

Safety and Facilities Services Committee – March 18, 2024

Technical Amendments to Fireworks By-law 59-2014 and Tiered and Escalating Administrative Monetary Penalties (All Wards)

That the Safety and Facilities Services Committee recommend to City Council:

Whereas the Fireworks By-law 59-2014, as amended (“Fireworks By-law”) is a by-law that regulates the sale and discharge of fireworks within the City of Oshawa (“City”); and,

Whereas staff regularly review the City’s by-laws to identify opportunities to enhance municipal regulatory standards; and,

Whereas Section 5.5 of Report [SF-23-13 “Options to Amend Fireworks By-law 59-2014”](#) dated March 15, 2023 identified an opportunity to establish Tiered and Escalating Administrative Monetary Penalties (A.M.P.) and implement the following amendments to increase clarity in the Fireworks By-law:

- Amend Section 9 of the Fireworks By-law to establish Tiered and Escalating A.M.P.s with the following tiers:
 - Tier 1: \$250
 - Tier 2: \$350
 - Tier 3: \$450
- Implement minor typographical changes to reflect updates in position titles and to increase clarity with respect to references to by-laws and legislation.
- Renumbering certain sections to increase clarity and ease of reference.
- Implement minor typographical changes to provide further clarity on when permits are required for the discharge of Consumer Fireworks; and,

Whereas Section 429 of the Municipal Act, 2001, S.O. 2001, c. 25 (“Municipal Act”) authorizes municipalities to establish a system of fines, impose maximum single offence fines of \$100,000 and impose total fines for multiple and continuing offences greater than \$100,000, under a by-law enacted pursuant to the Municipal Act; and,

Whereas additional municipal benchmarking has identified the opportunity to enhance existing enforcement tools by increasing fine amounts for offences that are charged and convicted under the Provincial Offences Act, R.S.O. 1990, c. P.33 by amending the fines as articulated in the Fireworks By-law to the following:

- A minimum fine of \$500 and a maximum fine not exceeding \$100,000; and,

- In the case of a continuing offence, for each day that the offence continues, a minimum fine of \$500 and a maximum fine not exceeding \$10,000, with the total of daily fines not limited to \$100,000; and,
- In the case of multiple offences, for each offence, a minimum fine of \$500 and a maximum fine not exceeding \$10,000, with the total of daily fines not limited to \$100,000.

Therefore be it resolved that Council approve the amending by-law, as set out in Attachment 1, to further amend Fireworks By-law 59-2014, as amended, to establish Tiered and Escalating Administrative Monetary Penalties, including other technical amendments as indicated, and to increase fine amounts for offences charged and convicted under the Provincial Offences Act, R.S.O. 1990, c. P.33.



By-law -2024
of The Corporation of the City of Oshawa

Being a By-law to further amend By-law 59-2014, as amended (the “Fireworks By-law”) of the Corporation of the City of Oshawa.

Whereas pursuant to Item SF-24-07 – Technical Amendments to Fireworks By-law 59-2014 Tiered and Escalating Administrative Monetary Penalties, the Safety and Facilities Services Committee recommended to The Council of the Corporation of the City of Oshawa that an amending by-law be passed to establish Tiered and Escalating Administrative Monetary Penalties, implement technical amendments and increase fine amounts for offences charged and convicted under the Provincial Offences Act, R.S.O. 1990, c. P.33; and

Whereas the Council of the Corporation of the City of Oshawa considers it appropriate to amend the Fireworks By-law, to establish Tiered and Escalating Administrative Monetary Penalties, implement technical amendments and increase fine amounts for offences charged and convicted under the Provincial Offences Act, R.S.O. 1990, c. P.33.

Therefore it is enacted as a by-law of The Corporation of the City of Oshawa as follows:

1. The Fireworks By-law is amended under Section 2.0 in the definition of “Chief Fire Official” by deleting “any Fire Prevention Officer or” and replacing with “Fire Prevention Captain, and”.
2. The Fireworks By-law is further amended under Section 2.0 of the Fireworks By-law by deleting the definition of “Consumer Fireworks” and replacing it with the following:

““Consumer Fireworks” mean fireworks that are low hazard and classified under Type F.1 under the Explosives Regulations, 2013 (SOR/2013-211), as may be amended from time to time. These fireworks are designed for outdoor recreational use by members of the public and include, but are not limited to, Roman candles, sparklers, fountains, wheels, volcanoes and snakes.”
3. The Fireworks By-law is further amended under Section 2.0 in the definition of “Officer” by deleting “Officer and/or”, and which shall now read as follows:

