



# THE CORPORATION OF THE TOWN OF WHITBY

## Fireworks By-law

A by-law to regulate the sale and discharge of fireworks.

By-law # 6339-10

Consolidated Version

### As Amended by By-laws:

#### By-law Number:

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## Fireworks By-law

Being a By-law to regulate the sale and discharge of fireworks.

Whereas section 121 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended authorizes Council to enact by-laws for prohibiting or regulating the setting off of fireworks; and to prohibit those activities unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit, including the submission of plans;

And whereas the Council of The Corporation of the Town of Whitby wishes to enact the measures herein in order to provide a mechanism for regulating and permitting the safe sale and discharge of fireworks within the municipality;

And whereas the Town of Whitby has enacted a Fees and Charges By-law to set fees or charges for services or activities provided by or done on behalf of the Town of Whitby Fire and Emergency Services;

Now therefore, the Council of The Corporation of the Town of Whitby enacts as follows:

### 1. Definitions

- 1.1 "Building" means any structure used or intended for supporting or sheltering any use or occupancy;
- 1.2 "Clerk" means the Clerk of the Corporation of the Town of Whitby or designate;
- 1.3 "Council" means the Council of The Corporation of the Town of Whitby;
- 1.4 "Explosives Act" means the *Explosives Act*, R.S.C. 1985, c. E-17, and the regulations thereto;
- 1.5 Fire Chief means the Fire Chief of the Town of Whitby or designate;
- 1.6 "Firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flare or marine rockets;
- 1.7 "Fireworks" means Display Fireworks, Consumer Fireworks and Theatrical Fireworks;
- 1.8 "Fireworks, Display" means low-hazard Fireworks for recreation, including firecrackers, that are classified under Class 7, Division 2,

Subdivision 2 under the *Explosives Act* and the regulations made there under and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

- 1.9 "Fireworks, Consumer" means low-hazard Fireworks for recreation that are classified under Class 7, Division 2, Subdivision 1 of the *Explosives Act* and the Regulations made thereunder, and includes but is not limited to Fireworks showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;
- 1.10 "Fireworks, Prohibited" 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 and step on 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 *Explosives Act*;
- 1.11 "Fireworks Supervisor" means a person certified as a technician under the *Explosives Act* to conduct displays of Fireworks;
- 1.12 "Fireworks, Theatrical" means an authorized explosive of a class set out in Section 6 of the *Explosives Act*, that is made, manufactured\_ or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theater or television production or with a, or as a performance, before a live audience;
- 1.13 "Permit Issuer" is the person responsible for issuing Permits pursuant to this By-law, and shall be the Clerk or his/her designate in the case of a Permit for Mobile Sales Premise, and the Fire Chief or his/her designate in the case of a Permit for the discharge of Fireworks;
- 1.14 "Mobile Sales Premise" means a mobile or portable premise from which Fireworks are sold;
- 1.15 "Permanent Fireworks Premise" means a premise located within a building or part thereof in which the principal year round business is the sale of Fireworks;

- 1.16 "Permit" means an authorization under this By-law to sell or to discharge fireworks;
- 1.17 "Person" includes a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession;
- 1.18 "Temporary Fireworks Premise" means a premise within a building or part thereof where a retailer sells Consumer Fireworks but whose principal business is not the sale of Fireworks;
- 1.19 "To discharge", when used in relation to Fireworks, Prohibited Fireworks and Firecrackers, includes firing, igniting, exploding and setting-off, or causing or permitting the igniting, exploding and setting-off of Fireworks;
- 1.20 "To sell" includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale;
- 1.21 "Town" means The Corporation of the Town of Whitby in the Regional Municipality of Durham;

