



STAFF REPORT ACTION REQUIRED

New Harmonized Fireworks By-law and Permit Rules

Date:	February 13, 2007
To:	Licensing and Standards Committee
From:	Toronto Fire Services
Wards:	All Wards
Reference Number:	p:\2007\ClusterB\FIR\ls07003

SUMMARY

This report seeks Council's authorization to create a new, harmonized fireworks by-law for the City of Toronto. The by-law would regulate the sale of fireworks by both permanent and temporary fireworks vendors, requiring them to obtain vendor permits.

The new by-law would also allow the city to issue Special Occasions Discharge Permits for family fireworks at religious, cultural, and special events. The Special Occasions Discharge Permits will enable Toronto Fire Services to account for and document fireworks that the City has authorized to be safely discharged.

RECOMMENDATIONS

Toronto Fire Services recommends that:

1. The City Solicitor be directed to prepare the necessary bills to repeal the former City of Toronto Municipal Code, Chapter 190, Etobicoke Municipal Code Chapter 137, Scarborough By-law 23650, York By-law 1648-73, Borough of East York By-law 695 and North York By-law 25102, and any by-laws amending these, as of January 1, 2008.
2. The City Solicitor be directed to prepare the necessary bills with respect to a new fireworks by-law (to be effective January 1, 2008) to implement the recommendations in this report.
3. The Municipal Licensing and Standards Division issue permits to Permanent Fireworks Vendors that meet the requirements of the federal Explosives Act and

- regulations under that act (the “Explosives Act”) to sell family, display, and theatrical fireworks year-round, at a cost of \$2,500 per year.
4. Municipal Licensing and Standards Division issue permits to Temporary Fireworks Vendors, Temporary Lease Fireworks Vendors and Mobile Fireworks Vendors to sell only family fireworks only on Canada Day and the seven-day period before Canada Day and on Victoria Day and the seven-day period before Victoria Day at a cost of \$500 per year.
 5. Toronto Fire Services complete all inspections for Permanent, Temporary Lease and Mobile Fireworks Vendors and for Temporary Fireworks Vendors that do not already have a business license with the City.
 6. Toronto Fire Services issue Special Occasions Discharge Permits for the discharge of family fireworks for religious, cultural and special events that are not discharged on or about Victoria Day or Canada Day (as described below), at a cost of \$25 per Special Occasions Discharge Permit.
 7. The City Solicitor be directed to prepare the necessary bills to amend Schedule 1 of Appendix B of Chapter 441, Fees and Charges of the Toronto Municipal Code to add the following fees:
 - \$25 fee for a Special Occasions Discharge Permit
 - \$2,500 annual fee for Permanent Fireworks Vendor’s Permit
 - \$500 annual fee for a Temporary Mobile Fireworks Vendor’s Permit
 - \$500 annual fee for a Temporary Lease Fireworks Vendor’s Permit
 - \$500 annual fee for a Temporary Fireworks Vendor’s permit (where required under the by-law)
 - \$100 fee for an amendment to an existing Temporary Mobile Fireworks Vendor’s Permit or a Temporary Lease Fireworks Vendor’s Permit to reflect a new location for the temporary sale of Family Fireworks.
 8. The City Solicitor be directed to prepare the necessary bills to amend Item 24 of Schedule 1 of Appendix B of Chapter 441, Fees and Charges of the Toronto Municipal Code to replace “Fireworks Display Permits” with “Fireworks Display/Theatrical Permits”.
 9. City Council authorize the Fire Chief and Executive Director, Municipal Licensing and Standards Division, or their respective delegates, to implement the fireworks by-law.
 10. City Council authorize the Executive Director, Municipal Licensing and Standards, or their respective delegates, to implement the review and issuance of permits for the fireworks vendors under the fireworks by-law.

