

MUNICIPALITY OF MIDDLESEX CENTRE

BY-LAW NUMBER 2010-027

BEING A BY-LAW TO PROVIDE FOR THE REGULATION OF THE DISPLAY, SALE AND DISCHARGE OF FIREWORKS IN THE MUNICIPALITY OF MIDDLESEX CENTRE

WHEREAS Section 121 (1) of the Municipal Act, R.S.O. 2001, c25 (herein, the “Act”) authorizes municipalities to enact by-laws to prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 121 (2) of the Act authorizes a municipality to require that a permit be obtained for the setting off of fireworks and that a Municipality may impose conditions for obtaining, continuing to hold and renewing the permit including requiring the submission of plans;

AND WHEREAS the Council deems it necessary to regulate possession, sale, and the location of the discharge of fireworks, for the health and safety of its residents and for the control of nuisance caused by noise,

NOW THEREFORE BE IT ENACTED THAT the Council of the Municipality of Middlesex Centre enacts as follows:

PART I DEFINITIONS

1.1 Definitions

In this by-law:

“**Banger**” is defined as a type of firework that is made to explode noisily without a spectacular display of colour or lights;

“**Council**” is defined as the Council of the Municipality of Middlesex Centre;

“**Fire Chief**” is defined as the person the Municipality of Middlesex Centre has appointed to the position of Fire Chief or their designate;

“**Firecracker**” is defined as a type of firework that is made to explode with a sharp crack without a spectacular display of colour or lights;

“**Fireworks**” is defined as any and all classes of fireworks, including and without limiting the generality of the foregoing the following clauses which are included in the Explosives Regulations under the *Explosives Act* (Canada):

- (i) “Low-hazard” fireworks (also known as consumer fireworks) for recreation such as fireworks showers, fountains, golden rain, lawn lights, pin wheels, roman candles, volcanoes and sparklers;
- (ii) “High-hazard” (also known as “display fireworks” or “pyrotechnic fireworks”) fireworks for recreation such as rockets, serpents, shells, bomb shells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, mines and firecrackers; and includes fireworks composition and manufactured fireworks, except sparkers and toy caps;

“**Fireworks composition**” is defined as any chemical compound or mechanically mixed preparation of any explosive or inflammable nature that is used for the purpose of making any manufactured fireworks and is not included in any other class of explosives, and includes any star or coloured fire composition that is not manufactured fireworks;

“**Manufactured fireworks**” is defined as explosives of any class and any fireworks composition that is enclosed in any case or other appropriate device, or is otherwise manufactured or adapted for the production of pyrotechnic effects, pyrotechnic signals or sound signals;

“**Middlesex Centre**” is defined as the Municipality of Middlesex Centre;

“**Municipality**” is defined as the Municipality of Middlesex Centre.

“**Officer**” is defined as:

- I. any police officer
- II. a By-law Enforcement Officer so designated by the Council of the Municipality of Middlesex Centre
- III. the Fire Chief

PART II GENERAL PROVISIONS & PROHIBITIONS

- 2.1 **Sale – minimum age – requirements**
No person shall, within the Municipality, sell or give to any person under the age of 18 years any type of fireworks.
- 2.2 **Sale – display – maximum weight – lots**
No person shall display for sale within the Municipality any type of fireworks in any manner other than in lots that do not exceed 22.68 Kilograms (50 pounds) gross weight.
- 2.3 **Sale – display – suitable receptacle – package**
No person shall display for sale within the Municipality any type of fireworks in any manner other than in the manufacturer’s original packaging, a glass case or other suitable receptacle, away from any other flammable goods.
- 2.4 **Sale – display – exposure to heat – sun – prohibited**
No person shall display for sale within the Municipality any type of fireworks in any manner other than in a place that the fireworks are not exposed to the rays of the sun or excess heat from any other source.
- 2.5 **Sale – display – days – permissible - restricted**
No person shall within the Municipality, display, offer for sale or sell any type of fireworks except upon the seven (7) days prior to and on the days upon which New Year’s Eve, Victoria Day (May) and Canada Day (July) are celebrated or an approved alternate date as approved by the Municipality’s Fire Chief.
- 2.6 **Sale – display – in windows – outside store**
No person shall, within the Municipality, display in any store window, or display outside the perimeter of the stores exterior walls, any type of fireworks.
- 2.7 **Sale – display – in parking lots – vehicles**
No person shall, within the Municipality, display or sell fireworks from vehicles or other means located on parking lots or residential property unless approved by the Municipality’s Fire Chief.
- 2.8 **Discharge – permit – high hazard**
No person shall within the Municipality discharge any High hazard fireworks without an approved permit from the Municipality.
- 2.9 **Discharge – setting off – minimum age requirements**
No person under the age of 18 years shall set off any type of fireworks in the Municipality.
- 2.10 **Discharge – days – permitted – time restrictions**
No person shall within the Municipality discharge any type of fireworks at any time on any day other than between dusk and 11:00 o’clock in the evening, local time, on the days upon which Victoria Day (May) and Canada Day (July) are celebrated as holidays and between dusk and 1:00 a.m., local time, on New Year’s Eve or such other occasion or alternate day as approved by the Municipality.
- 2.11 **Discharge – municipal owned lands**

No person shall discharge any fireworks on land owned by the Municipality without written consent from the municipality, the provision of liability insurance, in the amount of \$5,000,000.00, and naming the Municipality as an additional insured.

