance discharges that negatively affect both persons and pets.

Recitals

1. Section 10(2), paragraph 6, of the *Municipal Act, 2001*, authorizes a municipality to pass by-laws for the health, safety and well-being of persons,
2. Section 121 of the *Municipal Act, 2001* authorizes a municipality to prohibit and regulate the sale of fireworks and the setting off of fireworks;
3. Pursuant to Section 128 of the *Municipal Act, 2001*, The Council of the Corporation of the City of Thunder Bay has the power to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances, and that the opinion of council under this section, if arrived at in good faith, is not subject to review by any court;
4. Section 429 of the *Municipal Act, 2001*, provides that the municipality may establish a system of fines for offences under a by-law, including designating continuing or multiple offences and establishing a system of escalating fines or minimum fines;
5. Section 444(1) of the *Municipal Act, 2001*, provides that if a municipality has authority by by-law or otherwise to direct or require that be discontinued, the municipality may, in the same or another by-law direct that, in default of it not being done by the person directed or required to do it, such matter or thing shall be prevented by municipal actions at the person's expense;
6. City Council considers the illegal discharges of fireworks, within the City boundaries are extremely disturbing to some inhabitants and/or their pet companions and does create a public nuisance, and furthermore may create a hazard to public health and safety;

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

**1.0 DEFINITIONS**

For the purposes of this By-law, the following terms shall have the definitions set out below:

“**Act**” means the Explosives Act. R.S.C. 1985. c. E-17.

“**Business Days**” means any regular business week-day but does not include weekend days or statutory holidays.

"**City**", means The Corporation of the City of Thunder Bay.

"**City Property**", any lands owned by the City or under the City's control through a lease or other instrument.

"**Discharge**" when used in relation to fireworks, prohibited fireworks and firecrackers, includes firing, igniting, exploding and setting of such articles or causing the setting off of such articles.

"**Display Fireworks**" means High Hazard Fireworks and both terms shall have interchangeable meanings.

"**Display Fireworks Permit**" means a written authorization by the City's Fire Chief for the discharge of display fireworks which would otherwise be prohibited by this by-law, subject to any terms and conditions that may be imposed on such authorization.

"**Display Fireworks Manual**" means the manual published from time to time by the Explosives Branch of Natural Resources Canada, or any publication in substitution therefor that applies to display fireworks.

"**Dusk**" means the period of the evening, one half-hour before the astronomical sunset time determined for that date and geographic location and elevation, until darkness begins.

"**Emergency Response**" for the purpose of establishing a nuisance event, means a priority response, where emergency lights are activated by responding vehicle(s), including member of police, fire and ambulance.

"**Evening of preceding day**" when used in association of the "Named Days" only, means the evening of the day, prior to each "Named Day" and specifically begins at Dusk, until midnight of that same evening.

"**Explosives Act**" means the *Explosives Act* (R.S.C. 1985, c.E-17) and the regulations enacted thereunder from time to time or any act or regulations enacted in substitution therefor.

"**Explosive Regulations**" means the Explosives Regulations, C.R.C., c.599 as amended issued under the *Explosives Act*, and any regulations enacted from time to time in substitution therefor.

"**Family Fireworks**" means low hazard fireworks and both terms shall have interchangeable meanings.

"**Family Fireworks Discharge Permit**" means written authorization from the City's Fire Chief to discharge family fireworks on a date that is otherwise prohibited by this by-law, subject to any terms and conditions that may be imposed on such authorization.

"**Fire Chief**", means the City of Thunder Bay Fire Chief or their designate(s).

“**General Manager**”, shall mean the General Manager, Development and Emergency Services Department, City of Thunder Bay, or their designate(s).

“**High Hazard Fireworks**”, also known as Display Fireworks, means High Hazard Fireworks generally used for recreation that are classified under Class 7, Subdivision 2 of Division 2 under the Explosives Regulations and includes, but not limited to, rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons.

“**Highway**”, for the purposes of this by-law, means a common and public highway or part of a highway, and includes the sidewalk and boulevard and any bridge, trestle, viaduct or other structure forming part of the highway, owned or under the jurisdiction of the City.

“**Law Enforcement Officer**” means any person authorized to perform an inspection required for the purpose of the administration or enforcement of the by-law and shall include a municipal law enforcement officer, any member(s) of the City’s Fire department or a member of the Thunder Bay Police Service.

“**Lawful Tenant**” means a person lawfully engaged in a residential tenancy agreement pursuant to the *Residential Tenancies Act*; lawful tenancy will have corresponding meaning.

