Item 9

21st March 2024

Glasgow City Council

City Administration Committee

Report by Councillor Ruairi Kelly, City Convener for Neighbourhood Services and Assets

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Discretionary Power
Firework Control Zones

Purpose of Report:

- To advise members of the new Local Authority discretionary power to designate Firework Control Zones.
- To present the approach for the application, consideration and granting of Firework Control Zones in Glasgow should the discretionary power be utilised.

Recommendations:

The City Administration Committee is asked to:

Approve the use of the discretionary power during the period around the 5th November.

Ward No(s): Citywide: ✓

Local member(s) advised: Yes ☐ No ☐ consulted: Yes ☐ No ☐

1. Background

1.1 The Scottish Government passed two new pieces of legislation relating to the sale and use of fireworks.

1.1.1 The first; The Fireworks (Scotland) Miscellaneous Amendment Regulations 2021 amended the Fireworks (Scotland) Act 2004 and was as a result of the Independent Review Group set up following initial consultation on fireworks.

1.1.2 Scottish Government then ran a further consultation on the remaining recommendations some of which also required primary legislation. This resulted in the formation of The Fireworks and Pyrotechnic Articles (Scotland) Bill which became the Act, Fireworks and Pyrotechnic Articles (Scotland) Act 2022

1.2 The Act, which is not yet fully in force, brings in restrictions on the amount of fireworks that can be purchased by the public, the times when fireworks can be purchased and restrictions on times, dates and areas where the public can use fireworks.

1.3 The Act also set out the essential components of Firework Control Zones, including the offences committed within a zone, exceptions to the offences and the requirements of local authorities. On 22 June 2023, the Scottish Government issued Guidance on Firework Control Zones for Local Authorities.

1.4 A report on the legislative changes relating to the sale and use of fireworks was presented to the Environment and Liveable Neighbourhoods City Policy Committee on 6 June 2023, however, as the guidance was not yet available, the resource and practical implications remained unknown.

2. Firework Control Zones (FCZ)

2.1 The ability to designate, amend or revoke a Firework Control Zone (FCZ) is a new discretionary power for local authorities.

2.2 A report was presented on 12th March 2024 to the Environment and Liveable Neighbourhoods Committee on FCZs and associated detail on their designation. This report proposes that should the Council wish to utilise the power, a proportionate and evidential-based approach is that FCZs are in effect around the period of 5th November when the use of fireworks is most prevalent and they can be purchased in shops.

2.3 Before designating a place as a FCZ or amending or revoking an existing FCZ, a local authority must prepare and publish a proposal in relation to the designation, amendment or revocation of the zone. The local authority must also carry out a consultation on the proposal.

2.4 It is a criminal offence for a person to ignite a firework in a FCZ, knowingly or recklessly throw, cast or fire a lit firework into a FCZ. This includes on private property such as a garden.

2.5 The offence applies on all days that the zone has effect unless the designation specifies particular days on which the zone is to operate, in which case the zone applies on these days only.

2.6 Neighbourhoods, Regeneration and Sustainability's Community Safety service will oversee the process which will facilitate the consideration and designation of Firework Control Zones in the City.

3. Community Request for a Firework Control Zone (FCZ)

3.1 The Act does not make provision about community requests; however, they are encouraged in the guidelines and can be a valuable tool for a local authority to become aware of local concerns about fireworks use. Facilitating consultation also contributes to the council meeting its obligations under the Community Empowerment Act.

3.2 A community making a community request for a place can be any group of people who feel they have something in common. This may be that they live in the same area or that they share an interest or characteristic.

3.3 The council website will provide details of how a community request to designate a Firework Control Zone (FCZ) can be made and the associated timeframes for consideration and where applicable community consultation.

3.4 The Council will arrange publicity to ensure communities are aware of the FCZ designation process.

3.5 The community request application form will require information on

- The reasons for the proposed new FCZ, or for amending or revoking an existing zone
- The boundaries of the zone
- The date from which the zone is to have effect and the proposed date that the zone is to cease to have effect

3.6 A community request cannot be made by an individual, however complaints about antisocial behaviour concerning fireworks can be reported to Police Scotland by telephoning 101 or 999 depending on severity. Concerns about underage sales, unlicensed trading and illegal fireworks can be reported to the Councils Trading Standards service at ts.enquiries@glasgow.gov.uk. Anti-social behaviour can be reported to the Council via the website or by telephone.

4. Consideration of Requests

4.1 Consideration of a request will include analysis of a range of evidence sources relative to the proposed location including if the request is proportionate. Once the analysis has been undertaken the results will be discussed with partners in Police Scotland and Scottish Fire and Rescue Services.

4.2 The boundaries of a zone will be developed in partnership with local police and the fire and rescue service to ensure that all local intelligence is utilised and that the resultant boundaries are proportionate, enforceable and grounded in evidence.

4.3 Examples of evidence will include but not be limited to the number of reports to police and the local authority of anti-social behaviour involving fireworks, the number of reports to the police about the misuse of fireworks and the number of callouts to Scottish Fire and Rescue Services involving fireworks or incidents as a result of fireworks being used, such as fires.