PART III PERMIT – HIGH HAZARD

3.1 **Organizations – entitlement – conditions**

Notwithstanding the provisions of this by-law, any individual, group or association shall be entitled to apply for a permit from the Fire Chief for the holding of a High-hazard fireworks display, subject to compliance with the requirements set out in this By-law.

3.2 **Application – information – requirements - fee**

Applications for such permits shall be in writing using the Municipality's "Application for Discharge of Fireworks" application form, attached as Schedule 1 to this by-law and addressed to the Fire Chief and accompanied by the appropriate permit application fee as set out in the Municipality's current Fees and Charges By-law. The permit application form shall set out full particulars of its qualifications for obtaining the permit.

3.3 **Application – date – location – specified**

The applicant shall state the day and alternate day, if applicable for which the permit is desired and the location, including a site plan where such display is to be given, including location of detonation, audience for event, and the applicant shall ensure that fire extinguishers are ready for immediate use. No person shall discharge fireworks on any other date than so provided on the permit application.

3.4 **Location – prohibited - zoning**

The location referred to in Section 3.3 of this by-law must not be located on agriculturally zoned lands according to the Municipality's most recent zoning by-law. No person shall discharge fireworks at any location other than so specified on the permit application.

3.5 **Location – suitable – prevention of danger**

The location referred to in Section 3.3 of this by-law must be such that there can be no danger to adjacent properties or highways or persons using the same. The applicant shall state a description of fire and emergency procedures for the event. No person shall discharge fireworks at any location that may pose a danger to adjacent properties or highways or persons using same.

3.6 **Operator – qualifications – experience – requirements**

The name, qualification and experience of the person to discharge the display shall be given, and he/she shall be a pyrotechnical expert, and possess a certificate as a recognized fireworks supervisor, as designated pursuant to the *Explosives Act* (Canada) and regulations hereunder. No person shall discharge a high hazard fireworks display unless certified as a pyrotechnical expert and fireworks supervisor. Every permit applicant shall ensure that every person discharging a display of high hazard fireworks be a certified pyrotechnical expert and fireworks supervisor.

3.7 **Application – disposal**

The applicant shall state the manner in which unused display fireworks are to be disposed of. Every applicant shall ensure that any unused fireworks are disposed of in the manner specified on the permit.

PART IV EXEMPTION

4.1 **Exemption – application process**

Notwithstanding any other provisions of this by-law, any person may make an application to the Municipality's Fire Chief to be granted an exemption from any of the provisions of this by-law. The Fire Chief may refuse to grant any exemption.

4.2 **Exemption – details of application**

The application mentioned in Section 4.1 shall be made in writing, in duplicate, at least sixty (60) days prior to the proposed date of the event and shall include:

- a) The name and address of the applicant;
- b) A description of the fireworks display in respect of which the exemption is sought;
- c) Statement of the particular provision or provisions of the by-law from which the exemption is sought;
- d) A completed "Application for Discharge of Fireworks" permit application form stating the date and alternate date, if applicable for which the permit is desired and the location, including a site plan where such display is to be given, including location of detonation, location of audience for event, locations of fire extinguishers which will be ready for immediate use as well as all other required information set out on the permit application form.
- e) The reasons why the exemption should be granted.
- f) The application for exemption fees as set out in the Municipality's current Fees and Charges By-law.

4.3 **Exemption – Circulation for public comment**

Once an application for exemption has been received by the Municipality, the Fire Chief shall prepare notices to be sent to all adjacent properties for the proposed event to request public comment on the exemption.

4.4 **Exemption – Appeal of Decision**

If an exemption is denied by the Fire Chief, the individual, organization or association may appeal the decision to Council within ten (10) business days of the written decision provided by municipal staff. The appeal must be made in writing and addressed to the Fire Chief of the Municipality. Council shall consider the appeal, which will be accompanied by a report from the Fire Chief at a regularly scheduled meeting of Council.

4.5 **Exemption - Breach**

Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void.

