

BYLAW 35-2019 FIREWORKS BYLAW

Section 7 of the Municipal Government Act permits Council to pass bylaws for municipal purposes in relation to the safety, health and welfare of people and the protection of people and property, and to create offences and impose fines and penalties; and

Section 8 of the Municipal Government Act permits Council to regulate or prohibit particular activities, industries, businesses, or other things; and

Section 3(c) of the Municipal Government Act states that the development and maintenance of safe and viable communities is one of the purposes of a municipality; and

A municipality has certain responsibilities and Authorities under the *Explosives Regulations, 2013, SOR/2013-211*, to review and approve fireworks plans, ensure safe storage of fireworks, and to ensure the safety of persons using fireworks, and the safety of other persons in the County; and

Council recognizes that fireworks are explosive devices and present a risk to the safety, health, and welfare of persons and the safety of property within Strathcona County, particularly when sold, possessed, and used by persons not properly trained and certified;

Therefore Council enacts:

PART I – PURPOSE AND INTERPRETATION

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| Purpose | 1 | The purpose of this bylaw is to establish rules for responsible and safe sale, ownership, possession, and use of fireworks and other explosive devices intended for entertainment. |
| Citation | 2 | This bylaw is cited as the Fireworks Bylaw. |
| Definitions | 3 | In this bylaw: <ul style="list-style-type: none">(a) “bylaw enforcement officer” means an individual appointed or authorized by the Chief Commissioner to enforce County bylaws, including a peace officer and a police officer(b) “Chief Commissioner” means the chief administrative officer of the County, or delegate;(c) “County” means the municipal corporation of Strathcona County, a specialized municipality established under the authority of the <i>Municipal Government Act, RSA 2000, c M-26</i> and Order in Council 761/95, or the geographic area municipally described as Strathcona County as the context requires; |

- (d) "Court" means a court of competent jurisdiction in the Province of Alberta;
- (e) "consumer fireworks" has the same meaning as in the Explosives Act;
- (f) "display fireworks" has the same meaning as in the Explosives Act;
- (g) "display supervisor" means a person who holds a fireworks operator certificate (display supervisor) issued under the Explosives Act;
- (h) "distribute" means to deal out or bestow in portions or shares to one recipient, or among many recipients;
- (i) "Explosives Act" means the *Explosives Act*, RSC 1985, c E-17;
- (j) "Explosives Regulations" means the *Explosives Regulations, 2013*, SOR/2013-211
- (k) "Fees and Charges Bylaw" means the County's Fees, Rates and Charges Bylaw, Bylaw 37-2018;
- (l) "firecrackers" has the same meaning as in the Explosives Act;
- (m) "fireworks" includes consumer fireworks, display fireworks, and special effect pyrotechnics
- (n) "General Appeals and Review Committee" means the Strathcona County committee that hears and decides appeals filed with the General Appeals and Review Committee pursuant to Strathcona County bylaws;
- (o) "high-hazard fireworks" includes display fireworks and special effect pyrotechnics;
- (p) "Land Use Bylaw" means the County's *Land Use Bylaw*, Bylaw 6-2015;
- (q) "Municipal Government Act" means the *Municipal Government Act*, RSA 2000, c M-26;
- (r) "municipal tag" means a document or instrument issued by the County that alleges that a person committed a bylaw offence and allows that person to pay a specified penalty amount in lieu of prosecution;
- (s) "peace officer" has the same meaning as in the *Peace Officer Act*, SA 2006, c P-3.5;

- (t) “permit” means any one or more of the following permits, issued by the County:
 - i. consumer fireworks permit;
 - ii. high-hazard fireworks permit; or
 - iii. fireworks sale and distribution permit;
- (u) “permit-holder” means a person to whom a permit has been issued;
- (v) “person” means:
 - i. an individual;
 - ii. an incorporated entity, including a corporation, society, or cooperative; and
 - iii. the individual or individuals who are, or hold themselves out to be, legally entitled to represent an unincorporated entity such as a partnership, firm, association, organization or entity;
- (w) “Provincial Offences Procedure Act” means the *Provincial Offences Procedure Act*, RSA 2000, c P-24;
- (x) “pyrotechnician” means a person who holds a fireworks operator certificate (pyrotechnician), a fireworks operator certificate (senior pyrotechnician), or a fireworks operator certificate (special effects pyrotechnician) issued under the Explosives Act;
- (y) “special effect pyrotechnics” has the same meaning as in the Explosives Act;
- (z) “violation ticket” has the same meaning as in the Provincial Offences Procedure Act.