“**Low Hazard Fireworks**”, also called Family Fireworks, mean low hazard fireworks generally used for recreation that are classified under Class 7, Subdivision 1 of Division 2 of the Explosives Regulations, and includes but not limited to fireworks showers, fountains, gold rain, lawn lights, pinwheels, Roman candles, volcanoes, sparklers and other similar devices.

“**Manager**”, shall mean the Manager of Licensing and Enforcement Division, Development and Emergency Services Department, City of Thunder Bay, or their designate(s).

“**Municipal Act**” means the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.

“**Nuisance Event**” means, the inappropriate, illegal, careless or reckless discharge of fireworks from a property that has caused neighbour(s) to call for emergency service response, to ensure the health and safety of, either the neighbours surrounding the property or persons on the subject property, or both.

“**Occupant (lands)**”, shall be the person(s) who lawfully occupy a parcel of land and includes the registered owner(s) of said land and could include a lawful tenant.

“**Officer**”, shall include a Law Enforcement Officer or a Police Officer.

“**Owner (lands)**”, shall have the same meaning as “Registered Owner”.

**“Permitted Fireworks”** mean fireworks that are not Prohibited Fireworks and are within the class of explosives of family fireworks, also known as low-hazard fireworks.

**“Person”**, shall include a corporation.

**“Private Property”**, shall be property other than the lands owned or under control of the City.

**“Prohibited Fireworks”** are any fireworks that are not included on the most recent list of authorized fireworks as published from time to time by the Explosives Regulatory Division of natural resources Canada, or their successors, and includes, but not limited to, cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink or keychain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down and step down torpedoes, and cracking balls; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle rockets, fake firecrackers and other trick devices or practical jokes.

**“Property”** means a building or structure or part of a building or structure, and includes the lands and premises appurtenant to the building or structure and all mobile buildings, mobile structures or in the case where buildings or structures are not present, the vacant land.

**“Property Owner”**, shall have the same meaning as Registered owner.

**“Pyrotechnician”** means a person certified under the Explosives Act as a theatrical user, an assistant, a pyrotechnician or special effects pyrotechnician and is qualified to purchase and supervise the display of theatrical fireworks under the Explosives Act.

**“Pyrotechnics Special Effects Manual”** means the pyrotechnics special effects manual as published from time to time by the Explosives Branch of Natural Resources Canada, or any publication in substitution therefor that applies to theatrical fireworks.

**“Registered Owner”**, shall mean the actual owner or owners of the lands at issue, identified as having title to that land parcel, by the Ontario Land Registry;

**“Residential Tenancies Act”** means the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17, as amended.

**“Tenant”** means a person(s) that meets the definition as set out in the *Residential Tenancies Act*.

**“Theatrical Discharge Permit”** means written authorization from the City’s Fire Chief to discharge theatrical fireworks, which would otherwise be prohibited by this by-law, subject to any terms and conditions that may be imposed on such authorization.

“**Theatrical Fireworks**” means explosives that are classified under Class 7, Subdivision 5 of Division 2 of the Explosives Regulations and any authorized explosive of a class set out in Section 6 of the Explosive Regulations that is made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theater or television production, or as a performance, before a live audience.

“**User Fee By-law**”, shall be the annual schedule of user fees, approved by Council.

## **2.0 GENERAL**

2.1 No person shall possess, sell or set off any fireworks not authorized by the Explosives Regulatory Division of the Government of Canada.

2.2 No person shall sell fireworks to a person under the age of 18 years.

2.3 No person shall sell or supply fireworks to a person who appears to be under twenty-five years of age, without proof of age

2.4 No person shall knowingly sell or supply fireworks to a person who is not buying for their personal use but for a person who is under eighteen years of age.

2.5 A person may set off Permitted Fireworks subject to the restrictions of the by-law.

2.6 No person shall discharge or cause the discharge of any fireworks:

- a) In, on or into any building, structure or motor vehicle;
- b) On or into any highway, street, lane, square, public park or other public place;
- c) Within one hundred (100) meters of any place explosives, gasoline or other highly flammable substances are sold or stored;
- d) Without limiting subsection 2.0, on any land other than land belonging to, or under the control of, the person discharging the family fireworks, or on other private property where the prior written consent of the owner has been obtained; Proof of such consent shall be provided to the Fire Chief or other law enforcement officer upon request; and
- e) In a manner that may create a nuisance or unsafe condition, risk of fire or injury or damage to any person or property.

