Date       June 11, 2019       Report No. 2019-307

To        Chair and Members
          Committee of the Whole – Operations and Administration

From      Anna Everett
          Deputy Fire Chief

1  Type of Report

Consent Item [ ]
Item For Consideration [x]

2  Topic   Review of Fireworks Regulations and Use in the City of Brantford [Financial Impact – None]

3  Recommendation

A. THAT REPORT 2019-307 titled Review of Fireworks Regulations and Use in the City of Brantford BE RECEIVED; and

B. THAT Council PERMIT the use of Consumer Fireworks on private property on Victoria Day and Canada Day and three (3) calendar days immediately preceding these holidays; or on any other date authorized by the Fire Department; and

C. THAT Council DIRECT the Fire Chief to implement a fee for responses to fireworks violations at Ministry of Transportation established Fire Department response rates; and

D. THAT staff PREPARE and PRESENT the necessary By-laws to amend the Fees and Charges By-law 188-2017, Chapter 520 - Fireworks Regulations Firecracker Prohibition, Chapter 420 – Parks, Avenues, Boulevards, Drives Regulations, and Chapter 554 Noise Control of the Brantford Municipal Code to City Council for adoption; and
E. THAT Council DIRECT the Fire Chief to monitor the sale and discharge of fireworks over the next year and report back if required.

4 Purpose and Overview

This report reviews current legislation and makes recommendations regarding the use of fireworks in the City of Brantford.

5 Background

The following resolution was adopted by Council on Tuesday, January 15, 2019:

WHEREAS fireworks displays can be both enjoyable and problematic and thus create conflict;

NOW THEREFORE BE IT RESOLVED THAT municipal staff prepare a report reviewing current legislation and making recommendations regarding use of fireworks in the City of Brantford.

6 Corporate Policy Context

Long Term Desired Outcomes – Managed Growth & Environmental Leadership – Brantford will be recognized for its environmental stewardship and protection of its natural assets.

High Quality of Life & Caring for All Citizens – Brantford will be recognized as a safe and healthy community – one that promotes and enables the well-being of its citizens, and supports access of all citizens to a full range of health and community services.

7 Input from Other Sources

This report has been reviewed by the Brantford Fire Department, Property Standards & By-laws, Parks and Recreation, Brantford Police Service, Legal and Real Estate Services, Corporate Communications and Community Engagement, Insurance and Risk Management, and consultation with the community and other municipalities.

8 Analysis

8.1 Regulatory Framework

8.1.1 Explosives Act
The Explosives Act R.S.C., 1985 regulates the manufacturing, selling, transporting, storing, and use of fireworks.

In Canada, fireworks are separated into three classes:

**Consumer Fireworks**: low-hazard and designed for recreational use. They include items like roman candles, sparklers, fountains volcanoes, mines and snakes. Consumer grade fireworks can be purchased at approved retail outlets by anyone over 18 years of age.

**Display Fireworks**: high-hazard and designed for professional use. They include items like aerial shells, cakes, waterfalls, lances and wheels. The Canada Day Celebration fireworks are an example of Display Fireworks.

**Special Effect Pyrotechnics**: high-hazard and designed for professional use. They include items like gerbs, comets, and crossettes, as well as special-purpose pyrotechnics for live stage and the film and television industry. The Harmony Square New Year’s Eve Display for is an example of Special Effect Pyrotechnics.

The Explosives Act R.S.C., 1985 restricts the purchase of Display Fireworks and special effect pyrotechnics to licensed professionals, and requires events using Display Fireworks to be permitted by the Brantford Fire Department.

Consumer Fireworks can be purchased and used by the general public. The Act identifies conditions for the sale of fireworks and requires users to follow the manufacturer’s instructions when discharging fireworks.

Municipalities may impose further restrictions, including when Consumer Fireworks can be sold; and the dates and locations they can be discharged.

### 8.1.2 Fireworks By-law

Chapter 520 of the *City of Brantford Municipal Code* regulates the sale, Display, storage and discharge of fireworks in the City including:

- 520.2.7 - Restricts the sale of fireworks to Victoria Day, Canada Day and five calendar days preceding the holiday.

