

Low-Hazard Fireworks - Enforcement

ISSUE:

Enforcement of the portions of the Alberta Fire Code 2006 (AFC) dealing with the storage, sale, purchase and discharge of Low-Hazard Fireworks has created confusion amongst municipalities and safety codes officers.

BACKGROUND:

The AFC provides for fire departments, acting under the policy direction of municipal councils, to provide written permission allowing for the storage, sale, purchase and discharge of low-hazard fireworks, or disallow those activities within the municipality. Fire Code Interpretation FCI-10-01 "Low-Hazard Fireworks - Permits, Storage and Display" explains the rationale and processes for municipalities to make and implement those decisions.

The process for the enforcement of those decisions, given that the responsibility for this portion of the AFC rests with all Alberta municipalities regardless of their accreditation status under the Safety Codes Act, requires clarification to encourage consistent application across Alberta.

INTENT:

While voluntary compliance based upon discussion, explanation and education is the primary focus for enforcement under the Safety Codes Act (Chapter S-1, RSA 2000) there are times when more formal actions are required to obtain compliance. These options vary depending on who is undertaking the enforcement actions. Possible actions based upon the status of the enforcing officer are noted below:

Safety Codes Officer in the Fire Discipline

- The primary enforcement tool for these SCOs is the ability to issue an Order under Section 49 of the SCA. An Order to cease the activity may be issued by a properly certified and designated SCO to anyone who stores, sells, purchases or discharges Low-Hazard Fireworks in contravention of the AFC. This would include failure to have the required permission of the municipality.
- In unaccredited municipalities, or in those where only a Basic Fire SCO is available, orders must be issued by SCOs working for Alberta Municipal Affairs – Safety Services or the Alberta Emergency Management Agency (AEMA).

Safety Codes Officers and Police Officers

- A SCO, or a police officer, has the ability to lay charges under Section 67 of the SCA in the Provincial Court of Alberta through the Provincial Offences Procedures Act (Chapter P-34 RSA 2000). Offences include:
 - contravention of the Act (the AFC is part of the Act),
 - contravention of an order, and
 - failure to carry out any actions required in an order.

Charges are usually used for enforcement when orders have not been complied with or when a short term activity (i.e. discharge of fireworks) is not practically dealt with by an order.

Penalties under the Safety Codes Act are up to \$15,000 or up to 6 months in jail, or both, for a first offence. Additional penalties exist for continuing violations.

Further information on how to issue orders or lay charges under the Act can be obtained by contacting the Chief Fire Administrator, AEMA or the Safety Codes Council.

Municipal Enforcement Officers and Police Officers

- When a municipality has passed a bylaw which puts in place a process for obtaining permission to store, sell, purchase or discharge low-hazard fireworks, and a person contravenes that process, then those persons designated in the bylaw will usually have the ability to issue violation notices or violation tickets for contravention of the bylaw based upon the specific wording of the bylaw.
- When a municipality has passed a bylaw which prohibits the storage, sale, purchase and discharge of low-hazard fireworks and someone does one of these things then those persons designated in the bylaw will usually have the ability to issue violation notices or violation tickets for contravention of the bylaw based upon the specific wording of the bylaw.
- Bylaws usually provide specific penalty provisions and may provide for the option of voluntary payment.

CONCLUSION:

Consistent enforcement of the Alberta Fire Code 2006 and municipal bylaws will provide the latitude for municipalities to exercise their policy choices regarding low-hazard fireworks and result in equitable treatment of wholesalers, retailers and purchasers based on these important local municipal policy decisions.