

**PROHIBIT &  
CONTROL  
OVER  
DISCHARGE OF  
FIREWORKS BY-  
LAW**



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI

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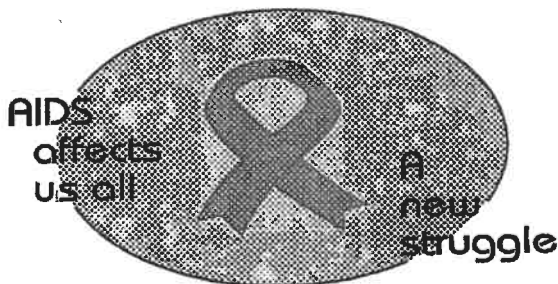
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MUNICIPAL NOTICE 363 OF 2023

# NEWCASTLE LOCAL MUNICIPALITY



## PROHIBITION AND CONTROL OVER THE DISCHARGE OF FIREWORKS BY-LAWS

**NEWCASTLE LOCAL MUNICIPALITY**  
**PROHIBITION AND CONTROL OVER THE DISCHARGE OF FIREWORKS BY-LAWS**

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**NEWCASTLE LOCAL MUNICIPALITY****PROHIBITION AND CONTROL OVER THE DISCHARGE OF FIREWORKS BY-LAWS****1. DEFINITIONS**

In this by-law, unless the context provides otherwise:

- i. **“Act”** means the Explosives Act, 2003 (Act No. 15 of 2003) read together with the Fire Brigade Services Act, 1987 (Act No. 99 of 1987).
  
- ii. **“Fireworks”** means any pyrotechnic substance which
  - a. Is manufactured for the purpose of amusement or entertainment;  
And
  - b. Is divided into such classes as may be prescribed.

**“Class 7 – fireworks”** The term “fireworks” shall comprise firework composition and manufactured fireworks. The fireworks shall consist of two divisions;

**Division 1** shall comprise firework composition, which term shall mean any chemical compound or mechanically mixed preparation of an explosive or inflammable nature that is used for the purpose of making manufactured fireworks and is not included in any other class of explosive, and also any star and any colored fire composition that is not included in Division 2.

**Division 2** shall comprise manufactured fireworks, which terms shall mean an explosive of any class and any firework composition, when such explosive or composition is enclosed in any case of contrivance, or is otherwise manufactured or adapted for the production of pyrotechnic or pyrotechnic signals or sound signals, such as flights of rockets, mines, rockets, serpents, shells, rocket distress signals, Very’s signals, wheels and fire composition when such compositions are of a nature not liable to spontaneous combustion, and in a quantity not exceeding 500 grams enclosed in a substantially constructed hermetically closed metal case.

**Note** – Manufactured fireworks that are not liable to explode violently and which do not contain their own means of ignition shall be classed as “Shop

Good”, such as fireworks showers, flashlight powders, fountain, golden rain, gerbs, lawn lights, pin wheels, devil-among-tailors, Roan candles, sparklers, toy caps, volcanoes, Chinese crackers when the length does not exceed 80 millimeters and the diameter 15 millimeters, and mine, Jack-in-the-boxes and Feu de Joie, not exceeding 500 grams gross mass and rockets not exceeding 120 grams.

- iii. **“Fireworks display”** means fireworks discharged by any person or body for either a religious, cultural or traditional celebration purposes for own pleasure or the pleasure of others.
- iv. **“Licensed dealer”** means a dealer who in terms of section 13 of the Act, licensed to deal in fireworks.
- v. **“Municipal area”** means the area under the jurisdiction of the Newcastle Local Municipality.
- vi. **“Chief Fire Officer”** means the person appointed by the Council in terms of Section 5 of the Fire Brigade Services Act and includes any member of the service appointed in terms of Section 6 of the Fire Brigade Services Act, who represents the Chief Fire Officer in the execution of the provisions of the Fire Brigade Services Act.
- vii. **“Suitable person”** means a person-
  - a. who is 18 years or older;
  - b. is a South African citizen, the holder of a valid work permit;
  - c. is of stable mental condition and is not inclined to violence;
  - d. is not dependent on any substance which has an intoxicating or narcotic effect;
  - e. has not been convicted of any offence under the Act or the Explosives Act, 1956 (Act No. 26 of 1956), and sentenced to imprisonment without the option of a fine.
- viii. **“Inspector”** unless otherwise qualified, means a Chief Inspector of Explosives, or any person deputed to act as an inspector under section two;
- ix. **“Premises”** means any land, road, harbor, river, building, structure, ship, boat, or other vessel, or any part thereof, or any tent, railway truck, cart, van, or other vehicles;