## **2. General Regulations**

- 2.1 No person shall discharge Fireworks except between dusk and 11:00 PM on the day of, or the day immediately following the days set for the observance of New Year's Eve, New Years Day, Victoria Day, Canada Day, or pursuant to a Permit.
- a) No person shall discharge fireworks except between dusk and 11:00 p.m. on Lakshmi Puja (the third day of Diwali).
- 2.2 No person shall discharge Fireworks except between dusk and 11:00 PM on the day of, or the day immediately following the cultural or religious holiday for which a discharge permit has been applied for and issued by the Fire Chief
- 2.3 No person shall possess or discharge Fireworks except in accordance with the provisions of this By-law.
- 2.4 No person shall possess or discharge any Firecrackers or other Prohibited Fireworks.
- 2.5 No person shall sell any Firecrackers or Prohibited Fireworks.
- 2.6 No person shall sell or permit to be sold any Fireworks except in accordance with the provisions of this By-law.
- 2.7 No person may discharge or possess for the purpose of discharge any Display Fireworks or Theatrical Fireworks except pursuant to a Permit.

- 2.8 In circumstances where a Permit is obtained for the discharge of Fireworks, no Permit applicant shall discharge Fireworks at a date, time, location or site other than that specified in the Permit and all conditions of such Permit shall be observed.
- 2.9 No person shall discharge Fireworks in a manner that creates or may create a nuisance or that creates or may create an unsafe condition, danger from fire or from risk of accident, injury or damage at or in respect of any place, location or site, or to or in respect of any person, property or thing.
- 2.10 No person shall discharge Fireworks into, in or on any highway, street, lane, square, public park or other public place, without previously obtaining a Permit for such purpose.
- 2.11 No person shall set off Display or Theatrical Fireworks within three hundred (300) metres of a hospital, nursing home, home for the aged, church or school unless the consent of the owner or authorized representative thereof is obtained.
- 2.12 No person shall set off fireworks within three hundred (300) metres of any premises or place where explosives, gasoline or other highly flammable substances are manufactured or stored in bulk.
- 2.13 No person shall sell any Fireworks from a Mobile Sales Premise without making application for, obtaining and maintaining, pursuant to the terms of this By-law, a Permit therefore authorizing him/her in respect of the location authorized on such Permit.
- 2.14 No person shall sell Fireworks from a location or site other than that specified on the Permit.
- 2.15 Permit holder shall comply with every condition of the Permit.
- 2.16 No person shall store Fireworks unless in compliance with the *Explosives Act*, R.S.C. 1985, c. E-17, and the regulations thereto.
- 2.17 No person shall permit a person to discharge fireworks of any kind on property to which they are in lawful care and control unless the person discharging the fireworks has the applicable fireworks discharge permit to do so.
- 2.18 No person shall represent or cause to represent that he or she is the lawful owner, or occupier, or legal representative, of lands upon which the discharging of fireworks is to take place for the purpose of obtaining a fireworks discharge permit if he or she is not.

### **3. Regulation Affecting the Discharge of Consumer Fireworks**

- 3.1 No parent or guardian of any person under the age of eighteen (18) years shall allow or permit that person to set off Consumer Fireworks, except under the direct supervision and control of a natural person eighteen years of age or older, who shall, at all times, remain physically present in the immediate area where the Consumer Fireworks are being set off.
- 3.2 No person shall set off or hold a display of Consumer Fireworks on any land that is not owned by him or her, unless written permission for the setting off or the holding of a display of Consumer Fireworks on a date to be clearly specified in the written permission, has been obtained from the owner, lessee or person in charge of the land.
- 3.3 Every person who sets off Consumer Fireworks shall:
  - a) Provide and maintain fully operational fire extinguishing equipment ready for immediate use, and present at all times and for a reasonable period thereafter, at the location or site of the setting off of Consumer Fireworks. This includes having knowledge of the operational procedures associated with said fire extinguishing equipment;
  - b) follow the manufactures requirements for the discharge of fireworks; and
  - c) permit the inspection of any site where the Consumer Fireworks may be stored, set off or displayed, and the Consumer Fireworks themselves, together with all associated equipment, by anyone authorized to enforce this By-law, forthwith upon demand.

