



## STAFF REPORT ACTION REQUIRED

### Amendments To Fireworks By-law and Permit Requirements

<b>Date:</b>	August 27, 2007
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Toronto Fire Services
<b>Wards:</b>	All Wards
<b>Reference Number:</b>	p:\2007\ClusterB\FIR\ls07019

#### SUMMARY

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Council authorized a new harmonized fireworks by-law at its meeting held on April 23 and 24, 2007. Council later reopened this by-law to request consultation with the pyrotechnics industry regarding the possibility of increasing certain fireworks vendors' permit fees. This report seeks Council's authorization to increase permit fees for vendors that sell Family Fireworks on a temporary basis as set out in this report. This will provide Toronto Fire Services with resources to administer and enforce the fireworks by-law, and assist in promoting public safety in respect of the use and sale of fireworks.

#### RECOMMENDATIONS

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**Toronto Fire Services recommends that:**

1. The permit fees under the new fireworks by-law be set at \$1,500.00 per year to permit Temporary Fireworks Vendors, Temporary Lease Fireworks Vendors and Mobile Fireworks Vendors respectively to sell 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.
2. Toronto Fire Services complete all inspections for Permanent, Temporary Lease, Mobile and Temporary Fireworks Vendors (including Temporary Fireworks Vendors that have a valid business license issued by the City).
3. The Executive Director of Municipal Licensing and Standards and the Fire Chief of Toronto Fire Services convene an inter-agency working group with representatives of the Toronto Police Service, the Security Division of the

Toronto Community Housing Corporation, and the Security Divisions of both the Toronto District School Board and the Toronto Catholic District School Board to assist with the safe use of fireworks and increase coordination of enforcement of the new fireworks by-law, once in effect.

4. Where appropriate, City staff seek the maximum fine under the Provincial Offences Act for the following offences under the new fireworks by-law, once in effect: sale of fireworks without a valid permit, sale of fireworks to any person under age 18 and sale of firecrackers.
5. One year after the fireworks by-law comes into force on January 1, 2008, Toronto Fire Services review and report to the Licensing and Standards Committee on fireworks incidents that took place during the first year the new fireworks by-law was in force.
6. One year after the fireworks by-law comes into force on January 1, 2008, Toronto Fire Services report to the Licensing and Standards Committee on the amount of fireworks permit revenue and any budget implications associated with the administration and enforcement of the fireworks by-law.
7. The appropriate City staff be authorized and directed to implement the recommendations in this report.

### Financial Impact

The proposed increases to the permit fees for the sale of fireworks as a result of the proposed amendments to the fireworks by-law are as follows:

Permit Type	Proposed Annual Fee	Projected Volume (annually)	Total Projected Recovery	Changed
Permanent Fireworks Vendor	\$2,500.00	6	\$15,000.00	No
Temporary Lease Fireworks Vendor	\$1,500.00	20	\$30,000.00	Yes – from \$500/year to \$1,500/year
Temporary Mobile Fireworks Vendor	\$1,500.00	6	\$9,000.00	Yes - from \$500/year to \$1,500/year
Temporary Fireworks Vendor (i.e. convenience stores) that store and sell no more than 25 kg. net explosive quantity of fireworks and have a valid business license from the City )	\$1,500.00	unknown	unknown	Yes -- from \$0 to \$1,500/year

<b>Permit Type</b>	<b>Proposed Annual Fee</b>	<b>Projected Volume (annually)</b>	<b>Total Projected Recovery</b>	<b>Changed</b>
Temporary Fireworks Vendor (i.e. convenience stores) that (i) store and sell more than 25 kg. net explosive quantity of fireworks (ii) Temporary Fireworks Vendors that do not have a business license from the City (regardless of quantity of fireworks sold)	\$1,500.00	unknown	unknown	Yes – from \$500/year to \$1,500/year
Temporary Lease Fireworks Vendor Temporary Mobile Fireworks Vendor – Relocation fee	\$100.00 per relocation	unknown	unknown	No
Special Occasions Discharge Permit	\$25.00 per permit	unknown	unknown	No

The proposed amendments to the fireworks by-law, if approved by Council, would require all Temporary Fireworks Vendors to obtain a Temporary Fireworks Vendor’s Permit at a cost of \$1,500.00 per year.

The proposed amendments, if approved by Council, would also increase vendors’ permit fees for Temporary Lease and Temporary Mobile Fireworks vendors from \$500.00 per year to \$1,500.00 per year with a resulting increase in projected annual permit revenue of \$20,000.00 and \$6,000.00 respectively, based on the projected annual volume noted above.

As indicated in Toronto Fire Services’ previous report on the new proposed fireworks by-law, the Municipal Licensing and Standards Division will recover \$210.00 per permit to cover its costs of processing permit applications with the remainder of the cost of the permit fees covering Fire Services’ inspection and other enforcement costs and public education costs.

