

The Corporation of the Town of Tecumseh

By-Law Number 2023-045

A by-law to regulate the sale and setting off of fireworks within the Town of Tecumseh.

Whereas Section 121 of the Municipal Act, 2001, 5.0. 2001 c.25 as amended provides that a local municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks and to prohibit such activities unless a permit is obtained from the municipality for those activities and may impose conditions;

And Whereas Section 130 of the Municipal Act, 2001, 5.0. 2001 c.25 as amended provides that a municipality may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

Whereas Council deems it necessary to regulate by By-law the sale and setting off of fireworks within the Town of Tecumseh for the protection of persons and property in accordance with the authority set out in subsection 10(2)8. of the Municipal Act, 2001, S.O. 2001, c. 25;

And Whereas Subsection 7.1(4) of the Fire Protection and Prevention Act, S.O. 1997, c.4, as amended, provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted under this section are being complied with;

And Whereas Subsection 7.1(5) of the Fire Protection and Prevention Act, S.O. 1997, c.4, as amended, provides that the exercise of powers by an officer appointed under this section shall be carried out in accordance with Part XIV of the Municipal Act, 2001, S.O. 2001, c. 25 as amended ("Act") other than clause 431 (a) of that Act;

And Whereas in accordance with Section 425 of the Act, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

And Whereas in accordance with Section 429 of the Act, a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act.

And Whereas Section 444 of the Act states if a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

And Whereas Section 426(1) of the Act provides that no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this Act or a by-law passed under this Act and that any person who contravenes subsection (1) is guilty of an offence;

And Whereas Section 426(4) of the Act states that any person who contravenes subsection (1) is guilty of an offence;

And Whereas Section 446(1) of the Act states that if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense.

And Whereas Section 446(3) of the Act states that the municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

1 Definitions

- 1.1 "aerial fireworks" means display fireworks or consumer fireworks that produce an audible or visible effect and is designed to rise into the air and explode or detonate in the air or to fly about above the ground, including but not limited to firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, roman candles, flying pigs, and jumping jacks.
- 1.2 "business day" means any day, other than a Saturday, Sunday, statutory holiday within the Province of Ontario or any other day on which the municipal offices of the Town are open for business during normal work hours of 8:30 am to 4:30 am.
- 1.3 "consumer fireworks" means an outdoor, low hazard, recreational firework for which a permit is not required that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Explosives Act and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sparklers, but does not include Christmas crackers and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap but does not include aerial fireworks.
- 1.4 "competent adult" means any person (18 years of age or older) who is capable of exercising the required judgement and capable of performing the necessary actions to control and prevent its unwanted spread.
- 1.5 "Deputy Fire Chief" means a Deputy Fire Chief for the Town of Tecumseh or designate.
- 1.6 "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 Explosives Act, for which a permit shall be required and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include consumer fireworks.
- 1.7 "Explosives Act" means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, and the Explosives Regulation, 2013, SOR/2013-211, enacted thereunder as amended from time to time.
- 1.8 "Fire Chief" means the Fire Chief for the Town of Tecumseh or designate.
- 1.9 "Firefighter" means any person or any rank of person employed in, or appointed to the Tecumseh Fire and Rescue Services and assigned to undertake fire protection or fire prevention services.
- 1.10 "Fire Prevention Officer" means a Fire Prevention Officer of the Town of Tecumseh.
- 1.11 "fireworks" means any and all fireworks including consumer fireworks, display fireworks, and firecrackers.
- 1.12 "fireworks operator certificate" means a fireworks operator certificate issued under the Explosives Act for the acquisition and use of display fireworks.
- 1.13 "firecrackers" means a small fused cylinder filled with explosive fireworks composition and designed to produce a sound effect when ignited and that do not create a subsequent visual display.
- 1.14 "firecracker use certificate" means a firecracker use certificate issued under the Explosives Act to use firecrackers.