Interpretation

4 The following rules apply to interpretation of this bylaw:

- (a) The word “including” means “including, but not limited to”;
- (b) Headings, titles, and preambles in this bylaw are for ease of reference only;
- (c) References to one gender includes all genders and the singular includes the plural as the context requires;
- (d) Every provision of this bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid by a Court, all

other provisions of this bylaw remain valid and enforceable;

(e) References to bylaws and enactments in this bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder; and

(f) All offences under this bylaw are strict liability offences.

Application

5 Nothing in this bylaw relieves a person from the obligation to comply with a provision of any other bylaw or enactment, or the requirements of a permit, order or licence issued under another bylaw or enactment.

6 The provisions of this bylaw do not apply to:

(a) The County's emergency response activities;

(b) The County's fire extinguishing, fire prevention, or fire training operations;

(c) distress flares, when used to signal a person in distress; or

(d) the transportation of fireworks through the County, when transported in accordance with a permit or as permitted under the Explosives Act.

PART II – CHIEF COMMISSIONER

Explosives
Regulation

7 The Chief Commissioner has the following authorities under the Explosives Regulation:

(a) To approve the use of percussion caps and propellant powder, for use during historical re-enactments;

(b) To approve a pyrotechnic plan;

(c) To set the maximum quantity of fireworks that can be stored by an unlicensed buyer;

(d) To authorize the storage on fireworks for a fireworks display, within the regulated limits;

(e) To approve a fireworks display plan;

(f) To approve a danger zone smaller than 30m around a fireworks firing site.

- Types of Permits
- 8 The Chief Commissioner is authorized to issue the following types of permits:
- (a) consumer fireworks permit;
 - (b) high-hazard fireworks permit;
 - (c) fireworks sale and distribution permit.
- Permitting Authority
- 9 For each permit application, the Chief Commissioner may:
- (a) issue or decline to issue the permit;
 - (b) issue the permit on a one-time, annual, or other basis;
 - (c) require a site inspection before issuing the permit;
 - (d) impose conditions or restrictions on a permit, and on the person that the permit is issued to; or
 - (e) any one or more of the above.
- Considerations for Permits
- 10 When determining whether to issue a permit, and the conditions and restriction on a permit, the Chief Commissioner may consider:
- (a) the safety of persons and property;
 - (b) the fire risk at the proposed location, and in the County in general;
 - (c) the consent or objections to the proposed activities by the owner of the land on which the proposed activities will occur;
 - (d) noise or nuisance that may result from the proposed activities;
 - (e) any other information requested or required by the Chief Commissioner or by this bylaw; or
 - (f) any one or more of the above.
- Varying or Revoking a Permit
- 11 The Chief Commissioner may vary the conditions or restrictions in a permit, or may revoke a permit, if:
- (a) the applicant provided false or misleading information or records in support of the application;
 - (b) the information or records provided by the applicant are no longer current or correct;
 - (c) there is a contravention of any condition or restriction in the permit;

- (d) due to a change in circumstances, the activity permitted in the permit may cause a risk to the health, safety, or welfare of a person or persons, or may cause a risk or damage to property;
- (e) the applicant is convicted of an offence under this bylaw, the Explosives Act, or the *Safety Codes Act*, RSA 2000, c S-1.

