

<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES FOR THE MEETING ON JUNE 21, 2016</b>
<b>FROM:</b>	<b>JOHN KOBARDA FIRE CHIEF</b>
<b>SUBJECT:</b>	<b>AMENDMENT OF FIREWORKS BY-LAW PW-11</b>

<b>RECOMMENDATION</b>
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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 June 23, 2016 to amend the Fireworks By-law.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- Amendment to Fireworks Bylaw; April 26<sup>th</sup>, 2016
- Fireworks Bylaw Consolidated; June 24<sup>th</sup>, 2014

<b>BACKGROUND</b>
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**General Overview**

The purpose of this By-law is to regulate and restrict the sale and discharge of fireworks and pyrotechnics within the City of London. The By-law defines Consumer Fireworks, Display Fireworks, and Special Effect Pyrotechnics.

Display Fireworks are high hazard fireworks that are generally used for public display while Special Effect Pyrotechnics are high hazard explosives generally used to produce a special effect in a film or television production or a performance before a live audience. Due to the high hazard when discharging Display Fireworks or Special Effect Pyrotechnics, this By-law restricts anyone from discharging Display Fireworks or Special Effect Pyrotechnics in the City of London without first obtaining a permit issued by the Fire Chief. Usually, discharge of these types of fireworks/pyrotechnics are performed by professional companies after the acquisition of a permit, issued by the Fire Chief.

Consumer Fireworks are low hazard fireworks that are commonly used by the general public for recreational purposes. Examples of Consumer Fireworks include: showers, golden rain, lawn lights, pinwheels, roman candles, and volcanoes. Christmas crackers and sparklers are not classified as Consumer Fireworks.

The By-law includes several restrictions, one being the date on which Consumer Fireworks can be discharged. Currently, the By-law permits the discharge of Consumer Fireworks only on Victoria Day and Canada Day with two exceptions. Firstly, residents can obtain a permit to discharge Consumer Fireworks on special occasions such as weddings or Council can permit other dates through a By-law. Secondly, while the By-law restricts the discharge of Consumer Fireworks to a specific day, there is one exception that being Canada Day. Unlike most statutory holidays that fall on a Monday, Canada Day always falls on July 1<sup>st</sup> and residents wished to celebrate the holiday on a weekend. As such, the By-law enables residents to discharge Consumer Fireworks on

the Saturday preceding Canada Day where Canada Day falls on a Monday or a Tuesday. Where Canada Day falls on a Wednesday through Friday, inclusive, the discharge is permitted on the Saturday following Canada Day. The By-law also restricts discharge to between dusk and 11:00 pm.

The Fireworks By-law also requires a person discharging Consumer Fireworks to be over the age of 18 or under the direct supervision of and control of a person who is 18 years of age or older. Also, they can only discharge Consumer Fireworks on their own property or on another person's land provided they have the owner's permission.

The By-law prohibits the discharge of any Consumer Fireworks if the discharge may create a danger, unsafe act, or a nuisance to any person or property. Therefore, the discharge of Consumer Fireworks in or into any building, doorway, automobile, park, highway, street, lane, square or other public place is strictly prohibited unless authorized under a Display Fireworks permit issued by the Fire Chief.

A police officer, a City municipal law enforcement officer, a City by-law enforcement officer, a member of City Fire Services, and any other person appointed by Council may enforce this By-law.

### **Recommended Amendments**

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.

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

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

- Definition of "consumer firework";
- Definition of "display firework";
- Definition of "display firework";
- Definition of "prohibited fireworks";
- Definition of "pyrotechnic special effect firework";
- Definition of "Authorized Persons";
- Definition of "Fireworks Supervisor";
- Definition of "pyrotechnician";
- Maximum fine amounts are increased to \$10,000 for a subsequent conviction.

Other changes that mirror Federal requirements under the *Explosives Regulations, 2013* can be located in Section 3:

*(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.*



## 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, and volcanoes, but does not include Christmas crackers or sparklers 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 "special effect pyrotechnics" after the definition of "sell":

*“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

- (j) adding the following new defined term and definition of “temporary sales establishment” after the definition of “special effects 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 subsections after subsection 3(9):

*(10) 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.*

*(11) 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.*

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

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

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

3. 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”.*

4. Subsection 8(c) of By-law PW-11 is amended by inserting the following phrase after the phrase “fire emergency procedures”:

*“ and the methods to control a fire emergency safely and efficiently”.*

5. Subsection 8(d) of By-law PW-11 is amended by inserting the following phrase after the phrase “if applicable”:

*“ and the names, addresses and telephone numbers of persons to be contacted in case of fire during non-operating hours”.*

6. Subsection 18(1)(a)(i) of By-law PW-11 is amended by inserting the following phrase after the phrase “fireworks storage”:

*“ and handling”.*

7. Subsection 18(1)(b) of By-law PW-11 is amended by inserting the following phrase after the phrase “fire emergency procedures”:

*“ and the methods to control a fire emergency safely and efficiently”.*

8. Subsection 18(1)(c) of By-law PW-11 is amended by inserting the following phrase after the phrase “if applicable”:

*“and the names, addresses and telephone numbers of persons to be contacted in case of fire during non-operating hours”.*

9. The section under the heading “General Requirement”, currently numbered as section 24. is renumbered to section 24.1.

10. A new section 24.2 is inserted after section 24.1 as follows:

**24.2. Enforcement**

*This by-law may be enforced by a police officer, a City municipal law enforcement officer, a City by-law enforcement officer, a member of City Fire Services, and any other person appointed by Council to enforce this by-law. Such persons enforcing this by-law may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether the by-law is being complied with, and any power of entry shall be in accordance with Part XIV of the Municipal Act, 2001 and the Inspections By-law.*

11. Subsection 25(2) of By-law PW-11 is amended by deleting it in its entirety and replacing it with the following new subsections (2) and (3):

*(2) Every person who is convicted of an offence under this by-law is liable to a fine:*

- (a) upon a first conviction to a maximum fine of \$5,000.00;*  
*(b) upon a subsequent conviction to a maximum fine of \$10,000.00.*

*(3) If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:*

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and*  
*(b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.*

12. The phrase “pyrotechnic special effect fireworks” and the phrase “pyrotechnic special effects fireworks” are replaced wherever they appear with the phrase “special effect pyrotechnics”.

13. This by-law shall come into force and effect on \_\_\_\_\_  
2016.

PASSED in Open Council on \_\_\_\_\_, 2016.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading -  
Second Reading –  
Third Reading –