

THE CORPORATION OF THE TOWN OF KEARNEY

BY-LAW NUMBER 2018 - 24

Being a By-law to prohibit 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 that a municipality may prohibit the setting off of Fireworks 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 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 Council for The Corporation of the Town of Kearney hereby ENACTS AS FOLLOWS:

**TITLE**

This By-law shall be known and may be cited as the "Prohibiting Fireworks By-law." In the text of the By-law, it is referred to as "this By-law."

**1. DEFINITIONS**

In this By-law:

- 1.1 "Chief Fire Official" means Assistant to the Fire Marshal who is the Municipal Fire Chief, the Fire Prevention Officer or a member or members of the fire department appointed by the Municipal Fire Chief under Subsection 1.1.8 of the Ontario Fire Code, 1997.
- 1.2 "Consumer Fireworks" means outdoor low hazard fireworks generally used for recreational purposes such as showers, fountains, golden rain, Roman candles, volcanoes, sparklers and caps for toy guns.
- 1.3 "Council" means the Council of the Corporation of the Town of Kearney.
- 1.4 "Display Fireworks" means high hazard fireworks generally used for community celebrations such as bombshells, aerial shells, large wheels and bombardons.
- 1.5 "Display Permit" means a permit issued by Council pursuant to this By-law to permit the use of Display Fireworks.
- 1.6 "Firecracker" 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.
- 1.7 "Fireworks" means display fireworks, pyrotechnic special effects fireworks and consumer fireworks;
- 1.8 "Mini Lantern" means a small hot air balloon made of a lightweight fire-resistant material, fueled by a slow burning open flame and also known as sky lanterns, Chinese lanterns, paper lanterns, wish lanterns, etc.
- 1.9 "Officer" means a Municipal law Enforcement Officer, Police Officer, or Chief Fire Official or designate.
- 1.10 "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.
- 1.11 "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;

1.12 “Township” means the Corporation of the Town of Kearney.

## **2. GENERAL**

2.1 No person shall set off any fireworks when a fire ban is in effect or the Fire Danger Rating is ‘Extreme’ – no open air burning permitted.

2.2 Mini Lanterns shall be banned from use within the boundaries of the Corporation of the Town of Kearney.

## **3. SALE OF FIREWORKS**

3.1 No person shall at any time, offer for sale, sell or distributes any fireworks or firecrackers within the Town of Kearney.

## **4. USE OF FIREWORKS AND FIRECRACKERS**

4.1 No person shall discharge, fire, set off or cause to be set off, any firecrackers within the Town of Kearney at any time.

4.2 No person shall discharge, fire, set off or cause to be set off, any fireworks within the Town of Kearney without first obtaining the express written permission of the Council through the issuance of a Display Permit.

## **5. OBTAINING A FIREWORKS DISPLAY PERMIT**

5.1 No person shall hold a display of or set off Display Fireworks/Pyrotechnic Special Effects on any day or days without approval from the Council.

5.2 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.

5.3 Application for approval shall be submitted no less than ten (10) working days (Saturdays, Sundays, Statutory Holidays and days on which the Towns’ Fire Department Office is closed are excluded) prior to the proposed event and shall include the following information:

(a) A site plan drawn to approximate scale showing direction of firing, positioning of ramps and mortars, significant ground features, public rights of ways, buildings and/or structures, overhead obstructions, parking areas, etc.

(b) a statement of intent describing the event including the time schedule of events, attendance estimates, details on the type, size and number of Fireworks to be used, firing procedures, emergency response procedures.

(c) Written permission from the owner where the display is to be held and any neighbouring land on which debris might fall.

5.4 The Chief Fire Official has absolute discretion in recommending approval except in any buildings within the Town where any display or setting off of Fireworks shall be expressly prohibited and the Chief Fire Official may solicit additional information from the applicant to complete an accurate assessment of the request.

5.5 The Chief Fire Official may impose conditions for approval as he/she considers necessary to ensure the safety of the public.