4.4 The Council and partners will also consider available evidence in relation to requests made by welfare groups and vulnerable groups who are adversely affected by fireworks.

4.5 If a request is accepted, this would begin the formal process of consideration of a zone as set out in the guidance for consultation on Firework Control Zones.

4.6 If the community request will not proceed the reason must be provided. The community will be advised that they have 28 days to request a review of the decision and will be advised where evidence to approve was not sufficient.

5. Consultation

5.1 The Act states that a local authority must consult with:

- those who live or work in the proposed zone
- other members of the local community in or near the proposed zone
- and any other persons or bodies that the local authority considers to have a connection with, be interested in or are affected by the proposed zone

5.2 Section 3.2 of the Firework Control Zones Guidance for Local Authorities details examples of individuals and organisations that this could include.

5.3 The Council will take any such steps as it considers appropriate and proportionate for adequate publicity about any consultation to ensure that it is available to persons likely to be affected by it.

6. Consultation Outcome

6.1 The Council is required to publish the decision on the consultation as soon as possible, and if the proposal is to proceed, at least 60 days before the proposal is to take effect. The published document must include details of any changes to the proposal which have been made (whether or not as a result of the consultation) and explain how responses to the consultation were considered.

6.2 Should the FCZ not be designated after the initial consideration or following a consultation another request that covers the same or similar geographical area cannot be made within 12 months.

6.3 All reports irrespective of outcome will include a summary of responses, an analysis of responses received, an analysis of respondents and the Council's reason for the decision taken.

7. Approved Firework Control Zones

7.1 Information shared about an approved FCZ must include:

- the date the zone is in effect and if different the days on which it is to operate
- the boundaries
- what is permissible
- the exemptions that apply and
- the consequences of failure to comply

7.2 Promotion of the FCZ will include inclusion on the Council website, social media posts, engagement with partners such as the relevant Registered Social Landlords, community councils and stakeholders and signage. Signage must be displayed to inform people when they are within an area designated as a Firework Control Zone.

7.3 The Scottish Government guidance did not provide a FCZ Toolkit, therefore all documentation including signage associated with the process must be created or sourced by the Local Authority.

8. Exemptions

8.1 A limited number of exemptions apply to FCZs, when the use of fireworks is permitted:

- For the purpose of public firework displays
- For necessary safety purposes by a business engaged in the manufacture, importation, distribution or supply of fireworks or
- In connection with a regulatory authority's function

9. Public Firework Displays within Firework Control Zones

9.1 In line with existing local requirements, a range of factors will continue to be considered by local authorities when determining appropriate locations for public firework displays and it is not expected that the existence of a firework control zone will be a reason for declining applications to hold public firework displays. Communities have expressed the value and enjoyment of well organised public fireworks displays. It is recognised that these can provide a route for communities to come together to enjoy fireworks in a safe and appropriate way.

9.2 Public firework displays will continue to be permitted within an area designated as a firework control zone, subject to certain requirements.

9.3 It is not an offence to use fireworks in a firework control zone if it is for the purpose of

- a public fireworks display by a professional fireworks operator; or
- a public fireworks display organised by a community group, sports club, or other similar organisations.

9.4 The Act defines a "public fireworks display" as a fireworks display at which the public, or any section of the public, are able to attend (whether or not they have paid) that complies with regulations made under section 6 of the Fireworks Act 2003.

9.5 There are different ways a community group can prove that they are organising a public display and fit within this exemption. For example, a local authority issued public entertainment licence or public liability insurance documents for the firework display could be used as evidence.

9.6 The following could expect to be included as examples of a public fireworks display:

- large scale public firework displays organised by the local authority
- small scale, local community firework displays organised by a community group or charity, including religious or cultural festivals at a place of worship
- music concerts or festivals at outdoor venues where fireworks are used as part of the event
- events in stadia, such as sports or music events, where fireworks are used as part of the event.

9.7 In an area where a firework control zone has been designated, public firework displays continue to be subject to existing local licensing requirements for such displays to take place, for example, a public entertainment licence or temporary public entertainment licence. The designation of a firework control zone does not replace the need for local licensing requirements to be met for public firework displays. Existing criteria for consideration of public displays should continue to be applied by local authorities.

10. Reviews of Designated Firework Control Zones (FCZ)

10.1 The Council is required to review Firework Control Zones (FCZ) designated within their area. This is to understand how a zone is operating and evaluate its effectiveness in addressing the local issues involving fireworks which led to the designation of the zone.

10.2 While the Act sets out that reviews must be undertaken, it does not include a minimum time period for the frequency of FCZ reviews. Zones can also be collectively reviewed. A zone will continue to operate until the completion of any such review, and a proposal for a zone to be amended or revoked as a result of the findings of any review must be consulted on.

10.3 The outcome of a review could contribute towards the evidence base being considered as part of the proposed changes to, or revocation of, an existing zone.

10.4 The Council will engage partners at the formative stages of a review and ensure that any decisions undertaken regarding the outcomes of the review are taken in conjunction with these organisations given the implications of any changes made on enforcement responsibilities.

