



To: Council
From: Loriann Harbers, Director of Corporate Services
Date of Meeting: March 23, 2022
Subject: By-law No. 2022-021 Discharge of Firearms

Recommendation:

That By-law No. 2022-021, being a by-law to regulate the Discharge of Firearms and Bows, be read and passed in open Council, signed, and sealed this 23rd day of March 2022.

Executive Summary:

In the spring of 2021, complaints and requests were received surrounding the Township's Nuisance By-law. Particularly with noise and the discharge of firearms.

In the fall of 2021, draft amendments were presented to Council and in December 2021, an amended Nuisance By-law was passed removing the regulation surrounding the discharge of firearms instructing staff to prepare an independent by-law.

A draft Discharge of Firearms by-law was prepared, posted for public comment, and forwarded for legal and OPP review.

This report summarizes feedback received from all parties and provides recommendations to improve the draft by-law.

Background:

On November 24, 2021, the first draft of the Discharge of Firearms by-law was presented to Council for comment in advance of posting for public engagement.

Why do we need a new By-law?

The by-law was drafted to address two main concerns. These include:

1. The definition of a firearm did not include air guns, spring guns or types of bows. Concerns have been raised by residents and staff that under the current by-law, crossbows or high-power air rifles are not restricted within the settlement areas. This poses a danger to anyone within a settlement area.

The new by-law more appropriately defines both firearms and bows. By creating a more concise definition of firearm and including the definition of a bow, the firearms and bows that were previously omitted are now prohibited.

2. The by-law regulates discharge of firearms within the Urban Settlement Area only. There are areas within the Urban Settlement Area that are rural in nature, and some are large. Requests have been made to allow for archery practice and hunting in some of these areas.

The proposed by-law suggests allowing the discharge of firearms and bows within the Defined Area, providing the property is larger than 5 acres in size and no bullet or arrow shall pass over the boundary of the property

What Area is Affected by the Proposed By-law?

The 2016 Nuisance By-law regulated discharge of firearms within the Urban Settlement Areas only. The regulated area has not changed – see the map below:



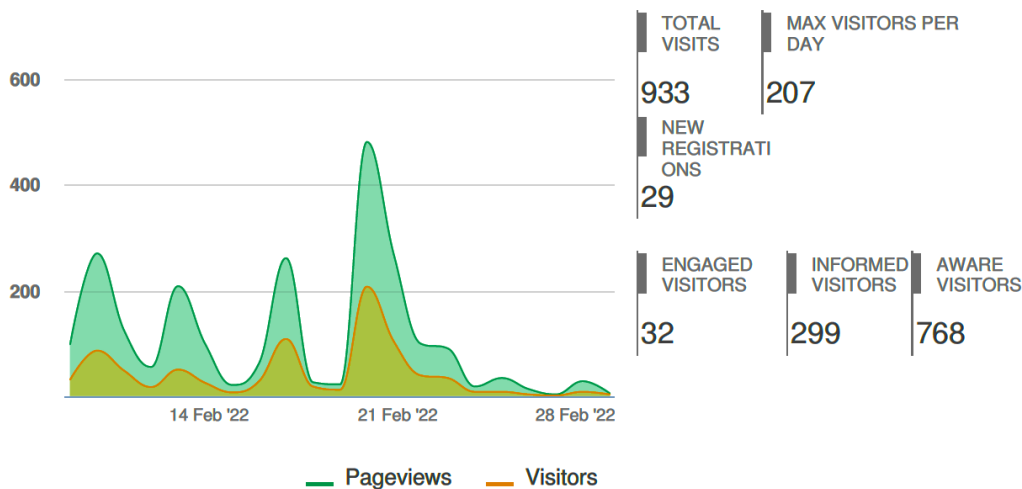
This By-Law does impact the St. Lawrence Parks Commission property or its respective waterways.

Public Engagement

On February 8, 2022, the draft by-law was posted on the Township's public engagement platform, Speak Up South Stormont. Public input was encouraged through all South Stormont media and constructive feedback was received.

As shown below in the chart summary, between February 8 and 28, 2022 there were 936 visits to the Discharge of Firearms page with a maximum number of visits per day of 207. Of those 936 visits, 768 are unique, 299 have downloaded or accessed documents and 32 visitors posted a question or offered a comment. We were very pleased to see how effective and useful this method of reaching the public has proven to be. Over and above, many emails and phone calls received by staff and members of Council.

