

The Corporation of the City of Pembroke

By-law Number 2021-61

A By-law to regulate the sale and setting off of Fireworks within the City of Pembroke

Whereas the *Municipal Act*, 2001, S.O. 2001, provides that Council may prohibit and regulate the sale of fireworks and the setting off of Fireworks; and

Whereas the Council of the Corporation of the City of Pembroke passed By-law 2020-75; and

Whereas the Council of the City of Pembroke deems it necessary to amend By-law 2020-75; and

Whereas the Council of the City of Pembroke deems it necessary for the safety and well being of the community to prohibit and regulate the sale of fireworks and the setting off of fireworks and flying lanterns.

Now Therefore the Municipal Council of the Corporation of the City of Pembroke enacts as follows:

1. Definitions

- 1.1 “Authority having jurisdiction” means the Fire Chief of the City of Pembroke or a designate, from the Pembroke Fire Department, who is certified by the Explosives Regulatory Division (ERD) of Canada;
- 1.2 “Consumer Firework” means an outdoor low hazard article designed for recreational use by the public. These fireworks are sometimes referred to as family fireworks and are classified as a Class 7, Division 2, Subdivision 1 Firework under the *Explosives Act*;
- 1.3 “Corporation” means the Corporation of the City of Pembroke;
- 1.4 “Discharge” means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set-off (“discharged” and “discharging” have similar meaning);
- 1.5 “Display firework” means an outdoor high hazard firework article designed for use by professionals, usually at public gatherings or for Public Fireworks Displays. These fireworks are classed as a Class 7, Division 2, Subdivision 2 firework under the *Explosives Act*;
- 1.6 “Firecracker” means any class of Fireworks that explodes when ignited and does not make any significant display or visible effect.
- 1.7 “Fireworks” means display fireworks, pyrotechnic special effects fireworks, and consumer fireworks;
- 1.8 “Fireworks supervisor” means the person who is qualified (certified) under the *Explosives Act* to conduct display fireworks and purchase display fireworks. This includes being responsible for display approval and is a position of primary liability in the event of a mishap;
- 1.9 “Flying lantern” means a product resembling a small translucent hot-air balloon, fueled by an open flame. Other product names include but are not limited to Sky Lantern, Chinese Lantern and Kongming Lantern;
- 1.10 “Public Fireworks Display” means an exhibition of display fireworks in an open-air assembly occupancy to which the public is invited, attends or admitted, with or without a fee being charged;

- 1.11 "Street" means any common public highway, street, avenue, parkway, driveway, square, place, bridge, or trestle, any part of which is intended for or used by the general public for the passage of persons and vehicles.

2. Administration

This by-law shall be administered by the Fire Chief or Pembroke Fire Department designate or by a By-law Enforcement Officer of the City of Pembroke.

3. Consumer Fireworks

- 3.1 No person in the City of Pembroke shall sell, give or distribute fireworks to any person under the age of 18 or any person who appears to be under 18 years of age and does not produce evidence that he/she is 18 years of age or older.
- 3.2 No person in the City of Pembroke, under the age of eighteen (18) shall be permitted to handle or use fireworks.
- 3.3 No person shall discharge or set off any Consumer Fireworks in the City of Pembroke at any time except:
- Victoria Day, between dusk and 11:00 p.m.
 - The day immediately preceding Victoria Day, between dusk and 11:00 p.m.
 - The day immediately following Victoria Day, between dusk and 11:00 p.m.
 - Canada Day, between dusk and 11:00 p.m.
 - The day immediately preceding Canada Day, between dusk and 11:00 p.m.
 - The day immediately following Canada Day, between dusk and 11:00 p.m.
- 3.4 No person shall conduct a Consumer Fireworks display in the City of Pembroke without first having obtained a permit by the local Authority Having Jurisdiction.
- 3.5 No person shall display Consumer Fireworks for sale in the City of Pembroke other than mock samples which do not contain explosive composition.
- 3.6 No person in the City of Pembroke shall use, set off or allow to be used or set off any Consumer Fireworks in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act of commission or omission at the time and place for the setting off of any Fireworks.
- 3.7 No person shall discharge Consumer Fireworks in or onto any building, on or into any street, roadway, sidewalk, in or onto any municipal park or municipal property or public place in the City of Pembroke, unless a permit (Consumer Fireworks Permit) to hold a special fireworks display has been obtained from the Corporation.

