

NELSON MANDELA BAY METROPOLITAN MUNICIPALITY: FIREWORKS BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Nelson Mandela Bay Metropolitan Municipality, enacts as follows:-

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1. Definitions

In this By-law, unless the context indicates otherwise:

“**chinese lantern**” means a paper lantern consisting of a candle or a fuel cell filled with paraffin wax suspended inside a frame of wire or bamboo covered by paper, light material, plastic or any other form of covering;

“**designated area**” means a place designated as such in terms of Section 3.

“**discharge**” means to use or explode;

“**fireworks**” means any pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases which is manufactured for the purposes of amusement or entertainment and includes -

- (a) any article or thing commonly recognized as fireworks;
- (b) any flame-emitting device, including but not limited to any candle, lantern or torch, in any manner that may pose a fire hazard to any person or property; and
- (c) chinese lanterns.

“**fireworks display**” means the discharge of fireworks as part of a public display or private function;

“**municipality**” means the Nelson Mandela Bay Metropolitan Municipality, and includes any political structure, political office bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, agent or employee;

“**peace officer**” shall have the meaning assigned thereto in the Criminal Procedure Act 51 of 1977;

“**public place**” means any street, square, park, recreation ground, beach, sports ground, sanitary lane or open space which has –

- (a) been provided, reserved or set apart for use by the public or at any time been dedicated to the public;
- (b) been used by the public without interruption for a period of at least thirty years; or

at any time been declared or rendered such by the municipality or other competent authority;
"pyrotechnician" means any appropriately qualified person responsible for the use of fireworks at a fireworks display;

"street" means any street, road, cycle path, thoroughfare or any other place, including –

- (a) the verge of any such road, street or thoroughfare
 - (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
 - (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
 - (d) any other object belonging to such road, street or thoroughfare, which has at any time been –
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
 - (v) any land, with or without buildings or structures thereon, which is shown as a street on –
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office;
- unless such land is on such plan or diagram described as a private street.

2. Principles and objectives

The municipality, aware of its duty to provide a safe and healthy environment, in this by-law regulates the discharge of fireworks with the aim of safeguarding its residents and property and to minimize the effects of fireworks on animals and pets.

3. Discharge of fireworks

- (1) No person may without the prior written permission of the municipality –
 - (a) discharge any fireworks outside an area designated by the municipality in terms of Section 4(1);
 - (b) discharge any fireworks in conflict with any conditions that may have been imposed by the municipality in terms of section 4(4) inside an area designated by the municipality in terms of this section; and
 - (c) discharge fireworks where animals are present at the designated place.
- (2) A person who fails to comply with the provisions of subsection (1) commits an offence.

4. Designation of public places and conditions

- (1) For the purposes of the discharge of fireworks as contemplated in section 3 the municipality may designate any public place or street or any part thereof within the municipal area as the only place at which fireworks may be discharged and may impose conditions for the discharge of fireworks in such designated area.
- (2) In order to designate places where fireworks may be discharged, the municipality must obtain the input of the ward councillor, who must consult the ward committee members, in whose area of jurisdiction such a designated place falls and the municipality may obtain the input or comments of persons or organisations that may be affected negatively by such designation.
- (3) The list of places designated and the conditions imposed by the municipality in terms of subsections (1) and (2) or any amendment thereof must be published by the municipality in terms of its communication policy.

- (4) The municipality may impose conditions as to the dates on which, periods or time and hours when the discharge of fireworks may take place on any designated area and may further impose conditions as to the manner of discharge and for the protection of animals.
- (5) A person who fails to comply with the provisions of subsection (4) commits an offence.