PART III – APPLICANT OBLIGATIONS

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| Information Required in Permit Application | <p>12 A person applying for a permit must provide the following information to the Chief Commissioner, in the form approved by the Chief Commissioner:</p> <ul style="list-style-type: none"> (a) The name, and telephone contact number of the permit applicant; (b) Written confirmation that the owner of the land where the proposed activities will occur consents to the proposed activities; (c) A fireworks safety plan, in a form acceptable to the Chief Commissioner; (d) Proof of insurance in a form and amount required by the Chief Commissioner, if required by the Chief Commissioner; and (e) Such other and further information, records, or additional permits as may be requested or required by the Chief Commissioner. |
| Permit Application Fee | <p>13 (1) Every person applying for a permit must pay the permit application fee prescribed by the Fees and Charges Bylaw.</p> <p>(2) The Chief Commissioner is not authorized to issue a permit unless the permit application fee has been paid.</p> |
| Minimum Age for Permit | <p>14 A permit applicant must be at least eighteen (18) years of age on or before the date the application is submitted to the Chief Commissioner.</p> |

PART IV – PERMIT CONDITIONS AND RESTRICTIONS

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| Changes to Information | <p>15 A permit-holder must immediately notify the Chief Commissioner of any change to the information required by the Chief Commissioner in the permit application, or to the information included in a permit.</p> |
| Comply with Conditions | <p>16 A permit-holder must comply with every condition or restriction imposed or included on a permit.</p> |
| Valid Dates | <p>17 A permit is valid only on the date or dates specified in the permit.</p> |

Permit Not Transferable

18 A permit is not transferable between locations or persons.

PART V – CONSUMER FIREWORKS PERMITS

Consumer Fireworks Permit

19 A person is not permitted to use consumer fireworks within the County unless that person is in possession of a valid and subsisting consumer fireworks permit that allows the use of those consumer fireworks.

PART VI – HIGH-HAZARD FIREWORKS PERMITS

High Hazard Fireworks Permit

20 A person is not permitted to use high-hazard fireworks within the County unless that person is in possession of a valid and subsisting high-hazard fireworks permit that allows the use of those high-hazard fireworks.

High Hazard Fireworks Permit Application

21 In addition to any other information required in a permit application, a person applying for a high-hazard fireworks permit must provide the following information to the Chief Commissioner:

- (a) For display fireworks:
 - i. a fireworks display plan, as required by the Explosives Act; and
 - ii. proof of certification as a display supervisor;
- (b) For special effect pyrotechnics,
 - i. a pyrotechnics plan, as required by the Explosives Act; and
 - ii. proof of certification as a pyrotechnician;
- (c) Such other and further information, records, or additional permits as may be requested or required by the Chief Commissioner.

PART VII – FIREWORKS SALE AND DISTRIBUTION PERMIT

Fireworks Sale and Distribution Permit

22 A person is not permitted to sell or distribute fireworks within the County unless that person is in possession of a valid and subsisting fireworks sale and distribution permit that allows the sale or distribution of those fireworks.

Sale and Distribution Permit Application

23 In addition to any other information required in a permit application, a person applying for a fireworks sale and distribution permit must provide the following information to the Chief Commissioner:

- (a) Confirmation of the applicant’s authorization to sell fireworks under the Explosives Act;
- (b) A description of measures taken to ensure safe storage of the fireworks, including available fire suppression measures;

- (c) Such other and further information, records, or additional permits as may be requested or required by the Chief Commissioner

Must Comply with Other Legislation

24 Possession of a fireworks distribution permit does not eliminate need for a person to comply with any requirements under any other enactment or bylaw, including the County's Land Use Bylaw.

Conditions of Sale and Distribution Permit

25 A fireworks sale and distribution permit-holder must:

- (a) only sell or distribute fireworks to a person who is at least eighteen (18) years of age;
- (b) only sell or distribute display fireworks to a person who holds a display supervisor certificate;
- (c) only sell or distribute special effect pyrotechnics to a person who holds a pyrotechnician certificate;
- (d) keep a record of each sale or distribution of fireworks, on the premises where the sale or distribution occurred, for at least two (2) years following the date of the sale or distribution, and the record must include:
 - i. the date of the sale or distribution;
 - ii. the name, address, and phone number of the purchaser;
 - iii. the quantity and type of fireworks sold;
 - iv. the date and time of the expected fireworks use; and
 - v. the location and a description of the site where the fireworks will be used;
- (e) comply with all storage requirements of the Explosives Act and the *Safety Codes Act*, RSA 2000, c S-1.