4. Application for Consumer Fireworks Permit

- 4.1 Every application for a permit shall be made to the authority having jurisdiction a minimum of thirty (30) calendar days prior to the date of the event where the proposed discharge of Consumer Fireworks is to occur. Consumer Fireworks Permit Applications are available through the Pembroke Fire Department.
- 4.2 The permit application must be completed by the owner of the property where the discharge of Consumer Fireworks is to occur.

- 4.3 The Authority Having Jurisdiction may impose such conditions upon the issuance of a permit as they consider are required to ensure the safety of the public.
- 4.4 The Authority Having Jurisdiction has absolute discretion to refuse the issuance of a permit for any reason whatsoever and without limited the generality of the discretion, a reason may include any provisions of this By-law, any other By-law, the Ontario Fire Code, any Act or Regulation, the past history, character of an applicant, the proposed location of the display, insurance, safety measure to be taken or lack thereof, any environmental consideration, or any consideration regarding the safety of the public or of property.
- 4.5 A site inspection of the proposed location of the display is to be conducted and approved by the Authority Having Jurisdiction.
- 4.6 Every applicant shall include payment to the Corporation for a processing fee in the amount of fifty (\$50.00) dollars.

5. Flying Lanterns

- 5.1 No person shall ignite and/or release or permit the ignition and/or releasing of a product commonly referred to as a flying lantern as defined herein into the air within the City of Pembroke.

6. Firecrackers

- 6.1 No person shall display, sell, or offer for sale any firecrackers
- 6.2 No person shall discharge, fire, or set off, or cause to be discharged, fired, or set off, any firecrackers.

7. Public Fireworks Display

- 7.1 No person or group of persons shall hold a display or discharge Display Fireworks in the City of Pembroke, at any time, without first having obtained a permit (Display Fireworks Permit) by the local Authority Having Jurisdiction. Display Fireworks Permit Applications are available through the Pembroke Fire Department.
- 7.2 Only persons who have successfully completed a fireworks supervisor's course and who holds a valid Fireworks Supervisor Card shall be eligible to make application for permit in the City of Pembroke.
- 7.3 No person or group of persons, other than the certified supervisor and apprentice(s) listed in the approved application/permit shall be permitted to discharge Display Fireworks in the City of Pembroke.
- 7.4 Display Fireworks cannot be discharged on private property within the City of Pembroke.

8. Permits for Public Fireworks Display

- 8.1 A permit may be issued by the Authority Having Jurisdiction, for a Public Fireworks Display on any land if the requirements listed in this section are met.
- 8.2 Only Fireworks Supervisors shall be eligible to apply for a permit for a Public Fireworks Display.
- 8.3 This application for a permit shall be made at least thirty (30) calendar days prior to the date on which it is desired to hold the Public Fireworks Display.

- 8.4 The Authority Having Jurisdiction has the absolute discretion to refuse the issuance of a permit for any reason whatsoever and without limiting the generality of the discretion, a reason may include any provisions of this By-law, any other By-law, the Ontario Fire Code, any Act or Regulation, the past history, character of the applicant, the proposed location of the display, insurance, safety measures to be taken or lack thereof, any environmental consideration, or any consideration regarding the safety of the public or of property.
- 8.5 Filed with the application form shall be a current and up to date site plan with dimensions showing:
 - a. The location of the proposed Public Fireworks Display.
 - b. The access to be provided for fire and emergency vehicles.
 - c. The free zone area of clear distance between the point of launch and an occupied area.
- 8.6 Filed with the application shall be a statement of the safety measures being implemented.
- 8.7 The safety measures shall be presented and displayed to the Authority Having Jurisdiction upon a mandatory site inspection.
- 8.8 Filed with the application form shall be a Certificate of Liability Insurance certifying the permit being applied for is insured against general liability and property damage claims, in the minimum amount of Five Million Dollars (\$5,000,000.00) inclusive for any one occurrence. Said policy shall name The Corporation of the City of Pembroke as an additional insured. Said policy shall be endorsed to provide that the policy will not be altered, cancelled, or allowed to lapse without ten (10) days' prior written notice to the Corporation.
- 8.9 The permit may be suspended or revoked by the Authority Having Jurisdiction if the conditions of the permit are not being met or it would be unsafe to allow the Public Fireworks Display.
- 8.10 All unused fireworks and all debris shall be removed by the group holding the display immediately following its conclusion.
- 8.11 Every application shall include payment to the Corporation for a processing fee in the amount of one hundred (\$100.00) dollars.

