

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

BY-LAW # 08-22

A By-Law to prohibit and regulate the sale of fireworks and the setting off of fireworks.

WHEREAS Section 121. (1) of the Ontario Municipal Act, 2001, S.O. 2001 c.25 provides that the Council may prohibit and regulate the sale of fireworks and the setting off of fireworks;

WHEREAS Section 121. (2) of the Ontario Municipal Act, 2001, S.O. 2001 c.25 provides that the Council may prohibit the activities described in Section 121. (1), above, unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

AND WHEREAS Council for the Corporation of the Township of Clearview deems it necessary for the safety and well-being of the community to prohibit and regulate the setting off of fireworks and for requiring permits within the Corporation of the Township of Clearview;

NOW THEREFORE the Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. DEFINITIONS

- 1.1 **"By-Law Enforcement Officer"** means a person appointed by Council by way of by-law to perform the duties of a By-Law Enforcement Officer.
- 1.2 **"Council"** means the Council of the Corporation of the Township of Clearview.
- 1.3 **"Deputy Fire Chief"** means the Deputy Chief of the Township of Clearview Fire Department.
- 1.4 **"Designated Days"** means Victoria Day and Canada Day.
- 1.5 **"Designated Period"** means Victoria Day and Canada Day and the 7 calendar days immediately preceding Victoria Day and Canada Day.
- 1.6 **"Fire Chief"** means the Chief of the Township of Clearview Fire Department.
- 1.7 **"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.
- 1.8 **"Fireworks"** means a pyrotechnic device or a substance that is made, manufactured or used to produce an explosion or detonation and includes fireworks composition and manufactured fireworks as defined in the

Explosive Regulations made pursuant to the Explosives Act, R.S. c. E-15, s. 1 as amended and includes one single item of fireworks.

- 1.9 **“Motor Vehicle”** means any automobile, motorcycle, motor assisted bicycle, and any other vehicle propelled or driven otherwise than by muscular power.
- 1.10 **“Person”** means and shall include an individual human being, an individual company, partnership, corporation or limited company.
- 1.11 **“Public Fireworks Display”** means and exhibition of Fireworks in an open air assembly, occupancy to which the public is invited, attends or is admitted, with or without a fee being charged.
- 1.12 **“Vehicle”** means any motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle, motorized snow vehicle and any vehicle drawn, propelled or driven by any kind or power including muscular power.
- 1.13 **“Flying Lanterns”** shall mean a small hot air balloon made of treated paper or any other material, with an opening at the bottom which is propelled by an open flame generated by a small candle or fuel cell, allowing the balloon to rise and float in the air, uncontrollably while ignited.

2. OFFENCES

- 2.1 No person shall set off any firecracker within the Township of Clearview.
- 2.2 No person shall set off any fireworks except during the designated period.
- 2.3 In the event of inclement weather on the designated days of Victoria Day or Canada Day, makes it impractical to set off fireworks, the next day following Victoria Day or Canada Day shall be included as part of the designated period.
- 2.4 A Public Fireworks Display is exempt from Section 2.2 and Section 2.3 providing a valid permit is outlined in Section 3 has been obtained from the Fire Chief of the Township of Clearview.
- 2.5 No person shall set off any fireworks in, on or onto any building, highway, sidewalk, municipal park or municipal property.
- 2.6 No person shall set off any Public Fireworks Display unless they have received a permit.
- 2.7 No person shall set off any fireworks within eight (8) meters of any building, tent, trailer or motor vehicle.

- 2.8 No person shall display, offer for sale, or sell fireworks within the Township of Clearview except for a designated period which includes Victoria Day and Canada Day and 7 calendar days immediately preceding Victoria Day or Canada Day.
- 2.9 No person shall sell, cause or permit to be sold any fireworks to a person who is less than 18 years old.
- 2.10 No person shall display, offer to sell or sell any firecracker.
- 2.11 No person shall have fireworks for sale contained in any store fixture or display structure, which has a face area or more than 20 square feet and a total capacity area of more than 40 cubic feet.
- 2.12 No person shall sell or offer for sale any fireworks in any outdoor location or from any motor vehicle or vehicle, except with the express written permission of the Fire Chief.
- 2.13 No person shall display, offer to sell or sell any flying lanterns.
- 2.14 No person shall set off any flying lantern.