Visitors Summary



The Archived Speak up South Stormont "Discharge of Firearms" page with all questions and responses can be found at this link:

https://www.speakupsouthstormont.ca/south-stormont-proposed-firearms-and-bows-by-law?tool=map#tool_tab

Summary of Concerns and Recommendations

Below staff have prepared a summary of public input received:

Question / Concern - 5 received
Clarification surrounding area in question: Urban Settlement Area

Recommendation/Comment:

The Township's Urban Settlement Areas, as defined in the SDG Official Plan, do not include St. Lawrence Parks Commission property or their respective waterways. In addition, the proposed by-law does not restrict the Rural Settlement Area.

Question / Concern - 1 received

Concerns regarding restriction of the existing Cornwall Handgun Club

Recommendation/Comment:

The Cornwall Handgun Club is not impacted by this by-Law. This by-law exclusively applies to the Urban Settlement Area of the Township of South Stormont.

Question / Concern - 1 received

Displeased with virtual engagement, everything should be circulated via regular mail

Recommendation/Comment:

The Township of South Stormont understands that virtual engagement is not ideal for all. We do our best to include all residents in discussion and appreciate the comment. In future, additional effort will be made to ensure all forms of media are utilized for public engagement.

Question / Concern - 5 received

Proposed definition of a firearm needs additional consideration as it is too restrictive.

Recommendation/Comment:

Proposed revised definition: "Firearm" means shotguns, rifles, bows, cross bows, or any class thereof and includes anything that can be adapted for use as a Firearm and that is capable of causing serious bodily injury or death to a person, excluding paint ball guns, pellet or BB guns or similar class of firearm with a muzzle velocity lesser than 500 feet per second.

The revised definition allows for the use of "nerf guns" and any type of firearm with reduced muzzle velocity.

Question / Concern - 6 received

Definition of Property/Power of Entry - clarification is required as it appears to be overreaching by allowing entry into dwellings, structures, and buildings.

Recommendation/Comment:

Option 1) Revise definition of Property to remove structures and buildings allowing Officers entry onto Property, but no authority to enter any structure or buildings on the Property; or

Option 2) Leave the definition of Property as is, providing Officers the authority to enter structures and building, but not a dwelling. In addition, a clause will be added to clarify that Officers will not have authority to enter a dwelling or buildings or structures occupied as a dwelling.

Question / Concern - 1 received

Request consideration for the removal of the 2.02-hectare (5-acre) minimum for bows but in agreement for firearms.

Recommendation/Comment:

The 2.02-hectare (5 acre) size has been discussed at length with experts in their respective fields. These include the Cornwall Handgun Club, Ontario Federation of Anglers and Hunters and the Ministry of Natural Resources and Forestry. All applicable regulation regarding discharge of any firearm including rifles apply. Lawful and responsible gun owners are not limited to the Township's by-law and are obligated to know and follow the regulations from all applicable Federal and Provincial laws. As such, no change is recommended in response to the 2.02-hectare (5 acre) parcel size.

Question / Concern - 1 received

Believe existing laws surrounding discharge of firearms is sufficient, save the noise created by rifles and shotguns.

Recommendation/Comment:

It is necessary for anglers and hunters to ensure they meet all Federal and Provincial regulations surrounding the discharge of firearms and timelines established. The noise created by rifles and shotguns is outside the authority of the Township's existing regulation.

Question / Concern - 1 received

Agree with proposed changes for firearms, however not for bows. Request for locations outside built up areas to be developed to support archery.

Recommendation/Comment:

Property outside the Urban Settlement Area are exempt from the proposed by-law. Should property owners outside the Urban Settlement Area choose to support archery practices they may do so. The inclusion of bows in the proposed by-law is recommended as archery practices were previously unregulated within the Urban Settlement Area.

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Question / Concern - 13 received
Federal and Provincial regulations already exist - we do not need this by-law.
Recommendation/Comment:
We recognize that Federal and Provincial legislation exists regarding firearms and this is recognized in the proposed by-law. The proposed by-law is intended to promote enhanced safety outside criminal activity. Moreover, the previous by-law restricted the discharge of firearms completely within the same area. The proposed by-law is less restrictive.

Question / Concern - 1 received
Request consideration for “expressed” permission from owner in place of “written” permission of owner to discharge a firearm or bow on the owners’ property.
Recommendation/Comment:
Upon further research and consultation with multiple sample by-laws, this request is reasonable, and the proposed by-law has been amended as such.

