

THE CORPORATION OF THE TOWNSHIP OF PERRY

BY-LAW NO. 2021-81

Being a By-law to Regulate the Sale and Use of Fireworks in the Township of Perry

WHEREAS Section 121(a) of the *Municipal Act, 2001, as amended*, provides that a Municipality may prohibit and regulate the sale of fireworks and the setting off of fireworks;

AND WHEREAS Section 150 of the *Municipal Act, 2001, as amended*, permits a local municipality to license, regulate, and govern any business carried on within the municipality;

AND WHEREAS Section 434.1 of the *Municipal Act, 2001, as amended*, enables the councils of local Municipalities to establish a system of administrative penalties;

AND WHEREAS Section 434.2 of the *Municipal Act, 2001, as amended*, establishes an administrative penalty constitutes a debt of the person which may be added to the tax roll;

AND WHEREAS Section 436 of the *Municipal Act, 2001, as amended*, provides that a Municipality has the power to pass by-laws providing that the Municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the Municipality passed under the Act is being complied with;

AND WHEREAS the Council of the Township of Perry considers it advisable to prohibit the sale of and regulate the setting off of fireworks, firecrackers, and flying lanterns;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Township of Perry enacts as follows:

1.0 Definitions

In this By-law:

- 1.1 "**Act**" means the *Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17*, and the Regulations enacted thereunder as amended from time to time or any Act and Regulations enacted in substitutions therefore.
- 1.2 "**By-law Enforcement Officer**" means a Person who is appointed by Council to enforce by-laws enacted and passed by Council.
- 1.3 "**Chief Fire Official**" as defined in the Ontario Fire Code O. Reg, 213/07, Article 1.4.1.2.
- 1.4 "**Council**" means the elected Mayor and Council of the Corporation of the Township of Perry.
- 1.5 "**Display Fireworks**" means an outdoor, high hazard, firework that is designed for professional, licensed use only. They include items like aerial shells, cakes, Roman candles, waterfalls, lances, and wheels.

- 1.6 **"Fireworks"** as defined in the Explosive Regulations made pursuant to the *Explosives Act, R.S. c. E-15, s.1 as amended*, and includes one single item of Fireworks (includes but is not limited to Roman candles, fountains, multi-shot cakes, volcanoes, mines, and snakes).
- 1.7 **"Flying Lanterns"** (also known as Chinese, Kongming, or Wish lanterns) means a small hot air balloon made of treated paper or any other material and frame, with an opening at the bottom and is propelled by an open flame, allowing the balloon to rise and float in the air, uncontrollably, while ignited.
- 1.8 **"Person"** means any human being, association, firm, partnership, incorporated company, corporation, agent, or trustee, and the heirs, executors or other legal representatives of a Person to whom the context can apply, according to law.
- 1.9 **"Permit"** means written permission to hold a Display Fireworks issued by the Township pursuant to this By-law and signed by the By-law Enforcement Officer or their designate.
- 1.10 **"Permit Holder"** means the Person or entity, known as the applicant, responsible for the organization and operations of the display of fireworks under the Display Permit.
- 1.11 **"Property"** means any land divided into lots by the Director of Titles as defined in the *Land Titles Act, 1990*.
- 1.12 **"Property Owner"** means the registered owner of the land on which the discharge, release, ignition, or setting off of fireworks, firecrackers, flying lanterns, or sparklers occurs, and includes a trustee acting on behalf of the registered owner, the estate of a registered owner and a person with a leasehold interest in the land.
- 1.13 **"Setting Off"** or **"Set Off"** means to fire, discharge, ignite, explode, display, or release of Fireworks, Firecrackers, or Flying Lanterns into the air or to cause to fire, discharge, ignite, explode, display, or release of Fireworks, Firecrackers or Flying Lanterns into the air.
- 1.14 **"Township"** means the Corporation of the Township of Perry.

2.0 General Prohibitions

- 2.1 No Person shall at any time offer for sale, sell, or distribute any Fireworks, Firecrackers, or Flying Lanterns in the Township.
- 2.2 No Person shall possess, hold, or acquire Fireworks, Firecrackers, or Flying Lanterns in the Township of Perry at any time, except as permitted under Section 3 of this By-law.
- 2.3 No Person shall cause, permit, or engage in the setting off of Fireworks, Firecrackers, or Flying Lanterns in the Township of Perry at any time, except as permitted under Section 3 of this By-law.

