

**THE CORPORATION OF THE
TOWNSHIP OF MATACHEWAN**

BY – LAW 2017-20

Being a by-law to Prohibit and Regulate the sale, storage, display and discharge of fireworks or pyrotechnics.

Whereas section 121 of the Municipal Act, 2001, S.O. 2001,c25, as amended, permits a municipality to pass by-laws prohibiting and regulating the sale and the setting off of fireworks;

And Whereas under Section 121 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may require that a permit be obtained for the sale and setting off of fireworks, and that conditions may be prescribed by the municipality for obtaining, continuing to hold and renewing said permit;

And Whereas the Council for the Township of Matachewan is desirous of enacting a by-law to prohibit and regulate the sale and discharge of fireworks;

Now Therefore be it resolved that the Council of the Corporation of the Township of Matachewan enacts as follows:

1. DEFINITIONS

1.1 In this By-law:

- (a) "*Act*" shall mean the Explosives Act, R.S.C. 1985, c. E-17 as amended and all regulations thereto;
- (b) "*Chief Fire Official*" shall mean the Township's Chief Fire Official, or his or her designate;
- (c) "*Council*" shall mean the Council of the Corporation of the Township of Matachewan;
- (d) "*discharge*" when used in relation to *fireworks*, including firing, igniting, exploding and setting off such articles;
- (e) "*duty of care*" everyone who has an explosive substance in his or her possession or under his or her care and control is under a legal duty to use reasonable care to prevent bodily harm and death to persons or damage property by that explosive device;
- (f) "*exhibition fireworks*" or "*commercial products*" shall mean high hazard fireworks used for public fireworks displays, also referred to as display fireworks, formerly Canadian Class 7.2.2;
- (g) "*family fireworks*" or "*consumer projects*" shall mean low hazard fireworks generally used for recreation, also referred to as consumer fireworks, formerly Canadian Class 7.2.1;
- (h) "*Fire Service*" shall mean the Town's Voluntary Fire Department;
- (i) "*fireworks*" shall include *exhibition fireworks* or *family fireworks*;
- (j) "*Fireworks Supervisor*" shall mean a person certified by Natural Resources Canada to conduct a *fireworks* display and who is responsible for ensuring all *fireworks* are properly installed and that all appropriate safety measures have been taken;

- (k) "*Noise By-law*" shall mean the Township's Noise By-law, as amended from time to time;
- (l) "*theatrical fireworks*", also referred to as pyrotechnics, formerly Class 7.2.5, includes any authorized explosive that is made, manufactured, or used to produce a special pyrotechnic theatrical effect in conjunction with an indoor or outdoor performance or in front of a live audience;
- (m) "*Township*" shall mean The Corporation of the Township of Matachewan;
- (n) "*Zoning By-law*" shall mean the Township's Zoning By-law, as amended from time to time.

2. APPLICATION OF BY-LAW

- 2.1 This By-law applies to all lands and premises within the *Township*.
- 2.2 This By-law does not apply to the following low hazard fireworks having Practical use; highway safety flares, fuse and other small distress signals classed as Class 7, Division 3, Subdivision 4 of the *Act*.
- 2.3 This By-law does not apply to the storage of explosives or explosive materials and/or detonation, and/or explosives:
 - (a) created at quarries or construction sites for the purpose of creating aggregate stone, construction materials or the remove or repositioning of said materials;
 - (b) made by the Ontario Provincial Police, the Royal Canadian Mounted Police, the Canadian Military or any other public law enforcement agency.

3. SALE OF FIREWORKS

- 3.1 No person shall sell, offer for sale, cause or permit to be sold, or otherwise distribute *Family Fireworks* or *Exhibition Fireworks*.

4. DISCHARGING OF FIREWORKS

- 4.1 The igniting and setting off of *fireworks* as set out in the provisions of this By-law, is hereby prohibited except on
 - (a) Victoria Day and the three days immediately preceding and following Victoria Day;
 - (b) Canada Day and the three days immediately preceding and following Canada Day;
 - (c) New Year's Eve and New Year's Day, and
 - (d) Such day as is proclaimed by Council for the Municipality as suitable for celebration with *Fireworks*.
- 4.2 No Person shall ignite or set off any *Fireworks* on a property unless such Person is the Owner of that property or has written permission to do so by the Owner of such property.

- (k) "Noise By-law" shall mean the Township's Noise By-law, as amended from time to time;
- (l) "theatrical fireworks", also referred to as pyrotechnics, formerly Class 7.2.5, includes any authorized explosive that is made, manufactured, or used to produce a special pyrotechnic theatrical effect in conjunction with an indoor or outdoor performance or in front of a live audience;
- (m) "Township" shall mean The Corporation of the Township of Matachewan;
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 - (d) Such day as is proclaimed by Council for the Municipality or approved by the Fire Chief or designate as suitable for celebration with *Fireworks*.
- 4.2 No Person shall ignite or set off any *Fireworks* on a property unless such Person is the Owner of that property or has written permission to do so by the Owner of such property.

7. INDEMNIFICATION

- 7.1 The applicant for a Permit for *Family Fireworks, Display Fireworks or Pyrotechnics* under this By-law shall indemnify and save harmless the Township of Matachewan from any claims, demands, causes of action, loss, costs or damages that the Municipality may suffer, incur or be liable for any damage or harm resulting from or in any way related to the performance of the applicant as set out in the By-law for the use, display, setting off or ignition of Fireworks or Pyrotechnics, whether with or without negligence on the part of the applicant, the applicant's employees, assistants, directors, contractors and agents.

