

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES FOR THE MEETING ON APRIL 26, 2016
FROM:	JOHN KOBARDA FIRE CHIEF
SUBJECT:	AMEND FIREWORKS BYLAW

RECOMMENDATION

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

- (a) the attached amending By-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting of May 3, 2016 to amend the Fireworks By-law.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Amendment of Fireworks By-Law PW11 June 16, 2013

BACKGROUND

The purpose of this report is to recommend changes to the Fireworks bylaw in order to update it to be consistent with current Federal regulations and to address an emerging fire safety concern.

On February 1, 2014 a new set of regulations under the Federal *Explosives Act*, R.S.C. 1985, c E-17 (<http://laws.justice.gc.ca/eng/acts/E-17/FullText.html>) came into force. Among other things, the "*Explosives Regulations, 2013*" (<http://laws.justice.gc.ca/eng/regulations/SOR-2013-211/FullText.html>) updated the classification of explosives.

Many of the City of London's Fireworks By-law (By-law) definitions incorporate the classification scheme from the previous *Explosive Regulations*. It would be prudent to amend the definitions in the By-law to ensure they align with the current regulations.

Sky Lanterns

The amendment to the By-law also includes a prohibition on the use of "Sky Lanterns". Sky Lanterns are small hot air balloons. They are designed with an opening at the bottom where a small fire is suspended. The hot air from the fire allows the lantern to rise and float in the air. It is important to note that Sky Lanterns are not under anyone's direct control once in flight.

The London Fire Department (LFD) has recently been receiving more inquiries regarding the use of Sky Lanterns which is of grave concern. Once deployed Sky Lanterns are essentially floating ignition sources that can travel great distances without being under a person's control. Depending upon where they land, they may create a fire. In early 2014, Sky Lanterns caused a shrub fire in Newmarket, Ontario. Newmarket has since banned the sale and use of Sky Lanterns. Research shows that Sky Lanterns have been banned in several countries such as: Austria, parts of Germany, the UK, Argentina, Chile, Colombia, Brazil, and Australia. They have also

been banned in some Canadian provinces such as: Newfoundland, Nova Scotia, and Prince Edward Island.

In June 2013 Sky Lanterns caused a massive plastics recycling plant fire in in the United Kingdom (Smethwick, West Midlands) which took four days to extinguish and caused an estimated \$9 million damage. In addition, they have also started wildfires in Utah, Colorado, and North Carolina, U.S.A.

With respect to the use of Sky Lanterns in Ontario, the LFD conducted a survey amongst the 10 largest municipalities within the province, where 50% of Ontarians reside. One municipality did not respond. The survey revealed that the three largest municipalities, as well as Windsor, banned the sale and use of Sky Lanterns through By-laws. The survey also revealed that Markham denies the use of Sky Lanterns using three sections of the Fire Code, as has London recently. Therefore, bans including denied use restrict 79.3% of the population residing in the municipalities surveyed from using Sky Lanterns. It is important to note that Brampton, the fourth largest city in Ontario, is considering banning all types of Consumer Fireworks. The chart below summarizes the responses.

Municipality	Status Of Sky Lantern Use	Population 2011	Ontario Population Rank 2011
Toronto	Banned	2,615,060	1
Ottawa	Banned	883,391	2
Mississauga	Banned	713,443	3
Brampton	No but Considering Banning Consumer Fireworks	523,911	4
Hamilton	No	519,949	5
London	Use of Sky Lanterns denied	366,151	6
Markham	Use of Sky Lanterns denied	301,709	7
Vaughan	No - No discussion yet	288,301	8
Windsor	Banned	210,891	10

Total Population of Top 10 Ontario Municipalities	6,422,806
Total Population Covered by a Sky Lantern Ban	<u>4,422,785</u>
% of Top 10 Population Covered by a Sky Lantern Ban	<u>68.9%</u>
Total Population Covered by a Sky Lantern Ban - Through By-law or Otherwise	<u>5,090,645</u>
% of Top 10 Population Covered by a Sky Lantern Ban - Through By-law or Otherwise	<u>79.3%</u>

A Communique from the Ontario Fire Marshal's Office entitled "Flying Lanterns Pose a Potential Fire Hazard" is in Appendix B to provide further information regarding safety concerns.