2.4 For greater certainty, no Person shall cause, permit, or engage in setting off Fireworks on New Year's Eve, Victoria Day, Canada Day, Civic Holiday, Labour Day, in the Township of Perry, except as permitted under Section 3 of this By-law.

3.0 Obtaining a Fireworks Display Permit

3.1 Any Person who wishes to obtain a Permit to hold a Display Fireworks shall apply in writing to Council no later than eight (8) weeks prior to the date of the proposed display. Any requests received less than eight (8) weeks prior to the date of the proposed display will be accepted at the discretion of the By-law Enforcement Officer or designate.

3.2 The applicant shall submit their request in writing, along with any such supporting documentation, material, and information as may be required by Council at its discretion.

3.3 Only Persons who hold a valid Display Supervisor certificate, issued by the Explosives Regulatory Division (ERD) of the Natural Resources Canada are eligible to apply for a permit to set off Display Fireworks within the Township.

3.4 Council shall review the request, supporting documentation and materials filed with the applicant and shall at its own discretion:

- (a) Approve the request;
- (b) Approve the request subject to such restrictions, regulations or conditions considered advisable; or
- (c) Refuse to approve the request.

3.5 The request shall contain the requirements as found in the Natural Resources Canada (NRCAN) Fireworks Display Manual (<https://www.nrcan.gc.ca/explosives/fireworks-use/national-fireworks-certification-program/display-fireworks-manual-2010/9903>)

3.6 The Permit may be revoked by the By-law Enforcement Officer, Chief Fire Official or their designate at any time if the conditions of the Permit have not been met prior to the display or are not being met during the display or if it would be unsafe to the public and/or nearby structure(s) to allow the display of Fireworks to continue.

3.7 The Display Fireworks shall only be Set Off on the day or days specified by the Permit.

4.0 Fireworks Display Permit Information

4.1 The By-law Enforcement Officer or designate may issue a Permit, upon approval from Council, subject to any conditions as set forth in this By-law and each such Permit shall contain the following information:

- (d) Name of the person, club, association or group to whom the permit is issued;
- (e) Name and address of the Display Supervisor;
- (f) Place and date upon which the display is to be held;
- (g) Type of display fireworks being discharged;

- (h) Manner in which the unused fireworks and debris are to be disposed;
- (i) Manner and means of keeping unauthorized persons from the discharge area;
- (j) Detailed Site plan.

5.0 Obligations of Fireworks Display Permit Holder

5.1 The holder of a Permit issued by the Council of the Township of Perry shall:

- (a) Ensure that the Display Fireworks are held only at the place and on the date set forth in the Permit.
- (b) Ensure all reasonable safety procedures are followed to prevent harm to persons and property.
- (c) Ensure the proper precautions are being observed to keep spectators at a safe distance from the area where Display Fireworks are to be discharged.
- (d) Ensure suitable fire extinguishers and means of extinguishing fires on the site are provided and immediately available for use.
- (e) Ensure that the site of the Display Fireworks and surrounding lands are cleared of any and all debris resulting from the holding of the Display Fireworks and restored to their original condition within 24 hours of the holding of the Display Fireworks.
- (f) Ensure that the Permit is at the location of the display.
- (g) Surrender the Permit to the By-law Officer, Chief Fire Official or their designate in the event that the Permit is revoked for any reason at any time.

5.2 The By-law Enforcement Officer, Chief Fire Official or designate may impose such conditions upon the issuance of a Permit as they consider are required to ensure the safety of the public or nearby structure(s).

5.3 The By-law Enforcement Officer, Chief Fire Official or designate has absolute discretion to refuse a Permit for any reason whatsoever and without limiting the generality of the discretion, a reason may include any of the provisions of this By-law, and other By-law, the Fire Code, the Act or Regulation, the past history of the Permit Holder; the proposed location of the display; insurance; the safety measures to be taken or lack thereof; any environmental consideration; or any consideration regarding the safety of the public or property.

5.4 Persons who discharge fireworks under authority of a Permit must comply with all provisions of this By-law. However, the By-law Enforcement Officer, Chief Fire Official or designate may relieve a Person, who obtains a Permit, from any of the provisions of Section 5 of this By-law.