- x. **"Fire Cracker"** means small fireworks with entwined fuses used solely as noise makers and not for pyrotechnic effect.
- xi. **"Nuisance Fireworks"** means a fireworks product that produces an effect involving a screech or noise, or is being altered or misused that has the effect of creating fear or disturbance to residents. These include fireworks such as air bombs, supersonic bang, sound shells, fountain whistle, screeches etc.
- xii. **"Family Package"** means outdoor low hazard recreational fireworks.
- xiii. **"Pyrotechnic"** means the art of making and using fireworks.
- xiv. **"New Year's Eve"** means the night of December 31.
- xv. **"New Year's Day"** means the beginning of the calendar year.
- xvi. **"Lag b'omer"** means a Jewish festival celebrated on the 18<sup>th</sup> day of Iyar, being the 33<sup>rd</sup> day of Omer.
- xvii. **"Chinese New Year"** also known as the spring festival in China start on the 23<sup>rd</sup> day of the 12<sup>th</sup> Lunar month of the Chinese calendar.
- xviii. **"Human Rights Day"** means a National day that is commemorated annually on the 21<sup>st</sup> of March to remind South Africans about the sacrifices that accompanied the struggle for the attainment of Democracy in South Africa.
- xix. **"Freedom Day"** is celebrated on the 27<sup>th</sup> of April for the commemoration of the 1<sup>st</sup> post-apartheid elections held on that day in 1994.
- xx. **"Diwali"** means Hindu Festival of lights held in the period October to November.
- xxi. **"Guy Fawkes Day"** means November 5, observed in England to commemorate the foiling of the attempt led by Guy Fawkes in 1605 to blow up the King and members of Parliament in retaliation for increasing repression of the Roman Catholic in England.
- xxii. **"Christmas Eve"** means the evening before Christmas Day, 24 December.
- xxiii. **"Hindu new year"** also known as the Vikram Samvat falls on the 1<sup>st</sup> day after the new moon day in the 1<sup>st</sup> month of Lunar calendar Chaitra.



## **2. PROHIBITION OF KEEPING, STORAGE AND POSSESSION OF FIREWORKS.**

**2.1** No person shall keep, possess or store any fireworks within the Municipal area, except for:

- i.** A licensed dealer; or
- ii.** A person who bona fide transports fireworks to an area where this by-law does not apply; or
- iii.** A person who obtains permission as envisaged in Section 14 of the Explosives Act; or
- iv.** The religious, cultural or traditional groups who obtain permission as envisaged in Section 15 of the Explosives Act.

**2.2** Every premises dealing in fireworks must be registered by the Chief Fire Officer in the prescribed form on an annual basis.

**2.3** A registration fee as prescribed by the Local Authority will be payable on application for the registration in dealing with fireworks.

**2.4** Premises dealing in fireworks must be registered annually before the last day of November each year and the prescribed fees payable on application.

## **3. PROHIBITION OF USE AND DISCHARGE OF FIREWORKS.**

**3.1** No approved dealer shall sell fireworks other than in a family pack which contains an assortment of family fireworks or firecrackers.

**3.2** An authorized or peace officer of the Municipality in collaboration with a representative of the Chief Inspector of Explosives of the SAPS may seize fireworks being held in violation of this by-law and shall dispose them without compensation.

**3.3** Unless so authorized in terms of this by-law, no person may use fireworks-

- a)** Within 500 meters of any explosives factory, explosives storage place, petrol depot or petrol station;
- b)** Inside any building;
- c)** On any agricultural holding;
- d)** At any public place;

e) At any school, old age home or hospital.

3.4 No person may light or ignite fireworks in any place where animals are present.

3.5 Unless so authorized in terms of section 4, no person may light or ignite fireworks on any day or any time except-

DESCRIPTION OF EVENT	STARTING TIME	ENDING TIME
New Year's Eve	23h00	01h00
New Year's Day	19h00	22h00
Lag b'omer	19h00	22h00
Chinese New Year	19h00	22h00
Human Rights Day	19h00	22h00
Freedom Day	19h00	22h00
Diwali	19h00	22h00
Guy Fawkes Day	19h00	22h00
Christmas Eve	19h00	22h00
Hindu new year	19h00	22h00

3.6 No person may allow any minor under his control to use; light or ignite fireworks.

3.7 No person may present a fireworks display unless-

- a) Authorized to do so by the Council as contemplated in section 5;
- b) Authorized to do so by the Chief Inspector of Explosives;
- c) The display is at all times under that persons supervision and control;
- d) That person has insured that-
  - i. An area with a radius of at least 50 meters is clearly demarcated for the launching of fireworks at the display; and
  - ii. Measures are in place to prevent any person who is not involved in the presentation of the display from entering this launching area; and
  - iii. A pyrotechny is at all times present and responsible for the use of fireworks at a display.