Question / Concern - 1 received
Appreciate "buffer" around populated areas to address resident concern about safety, etc. People should be safe from stray bullets and enjoy peace in their own backyard, free from the sound of nearby shooting.
Recommendation/Comment:
The Township recognizes the importance of safety with discharging firearms and bows within the Urban Settlement Area. Provisions in the proposed by-law are being included to address safety concerns such as, the minimum acreage requirement 2.02 hectares (5 acres) and the person discharging the firearm or bow shall ensure no bullet, shot, bolt, arrow, or projectile shall pass over the boundary of the property.

In addition to the comments noted above, the following revisions are also recommended:

1. Addition of a subsection under Application, as follows:
 "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:
 - i. Criminal Code.
 - ii. Firearms Act.
 - iii. Migratory Birds Convention Act.
 - iv. Fish and Wildlife Conservation Act; and
 - v. Farming and Food Production Protection Act.

2. Addition of a section to clarify conflict that would read as follows:
 Conflict - 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.

3. For additional clarity staff recommend the inclusion of definition of "Agricultural property", meaning land permitted to be used for agricultural purposes by the Township of South Stormont zoning by-law and includes without limitation,
 - i. raising livestock or poultry.
 - ii. growing crops; or
 - iii. arboriculture or horticulture for commercial purposes.

3. Revision of farming exemption as follows:
 - e) An owner or their Agent, on Agricultural Property, where the discharge is necessary to scare or destroy animals that are likely to kill or injure livestock or poultry or damage property, where such discharge is in accordance with all other applicable laws.

4. For additional clarity, the definitions of Peace Officer, Municipal Law Enforcement Officer and Conservation Authorities Officer have been combined as, "Officer" means a Police Officer, Peace Officer, Municipal Law Enforcement Officer, and Officer appointed under the *Fish and Wildlife Conservation Act, 1997* or *Conservation Authorities Act*.

What Exactly Has Changed between Draft #1 and Draft #2?

The following chart compares what was proposed in Draft #1 of the by-law with recommendations in Draft #2 and is demonstrated in the attached by-law:

Discharge of Firearms By-law Draft #1	Discharge of Firearms By-law Draft #2
Definitions	Definitions
a) Agent	a) Agent

<p>v. Persons who hold a valid outdoors card issued under Ontario Regulation 665/98, for the purposes of killing or harassing the wildlife but not capturing it.</p>	<p>v. A hunter actively engaged in hunting during a permitted season to whom has been issued such necessary licences and permits as may be required by Federal or Provincial governments, and provided that such Person has obtained the prior consent of the owner of the parcel of Land on which the Firearm or Bow is discharged.</p>
	<p>Addition of Definition</p> <p>b) “Agricultural property” means land permitted to be used for agricultural purposes by the Township of South Stormont zoning by-law and, includes without limitation,</p> <ul style="list-style-type: none"> i. raising livestock or poultry; ii. growing crops; or iii. arboriculture or horticulture for commercial purposes;
<p>Definitions</p> <p>c) “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 and includes cross-bows, long bows, re-curve bows and compound bows.</p>	<p>Definitions</p> <p>c) “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 and includes cross-bows, long bows, re-curve bows and compound bows, but excludes a bow with a draw weight of 22 pounds or less.</p>
<p>Definitions</p> <p>e) “Conservation Officer” means a Conservation Officer or Deputy Conservation Officer appointed pursuant to the <i>Fish and Wildlife Conservation Act</i>.</p>	<p>Definitions</p> <p>Consolidate under one definition “Officer” for clarity.</p>
<p>Definitions</p> <p>e) “Firearm” means handguns, shotguns, rifles, air guns, spring guns or any class thereof and includes anything that can be adapted for use as a Firearm.</p>	<p>Definitions</p> <p>e) “Firearm” means shotguns, rifles, bows, or any class thereof and includes anything that can be adapted for use as a Firearm and that is capable of causing serious bodily injury or death to</p>

	a person, excluding paint ball guns, pellet or BB guns or similar class of firearm with a muzzle velocity lesser than 500 feet per second.
Definitions f) “Municipal Law Enforcement Officer” means the Municipal Law Enforcement Officer as appointed on behalf of the Township and includes his/her their designate.	Definitions Consolidate under one definition “Officer” for clarity.
Definitions g) “Peace Officer” means a member of a regional, provincial or federal police force or the Canadian Armed Forces.	Definitions Consolidate under one definition “Officer” for clarity
Definitions New definition	Definitions f) “Officer” means a Police Officer, Peace Officer, Municipal Law Enforcement Officer, and Officer appointed under the <i>Fish and Wildlife Conservation Act, 1997</i> or <i>Conservation Authorities Act</i> ;
Application Added clause	Application a) 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: <ul style="list-style-type: none"> i. <i>Criminal Code</i>; ii. <i>Firearms Act</i>; iii. <i>Migratory Birds Convention Act</i>; and iv. <i>Fish and Wildlife Conservation Act</i>.
Prohibition a) No Person shall discharge any Firearm or Bow in the Defined Area except in accordance with this By-law.	Prohibition a) No Person shall discharge any Firearm or Bow in the Defined Area except in accordance with this By-law.