### **4. Permits for the Discharge of Consumer Fireworks**

- 4.1 Every application for a Permit to discharge Consumer fireworks shall be made to the Fire Chief upon such application form as may be issued by the Fire Chief from time to time.
- 4.2 The fees for Permits are set out in the Town of Whitby's Fees and Charges By-law, as amended.
  - a) Notwithstanding 4.2 the cost for the permit, required in 2.1 of this by-law to discharging Consumer fireworks on cultural or religious holidays is waived
- 4.3 No Permit shall be issued to any person under eighteen (18) years of age.
- 4.4 Every Permit application to discharge Fireworks shall include:
  - a) a description of the type and kind of Fireworks which may be discharged, the discharge techniques to be used, the manner and means of restraining unauthorized persons from attending too near the

discharge location, the manner in which unused Fireworks are to be disposed of and the number of persons authorized to handle and discharge the Fireworks;

- b) a description and site plan drawing of the discharge location to be used for the setting off of the Fireworks sufficient to identify and locate the site upon the property where the discharge is proposed;
- c) proof of authorization of the owner of the land that Fireworks may be discharged at such location;
- d) the name of the applicant and the name of the sponsoring organization, if applicable;
- e) the date and time of the proposed discharge of Fireworks and an alternate date and time in the event of inclement weather;
- f) the appropriate Permit fee.

## **5. Permits for the Discharge of Display and Theatrical Fireworks**

5.1 In addition to the requirements set out in section 4.4 of this by-law, every application for a Permit for Display Fireworks and Theatrical Fireworks shall include.

- a) proof of commercial general liability insurance in an amount no less than Five Million Dollars (\$5,000,000.), naming The Corporation of the Town of Whitby as an additional insured and containing a cross liability clause;
- b) proof that the applicant has been approved by the Chief Inspector of Explosives pursuant to the Explosives Act as a Fireworks Supervisor by providing a copy of Fireworks Supervisor's permit;
- c) an Indemnification Hold Harmless Undertaking in favour of the Town and signed by the applicant or by an individual having the authority to bind the applicant
- d) such further and other information as the Fire Chief may require

5.2 Every person to whom a Permit for the Discharge of Display and Theatrical Fireworks is issued shall:

- a) provide and maintain fully operational fire extinguishing equipment ready for immediate use, and present at all times and for a reasonable period thereafter, at the location or site of the discharge of Fireworks;
- b) conform to the provisions of the current issue of the Fireworks Manual as published from time to time by the Explosives Branch of Natural Resources Canada, or any successor publication, applicable to the handling and discharge of Fireworks authorized in the Permit;



- c) produce the Permit on demand by any person authorized to enforce this By-law;
- d) permit the inspection by the Town of the Fireworks and any site where the Fireworks may be stored or discharged together with all associated equipment and documentation pertaining to the discharge of fireworks; and
- e) only discharge the Fireworks at the date, time, location and discharge site shown on the Permit.

5.3 Every Permit for the Discharge of Display and Theatrical Fireworks shall, include the following conditions:

- a) no person, except a Fireworks Supervisor, shall set off any Display or Theatrical Fireworks;
- b) the Fireworks Supervisor, who is named on the Permit application, shall be present in person at the display at all times during which the display is being set up, discharged and cleaned up;
- c) any additional conditions that are required by the Fire Chief.

## **6 Regulations Affecting the Sale of Consumer Fireworks**

- 6.1 All vendors of Consumer Fireworks in the Town of Whitby are required to conduct the sales of Consumer Fireworks within a Permanent Fireworks Premise, Temporary Fireworks Premise, in accordance with this By-law and all applicable law.
- 6.2 Notwithstanding 6.1, a Mobile Sales Premises may be approved within the Town of Whitby, provided the vendor conforms to section 7 of this By law.
- 6.3 No person shall sell Consumer Fireworks or possess Consumer Fireworks for the purpose of sale, except on New Years Day, Victoria Day, Canada Day, and each of the seven days immediately preceding New Years Day, Victoria Day and Canada Day.
- 6.4 No person shall sell Consumer Fireworks unless:
  - a) the Fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of Natural Resources Canada, or their successors;
  - b) the Fireworks are sold in accordance with the standards of Natural Resources Canada;
  - c) the Fireworks are displayed for sale in a package, glass case or other suitable receptacle away from inflammable goods;

