



**THE CORPORATION OF THE TOWN OF ORANGEVILLE**

**BY-LAW NUMBER** 115-2004

**A BY-LAW TO REGULATE AND LICENSE THE SALE OF FIREWORKS, AND TO PROHIBIT THE SALE AND SETTING OFF OF FIRECRACKERS AND TO REGULATE THE SETTING OFF OF FIREWORKS AND TO PROVIDE FOR THE ISSUING OF PERMITS FOR FIREWORKS DISPLAYS IN THE TOWN OF ORANGEVILLE.**

WHEREAS Subsection 121(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Act"), provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Subsection 121(2) of the *Act* provides that a municipality may prohibit the sale of fireworks and the setting off of fireworks unless a permit is obtained from the municipality for the sale of fireworks and the setting off of fireworks and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS Subsection 150(1) of the *Act* provides that, subject to the *Theatres Act* and the *Retail Business Holidays Act*, a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may only exercise its licensing powers under Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, including imposing conditions for the purposes of health and safety, nuisance control or consumer protection;

AND WHEREAS Subsection 150(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires that a by-law licensing or imposing any condition on any business or class of business passed after Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, comes into force shall include an explanation as to the reason why the municipality is licensing it or imposing the conditions and how that reason relates to the purposes under Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

AND WHEREAS this by-law is passed for the following purposes:

- (i) health and safety - being an activity or undertaking that could result in hazardous conditions, injury or loss; and
- (ii) nuisance control - being an activity that adversely affects, or could possibly adversely affect, the "quality of life" of any person(s); and
- (iii) consumer protection - being the prevention of unfair or potentially unfair business practices that could result in loss(es) on the part of the consumer.

AND WHEREAS a public meeting has been held pursuant to Subsection 150(4) of the *Act*;

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the Town of Orangeville as follows:

**1        SHORT TITLE**

1.1        This by-law shall be known as the "Fireworks By-law".

## **2 DEFINITIONS**

### **2.1 In this by-law:**

“child labour” means work by children under fifteen (15) years of age which is exploitative, hazardous or otherwise inappropriate for their age, detrimental to their schooling, or social, physical, mental, spiritual or moral development.

“Clerk” means the Clerk of The Corporation of the Town of Orangeville.

“Council” means the Council of The Corporation of the Town of Orangeville and, with respect to the holding of hearings or any hearing, includes, as the context allows, a committee under Section 252 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorized to hold any such hearing or hearings.

“Fire Chief” means the Fire Chief of The Corporation of the Town of Orangeville.

“firecracker” means any class of fireworks that explodes when ignited and does not make any significant display or visible effect after the explosion but does not include caps for toy guns or Christmas crackers.

“fireworks” means fireworks that are designed to produce colourful effects with sound added as a secondary function in some instances.

“licence” means a licence to sell fireworks issued pursuant to this by-law.

“Licensing Officer” means the Licensing Officer for the Town, or his designate, and includes the Clerk.

“permit” means a permit to hold a fireworks display issued pursuant to this by-law.

“Town” means The Corporation of the Town of Orangeville and its locality, including its geographic area.

“Officer” means a municipal by-law enforcement officer, provincial offences officer, police officer or the Licensing officer.

## **3 PROHIBITIONS**

### **Sale of Fireworks**

3.1 No person shall sell or offer for sale any fireworks to any person in the Town unless he has obtained a licence pursuant to the requirements of this by-law.

3.2 No person shall sell or retail in the Town any fireworks on any day or days during the year except on Victoria Day and Canada Day and except on the seven (7) days immediately preceding Victoria Day and on the seven (7) days immediately preceding Canada Day, provided that the foregoing shall not prevent the sale on any day for the purposes of a fireworks display to a person who is the holder of a permit for such display pursuant to the provisions of this by-law

3.3 No person shall sell or retail in the Town any fireworks to anyone under the age of eighteen (18) years.

3.4 No person shall sell fireworks in the Town without displaying in his shop or place of business, at a point adjacent to the fireworks being sold, the provisions contained in Sections 3.2,3.6,3.7,3.8,4.8, and 16.1 of this by-law.

3.5 No person shall sell or offer for sale any fireworks to any person in the Town unless they can provide proof from the manufacturer that the fireworks were not assembled using child labour.

### **Display and Storage of Fireworks**

- 3.6 No person shall store fireworks that are displayed for sale within any building, in any bin, lot, or bundle that exceeds a weight of twenty-five (25) kilograms.
- 3.7 No person shall store fireworks in any manner that would expose the fireworks to direct sunlight
- 3.8 No person shall exhibit any fireworks in any window of any store or shop within the Town.

