



Corporate Report

Report from Legal and Clerks Services, Legal Services

Date of Report: July 9, 2014

Date of Meeting: August 11, 2014

Report Number: LCS-238-2014

File: 68.13.1, 56.2.1

Subject: Fireworks By-law – Alternative Methods of Enforcement

Recommendation

That Council receive the report from Legal and Clerks Services, dated July 9, 2014, for information purposes; and

That Council direct staff to consult with the Niagara Regional Police Service (“NRPS”) in relation to assistance with the enforcement of the Fireworks By-law. FORTHWITH

Summary

For the purposes of this report, staff reviewed a total of 16 fireworks by-laws and found that St. Catharines is at the upper range in terms of when it allows fireworks to be set off as of right. While most by-laws permit the setting off of fireworks on Victoria Day, Canada Day and for several days before and/or after these holidays, few by-laws allow the setting off of fireworks for 10 days before and after these holidays. Additionally, only Brampton’s by-law allows fireworks to be set off on Diwali, and none of the by-laws reviewed permit fireworks on or around Chinese New Year. In terms of enforcement, half of the by-laws reviewed specify who is responsible for the administration and enforcement of the by-law, with most including by-law enforcement officers, fire department staff and the police.

Background

At its meeting of June 23, 2014, Council received the report from Legal and Clerks Services dated June 11, 2014, attached hereto as Appendix 1, for information and directed that staff report back on alternative methods of enforcement with the goal of achieving compliance with the Fireworks By-law regarding the “setting off” of fireworks, including best practices from other municipalities.

Report

City of St. Catharines By-law- Setting Off of Fireworks

By-law 2004-291, being a By-law to regulate the sale and use of fireworks and firecrackers in the City of St. Catharines (hereinafter the “Fireworks By-law”), permits the setting off of “Family Fireworks” on:

- 1) the 10 days immediately preceding Victoria Day;
- 2) the day fixed for celebration of Victoria Day;
- 3) the 10 days prior to the holiday known as Canada Day (July 1st);
- 4) July 1st of each year;
- 5) the three days immediately preceding Chinese New Year; and
- 6) the three days immediately preceding Hindu Religious Festival Diwali.

Niagara Municipalities- Setting Off of Fireworks

For the purpose of this report, staff reviewed the Fireworks By-laws (as posted online) of Fort Erie, Grimsby, Lincoln, Niagara Falls, Niagara-on-the-Lake, Pelham, Port Colborne, Thorold, Wainfleet, Welland, and West Lincoln.

In terms of when “family” or “consumer” fireworks (for personal use and not public display) may be set off as of right, the chart below provides a summary:

Fort Erie	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 10 days before and 3 days after Victoria Day and Canada Day - Independence Day - 3 days before and 3 days after Independence Day
Grimsby	<ul style="list-style-type: none"> - Victoria Day - 2 days before and 2 days after Victoria Day - Canada Day - 4 days before and 4 days after Canada Day - As prescribed by Council
Lincoln	<p>between dusk and midnight:</p> <ul style="list-style-type: none"> - Victoria Day - Canada Day - 2 days before and 7 days after Victoria Day and Canada Day - As prescribed by Council
Niagara Falls	<ul style="list-style-type: none"> - Victoria Day - Dominion Day - 3 days before Victoria Day and Dominion Day - 4th of July
Niagara on the Lake	<ul style="list-style-type: none"> - Victoria Day - 7 days before and 2 days after Victoria Day - Canada Day - 7 days before Canada Day
Pelham	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 10 days before Victoria Day and Canada Day - July 4th - 10 days before July 4th - As authorized by Council
Port Colborne	<ul style="list-style-type: none"> - Victoria Day - Canada Day

	<ul style="list-style-type: none"> - 3 days before Victoria Day and Canada Day - July 4th - 3 days before July 4th
Thorold	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 10 days before Victoria Day and Canada Day
Wainfleet	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 3 days before Victoria Day and Canada Day - July 4th - 3 days before July 4th
Welland	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 3 days before Victoria Day and Canada Day
West Lincoln	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 2 days before and 2 days after Victoria Day and Canada Day - As prescribed by Council

Other Municipalities- Setting Off of Fireworks

For the purpose of this report, staff also reviewed the Fireworks By-laws (as posted online) of Brampton, Burlington, London, Mississauga, and Hamilton.