8. ENFORCEMENT, OFFENCES AND PENALTIES

- 8.1 Every 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 *Ontario Provincial Offences Act*, R.S.O. 1990, as amended.
- 8.2 Any Enforcement Officer may revoke a Permit issued pursuant to this By-law or stop the discharge of Fireworks or Pyrotechnics at any time. Non-compliance with the following shall cause the Permit to be revoked:
- (a) Non-compliance with the *Fire Protection and Prevention Act/Ontario Fire Code*,
 - (b) Non-compliance with the *Explosives Act*,
 - (c) Non-compliance with this By-law,
 - (d) Non-compliance with the conditions of the Permit,
 - (e) Changes in environmental conditions.
- 8.3 In the case of a health, fire, or safety hazard, any Enforcement Officer may compel that any hazard be removed forthwith, or the Fireworks display shut down without notice.

9. INDEMNIFICATION

- 9.1 The applicant for a Permit for Display Fireworks or Pyrotechnics under this By-law shall indemnify and save harmless the Township of Matachewan from any claims, demands, causes of action, loss, costs or damages that the Municipality may suffer, incur or be liable for any damage or harm resulting from or in any way related to the performance of the applicant as set out in the By-law for the use, display, setting off or ignition of Fireworks or Pyrotechnics, whether with or without negligence on the part of the applicant, the applicant's employees, assistants, directors, contractors and agents.

10. ENFORCEMENT, OFFENCES AND PENALTIES

- 10.1 Every 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 *Ontario Provincial Offences Act*, R.S.O. 1990, as amended.
- 10.2 Any Enforcement Officer may revoke a Permit issued pursuant to this By-law or stop the discharge of Fireworks or Pyrotechnics at any time. Non-compliance with the following shall cause the Permit to be revoked:
- (a) Non-compliance with the *Fire Protection and Prevention Act/Ontario Fire Code*,
 - (b) Non-compliance with the *Explosives Act*,

4.3 No Person shall set off or allow to be set off any *Fireworks* in such a place or in such a manner as might create danger to any Person or damage to any property, or do or cause or allow any unsafe act or omission at the time and place of the setting off of any *Fireworks*, and without restricting the foregoing:

- (a) No Person under the age of eighteen (18) years shall set off or hold in their hand any *Fireworks* except under the direct supervision and control of a parent or other responsible adult.
- (b) No Person shall set off or ignite *Fireworks* under the influence of alcohol or other legal substances of similar affect.
- (c) No Person shall possess, set off, or cause to be set off any Firecrackers, or Prohibited Fireworks.
- (d) No Person shall set off *Fireworks* without having the means readily available to summon the emergency services.
- (e) No Person being the parent or guardian of any person under the age of eighteen (18) shall allow him or her to set off any *Fireworks* except when such parent or guardian or some other responsible person is in direct supervision and control.
- (f) No Person shall ignite or set off any *Fireworks* on or onto any highway, street, lane, square, municipally owned property or other Public Place. This provision shall not prohibit a *Fireworks* Display in a public park or other Public Place, provided permission is obtained from the Municipality and there is compliance with all of Parts 4 and 5 of this By-Law.
- (g) No Person shall set off any *Fireworks* in or into any building, doorway, automobile or other place (such as the roof of a building) where such setting off might create danger to any Person or damage to property or that may create a nuisance.
- (h) No Person shall set off *Fireworks* after the hour of 11:00pm, (local time), in the case of the Municipal Fireworks display 11:30pm on July 1st Celebrations (or alternate date in the event of rain).

5. PERMIT FOR THE DISPLAY OF FIREWORKS – SCHEDULE “A”

- 5.1 Every Person who wishes to set off any *Fireworks* shall first obtain permission from the Owner of the property and then a Permit signed by the Chief Fire Official or his/her designate.
- 5.2 Every Person who wishes to display any *Fireworks* for the public on municipal property, shall first obtain written permission from the Municipality and obtain written approval from the Chief Fire Official or his/her designate, who may set any reasonable conditions for such approval.
- 5.3 All *Fireworks* displays provided for in Sections 5.1 and 5.2 of this By-law shall be conducted in accordance with a Fireworks Display Plan approved by the Chief Fire Official or his/her designate.
- 5.4 Every application for a Permit shall be made in writing to the Chief Fire Official or his/her designate and received not less than 7 calendar days prior to setting off of the *Fireworks* Display. A Fireworks Display Plan shall accompany the application.

- (c) Non-compliance with this By-law,
- (d) Non-compliance with the conditions of the Permit,
- (e) Changes in environmental conditions.

10.3 In the case of a health, fire, or safety hazard, any Enforcement Officer may compel that any hazard be removed forthwith, or the Fireworks display shut down without notice.

10.4 Schedule "B" attached hereto forms part of this By-law. **(Fines & Other Fees) to be attached.**

11. SEVERABILITY

11.1 If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

READ a first and second and third time, and finally enacted and passed in open Council this 18th day of December, 2017. Signed, sealed and numbered 2017-20.




Mayor


CAO-Clerk-Treasurer