11. The City Solicitor be directed to make an application for the set fines as set out in the body of this report.

Implementation Points

- Toronto Fire Services to develop a communications plan in conjunction with the Canadian Pyrotechnic Council (“CPC”) and Municipal Licensing and Standards to inform the industry about the new fireworks by-law by September, 2007.
- Toronto Fire Services Fire Prevention officers, who are trained in the requirements of the Explosives Act to perform inspections in respect of the discharge and sale of fireworks, will perform increased inspections during peak periods of fireworks use.
- Toronto Fire Services Fire Prevention officers will enforce the fireworks by-law, once in effect, and will notify authorities of offences under the Explosives Act.
- Operational firefighters realize the potential for increased calls during peak periods of fireworks use. They will help to report any sale or distribution of fireworks by vendors without a permit.

Financial Impact

The proposed new fees for permits as a result of the proposed fireworks by-law change are as follows:

Permit Type	Proposed Annual Fee	Projected Volume (annually)	Total Projected Recovery
Permanent Fireworks Vendor	\$2,500.00	6	\$15,000.00
Temporary Lease Fireworks Vendor	\$500.00	20	\$10,000.00
Temporary Mobile Fireworks Vendor	\$500.00	6	\$3,000.00
Temporary Lease Fireworks Vendor Temporary Mobile Fireworks Vendor – Relocation fee	\$100.00 per relocation	unknown	unknown
Special Occasions Discharge Permit	\$25.00 per permit	unknown	unknown

The fees from vendors’ permits will cover the various costs associated with processing and issuing the permits and on site inspections where required. The Municipal Licensing and Standards Division will recover \$210.00 per permit for Permanent, Temporary and Mobile Fireworks vendors. The remainder of the fees in each case will cover the cost of Toronto Fire Services inspections of the vendor’s premises where the fireworks will be sold and will also contribute towards the cost of materials and advertising for public

education on fireworks safety. The \$100.00 Relocation Fee will cover the cost of an additional inspection by Toronto Fire Services of the vendor's site. The application and a \$25.00 fee for a Special Occasions Discharge Permit for a family fireworks display will be submitted to local Fire Prevention offices for approval. A site visit will not be required for approval of applications for a Special Occasions Discharge Permit. All fees include applicable taxes.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Councillor Shelley Carroll raised the issue of regulating fireworks sales and displays at the September 12, 2005 meeting of the Planning and Transportation Committee. She was concerned about the extent to which private use of fireworks has created a problem in terms of fires and injuries. The City Solicitor explained that the City has the authority to regulate the sale and use of fireworks within its boundaries.

The committee asked for a report on harmonizing the various by-laws regulating fireworks sales and displays since amalgamation. They also asked for information on similar laws in New York State, Québec and other comparable jurisdictions.

The City Solicitor recommended that the Fire Chief consult with the pyrotechnic industry and other interested parties. The committee also asked for a review of religious and cultural practices during which fireworks are traditionally used.

At its meetings on January 31, February 1 and 2, 2006, City Council adopted recommendations to conduct this review and to prepare a new, harmonized, by-law. Council asked that the review also look at regulating the sale of fireworks at the manufacturing or wholesale level, and place the emphasis on permitting and enforcement at the local fire hall level.

Authority to regulate the sale and discharge of fireworks

The City of Toronto has the authority to regulate the sale and discharge of fireworks under its broad powers to pass by-laws under the City of Toronto Act, 2006. In addition, Section 7.1(1) of the Fire Protection and Prevention Act allows a municipal council to pass by-laws regulating fire prevention.

ISSUE BACKGROUND

Currently, the sale and discharge of fireworks in the City of Toronto is regulated under by-laws of the former municipalities of Scarborough, York, East York, North York, former City of Toronto and Etobicoke. Most of these by-laws only allow the discharge of family fireworks on Victoria Day and Canada Day, and only allow the sale of family fireworks on Victoria Day, Canada Day and a short period before Victoria Day and Canada Day.

Some of these by-laws apply conditions to the discharge of high-hazard, display and theatrical fireworks. Others rely on the conditions in the Explosives Act. Most do not specifically regulate the sale of fireworks by mobile vendors (such as people selling fireworks from a truck/trailer). However, mobile vendors, like other fireworks vendors, are regulated under the Explosives Act.

