

The Corporation of the City of Burlington

City of Burlington By-law 85-2020

A by-law to amend By-law 42-2008, as amended, to provide for the licensing, regulating and governing businesses in the City of Burlington  
(BFD-03-20)

Whereas the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a local municipality may license, 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 sections 8, 9 and 11 of the *Municipal Act, 2001*, c.25, as amended (the "*Municipal Act, 2001*") authorize The Corporation of the City of Burlington (the "City of Burlington") to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 5, 6 and 8 of subsection 11(2), and paragraph 11 of subsection 11(3) authorize by-laws respecting the economic, social and environmental well-being of the City, the safety and well-being of persons, the protection of persons and property and structures and business licensing; and

Whereas the City of Burlington is responsible for ensuring that:

- persons are protected from injury; and
- property is protected from damage; and
- nuisances and dangers are minimized in the sale and discharge

of fireworks; and

Whereas section 121 of the *Municipal Act, 2001*, authorizes the City of Burlington to pass by-laws prohibiting and regulating the sale and the setting off of fireworks, and to require that a permit be obtained for the sale and setting off of fireworks, and that conditions may be prescribed by the municipality for obtaining, continuing to hold and renewing the permit; and

Whereas Sections 390 to 400 of the *Municipal Act, 2001* authorize the City of Burlington to pass by-laws imposing fees or charges for services or activities provided or done by them; and

Whereas section 425 of the *Municipal Act, 2001* provides that a municipality may pass a by-law providing that any person who contravenes the by-law of the municipality is guilty of an offence; and

Whereas section 444 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity; and

Whereas this By-law provides for various housekeeping and technical amendments to By-law 42-2008 with reference to the licensing of the sale of Fireworks;

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Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. Section 1.1. of By-law 42-2008 is amended by adding the following new definitions in alphabetical order:

“Display Fireworks” means Type F. 2 fireworks under the *Explosives Act* and comprises of high-hazard display fireworks used for recreation, including but not limited to, display shells, barrages, batteries, fountains, exhibition candles, flares, set-pieces, maroons, wheels, and bouquets. These may only be purchased by persons with a valid fireworks operator certificate;

“Firecrackers” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include caps for toy guns, safety flares or marine rockets;

“Fireworks By-law” means City of Burlington By-law No. 84-2020, being a By-law to regulate the discharge of fireworks and to repeal and replace By-law 125-1992, as amended or replaced from time to time;

“Prohibited Fireworks” includes but is not limited to ammunition for tie clip, cufflinks or key chain pistols; auto-foolers; blaster balls; cherry bombs, M-80 and silver salutes and flash crackers; cigarette loads or pings; dancing crackers (throw down and step on torpedoes); exploding or smoking golf balls; helicopters; parachute shells; party poppers; table rockets and battle sky rockets; stink or smoke bombs; table bombs; table or bottle rockets; tear gas pens and launchers; throw downs (also called snap caps); trick matches including exploding matches and sparkling matches, as included on the most recent list of prohibited fireworks, as published from time to time under the *Explosives Act*;

“Special Effect Pyrotechnics” means Type F. 3 fireworks under the *Explosives Act* and comprises of high-hazard fireworks designed for professional use, including articles such as gerbs, mines, comets, and crossettes, as well as special-purpose pyrotechnics made for live stage performances and the film and television industry.

2. Section 1.1(22) of By-law 42-2008 definition of “Fireworks” is deleted and replaced with the following new definition:

“Fireworks”, otherwise known as Consumer Fireworks or “Family Fireworks”, means Type F.1 fireworks under the *Explosives Act* and comprises of low-hazard fireworks generally used for recreation such as fountains, wheels, Roman candles, sparklers, volcanoes, mines, snakes and toy pistol caps;

3. By-law 42-2008 is amended by deleting Part 20.1, and replacing it with the following new Part 20.1:

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Every Person who contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and upon conviction is, pursuant to s. 61 of the Provincial Offences Act, R.S.O. 1999, c. P. 33, as amended, liable to a fine not exceeding \$25,000.

