

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2011-30

Being a By-law regulating the sale of
and 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 sale of fireworks and the setting off of fireworks;

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

1.0 DEFINITIONS:

In this By-law:

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

“Consumer Fireworks” means outdoor low hazard fireworks generally used for recreational purposes such as showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, sparklers, caps for toy guns and Christmas crackers;

“Display Fireworks” means high hazard fireworks generally used for community celebrations such as bombshells, aerial shells, large wheels, and bombardons;

“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;

“Officer” means a Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or Designate;

“Owner” means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property;

“Township” means the Corporation of the Township of Tay.

2.0 GENERAL PROHIBITIONS

2.1 No person shall set off any fireworks when a fire ban is in effect.

3.0 SALE OF FIREWORKS AND FIRECRACKERS

3.1 No person shall sell or offer for sale any firecrackers within the Township of Tay.

3.2 No person may sell, offer for sale, give or distribute consumer fireworks to any person under the age of eighteen (18) years of age.

3.3 Where fireworks are offered for sale, they must be displayed in such a manner that they are not accessible as a self-serve item.

3.4 Where fireworks are offered for sale, they must comply with the Explosives Act and the Explosives Regulations made under it.

- 3.5 Where fireworks are offered for sale, notice as outlined in Schedule "A" must be clearly posted informing the consumer of the restrictions and set fines.

4.0 DISCHARGE OF FIRECRACKERS

- 4.1 No person shall discharge, fire, set off, or cause to be set off any firecrackers within the Township of Tay.

5.0 SETTING OFF OF CONSUMER FIREWORKS

- 5.1 No person shall set off consumer fireworks on any day or days during the year except on Victoria Day, Canada Day and the three days immediately preceding and/or following each of these days.
- 5.2 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.
- 5.3 No person shall set off any consumer fireworks in a manner that might create a danger or nuisance to any person or property.
- 5.4 No person shall set off any consumer fireworks except between dusk and 11:00 p.m.
- 5.5 No person shall set off any consumer fireworks in, on or into any building, or automobile.
- 5.6 No person shall set off any consumer fireworks on or into any highway, street, lane, boulevard, roundabout, or private roadway.
- 5.7 No person shall set off any consumer fireworks on or into any land used for school purposes.
- 5.8 No person shall set off any consumer fireworks on or into any park, parkette trail, land used for storm water management other public place or any land owned by the Township of Tay without first having obtained permission from the Chief Fire Official or designate.
- 5.9 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.
- 5.10 Only fireworks authorized pursuant to the Explosives Act and the Explosives Regulations made under it may be displayed or set off.

6.0 SETTING OFF OF DISPLAY FIREWORKS

- 6.1 No person shall hold a display of or set off display fireworks on any day or days without approval from the Chief Fire Official.
- 6.2 The Chief Fire Official may impose conditions for approval as he/she considers necessary to ensure the safety of the public.
- 6.3 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.

- 6.4 The person(s) responsible for the setting off of any fireworks or classes thereof must ensure that all unused fireworks and debris be removed and safely disposed of immediately following the event.
- 6.5 Only persons who hold a valid 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.
- 6.6 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"

7.0 GRANT OF EXEMPTION BY COUNCIL

7.1 Application to Council

Notwithstanding anything contained in 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 fireworks and Council, may refuse to grant any exemption or may grant the exemption which may contain such terms and conditions as Council sees fit.

7.2 Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it deems appropriate.

7.3 Breach

A breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

8.0 RIGHT OF ENTRY

- 8.1 An Officer may at any time, enter onto land to determine whether this By-law is being complied with.
- 8.2 Every owner shall permit the Officer to inspect any land for the purpose of determining compliance with this By-law.
- 8.3 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.

9.0 OBSTRUCTION

- 9.1 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.
- 9.2 Any person who has been alleged to have contravened any of the provisions of the By-law, shall identify themselves 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.

10.0 PENALTY

- 10.1 Every person who contravenes any of the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.2 Every person who contravenes the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 10.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.4 Despite section 10.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 10.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.6 Despite section 10.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 10.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 10.8 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 10.9 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 10.10 Every person who contravenes any section of this by-law under a part 1 ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33 as amended.
- 10.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, 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 effect 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.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF FEBRUARY, 2016.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR

CLERK

**CORPORATION OF THE TOWNSHIP OF TAY
PART 1 PROVINCIAL OFFENCES ACT**

By-Law No. 2011-30, Fireworks By-law

| ITEM | Column 1 Short Form Wording | Column 2 Provision Creating or Defining Offence | Column 3 Set Fine |
|-------------|--|--|----------------------------------|
| 1 | Sell or offer for sale any firecrackers. | 3.1 | \$125.00 |
| 2 | Sell, offer for sale, give or distribute consumer fireworks to any person under the age of eighteen. | 3.2 | \$125.00 |
| 3 | Discharge, fire, set off, or cause to be set off any firecrackers. | 4.1 | \$125.00 |
| 4 | Set off consumer fireworks except for three days preceding and/or following Victoria Day and Canada Day. | 5.1 | \$125.00 |
| 5 | Person under 18 discharge, fire, set off, or cause to be set off consumer fireworks. | 5.2 | \$125.00 |
| 6 | Set off consumer fireworks that might create a danger or nuisance to any person or property. | 5.3 | \$125.00 |
| 7 | Set off consumer fireworks outside times permitted. | 5.4 | \$125.00 |
| 8 | Set off consumer fireworks on land owned by the Township of Tay. | 5.8 | \$125.00 |
| 9 | Hinder or obstruct, or attempt to hinder or obstruct, any Officer. | 9.1 | \$125.00 |

Note: The penalty provision(s) for the offences indicated above is Section 10.0 of By-Law No. 2011-30 a certified Copy of which has been filed.

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| 4 | Set off consumer fireworks except for three days preceding and/or following Victoria Day and Canada Day. | 5.1 | |
| 5 | Person under 18 discharge, fire, set off, or cause to be set off consumer fireworks. | 5.2 | |
| 6 | Set off consumer fireworks that might create a danger or nuisance to any person or property. | 5.3 | |
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Schedule A
By-law No. 2011-30: Fireworks Regulations

- a. No person shall set off any fireworks when a fire ban is in effect.
- b. No person shall set off consumer fireworks on any day or days during the year except on Victoria Day, Canada Day and the three (3) days immediately preceding and/or following each of these days.
- c. 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.
- d. No person shall set off any consumer fireworks in a manner that might create a danger or nuisance to any person or property.
- e. No person shall set off any consumer fireworks except between dusk and 11:00 p.m.
- f. Please be advised that pursuant to Township of Tay By-law No. 2011-30 an offence will carry a fine of \$125.00 plus the victim surcharge.