

THE CORPORATION OF THE TOWN OF SAUGEEN SHORES

BY-LAW 53 – 2006

A by-law to Regulate and Licence the Sale of Fireworks and to Prohibit the Sale and Setting off of Firecrackers and to Regulate the Setting off of Fireworks and to Provide for the issuing of Permits for Fireworks Displays in the Town of Saugeen Shores.

WHEREAS Subsection 121(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Act"), provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Subsection 121(2) of the *Act* provides that a municipality may prohibit the sale of fireworks and the setting off of fireworks unless a permit is obtained from the municipality for the sale of fireworks and the setting off of fireworks and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS Subsection 150(1) of the *Act* provides that, subject to the *Theatres Act* and the *Retail Business Holidays Act*, a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may only exercise its licensing powers under Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, including imposing conditions for the purposes of health and safety, nuisance control or consumer protection;

AND WHEREAS Subsection 150(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires that a by-law licensing or imposing any condition on any business or class of business passed after Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, comes into force shall include an explanation as to the reason why the municipality is licensing it or imposing the conditions and how that reason relates to the purposes under Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

AND WHEREAS this by-law is passed for the following purposes:

- (i) *health and safety* - being an activity or undertaking that could result in hazardous conditions, injury or loss; and
- (ii) *nuisance control* - being an activity that adversely affects, or could possibly adversely affect, the "quality of life" of any person(s); and
- (iii) *consumer protection* - being the prevention of unfair or potentially unfair business practices that could result in loss(es) on the part of the consumer.

AND WHEREAS a public meeting has been held pursuant to Subsection 150(4) of the *Act*;

BE IT THEREFORE ENACTED by the Municipal Council of the Corporation of the Town of Saugeen Shores as follows:

1. SHORT TITLE

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

2. DEFINITIONS

- 2.1 In this by-law:

"Authority Having Jurisdiction" (AHJ) means the individual authorized by Natural Resources Canada to authorize fireworks displays.

“Clerk” means the Clerk of The Corporation of the Town of Saugeen Shores.

“Council” means the Council of The Corporation of the Town of Saugeen Shores and, with respect to the holding of hearings or any hearing, includes, as the context allows, a committee under Section 252 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorized to hold any such hearing or hearings.

“display fireworks” means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Act;

“family fireworks” - means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Act

“Fire Chief” means the Fire Chief of The Corporation of the Town of Saugeen Shores.

“firecracker” means any class of fireworks that explodes when ignited and does not make any significant display or visible effect after the explosion but does not include caps for toy guns or Christmas crackers.

“fireworks” means fireworks that are designed to produce colourful effects with sound added as a secondary function in some instances.

“License” means a license to sell fireworks issued pursuant to this by-law.

“Licensing Officer” means the Licensing Officer for the Town, or his designate, and includes the Clerk.

“permit” means a permit to hold a fireworks display issued pursuant to this bylaw.

“Town” means The Corporation of the Town of Saugeen Shores and its locality, including its geographic area.

“Officer” means a municipal by-law enforcement officer, provincial offences officer, police officer or the Licensing officer.

“prohibited firework” includes, but is not limited to, cigarette loads or pings, exploding matches, sparkling 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 crackling balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle 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;

3. PROHIBITIONS

Sale of Fireworks

- 3.1 No person shall sell or offer for sale any fireworks to any person in the Town unless he has obtained a license pursuant to the requirements of this by-law.
- 3.2 No person shall sell or retail in the Town any fireworks on any day or days during the year except on Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) and except on the seven (7) days immediately preceding Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) and provided that the foregoing shall not prevent the sale on any day for the purposes of a fireworks display to a person who is the holder of a permit for such display pursuant to the provisions of this by-law
- 3.3 No person shall sell or retail in the Town any fireworks to anyone under the age of eighteen (18) years.

- 3.4 No person shall sell fireworks in the Town without displaying in his shop or place of business, at a point adjacent to the fireworks being sold, the provisions contained in Sections 3.2, 3.6, 3.7, 3.8, 4.8, and 16.1 of this by-law.