- d) the Fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door; and
  - e) they provide to purchasers of Fireworks, a manufacturer's brochure outlining the safe handling of Fireworks.
- 6.5 All vendors of Consumer Fireworks in the Town of Whitby must have written consent from the owner of the property to sell Fireworks from said property.
- 6.6 All vendors of Fireworks shall designate an area of 6 metres around every location from which Fireworks are sold or stored for the purposes of sale. This area shall be designated and posted as a "non-smoking" area and no person may smoke or ignite any flammable material, or have in his possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device in such area.
- 6.7 All vendors of Fireworks shall provide and maintain fully operational fire extinguishers, ready for immediate use, on site at all times.
- 6.8 No person shall sell Fireworks to any person under the age of eighteen years.
- 6.9 No vendor of Fireworks may permit any employee to sell Fireworks without first instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations.
- 6.10 Every vendor of Fireworks shall keep their Permit certificate issued in respect of this By-law posted in a conspicuous place within the place of sale, at all times during the currency of the Permit.
- 6.11 All vendors of Fireworks within the Town of Whitby must hold a valid and appropriate license from the Explosives Branch of Natural Resources Canada, or its successors, if storage quantity of fireworks exceeds one thousand (1000) kg.
- 6.12 All locations and buildings used for the sale of Fireworks must comply with the Town of Whitby Zoning By-law requirements.
- 6.13 No person shall sell Consumer Fireworks unless:
- a) the Fireworks are displayed for sale in lots that do not exceed twenty five (25) kilograms each in gross weight;
  - b) the Fireworks are displayed in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door;
  - c) Consumer Fireworks displayed in any shop window shall be mock samples only and shall not contain explosive composition;

- d) any unsold Fireworks must be returned to the manufacturer or distributor within seven days immediately following New Years Day, Victoria Day and Canada Day;
- e) Remaining unsold Fireworks not exceeding twenty five (25) kilograms in gross weight shall be deemed in compliance with subsection 6.13.(d) provided they are immediately stored in a cool, dry place removed from flammable materials, and fuel fired appliances and are inaccessible to the public;
- f) the weight of Consumer Fireworks stored on site cannot exceed one thousand (1,000) kilograms in gross weight unless the vendor holds a valid and appropriate license to do so from the Explosives Branch of Natural Resources Canada, or its successors.

## **7 Permits for Mobile Sales Premises**

- 7.1 No person shall sell any Display or Theatrical Fireworks from a mobile sales premise.
- 7.2 Every application for a Permit pursuant to this section shall be made to the Clerk upon such application form as may be issued by the Clerk from time to time.
- 7.3 The fees for Permits are set out in the Town of Whitby's Fees and Charges By-law, as amended.
- 7.4 No Permit shall be issued to any person under eighteen (18) years of age.
- 7.5 Every Permit application for Mobile Sales Premises shall include:
  - a) the name and mailing address of the applicant and the name of the sponsoring organization, if applicable;
  - b) the operating date(s) of the proposed Mobile Sales Premises;
  - c) a description and site plan drawing sufficient to identify and locate the site upon the property where the mobile sales premises is proposed;
  - d) proof of authorization of the owner of the land that the Mobile Sales Premises may be located on the property;
  - e) proof of commercial general liability insurance in an amount no less than Five Million Dollars (\$5,000,000.), naming The Corporation of the Town of Whitby as an additional insured and containing a cross liability clause;
  - f) an Indemnification and Hold Harmless Undertaking in favour of the Town and signed by the applicant or by an individual having the authority to bind the applicant;
  - g) the appropriate Permit fee; and

- h) such further and other information as the Clerk may require.