PART V **SEVERABILITY**

5.1 **Severability**

If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

PART VI **PENALTY**

6.1 **Penalty – Contravention of By-law**

Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to pay a fine as provided for in the Provincial Offences Act, 1990 as amended.

PART VII **ENFORCEMENT**

7.1 **Enforcement**

The provisions of this By-law shall be enforced by an Officer.

PART VIII **SHORT TITLE**

8.1 **Short Title**

This by-law shall be referred to as the 'Fireworks' By-law.

PART IX **BY-LAWS REPEALED**

9.1 **By-Laws Repealed**

By-Law Number 2008-008 and 2009-020 are hereby repealed.

By-law Number 2010-027 shall come in force and take effect on April 7th, 2010.

Read a FIRST, SECOND and THIRD TIME and FINALLY PASSED on this 7th day of April, 2010.

MAYOR

CLERK

**MUNICIPALITY OF MIDDLESEX CENTRE
BY-LAW 2010-027
SCHEDULE "1"**

**MUNICIPALITY OF MIDDLESEX CENTRE
APPLICATION FOR DISCHARGE OF FIREWORKS**

DATE OF EVENT: _____ ALTERNATE DATE: _____

PERMIT FOR HIGH HAZARD DISPLAY: YES NO

REQUEST FOR EXEMPTION: YES NO

TIME AND DURATION OF EVENT: _____

LOCATION OF EVENT: _____

PROOF OF PERMISSION OF PROPERTY OWNER (MUST BE ATTACHED): YES

SPONSORING ORGANIZATION: _____

ADDRESS OF ORGANIZATION: _____

CONTACT NAME: _____

TELEPHONE: _____ FAX: _____

SUPERVISOR OF EVENT: _____

SUPERVISOR'S PYROTECHNICAL CERTIFICATE #: _____
(COPY OF CERTIFICATE MUST BE ATTACHED)

NUMBER OF CREW MEMBERS INCLUDING SUPERVISOR: _____

TYPE OF FIREWORKS TO BE DISCHARGED: HIGH HAZARD LOW HAZARD

DISCHARGE METHOD: ELECTRICAL
 HAND FIRED
 COMBINATION OF ELECTRICAL & HAND FIRED

DISPOSAL OF UNUSED FIREWORKS: _____

SECURITY/BARRIERS: _____

SITE PLAN (MUST BE ATTACHED): LOCATION OF DETONATION
 LOCATION OF AUDIENCE FOR EVENT
 LOCATION & TYPE OF FIRE
EXTINGUISHERS
 CELL PHONE/PAY PHONE LOCATIONS
 RADIO LOCATION
 FIRST AID KIT LOCATION

APPLICATION FEE(S) (MUST BE ATTACHED): YES

COPY OF INSURANCE CERTIFICATE (MUST BE ATTACHED): YES

SPECIAL NOTES: _____

Signature of Applicant

Date

**MUNICIPALITY OF MIDDLESEX CENTRE
BY-LAW 2010-027
FIREWORKS BY-LAW**

**SCHEDULE "2"
SHORT FORM WORDING AND SET FINES
PART I PROVINCIAL OFFENCES ACT**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Sale of fireworks to person under 18	Sect 2.1	\$ 200.00
2.	Display of fireworks over 22.68 kg	Sect 2.2	\$ 100.00
3.	Display of fireworks in inappropriate receptacle	Sect 2.3	\$ 100.00
4.	Display of fireworks near heat source	Sect 2.4	\$ 100.00
5.	Display of fireworks exposed to sun or heat source	Sect 2.4	\$ 100.00
6.	Display or sale of fireworks on restricted days	Sect 2.5	\$ 200.00
7.	Display of fireworks in restricted location	Sect 2.6	\$ 100.00
8.	Display or sale of fireworks in vehicle	Sect 2.7	\$ 200.00
9.	Display or sale of fireworks in restricted location	Sect 2.7	\$ 200.00
10.	Discharge of high hazard fireworks without permit	Sect 2.8	\$ 500.00
11.	Discharge of fireworks by person under 18	Sect 2.9	\$ 100.00
12.	Discharge of fireworks at prohibited time	Sect 2.10	\$ 200.00
13.	Discharge of fireworks on municipal property	Sect 2.11	\$ 100.00
14.	Discharge of fireworks on date not permitted	Sect 3.3	\$ 500.00
15.	Discharge of fireworks in prohibited location	Sect 3.4	\$ 500.00
16.	Discharge of fireworks in location dangerous to adjacent properties, highways or persons	Sect 3.5	\$ 500.00
17.	Fireworks discharged by unauthorized person	Sect 3.6	\$ 500.00
18.	Unused fireworks disposed improperly	Sect 3.7	\$ 500.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 6.1 of By-law Number 2010-027, a certified copy of which by-law has been filed.