Display for sale and Storage of Fireworks

- 3.6 No person shall store fireworks that are displayed for sale within any building, in any bin, lot, or bundle that exceeds a weight of twenty-five (25) kilograms.
- 3.7 No person shall store fireworks in any manner that would expose the fireworks to direct sunlight
- 3.8 No person shall exhibit any fireworks in any window of any store or shop within the Town.

Setting Off of Fireworks

- 3.9 No person shall set off any fireworks within the limits of the traveled portion (including any sidewalks) of any public highway, or in any public park, nor within the limits of any shopping plaza.
- 3.10 No person shall set off any fireworks within the Town except on Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) or on the day immediately preceding or on the day immediately following Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) or any special day established by Council, except at a fireworks display held pursuant to a permit issued under this by-law:
1. Between dusk and 11:00 p.m.
 2. Notwithstanding the provision of the by-law in relation to day and time any other day may be recognized by resolution of the Council of the Town of Saugeen Shores

Fireworks Display

- 3.11 No display of fireworks shall be held within 183 meters (600 feet) of a nursing home, public hospital, home for the aged, any premises or place where explosives, gasoline, or other highly flammable substances or highly combustible material are manufactured, sold or stored, or within 183 meters (600 feet) of a church or a public, separate, secondary or other school, unless the consent of the owner of such church or school, or an agent or representative of such owner, is obtained.

Holding of Fireworks Displays

- 3.12 No person shall hold a fireworks display in the Town unless he has obtained a permit pursuant to the requirements of this by-law.

Firecrackers

- 3.13 No person shall sell or retail firecrackers within the Town.
- 3.14 No person shall set off any firecrackers within the Town.

4. APPLICATIONS

- 4.1 Every person applying for a license shall file with the Clerk a completed application in the form prescribed by the Clerk as set out in Schedule "A" to this by-law.
- 4.2 Every person applying for a license shall provide:
- 4.2.1 A description of the structure from which the fireworks will be sold indicating the type and quality of construction.

- 4.2.2 A description of where and how the fireworks will be stored and displayed, where they will be sold, and the fire explosion safeguards to be undertaken, including the number of fire extinguishers.
- 4.2.3 Written permission with respect to the proposed use from the registered owner of the property or his authorized agent.
- 4.2.4 A site plan showing:
- The location of the sale structure.
 - The clearances from adjacent properties.
 - The access to be provided for fire and emergency vehicles.
 - The location of the services to the site.
 - The location of the barriers establishing a zone free from vehicular traffic around the sale structure, where applicable.
- 4.3 A certificate of insurance in the amount of two million dollars (\$2,000,000) liability with a cross liability clause and naming the Town as an additional insured.
- 4.4 No license shall be issued until:
1. The Town's Planning Department has determined that the use of the property is in conformity with the Zoning by-laws of the Town.
 2. The Fire Chief has reviewed the application and has investigated, inspected and reported favorably to the Clerk in respect of the application.
- 4.5 If the requirements as set out in this by-law have been complied with, the Clerk shall grant the applicant a license.
- 4.7 No license issued under the provisions of this by-law shall be transferable.
- 4.8 Every person holding a license issued pursuant to this by-law shall comply with all provisions of the Ontario Fire Code, Town's zoning by-laws, this bylaw and any other applicable statute, regulation or by-law.
- 4.9 Every person holding a license shall display the license in a prominent location inside the main entrance of the sales structure.
- 4.10 The application form is listed as Schedule "A" of this bylaw and shall be part of this bylaw

5. REQUIREMENTS OF VENDOR FOR THE SALE OF FIREWORKS

- 5.1 Each vendor shall be responsible for ensuring that:
1. "No Smoking" and "Fireworks" signs are prominently displayed within the sales structure.
 2. The "No Smoking" prohibition is enforced at all times within *3 meters (10 feet)*.
 3. Fire extinguishers are supplied in accordance with the Ontario Fire Code and have staff that has been trained to operate the same.

6. REQUIREMENTS FOR A FIREWORKS DISPLAY

- 6.1 Every person applying for a permit for a fireworks display shall:
- 6.1.1 File with the Fire Chief / Authority Having Jurisdiction a completed application on the form copied from the Display Fireworks Manual.
 - 6.1.2 Submit a site plan showing:
 - The location of the proposed fireworks display;
 - The clearance from adjacent properties pursuant to Section 3.9 and 3.11 herein.

