

THE CORPORATION OF THE TOWNSHIP OF SOUTHGATE

By-law No. 2020-099

Being a by-law to regulate the sale and use of fireworks within the Township.

Whereas Sections 8 (1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25 (as amended) provide that the powers of a municipality shall be interpreted broadly so as to enable the Municipality to govern its affairs as it considers appropriate and to respond to issues; and

Whereas Section 11 of the Municipal Act, 2002, S.O. 2001, c. 25 (as amended) provides broad authority for lower-tier municipalities to pass by-laws protecting the health, safety and well-being of persons; and

Whereas the Explosives Act governs the manufacture, testing, sale, storage, transportation and importation of explosives and the use of fireworks in Canada; and

Whereas the Council of the Corporation of the Township of Southgate deems it necessary and expedient to pass a by-law with respect to the sale and discharge of fireworks in the Township of Southgate,

Now Therefore Be it Resolved That the Council of the Corporation of the Township of Southgate hereby enacts as follows:

1. Definitions:

For the purpose of this by-law the following definitions shall apply:

"Act" means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E17, and the regulations enacted thereunder as amended from time to time or any act and regulations enacted in substitution therefor;

"Appointed By-law Enforcement Officer" means a Municipal By-Law Enforcement Officer and for the purpose of this By-law the Fire Chief is appointed to enforce this by-law, who has been appointed by the Corporation of the Township of Southgate;

"Consumer Fireworks" means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Act and includes fireworks showers, fountains, golden rain, lawn lights, pinwheels, Roman candles, volcanoes, and sparklers but does not include Christmas crackers and caps for toy guns containing not in excess of twenty-five one hundredths of a grain of explosive used per cap;

"Discharge" means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off, and the words "discharged" and "discharging" have a similar meaning;

“Display Fireworks” means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers;

“Fire Chief” means the Chief of the Dundalk Fire Department and Chief Fire Official of the Township of Southgate or authorized subordinates that have been appointed by the Township of Southgate to enforce this By-law;

“Firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers;

“Fireworks” means display fireworks, pyrotechnic special effects fireworks and consumer fireworks;

“Fireworks Supervisor” means a person who is an approved purchaser of display fireworks and who is qualified under the Act to supervise the discharge of display fireworks;

“FPPA” means the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and the regulations enacted thereunder as amended from time to time or any act and regulations enacted in substitution therefor;

“Municipal By-law Enforcement Officer” means the person(s) appointed by the Township of Southgate to enforce this By-law;

“Prohibited Firework” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down torpedoes and crackling balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers and other trick devices or practical jokes as included on the most recent list of prohibited fireworks as published from time to time under the Act;

“Pyrotechnician” means a person who is certified under the Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Act;

“Pyrotechnic Fireworks” means a higher hazard special effects fireworks that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Act and that is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels;

“Sell” includes offer for sale, cause or permit to be sold and to possess for the purpose of sale, and the words “selling” and “sold” have a similar meaning; and

“Township” or “Township of Southgate” means the municipal corporation of the Township of Southgate or the geographic area of the municipality as the context requires.

2. Interpretation

- a. Words importing the singular number only include more persons, parties, or things of the same kind than one and the converse.
- b. A word interpreted in the singular number has a corresponding meaning when used in the plural.
- c. It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

3. Sale of Fireworks and Firecrackers

- a. No person shall sell any firecrackers.
- b. No person shall sell any prohibited fireworks.
- c. No person shall sell consumer fireworks except on the following days:
 - i. Victoria Day and Canada Day; and
 - ii. Each of the seven business days immediately preceding Victoria Day and Canada Day.
- d. No person or commercial business shall display or sell fireworks of any kind without municipal approval in writing from the Township of Southgate.
- e. Every person in charge of a store shall ensure that fireworks displayed in store windows shall be mock samples only and not contain explosive composition.

4. Discharge of Firecrackers and Prohibited Fireworks

- a. No person shall discharge any firecrackers.
- b. No person shall discharge any prohibited fireworks.