9. Exemption

- 9.1 It is hereby declared for greater clarity that on Victoria Day or Canada Day on land belonging to a private residence, occupied by the owner, tenant or an authorized person of the residence, that the setting off of Consumer Fireworks for their own personal display shall not be deemed to be Display Fireworks.
- 9.2 The City of Pembroke shall be exempt from the permit application costs and the permissible dates within this by-law with respect to setting off Display Fireworks at City of Pembroke sanctioned events.

10. Validity

Should any section, subsection, clause, paragraph, or provision of this By-law be declared by a Court of competent jurisdiction to be invalid or illegal for any other reason, such offending section or part shall be deemed to have been severed from this By-law and the remaining sections or parts shall continue in full force and effect and shall remain valid and binding,

11. Previous By-law Rescinded

That By-law 2020-75 and any other by-law inconsistent with the provisions contained in this by-law are hereby repealed.

12. Offence and Penalty

- 12.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine not more than \$5,000.00 as provided for in the *Provincial Offences Act*, R.S.O. 1990, as amended.
- 12.2 Any person convicted of an offence under this by-law is liable to a fine as set out under Schedule "A" of set fines as imposed under this by-law.

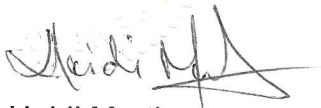
13. Effective Date

That this by-law shall come into force and take effect upon the date of the final passing thereof.

Passed and Enacted this 2nd day of November 2021.



Michael LeMay
Mayor



Heidi Martin
Clerk

The Corporation of the City of Pembroke

Schedule "A" – Set Fines

By-law 2021-61: Regulate Fireworks By-law

Part 1 Provincial Offences Act

Item Number	Column 1 Short Form Wording	Column 2 Provisions creating or defining offence	Column 3 Set Fines
1	Sell or distribute fireworks to a person under the age of 18	3.1	\$500.00
2	Discharge or handle fireworks while under the age of 18	3.2	\$500.00
3	Discharge fireworks on prohibited day and/or time	3.3	\$500.00
4	Conducting a Consumer Fireworks Display without a permit	3.4	\$500.00
5	Improperly displaying of fireworks for sale	3.5	\$500.00
6	Discharge fireworks in or onto a building	3.7	\$500.00
7	Discharge fireworks on or onto a roadway, sidewalk, municipal park, or municipal property	3.7	\$500.00
8	Discharging fireworks in a manner to create a danger or nuisance	3.6	\$500.00
9	Igniting and/or releasing or permit the ignition and/or release of a flying lantern	5.1	\$500.00
10	Sell or offer for sale any firecrackers	6.1	\$500.00
11	Discharging or cause the discharge of firecrackers	6.2	\$500.00
12	Conducting a Public Fireworks Display without permit	7.1	\$500.00

Note: The penalty provision for the offences indicated above is Section 12.1 of City of Pembroke's By-law 2021-61 and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

Consumer Fireworks Permit Application



Pembroke Fire Department
200 International Drive
Pembroke ON K8A 6W5
613-735-6821 ext. 1201

By-law #2021-61 (Schedule B)

Section A – Applicant Information

Name of Applicant _____ Phone # _____

Address _____ Postal Code: _____

Owner of Property: Yes No

Section B – Property Owner Information (to be completed by the owner, if the applicant is the tenant).

Owner's Name _____ Phone # _____

Owner's Address _____ Postal Code _____

I hereby give permission to _____ to apply for a Consumer
(Name of tenant)
Fireworks Permit for the property located at _____.

Owner's Signature _____

Section C – Type of Consumer Fireworks

Description of Consumer Fireworks to be used: _____

Section D – Safety Equipment

Class "ABC" Extinguisher Garden Hose First Aid Kit

Other _____

Section E – Date of Permit Requested

Date of Use: _____ Time of Use: _____ to _____

Section F – Permit Fee

A Permit Fee of \$50 (Single Use Only) is required.