Without a history to determine how many convenience store owners or other Temporary Fireworks Vendors will apply for a Temporary Fireworks Vendor’s Permit, Toronto Fire Services and Municipal Licensing and Standards will each track revenue and costs associated with the licensing and inspections under the new fireworks by-law, once in effect, separately in their respective operating accounts. Permit fees collected in any one year, after Toronto Fire Services recovers its costs incurred in that year, will be allocated to the Fire Services Public Education Reserve Fund - account XR4205 Any net costs will be recovered by a draw down from the same reserve fund resulting in a net zero expenditure at year-end.

Once Municipal Licensing and Standards and Toronto Fire Services have a reliable indication of the resources required to administer and enforce the new fireworks by-law,

the associated costs and revenue will be set out in each division's subsequent operating budget submission.

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

## **DECISION HISTORY**

City Council, at its meeting held April 23 and 24, 2007, authorized a new harmonized fireworks by-law to be effective starting January 1, 2008 (see link to report below).

At its meeting on July 16, 17, 18 and 19, 2007, City Council requested that the Fire Chief, in consultation with the Executive Director, Municipal Licensing and Standards and the City Solicitor, consult with fireworks industry stakeholders and report to the September 11, 2007 meeting of the Licensing and Standards Committee on the feasibility of increasing the permit fees for the sale of fireworks. City Council recommended that the new fireworks by-law be reopened to require all Temporary Fireworks Vendors to obtain a permit and to increase the annual permit fees for Temporary Fireworks Vendors, Temporary Lease Fireworks Vendors and Mobile Fireworks Vendors from \$500.00 per year to \$1,500.00 per year 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.

City Council further recommended that City staff seek the maximum fine of \$5,000.00 under the Provincial Offences Act for the following offences under the new fireworks by-law, once in effect: sale of fireworks without a valid permit, sale of fireworks to any person under age 18 and sale of firecrackers. City Council also requested that the report to the Licensing and Standards Committee include the budget impacts of enforcement.

Finally, Council recommended that the Executive Director of Municipal Licensing and Standards and the Fire Chief of Toronto Fire Services convene an inter-agency working group with representatives of the Toronto Police Service, the Security Division of the Toronto Community Housing Corporation, and the Security Divisions of both the Toronto District School Board and the Toronto Catholic District School Board to gather a full range of incidence data for the annual review to be held one year after the new fireworks by-law comes into force on January 1, 2008.

<http://www.toronto.ca/legdocs/mmis/2007/1s/bgrd/backgroundfile-2000.pdf>

## **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, the former City of Toronto and Etobicoke.

Once the new, harmonized fireworks by-law is in effect starting January 1, 2008, Toronto Fire Services will regulate four types of fireworks vendors:

- Permanent Fireworks Vendors - retailers that sell fireworks year round from a permanent location in the City of Toronto.
- Temporary Mobile Fireworks Vendors - retailers that sell 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 and the 7-day periods before Victoria Day and Canada Day.
- Temporary Lease Fireworks Vendors - 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 and the 7-day periods before Canada Day and Victoria Day.
- Temporary Fireworks Vendors - retailers that conduct business in the City of Toronto from a permanent location that only sell Family Fireworks on Victoria Day, Canada Day and the 7-day periods before Victoria Day and Canada Day. The typical vendor is a small convenience store that sells fireworks. Under the new fireworks by-law, Temporary Fireworks Vendors that have a valid business license issued by the City of Toronto and store and sell no more than 25 kg. (net explosive quantity) at any one time would not be required to obtain a vendor's permit. The proposed amendments would require all Temporary Fireworks Vendors to obtain a permit.

According to the Canadian Pyrotechnic Council, there are approximately 6 Permanent Fireworks Vendors, 6 Temporary Mobile Fireworks Vendors and 20 Temporary Lease Fireworks Vendors. If the recommendations in this report are adopted, the permit fees for Temporary Lease and Temporary Mobile Fireworks vendors would increase from \$500.00 per year to \$1,500.00 per year.

## **COMMENTS**

### **Consultation with the industry**

Toronto Fire Services consulted with the Canadian Pyrotechnic Council, which represents leaders in the fireworks industry, concerning the proposed amendments to the new fireworks by-law to increase permit fees from \$500.00 per year to \$1,500.00 per year for Temporary Fireworks Vendors, Temporary Lease Fireworks Vendors and Mobile Fireworks Vendors, and to require all Temporary Fireworks Vendors to obtain a permit. Toronto Fire Services and the Canadian Pyrotechnic Council recognize that fireworks are powerful pyrotechnic devices with the potential to cause damage if misused. Even though fireworks are regulated under the federal Explosives Act and regulations, the proposed increase in fireworks vendors' permit fees will assist with the cost of conducting inspections, enforcement and education of fireworks vendors and the public concerning the use of fireworks. The new fireworks by-law, once in effect, will require retailers to provide every purchaser of Family Fireworks with a pamphlet on the safe use of Family Fireworks.