COMMENTS

Consultation with the industry

Toronto Fire Services consulted with the Canadian Pyrotechnic Council (CPC), which represents leaders in the fireworks industry, about drafting of the new by-law, fees for inspections, and permit fees. The CPC recognized the importance of enforcement and fire inspections to ensure that safety standards are followed. This protects the interests of citizens, the City, and the industry. Toronto Fire Services also met with the Ontario Korean Businessmen's Association about the sale of fireworks in small stores. The consultation called for licensed and professional vendors to be able to sell year round. It also called for licensing of temporary and mobile vendors.

Types of fireworks

There are three types of fireworks: family fireworks, display fireworks and theatrical fireworks. Display and theatrical fireworks are high-hazard fireworks and are regulated under the Explosives Act. They can only be used by certified supervisors. Although display and theatrical fireworks are highly explosive, Toronto Fire Services is not as concerned with their sale and discharge because they are subject to strict requirements under the Explosives Act. Most of the changes in the proposed fireworks by-law deal with family fireworks.

Family fireworks are powerful pyrotechnic devices with the potential to cause damage if misused and are also regulated under the Explosives Act. Regulating vendors of family fireworks by means of permits and other conditions in the proposed fireworks by-law, as well as inspections by Toronto Fire Services, will help make their sale and use safer.

Expanding the days that people can use family fireworks

Under the proposed by-law, a Special Occasions Discharge Permit issued by the Fire Chief would be required for any family fireworks discharged on days other than:

- Victoria Day
- Canada Day
- One day before or after Victoria Day or Canada Day, if the weather would not allow fireworks on the day of the holiday (this provides some flexibility).

Expanding the allowable days would help religious and cultural celebrations in our multicultural society. The new by-law would not name the specific religious and cultural events, but rather stress fire and public safety guidelines.

Enforcing the by-law

Even on statutory holidays like Victoria Day and Canada Day, Toronto Fire Services receives calls from citizens who see smoke or hear explosive sounds. With the proposed new ability to discharge family fireworks for religious and cultural events through a Special Occasions Discharge Permit, Toronto Fire Services will get more of these calls. That means Toronto Fire Services will be able to account for and document that the fireworks were authorized.

When there are problems at the site, Toronto Fire Services would respond to the incident and charges could be laid under the fireworks by-law. Toronto Fire Services could also notify the appropriate authorities if the requirements of the Explosives Act were not followed.

Cost of Special Occasions Discharge Permit

The proposed cost of the Special Occasions Discharge Permit is set at a reasonable rate of \$25 per permit.

Conditions for using the permit

Applicants for a Special Occasions Discharge Permit will have to submit a site plan to a Fire Prevention Officer to check for fire safety. A copy of the approved site plan and date of the event will remain in the files of Toronto Fire Services to allow Toronto Fire Services to respond to complaints or concerns from the public.

If the weather is bad on the date specified in the permit, the permit holders can discharge the fireworks on the next day without having to get a new permit.

Highlights of the regulations in the new by-law

These regulations apply to discharging family fireworks at any time.

- No one under the age of 18 can purchase or discharge fireworks.
- Except for the days around Victoria Day and Canada Day, the time and location for the discharge of the family fireworks must be specified in the Special Occasions Discharge Permit.
- Family Fireworks must be discharged in a manner that will not cause a nuisance or a risk to people or property.
- Family Fireworks cannot be discharged in, on or into any building, structure, or motor vehicle.
- Family Fireworks cannot be discharged on or into any highway, street, lane, square, public park (without a permit as noted below) or other public place.
- Only display and theatrical fireworks may be discharged in a City park with a permit issued by Parks, Forestry and Recreation and Toronto Fire Services (see Toronto Municipal Code, Parks, chapter 608-5).
- Family Fireworks cannot be discharged within 100 meters of:
 - any place where explosives are sold or stored
 - any place where gasoline or other highly flammable substances are manufactured or stored in bulk

- a church, school or residential care facility without the written consent of the owner (This proof must be provided to a Toronto Fire Services or Municipal Law Enforcement Officer upon request.)
- Without the written consent of the owner, no one can discharge family fireworks on land that does not belong to them. They must show the written consent to a Toronto Fire Services or Municipal Law Enforcement Officer upon request.