Permit Fee paid in full

Section F – Property Layout



Drawing of the property and proposed fireworks layout and firing area shall be supplied at the time of application.

Adequate drawing received? Yes No

A top view sketch (in the area provided below) of the proposed layout/firing area shall include dimensions showing that the area is positioned at least 4m (15 ft) from all structures and property lines when in use.

Section F – Self Declaration

- I understand that I am subject to inspection of the Consumer Fireworks location at any time by the Pembroke Fire Department. Permits are issued based on the provided information, any changes or alterations will be reviewed by the Pembroke Fire Department prior to renewal of permit.
- I further understand that if an inspection of the site is initiated, or if a response to an incident is warranted due to a complaint or other by the Pembroke Fire Department, to a property or area found not to be in compliance with this application, the property owner or tenant is subject to all applicable charges and fees contained within By-Law #2021-61.
- I have advised all neighbours within the adjacent properties of my intent to discharge Consumer Fireworks fires.
- I have read By-Law #2021-61 and agree to assume all responsibility for any damages occurring from the discharge of Consumer Fireworks for which this permit is issued. Further, I agree that the Corporation of the City of Pembroke assumes no responsibility for the loss of property or personal damage resulting from the aforementioned Consumer Fireworks event and hereby agree to indemnify and hold harmless the corporation from any and all claim whatsoever arising there from.
- The applicant acknowledges that this application may contain personal information as defined under the Municipal Freedom of Information and Protection Act. Such information is required by the corporation for the proper administration of this event. The applicant hereby consents to any disclosure by the corporation of such information.

Signature of Applicant _____

Date of application _____

Permission of Local Authority Having Jurisdiction (AHJ):

- Application Approved (when approved, this Application becomes the “Permit”)
- Application Denied

If Application denied, provide reason

Name and Rank of AHJ _____

Signature (AHJ) _____

Date Application Approved or Denied : _____

Display Fireworks Permit Application



Pembroke Fire Department
200 International Drive
Pembroke ON K8A 6W5
613-735-6821 ext. 1201

By-law #2021-61 (Schedule C)

Section A – Applicant Information

Name of Applicant (Supervisor) _____

Phone # _____ Supervisor's Certificate # _____ Expiry Date _____

Organization _____

Address _____ Postal Code _____

Owner of Property: Yes No

Section B – Event Location (to be completed by the owner, if the applicant is the supervisor).

Owner's Name _____ Phone # _____

Owner's Address _____ Postal Code _____

I hereby give permission to _____
(Name of Supervisor)
to apply for a Display
Fireworks Permit for the property located at _____.

Owner's Signature _____

Section C – Type of Display Fireworks

Description of Display Fireworks to be used: _____

Section D – Safety

Class "ABC" Extinguisher Hose First Aid Kit
Other _____

Method of Storage _____

Section E – Date of Permit Requested

Date of Use: _____ Time of Event _____ to _____

Alternate Date _____ Alternate Time _____ to _____

Section F – Proof of Insurance (attached)

Name of Insuring Agent _____

Mailing Address _____

Phone _____ Fax _____ Email _____

Liability Amount _____ Policy # _____

City of Pembroke Name on Coverage

Signature of Sponsor/Agent: _____

Section G – Permit Fee

A Permit Fee of \$100 (Single Use Only) is required.