2.7 Every person who discharges family fireworks shall provide and maintain fully operational fire extinguishing equipment, being a minimum of a 2A40BC fire extinguisher, ten liter pressurized water unit or a fully charged garden hose, ready and accessible at all times when family fireworks are being discharged and for a reasonable period thereafter, at the fireworks discharge site.

### **3.0 ILLEGAL OR NUISANCE ACTIVITIES – OWNER/TENANT ALSO RESPONSIBLE**

3.1 Where activities occur on or originate from persons located on private property, that are contrary to the provisions of this by-law, in addition to any individual(s) who may have committed the illegal act(s), the owner(s) of property, who also reside at that property, shall be deemed to commit the same offence(s), by allowing or permitting those actions to occur or continue to occur on their property, at any time relevant, unless at that time:

- a) In the case of vacant lands, where the owner does not reside at that location and the lands are properly posted to prohibit trespassing, and persons enter without the owners knowledge and without express written permission of the owner, then the owner shall not be held responsible or deemed to have committed an offence, or
- b) Where person(s) have entered committed offences against the wishes of the owner and refuse to leave, or in the case of a tenancy where the owner does not reside on the same property, against the wishes of the lawful tenant and person(s) have committed offences and refuse to leave, and the police were called by the owner/lawful tenant and subsequently attend; then owner /lawful tenant shall not be held responsible or deemed to have committed any offence.

3.2 No owner(s) of property or tenant of property, upon which they maintain a residence, shall cause or permit unlawful activities upon the property, which contravenes provisions of the Fireworks By-law, to occur or to continue to occur on that property.

3.3 Every owner of property, or tenant of property, upon which they maintain a residence, shall take whatever steps are reasonable necessary to educate persons on the property to the provisions of the by-law and to prevent persons from committing and offence.

3.4 Notwithstanding section 3.1 above, that deems the owner(s) of property responsible for illegal fireworks activities, with exceptions, that are committed at or on their property, where they also have primary access to a residence, where:

- a) The property is under the control of a legal tenant, that can be identified in a lawful tenancy agreement, and
- b) The owner(s) of property do not reside on the same property and are considered landlord(s) under the Residential Tenancies Act, and
- c) The owner(s) of subject property do not reside in or upon another adjoining property or unit, regardless if it is the same address or different, where they can easily observe and or regulate unwanted activities on their rental property.

3.5 Where 3.4 above is confirmed, the lawful tenant, identified upon in the lawful tenancy agreement, and not the property owner(s) shall be responsible for any illegal fireworks activities that originate on or from the property, no matter whom may have also actually committed and offence under the fireworks By-law and will be deemed to be allowing or permitting the illegal activities.

3.6 Any owner(s) of property, that claim the property where illegal fireworks activities are occurring, is a rental property where a lawful tenant is in control, shall, on request of an Officer, produce and supply any necessary documents to prove the tenancy.

#### **4.0 SALE**

4.1 No person shall display, offer for sale, sell or buy Low hazard Fireworks except on the following days:

- The “Named Days” set out in Appendix “A” of the by-law, where July 1<sup>st</sup> can only be used to calculate lawful sale dates and any alternative dates for discharge purposes only
- The seven (7) preceding “Business Days” to each “Named Day”

4.2 No person shall acquire, hold, store, display, buy, sell or otherwise be in possession of any Firework, except in accordance with the Explosives Act, R.S.C. 1985, c. E-17 and its regulations.

4.3 The restrictions set out above, do not apply as it applies to paper toy caps, Christmas crackers and alike, that do not contain more than twenty five one-hundredths on a grain of explosive on average per cap or low hazard fireworks having a practical use such as highway safety flares, fuses and other small distress signals classed Class 7, Subdivision 4 of Division 2 (or Subdivision 1 of Division 2 for caps), of the Explosives Regulations.

4.4 No person shall sell possess, buy, sell or set-off any High Hazard Fireworks within the City, except in accordance with approved permit requirements of this by-law and in conformance to all other provincial and federal laws.

4.5 No person shall sell any firecrackers or prohibited fireworks within the City.

4.6 No person shall display or cause to be displayed any fireworks for sale or purchase unless they are displayed for sale in a package, a glass case or other suitable receptacle way from flammable goods and out of the reach of minors; fireworks not in approved packaging must be inaccessible to the public.

4.7 No person shall display or cause to be displayed any family fireworks, such that the fireworks are for sale in lots exceed 25 kilograms each in gross weight and or do not have sufficient separation distance to prevent fire from rapidly spreading between such lots.