5.6 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.

## **6. ENTRY AND INSPECTION**

6.1 An Officer may at any time, enter onto lands to determine whether this By-law is being complied with.

6.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.

6.2 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 is issued under the Provincial Offences Act, R.S.O. 1990, as amended, is obtained.

## **7. OBSTRUCTION**

7.1 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.

7.2 Any person who has been alleged to have contravened any of the provisions of this 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 duties.

## **8. FEES**

8.1 The cost for obtaining a permit shall be as set out in the Town of Kearney's Fee Schedule By-Law.

8.2 Upon the Fire Department attending to extinguish a fire that is as result of the setting off of Fireworks not in accordance with any section of this By-law, the owner shall be responsible to pay fees as set out in Schedule "G" of the Town's Tariff of Fees By-law.

## **9. PENALTY**

9.1 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 *Municipal Act, 2001, S.O. 2001, c. 25, as amended*.

9.2 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.

## **10 ADMINISTRATION AND ENFORCEMENT**

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

10.2 Any permit issued under this By-law may be revoked if in the opinion of the Chief Fire Official, the Fire Prevention Officer or designate, or the Municipal Law Enforcement Officer the user is in contravention of this By-law.

## **11. VALIDITY AND SEVERABILITY**

11.1 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.

**12. EFFECTIVE DATE**

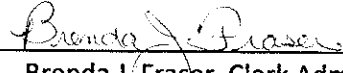
12.1 This By-law shall come into full force and take effect upon the date of passing.

**READ a FIRST and SECOND time on the 18<sup>th</sup> day of May, 2018.**

**THE CORPORATION OF THE  
TOWN OF KEARNEY**



\_\_\_\_\_  
Lance Thrale, Mayor



\_\_\_\_\_  
Brenda J. Fraser, Clerk Administrator

**READ a THIRD time, passed, signed and the Corporate Seal attached hereto, this 18<sup>th</sup> day  
of MAY, 2018.**

**THE CORPORATION OF THE  
TOWN OF KEARNEY**



\_\_\_\_\_  
Lance Thrale, Mayor



\_\_\_\_\_  
Brenda J. Fraser, Clerk Administrator

**Schedule 'A'**  
**To By-law No. 2018 - 24**  
**PROHIBITING FIREWORKS BY-LAW**  
**SET FINE SCHEDULE**  
**Part 1 Provincial Offences Act**

<u>ITEM</u>	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision Creating or Defining Offence	<u>COLUMN 3</u>
1.	Causing or permitting fireworks to be set off during a fire ban or extreme conditions.	Section 2.1	\$300.00
2.	Discharge, fire, set off, or cause to be set off, any firecrackers.	Section 4.1	\$300.00
3.	Set off display fireworks without approval.	Section 5.1	\$300.00 \$300.00
4.	Set off Consumer fireworks	Section 3.1	\$300.00
5.	Set off display fireworks on public property without permission.	Section 5.1	\$300.00
6.	Set off display fireworks in unsafe manner.	Section 5.5	\$300.00
7.	Hinder or obstruct any Officer performing a duty under this By-law.	Section 7.1	\$300.00

**Schedule 'B'**  
**To By-law No. 2018 - 24**  
**PROHIBITING FIREWORKS BY-LAW**  
**DISPLAY PERMIT**

**Date:** \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Applicant Certification attached:**     yes         no

If no, provide reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date of Approval by Council:** \_\_\_\_\_

**Resolution attached:**     yes         no

<p><b>Description of event:</b> see 5.3 (b)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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**Written permission** is attached, from the owner where the display is to be held and any neighbouring land on which debris might fall:     yes         no

If no, provide reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Schedule 'C'**  
**To By-law No. 2018 - 24**

**PROHIBITING FIREWORKS BY-LAW**

**Site Plan** drawn to approximate scale showing direction of firing, positioning of ramps and mortars, significant ground features, public rights of ways, buildings and/or structures, overhead obstructions, parking areas, etc.