In terms of when “family” or “consumer” fireworks (for personal use and not public display) may be set off as of right, the chart below provides a summary:

Brampton	<ul style="list-style-type: none"> - Victoria Day - Canada Day - Diwali - New Year's Eve - *Online permit is always required*
Burlington	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 3 days before Victoria Day and Canada Day - National Night Out in August of each year by Neighbourhood Watch Groups only with notification to Fire Department
London	<p>Between dusk and 11:00 p.m.:</p> <ul style="list-style-type: none"> - Victoria Day - Canada Day - On the Saturday before Canada Day where Canada Day falls on a Monday or Tuesday - On the Saturday following Canada Day where Canada Day falls on a Wednesday, Thursday, or Friday.

Mississauga	<ul style="list-style-type: none"> - Victoria Day - Canada Day - On the next day following Victoria Day or Canada Day where rain makes it impractical to set off the fireworks on Victoria Day or Canada Day
Hamilton	<ul style="list-style-type: none"> - Victoria Day - Canada Day - 2 days before Victoria Day and Canada Day

Summary- Setting Off of Fireworks

Compared with the by-laws reviewed, the City of St. Catharines' by-law is at the upper end of the range in terms of when it permits the discharge of family fireworks as of right. Council may wish to consider reducing the dates on which family fireworks may be set off as of right and/or may wish to consider requiring a permit whenever Family Fireworks are set off (similar to Brampton's requirement for online permits).

City of St. Catharines By-law- Enforcement

The Fireworks By-law provides that the Fire Chief or designate or any municipal enforcement officer may inspect any premise for fireworks being stored or offered for sale to the public. Members of the Fire Services department have not been designated by the Fire Chief to enforce the provisions of the Fireworks By-law and municipal by-law enforcement officers generally do not work in the evenings or on weekends.

Niagara Municipalities- Enforcement

Fort Erie	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement
Grimsby	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement
Lincoln	<ul style="list-style-type: none"> - By-law is enforced and administered by the Fire Chief (defined as the Chief of the fire department or a person designated to act on his or her behalf)
Niagara Falls	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement
Niagara on the Lake	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement
Pelham	<ul style="list-style-type: none"> - By-law is administered and enforced by the Chief (defined as the Fire Chief appointed by the Town for the purposes described in the <i>Fire Protection and Prevention Act</i> or his/her designate), an Officer (defined as a person commissioned or authorized to fill a public situation or to perform any public duty; appointed for the purposes of enforcing By-laws of the municipality, and includes any municipal law enforcement officer appointed by the Town, any fire department officer and any police constable who is a member of the NRP or OPP), or any other person appointed or otherwise delegated the

	authority of administration and enforcement
Port Colborne	<ul style="list-style-type: none"> - By-law is administered and enforced by the City, By-law Enforcement Officer (defined as a person commissioned or authorized to fill a public situation or to perform any public duty; appointed for the purposes of enforcing By-law of the municipality, and includes any municipal law enforcement officer appointed by the City, and any police constable who is a member of the NRP or OPP), Fire Chief (defined as the Fire Chief appointed by the City for purposes described in the <i>Fire Protection and Prevention Act</i> or his/her designate), or any person appointed or otherwise delegated the authority of administration and enforcement
Thorold	<ul style="list-style-type: none"> - By-law is enforced by the Fire Chief (defined as the Fire Chief for the City or his or her designate) or Fire Prevention Officer of the City or designate, every authorized Municipal By-law Enforcement Officer for the City, the Director of Operations of the City and any police officer
Wainfleet	<ul style="list-style-type: none"> - By-law is administered and enforced by the Township, the Officer (defined as a person commissioned or authorized to fill a public situation or to perform any public duty; appointed for the purpose of enforcing By-laws of the municipality, and includes any municipal law enforcement officer appointed by the Township, and any police constable who is a member of the NRP or OPP), or any person appointed or otherwise delegated the authority of administration and enforcement
Welland	<ul style="list-style-type: none"> - By-law is administered and enforced by the City, the By-law Enforcement Officer (defined as a Law Enforcement Officer appointed by the City for enforcement of its regulatory By-laws or the Fire Chief or the Chief Building Official or other person appointed or otherwise delegated the authority for enforcement of this By-law), Fire Chief (defined as the Fire Chief appointed by the City for purposes described in the <i>Fire Protection and Prevention Act</i> or his/her designate), or any person appointed or otherwise delegated the authority of administration and enforcement
West Lincoln	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement

