

THE CORPORATION OF THE TOWNSHIP OF CHISHOLM

BY-LAW NO. 2023-XX

BEING A BY-LAW TO REGULATE THE SETTING OFF OF FIREWORKS

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

AND WHEREAS Section 121 (b) of the Municipal Act, 2001, S.O. 2001, c.25 provides that a municipality may prohibit the activities described in Section 121 (a), above, unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS Section 434.1 of the Municipal Act, 2001, S.O. 2001, c. 25 and amendments thereto enables the councils of local municipalities to establish a system of administrative penalties and whereas Section 434.2 establishes an administrative penalty constitutes a debt of the person which may be added to the tax roll;

NOW THEREFORE, the Council of the Township of Chisholm enacts as follows:

1.0 Short Title

1.1 The short title of this by-law is the "Fireworks By-law".

2.0 Definitions:

For the purpose of this by-law, the following definitions shall apply:

2.1 "**Act**" means the Explosives Act, Revised Statutes of Canada, 1985, Chapter E17, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitutions therefore.

2.2 "**Chief Building Official**" means the Chief Building Official appointed by the Municipality.

2.3 "**Consumer Fireworks**" means an outdoor, low hazard, firework that is designed for recreational use. They include items like roman candles, sparklers, fountains, multi-shot cakes, volcanoes, mines, and snakes.

2.4 "**Council**" means the Council of The Corporation of the Township of Chisholm.

2.5 "**Display Fireworks**" means an outdoor, high hazard, firework that is designed for professional use only. They include items like aerial shells, cakes, roman candles, waterfalls, lances, and wheels. Display Fireworks are strictly regulated by federal law.

2.6 "**Fire Ban**" means a temporary measure put in place by the Municipality or Ministry of Natural Resources and Forestry (MNR) to restrict open air fires when extreme fire conditions may exist. This measure is put into place in order to help prevent human caused fires.

2.7 "**Fireworks**" means display fireworks, pyrotechnic special effects fireworks and consumer fireworks.

- 2.8 **“Flying Lantern”**, also known as Sky Lantern, Chinese Lantern, Kǒngmíng Lantern or Wish Lantern, means a small hot air balloon or similar device made of treated paper or any other material, with an opening at the bottom, which is propelled by an open flame generated by a small candle or fuel cell, allowing the balloon or similar device to rise and float in the air, uncontrollably, while ignited.
- 2.9 **“Officer”** means a person appointed by Council as a Municipal Law Enforcement Officer, or a Police Officer, Fire Chief or other individual duly appointed to enforce this By-law;
- 2.10 **“Person”** means and shall include an individual human being, an individual company, partnership, corporation or limited company.
- 2.11 **“Permit”** means written permission to hold a fireworks display issued by the Municipality pursuant to this By-law and signed by the Fire Chief.
- 2.12 **“Premises”** means a piece of land and any buildings and structures on it, and includes a place business, road, and any other location or place.
- 2.13 **“Public Fireworks Display”** means an exhibition of fireworks in an open air assembly, occupancy to which the public is invited, attends or is admitted, with or without a fee being charged.
- 2.14 **“Pyrotechnics”** are high-hazard and designed for professional use. They include items like gerbs, mines, comets, and crossette fireworks, as well as special purpose pyrotechnics made for live stage performances and the film and television industry. Pyrotechnics are strictly regulated by federal law.
- 2.15 **“Setting Off”** means to fire, discharge, ignite or explode or cause to fire, discharge, ignite or explode.
- 2.16 **“Vendor”** also known as a supplier, is an individual or company that sells goods or services to someone else in exchange for money.

3.0 General Prohibitions

- 3.1 **Flying Lantern Discharge:** No Person shall ignite, release or set off into the air an ignited Flying Lantern within the Township of Chisholm.
- 3.2 **Flying Lantern Sale:** No person within the Municipality shall offer for sale, cause or permit to be sold, or sell any Flying Lanterns.
- 3.3 No person shall set off any Fireworks or cause or permit any Fireworks to be set off except as provided for in this by-law.
- 3.4 Despite Subsection 3.3, no person shall set off any Fireworks when there is a Fire Ban/restriction in effect or when open air burning is prohibited.

