

To: David Creery, Chief Administrative Officer

From: Jeff Slager, Fire Chief

Re: Consumer Fireworks Ban By-law

AIM

The purpose of this staff report is to provide Council with information pertaining to the development of the bylaw banning Consumer Fireworks

BACKGROUND

The City of Woodstock, under the authorities of the *Municipal Act*, S.O. 2001, and the *Fire Protection and Prevention Act*, 1997, may prohibit and regulate the sale and discharge of fireworks within the municipality.

Natural Resources Canada, under the Explosives Act and associated Explosives Regulations, classify fireworks into four (4) categories: Prohibited, Type F.1. – Consumer Fireworks, Type F.2. Display Fireworks, and Type F.3. Special Effect Pyrotechnics.

Consumer Fireworks are considered low hazard fireworks that are generally used for recreation and can be purchased and sold to persons without a specialized licence. This type of fireworks is generally used for backyard/family events.

Display Fireworks are considered high hazard fireworks that are generally used for public display and designed for use by professionals. These fireworks cannot be purchased, sold, or discharged by persons without a licence specifically issued for Type F.2 fireworks. The City of Woodstock Canada Day event utilizes this type of fireworks, and the event is operated by licenced operators.

Special Effect Pyrotechnics include high hazard fireworks used to produce a special effect in a film or television production, or in a performance before a live audience. Like Type F.2. Display Fireworks, these cannot be purchased or sold by persons without a specifically issued licence.

Within the City of Woodstock Municipal Code there are separate chapters that address the three identified firework types: Chapter 802 – Consumer Fireworks, Chapter 804 – Display Fireworks, and Chapter 806 – Pyrotechnics – Special Effects.

On July 13, 2023, Council directed staff to draft a by-law addressing the prohibition of the sale and discharge of Type F.1. Consumer Fireworks, regulated within the City of Woodstock under Municipal Code Chapter 802 – Consumer Fireworks.

COMMENT

The redevelopment of City of Woodstock Municipal Code Chapter 802 – Consumer Fireworks to reflect Council’s direction for a ban on the sale and discharge of fireworks regulated under it was influenced by the existing by-laws currently in place within the Town of Caledon and the City of Brampton.

In previous versions of the Chapter 802 – Consumer Fireworks, the Prohibited classification of fireworks had not been referenced for any enforcement purposes. As these types of fireworks, while prohibited for sale in Canada, may still be purchased without a specialized licence in other locations and should be included for the purpose of the fireworks ban.

During reviews of council reports issued by other municipalities addressing consumer fireworks, a recognized challenge when establishing the location of a discharge contravention was in determining who was responsible for setting off the fireworks at the property. Under the proposed by-law it will be deemed the owner of the property where the fireworks were discharged who permitted the contravention unless there is evidence to the contrary.

When considering the implementation date for the revised Chapter 802 – Consumer Fireworks by-law, if approved by Council, there are several factors that could affect the decision for the timing.

Local consumer fireworks retailers typically apply for a required annual sales licence prior to the Victoria Day holiday (the first of the three approved holidays); however, they may make a wholesale purchase of their anticipated fireworks stock for all three approved holiday sales periods. The implementation of a new by-law banning the sale of consumer fireworks will leave these retailers with unsold stock and no opportunity to offer them for sale within the City of Woodstock. It is unknown if retailers have the option of returning unsold product to the wholesale vendor.

Like the consideration for local retailers, the timing for implementation should account for the occurrence of the final “Approved holiday” under the current version of the by-law, Diwali, which occurs on November 12, 2023. To maintain uniform by-law enforcement to the other two “approved holidays” in this calendar year, consideration should be given to implementation after this date.

A final consideration to establishing an implementation date is the development and approval of Municipal Code short form wording and associated fines, which need to be reviewed and approved by the Ministry of the Attorney General, a process which can take from 12 to 16 weeks. Short form wording and associated fines are required to enable the issuance of a violation notice for the established offences within a by-law.

If Council moves forward with a ban on the sale and discharge of consumer fireworks, residents and organizations may still make application for a professional fireworks event, like the City of Woodstock Canada Day event, under Municipal Code Chapter 804 – Display Fireworks. As referenced previously in this report, this type of event requires specific licences for the individuals/organizations involved in the purchase and discharge of Type F.2. fireworks.

RECOMMENDATION

That Woodstock City establishes an implementation date of _____ for the revised version of Municipal Code Chapter 802 – Consumer Fireworks;

And further that staff be directed to prepare the enabling by-law and draft short form wording and associated set fines for Council approval to proceed with an application for approval by the Ministry of the Attorney General.

Authored by: Jeff Slager, Fire Chief

Approved by: David Creery, M.B.A. P. Eng., Chief Administrative Officer

WHEREAS section 9 of the *Municipal Act*, S.O. 2001, c. 25 provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 121 of the *Municipal Act 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS subsection 7.1 (1) of the *Fire Protection and Prevention Act*, 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;

AND WHEREAS section 426 of the *Municipal Act*, 2001, c. 25 provides that no person shall hinder, obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a by-law passed under the *Municipal Act*, 2001.