- 520.2.9 - Prohibits discharge of fireworks on any land including City and GEDSB or BHNCDSB property unless written permission from the owner and the owner of land which any debris may reasonably be expected to fall.
- 520.2.10 - Prohibits discharge of Display Fireworks except under authority of a permit.

- 520.5.2 - No person shall set off Consumer Fireworks on any land which they don’t own unless they have written approval.

- 520.5.3 - No person shall store, handle or set off Consumer Fireworks in an unsafe manner.

- 520.6.1 - Any person found guilty and convicted of an offence shall pay a penalty pursuant to Provincial Offences Act.

8.1.3 Noise Control By-law

Chapter 554 of the City of Brantford Municipal Code, Noise Control regulates noise in the City including noise from fireworks.

- 554.6.7 - Permits the detonation of fireworks authorized by the Brantford Fire Department.

- Schedule A 1. The detonation of fireworks or explosive devices not used in construction. Prohibited period of time; At all times.

8.1.4 Parks, Avenues, Boulevards, Drives Regulation Control By-law

Chapter - 420 of the City of Brantford Municipal Code regulates and controls parks, avenues, boulevards and drives and regulates use of fireworks in parkland or property.

- 420.3.37 - Prohibits the discharge of torpedo, rocket or other fireworks in parkland or property unless approved by the City.

8.1.5 Regulatory Framework Summary

The Explosives Act and three Chapters of the City of Brantford Municipal Code work in conjunction to regulate fireworks in the City.

The Noise Control By-law prohibits the detonation of fireworks at all times unless duly authorized by the City of Brantford Fire Department.

The Parks, Avenues, Boulevard, Drives Control By-law prohibits discharge of fireworks in parkland or property unless approved by the City.
The Fireworks By-law does not permit the discharge of Display Fireworks except as approved by the Fire Department but is silent on when Consumer Fireworks may be discharged.

The Fire Department in conjunction with Parks and Recreation have approved the use of both Consumer and Display Fireworks for organized events such as; Canada Day (Lions Park) , New Year’s Eve (Harmony Square), and other smaller events at Glenhyrst Art Gallery and the Brantford Golf and Country Club.

The Fire Department does not currently permit individual use of Consumer Fireworks on private property.

### 8.2 Fireworks in Our Community

The City engaged members of the community through social media and a Public Information Center, held on February 28, 2019, to help solicit feedback regarding the sale and use of fireworks. Residents were encouraged to contact their Ward Councillors to provide feedback on fireworks.

A wide variety of concerns and opinions were expressed by the public ranging from a desire for less regulation because some enjoy the spectacular lighting displays and the loud noises associated with celebration fireworks or because they earn income from the sale of fireworks.

Conversely, other residents expressed that they enjoy firework displays but dislike the byproducts and favour more regulations. Concerns were voiced around the negative impact they have on pets, people working shift work, wildlife, environment and fear that fireworks may cause fires resulting in property damage or injury.

There is confusion and lack of public knowledge regarding current firework regulations in the community.

These opposing views on fireworks and lack of public knowledge of regulations can cause or aggravate neighbourhood conflicts in the community.
## 8.3 Fireworks in Other Communities

The chart below summarizes how other municipalities regulate fireworks in their communities.