## **8 Regulations Affecting Mobile Sales of Fireworks**

- 8.1 In addition to the regulations affecting the sale of Fireworks pursuant to this By-law, no person shall sell Fireworks from a Mobile Sales Premise except in accordance with the following conditions:
- a) not less than two (2) signs must be posted in prominent locations on the outside of the Mobile Sales Premise indicating that persons may not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within six (6) metres of the Mobile Sales Premise;
  - b) a Mobile Sales Premise may not be located within twenty (20) metres of any road or occupied parking space and may not be located within forty (40) metres of any occupied building, or any dwelling or gas station; or as otherwise regulated by the Explosives Branch of Natural Resources Canada, or its successors;
  - c) the public shall not be permitted to enter any Mobile Sales Premise for the purpose of purchasing Fireworks unless there are at least two operational doors providing means of access to and egress from the Mobile Sales Premise;
  - d) no more than fifteen (15) customers are permitted in a Mobile Sales Premise at the same time;
  - e) any portable power supply to the mobile sales trailer must be located not less than twelve (12) metres from the Mobile Sales Premise; and,
  - f) with the exception of its entrance and exit, every Mobile Sales Premise shall have a "no encroachment zone" of at least six (6) metres established around its perimeter by means of a barrier, such as snow fencing or pylons or other material satisfactory to the Clerk to exclude the public from this area.

## **9 Nature of Permit**

- 9.1 No person shall enjoy a vested right in the continuance of a Permit and the value of a Permit shall be the property of the Town and shall remain so irrespective of the issue, or revocation thereof.
- 9.2 No person licensed to carry on any trade, calling, business \_or occupation pursuant to this By-law shall advertise or promote or carry on such trade, calling, business or occupation under any name other than the name endorsed upon his Permit.

- 9.3 The Permits required by this By-law shall be valid only for the dates endorsed thereon.
- 9.4 No Permit shall be transferred or assigned and if a person Permitted pursuant to this By-law sells, leases or otherwise disposes of his interest in the discharge or sales of fireworks, his Permit shall, notwithstanding any other provision of this By-law, be revoked.
- 9.5 Every Permit shall have endorsed thereon the location of the Mobile Sales Premises or discharge of fireworks and such endorsement shall be for one location only and such Permit shall be valid only for the location endorsed thereon.
- 9.6 Receipt of the application and/or the Permit fee by the Town shall not represent approval of the application for the issuance of a Permit nor shall it obligate the Town to issue such Permit.
- 9.7 The Permit Issuer shall:
- a) receive and process all applications for Permits to be issued under this By-law;
  - b) co-ordinate the enforcement of this By-law;
  - c) generally perform all the administrative functions conferred upon him by this By-law;
  - d) make or cause to be made all investigations and inspections which he deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws; and
  - e) issue Permits to persons who meet the requirements of this By-law and refuse, suspend or revoke Permits pursuant to the provisions of this By-law.
- 9.8 Notwithstanding the foregoing section, upon review of a Permit application the Permit Issuer may refuse to issue the Permit where:
- a) the past or current conduct of the applicant or Permit holder provides reasonable grounds for belief that he or she is not carrying on or will not carry on the activity for which the Permit is required and/or the application is not made in accordance with law and with integrity and honesty; or
  - b) there are reasonable grounds for belief that the carrying on of the activity for which a Permit is required, by the applicant or Permit holder, has or will result in a breach of this By-law or any other applicable law; or
  - c) the applicant or Permit holder is a corporation or a partnership and its conduct or the conduct of its officers, directors, employees, agents or partners affords reasonable grounds for belief that activity for which a

Permit is required, will not be carried on in accordance with the law and with integrity and honesty; or

- d) there are reasonable grounds for belief that the premises, accommodations, equipment or facilities in respect of which the Permit is required do not comply with the provisions of this By-law or any other applicable law; or
- e) the conduct of the applicant or Permit holder or other related circumstances afford reasonable grounds for the belief that the carrying on by the applicant of the activity for which a Permit is required would infringe the rights, or endanger the health or safety of members of the public; or
- f) the applicant or Permit holder has provided fraudulent information in the Permit application.

