

Authority: Item 4, Emergency and Community Services Committee Report 22-006 (HSC22018)
CM: April 27, 2022
Ward: City Wide
Bill No. 093

CITY OF HAMILTON
BY-LAW NO. 22-093

To Amend By-law 02-285, a By-law to Regulate the Sale and Use of Fireworks and to Repeal By-law 07-025

WHEREAS; section 121 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "*Municipal Act, 2001*") provides that a municipality may regulate or prohibit the sale of fireworks; and

WHEREAS Council enacted By-law 02-285, a By-law to Regulate the Sale and Use of Fireworks (the "Fireworks By-law") on October 9, 2002; and

WHEREAS Council deems it necessary to amend the Fireworks By-law to address the discharge of fireworks and to address other housekeeping matters;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The amendments in this By-law include any necessary grammatical, numbering and lettering changes.
2. That By-law 02-285 be amended by repealing the definitions of "display fireworks", "family fireworks", "Fire Chief", "Fire Department", "General Manager", "pyrotechnics", and "prohibited fireworks" and replacing those definitions with the following:

"display fireworks" means Type F.2 high-hazard firework articles that are classed under the *Explosives Act*, and the *Explosives Regulations* under that Act, designed for use by professionals holding a Fireworks Operator Certificate issued by the Explosives Regulatory Division of Natural Resources Canada (NRCan). These articles include but are not limited to items such as aerial shells, cakes, roman candles, waterfalls, lances and wheels;

"family fireworks" has the same meaning as "consumer fireworks" under the *Explosives Act* and means Type F.1 low-hazard firework articles that are classed under the *Explosives Act*, and the *Explosives Regulations* under that Act, designed for recreational use by the public. These articles include but are not limited to items such as roman candles, sparklers, fountains, wheels, volcanoes, mines, and snakes;

"Fire Chief" means the City's Fire Chief of the Hamilton Fire Department, or their designate;

"Fire Department" means the Hamilton Fire Department;

“General Manager” means the City’s General Manager of the Healthy and Safe Communities Department, or their designate;

“pyrotechnics” means Type F.3 high-hazard pyrotechnic articles that are classed under the *Explosives Act*, and the *Explosives Regulations* under that Act, designed for use by professionals holding a Fireworks Operator Certificate issued by the Explosives Regulatory Division (ERD) of Natural Resources Canada (NRCan). These articles include items such as gerbs, mines, comets and crossettes. Certification for pyrotechnics also includes special purpose pyrotechnics manufactured for the film and television industry.

“prohibited fireworks” means firecrackers, flying lanterns, and also those types of fireworks more particularly described in Schedule “A” hereto annexed;

3. That By-law 02-285 be amended by adding the following definitions:

“Display Supervisor” means an individual possessing a valid Fireworks Operator certificate at the level of Supervisor as issued by the Explosives Regulatory Division (ERD) of Natural Resources Canada (NRCan);

“*Explosives Act*” means the *Explosives Act*, R.S.C. 1985, c. E-17, as amended;

“*Explosives Regulations*” means *Explosives Regulations*, 2013 (SOR/2013-211), as amended;

4. That the title in section 2 of By-law 02-285 be amended by repealing the title and replacing it with the following:

Ban Against Possession or Use of Prohibited Fireworks

5. That By-law 02-285 be amended by repealing subsections 2.1, 2.2, and 2.3 and replacing them with the following:

- 2.1 No person within the City shall possess, offer for sale, cause or permit to be sold, or sell any prohibited fireworks.

- 2.2 No person within the City shall discharge, fire, set off or cause, or permit to be discharged, fired or set off any prohibited fireworks.

- 2.3 The prohibition against the possession of prohibited fireworks under subsection 2.1 does not apply with respect to prohibited fireworks that are within the City solely as a result of their being in transit while being transported by a railway, airline, trucking company or other public carrier.

6. That By-law 02-285 be amended by adding the following subsection after subsection 3.2:

3.3 No person shall offer for sale, cause or permit to be sold, or sell family fireworks without displaying or otherwise making available to purchase, the fireworks information outlining the safe handling of fireworks, including any information or brochures that may be required under the *Explosives Act* or supplied by the manufacturer.