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Sales of Consumer Fireworks</th>
<th>Use of Consumer Fireworks</th>
<th>Use of Display Fireworks</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Brantford</td>
<td>Victoria Day plus 5 calendar days preceding. Canada Day plus 5 calendar days preceding.</td>
<td>Dates not limited</td>
<td>Permit required</td>
</tr>
<tr>
<td>County of Brant</td>
<td>Victoria Day plus 6 calendar days preceding. Canada Day plus 6 calendar days preceding.</td>
<td>Victoria Day plus 7 days before and after. Canada Day plus 7 days before and after. Other dates with permit.</td>
<td>Permit required</td>
</tr>
<tr>
<td>City of Burlington</td>
<td>Victoria Day plus 6 calendar days preceding, Canada Day plus 6 calendar days preceding. “National Night Out” in August.</td>
<td>Victoria Day plus 3 days before. Canada day plus 3 days before. &quot;National Night Out” in August.</td>
<td>Permit required</td>
</tr>
<tr>
<td>City of Cambridge</td>
<td>Victoria Day plus 10 days preceding. Canada Day plus 10 days preceding. Diwali plus 10 days preceding.</td>
<td>Victoria Day plus 2 days following (if there were weather issues). Canada Day plus 2 days following (if there were weather issues). Diwali plus 2 days following (if there were weather issues). Other dates with permit.</td>
<td>Permit required</td>
</tr>
<tr>
<td>City of Guelph</td>
<td>Victoria Day plus 7 days preceding. Canada Day plus 7 days preceding.</td>
<td>Victoria Day plus 1 day before. Canada Day plus 1 day before. Diwali plus 1 day before.</td>
<td>Permit required</td>
</tr>
<tr>
<td>Municipality</td>
<td>Sales of Consumer Fireworks</td>
<td>Use of Consumer Fireworks</td>
<td>Use of Display Fireworks</td>
</tr>
<tr>
<td>-------------------</td>
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</tr>
<tr>
<td>City of Kitchener</td>
<td>Victoria Day plus 6 days preceding. Canada Day plus 6 days preceding. Diwali plus 6 days preceding.</td>
<td>Victoria Day plus 1 day before and after. Canada Day plus 1 day before and after. Diwali plus 1 day before and after. Other dates with permit.</td>
<td>Permit required</td>
</tr>
<tr>
<td>City of Waterloo</td>
<td>Victoria Day plus 7 days preceding. Canada Day plus 7 days preceding.</td>
<td>Victoria Day plus 7 days before and after. Canada day plus 7 days before and after. Chinese New Year plus 7 days before and after. Diwali plus 7 days before and after.</td>
<td>Permit required</td>
</tr>
</tbody>
</table>

### 8.4 Fire Department Fireworks Statistics

The Fire Department does not currently collect specific data regarding fireworks complaints.

Since January 1, 2009 there have been eleven (11) fires caused by fireworks. Of the eleven (11) incidents six (6) were deliberate acts of vandalism such as discharging them in a portable toilet.

### 8.5 Silent Fireworks

The phrase “silent fireworks,” is a bit misleading. Reduced noise or quieter fireworks may be more appropriate because they still produce noise. These displays restrict the types of fireworks used to lower level fireworks with less loud noise i.e. bangs, screeches and whistles. Silent or quieter fireworks focus more on visual colours and effects instead of loud noises.

The term silent or quiet fireworks is neither defined nor classified by the Explosives Act R.S.C., 1985 or the Canadian National Fireworks Association.
There is currently no standard for noise level to classify fireworks as silent or reduced noise fireworks or noise rating system to differentiate between the two required on fireworks packaging.

Display Firework companies advertise silent or quieter Displays. There is some debate and question over how effective reduce noise fireworks are for larger Canada Day type displays because of the limitations of the fireworks used to achieve reduce noise levels.

Consumer Fireworks are often sold in bulk packaging and include many types of standard and reduced noise types of fireworks. This may make it difficult to purchase or enforce the use of silent or reduced noise Consumer Fireworks.

8.6 Use of Municipal Parks for Display and Consumer Fireworks

The discharge of fireworks is a high risk activity that must be performed safely by qualified licensed technicians.

Currently, Display Fireworks are permitted on some City properties including parks with City approval including a park permit, proof of proper insurance and permission from surrounding property owners who have be affected by discharge of fireworks. Displays must be of a commercial grade and must be detonated by a licensed technician. Park users must also satisfy requirements of the Explosive Act, the Parks, Avenues, Boulevard, Drives Control By-law, Noise Control By-law and Fireworks By-law.

Fireworks displays in City parks are limited to specific parks and not currently permitted in smaller neighbourhood parks due to the potential risk. Staff does not recommend Display Fireworks being permitted in neighbor parks and suggest that they be restricted to larger venues such as the Steve Brown Sports Complex. In addition park staff does not have the staff resources to enforce and monitor new by-laws that will permit the discharge of fireworks in parks. Without additional resources it will be problematic to control and regulate the discharge of fireworks on park properties.