### **Setting Off of Fireworks**

- 3.9 No person shall set off any fireworks within the limits of the travelled portion (including any sidewalks) of any public highway, or in any public park, nor within the limits of any shopping plaza.
- 3.10 No person shall set off any fireworks within the Town except on Victoria Day or Canada Day or on the day immediately preceding or on the day immediately following Victoria Day or Canada Day or any special day established by Council, except at a fireworks display held pursuant to a permit issued under this by-law.

### **Fireworks Displays**

- 3.11 No display of fireworks shall be held within 183 metres (600 feet) of a nursing home, public hospital, home for the aged, any premises or place where explosives, gasoline, or other highly inflammable substances are manufactured, sold or stored, or within 183 metres (600 feet) of a church or a public, separate, secondary or other school, unless the consent of the owner of such church or school, or an agent or representative of such owner, is obtained.

### **Holding Fireworks Displays**

- 3.12 No person shall hold a fireworks display in the Town unless he has obtained a permit pursuant to the requirements of this by-law.
- 3.13 No person shall hold a fireworks display in the Town using fireworks that have been manufactured or assembled using child labour.

### **Firecrackers**

- 3.14 No person shall sell or retail firecrackers within the Town.
- 3.15 No person shall set off any firecrackers within the Town.

## **4 APPLICATION AND LICENCE FEE**

- 4.1 Every person applying for a licence shall file with the Clerk a completed application in the form prescribed by the Clerk and shall pay the required licence fee as set out in Schedule "A" to this by-law.
- 4.2 Every person applying for a licence shall provide:
  - 4.2.1 A description of the structure from which the fireworks will be sold indicating the type and quality of construction.
  - 4.2.2 A description of where and how the fireworks will be stored and displayed, where they will be sold, and the fire explosion safeguards to be undertaken, including the number of fire extinguishers.
  - 4.2.3 Written permission with respect to the proposed use from the registered owner of the property or his authorized agent.

- 4.2.4 A site plan showing:
- The location of the sale structure.
  - The clearances from adjacent properties.
  - The access to be provided for fire and emergency vehicles.
  - The location of the services to the site.
  - The location of the barriers establishing a zone free from vehicular traffic around the sale structure, where applicable.
- 4.3 A certificate of insurance in the amount of two million dollars (\$2,000,000) liability with a cross liability clause and naming the Town as an additional insured.
- 4.4 No licence shall be issued until:
- 4.4.1 The Town's Planning Department has determined that the use of the property is in conformity with the Zoning by-laws of the Town.
- 4.4.2 The Fire Chief has reviewed the application and has investigated, inspected and reported favourably to the Clerk in respect of the application.
- 4.5 Notwithstanding Section 4.1 herein, non-profit organizations and service groups who offer fireworks for sale are exempt from paying the required licence fee as set out in this by-law, provided they comply with all provisions of this by-law.
- 4.6 If the requirements as set out in this by-law have been complied with, the Clerk shall grant the applicant a licence.
- 4.7 No licence issued under the provisions of this by-law shall be transferable.
- 4.8 Every person holding a licence issued pursuant to this by-law shall comply with all provisions of the Ontario Fire Code, Town's Zoning by-laws, this by-law and any other applicable statute, regulation or by-law.
- 4.9 Every person holding a licence shall display the licence in a prominent location inside the main entrance of the sales structure.

## **5 REQUIREMENTS OF VENDOR FOR THE SALE OF FIREWORKS**

- 5.1 Each vendor shall be responsible for ensuring that:
- 5.1.1 "No Smoking" and "Fireworks" signs are prominently displayed within the sales structure.
- 5.1.2 The "No Smoking" prohibition is enforced at all times.
- 5.1.3 Fire extinguishers are supplied in accordance with the Ontario Fire Code and staff have been trained to operate the same.
- 5.1.4 The fireworks offered for sale have not been manufactured or assembled using child labour.

## **6 REQUIREMENTS FOR DISPLAY OF FIREWORKS**

- 6.1 Every person applying for a permit for a fireworks display shall:
- 6.1.1 File with the Fire Chief a completed application in the form prescribed by the Clerk.
- 6.1.2 Submit a site plan showing:
- The location of the proposed fireworks display;
  - The clearance from adjacent properties pursuant to Section 3.9 and 3.11 herein.
  - The access to be provided for fire and emergency vehicles.

6.1.3 Provide a certificate of insurance in the amount of two million dollars (\$2,000,000) liability with a cross liability clause and naming the Town as an additional insured.