Under the new fireworks by-law authorized by Council at its meeting held on April 23 and 24, 2007, Temporary Fireworks Vendors (i.e. convenience stores) that have a valid business license issued by the City and that store and sell no more than 25 kg. (net explosive quantity) of Family Fireworks at any one time would not be required to obtain a vendor's permit to sell Family Fireworks in addition to the business license already issued by the City.

If approved by Council, the proposed amendments to the fireworks by-law would require all Temporary Fireworks Vendors to obtain a fireworks vendor's permit at a cost of \$1,500.00 per year, regardless of the quantity of Family Fireworks sold and whether or not the vendor already has a valid business license from the City. Temporary Fireworks Vendors would also be required to obtain general liability insurance in the amount of two million dollars, as will be required of the other vendors that sell Family Fireworks on a temporary basis under the fireworks by-law.

There are approximately 3,190 convenience stores that could potentially sell fireworks. In consultation with the Canadian Pyrotechnic Council, Toronto Fire Services could not determine how many convenience store owners or other Temporary Fireworks Vendors may apply for a Temporary Fireworks Vendor's Permit. The number of Temporary Fireworks Vendors (i.e. convenience stores) that will be required to obtain a permit at the proposed cost of \$1,500.00 per year and general insurance liability in the amount of \$2 million dollars cannot be determined at this time since the City has not required such a permit in the past. All Temporary Fireworks Vendors must comply with the requirements of the Explosives Act and regulations, and the terms of the fireworks by-law, once in effect. The Temporary Fireworks Vendors' Permit fees will provide Toronto Fire Services with resources to conduct inspections of these vendors to ensure compliance with the new fireworks by-law.

The Ontario Korean Businessmen's Association and a major fireworks wholesaler suggest that any increase in fees for permits to sell fireworks could limit their ability to sell fireworks based on profitability.

The Canadian Pyrotechnic Council recognizes the importance of enforcement and fire inspections to ensure that safety standards regarding the sale and use of fireworks are followed. This protects the interests of the public, the City, and the industry.

### **Enforcement Issues and Costs**

Toronto Fire Services is not proposing to hire additional staff at this time to administer and enforce the fireworks by-law, once in effect, until reliable data is available one year after the fireworks by-law comes into effect to determine the revenue generated from permits. The enforcement of the fireworks by-law during the Victoria and Canada Day holidays and the 7 day periods before each of these holidays will be implemented through temporary reassignments of current Fire Prevention staff and the use of overtime. The permit fees have been calculated on a cost recovery basis based on estimated costs to administer and enforce the fireworks by-law. Permit fees collected under the fireworks

by-law will be used to cover the cost of administering and enforcing the fireworks by-law, including inspection costs and costs associated with fireworks safety education.

Once Toronto Fire Services has a reliable indication of the resources required to administer and enforce the fireworks by-law, the associated costs and revenue will be set out in Toronto Fire Services' subsequent operating budget request.

To increase coordination of enforcement of the new fireworks by-law, once in effect, and to assist with the safe use of fireworks, the Executive Director of Municipal Licensing and Standards and the Fire Chief of Toronto Fire Services will convene an inter-agency working group with representatives of the Toronto Police Service, the Security Division of the Toronto Community Housing Corporation, and the Security Divisions of both the Toronto District School Board and the Toronto Catholic District School Board.

### **Fines**

Every person who contravenes any provision of the new Fireworks By-law, once in effect, would be guilty of an offence. Once the new fireworks by-law is enacted, the City Solicitor will submit a set fine application to the Regional Senior Justice of the Ontario Court of Justice with respect to certain offences created under the by-law.

As noted in the previous report on the new proposed fireworks by-law, Toronto Fire Services intends to include the following set fines in the application:

- Sale of fireworks to any person under age 18;
- Sale of firecrackers;
- 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 fireworks by-law;
- failure to meet all conditions of a Special Occasions Discharge Permit; and
- improper storage of fireworks.

Where a set fine has been approved, City staff may either issue a ticket for the amount of the fine under Part I of the Provincial Offences Act (the "Act") or commence a proceeding under Part III of the Act. If a person is convicted, the maximum fine that can be imposed under Part III of the Act is \$5,000.00. To assist with the enforcement of the new fireworks by-law, Toronto Fire Services recommends that, where appropriate, City staff seek the maximum fine of \$5,000.00 for the following offences under the new fireworks by-law:

- sale of fireworks without a valid permit;
- sale of fireworks to any person under age 18; and
- sale of firecrackers.

The proposed set fines in the amount of \$500.00 each for the offence of selling fireworks to any person under the age of 18 or the sale of firecrackers may be applied by City staff

where City staff determine that, given the circumstances, a proceeding under Part III of the Provincial Offices Act would not be appropriate.

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

## **CONTACT**

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## **SIGNATURE**



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Fire Chief

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