

The Corporation of the City of Port Colborne

By-Law No. _____

Being a by-law to regulate the discharge of firearms and bows
in the City of Port Colborne

Whereas Section 9 of the *Municipal Act*, 2001 S.O. 2001, c.25 provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 11 of the *Municipal Act*, 2001 S.O. 2001, c.25 provides that municipalities may provide any service or thing that the municipality considers necessary or desirable for the public, including the passing of by-law within the respective sphere of jurisdiction; and

Whereas pursuant to Subsection 11(2) para 6. of the *Municipal Act*, 2001 S.O. 2001, c.25 municipality may pass by-laws to protect the health, safety and well-being of persons; and

Whereas Sections 23.1(1) of the *Municipal Act*, 2001 S.O. 2001, c.25 authorizes a municipality to delegate certain powers and duties; and

Whereas Section 119 of the *Municipal Act*, 2001 S.O. 2001, c.25 authorizes a local municipality for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapon; and

Whereas Section 425 of the *Municipal Act*, 2001 S.O. 2001, c.25 authorizes a municipality to provide offences for a contravention of a by-law; and

Whereas Section 429 of the *Municipal Act*, 2001 S.O. 2001, c.25 authorizes a municipality to establish a system of fines under a by-law; and

Whereas Council of the City of Port Colborne has deemed it in the public interest to regulate the discharge of firearms within the City for the purposes of public safety; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

That this by-law shall be comprised of SIX (6) parts containing various sections, namely:

Part 1	Title and Definitions
Part 2	Application of the By-law
Part 3	General Provisions
Part 4	Enforcement
Part 5	Schedules
Part 6	Repeal

Part 1 – Title and Definitions

Short Title

1. This by-law shall be referred to as “The Discharge of Firearms By-law”.

Definitions

2. For the purposes of this By-law, including in the Recitals and the Definitions,
 - a) “Agent” means a person authorized by the Regulations under the *Fish and Wildlife Conservation Act*, to act as an agent for a landowner to kill, capture or harass wildlife for the protection of property and includes:
 - i. Trappers licensed under Ontario Regulation 667/98 (Trapping);
 - ii. Members of a landowner’s immediate family acting on behalf of the landowner on the landowner’s own land;
 - iii. Persons whose business is primarily the business of removing nuisance wildlife, if they harass wildlife or if they capture and release wildlife if capable of being released;
 - iv. Employees or agents of a municipality whose responsibility relates to wildlife control; and
 - v. Persons who hold a valid class H1 outdoors card issued under Ontario Regulation 665/98, for the purposes of killing or harassing the wildlife but not capturing it.
 - b) “Bow” means a curved or re-curved stave of a resilient material, strung taut from end to end and used to launch an arrow, bolt, quarrel or any similar projectile in a way that could cause grievous bodily harm or death and includes cross-bows, long bows, re-curve bows and compound bows.

- c) “Business” means a person who carries on a business that includes the manufacture, assembly, possession, purchase, sale, importation, exportation, display, repair, restoration, maintenance, storage, alteration, pawn brokering, transportation, shipping, distribution or delivery of firearms or bows, and ammunition for firearms or bows.
- d) “City” means the Corporation of the City of Port Colborne, Ontario and its geographical boundaries.
- e) “Conservation Officer” means a Conservation Officer or Deputy Conservation Officer appointed pursuant to the *Fish and Wildlife Conservation Act*.
- f) “Council” means the Council of the Corporation of the City of Port Colborne.
- g) “Defined Areas” includes:
 - i) All lands within the City’s urban boundary and hamlets as designated under the City’s Official Plan, as amended; Those lands illustrated in Schedules A through E inclusive of this By-law;
 - ii) Those areas within 150 metres from the water’s edge into a navigable waterway as defined in the *Navigable Waters Protection Act*, R.S.C. 1985, Chap. N-22; and
 - iii) Those areas within 229 metres from the water’s edge into Gravelly Bay in Lake Erie.
- h) “Educational Property” includes school facilities operated by a school board, a private school, a university, a provincial college, a private college or an outdoor area owned by the school when in use for instructional purposes whether or not the area is adjacent to a school building.
- i) “Farming and Food Production Protection Act” means the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, or any amending or successor legislation.
- j) “Firearm” means any type of barreled device from which a projectile can be discharged and that is capable of causing serious bodily injury or death, including, but not limited to, handguns, shotguns, rifles, air or pellet guns, and muzzle-loaders or any object that can be adapted as a firearm as per this definition.