4.0 Setting off Fireworks

- 4.1 No person shall set off Consumer Fireworks within the Township of Chisholm at any time except as follows;
- a) **New Year’s Eve** - between 6:00 p.m. and 12:30 a.m. the following day;
 - b) **Victoria Day** - between 8:00 p.m. and 11:00 p.m.;
 - c) **Canada Day** - between 8:00 p.m. and 11:00 p.m.;

d) **Civic Holiday** - between 8:00 p.m. and 11:00 p.m.;

- 4.2 No person shall set off any fireworks in, on or onto any building.
- 4.3 No person shall set off any fireworks on Municipal property, for example, parks, beaches, boat launch and any street, highway or road under the jurisdiction of the Municipality, unless written approval has been first obtained by Council.
- 4.4 Property damage or injury as a result of the discharge of Fireworks shall be the responsibility of the person and/or organization setting off the Fireworks.
- 4.5 A **Display Fireworks** event is exempt from Section 4.1 providing a valid permit as outlined in Section 6 has been obtained from the Fire Chief or designate of The Corporation of The Township of Chisholm.
- 4.6 No person shall set off **any Fireworks** unless a valid Permit has been issued to the property owner.
- 4.7 Community events using **Consumer Fireworks**, that take place outside of the permitted times listed in section 4.1 may be granted special permission by Council.
- 4.8 Notwithstanding the provisions of this by-law, the Corporation of the Township of Chisholm may hold special displays of Fireworks to celebrate national or civic holidays or celebrations, provided such Fireworks are set off by a qualified person as determined by the Fire Chief.

5.0 Vendor Selling Consumer Fireworks – Posted Conspicuous Place

- 5.1 Every Vendor selling Fireworks within the Municipality must post a Notice of Regulations as provided by the Municipality in a conspicuous place upon the premises, near where the Fireworks are sold.

6.0 Permits for Public Display Fireworks

- 6.1 Only persons who hold a valid Display Supervisor certificate, issued by the Explosives Regulatory Division (ERD) of Natural Resources Canada are eligible to apply for a permit to set off Display Fireworks or Pyrotechnic Special Effects.
- 6.2 A permit may be issued by the Fire Chief or designate on any land if the requirements listed in section 4 are met as per the Act.
- 6.3 An application as prescribed under the Act must be submitted to the Fire Chief or designate, together with the application fee, if applicable, paid in full as set out in the Municipal Fees By-law as may be amended from time to time.
- 6.4 The application package shall contain at a minimum, the following requirements as found in the Natural Resources Canada (NRCAN) Fireworks Display Manual:
 - a) 3.7 Basic requirements for event approval
 - b) 3.8 Site plan, event description and special circumstances
 - c) 3.10 Display fireworks event approval form

The completed application must be submitted no less than fourteen (14) business days prior to the proposed event.

- 6.5 Filed with the application form shall be a Certificate of Liability Insurance certifying the permit being applied for is insured against general liability and property damage claims, in the minimum amount of Five Million Dollars (\$5,000,000.00) inclusive for any one occurrence. Said policy shall name The Corporation of the Township of Chisholm as an additional insured. The policy shall be endorsed to provide that the policy will not be altered, cancelled or allowed to lapse without ten (10) days' prior written notice to the Municipality.
- 6.6 Notwithstanding the foregoing sections, the Fire Chief or designate may require any additional information of the applicant to ensure the public's safety and may impose additional conditions on the issuance of a Permit as they deem advisable in the particular circumstances of the application.
- 6.7 The fireworks shall only be set off by a person currently certified as a Fireworks Supervisor Level I or Level II by the Explosion Regulatory Division of the Natural Resources of Canada.
- 6.8 The Fireworks shall only be set off on the day or days specified by the Permit.
- 6.9 The Permit may be suspended or revoked by the Fire Chief or designate if the conditions of the permit are not being met or it would be unsafe to allow the Public Fireworks Display.
- 6.10 Property damage or injury as a result of Display Fireworks shall be the responsibility of the person setting off the Fireworks.