PART VIII - INSPECTIONS

Permitted Inspections

26 The Chief Commissioner may, at any reasonable hour of the day, and with reasonable notice to the permit-holder, conduct an inspection of:

- (a) a permitted firing site;
- (b) a fireworks storage site;

- (c) a fireworks sales or distribution site;
- (d) the area surrounding any of the above sites;
- (e) fireworks sales and distribution records;
- (f) any documents related to a permit or a permit application; or
- (g) any one or more of the above.

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| Authority
During
Inspections | 27 A fireworks permit-holder shall provide the Chief Commissioner with free and clear access to the firing site for inspections. |
| | 28 The Chief Commissioner may request that the fireworks permit-holder pause the use of fireworks until the inspection is complete, and the fireworks permit-holder must comply with the request. |
| Personal
Safety
Measures | 29 The Chief Commissioner shall comply with personal protective equipment or other safety requirements implemented by a fireworks permit-holder at a permitted firing or storage site. |

PART IX - FIRECRACKERS

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| Firecrackers
Prohibited | 30 No person shall: have in that person's possession, sell, offer for sale, give away or otherwise distribute, discharge, fire, use, or set off firecrackers. |
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PART X – ENFORCEMENT

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| Offences | 31 A person who contravenes or fails to comply with a provision of this bylaw is guilty of an offence. |
| Continuing
Offences | 32 If an offence is of a continuing nature, each day or part thereof that a person fails to comply with the requirements of this bylaw constitutes a new offence. |
| Obstruction | 33 Any person who interferes with or obstructs a bylaw enforcement officer in the execution of the bylaw enforcement officer's duties under this bylaw is guilty of an offence. |
| False
Information | 34 Any person who provides false information to a bylaw enforcement officer is guilty of an offence. |
| | 35 Any person who provides false or misleading information on a permit application is guilty of an offence. |
| Burden of
Proof | 36 The onus of proving a person has a valid and subsisting permit is on the person alleging its existence. |

- Enforcement Measures
- 37 Nothing in this bylaw precludes a bylaw enforcement officer or a peace officer from taking any enforcement measure available in another bylaw or an enactment, in addition to issuing a municipal tag or violation ticket for an offence.
- 38 A bylaw enforcement officer is a designated officer of the municipality with the power to conduct inspections, take enforcement action, and order any person to remedy a contravention pursuant to the Municipal Government Act, or as provided for and in accordance with any other enactment or bylaw.
- Municipal Tag
- 39 A bylaw enforcement officer may issue and serve a municipal tag on any person the officer has reasonable and probable grounds to believe has contravened a provision of this bylaw by:
- (a) personally serving the municipal tag on the person; or
 - (b) mailing a copy of the municipal tag by pre-paid post to the address provided on a permit-holder's permit application, or to a person's last known postal address.
- 40 A municipal tag shall be in a form approved by the Chief Commissioner and shall state:
- (a) the name of the person to whom the municipal tag is issued;
 - (b) particulars of the contravention under this bylaw;
 - (c) the specified penalty for the offence as set out in Schedule "A";
 - (d) that the specified penalty must be paid within thirty (30) days of the issuance of the municipal tag in order to avoid prosecution; and
 - (e) any other information as may be required by the Chief Commissioner.
- Violation Ticket
- 41 If a municipal tag has been issued and the specified penalty on the municipal tag has not been paid within the prescribed time, a peace officer may issue a violation ticket to the person to whom the municipal tag was issued.
- 42 A peace officer may, in the officer's sole discretion, elect to issue and serve a violation ticket without first issuing a municipal tag.
- 43 A peace officer is authorized to issue a violation ticket, to any person the peace officer believes on reasonable and probable grounds has committed an offence under this bylaw, under Part 2 or Part 3 of the Provincial Offences Procedure Act.