- k) “Fish and Wildlife Conservation Act” means the *Fish and Wildlife Conservation Act*, 1997, S.O. 1997 c. 41, or any amending or successor legislation.
- l) “High-Calibre Rifle” means any *Firearm* with a rifled barrel in its construction that discharges a projectile greater than .223 calibre.
- m) “Highway” shall mean a common and public highway and includes a street, public land and road allowance and any bridge, trestle, viaduct or structure that forms part of a highway and all lands between the lateral boundaries.
- n) “Law Enforcement Officer” shall mean a Police Officer, a member of the Armed Forces of Canada, a peace officer, an Officer appointed under the *Fish and Wildlife Conservation Act* or the municipality’s Municipal Law Enforcement Officers, Fire Chief or his/her designate.
- o) “Livestock Product” shall be defined as in the *Livestock and Livestock Products Act*, R.S.O. 1990, c.L.20, as amended, or any successor legislation thereto.
- p) “Manager” means the Manager of By-law Services as appointed on behalf of the City of Port Colborne and includes his/her designate.
- q) “Municipal Act” means the *Municipal Act*, 2001, S.O. 2001, c. 45, or any amending or successor legislation.
- r) “Normal Farm Practice”, as defined in the *Farming and Food Production Protection Act*, means a practice which is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or makes use of innovative technology in a manner consistent with proper advanced farm management practices, and includes any practice which may be recognized as such by the Normal Farm Practices Protection Board.
- s) “Occupier” shall include,
- (i) a person who is in physical possession of premises, or
 - (ii) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, even if there is more than one occupier of the same premises; (“occupant”) e.g. an agent.

- t) "Paintball Facility" – means a facility that is designed for the purpose of conducting Paintball Marker activities.
- u) "Paintball Marker" – means a barreled device that is designed for discharging paintballs; and is deemed not to be a firearm pursuant to Section 84(3)(d) of the *Criminal Code*, or any successor thereof.
- v) "Park" includes open space, private and/or Public Park and means an area open to the public used for sports, picnic, and like activities.
- w) "Peace Officer" means a member of a regional, provincial or federal police force or the Canadian Armed Forces.
- x) "Person" means an individual, firm, corporation, business, association or partnership.
- y) "Property" means any parcel of land and any buildings or structures on the land and includes a portion of property.
- z) "Protection of Property" means the killing, capturing or harassing of wildlife found damaging or destroying property on a person's own land, or, that a person believes, on reasonable and probable grounds, is about to damage or destroy property on their own land.
- aa) "Reasonable Safety Measures" means the shooting position and target shall be constructed in a way that no projectile could, upon accidental or intentional discharge, cross over any property boundary.
- bb) "Reactive Shooting Targets" means targets composed of ingredients designed to ignite or explode upon impact from a fast-moving projectile. Including but not limited to; Tannerite, Shockwave, etc.
- cc) "Recreational Trail" shall mean any property that is open or available to the general public for permitted recreational trail uses, and includes any bridge, trestle, viaduct or structure that forms part of a trail and all lands between the lateral boundaries.
- dd) "Target" shall mean an animal, reptile, bird, *Reactive Shooting Target* or object.
- ee) "Trapper" means a person licensed by the Ministry of Natural Resources in accordance with the *Fish and Wildlife Conservation Act* and Regulations to hunt and trap fur-bearing mammals.
- ff) "Shooting Range" a location that is designated and approved by the Chief Firearm's Officer of Ontario for the safe discharge, on a regular

and structured basis, of firearms for the purpose of shooting at an object to be aimed at in shooting practice or contests.

gg) “Wildlife” shall be as defined in the *Fish and Wildlife Conservation Act*.

Part 2 – Application of the By-law

Interpretation

3. For the purposes of this by-law:

Word Usage

- a) words in singular shall be deemed to include plural and words in plural shall be deemed to include singular and this By-law shall be interpreted with all changes in gender or number as the context may require;
- b) unless otherwise defined herein, the words and phrases used in this By-law have their normal and ordinary meaning;
- c) headings are inserted for convenience and reference purposes only, they form no part of this By-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law; and
- d) reference to any Act, Regulation, By-law, or *Agreement* is a reference to that Act, Regulation, By-law, or *Agreement* as it is amended or re-enacted from time to time.

Application

- 4. The provisions of this By-law shall apply to all discharges of *Firearms* and *Bows* within the boundaries of the *City*.
- 5. Nothing in this By-law shall be interpreted as reducing or eliminating the need for full compliance with the provisions of all applicable Federal and Provincial statutes and associated Regulations, including but not limited to the following:
 - a) *Criminal Code, R.S.C. 1985, c. C-46*;
 - b) *Firearms Act, S.C. 1995, c. 39*;
 - c) *Migratory Birds Convention Act, 1994, S. C. 1994, c. 22*; and
 - d) *Fish and Wildlife Conservation Act*.

e) *Explosives Act (1985, c. E-17)*

Conflict

6. Where this By-law conflicts, or is deemed to conflict, with any applicable Federal or Provincial statute, the provisions of such Federal or Provincial statute shall prevail.

Severability

7. If a court of competent jurisdiction declares any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced *Council* to pass the remainder of this By-law, and the remainder of the By-law shall be valid and remain in force.