If Council elects to permit the discharge of Consumer Fireworks on City property such as parks the various regulating By-laws will need to be amended to mitigate the following risks;

- Personal injury, Property damage
- Staffing / Security requirements
• Fees Training requirements
• Safety procedures and training requirements
• Insurance requirements
• Approval / permit process
• Clean up / Debris management
• Wind direction
• Debris
• Access control
• Fire protection
• Drought and fire bans
• Undetonated charge procedure
• Notification requirements
• Park size, setbacks, safe zone requirements
• Insurance / indemnity requirements

8.7 Enforcement

Enforcement of consumer firework regulations under the current framework is both confusing and challenging. Often residents don't know who to contact for complaints which may delay investigations of complaints.

The Fireworks By-law does not regulate when Consumer Fireworks can be discharged on private property consequently the discharge of Consumer Fireworks on private property is not a violation of the current Fireworks By-law.

Generally speaking, most consumer firework complaints are pursued as violations of the Noise Control By-law which prohibits use of Consumer Fireworks unless approved by the Fire Department.

Complaints related to fireworks debris or unsafe use may be pursued as violations under the Fireworks By-law.
Complaints about discharge of fireworks on parkland or on land not owned by the discharger of fireworks can be pursued under the Fireworks By-law.

The above complaints can be pursued as Part 3 offences under the Provincial Offences Act. This would involve swearing of an information and seeking prosecution through the court system.

Short form wording has been established under Part 1 of the Provincial Offences Act enabling Police and Municipal By-law Enforcement Officers to issue tickets for fireworks violations of the Noise Control By-law. The Good Government Act 2012 amended the Provincial Offences Act to allow for any employee involved in the enforcement of a by-law to be designated accordingly as a Provincial Offences Officer. Thus allowing them the ability to issue either a Part 1 Provincial Offence Notice or lay a Part 3 Information for confirmed offences under this by-law.

Enforcement can be challenging because often by the time the discharging of fireworks is reported and the appropriate agency responds to the complaint the fireworks display is finished or the address of personal information is unknown or unattainable.

8.7.1 By-law and Property Standards

Municipal By-law Enforcement Officers of the By-law Division of the Building Department are responsible for enforcement of the Noise Control By-law, but do not regularly work evenings. Additional staff members will be added in September; however, their primary focus is on cannabis and smoking along with the new public nuisance by-law. Officers may be available to provide some assistance with noise complaints related to fireworks based on availability.

8.7.2 Brantford Police Service

Brantford Police Service advised that with the current high call volume, their ability to respond to By-law complaints such as fireworks is greatly diminished. In most occurrences an officer would not be dispatched for several hours after the complaint is received and long after the firework display is finished.

8.7.3 Brantford Fire Department

The Fire Department faces similar challenges with response to complaints and enforcement as Police and By-law Enforcement. Often fire crews arrive after the fireworks display has finished and enforcement efforts can be limited because
the address and or personal information of offenders is unknown or unattainable.

8.7.4 The Fire Department is able to respond to fireworks complaints in the community provided no higher priority calls for service occur. Enforcement Summary

Enforcement of fireworks regulations is challenging but necessary for compliance. The current approach to fireworks enforcement can be confusing to understand and cumbersome to prosecute.

A more practical approach may be to maintain the current enforcement framework and establish a fee for Fire Department responses to firework violations under the Fees and Charges By-law to help compliance efforts. This would provide the Fire Department the authority to impose fees on property owners for responses to fireworks violations in the same manner as false alarms to achieve compliance. A benefit to the fees approach is it may help avoid overtime costs associated with prosecuting under the Provincial Offences Act.

8.8 Education

Through public consultation and the review of the current regulatory fireworks framework it was clear that current regulations can be confusing and difficult for residents to understand.

Regardless of how Council elects to regulate firework in the community it’s important to have a communications strategy to educate the public in terms of both fireworks regulations and notifying the community of approved fireworks displays. This will help ensure the public understands fireworks regulations and allow sensitive residents the opportunity to take precautions to limit the impact fireworks.

Public education combined with an effective enforcement strategy is essential for By-law success and should help reduce conflicts in the community.