5. Consumer Fireworks

- a. No person shall discharge consumer fireworks except on the following days:
 - i. Victoria Day;
 - ii. the day immediately preceding Victoria Day;
 - iii. the day immediately following Victoria Day;
 - iv. Canada Day;
 - v. the day immediately preceding Canada Day; or
 - vi. the day immediately following Canada Day.
- b. No person shall discharge consumer fireworks without first having obtained a permit issued by the Fire Chief authorizing the release of fireworks.

- c. A person eighteen (18) years of age or older may hold a display of consumer fireworks on any land belonging to him or her or on any other privately owned land where the owner thereof has given permission for such display or discharge of fireworks.
- d. No person shall discharge any consumer fireworks that travel or pose a hazard more than three (3) metres, (10 feet) from the point of ignition or in such a manner as might create danger, cause damage or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the discharging of any fireworks.
- e. No person shall discharge any consumer fireworks on a residential property that does not have a frontage width of not less than 18 metres (60 feet) wide at the front and rear of the lot.
- f. No person shall discharge any consumer fireworks in or into any building, doorway, or automobile.
- g. No person shall discharge consumer fireworks without some form of ability to extinguish a fire should it be required.
- h. No person shall discharge any consumer fireworks on or into any private property or highway, street, lane, square or other public place without a permit.
- i. No person under the age of eighteen (18) years shall discharge any consumer fireworks except a sparkler where the person is under the supervision of a responsible person of eighteen (18) years of age or over.
- j. No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to discharge any consumer fireworks except a sparkler when such parent or guardian or some other responsible person of eighteen (18) years of age or over is in direct supervision and control.

6. Display Fireworks

6.1 General Provisions

- a. No person or group of persons shall hold a fireworks event in the Township of Southgate without first having obtained a permit to do so issued by the Fire Chief.
- b. No person or group of persons shall discharge any display fireworks in the Township of Southgate, without first having obtained a permit issued by the Fire Chief authorizing the display of fireworks.
- c. No permit holder shall discharge display fireworks except in accordance with the conditions of the permit.

6.2 Application

- a. Every application for a permit shall be made to the Fire Chief a minimum of 30 days prior to the event when the proposed discharge of display fireworks is to occur.
- b. Every application for a permit shall include:
 - i. The date and time of the proposed discharge of display fireworks;
 - ii. The type and kind of display fireworks that may be discharged;

- iii. The discharge techniques to be used;
- iv. The manner and means of restraining unauthorized persons from attending too near the discharge site;
- v. The manner in which unused display fireworks are to be disposed of;
- vi. The number of persons authorized to handle and discharge the display fireworks;
- vii. Address with the 911 Emergency of the discharge site;
- viii. A site plan drawing of the discharge site for the display fireworks;
- ix. A description of the fire emergency procedures;
- x. The name and address of the applicant and the sponsoring organization, if applicable;
- xi. Proof of certification of the applicant as a Fireworks Supervisor;
- xii. Proof of the consent of the owner of the property to the discharge of display fireworks in writing;
- xiii. Proof of insurance and indemnification in accordance with Sections 11 and 12; and
- xiv. Such other information as required by the Fire Chief.

6.3 Display Fireworks Permit

- a. An applicant for a Display Fireworks permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
 - i. The application is incomplete;
 - ii. The applicant is not a Fireworks Supervisor;
 - iii. The display is not being held under the auspices of an established club, association, recognized community organization or group of persons;
 - iv. The purpose of the display is not of civic, national, or international significance, or not of special significance for particular interest groups; or
 - v. There are reasonable grounds for belief that the holding of the display of fireworks will result in a breach of this by-law or the Act.
 - vi. The Fire Chief may issue permits for displays of fireworks on the conditions set forth in Section 6.4, and each such permit shall state the name of the sponsoring club, association or group, the purpose of the display, the place and date at which the same may be held, and the name of the person under whose supervision the display shall be held.

6.4 Conditions Applying to Display Firework Permit

The following conditions shall apply to the holding of Display Fireworks under a permit issued under this by-law:

- a. The permit is valid only for the display at the place and on the date or dates set forth in the permit;
- b. The permit holder shall supervise the display of fireworks;

- c. The permit holder shall have a trained person discharge the display fireworks;
- d. Every permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use;
- e. The permit holder shall comply at all times with the provisions of the Act, FPPA and the Display Fireworks Manual published by Natural Resources Canada or any successor publication; and
- f. The permit holder holding the display of Display Fireworks shall ensure that all unused fireworks and all debris are removed.

