

**CORPORATION OF THE TOWNSHIP OF MCKELLAR**

**BY-LAW NO. 2012-13 as amended by By-law 2013-17 & 2013-33**

---

**Being a By-law to regulate the setting off of Fireworks**

---

**WHEREAS** Section 121, Subsection (a) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that a local municipality may prohibit and regulate the setting off of fireworks;

**AND WHEREAS** Section 121, Subsection (b) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides authority to Councils of municipalities to pass by-laws for prohibiting or regulating the setting off of fireworks or any class or classes thereof in the municipality or in any defined area or areas thereof, and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit;

**AND WHEREAS** Section 7.1(1)(a) of the Fire Protection and Prevention Act, S.O. 1997 as amended, provides that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

**NOW THEREFORE**, the Corporation of the Township of McKellar hereby enacts as follows:

**1.0 DEFINITIONS:**

In this By-law:

**“Act”** means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitution therefore.

**“Chief Fire Official”** means the Fire Chief and/or his or her designate;

**“Consumer Fireworks”** means an outdoor, low hazard, recreational firework that is classed as a Subdivision 1 of Division 2 of Class 7 Fireworks under the Act and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, and volcanoes, but does not include sparklers, Christmas crackers, and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap.

**“Display Fireworks”** means an outdoor, high hazard, recreational firework that is classed as a Subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers.

**“Firecrackers”** means a class of fireworks which when ignited explodes with little or no visual effect, but does not include caps for toy guns or Christmas crackers;

**“Fireworks”** means display fireworks, pyrotechnic special effects fireworks and consumer fireworks;

**“Fireworks Permit”** means a permit to discharge fireworks issued by the Chief Fire Official or his or her designate. Without limiting this definition, a Fireworks Permit may be for display fireworks, or consumer fireworks, or both.

**“Officer”** means a Municipal By-law Enforcement Officer, Police Officer, Chief Fire Official or his or her Designate;

**“Owner”** includes with respect to land or Property, the registered owner, occupant, tenant, or the person for the time being managing or receiving the rent of the property whether on his own account or on account of an agent or trustee of any other person, or any of the aforesaid;

**“Person”** includes an individual, an Owner, corporation, partnership, company, firm, association, or party and includes the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law and the singular shall include the plural;

**“Sky Lantern”** means a small hot air balloon made of paper or any other material with an opening at the bottom where a small fire may be suspended such that the lantern will rise and float in the air while ignited.

**“Township”** means the Corporation of the Township of McKellar.

## **2.0 GENERAL PROHIBITIONS**

2.1 No person shall set off any fireworks when there is a Fire Ban in effect or the Fire Danger Rating is “Extreme”, no open air burning permitted.

## **3.0 DISCHARGE OF FIRECRACKERS**

3.1 No person shall discharge, fire, set off, or cause to be set off any firecrackers within the Township of McKellar.

## **4.0 SETTING OFF OF CONSUMER FIREWORKS**

4.1 No person shall set off consumer fireworks on any day or days during the year without a valid Fireworks Permit issued by the Chief Fire Official or his or her designate except on Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, New Year’s Day, Family Day and Good Friday and the three days immediately preceding and/or following each of these days.

4.2 No person under the age of eighteen (18) years of age may discharge, fire, set off, or cause to be set off any consumer fireworks except under the direct supervision of and control of a person(s) eighteen (18) years of age or over.

4.3 No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to discharge any consumer firework, except when such parent or guardian or some other responsible person of eighteen (18) years of age or over is in direct supervision and control.

4.4 No person shall set off any consumer fireworks in a manner that creates a danger or nuisance to any person or property.

4.5 No person shall set off any consumer fireworks except between dusk and 11:00 p.m. of the same day.

4.6 No person shall set off any consumer fireworks in, on or into any building, or motorized vehicle.

4.7 No person shall set off any consumer fireworks on or into any highway, street, lane, boulevard, roundabout, or private roadway.

4.8 No person shall set off any consumer fireworks on or into any park, parkette, trail, land used for storm water management or other public place or any land owned by the Township of McKellar without first having obtained permission from the Council of the Township of McKellar.