- 1.15 "Full Cost Recovery Basis" means recovery of any and all charges and costs howsoever incurred by the Town directly or indirectly in responding to or attending the location where fireworks are being or have been set off that contravenes this By-law whether or not services are provided.
- 1.16 "licence" means a licence issued under the Explosives Act to acquire, store and sell display fireworks.
- 1.17 "Officer" means the Fire Chief, Deputy Fire Chief, Fire Prevention Officer, Bylaw Enforcement Officer or such other law enforcement officer appointed by the Town of Tecumseh.
- 1.18 "owner" means the registered owner or any person, firm or corporation having control over, or possession, of any portion of the building or property under consideration.
- 1.19 "permit" means a permit issued by the Fire Chief under this By-law to sell or set off fireworks for a specified location, date, and period of time.
- 1.20 "person" means an individual, business, a partnership or a corporation.
- 1.21 "prohibited fireworks" means any fireworks not listed on the List of Authorized Explosives published by Natural Resources Canada.
- 1.22 "flying lanterns" also known as sky lanterns is a lantern with a paper shell and wire frame that holds a heat or fuel source at the base of the lantern that is ignited. Once released, there is no control over where the lanterns travel or where they land.
- 1.23 "pyrotechnician" means a person who is certified under the Explosives Act as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the Explosives Act.
- 1.24 "Pyrotechnic Special Effect Firework" means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Explosives Act for which a permit shall be required and that is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, bergs, lances and wheels.
- 1.25 "tenant" means the occupant having possession or person having control of a property or premises and are not otherwise the owner.
- 1.26 "Town" means The Corporation of the Town of Tecumseh.

2 Administration and Enforcement

- 2.1 The Fire Chief shall be responsible for the administration of this By-law.
- 2.2 Enforcement of this By-law is the responsibility of the Fire Chief, Deputy Fire Chief, Fire Prevention Officer of the Tecumseh Fire and Rescue Services, any Bylaw Enforcement Officer for the Town of Tecumseh, Ontario Provincial Police, or such other law enforcement officer appointed by The Corporation of the Town of Tecumseh.
- 2.3 The Fire Chief may refuse to issue a permit, revoke any or all issued permits or attach any such conditions or requirements to the permit as may be deemed necessary.
- 2.4 Any Officer or Firefighter may, at all times enter and inspect any property or premises in order to ascertain whether the provisions of this By-law are complied with and to enforce or carry into effect the By-law.
- 2.5 Any person who fails to comply with the provisions of this By-law or fails to cease setting off of fireworks once notification to do so has been given to

him by an Officer or a Firefighter shall, in addition to any penalty provided herein, be liable to the Town for all expenses incurred for the purposes of responding to an call for service caused by them setting off of fireworks and such expenses may be recovered by court action or in a like manner as municipal taxes.

3 General Requirements and Prohibitions

- 3.1 Except for Consumer Fireworks no person shall sell, set off or cause to be set off fireworks without first having obtained a permit from the Fire Chief.
- 3.2 No person shall set off or cause to be set off fireworks:
- a) that are prohibited fireworks;
 - b) that are display fireworks or aerial fireworks without holding a valid fireworks operator certificate;
 - c) that are firecrackers;
 - d) during times prohibited by this By-law;
 - e) contrary to any condition attached to a permit issued under this By-law;
 - f) for a period of time during which an air quality health index value forecasted or reported by Environment Canada for the Windsor Region is greater than seven (7); or
 - g) for a period of time during which a municipal burn ban has been issued by the Fire Chief; or
 - h) that are not supervised continuously by a competent adult; or
 - i) that are within four (4) metres of a structure, fence or property line; or
 - j) that are located on any public highway or on any property owned or maintained by the Town without specific written permission; or
 - k) without adequate tools and/or water immediately available to contain or extinguish a fire caused by the fireworks or fireworks debris; or
 - l) after being ordered to cease setting off fireworks by an Officer or Firefighter; or
 - m) where the fireworks pose a hazard, at the sole discretion of the Fire Chief; or
 - n) at any location when wind or other conditions are such that they would likely cause,
 - i) a decrease in visibility on any highway; or
 - ii) a fire in adjacent brush, grassed area, structure or other combustible materials.
- 3.3 Notwithstanding any provisions herein, no person shall sell:
- a) prohibited fireworks or firecrackers; or
 - b) display fireworks or aerial fireworks without holding a valid permit; or
 - c) any fireworks on a property zoned for residential occupancy; or

- d) any fireworks located on any public highway or on any property owned or maintained by the Town;
- 3.4 No person, other than a competent person, shall be in possession of fireworks.
- 3.5 No person shall release flying lanterns (sky lanterns) within the Town.
- 3.6 No person shall display, offer for sale or sell flying lanterns within the Town.