Permit Fee paid in full

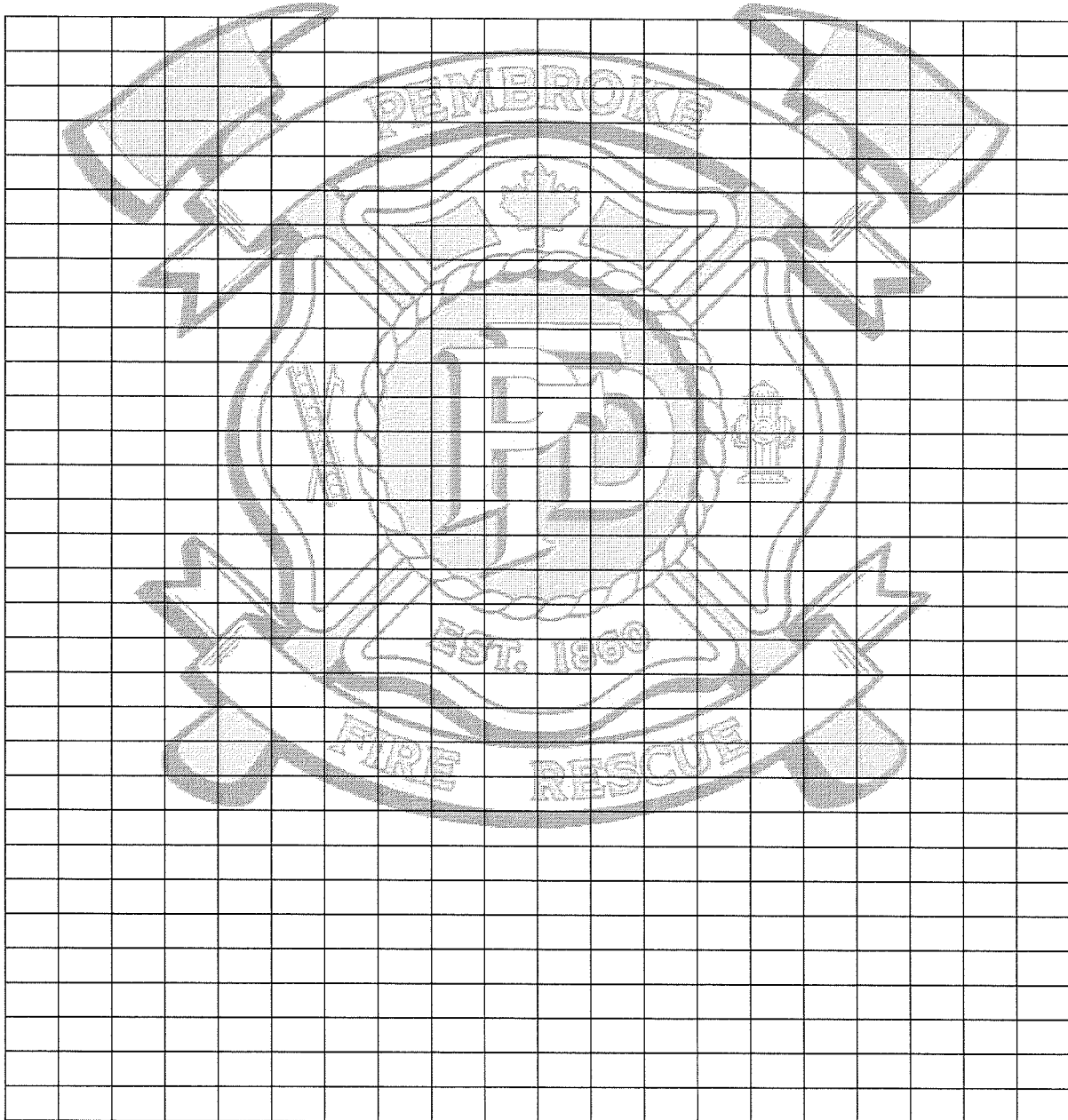
Section H – Property Layout



Drawing of the property and proposed fireworks layout and firing area shall be supplied at the time of application.

Adequate drawing received? Yes No

A top view sketch (in the area provided below) of the proposed layout/firing area shall include dimensions showing that the area is positioned at least 4m (15 ft) from all structures and property lines when in use.



Section I – Self Declaration

- I understand that I am subject to inspection of the Fireworks location at any time by the Pembroke Fire Department. Permits are issued based on the provided information, any changes or alterations will be reviewed by the Pembroke Fire Department prior to renewal of permit.
- I further understand that if an inspection of the site is initiated, or if a response to an incident is warranted due to a complaint or other by the Pembroke Fire Department, to a property or area found not to be in compliance with this application, the property owner or tenant is subject to all applicable charges and fees contained within By-Law #2021-61 and all other applicable fees and charges associated with the Pembroke Fire Department’s response.
- I have advised all neighbours within the adjacent properties of my intent to discharge Fireworks.
- I have read By-Law #2021-61 and agree to assume all responsibility for any damages occurring from the discharge of Fireworks for which this permit is issued. Further, I agree that the Corporation of the City of Pembroke assumes no responsibility for the loss of property or personal damage resulting from the aforementioned Fireworks event and hereby agree to indemnify and hold harmless the corporation from any and all claims whatsoever arising there from.
- The applicant/agent acknowledges that this application may contain personal information as defined under the Municipal Freedom of Information and Protection Act. Such information is required by the corporation for the proper administration of this event. The applicant hereby consents to any disclosure by the corporation of such information.