3. PERMITS FOR PUBLIC FIREWORKS DISPLAY

- 3.1 A permit may be issued by the Fire Chief on any land if the requirements listed in this section are met.
- 3.2 An application form has been completed and submitted to the Fire Chief together with the application fee paid in full.
- 3.3 Filed with the application form shall be current and an up to date site plan with dimensions showing:
 - a) The location of the proposed Public Fireworks Display
 - b) The access to be provided for fire and emergency vehicles
 - c) The free zone area of clear distance between the point of launch and an occupied area
- 3.4 Filed with the application form shall be a statement of the safety measures being implemented.
- 3.5 Filed with the application form shall be a Certificate of Liability Insurance certifying the permit being applied for, is insured against general liability and property damage claims, in the minimum amount of five million dollars (\$5,000,000.00) inclusive for any one occurrence. Said policy shall name the Corporation of the Township of Clearview as an additional insured. Said policy shall be endorsed to provide that the policy will not be altered, cancelled or allowed to lapse within ten (10) days prior written notice to the Corporation.

- 3.6 The Fireworks shall only be set off on the day or days specified by the permit.
- 3.7 The application fee shall be \$50.00 for a Public Fireworks Display that does not include any fireworks as defined in Class 7 Division 2 Subdivision 2 of the Explosives Regulations made pursuant to the Explosives Act. R.S. c. E-15, s.1, as amended.
- 3.8 The application fee shall be \$150.00 for a Public Fireworks Display that does not include any fireworks as defined in Class 7 Division 2 Subdivision 2 of the Explosives Regulations made pursuant to the Explosives Act. R.S. c. E-15, s.1, as amended.
- 3.9 The fireworks shall only be set off by a person currently certified as a Fireworks Supervisor Level I or Level II by the Explosion Regulatory Division of Natural Resources Canada.
- 3.10 The permit may be suspended or revoked by the Fire Chief if the conditions of the permit are not being met or it would be unsafe to allow the Public Fireworks Display.
- 3.11 Notwithstanding the forgoing sections, the Fire Chief may require any **additional information of the applicant to ensure the public's safety and** may impose additional conditions on the issuance of a permit as he deems advisable in the particular circumstance of the application.

4. EXEMPTIONS

- 4.1 It is hereby declared for greater certainty that on Victoria Day or Canada Day on land belonging to a private resident, occupied by the owner, tenant or an authorized person of the residence, that the setting off of fireworks for their own personal display shall not be deemed to be a Public Fireworks Display.
- 4.2 Additionally, the display described in Section 4.1 shall not include Fireworks as defined in Class 7 Division 2 Subdivision 2 of the Explosives Regulations made pursuant to the Explosives Act, R.S. c. E-15, s.1, as amended.

5. VALIDITY

- 5.1 Should any section, subsection, clause, paragraph or provision of this By-Law be declared by a Court of competent jurisdiction to be invalid or illegal for any other reason, such offending section or part shall be deemed to have been severed from this By-Law and the remaining sections or parts shall continue in full force and effect and shall remain valid and binding.

6. ADMINISTRATION, ENFORCEMENT AND INSPECTION

- 6.1 This By-Law shall be administered by the Fire Chief of the Township or such other person or persons as Council may, by by-law, appoint all such persons who shall be considered inspectors under the terms of the By-Law.
- 6.2 This By-Law shall be enforced by the Fire Chief, Deputy Fire Chief or By-Law Enforcement Officer(s) or such other person or persons as Council may by by-law appoint, and all such persons shall be considered inspectors under the terms of this By-Law.
- 6.3 An Inspector under this By-Law:
- 6.3.1 Has the power to enter upon any yards, vacant lots, grounds or buildings except a dwelling house, at any reasonable time or time; and
- 6.3.2 May be accompanied by such person or persons as they deem necessary to properly carry out their duties under this By-Law.

7. PENALTY

- 7.1 Every person who:
- a) Hinders, disturbs or obstructs any Inspector(s) in carrying out his or her duties under this By-Law; or
- b) Contravenes any provision of this By-Law

Is guilty of an offence and upon conviction is subject to a penalty as provided under the Provincial Offences Act.