4. By-law 42-2008 is amended by deleting Part 29, section 29.1 to 29.6 and replacing it with the following new Part 29:

PART 29: SALE OF FIREWORKS

REQUIREMENTS

- 29.1 The Applicant for the sale of Fireworks from a trailer and/or vehicle location shall provide the licensing officer at the City with a site plan, indicating its location relative to buildings, designated parking location, driveway isle, property lines and Highways and Sidewalks.
- 29.2 A completed application for the sale of Fireworks Licence shall be delivered to the City's licensing officer and shall be accompanied by:
- (a) certified copy of Commercial General Liability insurance policy or a certificate of Insurance issued by the insurer in an amount no less than \$5,000,000.00 against bodily injury and property damage resulting from any one occurrence during the term of the Fireworks Licence, naming The Corporation of the City of Burlington as an additional insured and containing a cross liability clause. Such insurance shall provide the City with 30 calendar days prior written notice of cancellation or of material change that would diminish coverage; and
  - (b) A letter from the owner of the property, if applicable, where the sale of Fireworks will commence providing written permission to allow the sale of Fireworks on the premises.

CONDITIONS

- 29.3 No Person shall sell, offer for sale, cause or permit to be sold, or otherwise distribute Fireworks unless the person has obtained a licence to sell Fireworks in accordance with this By-law.
- 29.4 No Person shall sell, offer for sale, cause or permit to be sold, or otherwise distribute Fireworks other than in accordance with the Fireworks Licence and the terms of this By-law.
- 29.5 No Person shall sell, offer for sale, cause or permit to be sold or otherwise distribute Fireworks except on the following days:
- (a) Canada Day;
  - (b) Victoria Day; and
  - (c) each of six days immediately preceding Canada Day and Victoria Day.
- 29.6 No Person shall sell, offer for sale, cause or permit the sale or give or

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- distribute any Fireworks to any person under the age of eighteen.
- 28.7 Every Licensee shall post a prominent No-Smoking signage in conspicuous location(s) at the Premises, trailer and/or vehicle location where Fireworks are sold.
- 29.8 No Person shall smoke at the Premises or in the vicinity of the trailer and/or vehicle where Fireworks are sold.
- 29.9 Every Licensee shall ensure that any trailer and/or vehicle where Fireworks are sold is situated a safe distance, and no less than 20 metres, from any dwelling, store, occupied building, gas station, road, or railway.
- 29.10 Every Licensee shall ensure that any trailer and/or vehicle where Fireworks are sold is situated a safe distance, and no less than 3 metres away, from an area that allows appropriate parking of vehicles.
- 29.11 Every Person shall ensure that a minimum 20 metre perimeter is maintained between any Premises, vehicle or trailer where Fireworks are sold and any potential source of ignition, including but not limited to portable generator, motor vehicle, or smoking.
- 29.12 The Licensee shall ensure that the Fireworks displayed in the window of Premises, vehicle or trailer where Fireworks are sold do not contain explosive composition and are mock samples only.
- 29.13 The Applicant and the Licensee shall, at all relevant times, comply with the requirements of this By-law and the Fireworks By-law, as amended or replaced.
- 29.14 Every Person that stores or sells Fireworks shall comply with the storage and sale requirements of all applicable legislation including the requirements of the *Explosives Act*, as amended or replaced.
- 29.15 No person shall sell, offer for sale, cause or permit to be sold, or otherwise distribute Firecrackers, Prohibited Fireworks, Display Fireworks or Special Effects Pyrotechnics unless permitted under the *Explosives Act*.
5. That in all other aspects, By-law 42-2008 be and is hereby confirmed.
6. This By-law comes into force on the date of its passing.

Enacted and passed this 23<sup>rd</sup> day of November 2020.

Mayor Marianne Meed Ward \_\_\_\_\_

City Clerk Kevin Arjoon \_\_\_\_\_