6.2 If the requirements as set out in this by-law have been complied with, the Fire Chief shall grant the applicant a permit for a fireworks display.

6.3 Notwithstanding Section 6.2 herein, the Fire Chief may impose additional conditions on the issuance of a permit as he deems advisable in the particular circumstances of the application.

## **7 GENERAL**

7.1 The sale, handling and discharge of fireworks shall conform to Subsection 5.2.2. of the Ontario Fire Code.

## **8 INSPECTION**

8.1 Any person to whom a licence has been issued pursuant to this by-law, shall permit any Officer, at any reasonable time, to inspect the premises for which the licence was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

## **9 REFUSAL, REVOCATION, SUSPENSION**

9.1 Any person who is licensed as required by this by-law shall at all times comply with the by-laws of the Town and any contravention of any by-law or any other law may be grounds for the refusal, suspension or revocation of the licence.

9.2 A licence may be refused, suspended or revoked upon seven (7) days notice in writing by the Town of Orangeville, mailed or delivered to the applicant/licensee's last known address, if any of the provisions of this by-law are contravened, or in the opinion of Council such refusal, suspension or revocation may be in the public interest.

9.3 Upon suspension or revocation of a licence issued under this by-law, the licensee shall return to the Licensing Officer all licences issued by the Town, and an Officer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the licence and no person shall refuse to deliver the licence to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking the same.

## **10 NOTICE AND APPEAL**

10.1 Any person who has his licence refused, suspended or revoked shall be entitled to request a hearing of the matter by Council, provided that such a request is delivered to the Clerk's Department in the Town within seven (7) days of the notification by the Licensing Officer of the refusal, suspension or revocation of a licence. If a written request for a hearing is not received by the Clerk's Department within this time frame, the licence shall stand refused, suspended or revoked.

10.2 Upon receipt of a request for a hearing, Council shall conduct a hearing and either confirm the refusal, suspension or revocation of a licence, or direct the issuance or reinstatement of a licence upon such terms and conditions as Council shall deem advisable. The decision of Council in this regard shall be final.

- 10.3 When a hearing date has been fixed and the applicant or licensee has been given notice and does not attend at the place and at the time appointed for the hearing, the licence is deemed to be refused, suspended or revoked as of the date of the hearing, and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.
- 10.4 Any notice or order required to be given by the Licensing Officer to an applicant or a licensee shall be sufficiently served if delivered personally or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the application for the licence or licence records.
- 10.5 Any notice required to be given by an applicant for a licence, or by a licensee to the Town, shall be sufficiently served if delivered personally to the Licensing Officer or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the Town of Orangeville, Municipal Offices, 87 Broadway, Orangeville, Ontario L9W 1K1, facsimile number 1-519-941-9033.
- 10.6 When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
- 10.7 When service is made by telephone transmission of a facsimile between 5 p.m. and midnight, it shall be deemed to have been made on the following day.
- 10.8 When service is made by personal delivery, it shall be deemed to have been received on the day that it was delivered.

## **11 OFFENCE AND PENALTIES**

- 11.1 Any person who contravenes any provision of this by-law or is party to such contravention commits an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
- 11.2 Notwithstanding Section 11.1 of this by-law, every person who contravenes any provision of this by-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000, exclusive of costs.
- 11.3 Notwithstanding Section 11.2 of this by-law, a corporation that contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine not exceeding \$50,000.
- 11.4 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.
- 11.5 If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that Section, the Treasurer for the Town or his agent may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that person at the person's residence or place of business.
- 11.6 If the fine referred to in Section 11.5 of this by-law remains unpaid after the final date specified in the notice, the fine shall be deemed to be unpaid taxes for the purposes of Section 351 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

**12 ENFORCEMENT**

12.1 This by-law will be enforced by the Fire Chief, the Orangeville Fire Department, Fire Prevention Officers, the Orangeville Police Service and the Town's By-law Enforcement Officers.

**13 WORD USAGE**

13.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

13.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

**14 SEVERABILITY**

14.1 If any section or sections of this by-law shall be declared by a court of competent jurisdiction to be invalid, such section or sections shall be deemed to be severable and shall not affect the validity of this by-law as a whole or any part thereof and all other sections of the by-law shall be deemed to be separate and independent therefrom and enacted as such.

**15 CONFLICT**

15.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed the provisions of this by-law shall prevail

**16 EXEMPTION**

16.1 It is hereby declared for greater certainty that for purposes of this by-law respecting the setting off of fireworks on Victoria Day or Canada Day on land belonging to a private residence by the owner or tenant of such residence or a person authorized by him to do so shall not be deemed to be a fireworks display; and the sale or setting off of pyrotechnical signalling devices for marine, military, railway or highway purposes shall not be deemed to be, respectively, the sale or setting off of fireworks.