NOW THEREFORE the Council of The Corporation of the City of Woodstock enacts as follows:

Protection

Chapter 802 Consumer Fireworks

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Article 1 – Short Title

802.1.1 Citation

This Chapter may be cited as the “Consumer Fireworks By-law”.

Article 2 – Interpretation

802.2.1 Act – defined

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

802.2.2 Consumer Fireworks – defined

“Consumer Fireworks” means low hazard fireworks that are generally used for recreation and are classified as Type F.1 explosives under the Act such as, but not limited to, roman candles, sparklers, flying lanterns, barrages, cakes, comets, mines, missiles, skyrockets, fountains, wheels, ground spinners, burning schoolhouses, and flying ghosts.

802.2.3 Fireworks – defined

“Fireworks” means any Prohibited Fireworks or Consumer Fireworks.

802.2.4 Officer – defined

“Officer” means any municipal law enforcement officers, firefighters, police officers, and any person appointed by Council to enforce this by-law.

802.2.5 Person – defined

“Person” means an individual, property owner, association, firm, partnership, corporation, trust, incorporated company, organization, directors and officers of a corporation, a corporation created under the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended, and the trustees, agents heirs, executors, or other legal representatives of a person to whom the context can apply according to law.

802.2.6 Prohibited Fireworks – defined

“Prohibited Fireworks” means fireworks included on the most recent list of prohibited fireworks or explosives set out in the Act, including, but not limited to, flying lanterns, sparkling matches, cherry bombs, M-80’s, silver salutes, flash bombs, smoke bombs, fake firecrackers, and other similar trick devices or practical joke devices.

Article 3 – Application

802.3.1 Application

This Chapter shall apply to all areas within the municipal boundaries of the City of Woodstock.

Article 4 – General Provisions

802.4.1 Prohibited Fireworks – use – sale

No Person, or group of Persons, shall use, sell, offer to sell, display, purchase, distribute, set off or discharge, or cause or permit to be used, sold, offered for sale, purchase, distributed, set off or discharged, any Prohibited Fireworks.

802.4.2 Consumer Fireworks – use – sale

No Person, or group of Persons, shall use, set off, discharge, fire, sell, offer to sell, purchase, display, distribute, or cause or permit to be used, fired, sold, offered for sale, purchased, distributed, set off or discharged, any Consumer Fireworks.

802.4.3 Private Property – discharge

When Fireworks are discharged from a private property, the property owner is deemed to have permitted, allowed, or caused the setting off of the Fireworks, unless there is evidence to the contrary, the proof of which lies with the property owner.

Article 5 – Authority

802.5.1 Enforcement – Officer

Any Officer shall be responsible for the enforcement of this by-law.

Article 6 – Inspections

802.6.1 Entry – reasonable time

Any Officer or any agent acting on behalf of the City may at any reasonable time enter upon land and into structures for the purpose of carrying out an inspection to determine whether this by-law is being complied with and any power of entry shall be exercised in accordance with Part XIV of the *Municipal Act, 2001*.

802.6.2 Production – documents – things

Where an inspection is conducted in accordance with this by-law, an Officer may require the production of documents or things for review or, inspect and remove documents or things for the purpose of making copies, that may be relevant to the inspection.

802.6.3 Examinations – tests – samples – photographs

While conducting an inspection in accordance with this by-law, either alone or in conjunction with a Person possessing special or expert knowledge, an Officer may make examinations or take tests, samples, or photographs necessary for the purposes of the inspection.

802.6.4 Information – Person

An Officer may require any information from any Person concerning a matter related to the inspection, including but not limited to names, addresses, contact information, and proof of identity or other identification.

802.6.5 Obstruction

No Person shall hinder, obstruct, or interfere with an Officer conducting an inspection, refuse to answer questions on matters relevant to the inspection, or provide information on matters relevant to the inspection that the Person knows to be false or misleading.

Article 7 – Enforcement

802.7.1 Penalty – contravention

Every Person who contravenes any provision of this Chapter is guilty of an offence, and every director of officer of a corporation who knowingly concurs in the contravention of this Chapter by their corporation is guilty of an offence, and upon conviction is liable to a fine or penalty as provided in the *Provincial Offences Act*, R.S.O. 1990, c. P..33, as amended.

Article 8 – Repeal – Enactment

802.8.1 By-law – previous

By-law 9519-22 and all other existing by-laws, parts thereof, or any amendments thereto inconsistent with this Chapter are hereby repealed.

802.8.2 Effective date

The by-law upon which this Chapter is founded comes into force and takes effect on Month, Day, Year.
By-law #####-23, Month, day, year.