- 44 A violation ticket shall be in the prescribed form and shall:
- (a) state the specified penalty for the offence as set out in Schedule "A";
or
 - (b) require a person to appear in Provincial Court with or without the alternative of making a voluntary payment.

- Penalties
- 45 A person guilty of an offence under this bylaw is liable upon summary conviction to a penalty in an amount not less than the amount specified in Schedule "A" of this bylaw, or if not prescribed in Schedule "A", not more than \$10,000.00, and any other penalties as may be prescribed in default of payment in relation to proceedings taken under Part 2 or Part 3 of the Provincial Offences Procedure Act.

PART XI – DECISIONS AND APPEALS

- Decisions
- 46 The following matters are within the Chief Commissioner's discretion, subject to any appeal or review provided for in this bylaw or to a Court:
- (a) Prescribing the forms required for applications under this bylaw;
 - (b) The decision to issue or decline to issue a permit; and
 - (c) Determination of appropriate conditions and restrictions on a permit;

- Appeals
- 47 An appeal to the County's General Appeals and Review Committee lies from the Chief Commissioner's decisions on the following matters:
- (a) to decline to issue or to revoke a permit; and
 - (b) conditions or restrictions on a permit.

48 A person must deliver notice in writing to the Chief Commissioner of an appeal not later than seven (7) days after the date on which the person was served notice of the Chief Commissioner's decision.

49 The Chief Commissioner will, not later than seven (7) days after notice of an appeal was delivered to the Chief Commissioner, deliver to the General Appeals and Review Committee the records and information upon which the decision under appeal was based.

50 Following the conclusion of any appeal hearing, the General Appeals and Review Committee must, within seven days, either confirm, reverse, or vary the decision of the Chief Commissioner.

Judicial
Review

51 The decision of the General Appeals and Review Committee is final, subject to
judicial review by the Courts.

PART XII - GENERAL

Transitional

52 Nothing in this bylaw invalidates any action taken, licence or permit granted or
revoked, or offence proceeding commenced under or pursuant to any other
enactment or bylaw.

FIRST READING: November 26, 2019

SECOND READING: November 26, 2019

THIRD READING: November 26, 2019

SIGNED THIS 5th day of December , 2019 .

Rod Frank
MAYOR

Mavis Nathoo
DIRECTOR, LEGISLATIVE AND LEGAL SERVICES

SCHEDULE "A"
Bylaw 35-2019
FIREWORKS BYLAW
SPECIFIED PENALTIES

Section	Offence	1st Offence	2nd Offence	3rd and Subsequent Offences
15	Failure to update permit information	\$100	\$200	\$500
16	Failure to comply with conditions or restrictions on a permit	\$250	\$500	\$1,000
19	Use of consumer fireworks without a permit	\$500	\$1000	\$2,000
20	Use of high-hazard fireworks without a permit	\$1,000	\$2,000	\$5,000
22	Sale or distribution of fireworks without a permit	\$1,000	\$2,000	\$5,000
25(a)-(c)	Unauthorized sale of fireworks	\$1,000	\$2,000	\$5,000
25(d)	Failure to keep records of fireworks sale	\$250	\$500	\$1,000
27	Impeding an inspection	\$500	\$1,000	\$2,000
28	Failure to pause the use of fireworks when directed	\$500	\$1,000	\$2,000
30	Possess, sell, offer for sale, distribute, discharge, use, fire, or set off firecrackers	\$500	\$1,000	\$2,000
33	Interfere with or obstruct a bylaw enforcement officer	\$500	\$1,000	\$2,000
34	Provide false information to a bylaw enforcement officer	\$500	\$1,000	\$2,000
35	Provide false or misleading information on a permit application	\$500	\$1,000	\$2,000