#### 4. PERMISSION FOR DISCHARGE OF FIREWORKS.

- i. A person or bodies who wish to discharge fireworks for religious, cultural or traditional purposes shall acquire prior permission from the Legal and Administration department of the Municipality.
- ii. Permission is subject to strict compliance with the condition imposed in Section 7 and such other conditions as the department of Legal and Administration may determine.

## **5. APPLICATION FOR PERMISSION.**

**5.1** Any person who wishes to present a fireworks display must apply to the Chief Inspector of Explosives of the SAPS and the Chief Fire Officer for authorization by applying in writing together with the prescribed fee and the following documentation:

- a) A letter of consent from the owner or person responsible for the property on which the fireworks display is proposed to be presented; and
- b) A sketch plan of the proposed venue for the fireworks display; including the demarcated area for the launching of the fireworks.

**5.2** The application letter; prescribed fee and accompanying documentation must be submitted to the Chief Fire Officer at least 14 days before the date proposed fireworks display.

**5.3** If the Council decides to approve an application to present a fireworks display; the Council shall provide the applicant with written confirmation of its decision and any conditions that it may impose to safeguard persons and property.

**5.4** The Council may require that the fireworks display be presented only on suitable premises designated by the Council and under the supervision and control of an official designated by the Council.

## **6. GRANTING OF PERMISSION.**

- i. The Chief Fire Officer will make recommendations to Legal and Administration department for approval or disapproval.
- ii. In the event of the Chief Fire Officer disapproving of the application, he/she shall furnish written reasons for such disapproval and grant the applicant at least two (2) days to better his/her application.

## **7. CONDITIONS.**

- i. The Council shall delegate a person(s) to render assistance at the display. Cost incurred as a result of the assistance shall be borne by the organizers. Costs shall be determined from time to time.
- ii. The display may not start before and may not continue after the prior agreed time.

- iii. Safety distances in accordance with the size of the display and the area where it shall occur, shall be strictly adhered to.
- iv. The Legal and Administration department may summons the applicant to give forward prior written notice to persons who shall be affected by the display or to place an advertisement in the newspaper(s) of the Chief Fire Officer's choice or to give both such written notice and place an advertisement.
- v. The Director: Legal & Administration shall affix on the site plan the situation and position of emergency vehicles, access and lead away routes which emergency vehicles shall use, the situation of fire hydrant ends, water ends and other fire-fighting equipment that should be kept free of obstruction.
- vi. The area where the display occurs shall be kept free of flammable and combustible material.
- vii. At the display of fireworks, it shall be an offence:
  - a. For any person to willfully enter on or remain in the area reserved for receiving falling residue from aerial fireworks; or
  - b. For any unauthorized person to willfully proceed to the area demarcated by the organizers of the display for spectators.

## **8. STORAGE AND SALE OF FIREWORKS BY LICENSED DEALERS.**

### **8.1 No person may deal in fireworks unless-**

- a) That person holds a required fireworks license in terms of the Explosives Act; and
- b) Has the written authority of the Chief Fire Officer.

### **8.2 Any person who wishes to obtain the written authority of the Chief Fire Officer to deal in fireworks as contemplated at section 3, must-**

- a) Complete an application in the form and manner determined by the Council; and
- b) Submit it to the Chief Fire Officer together with the prescribed fee at least 30 days before the authority is required by the applicant.