4 Setting Off Consumer Fireworks

- 4.1 A permit shall not be required for the setting off of Consumer Fireworks except for Aerial Fireworks.
- 4.2 No person shall set off Consumer Fireworks in the Town, except on the following designated dates:
 - a) 3 days before and on the third Monday of May, being Victoria Day
 - b) 3 days before and including July 1, being Canada Day, and 3 days after July 1 inclusive of July 4, being Independence Day (U.S.A.)
 - c) 3 days before and on the first Monday of August, being Civic Holiday
 - d) 3 days before and on the first Monday of September, being Labour Day
 - e) December 31, being New Year's Eve;
 - f) Any other day approved in writing by the Fire Chief.
- 4.3 No person shall set off Consumer Fireworks at any time except between dusk and 11:00 p.m. on the designated days as prescribed in this By-Law, and between dusk on New Year's Eve and 12:30 a.m. the following day.
- 4.4 For the celebration of a special event, the Fire Chief may approve in writing the setting off of Consumer Fireworks on a day other than the designated dates in section 4.2, subject to the provisions of this By-Law.
- 4.5 Only a competent person shall be in charge of setting off Consumer Fireworks.
- 4.6 No minor shall set off any fireworks, other than a sparkler where the minor is under the supervision of an adult at all times.
- 4.7 No person shall set off Consumer fireworks in, into or on:
 - a) a building;
 - b) a motor vehicle;
 - c) a highway or street; or
 - d) a park or other public place.
- 4.8 Property damage or injury as a result of Consumer fireworks shall be the responsibility of the person setting off the fireworks.
- 4.9 Consumer Fireworks shall only be permitted to be set off on private property. No person shall set off Consumer Fireworks on any public or municipal property unless the Fire Chief has provided an approval in writing.

- 4.10 No person shall set off Consumer fireworks without a fully operational fire extinguisher ready for emergency access in the immediate area where the fireworks are being set off.
- 4.11 No person shall set off fireworks on any land of which he or she is not the owner, without obtaining the prior written permission of the owner to do so.
- 4.12 No person shall store, handle or set off fireworks in an unsafe manner, taking into account the danger from fire and explosion, and risk of death, injury and damage to property inherent in the storage, handling or use of fireworks.
- 4.13 A person who stores fireworks shall use reasonable care to ensure that those fireworks are not accessible to a minor.

5 Permit General Requirements

- 5.1 No person shall sell or set off Display Fireworks or Pyrotechnic Special Effect Fireworks unless they have applied for and been granted a permit to do so in accordance with the provisions of this By-Law.
- 5.2 Unless otherwise permitted, no person shall set off Display Fireworks or Pyrotechnic Special Effect Fireworks in the Town except on the designated dates mentioned hereafter:
 - a) 3 days before and on the third Monday of May, being Victoria Day
 - b) 3 days before and including July 1, being Canada Day, and 3 days after July 1 inclusive of July 4, being Independence Day (U.S.A.)
 - c) 3 days before and on the first Monday of August, being Civic Holiday
 - d) 3 days before and on the first Monday of September, being Labour Day
 - e) December 31, being New Year's Eve
 - f) Any other day approved in writing by the Fire Chief
- 5.3 Any competent adult may make written application to sell or set off Fireworks to the Fire Chief in the form and manner attached hereto as Schedule "A" to this By-Law (and as may be amended from time to time), and make payment of the applicable permit fee of \$50 or such other Fee as Council may agree to by resolution or as may be further prescribed by Council in its Fees and Charges By-law (as may be amended from time to time)
- 5.4 The application under Section 5 (1) must be submitted to the Fire Chief a minimum of ten full business days prior to the date of the proposed fireworks being set off or sold.
- 5.5 The application for a **Permit to Sell** fireworks must contain,
 - a) the full name, address and telephone number of the applicant; and
 - b) the name and written consent of the owner of the property where the fireworks are proposed to be sold, if the applicant is a tenant; and
 - c) the municipal address of the location where the fireworks are proposed to be sold; and
 - d) the date or dates and time period for which the applicant is requesting to sell fireworks; and