7. That subsection 5.3 of By-law 02-285 be amended to replace the word “fourteen” with the word “seven”.

8. That By-law 02-285 be amended by repealing subsection 6.1 and replacing it with the following:

6.1 Subject to subsection 6.2, no person shall set off family fireworks except on Victoria Day and Canada day, or the day immediately following either of those days if precluded by inclement weather on Victoria Day or Canada Day, and every person shall only set off family fireworks on those permitted days during the time period between dusk and 11:00 p.m.

9. That By-law 02-285 be amended by repealing subsection 6.5 and replacing it with the following:

6.5 No person shall set off family fireworks:

- (a) on or into any highway, street, lane, boulevard, roundabout, or private roadway;
- (b) on or into any land used for school purposes;
- (c) on or into any park, parkette, trail, linear park, land used for storm water management, square, other public place or any land owned by the government of Canada, or the City of Hamilton, or any of their boards or agencies; or
- (d) on any land whatsoever, except on land belonging to the person setting off the fireworks, or on other privately-owned land where the consent of the owner has been obtained.

10. That By-law 02-285 be amended by repealing subsection 7.1 and replacing it with the following:

7.1 No person shall sell or otherwise distribute, offer for sale, cause or permit to be sold, or possess for the purposes of sale or distribution, any display fireworks unless,

- (a) those fireworks are included on the most recent list of authorized explosives as published from time to time by the Explosives Regulatory Division of the Department of Natural Resources Canada or its successor; and

(b) the fireworks are kept and maintained in a magazine licensed by the Explosives Regulatory Division of the Department of Natural Resources Canada or its successor.

11. That By-law 02-285 be amended by repealing subsection 7.2 (b) and replacing it with the following:

7.2 (b) holds a valid Fireworks Operator certificate at the level of Display Supervisor.

12. That By-law 02-285 be amended by repealing subsection 8.1 and replacing it with the following:

8.1 Any person eighteen years of age or over, who is duly authorized under the *Explosives Act* and approved thereunder as a Display Supervisor, may apply to the General Manager of Healthy and Safe Communities, for a permit to set off or hold a display of display or family type fireworks.

13. That subsection 8.2 of By-law 02-285 be amended by repealing the words "fireworks supervisor" and replacing them with "Display Supervisor".

14. That By-law 02-285 be amended by repealing subsection 8.6 (d) and replacing it with the following:

8.6 (d) proof that the applicant has been approved by the Explosives Regulatory Division of the Department of Natural Resources Canada as a Display Supervisor.

15. That By-law 02-285 be amended by repealing subsection 8.9 (b) and replacing it with the following:

8.9 (b) conform to the provisions of the current issue of the Display Fireworks Manual as published from time to time by the Explosives Regulatory Division of the Department of Natural Resources Canada, or any successor publication, for the setting off or holding of a display of display fireworks.

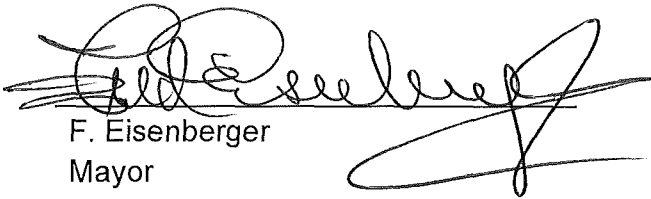
16. That By-law 02-285 be amended by repealing subsection 11.2 (b) and replacing it with the following:

11.2 (b) the specifications, recommendations or requirements, as the case may be, set down in the Special Effects Pyrotechnic Manual as issued and updated from time to time by the Explosives Regulatory Division of the Department of Natural Resources Canada.

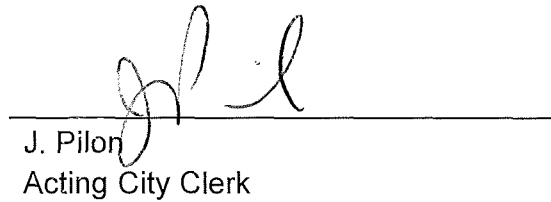
17. That in all other respects, By-law 02-285 is confirmed; and

18. That By-law 07-025, a By-law to Amend Fireworks By-law No. 02-285 to Provide for the Sale of Family Fireworks for a Period of 14 days, Prior to Holidays be repealed in its entirety; and
19. That the provisions of this by-law shall become effective on the date approved by City Council.

PASSED this 27th day of April, 2022.



F. Eisenberger
Mayor



J. Pilon
Acting City Clerk