- The access to be provided for fire and emergency vehicles.

- 6.1.3 Provide a certificate of insurance in the amount of two million dollars (\$2,000,000) liability with a cross liability clause and naming the Town as an additional insured.
- 6.2 If the requirements as set out in this by-law have been complied with, the Fire Chief / AHJ shall grant the applicant a permit for a fireworks display.
- 6.3 Notwithstanding Section 6.2 herein, the Fire Chief / AHJ may impose additional conditions on the issuance of a permit as he deems advisable in the particular circumstances of the application.

7. GENERAL

- 7.1 The sale, handling and discharge of fireworks shall conform to Subsection 5.2.2. of the Ontario Fire Code.

8. INSPECTION

- 8.1 Any person to whom a license has been issued pursuant to this by-law shall permit any Officer, at any reasonable time, to inspect the premises for which the license was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

9. REFUSAL, REVOCATION, SUSPENSION

- 9.1 Any person who is licensed as required by this by-law shall at all times comply with the by-laws of the Town and any contravention of any by-law or any other law may be grounds for the refusal, suspension or revocation of the license.
- 9.2 A license may be refused, suspended or revoked upon seven (7) days notice in writing by the Town of Saugeen Shores, mailed or delivered to the applicant/licensee's last known address, if any of the provisions of this by-law are contravened, or in the opinion of Council such refusal, suspension or revocation may be in the public interest.
- 9.3 Upon suspension or revocation of a license issued under this by-law, the licensee shall return to the Licensing Officer all licenses issued by the Town, and an Officer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the license and no person shall refuse to deliver the license to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking the same.

10. NOTICE AND APPEAL

- 10.1 Any person who has his license refused, suspended or revoked shall be entitled to request a hearing of the matter by Council, provided that such a request is delivered to the Clerk's Department in the Town within seven (7) days of the notification by the Licensing Officer of the refusal, suspension or revocation of a license. If a written request for a hearing is not received by the Clerk's Department within this time frame, the license shall stand refused, suspended or revoked.
- 10.2 Upon receipt of a request for a hearing, Council shall conduct a hearing and either confirms the refusal, suspension or revocation of a license, or direct the issuance or reinstatement of a license upon such terms and conditions as Council shall deem advisable. The decision of Council in this regard shall be final.
- 10.3 When a hearing date has been fixed and the applicant or licensee has been given notice and does not attend at the place and at the time appointed for the hearing, the license is deemed to be refused, suspended or revoked as of the date of the hearing, and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.

- 10.4 Any notice or order required to be given by the Licensing Officer to an applicant or a licensee shall be sufficiently served if delivered personally or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the application for the license or license records.
- 10.5 Any notice required to be given by an applicant for a license, or by a licensee to the Town, shall be sufficiently served if delivered personally to the Licensing Officer or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the Town of Saugeen Shores, Municipal Offices, 600 Tomlinson Drive, Saugeen Shores, Ontario N0H 2C0 Facsimile number 1-519-832-2140.
- 10.6 When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
- 10.7 When service is made by telephone transmission of a facsimile between 5 p.m. and midnight, it shall be deemed to have been made on the following day.
- 10.8 When service is made by personal delivery, it shall be deemed to have been received on the day that it was delivered.

11. OFFENCE AND PENALTIES

- 11.1 Any person who contravenes any provision of this by-law or is party to such contravention commits an offence under the *Provincial Offences Act*, R.S.O.1990, c. P.33, as amended.
- 11.2 Notwithstanding Section 11.1 of this by-law, every person who contravenes any provision of this by-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000, exclusive of costs.
- 11.3 Notwithstanding Section 11.2 of this by-law, a corporation that contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine not exceeding \$50,000.
- 11.4 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.
- 11.5 If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that Section, the Treasurer for the Town or his agent may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that person at the person's residence or place of business.
- 11.6 If the fine referred to in Section 11.5 of this by-law remains unpaid after the final date specified in the notice, the fine shall be deemed to be unpaid taxes for the purposes of Section 351 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.
- 11.7 The penalty provisions for violations of this bylaw are listed as Schedule "C" of this bylaw and shall be part of this bylaw

12. ENFORCEMENT

- 12.1 This by-law will be enforced by the Saugeen Shores Police Service and the Town's By-law Enforcement Officers.