8.9 Options

Three options have been contemplated for consideration by Council and are set out below. There are a variety of variables to be considered, including:

A: When: (Specified Holidays or Time Periods)
B: Where: (Private Property vs. City Property)

C: What: (Consumer Fireworks vs. Display Fireworks)

D: How: Additional rules/requirements (examples may include: distance from structures, insurance, indemnity, training, certification, and so on)

8.9.1 Option # 1: Regulating Time (by holiday) and Location (Private Property) of Discharge of Consumer Fireworks (Recommended).

Council may elect to approve the use of Consumer Fireworks on private property in the City of Brantford on the dates listed below as well as (3) three days immediately preceding the holidays. Discharging fireworks on days other than those specified below are prohibited:

I. Victoria Day

II. The three calendar days immediately preceding Victoria Day

III. Canada Day

IV. The three calendar days immediately preceding Canada Day

V. Any other date with authorization of the Brantford Fire Department.

Dates/holidays may be included or excluded at Council’s direction. The two proposed dates/holiday are recommended because requests for fireworks on these dates are more common.

Council may elect to include other dates such as Diwali\(^1\) or Chinese New Year\(^2\) as permitted in some other municipalities. Requests for these dates have been made in the past but are less common than the two holidays recommended.

\(^1\) Sikh, Hindu and Jain festival of lights celebrated in Autumn

\(^2\) First day of new moon between January 21 and February 20
The addition of three calendar days prior to such dates/holidays is to accommodate scheduling or inclement weather. Allowances for days prior to or after the permitted dates may be included or excluded at Council's direction.

Additional dates may be permitted with the authorization of Brantford Fire Department. This proposal allows some flexibility and discretion for unforeseen circumstances or to permit requests for events similar to Diwali or the Chinese New Year.

Rules governing the discharge of Consumer Fireworks on private property will also be addressed in the bylaw, which may include safety requirements and notice requirements.

Display Fireworks will continue to be regulated pursuant to the current regulating By-law and permission may be granted for their discharge on City property.

In this option, Consumer Fireworks are not permitted to be discharged on City property; and permitting their discharge on City property is not being recommended because of the risks outlines in Section 8.6. If Council's direction is to permit Consumer Fireworks on City property, the regulating By-laws will need to be amended to include additional regulations to address the risks listed in Section 8.6 of this report.

8.9.2 Option # 2 – Status Quo (Consumer Fireworks prohibited by Noise By-law, Display Fireworks permitted in parks with authorization)

Council may elect to continue to regulate fireworks through the current regulatory framework and existing By-laws. This would mean that Consumer Fireworks are not permitted to be discharged in the City on either private or City property. Display Fireworks are permitted in Parks with authorization and subject to the existing regulations.

This option is not considered ideal since the current regulatory framework mainly regulates the sale of fireworks and does not adequately address enforcement challenges or the use of Consumer Fireworks in the community.

8.9.3 Option # 3: Prohibit the sale and or discharge of Consumer Fireworks (Display Fireworks permitted with authorization)

Council may elect to prohibit the sale and or discharge of Consumer Fireworks on private property. However, it would continue to allow special events to
discharge Display Fireworks using licensed pyrotechnics on approved City properties or private property, subject to the approval of the City though the current regulatory framework.

If Council’s direction is to prohibit the sale and or use of Consumer Fireworks on private property the regulating By-laws will need to be amended to prohibit the sale and or use of Consumer Fireworks according to Council’s direction.

This option is not considered ideal because it may be viewed as too restrictive prohibiting the sale and or use of Consumer Fireworks by the public on private property.

9 Financial Implications

No financial impact associated to this report.

10 Conclusion

Staff reviewed legislation and provided three (3) options for Council’s consideration regarding the use of fireworks in the City.

Staff recommends Option # 1- to permit the discharge of Consumer Fireworks on Canada Day, Victoria Day and three calendar days prior to each holiday or as authorized by the Fire Department as the most balanced approach to regulating use of fireworks in the City.

______________________________  _______________________
Dwayne Armstrong, Chief Fire Prevention Officer       Anna Everett, Deputy Fire Chief

______________________________
Darryl Lee, Chief Administrative Officer

Attachments (if applicable)
In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required [X ] yes [ ] no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk [ ] yes [ ] no

Is the necessary by-law or agreement being sent concurrently to Council? [ ] yes [X ] no