Part 3 – General Provisions

Prohibitions

8. No *Person* shall discharge a *Firearm* or *Bow* in the *City* except in accordance with this By-law.
9. No *Person* shall discharge any *Firearm* in the *City* upon lands within the *Defined Areas*.
- 9.1 No *Person* shall discharge any *Bow* in the *City* upon lands within the *Defined Areas* unless *reasonable safety measures* are established for reasons regarding safety of person and property.
10. No *Person* shall discharge any *Firearm* in the *City* upon lands outside the *Defined Areas* except a land owner, tenant, *Agent* authorized by the land owner or tenant, or a *Person* with the land owner or tenant's permission, provided that:
 - a) where the *Firearm* is a shotgun, it is of no greater calibre than No. 2 Shot (6.86 millimetres , 0.270 inches);
 - b) no bullet, shot, bolt, arrow, or quarrel shall pass over the boundary of the *Property*; and
 - c) *Reasonable Safety Measures* are established for reasons regarding safety of person and property.
- 10.1 No person shall discharge a *High Calibre Rifle* within the *City*.

10.2 No *Person* shall discharge, cause to be discharged or allow to be discharged a *Firearm* for the purposes of detonating a *Reactive Shooting Target* or any other binary explosive that requires a shot by a *Firearm* to initiate a detonation.

11. Notwithstanding sections 9 and 10 of this By-law, no *Person* shall discharge any *Firearm* within 150 metres (492 ft) of:
- a) any dwelling, other than a dwelling located on the *Property* upon which the lawful discharge occurs; or
 - b) any public or private *Park* (including a *Recreational Trail*) or a public open space; or
 - c) the premises of an *Educational Property* or religious institution, including but not limited to any building, structures or grounds related thereto.
 - d) all areas fronting onto Lake Erie, measured from the water's edge.

Exceptions

12. This By-law shall not apply to the discharge of a *Firearm* or *Bow*:
- a) for the *Protection of Property* from nuisance *Wildlife* that may be killed or harassed in accordance with the *Ontario Fish and Wildlife Conservation Act*, or a permit issued under the *Canada Migratory Birds Regulations*;
 - b) undertaken as a *Normal Farm Practice*;
 - c) upon properties being used for the raising of livestock product and where the discharge is necessary to protect the livestock product;;
 - d) by any *Peace Officer*, *Conservation Officer* or *Deputy Conservation Officer* acting in the course of his/her duty under the authority of his/her employment;
 - e) at a facility operated or utilized by *Peace Officers* for training purposes;
 - f) at a lawful *Shooting Range*, *Paintball Facility*, skeet club or at a shooting meet which has been authorized by the *Manager*;
 - g) at an *Educational Property* used for instruction in the proper use of *Firearms* or *Bows*;
 - h) at a federally regulated and licensed *Business*, the use and location of which is lawful and in accordance with all applicable federal,

provincial and municipal laws; and

- i) by a *Person* firing blank ammunition for the purposes of:
 - i. a ceremonial event, historical display or educational program;
 - ii. a theatrical film or television production;
 - iii. a sporting event; or
 - iv. the training of animals.

Grant of Exemption by Council

- 13. Notwithstanding any provisions of this By-law, any *Person* may make application to *Council* to be granted an exemption from any of the provisions of this By-law with respect to the discharge of *Firearms* or *Bows* and *Council*, by resolution, may grant or refuse to grant the exemption applied for, or may grant any exemption of lesser effect, and in granting any exemption *Council* may include such terms and conditions as it deems appropriate.
- 14. In deciding whether to grant an exemption, *Council* shall give the applicant and any other *Persons* an opportunity to be heard and may consider such other information and matters as it considers appropriate, including but not limited to, the impact on public safety.
- 15. A breach by the applicant of any of the terms or conditions of any exemption granted by *Council* shall render the exemption immediately null and void and of no force or effect.

Part 4 – Enforcement

- 16. The provisions of this By-law may be enforced by a *Law Enforcement Officer* or any other *Person* appointed to enforce by-laws for the *City*.

Power of Entry

- 17. The *City* may enter onto a *Property* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - a) the provisions of this By-law;
 - b) an order issued under this By-law; or

- c) an order made under section 431 of the *Municipal Act*.
18. Where an inspection is conducted by the *City*, the *Person* enforcing the provisions of this By-law and conducting the inspection may:
- a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information from any *Person* concerning a matter related to the inspection including name, address, phone number and identification; and
 - d) alone or in conjunction with a *Person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
19. The *City* may undertake an inspection pursuant to an order issued under s. 438 of the *Municipal Act*.
20. The *City's* power of entry and inspection may be exercised by a *Law Enforcement Officer* or any other *Person* appointed or delegated to enforce by-laws for the *City*.

Penalty

21. Every *Person* who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.
22. If a corporation has contravened a provision of this By-law, including an order issued under this By-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.
23. If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
24. Every *Person* who is guilty of an offence under this By-law shall be subject to the following penalties:
- a) upon a first conviction, to a fine of not less than \$100.00 and not more than \$50,000.00;

- b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00;
- c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00; and
- d) Upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100.00 and not more than \$10,000.00. The total of all fines for each included offence may exceed \$100,000.00.

25. For the purposes of this By-law:

- a) “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law; and
- b) an offence is a “second or subsequent offence” if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

Part 5 – Schedules

Schedules to this By-law

27. Schedules A through E inclusive attached hereto shall form part of this By-law.

Part 6 – Repeal

28. By-law Number 2499/115/90 and all amendments thereto are hereby repealed.

Enacted and passed this _____ day of _____ 2021.

William C. Steele
Mayor

Amber LaPointe
City Clerk