- e) a description of the fireworks proposed to be sold; and
 - f) proof that the applicant holds a valid licence if the applicant is proposing to sell display fireworks or aerial fireworks; and
 - g) any other such information as may be required by the Fire Chief.
- 5.6 The application for a **Permit to Set Off** fireworks (other than Consumer Fireworks) must contain,
- a) the full name, address and telephone number of the applicant; and
 - b) the name and written consent of the owner of the property where the fireworks are proposed to be set off, if the applicant is a tenant; and
 - c) the municipal address of the location where the fireworks are proposed to be set off; and
 - d) a description of the location within the property where the fireworks are proposed to be set off; and
 - e) the date or dates and time period for which the applicant is requesting to set off the fireworks; and
 - f) a description of the fireworks proposed to be set off; and
 - g) a description of the method(s) of extinguishment immediately available at the site to contain or extinguish a fire caused by the fireworks or fireworks debris; and
 - h) any other such information as may be required by the Fire Chief.
- 5.7 The permit shall be kept at the location that the fireworks are proposed to be set off or sold and be produced for inspection when requested by any Officer or Firefighter.
- 5.8 Permits issued under this By-law are valid only for the location, date and time period listed on the permit.
- 5.9 In the event that weather conditions such as rain, fog, smog or wind, on the designated holidays make it impractical and/or unsafe to set off display fireworks, the Fire Chief may further designate and permit an alternate day and time.
- 5.10 If, in the opinion of the Fire Chief, it is necessary for a firefighter or firefighters to be present at the setting off of Fireworks for which a permit is required, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises for the purpose of ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the firefighter(s) opinion is deemed necessary before any Display Fireworks are set off pursuant to the permit issued by the Fire Chief.
- 5.11 If Fireworks are to be held on municipal property, further written approval of the Chief Administrative Officer and/or the Director of Community and Recreation Services (or their designate (s)) for the Town must be obtained in writing prior to applying for a permit.
- 5.12 Permits shall be subject to the additional following restrictions or requirements:
- a) No permit shall be issued for a location within 150 metres of a place where explosives, gasoline or other highly flammable substances are stored.

- b) Every applicant shall provide with the permit, proof of Liability Insurance with a minimum coverage of two million Canadian dollars (\$2,000,000.00 CAD) or such tother amount as may be requested with The Corporation of the Town of Tecumseh to be named as an additional insured.
- c) Every applicant shall sign and provide with the permit an indemnification/liability agreement signed by the applicant or an individual having legal authority to bind the applicant.
- d) The fee for a permit, if applicable, shall be as prescribed and as amended from time to time by Council.

5.13 Every person to whom a permit is issued under this section shall:

- a) provide and maintain approved fully operational fire extinguishing equipment ready for immediate use throughout the time while the Display Fireworks is being set off or displayed and for a reasonable period thereafter, at the location or site of the setting off of fireworks; and
- b) produce the permit on demand by the Fire Department or to any police officer, or any person authorized to enforce this By-Law; and
- c) permit the inspection of any site where the Display Fireworks may be stored, set off or displayed and the fireworks themselves together with all associated equipment, by the Fire Department or anyone authorized to enforce this By-Law, forthwith, upon demand.

6 Setting off Display Fireworks

- 6.1 No person shall set off Display Fireworks in the Town without first receiving a Permit from the Fire Chief.
- 6.2 No person shall set off Display Fireworks without the supervision of a person who is qualified for such purpose to the satisfaction of the Fire Chief.
- 6.3 Every person who sets off Display Fireworks shall take all steps reasonably necessary, as would a reasonable and prudent person, to ensure no harm to persons or property damage.
- 6.4 Conditions set out in the permit as well as legislative requirements at all levels of Government shall be adhered to.
- 6.5 Property damage or injury as a result of Display Fireworks shall be the responsibility of the person setting off the fireworks.

