

## **BYLAW NO. 2020/14**

**WHEREAS**, pursuant to section 7 of the Municipal Government Act, RSA 2000, c M-26, a council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property and for any services provided by or on behalf of the municipality;

**AND WHEREAS**, pursuant to section 8 of the Municipal Government Act a council may pass bylaws to regulate or prohibit activities, industries or things and to establish a system of licenses, permit or approvals including the establishment of fees;

**AND WHEREAS** Council of the Town of Rocky Mountain House recognizes that fireworks are explosive devices and the sale, possession and use of fireworks by Persons not properly trained and authorized creates an unacceptable risk to life, health, safety and property;

**AND WHEREAS** Council of the Town of Rocky Mountain House has deemed it necessary for the safety and well-being of the community to regulate Fireworks within the Town of Rocky Mountain House;

**NOW THEREFORE COUNCIL OF THE TOWN OF ROCKY MOUNTAIN HOUSE ENACTS AS FOLLOWS:**

### **1. Title**

1.1 This bylaw may be referred to as the "Fireworks Bylaw".

### **2. Purpose**

2. The purpose of this bylaw is to regulate the sale, possession and use of Fireworks within the Town for the safety and well-being of the community.

### **3. Definitions**

In this bylaw, unless the context otherwise requires:

3.1 "CAO" means the person appointed as Town of Rocky Mountain House Chief Administrative Officer or designate;

3.2 "Consumer Fireworks" means fireworks which are designed for recreational use and are classified as low-hazard fireworks within the Explosives Act but does not include sparklers;

- 3.3 "Discharge" means to fire, ignite, explode or set-off or cause to be fired, ignited, exploded or set-off;
- 3.4 "Display Fireworks" means fireworks that are designed for professional use and are classified as high-hazard within the Explosives Act;
- 3.5 "Explosives Act" means the Explosives Act, RSC. 1985, c. E-17, as amended;
- 3.6 "Fire Ban" means a prohibition on all burning, including the Discharge of all Fireworks, issued by the Town;
- 3.7 "Firecracker" has the same meaning as in the National Fire Code 2019 – Alberta Edition;
- 3.8 "Fireworks" includes Consumer Fireworks, Display Fireworks and Pyrotechnics but does not include Firecrackers;
- 3.9 "Fireworks Inspector" means the person designated and authorized in writing by the CAO to administer and enforce the requirements of this Bylaw;
- 3.10 "Fireworks Permit" means a permit granted by the Fireworks Inspector that authorizes the permit holder to Discharge Fireworks at a specified location, with the consideration in determining the specified location for such Discharge based on:
- i. for Consumer Fireworks, the clearance requirements as recommended by the manufacturer of the Fireworks and as set out in the packaging of the Fireworks;
  - ii. for Display Fireworks, the National Fire Code 2019 – Alberta Edition which requires conformance with the Natural Resources Canada 2010 "Display Fireworks Manual", as may be amended;
  - iii. for Pyrotechnics, the Natural Resources Canada 2014 "Special Effect Pyrotechnics Manual", as may be amended; and
  - iv. any other consideration that may be relevant to the safety of persons or property.
- 3.11 "Fireworks Supervisor" means a Person who has, at the minimum, a valid and subsiding fireworks operator certificate (display supervisor) issued pursuant to the Explosives Act;
- 3.12 "Municipal Tag" means a document alleging an offence issued pursuant to the authority of a bylaw of the Town;
- 3.13 "Person" means an individual or a body corporate and includes a partnership or association unless the context explicitly or by necessary implication otherwise requires;