7. Pyrotechnic Special Effects Fireworks

7.1 General Provisions

- a. No person or group of persons shall hold a display of pyrotechnic special effect fireworks in the Township of Southgate without first having obtained a permit to do so issued by the Fire Chief.
- b. No person or group of persons shall discharge any pyrotechnic special effect fireworks in the Township of Southgate, without first having obtained a permit issued by the Fire Chief authorizing the display of pyrotechnic special effect fireworks.
- c. The Fire Chief may issue permits for displays of pyrotechnic special effect fireworks on the conditions set forth in Section 7.4, and each such permit shall state the name of the sponsoring business, club, association or group, the purpose of the display, the place and date at which the display may be held, and the name of the pyrotechnician under whose supervision the same shall be held.
- d. No permit holder shall discharge pyrotechnic special effect fireworks except in accordance with the conditions of the permit.

7.2 Application

- a. Every application for a permit pursuant to Section 7.1 shall be made to the Fire Chief a minimum of 30 days prior to the event where the proposed discharge of pyrotechnic special effect fireworks is to occur.
- b. Every application for a Pyrotechnic Special Effect Fireworks permit shall include:
 - i. A site plan of the facility and room capacity, the stage and the Pyrotechnic Special Effect Fireworks storage area;
 - ii. A list of all the pyrotechnic special effect fireworks to be employed;
 - iii. Location of all pyrotechnic special effect fireworks;
 - iv. Height, range of effect, fallout and duration of the display of pyrotechnic special effect fireworks;
 - v. Sequence of firing;
 - vi. Location of the audience and all exits;
 - vii. Date and time of the proposed event using pyrotechnic special effect fireworks;
 - viii. Description of fire emergency procedures;

- ix. Name and address of the applicant and the sponsoring business or organization, if applicable;
- x. Proof of certification of the applicant as a Pyrotechnician;
- xi. Proof of insurance and indemnification in accordance with Sections 11 and 12;
- xii. Proof of consent of the owner of the property to the discharge of pyrotechnic special effect fireworks in writing if the applicant is not the owner of the property;
- xiii. A processing fee of \$30.00; and
- xiv. Such other information as required by the Fire Chief.

7.3 Pyrotechnic Special Effect Fireworks Permit

- a. An applicant for a Pyrotechnic Special Effect Fireworks permit is, subject to the provisions of this by-law, entitled to be issued the permit, except where:
 - i. The application is incomplete;
 - ii. The applicant is not a pyrotechnician under the Act; or
 - iii. There are reasonable grounds for belief that the holding of the display of fireworks will result in a breach of this by-law, the FPPA or the Act.

7.4 Conditions applying to Pyrotechnic Special Effect Fireworks permit

The following conditions shall apply to the holding of a display of Pyrotechnic Special Effect Fireworks under a permit issued under this by-law:

- a. The permit is valid only for the display at the place and on the date or dates set forth in the permit;
- b. The permit holder shall supervise the display of pyrotechnic special effect fireworks;
- c. The permit holder shall have a trained person discharge the pyrotechnic special effects fireworks;
- d. The permit holder shall provide and maintain fully operational fire extinguishing equipment ready for immediate use;
- e. The permit holder shall comply at all times with the requirements of the Act, FPPA and the Pyrotechnics Special Effects Manual published by Natural Resources Canada or any successor publication; and
- f. The permit holder holding the display of pyrotechnic special effect fireworks shall ensure that all unused fireworks and all debris are removed.

8. General Regulations

Every holder of a display fireworks or pyrotechnic special effect fireworks permit shall produce his or her permit upon being so directed by the Fire Chief or Municipal By-law Enforcement Officer.

9. Offences and Penalties

Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

10. Administration & Enforcement

- a. This by-law shall apply to all property within the limits of Southgate.
- b. This by-law shall be enforced by a municipal by-law enforcement officer, the Southgate Fire Chief and may be enforced by an Ontario Provincial Police Officer.

11. Hinder/Obstruct Officer

No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.