<p>Prohibitions</p> <p>i. The Person has written permission from the Property owner or tenant of the Property on which the discharge occurs; or</p>	<p>Prohibitions</p> <p>ii. The Person is the Property owner or has written expressed permission from the Property owner or tenant of the Property on which the discharge occurs; or</p>
<p>Exceptions</p> <p>This By-law shall not apply to the discharge of a Firearm or Bow:</p> <p>a) by any Peace Officer or Conservation Officer acting in the course of their duty under the authority of their employment;</p>	<p>Exceptions</p> <p>This By-law shall not apply to the discharge of a Firearm or Bow:</p> <p>a) by any Officer acting in the course of their duty under the authority of their employment;</p>
<p>Exceptions</p> <p>a) upon properties being used for agriculture purposes and the owner or tenant possesses a valid Farm Business Registration Number.</p>	<p>Exceptions</p> <p>a) An owner or their Agent, on Agricultural Property, where the discharge is necessary to scare or destroy animals that are likely to kill or injure livestock or poultry or damage property, where such discharge is in accordance with all other applicable laws.</p>
<p>Powers of Entry</p> <p>Definition of Property</p> <p>h) "Property" means any parcel of land and any buildings or structures on the land and includes a portion of property.</p>	<p>Powers of Entry</p> <p>Definition of Property</p> <p>Option #1</p> <p>h) "Property" means any parcel of land or any portion thereof, but excludes any building or structure located on the Property.</p> <p>This definition restricts all entry into any building, structure or dwelling unless a warrant is obtained.</p> <p>Option #2</p> <p>Leave definition of Property as is:</p>

	<p>h) “Property” means any parcel of land and any buildings or structures on the land and includes a portion of property.</p> <p>And: add a clause under Powers of Entry authorizing entry into buildings and structures, but not dwellings unless a warrant is obtained.</p> <p>a) No Officer may enter into any structure actually being occupied as a dwelling without the permission of the owner or occupant or a warrant.</p>
	<p>Addition of Conflict</p> <p>7. Conflict</p> <p>Where this by-law conflicts or is deemed to conflict with any applicable Federal or Provincial statute, the provisions of such Federal and Provincial statute shall prevail.</p>

Staff have prepared a short presentation to assist in explaining the proposed changes. Please see the attached.

Alignment with Community Strategic Plan:

Goal 5: Strong Community

Objective 4.2: Towns, Villages, and Farms

Risk and Asset Management Considerations:

Council’s instruction to investigate an independent Discharge of Firearms by-law was rooted in a desire to respond to concerns expressed by members of the public. To clarify firearm and to lessen the restriction currently in place in the Urban Settlement Area.

If the by-law is not adopted, Council may wish to revert to the regulation in place prior to the commencement of this project. The challenge is finding a solution that is satisfactory to both sides of the debate. Many desire tighter restrictions surrounding firearms and bows and many desire less regulation in the same regard.

The proposed by-law is staff’s attempt to find an amicable solution addressing concerns for most.

Options:

1. That Council adopt the proposed Discharge of Firearms By-law, as presented.

2. That Council adopt the proposed Discharge of Firearms By-law, as amended.
3. That Council defeat the proposed Discharge of Firearms and Bows By-law and further, instruct staff to re-enact the firearms regulation in the Nuisance By-law as it was prior to this project.

Financial Impact:

There is no direct financial impact to the Township because of this by-law.

Others Consulted:

Kieran McCourt, Municipal Law Enforcement Officer
Brian McRae, Ontario Federation of Anglers and Hunters
Charlene Davidson, Ontario Provincial Police
Tony Fleming, Township Solicitor

Sample by-laws consulted for reference:

- Town of Grimsby
- Municipality of Middlesex Centre
- City of Ottawa
- City of Kawartha Lakes
- Township of Springwater
- Township of Lake of Bays
- City of Thorold