- 3.14 "Prohibited Fireworks" means Firecrackers and the items included on the most recent list of prohibited fireworks as published from time to time under the Explosives Act;
- 3.15 "Provincial Fire Administrator" means the Person who has authority under the Safety Codes Act to provide written confirmation on behalf of the Province for any matter governed within the fire discipline;
- 3.16 "Provincial Offences Procedure Act" means the Provincial Offences Procedure Act, RSA 2000, c P-34, as amended;
- 3.17 "Pyrotechnician" means a Person who has, at the minimum, a valid and subsiding fireworks operator certificate (pyrotechnician) issued pursuant to the Explosives Act;
- 3.18 "Pyrotechnics" has the same meaning as special effects pyrotechnics in the Explosives Regulations, 2013, SOR/2013-2011;
- 3.19 "Safety Codes Act" means the Safety Codes Act, RSA 2000, c S-1, as amended; and
- 3.20 "Violation Ticket" has the same meaning as in the Provincial Offences Procedure Act, RSA 2000, c P-34, as may be amended.

#### **4. Requirements**

- 4.1 No Person shall sell, display, possess or Discharge any Prohibited Fireworks.
- 4.2 No Person may discharge Consumer or Display Fireworks or Pyrotechnics within the Town without a Fireworks Permit.
- 4.3 No Person shall store, possess or Discharge Fireworks in an unsafe manner or in a manner that creates a nuisance, taking into account the noise, danger of fire and explosion and risk of death, injury and damage to persons and property inherent in the storage, possession or Discharge of Fireworks.
- 4.4 No Person shall Discharge Fireworks on or into any highway, street, lane, park or any other public place within the Town unless authorized to do so by a Fireworks Permit.
- 4.5 A Person may display, offer for sale or sell Consumer Fireworks within the Town in accordance to the Explosive Act and its regulations.
- 4.6 Consumer Fireworks are prohibited in residential zones unless approved by the Fireworks Inspector.
- 4.7 No person shall sell, display, possess or discharge fireworks unless they are of the age of majority.

4.8 No person shall sell or supply fireworks to a person who is, or who appears to be, less than eighteen years of age.

## **5. Permit Application**

5.1 Every Person applying for a Fireworks Permit must provide, to the satisfaction of the Fireworks Inspector:

- (a) a completed Fireworks Permit application form;
- (b) name and contact information of the proposed permit holder and confirmation that the proposed permit holder is a Fireworks Display Supervisor or Pyrotechnician, as applicable; *S 3.10 i. applies to Consumer Fireworks*
- (c) name and contact information of the sponsoring organization, if applicable;
- (d) written confirmation that the property owner/lessee/agent of the land where the event will occur consents to the Discharge of Fireworks on the land;
- (e) a description of the Fireworks event and a site plan that includes all information as may be required by the Fireworks Inspector;
- (f) the fee in the amount as set out in the current Fees, Rates and Charges Bylaw.
- (g) liability insurance in a form and amount acceptable to the Fireworks Inspector, naming the Town as an additional insured;
- (h) any additional required permits or approvals as determined by the Fireworks Inspector; and
- (i) any additional information required by the Fireworks Inspector.

## **6. Issuance of Permit**

6.1 The Fireworks Inspector shall issue a Fireworks Permit only when all requirements under Section 4 have been met.

6.2 The Fireworks Inspector may impose any terms and conditions on a Fireworks Permit as are deemed appropriate or necessary in the circumstances:

- (a) to ensure compliance with the purpose and intent of this bylaw and any other legal requirements; and
- (b) to take into consideration safety and environmental matters.

## **7. Refusal to Issue, Suspension or Cancellation**

7.1 The Fireworks Inspector may refuse to issue a Fireworks Permit or suspend or cancel a Fireworks Permit that has been issued, if:

- (a) there is a substantial risk to life, safety or property;
- (b) the requirements of Section 4 have not been met;
- (c) incorrect or insufficient information is submitted with respect to Fireworks Permit;
- (d) there is non-compliance with the Explosives Act or Safety Codes Act;
- (e) there is a contravention of any condition under which the Fireworks Permit was issued; or
- (f) the Fireworks Permit was issued in error.