Other Municipalities- Enforcement

Brampton	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement
Burlington	<ul style="list-style-type: none"> - Fire Chief and/or his designate(s) or any municipal by-law enforcement officer may inspect any premises where fireworks are stored or offered for sale to the public
London	<ul style="list-style-type: none"> - By-law is silent regarding administration/enforcement

Mississauga	- By-law is silent regarding administration/enforcement
Hamilton	- By-law is enforced by the General Manager of Community Services and every authorized by-law enforcement officer for the City and the Fire Chief (defined as the City's Director of Emergency Services), the Chief Fire Prevention Officer, and each member of the Fire Department (defined as the Hamilton Emergency Services-Fire) designated as an Assistant to the Fire Marshall and every police constable

Summary – Enforcement

Of the 16 fireworks by-laws reviewed for this report, half are silent as to who is responsible for administration and enforcement of the by-law. In these instances, the individuals generally responsible for the enforcement of City By-laws (ie: Municipal Enforcement Officers and the Police) would be responsible for enforcement. Of the remaining eight by-laws, many are more encompassing than the St. Catharines' by-law in terms of who can enforce, often including By-law Enforcement Officers, police constables, the Fire Chief, and other members of the Fire Services department, including Fire Prevention Officers. Council could consider amending the enforcement section of the Fireworks By-law to be more inclusive and to specifically include other members of the Fire Services department and police. Staff would recommend that before designating police constables as responsible for enforcement, that the City consult with the NRPS in this regard.

Another way that enforcement could be simplified would be to apply for set fines in relation to the Fireworks By-law. This would allow for the issuance of Part I tickets when a violation of the By-law is observed.

Financial Implications

Not Applicable.

Conclusion

The Fireworks By-law is at the upper range of the by-laws reviewed for the purpose of this report in terms of when fireworks can be set off as of right and is not as inclusive as many of the by-laws reviewed with respect to who can enforce the by-law.

Prepared and Submitted by:

Stacey E. Wells, Assistant City Solicitor II

Approved by:

Nicole A. Auty, Director of Legal and Clerk Services/ City Solicitor



Corporate Report

Report from Legal and Clerks Services, Legal Services

Date of Report: June 11, 2014

Date of Meeting: June 23, 2014

Report Number: LCS-180-2014

File: 68.13.1, 56.2.1

Subject: Fireworks By-law

Recommendation

That Council receive the report from Legal Services, dated June 11, 2014, for information purposes. FORTHWITH

Summary

The City's Fireworks By-law regulates the sale and setting off of fireworks within the Municipality and stipulates when, where and which types of fireworks can be set off.

Background

At its meeting of May 26, 2014, Councillor Dodge requested a report "regarding fireworks displays and requirements for them and include such things as to when they can be purchased, the timeframe to light them, places for public displays, and usage of City parks."

Report

Sale of Fireworks

By-law 2004-291 is a by-law to regulate the sale and use of fireworks and firecrackers in the City of St. Catharines (hereinafter the Fireworks By-law).

In accordance with the Fireworks By-law, "Family Fireworks" are only permitted to be sold in the City of St Catharines on the 10 days immediately preceding Victoria Day, the day fixed for celebration of Victoria Day, the 10 days prior to the holiday known as Canada Day, July 1st of each year, and each of the three days immediately preceding Chinese New Year and Hindu Religious Festival Diwali.

In 2014, the dates on which Family Fireworks may be sold in the City of St. Catharines are limited to January 28-31, May 9-19, June 21-July 1, and October 20-23.

The sale of fireworks in each municipality varies and as such the residents of the City of St Catharines may be able to purchase fireworks outside of the dates as stipulated by the Fireworks By-law.

The sale of fireworks is restricted in St. Catharines to stores; however, the Fireworks By-law does allow for the sale of fireworks at other locations with the approval of the “Authority Having Jurisdiction”. The Fireworks By-law does not include a definition of the term “Authority Having Jurisdiction”; however, in practice, the sale of fireworks is permitted upon the issuance of a hawker / peddler business license, issued by the Clerk’s Department.