**17 ADMINISTRATION OF BY-LAW**

17.1 This by-law shall be administered by the Fire Chief and the Clerk.


**18 EFFECTIVE**


18.1 This by-law comes into force and takes effect on January 1, 2005.

**19 REPEAL**

19.1 By-law 112-2002 of The Corporation of the Town of Orangeville is hereby repealed.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 6<sup>TH</sup> DAY OF DECEMBER, 2004.

  
Drew Brown, Mayor

  
Cheryl Johns, Clerk

**SCHEDULE "A"**

**LICENSING FEES**

<b>Column 1</b>	<b>Column 2</b>
Sale of Fireworks	\$125.00 per location for each seven (7) day period
Fireworks Display	\$200.00
Non-profit/charitable organizations/ service clubs	N/C



Town of Orangeville  
 Bylaw 115-2004  
 Fireworks Bylaw  
 Part 1 Provincial Offences Act

ITEM	COLUMN #1 SHORT FORM WORDING	COLUMN #2 OFFENCE CREATING PROVISION FOR DEFINING OFFENCE	COLUMN #3 SET FINE
1.	Person selling fireworks without licence.	Section 3.1	\$ 195.00
2.	Person selling/retailing fireworks during prohibited time.	Section 3.2	\$ 195.00
3.	Person selling/retailing fireworks to anyone under the age of 18 years old.	Section 3.3	\$ 195.00
4.	Person selling fireworks not providing proof they were assembled/manufactured without using child labor.	Section 3.5	\$ 195.00
5.	Person storing fireworks for sale in bundles that exceed 25 kilograms.	Section 3.6	\$ 195.00
6.	Person storing fireworks that are exposed to direct sunlight.	Section 3.7	\$ 195.00
7.	Person exhibiting fireworks in window of store or shop.	Section 3.8	\$ 195.00
8.	Person setting off fireworks on traveled portion of sidewalks, public highways, public parks or shopping plaza.	Section 3.9	\$ 195.00
9.	Person setting off fireworks not pursuant to a permit issued under this bylaw.	Section 3:10	\$ 195.00
10.	Person displaying fireworks within 183 meters of prohibited areas.	Section 3.11	\$ 195.00
11.	Person displaying fireworks within 183 meters of prohibited area without written consent of owners/agent.	Section 3.11	\$ 195.00
12.	Person holding fireworks display without permit.	Section 3.12	\$ 195.00
13.	Person holding display using fireworks manufactured/assembled by child labour.	Section 3:13	\$ 195.00
14.	Person selling/retailing firecrackers within Town of Orangeville.	Section 3.14	\$ 195.00
15.	Person setting off firecrackers within the Town of Orangeville.	Section 3.15	\$ 195.00
16.	Person applying for licence not filing with Clerk a completed application.	Section 4.1	\$ 195.00
17.	Person not supplying description of structure and type of construction from which fireworks will be sold.	Section 4.2.1	\$ 195.00

Town of Orangeville  
Bylaw 115-2004  
Fireworks Bylaw  
Part 1 Provincial Offences Act

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11.	Person displaying fireworks within 183 meters of prohibited area without written consent of owners/agent.	Section 3.11	\$ 195.00
12.	Person holding fireworks display without permit.	Section 3.12	\$ 195.00
13.	Person holding display using fireworks manufactured/assembled by child labour.	Section 3:13	\$ 195.00
14.	Person selling/retailing firecrackers within Town of Orangeville.	Section 3.14	\$ 195.00
15.	Person setting off firecrackers within the Town of Orangeville.	Section 3.15	\$ 195.00
16.	Person applying for licence not filing with Clerk a completed application.	Section 4.1	\$ 195.00
17.	Person not supplying description of structure and type of construction from which fireworks will be sold.	Section 4.2.1	\$ 195.00

Town of Orangeville  
Bylaw 115-2004  
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34.	Applicant not submitting access for fire and emergency vehicles.	Section 6.1.2	\$ 195.00
35.	Applicant not submitting certificate of insurance of two million dollars liability	Section 6.1.3	\$ 195.00
36.	Applicant not naming Town of Orangeville as additional insured of two million dollars liability.	Section 6.1.3	\$ 195.00
37.	Person not permitting Officer to inspect the premises/equipment.	Section 8.1	\$ 195.00

Note: The Penalty provisions for the offences indicated above is Section 11 of Bylaw 115-2004, a certified copy which has been filed.