7.0 Powers of Entry

- 7.1 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this By-law.
- 7.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or other duly appointed person who is exercising a power or performing a duty under this By-law.

8.0 Administration & Enforcement Provisions

- 8.1 This By-law shall be administered by the Fire Chief or designate.
- 8.2 This By-law shall be enforced by an Officer.

9.0 Administrative Penalties

- 9.1 An Officer who finds that a person has contravened any provision of this By-law or any other by-law of the municipality may issue a penalty addressed to that person.
- 9.2 Any person who contravenes any provision of this By-law shall, upon issuance of a penalty notice pursuant to Section 9.3 shall be liable to pay to the Municipality an administrative penalty in the amount of \$100.00.
- 9.3 The penalty notice shall be delivered personally to the owner or mailed by prepaid registered first class mail to the address of the owner as shown on the last revised assessment roll.
- 9.4 The above mentioned notice, if mailed by prepaid registered mail, shall be deemed to have been served on the fifth business day after the date of mailing or on the day the notice was received, whichever is earlier.

- 9.5 Every notice issued shall identify the involved property; the particulars of the contravention; the amount of the administrative penalty; Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and a statement advising that an administrative penalty will, unless modified or rescinded pursuant to the review process, constitute a debt to the Municipality.
- 9.6 A person may appeal an administrative penalty to the Township of Chisholm Council.
- 9.7 An administrative penalty that is deemed to be affirmed constitutes a debt to the Municipality of each person to whom or to which the penalty notice was given.
- 9.8 An administrative penalty that is not paid within thirty (30) days may be added to the tax roll of the property to which it applies and collected in the same manner as taxes.

10.0 Service of Documents

- 10.1 The Municipality may serve any document under this By-law, including but not limited to a penalty notice, personally to the person named on the notice, by registered or regular mail addressed to the person to whom the document is to be given at the person's last known address.
- 10.2 Service by registered or regular mail under subsection 10.1 shall be deemed to have been made on the fifth day after the day of mailing or on the day the notice was received, whichever is earlier.
- 10.3 A person's last known address includes the address provided by the person to the Municipality as identified in the property tax file.

11.0 Offence & Penalty Provisions

- 11.1 Every person who contravenes any provision 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, c. P. 33, as amended, and this Act shall apply to the said fine, or fines set out in Schedule "A".
- 11.2 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

12.0 Validity and Severability

- 12.1 Should any section, sub-section, clause, paragraph or provision of this By-Law be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision of this By-Law or of the By-Law as a whole.

13.0 Implementation

- 13.1 This By-law shall come into full force and effect upon final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this XX day of XXXX, 2023.

Mayor
Gail Degagne

CAO Clerk Treasurer
Jennistine Leblond

DRAFT

THE CORPORATION OF THE TOWNSHIP OF CHISHOLM

BY-LAW NO. 2023-XX

BEING A BY-LAW TO REGULATE FIREWORKS

PART 1 PROVINCIAL OFFENCES ACT – SET FINES SCHEDULE “A”

<u>Item</u>	<u>Column 1</u> Short Form Wording	<u>Column 2</u> Provision Creating or Defining Offence	<u>Column 3</u> Set Fine
1.	Set off Fireworks during a Fire Ban	Section 3.4	\$1,000.00
2.	Set off Consumer Fireworks during prohibited days	Section 4.1	\$300.00
3.	Set off Consumer Fireworks during prohibited times	Section 4.1	\$300.00
4.	Set off Fireworks in, on or onto a building	Section 4.2	\$500.00
5.	Set off Fireworks on Municipal property without written approval	Section 4.3	\$500.00
6.	Set off any Fireworks without a valid Fireworks Permit	Section 4.6	\$500.00
7.	Ignite, release, set off Flying Lantern	Section 3.1	\$500.00
8.	Vendor offer for sale or cause or permit to be sold Flying Lanterns	Section 3.2	\$500.00
9.	Vendor failed to post Notice of Regulations	Section 5.1	\$500.00
10.	Hinder or obstruct Officer	Section 7.2	\$500.00

NOTE: The general penalty provision for the offences listed above is section 11.1 of the By-law 2023-XX, a certified copy of which has been filed.