Summary of Amendments

The proposed changes for the updated By-law (attached) include amendments too:

- Definition of "consumer firework";
- Definition of "display firework";
- Definition of "prohibited firework";
- Definition of "pyrotechnic special effect firework";
- Definition of "Authorized Persons";

- Definition of “Fireworks Supervisor”;
- Definition of “pyrotechnician”;
- Definition of “temporary sales establishment”;
- Specifying who can enforce the by-law;

Maximum Penalty

- It is also recommended that the maximum fine amounts for the by-law are increased to \$10,000 for a subsequent conviction noting that the maximum fine amount under the *Municipal Act, 2001* is \$100,000.

Amendments – Regulation of Retailers of Consumer Fireworks

Other proposed changes regulate retailing of consumer fireworks, and are set out below. These proposed changes mirror regulations in the *Explosives Act*.

(11) No person retailing consumer fireworks shall store consumer fireworks less than 8 metres away from: fuel dispensers at a fuel dispensing station; retail propane-dispensing tanks and cylinders; above-ground storage tanks for flammable substances; or dispensing facilities for compressed natural gas.

(12) No person retailing consumer fireworks from a temporary sales establishment shall store consumer fireworks less than 8 metres away from: combustible materials; sources of ignition; thoroughfares; buildings; or other temporary sales establishments.

(13) No person retailing consumer fireworks from a temporary sales establishment shall store consumer fireworks less than 3 metres away from any vehicle parking area.

(14) Every person retailing consumer fireworks from a temporary sales establishment shall ensure that the fireworks are attended at all times.

(15) No person shall sell special effect pyrotechnics or display fireworks unless the person holds a licence to do so under the Act.

FINANCIAL IMPACT

There is no financial impact.

SUMMARY

On February 1, 2014 a new set of regulations under the Federal *Explosives Act*, R.S.C. 1985, came into force. Among other things, the “*Explosives Regulations, 2013*” updated the classification of explosives. Many of the City of London’s Fireworks By-law (By-law) definitions incorporate the classification scheme from the previous *Explosive Regulations*. As such, it would be prudent to amend the definitions in the By-law to ensure they align with the current regulations.

The amendment to By-law also includes a prohibition on the use of “Sky Lanterns” as they are a significant fire safety concern.

In addition to the changes herein recommended, it is also recommended that additional regulations be added to regulate retailing of consumer fireworks, as set out in the *Explosives Act*. The LFD further recommends that fine amounts be increased to a maximum of \$10,000 for a subsequent conviction.

PREPARED BY:	SUBMITTED AND RECOMMENDED BY:
BRIAN MCLAUGHLIN DEPUTY FIRE CHIEF	JOHN KOBARDA FIRE CHIEF
CONCURRED BY:	
LYNNE LIVINGSTONE, MANAGING DIRECTOR NEIGHBOURHOOD, CHILDREN & FIRE SERVICES	

APPENDIX A

Bill No.
2016

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 section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly, so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act, 2001* 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 10 of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality, 6. Health, safety and well-being of persons, 8. Protection of persons and property, including consumer protection, 9. Animals, 10. Structures, including fences and signs, and 11. Business licensing;

AND WHEREAS subsections 8(3) and (4) of the *Municipal Act, 2001* provide that a by-law under section 10 may: regulate or prohibit respecting the matter; require persons to do things respecting the matter; provide for a system of licences (permits) respecting the matter; and such by-law may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate;

AND WHEREAS s.120 of the *Municipal Act, 2001* provides that a local municipality may,

