

--	--

TO:	CHAIR AND MEMBERS COMMUNITY & PROTECTIVE SERVICES COMMITTEE MEETING ON JUNE 16, 2014
FROM:	JOHN KOBARDA FIRE CHIEF, LONDON FIRE DEPARTMENT
SUBJECT:	AMENDMENT OF FIREWORKS BY-LAW PW11

RECOMMENDATION

That on the recommendation of the Fire Chief and the concurrence of the Managing Director of Neighbourhood, Children and Fire Services that the following action **BE TAKEN**:

The attached amending by-law to the Fireworks By-law PW-11 (Appendix A) **BE INTRODUCED** at the Municipal Council meeting of June 24, 2014 for the purpose of providing additional dates to discharge Consumer Fireworks in celebration of Canada Day.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
--

- None

BACKGROUND

At the Municipal Council session held May 20, 2014, Council resolved the following:

5. *That the communication from J. Bialkowski BE FORWARDED to the Civic Administration, and the Civic Administration BE DIRECTED to draft the appropriate by-law amendment, to permit the use of retail grade fireworks on the weekend prior to the Canada Day holiday. (5/11/CPSC)*

Prior to speaking to the aforementioned direction, it is important to advise Council of several considerations regarding the same. Civic Administration has identified several considerations including the following: the absence of a Public Participation Meeting; an inability to issue Part I tickets in 2014 if the City discovers violations; and, the possibility of additional noise and nuisance complaints.

The first consideration surrounds a potential impact on residents near a Consumer fireworks display resulting from an amendment to the Fireworks By-law, the most obvious being potential exposure to noise during the actual discharge of Consumer Fireworks for one (1) additional period per year. Recognizing the potential impact, it is customary to hold a Public Participation Meeting seeking public input concerning the same; however, given the compressed timeframe there was insufficient time to hold the same.

Second, Council should also be aware that the timing of the amendment to the By-law would prevent the City from issuing Part I tickets related to violations of section 5 of the By-law from the date of the passing of the amending by-law until a new set fine order is obtained. The City will need to obtain a new set fine order from the Regional Senior Justice, noting that the latter process normally takes approximately three (3) months. Accordingly, where the City discovers a violation of section 5 and finds it necessary to lay a charge, it would be limited to a Part III Information, which is a more lengthy and complex process.

The final consideration would be the potential for additional noise and nuisance complaints given that fireworks could be discharged on two (2) separate days in celebration of Canada Day, whereas the current By-law limits the discharges to one (1) day. While history is not always a predictor of the future, on this matter the Chief Municipal Law Enforcement Officer

--	--

advised that his division does receive the odd noise complaint regarding the discharge of fireworks. Accordingly, the amendment herein noted may result in additional complaints but the extent would be extremely difficult to predict.

Regarding the amendment to the By-law, it is the understanding of the London Fire Department (LFD) that the aforementioned Resolution flowed from correspondence forwarded by Mr. Bialkowski to the Community and Protective Services Committee. In that correspondence, Mr. Bialkowski seeks flexibility with regard to the dates that Consumer Fireworks may be discharged to celebrate Canada Day, noting that currently Section 5(1)(b) of the Fireworks By-law PW-11 limits such discharges to between dusk and 11:00 p.m. only on that Statutory Holiday. In support of his request, Mr. Bialkowski's included the fireworks by-laws from Owen Sound, Hamilton and Guelph, noting that they all provide different levels of flexibility above and beyond that of the City's.