6.0 Insurance

The Permit Holder shall provide and maintain Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.

Such insurance shall be in the name of the Permit Holder and shall name the Township as an additional insured thereunder. Such insurance shall include permission to conduct Display Fireworks. Such insurance policy shall contain an endorsement to provide the Township with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage, and a Certificate of Insurance evidencing such insurance coverage shall be provided to the Township prior to the issuance of a Permit.

7.0 Safety

7.1 A Person, who sets off Fireworks under their approved Permit, must take measures that minimize the likelihood of fires or harm to people or property, including:

- (a) When setting off permitted Fireworks, having a container of water or charged hose line available and readily accessible.
- (b) Never lighting a Firework or holding a lit Firework in their hand.
- (c) Allowing all Firework materials to fully cool before disposal.

7.2 No Person, or Permit Holder under the authority of a Permit, shall set off Fireworks:

- (a) In a manner that might create a danger or nuisance to any person or property;
- (b) In, on or into any building, structure, or vehicle;
- (c) On or into any highway, street, lane, boulevard, roundabout, or private roadway;
- (d) On or into any land used for school or church purposes;
- (e) On or into any park, parkette, trail, linear park, land used for storm water management, square, other public place or any land owned by the government of Canada, or any of their boards or agencies;
- (f) On any land whatsoever, except on land belonging to the Person setting off the fireworks, or on other privately owned land where the consent of the owner has been obtained according to the Permit;
- (g) During extreme or severe weather (e.g. thunderstorm warning), or during weather activity with wind exceeding 30 kilometers per hour.
- (h) During an Open Air Burning Ban, issued by the Chief Fire Official or designate.

8.0 Property Owners

8.1 No Property Owner, on their Property, shall:

- (a) Store, allow, permit, or cause the display of or set off any Fireworks at any time of year, unless a valid Permit has been obtained.
- (b) Store, permit, authorize, allow, or cause the display of or set off any Fireworks by any tenant, guest, or renter of the property at any time of year, unless a valid Permit has been obtained.
- (c) Allow, permit, or cause the setting off of any permitted Fireworks under a valid Permit, on or into any building, structure, or vehicle.

- (d) Allow, permit, or cause the setting off of any permitted Fireworks under a valid Permit in a manner that might create a danger or nuisance to any person or property.
- (e) Store, permit, authorize, allow, or cause the setting off of Firecrackers and Flying Lanterns at any time of the year within the Township.

8.2 When Fireworks, Firecrackers, or Flying Lanterns are ignited, set off, released or discharged from a property, the Person, including a tenant, guest, or renter who ignited, set off, released or discharged is deemed to have permitted, allowed, or caused the setting off, ignition, or release of the Fireworks, Firecrackers, or Flying Lanterns unless there is evidence to the contrary.

8.3 When Fireworks, Firecrackers, or Flying Lanterns are ignited, set off, released, or discharged from a property, the Property Owner is deemed equally to the Person under Section 13 of this By-law to have permitted, allowed, or caused the setting off, ignition, or release of the Fireworks, Firecrackers, or Flying Lanterns unless there is evidence to the contrary.

9.0 Seizure

9.1 Any inspector (By-law Enforcement Officer, Chief Fire Official, or designate) who observes a contravention of the provisions of this By-law may seize any Fireworks, Firecrackers, or Flying Lanterns in the possession of the Person or Persons who committed the contravention.

9.2 In greater certainty, the By-law Enforcement Officer, Chief Fire Official or their designate(s) shall seize and remove any and all Fireworks, Firecrackers, or Flying Lanterns from any Person found in possession of these items and this Person and/or the Property Owner may be eligible to a fine under Schedule "A" of this By-law.

10.0 Administration and Enforcement

10.1 This By-law shall be administered by the By-law Enforcement Officer, Chief Fire Official or their designate.

10.2 This By-law shall be enforced by the By-law Enforcement Officer, the Chief Fire Official or their designate.

11.0 Entry and Inspection

11.1 The By-law Enforcement Officer, Chief Fire Official or their designate(s) may at any time, enter onto a Property to determine whether this By-law is being complied with.

11.2 Every Person and/or Property Owner shall permit the By-law Enforcement Officer, Chief Fire Official, or their designate(s) to inspect any Property for the purposes of determining compliance with this By-law.