13. WORD USAGES

- 13.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.
- 13.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

14. SEVERABILITY

- 14.1 If any section or sections of this by-law shall be declared by a court of competent jurisdiction to be invalid, such section or sections shall be deemed to be severable and shall not affect the validity of this by-law as a whole or any part thereof and all other sections of the by-law shall be deemed to be separate and independent therefrom and enacted as such.

15. CONFLICT

- 15.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed the provisions of this by-law shall prevail

16. EXEMPTION

- 16.1 It is hereby declared for greater certainty that for purposes of this by-law respecting the setting off of fireworks on Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) or on the day immediately preceding or on the day immediately following Victoria Day, Canada Day, Civic Holiday, Labour Day and Independence Day (USA) or any special day established by Council, on land belonging to a private residence by the owner or tenant of such residence or a person authorized by him to do so shall not be deemed to be a fireworks display; and the sale or setting off of pyrotechnical signaling devices for marine, military, railway or highway purposes shall not be deemed to be, respectively, the sale or setting off of fireworks.

17. ADMINISTRATION OF BY-LAW

- 17.1 This by-law shall be administered by the Fire Chief / Authority Having Jurisdiction or designate or by the By-Lay Enforcement Officer of the Town of Saugeen Shores.

18. EFFECTIVE DATE

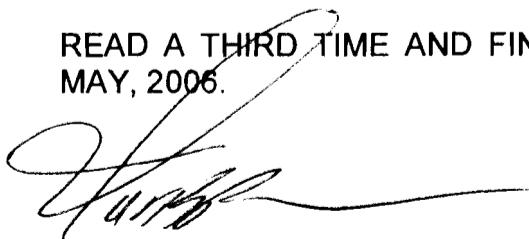
- 18.1 This by-law comes into force and takes effect on the 1st day of June, 2006.

19. REPEAL

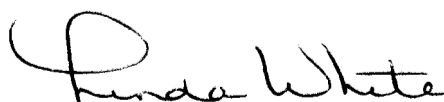
- 19.1 By-law 25-2002 of The Corporation of the Town of Saugeen Shores is hereby repealed.

READ A FIRST AND SECOND TIME THIS 8TH DAY OF MAY, 2006.

READ A THIRD TIME AND FINALLY PASSED AND SEALED THIS 8TH DAY OF MAY, 2006.



Mark Kraemer - Mayor



Linda White - Clerk

**TOWN OF SAUGEEN SHORES
 APPLICATION FOR A LICENSE TO SELL FIREWORKS**

SCHEDULE "A"

APPLICATION TO BE SUBMITTED TO THE CLERKS DEPARTMENT AT LEAST 21 DAYS PRIOR TO THE DATE OF COMMENCING OPERATION.

Date of Application:		FOR OFFICE USE ONLY		
		License #		
Business/Vendor's Name:				
Address		Street:		
		Postal Code:	Phone:	
		Email Address:		
Date of Sales:				
Location of Sales:				
Description of structure of which the fireworks will be sold.				
Store: _____				
Trailer (provide details): _____				
Other (describe fully): _____				
Where and how will fireworks be stored and displayed				
<i>(Attach a site plan pursuant to section 4.2.4 of this by-law.)</i>				
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 Saugeen Shores from any or all claims for damages which may arise in the carrying on of business within the Municipality under which the undersigned is licensed by the Municipality to do so.				
I certify that the information contained herein is true and correct.				
Date:		Signature:		
FOR OFFICE USE ONLY				
Department	Date Circulated	Response	Amount Paid:	Date:
Fire Dept:			Insurance:	Expiry:
Planning:			Cross Liability Clause:	
Approved:			Site Plan Record:	
Not Recommended for Approval:		REASON:		
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 at the above address				

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law Number 53-2006, of the Town of Saugeen Shores attached hereto is the set fine for that offence. This Order is to take effect December 2, 2011.

Dated at London, Ontario this 2nd day of December 2011.

A handwritten signature in black ink, appearing to read 'K. McGowan', written over a horizontal line.