7 Setting off Pyrotechnic Special Effects Fireworks

- 7.1 No person shall set off any Pyrotechnic Special Effect Fireworks in the Town without having first obtained a permit to do so issued by the Fire Chief authorizing the pyrotechnic special effect fireworks.
- 7.2 A complete application in the form and manner attached hereto as Schedule "A" to this By-Law (as may be amended from time to time), including permit fee if prescribed by Council and amended from time to time shall be made to the Fire Chief in accordance with this By-Law at least 30 calendar days prior to the display of Pyrotechnic Special Effect Fireworks. The requirements of this By-law relating to permits shall also apply as applicable to Pyrotechnic Special Effect Fireworks .The Fire Chief may require any additional information of the applicant to ensure the public safety and may impose additional conditions on the issuance of a permit as they deem advisable in the particular circumstances of the application. The additional conditions that may be imposed by the Fire

Chief may include a requirement that the applicant provide the appropriate notice of the upcoming Pyrotechnic Special Effect Fireworks event.

7.3 No person shall set off Pyrotechnic Special Effect Fireworks without the supervision of a pyrotechnician.

7.4 If, in the opinion of the Fire Chief, it is necessary for a firefighter to firefighter(s) to be present at the setting off of any Pyrotechnic Special Effect Fireworks, the presence of such firefighter(s) shall be a condition of the permit. The firefighter(s) shall have the right to enter any premises for the purpose of ensuring public safety and shall not be hindered or obstructed in any way whatsoever. Such firefighter(s) shall also have the authority to require any precautions for the prevention of fire which in the firefighter(s) opinion is deemed necessary before any Pyrotechnic Special Effect Fireworks are set off pursuant to the permit issued by the Fire Chief.

8 Offences

8.1 Any person who contravenes any of the provisions of this by-law is guilty of an Offence;

8.2 Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an Offence.

9 Fines

9.1 Every person who is convicted of an Offence is liable to a fine or penalty as provided for in the Provincial Offences Act, R. S.O. 1990, Chap. P.33. including any Part 1 offences/set-fines that may be assessed pursuant to r Schedule B to this By-law as may be amended from time to time.

9.2 Every person who sells, sets off or causes to be set off fireworks within the Town of Tecumseh shall be liable for all costs incurred by the Town, including but not limited to the costs of equipment and personnel required for response by Tecumseh Fire and Rescue Services, including personnel and other agencies called to control and extinguish a fire caused by setting off of fireworks on a Full Cost Recovery Basis. All fees and charges to be paid under this subsection shall be payable in the manner and subject any interest and penalties set forth in the Fees and Charges By-law, as may be amended or repealed from time to time.

9.3 In accordance with Section 398(2) of the Municipal Act, 2001, S.O. 2001, c. 25, the Town may add unpaid fees, charges, and fines under this By-Law to the tax roll and collect them in the same manner as municipal taxes.

10 Severability

10.1 If any section or sections of this by-law or parts thereof are found in any court to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed severable and all other sections or parts of this by-law shall be deemed separate and independent there from and enacted as such.

11 Short Title

11.1 The short title of this by-law shall be **Tecumseh Fireworks By-Law**.

12 Effective Date

12.1 This by-law shall come into full force and take effect on the 25th day of April, 2023.

13 Repeal

13.1 By-law No. 2013-50 is hereby repealed.

Read a first, second, third time and finally passed this 25th day of April, 2023.

Gary McNamara, Mayor

Robert Auger, Clerk

Schedule “A”

By-Law 2023-045

A by-law to regulate the sale and setting off of fireworks within the Town of Tecumseh.

The Corporation of the Town of Tecumseh Fire Services Equipment and Personnel Rates

Emergency Services Rendered:

- a) Ontario Ministry of Transportation rates for highway response charged per hour per apparatus attending

No Emergency Response

- a) Ontario Ministry of Transportation rate for highway response charged per hour per apparatus attending

Schedule B

By-Law 2023-045

A by-law to regulate the sale and setting off of fireworks within the Town of Tecumseh.

Set Fines under Part I – Provincial Offences Act

Item	Short Form Wording	Offence Creating Provision or Defining Offence	Set Fine
1.	TBD		\$100.00
2.			\$100.00
3.			\$100.00
4.			\$250.00
5.			\$100.00
6.			\$100.00
7.			\$100.00
8.			\$300.00
9.			\$200.00
10.			\$300.00
11.			\$100.00
12.			\$100.00
13.			\$100.00
14.			\$200.00
15.			\$200.00
16.			\$100.00
17.			\$100.00
18.			\$100.00