7.2 When the Fireworks Inspector refuses to issue a Fireworks Permit, the Fireworks Inspector shall provide written notice to the applicant within 10 calendar days after the application is denied. The notice shall include a statement of the reasons the application was denied.

## **8. Fireworks Permit Holder Obligations**

8.1 A Person to which a Fireworks Permit has been issued must:

- (a) comply with the terms and conditions of the Fireworks Permit and any other related permit;
- (b) shall not Discharge Fireworks if there is a Fire Ban in place;
- (c) produce a copy, upon request, of the Fireworks Permit and all applicable fireworks operator certificates at the location of the Fireworks show; and
- (d) immediately notify the Town of any change to any information provided to the Town.

## **9. Fireworks Permit**

9.1 A Fireworks Permit shall expire as per the terms and conditions on the permit.

## **10. Fireworks Permit Transfer**

10.1 A Fireworks Permit is not transferable.

## **11. Inspections**

11.1 The Fireworks Inspector may, at any reasonable hour of the day, and without prior notice to the permit holder, conduct an inspection of the event site.

11.2 In addition to all other rights of inspection granted to the Town under any other legislation, the Fireworks Inspector may:

(a) require the production, for inspection purposes, of any document or anything relevant to the inspection;

(b) remove the document or anything relevant to the inspection for the purpose of making copies;

(c) alone or in conjunction with a Person possessing special or expert knowledge, make observations, examine, and review anything that pertains to any permit issued pursuant to this bylaw; and

(d) perform an inspection to investigate or respond to a complaint or inquiry.

11.3 The permit holder shall provide the Town with free and clear access to the event site for inspections.

11.4 The Fireworks Inspector may request that the permit holder pause or delay the Fireworks part of the event until the inspection is complete.

11.5 The Town shall comply with any safety requirements or personal protection equipment required by the permit holder.

11.6 The Town shall provide the results of the inspection to the permit holder upon written request.

## **12. Fees**

12.1 The fees payable for any permit issued pursuant to this bylaw, or any other fees within this bylaw, shall be as set out in the Fees, Rates and Charges Bylaw.

## **13. Obstruction**

13.1 No Person shall obstruct or hinder another Person in the exercise or performance of their duties or powers pursuant to this bylaw or other applicable legislation.

## **14. Offence**

- 14.1 A Person who contravenes this bylaw or authorizes or directs another Person to contravene this bylaw, is guilty of an offence.

## **15. Vicarious Liability**

- 15.1 For the purposes of this bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the course of the agent's exercising the powers or performing the duties on behalf of the Person.

## **16. Corporations**

- 16.1 When a corporation commits an offence under this bylaw, every principal and director of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

## **17. Fines and Penalties**

- 17.1 Any Person who contravenes any provision of this bylaw is guilty of an offence and is liable, on summary conviction, to the fine set out in Schedule "A".
- 17.2 When a penalty is not specified under this bylaw, a Person who is guilty of an offence is liable to a fine not exceeding \$10,000.00.
- 17.3 A Person who is found guilty of an offence is liable to the imposition of a penalty for the offence that is in addition to a fine so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence.
- 17.4 If a Person is found guilty of an offence, the court may, in addition to any fine or other penalty imposed, order the Person to comply with this bylaw, a permit, an approval or other authorization issued under this bylaw, or a condition of any of them.

## **18. Continuing Offence**

18.1 In the case of an offence that is of a continuing nature, a contravention constitutes an offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine of \$100.00 for each day the offence continues.

## **19. Municipal Tag**

19.1 A Municipal Tag may be issued to any Person where there are reasonable and probable grounds to believe the Person has contravened any provision of this bylaw.

19.2 If a Municipal Tag is issued in respect of an offence the Municipal Tag must specify:

(a) the name of the Person;

(b) the offence;

(c) the fine amount;

(d) that the fine amount shall be paid within 14 days of the issuance of the Municipal Tag; and

(e) any other information as may be required.