Vendors' Permits

Toronto Fire Services proposes to regulate four types of fireworks vendors:

- Permanent Fireworks Vendors
- Temporary Mobile Fireworks Vendors
- Temporary Lease Fireworks Vendors
- Temporary Fireworks Vendors

Permanent Fireworks Vendors

Permanent Fireworks Vendors are retailers who sell fireworks year round from a permanent location in the City of Toronto. The CPC advises that there are approximately six Permanent Vendors of Fireworks. The annual fee of \$2,500 will assist with regulating the Permanent Fireworks Vendors to ensure these businesses implement and follow practices to safely sell fireworks year round. These vendors will be inspected by Toronto Fire Services and must meet the standards of the Explosives Act. The following applies:

- May sell Family Fireworks, Display Fireworks, and Theatrical Fireworks.
- Must have a minimum of \$5 million dollars in general liability insurance.
- Permanent Fireworks Vendors who only sell Family Fireworks must have a minimum of \$2 million dollars in general liability insurance since the Family Fireworks are less hazardous than the Display and Theatrical Fireworks.

Temporary Mobile Fireworks Vendors

Temporary Mobile Fireworks Vendors means a vendor who sells Family Fireworks from an outdoor trailer or tent or other authorized location as stipulated in the Explosives Act at temporary locations on Victoria Day, Canada Day or the 7-day period before Victoria Day and Canada Day. CPC has indicated that there are approximately six Operators that would be classified as Temporary Mobile Fireworks Vendors that meet the requirements of the Explosives Act. The following applies:

- Must have at least \$2 million in general liability insurance and a permit for each location they operate in.
- An annual fee of \$500.00 for every location from which a Temporary Mobile Fireworks Vendor sells Family Fireworks.
- If they change the location there will be a \$100.00 Relocation Fee that will cover the cost of an additional inspection by Toronto Fire Services of the vendor's site to ensure they only sell Family Fireworks from the location approved by Toronto Fire Services.
- Temporary Mobile Fireworks Vendors must comply with the Explosives Act. The by-law will include setback requirements for the storage and sale of Family Fireworks that are at least as stringent as the requirements under the Explosives

Act. Temporary Mobile Fireworks Vendors are considered high risk because they sell a substantial quantity of fireworks during a short period of time.

- Toronto Fire Services must inspect the premises to ensure the Temporary Mobile Fireworks Vendors are only selling Family Fireworks from the location approved by Toronto Fire Services.

Temporary Lease Fireworks Vendors

Temporary Lease Fireworks Vendors are retailers that lease any part of a retailer's store in the City of Toronto on a temporary basis solely for the purpose of selling Family Fireworks on Victoria Day, Canada Day or the 7-day period before Canada Day and Victoria Day. They must have at least \$2 million dollars in general liability insurance and a permit.

The requirement for the Temporary Lease Fireworks Vendors to obtain a permit for the sale of Family Fireworks will assist Toronto Fire Services in knowing where Family Fireworks are being sold from given that they only occupy space for a short period of time to sell fireworks and ensuring these vendors meet the requirements of the Explosives Act. The following applies:

- An annual fee of \$500.00 for every location from which a Temporary Mobile Fireworks Vendor sells Family Fireworks.
- If they change the location there will be a \$100.00 Relocation Fee that will cover the cost of an additional inspection by Toronto Fire Services of the vendor's site to ensure they only sell Family Fireworks from the location approved by Toronto Fire Services.
- Considered high risk because they sell a substantial quantity of fireworks during a short period of time from a space in a building that is leased on a temporary basis and must be inspected by Toronto Fire Services for fire safety.

Temporary Fireworks Vendors

Temporary Fireworks Vendors are retailers that conduct business in the City of Toronto from a permanent location that only sell Family Fireworks on Victoria Day, Canada Day or the 7-day period before Victoria Day and Canada Day.