8. EFFECTIVE DATE OF BY-LAW

This By-Law shall come into full force and take effect from the date of its final passing.

By-Law 08-22 read a first, second and third time and finally passed this 28th day of April 2008.

Mayor

Clerk

SCHEDULE "A"**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW BY-LAW 08-22**

A BY-LAW CONTROLLING THE SALE AND USE OF FIREWORKS

PART 1 – PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	Short form wording	Provision creating or defining Offence	Set Fine
1	Set off firecracker	2.1	\$70.00
2	Set off fireworks – not during designated period	2.2	\$70.00
3	Set off fireworks in, on, or onto a building	2.5	\$70.00
4	Set off fireworks in, on, or onto a highway	2.5	\$70.00
5	Set off fireworks in, on, or onto a sidewalk	2.5	\$70.00
6	Set off fireworks in, on, or onto a municipal park	2.5	\$70.00
7	Set off fireworks in, on, or onto municipal property	2.5	\$70.00
8	Set off Public Fireworks Display – no permit	2.6	\$300.00
9	Set off fireworks within 8 metres of building	2.7	\$70.00
10	Set off fireworks within 8 metres of tent	2.7	\$70.00
11	Set off fireworks within 8 metres of trailer	2.7	\$70.00
12	Set off fireworks within 8 metres of a motor vehicle	2.7	\$70.00
13	Display fireworks for sale – not designated period	2.8	\$100.00
14	Offer fireworks for sale – not designated period	2.8	\$100.00
15	Sell fireworks – not designated period	2.8	\$100.00
16	Sell fireworks to person under 18 years	2.8	\$100.00
17	Permit sale of fireworks to person under 18 years	2.9	\$100.00

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
18	Cause sale of fireworks to person under 18 years	2.9	\$100.00
19	Display, offer to sell or sell firecracker	2.10	\$100.00
20	Fireworks sale display exceeds 20 square feet	2.11	\$200.00
21	Fireworks sale display exceeds 40 cubic feet	2.11	\$200.00
22	Display, offer to sell, or sell fireworks outdoors	2.12	\$200.00
23	Display, offer to sell or sell fireworks from vehicle	2.12	\$200.00
24	Hinder and Inspector	7.1 (a)	\$200.00
25	Disturb Inspector	7.1 (a)	\$200.00
26	Obstruct Inspector	7.1 (a)	\$200.00
27	Display, offer to sell, or sell any flying lantern	2.13	\$200.00
28	Set off flying lantern	2.14	\$70.00

The penalty provision for the offences indicated above is section 7 of By-Law 08-22.

THE HONOURABLE JUSTICE GREGORY REGIS
REGIONAL SENIOR JUSTICE OF THE ONTARIO COURT OF JUSTICE
CENTRAL EAST REGION



L'HONORABLE JUGE GREGORY REGIS
JUGE PRINCIPAL REGIONAL DE LA COUR DE L'ONTARIO
RÉGION DUCENTRE-EST

50 EAGLE STREET, WEST
NEWMARKET, ONTARIO L3Y 6B1

TELEPHONE/TELEPHONE (905) 853-4890
FAX/TELECOPIER (905) 853-4891

May 27th, 2008

Mr. Philip Snape
By-Law Enforcement Officer
217 Gideon Street
P.O. Box 200
Stayner, Ontario
L0M 1S0

Dear Mr. Snape,

Re: Set Fines – Part I
The Corporation of the Township of Clearview

Enclosed herewith is a copy of an Order and a copy of a schedule of set fines for the By-law – 08-22.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded a copy of the Order and the schedule of the set fines to the POA Court in Barrie, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'G. Regis', written over a horizontal line.

Justice Gregory Regis
Regional Senior Justice
Central East Region

/sh

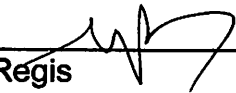
Enclosures

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 08-22, for the Corporation of the Township of Clearview, attached hereto is the set fine, for those offences. This Order is to take effect May 27th, 2008.

DATED at Newmarket this 27th
day of May, 2008.



Gregory Régis
Regional Senior Justice
Central East Region