4.9 No person shall set off any consumer fireworks on any land whatsoever, except on land belonging to the person setting off the fireworks, or on other privately owned land where the written consent of the owner has been obtained.

4.10 Only fireworks authorized pursuant to the Explosives Act and the Explosives Regulations made under it may be displayed or set off.

- 4.11 Property damage or injury as a result of the discharge of fireworks shall be the responsibility of the person setting off the fireworks.

## **5.0 SETTING OFF OF DISPLAY FIREWORKS**

- 5.1 No person shall hold a display of or set off display fireworks on any day or days without first having obtained a Fireworks Permit to do so issued by the Chief Fire Official or his or her designate.
- 5.2 The Chief Fire Official may impose conditions for approval as he/she considers necessary to ensure the safety of the public.
- 5.3 Setting off of display fireworks must be in accordance with recognized safety procedures including, but not limited to:
- (a) keeping spectators at a safe distance;
  - (b) protecting private and public property; and
  - (c) ensuring suitable fire extinguishing equipment is available at all times.
- 5.4 The person(s) responsible for the setting off of any fireworks or classes thereof must ensure that all unused fireworks and debris is removed and safely disposed of immediately following the event.
- 5.5 Only persons who hold a valid Display Supervisor certificate, for such, issued by the Explosives Regulatory Division of Natural Resources Canada are eligible to request approval to display or set off Display Fireworks/Pyrotechnic Special Effects.
- 5.6 The handling and discharge of display fireworks shall conform with the Natural Resources Canada (NRCan), "Display Fireworks Manual" and Natural Resources Canada (NRCan), Pyrotechnic Special Effect Manual".
- 5.7 No person shall set off any display fireworks except between dusk and 11:00 p.m. of the same day.
- 5.8 Property damage or injury as a result of display fireworks shall be the responsibility of the person setting off the fireworks.
- 5.9 No person shall set off any display fireworks on or into any park, parkette, trail, land used for storm water management or other public place or any land owned by the Township of McKellar without first having obtained permission from the Council of the Township of McKellar.

## **6.0 FIREWORKS PERMITS**

- 6.1 No person shall set off display fireworks at any time of the year unless a valid Fireworks Permit has been issued by the Chief Fire Official or designate.
- 6.2 No person shall set off consumer fireworks on any day or days during the year without a valid Fireworks Permit issued by the Chief Fire Official or his or her designate except on Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, New Year's Day, Family Day and Good Friday and the three days immediately preceding and/or following each of these days.
- 6.3 Every application for a Fireworks Permit shall be made to the Chief Fire Official a minimum of fourteen (14) calendar days prior to the event when the proposed discharge of fireworks is to occur.
- 6.4 Persons who discharge fireworks under the authority of a Fireworks Permit must also comply with all provisions of this By-law and the conditions of the Fireworks Permit.
- 6.5 Only persons who have successfully completed a fireworks display supervisor's course and who hold a valid Fireworks Supervisor certification shall be eligible to apply for a Display Fireworks Permit.

- 6.6 The Chief Fire Official may impose such conditions upon the issuance of a Fireworks Permit as he/she considers necessary to ensure the safety of the public.
- 6.7 If the discharge of fireworks is to be held on municipal land, the approval of Council must be obtained prior to applying for a permit.
- 6.8 If the discharge of fireworks is to be held on municipal land, the applicant for a Fireworks Permit shall provide with the permit application proof of liability insurance subject to limits of not less than five million Canadian dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall be in the name of the applicant and shall name the Township of McKellar as an additional insured thereunder. Such insurance shall include coverage for consumer fireworks or display fireworks as per the application for a Fireworks Permit.
- 6.9 The applicant for a Fireworks Permit shall indemnify and save harmless the Township of McKellar from any and all claims, demands, causes of action, loss, costs or damages that the Township may suffer, incur or be liable for resulting from the performance of the applicant as set out in the by-law and permit conditions whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.
- 6.10 The approved Fireworks Permit may be suspended or cancelled by the Chief Fire Official during periods of extreme fire conditions or at any time or location in which, in the opinion of the Chief Fire Official, the safety of the public is at risk or the provisions of this by-law or the conditions of the Fireworks Permit are not being complied with.