4.8 No person shall display fireworks in a shop window unless they are mock samples and do not contain any explosive compound.

4.9 No person shall display fireworks in a place where they exposed to the rays of the sun or to an excess heat source.

## **5.0 LAWFUL DISCHARGE**

5.1 Family fireworks may be discharged, without a permit, on the evenings of the “Named Days” set out in Appendix “A” and on the preceding evening of the “Named Days”, starting at Dusk

5.2 Additionally, Family fireworks may be discharged, without a permit on the day(s)-only, set out in Appendix “B”, but does not include the evening prior.

5.3 No person shall discharge any firework on any days of the year, except those authorized in Appendix “A” or Appendix “B” without obtaining a permit authorization, in advance, from the Fire Chief.

5.4 No person shall discharge any firecrackers or prohibited fireworks within the City.

## **6.0 ALTERNATIVE - WEATHER DAY**

6.1 Where inclement weather makes discharging Family fireworks on both the “Named Day” and the prior evening to the “Named Day”, the only alternative discharge date will be the next calendar days’ evening, immediately following the “Named Day”.

## **7.0 SPECIAL RULES- JULY 1<sup>ST</sup> MID-WEEK**

7.1 In a year where the actual Canada Day falls on a Monday or Tuesday of the week, persons can choose to set off Family Fireworks on the evening preceding the July 1<sup>st</sup> holiday as well as the evening of July 1<sup>st</sup>, or Family Fireworks may be lawfully discharged during the Saturday evening only, of the PRECEDING (weekend before) the July 1<sup>st</sup> holiday.

7.2 In a year where the actual Canada Day falls on a Wednesday, Thursday or Friday of the week, persons can choose to set off Family Fireworks on the evening preceding the July 1<sup>st</sup> holiday as well as the evening of July 1<sup>st</sup>, or Family Fireworks may be lawfully discharged during the Saturday evening only, of the FOLLOWING (weekend after) the July 1<sup>st</sup> holiday.

## **8.0 DISCHARGE EXEMPTION PERMIT – Family Fireworks**

8.1 Persons who wish to obtain authorization to discharge Family Fireworks, other than on a Days authorized by Appendix’s “A” or “B”, may apply to the City Fire Chief for consideration of a recognized religious or cultural event, or other significant personal event; with the required application and/or submitting any required information and pay the prescribed user fee.

8.2 The Fire Chief, taking into account the contents of the application along with any additional information requested and obtained, may issue a permit on such terms & conditions as is deemed appropriate to the proposed display, taking all known factors into consideration.

8.3 The Fire Chief, may refuse to grant the exemption request and such decision and reasons for the refusal, will be in delivered, in writing, and shall be final and not subject to appeal.

8.4 No person shall discharge any firework authorized by a permit, except in keeping with the terms and conditions of any authorizing permit.

8.5 No person shall apply for or obtain any discharge permit through fraud, deceit or deception, or by suppling false information.

8.6 The Fire Chief, may cancel any permit issued or Order any display occurring under a permit, to cease, where the Chief believes, at the specific moment there is a very real risk of public safety or a fire ignition may result, or where, in the Fire Chief's opinion, the applicant has not been truthful.

#### **9.0 DISPLAY FIREWORKS (High Hazard) - PERMIT REQUIRED**

9.1 No person shall set off display fireworks (high hazard) without first applying and obtaining authorization from the City's Fire Chief.

9.2 Every person that wishes to hold a display of High-Hazard Firework shall fully complete the require application and/or submit any required information and pay the prescribed user fee, before the application is considered.

9.3 Every applicant for a Display Permit, for high hazard fireworks displays, shall provide any additional information to the satisfaction of the Fire Chief to allow proper consideration of the application, including proof of required pyrotechnic certifications, required under the Explosives Act and knowledge of the display fireworks manual.

9.4 The Fire Chief, taking into account the contents of the application along with any additional information requested or obtained, may issue a permit on such terms & conditions as is deemed appropriate to the proposed display, taking all known factors into consideration.

9.5 The Fire Chief, may refuse to grant the permit request and such decision and reasons for the refusal, will be in writing and shall be final and not subject to appeal

#### **10.0 THEATRICAL FIREWORKS (Pyrotechnics) - PERMIT REQUIRED**

10.1 No person shall set off Theatrical Fireworks without first applying and obtaining authorization from the City's Fire Chief.

10.2 Every person that wishes to hold an event or theatrical production, where theatrical fireworks are to be used, shall fully complete the require application and/or submit any required information and pay the prescribed user fee, before the application is considered.