## **20. Payment in Lieu of Prosecution**

20.1 Where a Municipal Tag is issued in respect of an offence, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay the fine specified within the time period indicated on the Municipal Tag.

## **21. Violation Ticket**

21.1 If a Municipal Tag has been issued and if the specified fine has not been paid within the prescribed time, a Violation Ticket may be issued pursuant to the Provincial Offences Procedure Act.

21.2 Despite Section 21.1, a Violation Ticket may be immediately issued to any Person where there are reasonable and probable grounds to believe that Person has contravened any provision of this bylaw.

21.3 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:

(a) impose the specified penalty established by this bylaw for the offence and permit a Person to make a voluntary payment; or

(b) require a Person to appear in court without the alternative of making a voluntary payment.

## **22. Voluntary Payment**

22.1 A Person who commits an offence and who wishes to plead guilty may:

(a) if a Violation Ticket has issued in respect of the offence; and

(b) if the Violation Ticket includes a specified penalty as established by this bylaw for the offence;

plead guilty to the offence by making a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

## **23. Powers of the Fireworks Inspector**

23.1 Without restricting any other power, duty or function granted by this bylaw, the Fireworks Inspector may:

(a) carry out any inspections to determine compliance with this bylaw;

(b) take any steps or carry out any actions required to enforce this bylaw;

(c) take any steps or carry out any actions required to remedy a contravention of this bylaw;

(d) establish forms for the purposes of this bylaw;

(e) refund or waive fees;

(f) waive any application requirements;

(g) require additional information, revised information, additional fees and/or a new application with respect to a change under Section 5;

(h) alter or revoke the terms and conditions of a permit after it has been issued and approve the extension of the term of a permit; and

(i) impose new terms and conditions in a permit after it has been issued.

## **24. Proof of Permit**

24.1 The onus of proving that a permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this bylaw is on the Person alleging the existence of such a permit.

**25. Proof of Exemption**

25.1 The onus of proving that a Person is exempt from the provisions of this bylaw requiring a permit is on the Person alleging the exemption.

**26. Legal Duty**

26.1 Nothing in this bylaw, including the issuance of a permit, any approval, and any inspections conducted pursuant to this bylaw, relieves a Person from complying with any Federal or Provincial law or regulation, other Town bylaw, or any requirement of any lawful permit, approval, order or license.

**27. Repeal**

27.1 Bylaw 07/13V are hereby repealed.

**28. Effective Date**

28.1 This bylaw comes into force on the day it is passed.

READ a first time this 16<sup>th</sup> day of June, 2020.

READ a second time this 16<sup>th</sup> day of June, 2020.

RECEIVED unanimous consent for third and final reading this 16<sup>th</sup> day of June, 2020.

READ a third and final time this 16<sup>th</sup> day of June, 2020.

Redacted under Section 17 of the FOIP Act.

Tammy Burke  
Mavor

Redacted under Section 17 of the FOIP Act.

Dean Krause  
Chief Administrative Officer

### SCHEDULE "A" FINES

<b>SECTION DESCRIPTION OF OFFENCE</b>	<b>FIRST OFFENCE</b>	<b>SECOND OFFENCE</b>	<b>THIRD AND SUBSEQUENT OFFENCE</b>
4.1 Selling, displaying, possessing or Discharging prohibited Fireworks	\$250.00	\$500.00	\$1,000.00
4.2 Discharging Fireworks without a Fireworks Permit	\$250.00	\$500.00	\$1,000.00
4.3 Storage, possession or Discharge of Fireworks in an unsafe manner or manner that creates a nuisance	\$250.00	\$500.00	\$1,000.00
4.4 Discharge of Fireworks on or into a highway, street, lane, park or any other public place	\$500.00	\$1,000.00	\$5,000.00
4.5 Unauthorized sale or display of Fireworks	\$250.00	\$500.00	\$1,000.00
8.1(a) Failure to comply with a Fireworks Permit	\$500.00	\$2,000.00	\$5,000.00