

Fireworks Control Zones

Report by Kevin Anderson, Executive Director, Place

Report for Information

1 Recommendation

The Council is recommended;

- a. to note that from 22 June, 2023 local authorities have new powers to reduce the negative impact of fireworks from implementation of the Fireworks and Pyrotechnics Articles (Scotland) Act 2022, and
- b. to consider any further action or a further report as to whether to designate any Firework Control Zones in Midlothian.

2 Purpose of Report/Executive Summary

This report advises members that councils can designate Firework Control Zones that would make it a criminal offence to ignite a firework, or knowingly throw a lit firework in a zone, which can include private properties or gardens.

<https://www.legislation.gov.uk/asp/2022/9/contents/enacted>

Separate Guidance for Local Authorities references that the Firework Control Zones have not been designed as a measure to cover a whole local authority area, and must be evidence based and proportionate.

Date: 21 July 2023

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3 Background

- 3.1 Councils can designate Firework Control Zones that would make it a criminal offence to ignite a firework, or knowingly throw a lit firework in a zone, which can include private properties or gardens. The maximum penalties are a fine of up to £5,000 or up to six months in prison. However, organised public firework displays will still be permitted within Zones to allow people to enjoy fireworks safely.
- 3.2 These provisions are key measures from the Fireworks and Pyrotechnics Articles (Scotland) Act 2022. Fireworks Control Zones allow local authorities the power to designate areas where fireworks cannot be possessed or set off and ultimately restricts the improper use of such items in Scotland.
- 3.3 It is a criminal offence to be in possession of, or setting off, fireworks within a Fireworks Control Zone in the public protection commitment to keeping the public safe from the risk of harm associated with the reckless and criminal use of fireworks.
- 3.4 It is already an offence to fire, cast, or throw fireworks in or onto a highway, street, road, thoroughfare, or public place.
- 3.5 The new provisions also prevent unnecessary suffering among pets, farm animals and wildlife. They will help to alleviate distress caused by fireworks and also prevent any firework debris that can be harmful to, or ingested by animals.
- 3.6 Fireworks can only be used in a control zone:
- a. for the purposes of an organised public fireworks display - local licensing requirements still apply
 - b. in connection with a regulatory authority's function, or
 - c. for business purposes by businesses involved in the manufacture, import, distribution, or supply of fireworks
- Only category 1 fireworks can be used in a firework control zone, subject to other legal controls on their use. Examples of category 1 fireworks include small sparklers, ice fountains, Christmas crackers and party poppers. No other fireworks are allowed.

- 3.7 Prior to considering and designating control zones in their area Councils will need to; consult with communities before designating, changing or removing an area a firework control zone; and publish information about any designated, changed or removed zones in the area. Guidance for local authorities has been published to support the commencement of firework control zone powers. This is to support local authorities in considering and designating firework control zones in their area. The guidance, co-developed with stakeholders and communities, is designed to be an evidence-based framework for local authorities who wish to utilise the power to designate, amend, or revoke a firework control zone. It takes local authorities through the steps required in the legislation, from consulting on a zone through to review requirements.
- 3.8 Previously, Midlothian Council approved a motion on 8th November 2016, in relation to Chinese Sky lanterns and incorporated fireworks also, where:

Midlothian Council agrees to follow the example of other councils within Scotland and take similar measures to demonstrate taking responsibility towards the environment, property and animal welfare seriously by supporting a ban on sky lanterns within our area. In addition to the aforementioned Council agrees to include banning fireworks from being set off from Council land except for organised/ licensed displays.

Council land was clarified to mean non- domestic properties.

4. Report Implications (Resource, Digital and Risk)

4.1 Resource

Local authorities can decide to consult upon and designate firework control zones irrespective of whether they receive Government financial support to do so, as they would do in many other cases where discretionary powers are being exercised. However, central funding has been secured by Scottish Government for financial year 2023-24 to support designation of a number of firework control zones. This funding will be distributed to local authorities who have expressed interest to the Scottish Government in consulting upon and potentially designating firework control zones in 2023-24 until such point as the budget is exhausted. The quantum distributed would match the estimated costs to consult upon a zone, of up to £9,000 and, if the local authority decides to designate a firework control zone an additional £15,000 (£24,000 available per zone), as included in the Financial Memorandum. Funding will be provided as a redetermination of the 2023-24 General Revenue Grant and paid during the last 2 weeks of March 2024.

4.2 Digital

There are no digital implications related to this report.

4.3 **Risk**

There are no risk implications arising from this report.

4.4 **Ensuring Equalities**

An equalities impact assessment has not been required in connection with this report.

4.5 **Additional Report Implications**

See Appendix A

Appendix A - Additional Report Implications

A.1 Key Priorities within the Single Midlothian Plan

Not applicable

A.2 Key Drivers for Change

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

A.4 Delivering Best Value

There are no direct implications related to this report.

A.5 Involving Communities and Other Stakeholders

The report does not directly relate to involving communities at present.

A.6 Impact on Performance and Outcomes

Not applicable

A.7 Adopting a Preventative Approach

Not applicable

A.8 Supporting a Sustainable Development

Not applicable