5. Fireworks display

- (1) No person may present a public display of fireworks on any premises –
- (a) without the written permission of the Civil Aviation Authority, the Chief Inspector of Explosives and the Chief Fire Officer;
 - (b) unless the display is at all times under that person's supervision and control;
 - (c) unless a qualified explosives expert from the South African Police Services is at all times in attendance at the display;
 - (d) unless that person has ensured that –
 - (i) an area with a radius of at least 50 metres is clearly demarcated for the launching of fireworks at the display;
 - (ii) measures are in place to prevent any person who is not involved in the presentation of the display from entering the launching area; and
 - (e) unless a pyrotechnician is at all times present and responsible for the use of fireworks at the display.
- (2) The Municipality may designate any public open space or, on the application of the owner or lawful occupier, any private open space as defined in the municipality's Zoning Regulations, as a place where fireworks may be discharged for the purposes of a fireworks display and the Municipality may impose conditions as to the dates, periods of time and hours when such discharge may take place and may further impose conditions as to the manner of the discharge.
- (3) No person may present a fireworks display outside an area designated by the municipality in terms of subsection (2).
- (4) Any person who wishes to present a fireworks display must, when submitting an application to the Chief Fire Officer, complete and submit an application in the form and manner determined by the Municipality together with proof of the prior written approval of the Civil Aviation Authority and the Chief Explosives Officer of the South African Police Services.
- (5) An application for permission to operate a public display of fireworks must be made in writing and shall contain –
- (a) the name of the person or organisation sponsoring the display together with the names of the persons actually in charge of the firing of the display who shall be at least 18 years of age and competent to perform the task;
 - (b) the date and time of day at which the display is to be held;
 - (c) the exact location planned for the display;
 - (d) a sketch plan of the proposed venue for the fireworks display, indicating-
 - (i) the demarcated area for the discharge and fallout of the fireworks; and
 - (ii) whether any of the following are situated within 500 metres from the demarcated area contemplated in subsection (2) -
 - (aa) a hospital;
 - (bb) an animal hospital or veterinary surgery;
 - (cc) an establishment at which animals are lodged for reward;
 - (dd) an old age home catering for frail or semi-frail aged;
 - (ee) a petrol filling station; and
 - (ff) a bulk storage installation for petroleum products or other flammable substances.

- (e) a description setting forth the age and qualifications of the persons who are to do the actual discharging of the fireworks;
 - (f) the numbers and kinds of fireworks to be discharged and the value of the display;
 - (g) the manner and place of storage of such fireworks prior to the display;
 - (h) a diagram of the grounds on which the display will take place
- (6) The application and accompanying documentation must be submitted to the Chief Fire Officer at least 21 days before the date of the proposed fireworks display.
- (7) The municipality may not approve an application where any of the bodies or installations mentioned in subsection 5(d)(ii)(aa) to (ff) are situated within the 500 metres as contemplated in subsection 5(d)(ii) and unless the input of the ward councillor, who must consult the ward committee members, in whose area of jurisdiction such a designated place falls, has been obtained, and the municipality may obtain the input or comments of persons or organisations that may be affected negatively by such approval.
- (8) Upon approval of an application to present a fireworks display, the applicant must notify residents of the intended display by means of at least four announcements on community radio stations and by publishing a public notice in a newspaper circulated in the area in which the presentation is going to take place.
- (9) The notice contemplated in subsection (8) must be placed in at least two official languages not less than 7 days before the fireworks display and a copy of such notice must be provided to the Chief Fire Officer at least 48 hours prior to the display, failing which, such a display may not be held.
- (10) Any person who contravenes subsections (1), (2), (3) or (8) commits an offence.

6. Dealing in fireworks

No person may deal in fireworks unless he or she holds the required fireworks license in terms of the Explosives Act 26 of 1956.

7. Seizure of fireworks

A peace officer may take into his or her possession any fireworks found by him or her in contravention of section 4(1) and section 6 and such fireworks must be dealt with in terms of the relevant provisions of the Criminal Procedure Act 51 of 1977 relating to seizure and disposal.

8. Offences and penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

9. Revocation of by-laws

The Nelson Mandela Bay Metropolitan Municipality Fireworks By-law published in Provincial Gazette Extraordinary No 2163 on 29 July 2009 is hereby repealed in its entirety.

10. Short title and commencement

This by-law is known as the Nelson Mandela Bay Metropolitan Municipality Fireworks By-law, and commences on the date of publication thereof in the Provincial Gazette.