



BY-LAW

NO. 2002-16

BEING A BY-LAW IN RESPECT TO THE SALE AND USE OF FIREWORKS AND FIRECRACKERS

WHEREAS pursuant to paragraphs 37, 38, and 49 of Section 210 of the *Municipal Act, R.S.O. 1990, c.M.45*, as amended, councils of local municipalities are authorized to pass by-law for the following:

37. For regulating the sale of fireworks or any class thereof and for prohibiting the sale of fireworks or any class thereof on any days during the year specified in the by-law.
38. For prohibiting or regulating the setting off of fireworks or any class or classes thereof in the municipality or in any defined areas or areas thereof and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit.
49. For making such other regulations for preventing fires and spread of fires as the council considers necessary.

NOW THEREFORE the Council of the Municipality of Kincardine **ENACTS** as follows:

1. Definitions

In this by-law:

- (a) "Act" means The Explosives Act R.S., c. E-15, s.1.
- (b) "Firecrackers" means a pyrotechnic device that explodes instantaneously when ignited and does not make any subsequent display or visible effect after the explosion, and
 - (i) includes those devices commonly known as Chinese firecrackers, but
 - (ii) does not include paper caps containing not in excess of an average of twenty-five one-hundredths of a grain of explosive used per cap, or device for use with such caps.

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- (c) "Family fireworks" means a pyrotechnic device producing quantities or effects of light, sound or smoke by the combustion of explosive or flammable composition and includes firework showers, fountains, golden rain, lawn lights, pin wheels, roman candles, sparklers, volcanoes and mines, but does not include
 - (i) firecrackers;
 - (ii) articles or devices not classed under the Act as shop goods.
- (d) "Exhibition fireworks" means a manufactured pyrotechnic device producing spectacular effects of light or sound of such a nature that it is not classed under the Act as shop goods.
- (e) Fire Chief shall mean the Fire Chief of the Kincardine Fire Station, the Fire Chief of the Tiverton Fire Station and the Fire Chief of the Paisley Fire Station.
- (f) By-law Enforcement Officer shall mean the By-law Enforcement Officer of the Municipality of Kincardine.

2. Administration

This by-law shall be administered by the Fire Chief or designate and By-law Enforcement Officer of the Municipality of Kincardine.

3. General Provisions

3.1 Sale of Family Fireworks and Firecrackers

- (a) No person shall sell, offer for sale, or have in their possession, any firecrackers.
- (b) The sale of family fireworks is prohibited except on the following days:
 - (i) Victoria Day, Canada Day and Independence Day (USA);
 - (ii) Each of the six business days immediately preceding Victoria Day, Canada Day and Independence Day (USA).
- (c) Subject to subsection (d) no person shall sell, give or distribute family fireworks to any person under the age of 18 or;
- (d) appears to be under 18 years of age and does not produce evidence that he/she is 18 years of age or older.
- (e) Notwithstanding subsection (a), (b) and (c), a person may sell paper caps, toy pistols, toy cannon or toy guns for the use of such caps, the explosive content of which is not in excess of twenty-five one-hundredths of a grain per cap.
- (f) No person shall have in their possession, sell, offer for sale, give or distribute any exhibition fireworks unless licensed to do so.

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- (g) Fireworks defined in Subdivisions 1, 3 and 4 of Division 2 of Class 7 of the Act are being displayed for sale they shall be displayed:
- (i) in lots that do not exceed 25 kilograms each gross weight;
 - (ii) in a package, glass case or other suitable receptacle away from inflammable goods; and
 - (iii) in a place where they are not exposed to the rays of the sun or to excess heat;
 - (iv) With a No Smoking sign posted at entrance to building;
 - (v) With a sign posted that the sale of fireworks is prohibited to any person under the age of 18.

3.2 Discharge of Firecrackers

No person shall discharge, fire or set off, or cause to be discharged, fired or set off, any firecrackers.