## **7.0 RIGHT OF ENTRY**

- 7.1 An Officer may at any reasonable time, with cause or by complaint, enter onto land to determine whether this By-law is being complied with.
- 7.2 Every owner shall permit the Officer to inspect any land for the purpose of determining compliance with this By-law.
- 7.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless;
- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O.1990, as amended;
  - (b) a warrant issued under the Provincial Offences Act, R.S.O.1990, as amended is obtained.

## **8.0 OBSTRUCTION**

- 8.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 8.2 Any person who has been alleged to have contravened any of the provisions of this By-law, shall identify himself or herself to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his or her duties.
- 8.3 A refusal of consent to enter or to remain in a room or place actually used as a dwelling does not constitute hindering or obstruction within the meaning of subsection 8.1 unless the municipality is acting under an order under Section 438 of the Municipal Act, or a warrant under Section 439 of the Municipal Act, or in the circumstances described in Section 437(d) or (e) of the Municipal Act.

**9.0 SKY LANTERNS**

- 9.1 No person or corporation shall offer for sale, cause or permit to be sold, sell or otherwise distribute Sky Lanterns within the Township of McKellar.
- 9.2 No person shall ignite a Sky Lantern within the Township of McKellar.
- 9.3 No person shall release an ignited Sky Lantern into the air within the Township of McKellar.

**10.0 PENALTY**

- 10.1 Any person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction is liable to a fine as provided for in the Provincial Offences Act R.S.O. 1990, Chapter P33, as amended.

**11.0 ADMINISTRATION AND ENFORCEMENT**

- 11.1 An Officer is hereby vested with the authority of enforcing the provisions of this By-law.

**12.0 VALIDITY AND SEVERABILITY**

- 12.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the Part so declared to be invalid.

**13.0 SHORT TITLE**

- 13.1 The short title of this By-law is the “Fireworks By-law”.

**14.0 EFFECTIVE DATE**

- 14.1 This By-law shall come into force and take effect immediately upon the final passing thereof.

READ a FIRST and SECOND time this 18th day of June, 2012.

“Original Signed”  
 \_\_\_\_\_  
 Reeve

“Original Signed”  
 \_\_\_\_\_  
 Clerk Administrator

READ a THIRD time and PASSED in OPEN COUNCIL this 13th day of August, 2012.

“Original Signed”  
 \_\_\_\_\_  
 Reeve

“Original Signed”  
 \_\_\_\_\_  
 Clerk Administrator

**CORPORATION OF THE TOWNSHIP OF MCKELLAR**

**BY-LAW No. 2012-13, FIREWORKS BY-LAW - SET FINE SCHEDULE  
Part I Provincial Offences Act**

<b><u>ITEM</u></b>	<b><u>COLUMN 1</u> Short Form Wording</b>	<b><u>COLUMN 2</u> Provision Creating or Defining Offence</b>	<b><u>COLUMN 3</u> Set Fine</b>
1.	Causing or permitting fireworks to be set off during fire ban or extreme conditions.	Section 2.1	\$355.00
2.	Discharge, fire, set off, or cause to be set off any firecrackers.	Section 3.1	\$155.00
3.	Set off consumer fireworks without a permit	Section 4.1	\$155.00
4.	Set off consumer fireworks by person under the age of 18.	Section 4.2	\$155.00
5.	Set off of consumer fireworks in a manner that creates a danger or nuisance to persons or property.	Section 4.4	\$155.00
6.	Set off of consumer fireworks during prohibited times.	Section 4.5	\$155.00
7.	Set off consumer fireworks on public property without permission.	Section 4.8	\$155.00
8.	Set off display fireworks without a permit.	Section 5.1	\$155.00
9.	Set off display fireworks in unsafe manner.	Section 5.3	\$155.00
10.	Set off display fireworks on public property without permission.	Section 5.9	\$155.00

**NOTE:**        **The general penalty provision for the offences indicated above is Section 10 of By-law No. 2012-13, a certified copy of which has been filed.**