Signature of Applicant _____

Date of application _____

Permission of Local Authority Having Jurisdiction (AHJ)

- Application Approved (when approved, this Application becomes the “Permit”)
- Application Denied

If Application denied, provide reason

Name and Rank of AHJ _____

Signature (AHJ) _____

Date Application Approved or Denied: _____

THE HONOURABLE
W. VINCENT CLIFFORD
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
EAST REGION

COURTHOUSE
161 ELGIN STREET, 6TH FLOOR
OTTAWA, ONTARIO
K2P 2L1



L'HONORABLE
W. VINCENT CLIFFORD
JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'EST

PALAIS DE JUSTICE
161, RUE ELGIN, 6^e ÉTAGE
OTTAWA (ONTARIO)
K2P 2L1

TELEPHONE/TÉLÉPHONE (613) 239-1520
FAX/TÉLÉCOPIEUR (613) 239-1572

November 12th, 2021

hmartin@pembroke.ca

City of Pembroke
1, Pembroke Street West
Pembroke ON K8A 3J5

Attention: Ms. Heidi Martin, Clerk

Dear Ms. Martin:

**Re: *Set Fines – Provincial Offences Act – Part I*
*By-Law No. 2021-61: Fireworks***

Enclosed herewith are the original Order (Part I) dated November 12th, 2021 and original schedule of set fines for By-Law No. 2021-61, the By-Law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the City of Pembroke.

Yours truly,

W. Vincent Clifford

W. Vincent Clifford
Regional Senior Justice
Ontario Court of Justice
East Region

/nl

Enclosures

c.c.: Ms. Devyani Anandjit
Crown Law Office – Criminal, Ministry of the Attorney General

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2021-61, of the City of Pembroke attached hereto is the set fine for that offence. This Order is to take effect on November 12th, 2021.

Dated at Ottawa, this 12th day of November 2021.

Electronic Signature:

W. Vincent Clifford

W. Vincent Clifford
Regional Senior Justice
Ontario Court of Justice
East Region

The Corporation of the City of Pembroke

Schedule "A" – Set Fines

By-law 2021-61: Regulate Fireworks By-law

Part 1 Provincial Offences Act

Item Number	Column 1 Short Form Wording	Column 2 Provisions creating or defining offence	Column 3 Set Fines
1	Sell or distribute fireworks to a person under the age of 18	3.1	\$500.00
2	Discharge or handle fireworks while under the age of 18	3.2	\$500.00
3	Discharge fireworks on prohibited day and/or time	3.3	\$500.00
4	Conducting a Consumer Fireworks Display without a permit	3.4	\$500.00
5	Improperly displaying of fireworks for sale	3.5	\$500.00
6	Discharge fireworks in or onto a building	3.7	\$500.00
7	Discharge fireworks on or onto a roadway, sidewalk, municipal park, or municipal property	3.7	\$500.00
8	Discharging fireworks in a manner to create a danger or nuisance	3.6	\$500.00
9	Igniting and/or releasing or permit the ignition and/or release of a flying lantern	5.1	\$500.00
10	Sell or offer for sale any firecrackers	6.1	\$500.00
11	Discharging or cause the discharge of firecrackers	6.2	\$500.00
12	Conducting a Public Fireworks Display without permit	7.1	\$500.00

Note: The penalty provision for the offences indicated above is Section 12.1 of City of Pembroke's By-law 2021-61 and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

The fine amounts listed above have been approved by the Regional Senior Justice.

Dated: November 12, 2021

W. Vincent Clifford

Regional Senior Justice

Ontario Court of Justice - East Region

Electronic Signature: *W. Vincent Clifford*