““Officer” means a Municipal Law Enforcement Officer appointed to enforce the by- laws of the City and/or a Fire Prevention Inspector from the Fire Prevention Division of Oshawa Fire Services, including the Fire Chief and any member of Oshawa Fire Services designated by the Chief Fire Official.”
4. The Fireworks By-law is further amended under Section 4.4(a) by adding “13-2003” immediately after “General Fees and Charges By-law,”.
5. The Fireworks By-law is further amended under Section 4.5 by substituting “his or her” for the word “their”.
6. The Fireworks By-law is further amended under Section 4.10 by substituting “his or her” for the word “their”.
7. The Fireworks By-law is further amended under Section 4.9 by substituting “Discharge” for the word “Sales”.
8. The Fireworks By-law is further amended under Section 4.11 by substituting “his or her” for the word “their” and substituting “Discharge” for the word “Sales”.
9. The Fireworks By-law is further amended under Section 4.12 by substituting “his/her” for the word “their”.

10. The Fireworks By-law is further amended under Section 5.0(b) by deleting “are two” and “is” and replacing with “is a”.
11. The Fireworks By-law is further amended under Section 7.0 by adding “Consumer Fireworks” and deleting “and” and replacing with “or”, and deleting “Display” and replacing with “Consumer”.
12. The Fireworks By-law is further amended under Section 7.2 by deleting the entirety of Section 7.2 and replacing it with the following:

“7.2 An application for a Fireworks Discharge Permit shall be made at the office of the Chief Fire Official on the form prescribed and the Chief Fire Official may prescribe any information to be given therein and other necessary papers to be completed or submitted by the applicant in conjunction with their application. (49-2021)”
13. The Fireworks By-law is further amended under Section 7.3(a) by adding “13-2003” immediately after “General Fees and Charges By-law,”.
14. The Fireworks By-law is further amended under Section 7.7 by deleting “his or her” and replacing with the word “their”.
15. The Fireworks By-law is further amended under Section 7.10 by deleting “his or her” and replacing with the word “their”.
16. The Fireworks By-law is further amended under Section 7.11 by deleting “his or her” and replacing with the word “their”.
17. The Fireworks By-law is further amended for clarity purposes by removing Sections 9.0, 9.0.1, and 9.0.2 and amending Section 8 by adding the following new Sections 8.2 and 8.3, as follows:

“8.2 The Chief Fire Official may declare a Consumer Fireworks Prohibition when, in their sole opinion, conditions exist which would make the discharge of Consumer Fireworks unsafe. These conditions may include atmospheric or environmental conditions, to help implement restrictions intended to reduce the transmission of disease, as well as any local circumstances which may prevent the safe discharge of Consumer Fireworks. (49-2021)

8.3 The public shall be notified that a Consumer Fireworks Prohibition is in effect on the City of Oshawa’s website. (49-2021)”
18. The Fireworks By-law is further amended under Section 9.2 for the purposes of establishing tiered and escalating Administrative Monetary Penalties by deleting 9.2 and replacing it with the following:

“9.2 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty. If a Person receives a penalty notice in accordance with the City’s Administrative Penalty Process Bylaw for a contravention of this By-law, and the Person has not received a penalty notice for the same contravention within one (1) calendar year or less, the Person shall be liable to pay to the City a tier one (1) administrative penalty amount for that contravention in the amount of \$250. If a Person receives an additional penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier one (1) administrative penalty amount, the Person shall be liable to pay to the City a tier two (2) administrative penalty amount for that contravention in the amount of \$350. If the Person receives a subsequent penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier two (2) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount

for that contravention in the amount of \$450. If the Person receives any subsequent penalty notices for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier three (3) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that offence in the amount of \$450.”

19. The Fireworks By-law is further amended by deleting Section 10.1 and replacing it with the following:

“10.1 Each person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine of:

- (a) a minimum fine of \$500 and a maximum fine not exceeding \$100,000;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500, and a maximum fine not exceeding \$10,000, and the total of all daily fines for the offence is not limited to \$100,000; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine not exceeding \$10,000, and the total of all fines for each included offence is not limited to \$100,000.”

20. The Fireworks By-law is further amended by adding a new Section 10.3 immediately after Section 10.2, as follows:

“10.3 An offence under this By-law may constitute a continuing offence or a multiple offence as set out in the Municipal Act, 2001, S.O. 2001, c.25, as amended.”

By-law passed this day of , 2024.

Mayor

City Clerk