The typical vendor is a small convenience store that sells fireworks. The following applies:

- Temporary Fireworks Vendors that have a valid business license issued by the City of Toronto, and that store and sell no more than 25 kg. (net explosive quantity) of fireworks at any time, will not be required to obtain a permit to sell Family Fireworks in addition to the business license they already have from the City.
- The storage of 25 kg. (net explosive quantity) or less of Family Fireworks does not pose the same fire risk as Family Fireworks stored and sold by Mobile and Temporary Lease Fireworks Vendors.
- Temporary Fireworks Vendors (i.e. Convenience stores) that store and sell more than 25 kg. (net explosive quantity) of Family Fireworks at any time will have to

obtain a Vendor's Permit and at least \$2 million dollars of general liability insurance.

- Temporary Fireworks Vendors must meet the requirements of the Explosives Act.
- Temporary Fireworks Vendors that do not have a business license issued by the City of Toronto must obtain a Vendor's Permit and at least \$2 million dollars of general liability insurance regardless of the quantity of Family Fireworks they store or sell at any one time.

Wholesalers and manufacturers

Currently the City does not have the power to license wholesalers. Toronto Fire Services does not have the mandate to supervise and review the manufacturing of fireworks that are distributed nationally and internationally. Toronto Fire Services' position at this time is that the Toronto Fire Services should enforce the Fireworks By-law with respect to the retail sale of fireworks in the City of Toronto and that applicable provincial and federal acts regulate the manufacturing industry.

Display and theatrical fireworks

Every person to whom a Discharge Permit has been issued for Display Fireworks or Theatrical Fireworks must conform to the provisions of the current issue of the Display Fireworks Manual and Pyrotechnics Special Effects Manual as published from time to time by the Explosives Branch of Natural Resources Canada, or any successor publications, that apply to the discharge of Display Fireworks or Theatrical Fireworks authorized in the Permit. At least \$5 million dollars in general liability insurance is required to obtain a Display or Theatrical Discharge Permit.

The requirements that apply to the discharge of Display and Theatrical Fireworks are very restrictive and require individuals to be certified as, Display: Fireworks Supervisor and, Theatrical: Pyrotechnic Special Effects, as outlined in the manuals issued by the Explosion Regulatory Division of Natural Resources Canada. The fee for the Display and Theatrical Discharge permit remains unchanged at \$200.00. Toronto Fire Services inspects the proposed sites.

Enforcement and safety

Toronto Fire Services will produce material in consultation with the CPC that will be used to educate all users of fireworks. Toronto Fire Services, Municipal Licensing and Standards Officers, Police and Public Health Inspectors will be informed that any one who does not have the appropriate permit must contact Toronto Fire Services and charges may be laid under the Fireworks By-law.

Illegal fireworks that are seized will be disposed of with the assistance of the Toronto Police Service. Toronto Fire Services may revoke a vendor's permit if the vendor does not comply with the Fireworks By-law or any requirements of the Explosives Act, and will notify the appropriate authorities of any contravention of the Explosives Act.

Fines

Every person who contravenes any provision of this proposed Fireworks By-law will be guilty of an offence. If City Council adopts the proposed by-law, a set fine application will be submitted to the Regional Senior Justice of the Ontario Court of Justice for the offences created under the by-law. If a person is convicted of an offence under the by-law, they may have to pay a fine as set out below (for set fines approved by court) or a fine of up to \$5,000 under Part III of the Provincial Offences Act.

Toronto Fire Services intends to include the following proposed set fines (each in the amount of \$500.00) in the application:

- sale of fireworks to any person under age 18
- allowing any person under age 18 to discharge fireworks
- discharge of Family Fireworks without a permit where a permit is required
- discharge of Family Fireworks in contravention of the terms of the by-law
- failure to meet all conditions of a Special Occasions Discharge Permit
- sale of firecrackers
- discharge of firecrackers
- improper storage of fireworks

This report has been prepared in consultation with Legal Services and the Municipal Licensing and Standards Division.

CONTACT

Jim Stoops, Executive Officer
Toronto Fire Services
Phone: 338-9550, Fax: 338-9060
E-mail: jstoops@toronto.ca

Richard Mucha, Manager, Licensing Services
Phone: 392-3084, Fax: 392-3102
E-mail: rmucha@toronto.ca

SIGNATURE



William A. Stewart
Fire Chief

p:\2007\ClusterB\FIR\ls07003