Setting Off of Fireworks

The Fireworks By-law permits the setting off of Family Fireworks only during the period in which time the sale of such fireworks is permitted.

The Fireworks By-law permits the setting off of Family Fireworks on private property with the permission of the owner and only by persons over the age of eighteen (18) or under the direct supervision of and control of a person over eighteen (18) years of age, and specifically prohibits the setting off of fireworks in or onto any building, doorway or automobile or any other place where such setting might constitute a danger or nuisance, or on to any highway, street, lane, square, public park or other public place. Such setting off can take place on City property with the written permission of the City in the form of a permit issued by Recreation and Community Services.

The Parks By-law 70-57, as amended, also provides that no person shall bring on to any park, or carry, or discharge any fireworks of any kind, except with written permission and subject to any other by-law of the City of St. Catharines. “Parks” is defined as all lands, buildings, structures or equipment of any nature or kind under the jurisdiction and control of the City.

Larger displays such as those set off during the Port Dalhousie and Merritton Lions carnivals are referred to as “Exhibition Fireworks” in the by-law and are highly regulated. These events require a permit authorized by the Fire Chief, proof of insurance, a licensed pyrotechnic personnel to set off and supervise the site at all times, etc. These types of displays are usually very limited in number because of the high costs. Such displays can take place on City property with the written permission of the City in the form of a permit issued by Recreation and Community Services.

Firecrackers are not permitted to be sold or set off within the City of St. Catharines.

Enforcement of the Fireworks By-law

The Fireworks By-law provides that the Fire Chief or designate or any municipal enforcement officer may inspect any premise for fireworks being stored or offered for sale to the public. Members of the Fire Services Department have not been designated by the Fire Chief to enforce the provisions of the Fireworks By-law although in practice, from time to time when complaints are received outside of regular working hours, fire crews do attend to address such complaints.

Federal and Provincial Regulation

The manufacturing, transportation, storage, and sale of fireworks is also regulated federally by the Explosives Act (Canada) (hereinafter the “Act”) and the Regulations

thereunder (hereinafter the “Regulations”). The Act and Regulations are enforced through the Ministry of Natural Resources; however, they do not have local representatives and rely on the police where necessary. The Ontario Fire Code (hereinafter the “Fire Code”) includes provisions which address Explosives, Fireworks and Pyrotechnics and require the manufacture, storage, transportation, and sale of fireworks and pyrotechnics to be in conformance with the Act and the Regulations. All members of the Fire Prevention Division have the authority to enforce the provisions of the Fire Code.

Complaints

Fire Services advises that it received one (1) complaint regarding the sale of fireworks over the May 2014 long weekend; however, there were no concerns noted. Additionally, one (1) vendor was denied a business license as a result of zoning concerns. During the May 2013 long weekend, a total of three (3) unlicensed vendors selling fireworks in contravention of the Act and Regulations were shut down by Fire Services staff.

Fire Services advises that they do not inspect all locations selling fireworks for a variety of reasons, including not being aware of the locations where fireworks are being sold, except where a Hawker Peddler License has been issued as storefront operations selling fireworks are not licensed as is the case in some municipalities, the lack of resources to complete an inspection program, and that the enforcement of municipal by-laws falls to the by-law department and not Fire Services.

With regards to the improper setting off of fireworks, Fire Services advises that they receive, on average, two (2) or three (3) complaints per year regarding the setting off of fireworks. Such complaints normally center on the fallout of the debris. This past May there were no complaints received by Fire Services between the dates of May 15 and May 21, although this may be the result of the wet and cold conditions. As a comparison, Fire Services advises that it responded to approximately a half dozen bonfire complaints during this same period.

Financial Implications

Not Applicable.

Conclusion

The Fireworks By-law regulates the sale and setting off of Fireworks in the City of St. Catharines. Federal and Provincial legislation also play a part in the regulation of fireworks. The Parks By-law prohibits the setting off of fireworks on all lands under the jurisdiction and control of the City, except with written permission and subject to other City by-laws.

Prepared and Submitted by:

Stacey E. Wells
Assistant City Solicitor II

Approved by:

Nicole A. Auty
Director of Legal and Clerk Services/City Solicitor