11.3 The By-law Enforcement Officer, Chief Fire Official or their designate(s) may enter onto lands at any reasonable time to direct or require that a matter or thing be done, and in default of

that matter or thing being done, to do such matter or thing in accordance with this By-law.

- 11.4 The By-law Enforcement Officer, Chief Fire Official, or their designate(s) may seize at any reasonable time any Fireworks, Flying Lanterns, or Firecrackers found in contravention of this By-law.
- 11.5 A Person exercising a power of entry on behalf of the Township under this By-law may be accompanied by any Person under their direction including the Ontario Provincial Police.

12.0 Obstruction

- 12.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.
- 12.2 Every Person who has been alleged to have contravened any of the provisions of this By-law, shall identify themselves to the By-law Enforcement Officer, the Chief Fire Official or their designate(s) upon request. Failure to do so shall be deemed to have hindered or obstructed the By-law Enforcement Officer or Chief Fire Official or their designates under Section 12.1 of this By-law.

13.0 Penalties

- 13.1 Every Person who contravenes any of the provisions of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended*.
- 13.2 Every Person guilty of an offence under this By-law may, if permitted under the *Provincial Offences Act R.S.O. 1990, Chapter P.33, as amended*, pay a set fine and the Chief Judge of the Ontario Court Provincial division, shall be requested to establish set fines in accordance with Schedule "A" attached to this By-law.

14.0 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.

15.0 Township Not Liable

The Township assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any Person or property that is subject to this By-law.

16.0 Schedules

Schedule "A" as attached shall form part of this By-law.

17.0 Short Title

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

18.0 Repeal

By-law No. 2013-35 is hereby repealed.

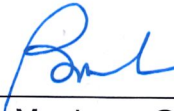
19.0 Force and Effect

This By-law comes into effect on the date of its passing.

READ a First, Second, and Third Time and Finally Passed and Enacted in Open Council this 1st day of September, 2021.



Norm Hofstetter, *Mayor*



Beth Morton, *Clerk/Administrator*

THE CORPORATION OF THE TOWNSHIP OF PERRY

**Schedule "A" to By-law 2021-81
Part I Provincial Offences Act
By-law No. 2021-81 – Fireworks By-law**

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Offering for sale, selling, or distributing Fireworks, Firecrackers, or Flying Lanterns in Township	Section 2.1	\$300.00
2	Possessing, holding, or acquiring Fireworks, Firecrackers, or Flying Lanterns without a valid permit	Section 2.2	\$300.00
3	Cause, Permit, or Engage in the setting off of Fireworks, Firecrackers, or Flying Lanterns without a valid permit	Section 2.3	\$300.00
4	Cause, Permit, or Engage in the setting off of Fireworks within the Township on New Year's Eve, Victoria Day, Canada Day, Civic Holiday, Labor Day without a valid Permit	Section 2.4	\$300.00
5	Permit holder- Setting Off Fireworks in a manner that creates a danger or nuisance to person or property	Section 7.2(a)	\$500.00
6	Permit holder- Setting Off Fireworks in, on, or into a building, structure, or vehicle	Section 7.2(b)	\$500.00
7	Permit holder- Setting Off Fireworks on or into any highway, street, lane, boulevard, roundabout, or private roadway	Section 7.2(c)	\$500.00
8	Permit holder- Setting Off Fireworks on or into land used for a school or church purposes	Section 7.2(d)	\$500.00
9	Permit holder- Setting Off Fireworks on or into any park, parkette, trail, linear park, land used for storm water management, square, other public place or any land owned by the government of Canada, or any of their boards or agencies	Section 7.2(e)	\$500.00
10	Permit holder- Setting Off Fireworks on any land not belonging to the Person Setting Off the Fireworks or on other privately owned land without permit	Section 7.2(f)	\$500.00
11	Permit holder- discharging of Fireworks during severe weather or high wind speeds	Section 7.2(g)	\$500.00
12	Permit holder- discharging of Fireworks during an Open Air Ban	Section 7.2(h)	\$500.00