9.9 The applicant shall be notified in writing by the Permit Issuer for the refusal of a Permit, and such notification shall include the particulars of the refusal.

9.10 When an application for Permit is made in accordance with the provisions of this By-law and the applicant meets all the requirements of this By-law or where the Permit Issuer has been so authorized by Council in response to a Report in this regard, the Permit Issuer shall issue a Permit which shall set out the date of the Permit in accordance with this By-law.

9.11 A Permit may be suspended or revoked by the Permit Issuer for a breach of any of provisions set out in Section 9.8 of this By-law, by written notice, and it shall not be reinstated until the Permit Issuer is able to confirm that the conditions leading to the suspension or revocation have been remedied.

9.12 At any meeting of Council called in relation to a report to consider the issuance, suspension or revocation of a Permit:

- a) the applicant and/or Permit holder shall be accorded its rights pursuant to the Statutory Powers Procedures Act including the right to appear and speak to the matter;
- b) where the applicant and/or Permit holder has been provided with notice of the meeting and does not attend, Council may proceed with the meeting in the absence of the applicant and/or Permit holder; and
- c) where Council concludes that grounds exist upon which a Permit may be refused, suspended or revoked, Council may in lieu thereof issue a Permit for any period up to a full Permit period, on probation, or without a term of probation, subject to such conditions as Council may impose and are in accordance with law.

## **10 Offence, Penalty and Enforcement**

- 10.1 Any person who contravenes the provisions of this By-law is guilty of an offence and, upon conviction is liable to the maximum fine applicable to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 10.2 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law and may result in the revocation of a Permit issued hereunder.
- 10.3 Every person shall comply with the provisions of this By-law applicable to him whether or not he is licensed under this by-law.
- 10.4 Every Permit applicant, Permit holder and person requiring a Permit pursuant to this by-law shall during the regular operating hours of the premises where fireworks are sold, make available for inspection by the Clerk, the Fire Chief, a Peace Officer, a Provincial Offences Officer, or a By-law Enforcement Officer the original of any document or record referred to in this By-law.
- 10.5 Every Permit applicant, Permit holder and every person discharging Fireworks shall, at all times during the set-up, discharge and dismantling of the Fireworks permit the entry by and the inspection of the site where the Fireworks will be discharged by a By-law Enforcement Officer, a Provincial Offences Officer, the Clerk or a Peace Officer.
- 10.6 No person shall obstruct or hinder the entry or the inspection of a Mobile Sales Premises, Temporary Fireworks Premise or any premise conducting the sale of Fireworks or discharge of Fireworks, or other premises or items authorized for inspection pursuant to this by-law, by a By-law Enforcement Officer, a Provincial Offences Officer, the Clerk, the Fire Chief, or a Peace Officer for the purposes of inspecting or for the enforcement of this by-law.
- 10.7 Every person who contravenes or fails to comply with a provision of this By-law is guilty of an offence and is liable to the penalty as set out in Schedule "A" to this By-law.

- 10.8 Tiered and Escalating Penalties: If a person receives a Penalty Notice in accordance with the Town's Administrative Penalty By-law for an offence, the person shall be liable to pay to the Town a tier one (1) administrative penalty amount for that offence as specified in Schedule "A" to this By-law. If a person receives an additional Penalty Notice for the same offence within ninety (90) calendar days or less from the date of the Penalty Notice containing a tier one (1) administrative penalty amount, the person shall be liable to pay to the Town a tier two (2) administrative penalty amount for that offence as specified in Schedule "A" to this By-law. If the person receives a subsequent Penalty Notice for the same offence within ninety (90) calendar days or less of the Penalty Notice containing a tier two (2) administrative penalty amount, the person shall be liable to pay to the Town a tier three (3) administrative penalty amount for that offence as specified in Schedule "A" to this By-law. If the person receives any subsequent Penalty Notices for the same offence within one hundred and eighty (180) calendar days or less from the date of the Penalty Notice containing a tier three (3) administrative penalty amount, the person shall be liable to pay to the Town a tier three (3) administrative penalty amount for that offence as specified in Schedule "A" to this By-law.