In order to provide the flexibility requested, the LFD recommends amending the existing language in the Fireworks By-law PW-11, more specifically Section 5(b) from:

- 5. (1) *No person shall discharge consumer fireworks except:*
 - (a) *between dusk and 11:00 p.m. on Victoria Day;*
 - (b) *between dusk and 11:00 p.m. on Canada Day;*
 - (c) *as part of a display of.....*

To the following:

- 5. (1) *No person shall discharge consumer fireworks except:*
 - (a) *between dusk and 11:00 p.m. on Victoria Day;*
 - (b) *between dusk and 11:00 p.m. on Canada Day;*
 - (c) ***between dusk and 11:00 p.m.:***
 - (ii) on the Saturday preceding Canada Day where Canada Day falls on a Monday or Tuesday;***
 - (iii) on the Saturday following Canada Day where Canada Day falls on a Wednesday, Thursday or Friday;***
 - (d) *as part of a display of display fireworks for which a permit has been obtained and for which all conditions and requirements of the permit have been met; or*
 - (e) *at such other times and such other dates as permitted by Council by by-law.*

[Emphasis Added to Proposed Amendment]

It is important to note that the aforementioned proposed amendment varies from the fireworks by-laws of Guelph, Hamilton and Owen Sound surrounding the Canada Day celebration, and/or other Statutory Holidays, noting that all of the said by-laws provide varying degrees of flexibility. With respect to when Consumer Fireworks can be discharged in celebration of Canada Day, the proposed amendment most closely mirrors Owen Sound's Fireworks By-Law which enables its residents to discharge Consumer Fireworks on "*Canada Day and the closest Friday and Saturday*". The amendment herein provides one (1) additional day on a weekend on which to discharge Consumer Fireworks but more closely defines on which weekend the discharge can occur than does the Owen Sound by-law. It is hoped that the limitation to one (1) additional day versus two (2) will allay concerns related to noise and nuisance yet still provides the opportunity to discharge the same on a weekend when many citizens are off work.

Strictly from a fire safety perspective, the LFD cannot foresee any additional fire risk arising from the proposed amendment to the By-law. Furthermore, the flexibility sought seems reasonable given the fact that Canada Day is always celebrated on July 1st of each year, which thereby results in the Statutory Holiday falling on various days throughout the week. Accordingly, it does make it difficult for neighbourhoods to celebrate the holiday when it occurs mid-week.

--	--

As a separate indirect information piece, the By-law requires all retailers selling fireworks to obtain a business license for day sales of fireworks. Mr. Katolyk, the City's Chief Municipal Law Enforcement Officer, has advised that Municipal Law Enforcement Officers will be proactively inspecting for compliance prior and during the 2014 Canada day period.

Financial Impact

The by-law does not have a financial impact on the City departments.

SUMMARY

The Community and Protective Services Committee received correspondence, which included fireworks by-laws from three (3) other municipalities, seeking some flexibility with respect to the days on which consumer fireworks may be discharged in celebration of Canada Day. In reviewing that request, Council directed Civic Administration to draft a by-law incorporating the requisite amendments.

The LFD has reviewed the same and sees no reason why such flexibility should not be incorporated into the By-law and to that end proposes an amendment to the same (see attachment) for review and consideration by Committee and Council.

RECOMMENDED BY:	REVIEWED & CONCURRED BY:
JOHN KOBARDA FIRE CHIEF	LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN & FIRE SERVICES

--	--

APPENDIX A

Bill No.
2014

By-law No. PW-11-

A By-law to amend By-law PW-11 entitled, "A by-law to provide for the sale of fireworks and the setting off of fireworks and pyrotechnics within the City of London and for requiring a permit and imposing conditions."

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a municipal power shall be exercised by by-law;

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

1. Section 5.(1) of by-law PW-11 is hereby deleted in its entirety and replaced with the following new section 5.(1):

"5. (1) No person shall discharge consumer fireworks except:

- (a) between dusk and 11:00 p.m. on Victoria Day;
- (b) between dusk and 11:00 p.m. on Canada Day;
- (c) between dusk and 11:00 p.m.:
 - (i) on the Saturday preceding Canada Day where Canada Day falls on a Monday or Tuesday;
 - (ii) on the Saturday following Canada Day where Canada Day falls on a Wednesday, Thursday or Friday;
- (d) as part of a display of display fireworks for which a permit has been obtained and for which all conditions and requirements of the permit have been met; or
- (e) at such other times and such other dates as permitted by Council by by-law."

2. This By-law shall come into force and effect on the day it is passed.

PASSED in Open Council on

,2014.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading –
Third Reading –