3.3 Displays of Family Fireworks

- (a) The setting off of family fireworks is prohibited except on the following days and time:
- (i) Victoria Day, Canada Day and Independence Day (USA);
 - (ii) The Saturday preceding or the Saturday following Canada Day, Victoria Day and Independence Day (USA);
 - (iii) Between dusk and 12 p.m.;
 - (iv) Notwithstanding the provision of the bylaw in relation to day and time, the Fire Chief may suspend the use of fireworks on "legal" days when a no burn order has been issued.
- (b) A person 18 years of age or over may hold a display of family fireworks on any land belonging to him/her or on any other privately owned land where the owner thereof has given permission for such a display or discharge of fireworks provided such land is of an adequate size for the safe discharge of family fireworks.
- (c) No person shall use, set off or allow to be used or set off any firework(s) in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act of commission or omission at the time and place for the setting off of any fireworks.
- (d) No person shall set off any firework(s) in or on or into any highway, street, lane or square; nor permit debris to fall upon such sites provided that this shall not be deemed to prohibit a display of exhibition fireworks in a public place in accordance with the provisions of this by-law.
- (e) No person shall set off any firework(s) in or into any building, doorway, automobile, or other place where such setting off might create a danger or nuisance to any person or property.
- (f) No person under the age of 18 years shall set off any firework(s).

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- (g) No person being the parent or guardian of any child under the age of 18 shall allow the child to set off any firework(s).
- (h) No person under the influence of drugs or alcohol shall set off any firework(s)

3.4 Public Fireworks Displays

- (a) No person or group of persons shall hold a display of exhibition fireworks without first having obtained a permit to do so signed by the Fire Chief or Deputy Fire Chief of the Municipality of Kincardine and who is certified by the Explosive Regulatory Division to authorize permits.
- (b) The application for a permit shall be made at least two weeks prior to the date on which it is desired to hold the display of exhibition fireworks, stating place and time, and with what group, and what protection they have.
- (c) A display of exhibition fireworks may only be held by a certified firework's supervisor. All persons must be certified firework's supervisor Level 1.
- (d) A display of exhibition fireworks shall be conducted in conformance with Display Fireworks Edition #1 1999 Natural Resources Canada and any subsequent edition.
- (e) All unused fireworks and all debris shall be removed by the group holding the display immediately following its conclusion and disposed of following procedures as outlined in the Display Fireworks Manual Edition #1 1999 Natural Resources Canada and any subsequent edition.
- (f) A public advertisement shall be given at least one week in advance of any exhibition firework's display.

4. Penalty

- 4.1 No Person shall fail to comply with regulations as set out in this by-law.
- 4.2 Every person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided in the attached Schedule "A".
- 4.3 The court in which the 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 penalty imposed on the person convicted.

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5. This by-law will supercede any by-law that is in conflict with this by-law.
6. This by-law shall come into full force and effect upon its final passing.
7. This by-law may be cited as the "Sale and Use of Fireworks and Firecrackers, By-Law".

READ a FIRST and SECOND time this 12th day of September, 2001.

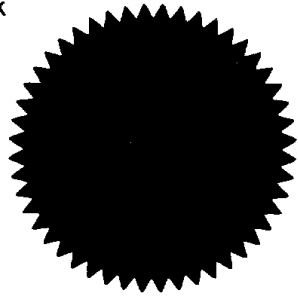
READ a THIRD time and **DEEMED TO BE PASSED** this 13th day of February, 2002.

[Redacted signature]

Mayor

[Redacted signature]

Clerk



MUNICIPALITY OF KINCARDINE

**SCHEDULE "A" TO BY-LAW NO. 2002 - 16
SALE AND USE OF FIREWORKS AND FIRECRACKERS BY-LAW
SET FINE SCHEDULE**

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	DESCRIPTION OF OFFENCE	PROVISIONS CREATING OFFENCE	SET FINES INCLUDING COST
1.	(Sell/give) person under 18 years of age fireworks	Section 3.1 (c)	\$250.00
2.	Display fireworks in manner not in accordance with by-law to wit:	Section 3.1 (g)	\$125.00
3.	(Display/sell) fireworks for sale on days not permitted by by-law to wit:	Section 3.1 (b)	\$125.00
4.	Discharge fireworks on (day/time of day) not permitted by by-law to wit:	Section 3.3 (a)	\$250.00
5.	(Display/offer for sale/sell) (firecracker/banger)	Section 3.1 (a)	\$250.00
6.	Discharge (firecracker/banger)	Section 3.2	\$250.00

The penalty provisions for the offences indicated above is Section 3.0 of By-law Number 2002 - 16 a certified copy of which has been filed.