13	Property Owner storing, allowing, permitting, or causing the Display of or Setting Off of Fireworks without a valid Permit	Section 8.1(a)	\$500.00
14	Property Owner storing, permitting, allowing, or causing the display or setting off of Fireworks by a tenant, guest, or renter without a valid Permit	Section 8.1(b)	\$500.00
15	Property Owner allowing, allowing, or causing the Setting Off of any Fireworks under a valid Permit on or into any building, structure, or automobile	Section 8.1(c)	\$500.00
16	Property Owner allowing or causing the Setting Off of any Fireworks under a valid Permit creating a danger or nuisance to any person or property	Section 8.1(d)	\$500.00
17	Property Owner storing, permitting, authorizing, allowing, or causing the Setting Off, Ignition, or Release of Firecrackers and Flying Lanterns	Section 8.1(e)	\$500.00

Note: the general penalty provision of offences listed above is Section 13.0 of By-law 2021-81, a certified copy of which has been filed.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5
TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2021-81, of the Township of Perry, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect October 5th, 2021.

Dated at the City of Greater Sudbury, this 21st day of September, 2021.

A handwritten signature in cursive script that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWNSHIP OF PERRY

**Schedule "A" to By-law 2021-81
Part I Provincial Offences Act
By-law No. 2021-81 – Fireworks By-law**

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine	
1	Offering for sale, selling, or distributing Fireworks, Firecrackers, or Flying Lanterns in Township	Section 2.1	\$300.00	
2	Possessing, holding, or acquiring Fireworks, Firecrackers, or Flying Lanterns without a valid permit	Section 2.2	\$300.00	
3	Cause, Permit, or Engage in the setting off of Fireworks, Firecrackers, or Flying Lanterns without a valid permit	Section 2.3	\$300.00	
4	Cause, Permit, or Engage in the setting off of Fireworks within the Township on New Year's Eve, Victoria Day, Canada Day, Civic Holiday, Labor Day without a valid Permit	Section 2.4	\$300.00	
5	Permit holder- Setting Off Fireworks in a manner that creates a danger or nuisance to person or property	Section 7.2(a)	\$500.00	\$400. ⁰⁰
6	Permit holder- Setting Off Fireworks in, on, or into a building, structure, or vehicle	Section 7.2(b)	\$500.00	\$400. ⁰⁰
7	Permit holder- Setting Off Fireworks on or into any highway, street, lane, boulevard, roundabout, or private roadway	Section 7.2(c)	\$500.00	\$400. ⁰⁰
8	Permit holder- Setting Off Fireworks on or into land used for a school or church purposes	Section 7.2(d)	\$500.00	\$400. ⁰⁰
9	Permit holder- Setting Off Fireworks on or into any park, parkette, trail, linear park, land used for storm water management, square, other public place or any land owned by the government of Canada, or any of their boards or agencies	Section 7.2(e)	\$500.00	\$400. ⁰⁰
10	Permit holder- Setting Off Fireworks on any land not belonging to the Person Setting Off the Fireworks or on other privately owned land without permit	Section 7.2(f)	\$500.00	\$400. ⁰⁰
11	Permit holder- discharging of Fireworks during severe weather or high wind speeds	Section 7.2(g)	\$500.00	\$400. ⁰⁰
12	Permit holder- discharging of Fireworks during an Open Air Ban	Section 7.2(h)	\$500.00	\$400. ⁰⁰

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13	Property Owner storing, allowing, permitting, or causing the Display of or Setting Off of Fireworks without a valid Permit	Section 8.1(a)	\$500.00	\$400.00
14	Property Owner storing, permitting, allowing, or causing the display or setting off of Fireworks by a tenant, guest, or renter without a valid Permit	Section 8.1(b)	\$500.00	\$400.00
15	Property Owner allowing, allowing, or causing the Setting Off of any Fireworks under a valid Permit on or into any building, structure, or automobile	Section 8.1(c)	\$500.00	\$400.00
16	Property Owner allowing or causing the Setting Off of any Fireworks under a valid Permit creating a danger or nuisance to any person or property	Section 8.1(d)	\$500.00	\$400.00
17	Property Owner storing, permitting, authorizing, allowing, or causing the Setting Off, Ignition, or Release of Firecrackers and Flying Lanterns	Section 8.1(e)	\$500.00	\$400.00

Note: the general penalty provision of offences listed above is Section 13.0 of By-law 2021-81, a certified copy of which has been filed.

K. Hirsch