### **8.3 The Chief Fire Officer may cancel any written authority to dealing in fireworks if the holder of the authority contravenes or fails to comply with any provision of these By-laws or any other applicable law.**

**8.4 The following fire prevention measures shall be adhered to:**

- i. Premises in which fireworks are handled preferably should have at least two (2) exits. Where any premises have only one exit the fireworks shall be kept at the rear (relative to the exit) of the premises.
- ii. The doors to the exits shall be kept unlocked and unbolted during trading hours and a clear passage shall exist between the counters holding the fireworks and no obstacles shall be placed in these passages.
- iii. A dedicated fire extinguisher of the Dry Chemical Powder type 4.5kg shall be provided in close vicinity of the storage and display area.
- iv. A dedicated fire hose reel within the shop covering the storage and display area must be provided, should the floor area exceed 250m<sup>2</sup> of floor area.
- v. Firefighting equipment must be serviced annually.
- vi. A dealer may keep on his premises not more than 500 kilograms gross mass of fireworks, provided the fireworks, contained in their inner or outer packaging, are kept on shelves. When packs are opened these must be kept in lockable glass cabinets or metal containers and separated from goods of inflammable or combustible nature.
- vii. Fireworks in excess of 500 kilograms gross mass must be stored in a fireworks magazine built according to the specifications as per the regulations.
- viii. A dealer shall not interfere with the inner packaging of the fireworks, or allow or permit it to be interfered with.
- ix. Fireworks may only be traded from within licensed premises.
- x. Fireworks may only be stored or displayed in a dedicated area solely for that purpose and properly demarcated. Fireworks shall not be displayed in any window or any other place where fireworks can be interfered with by the public.
- xi. Notices with 100mm red lettering on a white background must be provided as follows:
  - a) To the outside of the premises in a prominent position adjacent to every entrance, notices reading "Dealer in Fireworks".

- b) In prominent positions inside the premises, "No Smoking" signs in appropriate official languages.
- xii. Every dealer and every person employed in or about the premises shall take all due precautions for the prevention of accidents by fire and for preventing unauthorized persons having access to the fireworks and shall abstain from any act whatsoever which trends to cause fire.
- xiii. Goods of a dangerous nature such as inflammable liquids, acids, alkalis and the like shall not be kept on the same premises together with fireworks and safety matches, and Bengal matches shall be kept at least 5 meters away from the fireworks.
- xiv. A retail dealer in fireworks shall not sell or allow or permit to be sold any fireworks to a child under the apparent age of 16 years.

**9. LIST OF CONTRAVENTIONS / TRANSGRESSIONS.**

	<b>CONTRAVENTIONS / TRANSGRESSIONS</b>	<b>REGULATION</b>
9.1	Trading without fireworks license	Section 2.1(i) of this By-Laws
9.2	Street trading of fireworks	Section 8.4(ix) of this By-Laws
9.3	Fail to keep less than 500kg gross mass of the fireworks	Section 9.18(a) of the Act
9.4	Stacking outside the display	Section 9.18(a) of the Act
9.5	Displaying fireworks on any window & other place where fireworks can be interfered with by the public	Chapter 9.12.3 of the Act
9.6	Fail to display symbolic safety signs indicating no smoking and open flames	Chapter 9.13.1(b) of the Act
9.7	Selling fireworks to a child under the age of 16 Years	Chapter 9.18(d) of the Act
9.8	Storage premises does not comply with the Act	Chapter 9.12.1 of the Act
9.9	Fail to keep 4.5kg dry chemical powder extinguisher at the display area	Section 8.4(iii) of this By-law
9.10	Fail to have a dedicated fire hose reel in the shop that exceeds 250m <sup>2</sup> of floor area	Section 8.4(iv) of this By-law

**10. PENALTIES.**

- 10.1** Any person who contravenes a provision of this by-law shall be guilty of an offence and on conviction be liable to a fine or imprisonment as determined by the Court of law.
- 10.2** An authorized official of the Municipality in collaboration with a representative of the Chief Inspector of Explosives of the SAPS may seize fireworks being held in violation of this By-law and shall dispose of them without compensation.

**ANNEXURE A**

**INTENDED DEALER IN FIREWORKS**

NEW APPLICATION		RENEWAL	
TRADE NAME:			
Applicants name:			
Shop no:			
Street Address:			
Postal Address:			
Telephone numbers:			
Landline			
Cell number			
Date of application:			

Subject to compliance with requirements set out in the Explosives Act, (Act 15 of 2003) and the issue of the necessary license by the Chief Inspector of Explosives the applicant's intention is drawn to Chapter 9 of the Explosives Act.

This department	Support the application		Does not support the application	
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Chief Fire Officer



**ANNEXURE B**

**FIREWORKS SALES REGISTER**

<b>PARTICULARS OF SELLER:</b>	
Name of shop:	
Shop no:	
Street Address:	
<b>PARTICULARS OF CUSTOMER:</b>	
Name & Surname:	
Age:	
Street Address:	
Telephone number: Landline	
Cell number	
Purchase date:	
Type of Fireworks:	<b>Quantities:</b>