## **11 Administration**

- 11.1 The Fire Chief shall be responsible for the issuance and administration of Permits for the Discharge of Fireworks, and the Clerk shall be responsible for the issuance and administration of Permits for Mobile Sales Premises.

## **12 Miscellaneous**

- 12.1 The provisions of this By-law shall apply to all lands and premises within the Town of Whitby.
- 12.2 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being, severed herefrom and the remainder of the By-law shall continue in full force and effect.
- 12.3 All Schedules referred to in this By-law and attached to this By-law form and are part of the By-law.
- 12.4 Wherever notice or materials are required to be served upon or provided



to any person pursuant to this By-law, such provision shall be deemed effective upon mailing of such materials by registered mail to the last address of that person as indicated upon Permit or other material filed with the Town or to the last assessed business address for the person indicated upon the Taxation Roll Records.

12.5 This By-law shall come into force and effect on the day of its passing.

12.6 The short title of this By-law shall be the "Fireworks By-law".

### **13 Effective Date**

By-law read and passed this 10th day of May, 2010.

Original Approved and Signed.

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Patricia Perkins, Mayor

Original Approved and Signed.

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Martha Pettit, Deputy Clerk

## SCHEDULE A – ADMINISTRATIVE PENALTIES

| Item | Short Form Wording                                                                                                                                                     | By-law Section | Tier 1 (one) | Tier 2 (two) | Tier 3 (three) |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------|--------------|----------------|
| 1.   | Discharge Fireworks on prohibited day or time                                                                                                                          | 2.1            | \$350.00     | \$500.00     | \$750.00       |
| 2.   | Possess/discharge Firecrackers/Prohibited Fireworks                                                                                                                    | 2.4            | \$350.00     | \$500.00     | \$750.00       |
| 3.   | Sell Firecrackers/Prohibited Fireworks                                                                                                                                 | 2.5            | \$350.00     | \$500.00     | \$750.00       |
| 4.   | Sell/permit to be sold Fireworks not in accordance with provisions of by-law                                                                                           | 2.6            | \$500.00     | \$750.00     | \$1000.00      |
| 5.   | Discharge/possess Display Fireworks/Theatrical Fireworks – no permit                                                                                                   | 2.7            | \$350.00     | \$500.00     | \$750.00       |
| 6.   | Discharge Fireworks not in accordance with permit                                                                                                                      | 2.8            | \$350.00     | \$500.00     | \$750.00       |
| 7.   | Discharge Fireworks that create a nuisance/unsafe condition/danger from fire/risk of accident or injury                                                                | 2.9            | \$500.00     | \$750.00     | \$1000.00      |
| 8.   | Discharge Fireworks into/in or on any highway/street/lane/square/public park or other public place, without permit.                                                    | 2.10           | \$500.00     | \$750.00     | \$1000.00      |
| 9.   | Discharge Fireworks within 300m of hospital/nursing home for the aged, church/school without consent                                                                   | 2.11           | \$350.00     | \$500.00     | \$750.00       |
| 10.  | Sell Fireworks from Mobile Sales Premise - no permit                                                                                                                   | 2.13           | \$500.00     | \$750.00     | \$1000.00      |
| 11.  | Sell Fireworks from location/site other than location/site specified on permit                                                                                         | 2.14           | \$500.00     | \$750.00     | \$1000.00      |
| 12.  | Sell Fireworks to any person under the age of eighteen years.                                                                                                          | 6.8            | \$500.00     | \$750.00     | \$1000.00      |
| 13.  | Obstruct/hinder entry of Enforcement Officer/Fire Chief to Mobile Sales Premises/Temporary Fireworks Premise/any premise conducting the sale or discharge of Fireworks | 10.6           | \$500.00     | \$750.00     | \$1000.00      |