- (a) prohibit and regulate the manufacture of explosives in the municipality;
- (b) prohibit and regulate the storage of explosives and dangerous substances in the municipality;
- (c) regulate the keeping and transportation of explosives and dangerous substances in the municipality;

and further that a municipality may prohibit the manufacture or storage of explosives unless a permit is obtained, and may impose conditions of obtaining or continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS s.121 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks, and further that a municipality may prohibit those activities unless a permit is obtained for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS section 7.1(1) of the *Fire Protection and Prevention Act*, S.O. 1997, C. 4, as amended provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS s.7.1(4) of the *Fire Protection and Prevention Act* provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS O. Reg. 213/07 (the Fire Code) made under the *Fire Protection and Prevention Act* sets out requirements with respect to “Explosives, Fireworks and Pyrotechnics” in Section 5.2;

AND WHEREAS s.29 of the *Explosives Act*, R.S.C., 1985, c. E-17 provides that the Act does not relieve any person from the obligation to comply with the requirements of any by-law in relation to explosives;

AND 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 1. of By-law PW-11 is amended by:

- (a) deleting the definition of "Authorized Persons" in its entirety and replacing it with the following new definition of "Authorized Persons":

"Authorized Persons" means, as the context requires: (a) in the case of display fireworks, those persons certified under the Act working under the direct supervision of the Fireworks Supervisor; and (b) in the case of special effect pyrotechnics, working under the direct supervision of the pyrotechnician;

- (b) deleting the definition of "consumer firework" in its entirety and replacing it with the following new definition of "consumer firework":

"consumer firework" means low hazard fireworks generally used for recreation, which may be classified as type F.1 explosives under the Act, including: showers, golden rain, lawn lights, pinwheels, roman candles, volcanoes and sparklers, but does not include Christmas crackers containing less than 2 mg of explosive substance;

- (c) deleting the definition of "display firework" in its entirety and replacing it with the following new definition of "display firework":

"display firework" means high hazard fireworks generally used for a public display, which may be classified as type F.2 explosives under the Act, including: rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, but does not include firecrackers;

- (d) deleting the definition of "Fireworks Supervisor" in its entirety and replacing it with the following new definition of "Fireworks Supervisor":

"Fireworks Supervisor" means a person who is a 'display supervisor in charge' under the Act;

- (e) deleting the definition of "prohibited firework" in its entirety and replacing it with the following new definition of "prohibited firework":

"prohibited firework" includes trick fireworks such as cigarette loads or plugs, dancing crackers, exploding golf balls, 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 cracking balls, stink bombs and smoke bombs, tear gas pens and launchers, party poppers and table bombs, table rockets and bottle sky rockets, and fake firecrackers;

- (f) deleting the definition of "pyrotechnician" in its entirety and replacing it with the following new definition of "pyrotechnician":

"pyrotechnician" means a person who is a 'pyrotechnician in charge' under the Act;

- (g) deleting the definition of "pyrotechnic special effect firework" in its entirety;

- (h) deleting the period at the end of the definition of "sell" and replacing it with a semi-colon;

- (i) adding the following new defined term and definition of "sky lantern" after the definition of "sell":

“sky lantern” means a small hot air balloon with an opening at the bottom where a small fire may be suspended such that the lantern may rise and float in the air while ignited, and which is not under anyone’s direct control;

- (j) adding the following new defined term and definition of “special effect pyrotechnics” after the definition of “sky lantern”:

“special effect pyrotechnics” includes: explosives used to produce a special effect in a film or television production or a performance before a live audience; explosives which may be classified as type F.3 in the Act; fireworks accessories which may be classified as type F.4 in the Act; black powder and hazard category PE 1 black powder substitutes; smokeless black powder and hazard category PE 3 black powder substitutes; initiation systems classified as type I under the Act such as blasting accessories; and detonating cord classified as type E. 1 under the Act;

and

- (k) adding the following new defined term and definition of “temporary sales establishment” after the definition of “special effect pyrotechnics”:

“temporary sales establishment” means a tent, trailer or other temporary shelter intended for the use of retail sales.

2. Section 3 of By-law PW-11 is amended by inserting the following new subsection after subsection 3(3) and renumbering the remaining subsections in sequence:

(4) No person shall sell any sky lanterns.