12. Insurance

The applicant shall provide and maintain Commercial General Liability insurance subject to limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall be in the name of the applicant and shall name the Township of Southgate as an additional insured thereunder. Such insurance shall include permission to conduct displays of pyrotechnic special effects fireworks or display fireworks. Such insurance policy shall contain an endorsement to provide the Township of Southgate with (30) days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to Township of Southgate prior to the issuance of a permit.

13. Indemnification

The applicant shall indemnify and save harmless the Township of Southgate from any and all claims, demands, causes of action, loss, costs or damages that the Township of Southgate may suffer, incur or be liable for resulting from the performance of the applicant as set out in the by-law, whether with or without negligence on the part of the applicant, or the applicant's employees, directors, contractors and agents.

14. Repeal

All previous by-laws of the Township of Southgate, including the former Village of Dundalk, Township of Egremont and Township of Proton to regulate the sale of fireworks, permitting and setting off of Display and Pyrotechnic Special Effect Fireworks or any class thereof are hereby repealed.

15. Conflicts-by-laws-standards-regulations

Where a provision of this Chapter conflicts with the provisions of another by-law, Act or Regulation in force within Southgate, the provision, which establishes the higher standards to protect the health, safety and welfare of the occupants and the general public shall prevail.

16. Severability

It is hereby declared that each and every of the foregoing provisions of this by-law is severable and that if any provisions of this by-law should, for any reason, be declared invalid by any Court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

17. Short title

This by-law may be referred to as the "Fireworks By-law."

Read a first, second and third time and finally passed this 16th day of September, 2020

John Woodbury – Mayor

Lindsey Green - Clerk

Schedule A

Southgate Application and Fireworks Permit

Note: Online Forms are available on the Southgate website

- Application for Consumer Fireworks (and responses to By-law Section 5)
- Application for Display Fireworks (and provide responses to By-law Section 6)
- Application for Pyrotechnical Fireworks (required event location site plan and provide responses to By-law Section 7)

Applicant Contact Information:

Contact Name: _____

Organizations Name: _____
(if different then name)

Mailing Address: _____

Town: _____ PC: _____

Phone #: _____ Email: _____

Fireworks Event Information:

Date of the Event: _____

Event Times: _____ to _____

Event Address Location: _____

- Written permission of Property Owner where Fireworks will be released
- Letter from the Organization's President describing event if applicable
- You have trained staff person releasing these fireworks

Location where the Fireworks were purchased: _____

Applicant Approval: _____ Date: _____

Township Approval: _____ Date: _____

Conditions if any: _____

Corporation of the Township of Southgate

Schedule B to By-law 2020-099

Township of Southgate Fireworks By-law

Part 1 Provincial Offences Act

Short Form Wording

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Sell firecrackers	3 (a)	\$100.00
2	Sell prohibited fireworks	3 (b)	\$100.00
3	Sell consumer fireworks when prohibited	3 (c)	\$100.00
4	Display/sell any kind of fireworks to the public without a permit	3 (d)	\$100.00
5	Discharge firecrackers	4 (a)	\$100.00
6	Discharge prohibited fireworks	4 (b)	\$100.00
7	Discharge consumer fireworks without permit	5 (b)	\$100.00
8	Discharge fireworks – create hazard or nuisance or cause damage	5 (d)	\$50.00
9	Discharge consumer fireworks without ability to distinguish a fire	5 (g)	\$50.00
10	Discharge fireworks on private property or public spaces without permit	5 (h)	\$50.00
11	Discharge Display fireworks without permit	6.1 (b)	\$100.00
12	Discharging of Fireworks in contravention of the conditions of the permit.	6.1 (c)	\$50.00
13	Allow untrained person to discharge display fireworks	6.4 (c)	\$50.00
14	Discharge display fireworks - no operational fire extinguishing equipment	6.4 (d)	\$50.00
15	Discharge pyrotechnic special effect fireworks without permit	7.1 (b)	\$100.00
16	Allow untrained person to discharge Pyrotechnic Special Effect fireworks	7.4 (c)	\$50.00
17	Discharge Pyrotechnic Special Effect fireworks – no operational fire extinguishing equipment	7.4 (d)	\$50.00

Note: The penalty provision for the offences indicated above is Section 9 of By-law Number 2020-099, a certified copy of which has been filed.