10.3 Every applicant for use of theatrical fireworks Display shall provide any additional information to the satisfaction of the Fire Chief to allow proper consideration of the application, including proof of required pyrotechnic certifications required under the Explosives Act and knowledge of the pyrotechnics special effects manual.

10.4 The Fire Chief, taking into account the contents of the application along with any additional information requested or obtained, may issue a permit on such terms & conditions as is deemed appropriate to the proposed display, taking all known factors into consideration.

10.5 The Fire Chief, may refuse to grant the permit request and such decision and reasons for the refusal, will be in writing and shall be final and not subject to appeal.

#### **11.0 FIRE CHIEF PERMITS - GENERAL**

11.1 No person shall discharge any firework authorized by a permit, except in keeping with the terms and conditions of any authorizing permit.

11.2 No person shall apply for or obtain any discharge permit through fraud, deceit or deception, or by supplying false information.

11.3 The Fire Chief, may cancel any permit issued or Order any display occurring under a permit, to cease, where the Chief believes there is a very real risk of public safety or fire ignition may result or where, in the Fire Chief's opinion, the applicant has not been truthful and no person shall continue a display where a permit has been cancelled.

#### **12.0 OBSTRUCTION – OFFICER**

12.1 No person shall interfere or obstruct with any Law Enforcement Officer in the execution of their duties, including failure to allow entry onto private lands to inspect lands, other than access into a dwelling area without a search warrant, or by failing to produce any permit(s) claiming to authorize fireworks related activities being investigated.

#### **13.0 OFFENCES**

13.1 Any person who fails to comply with any requirement of this By-law is guilty of an offence, and shall upon conviction be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.

#### **14.0 MINIMUM FINE – NUISANCE / ILLEGAL DATE**

14.1 Where any person is found guilty of an offence under sections 2 or 3 (illegal discharges by date/time, cause nuisance or unsafe conditions), and multiple offences occurred on the same day, the minimum fine for each offence, as authorized under section 429 (1) of the Municipal Act, shall be five hundred dollars per offence, to a maximum fine not to exceed ten thousand dollars.

## **15.0 SYSTEM OF FINES - OFFENCES**

15.1 Where any person engages in the unlawful sale, display, or discharge of fireworks, contrary to any provision of this by-law, the following system of fines shall apply:

- a) Any offence will be designated as a continuing offence for every hour upon which it continues to occur and the minimum fine for every hour shall not be less than one-hundred dollars per hour, to a maximum not to exceed a fine of ten thousand dollars per day, and
- b) Where more than one offence is committed on the same property on the same day, they will be deemed multiple offences and each offence committed shall have a minimum fine of five hundred dollars each, to a maximum fine not to exceed ten thousand dollars per day.

## **16.0 ADDITIONAL ORDER – COURT**

16.1 Additionally, section 431 of the *Municipal Act* allows, if any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted.

## **17.0 NUSIANCE FEE / DEBT RECOVERY**

17.1 Where, due to illegal fireworks activity, a nuisance event has required more than one emergency response in any four-hour period, and a conviction for an associated offence has been registered, the City may invoice the owner of property, upon which those multiple emergency responses have attended, for any and all costs if those emergency responses, including additional administrative costs set out in the user fees.

17.2 Any fees due to the City, pursuant to this by-law that remain unpaid by the owner, constitutes a debt of the owner to the City and may be added to the tax roll for the property on which the business is located and collected by the City in the same manner as municipal taxes.

17.3 In addition to any other rights and remedies that the City may have, the City may collect any Fees as a debt owing by the Owner to the City by way of an action in a court of competent jurisdiction.

**18.0 SERVICE OF NOTICE**

18.1 Any Notice, may be served on the owner by delivering it, verbally or in person to the owner or in writing, by leaving it with the person whom appears to be in-charge at the property and shall be deemed to be delivered after five calendar days, where mailed.

**19.0 SEVERABILITY**

19.1 If a court of competent jurisdiction declares any provision or part of any provision of this By-law to be invalid or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced to the extent possible according to law.

**20.0 SHORT TITLE**

20.1 This by-law may be cited as the “Fireworks By-law.”

**21.0 REPEAL**

21.1 By-law 45-1993, as amended is hereby repealed.

21.2 Chapter 896 of the City of Thunder Bay Municipal Code is hereby repealed.

3. This By-law shall come into force and take effect on the date it is passed.

Enacted and passed this 22nd day of November, A.D. 2021 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Bill Mauro

---

Mayor

Krista Power

---

City Clerk