Kathleen E. McGowan
Regional Senior Justice
West Region

SCHEDULE "C"

**TOWN OF SAUGEEN SHORES
Part I Provincial Offences Act
By-law 53-2006: Fireworks By-law**

ITEM	COLUMN # 1 Short form Wording	COLUMN #2 Provision Creating or Defining Offence	COLUMN # 3 Set fine
1.	Person selling fireworks without license	Section 3.1	\$ 195.00
2.	Person selling/retailing fireworks during prohibited time	Section 3.2	\$ 195.00
3.	Person selling/retailing fireworks to anyone under the age of 18 years old	Section 3.3	\$ 195.00
4.	Person storing fireworks for sale in bundles that exceed 25 kilograms	Section 3.6	\$ 195.00
5.	Person storing fireworks that are exposed to direct sunlight	Section 3.7	\$ 195.00
6.	Person exhibiting fireworks in window of store or shop	Section 3.8	\$ 195.00
7.	Person setting off fireworks on traveled portion of sidewalks, public highways, public parks or shopping plaza	Section 3.9	\$ 195.00
8.	Person setting off fireworks not pursuant to a permit issued under this bylaw	Section 3.10	\$ 195.00
9.	Person displaying fireworks within 183 meters of prohibited areas	Section 3.11	\$ 195.00
10.	Person displaying fireworks within 183 meters of prohibited area without written consent of owners/agent	Section 3.11	\$ 195.00
11.	Person holding display without permit	Section 3.12	\$ 195.00
12.	Person selling/retailing firecrackers within the Town of Saugeen Shores	Section 3.13	\$ 195.00
13.	Person setting off firecrackers within the Town of Saugeen Shores	Section 3.14	\$ 195.00
14.	Person applying for license not filing with Clerk a completed application	Section 4.1	\$ 195.00
15.	Person not supplying description of structure and type of construction from which fireworks will be sold	Section 4.2.1	\$ 195.00
16.	Person not supplying where and how fireworks will be stored/displayed	Section 4.2.2	\$ 195.00
17.	Person not supplying description of fireworks safeguards including extinguishers	Section 4.2.2	\$ 195.00
18.	Person not providing written permission from owner/agent of property	Section 4.2.3	\$ 195.00
19.	Person not showing location of sale structure	Section 4.2.4	\$ 195.00
20.	Person not showing clearances from adjacent properties	Section 4.2.4	\$ 195.00
21.	Person not showing access to provide for fire and emergency vehicles	Section 4.2.4	\$ 195.00
22.	Person not showing location of the services to the site	Section 4.2.4	\$ 195.00
23.	Person not showing location of barriers establishing a zone free from vehicular traffic around sale structure	Section 4.2.4	\$ 195.00
24.	Person not displaying license in a prominent location inside entrance	Section 4.9	\$ 195.00
25.	Vendor not displaying "NO SMOKING" and "FIREWORKS" signs	Section 5.1.1	\$ 195.00
26.	Vendor not supplying Fire Extinguishers in accordance with Ontario Fire Code	Section 5.1.3	\$ 195.00

ITEM	COLUMN # 1 Short form Wording	COLUMN #2 Provision Creating or Defining Offence	COLUMN # 3 Set fine
27.	Vendor not having trained staff to operate fire extinguishers	Section 5.1.3	\$ 195.00
28.	Applicant not filing with Fire Chief a completed application	Section 6.1.1	\$ 195.00
29.	Applicant not submitting site plan showing location of proposed fire works display	Section 6.1.2	\$ 195.00
30.	Applicant not submitting clearance from adjacent properties pursuant to Sections 3.9 and 3.11	Section 6.1.2	\$ 195.00
31.	Applicant not submitting access for fire and emergency vehicles	Section 6.1.2	\$ 195.00
32.	Applicant not submitting certificate of insurance of two million dollars liability	Section 6.1.3	\$ 195.00
33.	Applicant not naming Town of Saugeen Shores as additional insured of two million dollars liability	Section 6.1.3	\$ 195.00
34.	Person not permitting Officer to inspect the premises/equipment	Section 8.1	\$ 195.00

Note: The penalty provisions for the offences indicated above is Section 11.7 of Bylaw 53-2006, a certified copy which has been filed.