3. Section 3 of By-law PW-11 is amended by inserting the following new subsections after subsection 3(10):

(11) No person retailing consumer fireworks shall store consumer fireworks less than 8 metres away from: fuel dispensers at a fuel dispensing station; retail propane-dispensing tanks and cylinders; above-ground storage tanks for flammable substances; or dispensing facilities for compressed natural gas.

(12) No person retailing consumer fireworks from a temporary sales establishment shall store consumer fireworks less than 8 metres away from: combustible materials; sources of ignition; thoroughfares; buildings; or other temporary sales establishments.

(13) No person retailing consumer fireworks from a temporary sales establishment shall store consumer fireworks less than 3 metres away from any vehicle parking area.

(14) Every person retailing consumer fireworks from a temporary sales establishment shall ensure that the fireworks are attended at all times.

(15) No person shall sell special effect pyrotechnics or display fireworks unless the person holds a licence to do so under the Act.

4. Section 4 of By-law PW-11 is amended by inserting the following new subsection:

(3) No person shall ignite any sky lantern or release any ignited sky lantern.

5. Subsection 8(b) of By-law PW-11 is amended by inserting the following phrase after the phrase “display fireworks”:

“, and showing the location and identification of storage areas and handling areas”.

PASSED in Open Council on

,2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading –
Third Reading –

APPENDIX B



Public Education Matters

Enhancing Fire Safety Education and Prevention in Your Community

Issue 60, August 1, 2012 Dear Public Educator/Fire Prevention Officer:

Flying Lanterns Pose a Potential Fire Hazard

In 2009, The Office of the Fire Marshal (OFM) became aware of the existence of a consumer product that poses a serious fire safety hazard. The Flying Lantern (also known as a sky lantern) was being sold by Canadian online distributors of fireworks products and at retail stores.

The product resembles a small paper hot-air balloon, fuelled by an open flame. When released, the hot air produced by the fuel source can lift the lantern to extreme heights and allows it to drift for long distances until the fuel is depleted. These lanterns are often released in large numbers to generate an impressive visual effect.

Due to their uncontrolled and unpredictable flight path, these products could land on trees, building rooftops, or other combustible properties while still ignited and potentially cause a fire.

Based on these concerns, the OFM issued [Communiqué 2009-07](#) on May 27, 2009 (view the Communiqué for pictures of lanterns) and a Public Education Matters e-notice on May 28, 2009, which advised fire departments to caution members of their community about the potential fire hazards associated with the Flying Lantern and to encourage retailers who sell this product to remove it from their store shelves.

At that time, the OFM sent a letter to Health Canada urging them to take action to prevent the sale of Flying Lanterns. In response, Health Canada conducted a study of these products and concluded that the results did not support a need to take regulatory action against the sale of Flying Lanterns. Health Canada indicated they would continue to monitor the media for incidents related to the use of Flying Lanterns and advised that any relevant information should be forwarded to them by completing the online Consumer Incident Report Form on their website.

The OFM has recently received a number of reports that indicate an increase in the use of Flying Lanterns and would like to re-emphasize that we still have the same fire risk concerns associated with the use of these products. We would like to remind the fire service to take appropriate action to caution members of their community about the potential fire hazards related to the use of these Flying Lanterns and to discourage retailers from stocking these items.

In Health Canada's response, they also indicated that they have not received any reports of incidents or injuries related to the use of Flying Lanterns. Fire departments are encouraged to report any incidents related to the use of this product to Health Canada by completing their online [Consumer Incident Report Form](#) or by sending an email to the Surveillance Coordination Unit of CPSP's Risk Assessment Bureau at HECSB_CPSD_RAB_SCU@hc-sc.gc.ca.

Your feedback is always welcome! Contact the OFM's Public Fire Safety Education unit by [email](#) or phone (416325-3100) if you have questions about public fire safety education in your community. Let us know about specific programs that work well in your community or specific public education topics you would like addressed in an upcoming notice.

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