10.5 As this is the first year of the Council's discretionary power, a review of all FCZs will be undertaken in 2025.

11. Requirement for Publication of Review Report and Outcomes

11.1 Upon conclusion of a review, local authorities must prepare and publish a report of the review's findings and make such proposals in relation to the zone, or zones, as it considers appropriate. This could, for example, result in no change to the existing zone, or a proposal to amend the zone boundaries, or to revoke a zone.

11.2 Local authorities should notify the Scottish Government of the publication of the review report for the data gathered as a part of the review to be utilised for the Scottish Government's statutory obligation to report on the operation of the Act for the period through to 10 August 2027. Local authorities should make every effort to retain any additional data collected for a review of a Zone and make this available to the Scottish Government for the purposes of this report.

12. Existing Measures to Address the Misuse of Fireworks

12.1 The discretionary power to designate a firework control zone is a tool in a suite of approaches including legislation which are already in place to address the misuse of fireworks.

12.2 Current Restrictions

12.2.1 In response to the recommendations from the review group, the Scottish Government drafted The Fireworks (Scotland) Miscellaneous Amendment Regulations 2021 which amended The Fireworks (Scotland) Regulations 2004.

12.2.2 The changes implemented by these Regulations, which came into force on 30 June 2022, include three new measures in relation to the way the public can use and access fireworks:

I. Restrict the times of day fireworks can be used by the general public to between 6pm and 11pm, with the exception of 5 November (when they can be used from 6pm until midnight), New Year's Eve, the night of Chinese New Year and the night of Diwali (when they can be used from 6pm until 1am)

II. Restrict the times of day fireworks can be supplied to the public to during daytime hours of 7am and 6pm, alongside existing requirements on retailers around the sale and storage of fireworks.

III. Limit the quantity of fireworks that can be supplied to the public to 5kg (Net explosive quantity) at any one time.

12.3 Trading standards

12.3.1 NRS' Trading Standards programme of compliance checks begin as soon as any licence applications / renewals are received. In 2023, compliance checks commenced in July, albeit most inspections are conducted 4-6 weeks prior to 5th November and until the end of the sales period. In 2023 the period of sales was until 12th Nov 2023. Trading Standards are responsible for the full licensing process in relation to fireworks including granting and renewal, as well as refusing or revocation where necessary.

12.3.2 The checks relate to a number of measures including licensing, whereby all premises requiring a licence are visited to check for suitability, as well as to provide advice and guidance prior to the issuing of any licence. Follow up inspections are carried out after the grant of a licence and fireworks have been delivered to ensure compliance with all applicable legislation including safe storage, specified location, quantity and category/ type of fireworks being sold. Restrictions on sales are checked via a programme of test purchasing in relation to underage sales as well as sales taking place outwith the permitted dates/times. Trading Standards work in partnership with a variety of agencies in relation to awareness raising, intelligence sharing and tackling any issues where appropriate. Trading Standards maintain the register of fireworks licences which is shared with Police Scotland and The Scottish Fire and Rescue Service.

12.3.3 Compliance checks also include on-line firework sellers. Several checks were made to online platforms with no Glasgow based firework sellers identified.

12.3.4 In 2023 action taken by trading standards staff included the following:

- 60 premises were licensed to store fireworks (down 4 from last year) including a mixture of supermarkets, wholesalers, independent retailers and one pyrotechnic cinematic company.

- 106 inspections were carried out by officers from Trading Standards. Extensive advice is given to every business during visits. Advice also included various Guidance (permitted selling times, limited 5kg amounts, storage information & specific HT3 & 4 guidance) documents being issued by email at the time of application and in paper form delivered with the Licence certificate.

- 12 test purchase compliance checks undertaken. All met with correct outcome in relation to time of day or age of purchaser.

12.4 Targeted Intervention

12.4.1 In 2018 Pollokshields experienced significant antisocial behaviour including firework misuse before and on the 5th of November. In response NRS and partner agencies developed an action plan to tackle the misuse of fireworks. The approach has been developed and deployed each year since.

12.4.2 A significant amount of community engagement and communication is undertaken including promotional material in public spaces, letters to residents and school pupil guardians, direct engagement with school pupils and diversionary activities with young people on the 5th of November.

12.4.3 The community has welcomed the approach expressing their satisfaction in having information delivered to households in the run-up to 5th Nov and were happy to discuss the area with officers.

12.4.4 Police Scotland reported that there was a significant increase in reporting in 2023 due to the various communication strategies from NRS and other key partners.

12.4.5 On 5th November 2023 in Pollokshields, there were reduced incidences of serious incidents reported to Police Scotland.

12.4.6 The council website will provide information to citizens about the work the Council currently undertakes to tackle issues associated with fireworks and the restrictions currently in place around their use.

12.7 Enforcement Activities

12.7.1 Police Scotland as well as the national-level Operation Moonbeam, plan at a local-level Operation Academia the appropriate response to the misuse of fireworks.

13. Policy and Resource Implications

Resource Implications:

Financial:	There will be financial costs associated with staff time, publication, promotion and communication costs. It is anticipated the Scottish Government will provide funding to support the management of FCZs.
Legal:	None
Personnel:	This will be resourced from existing staff. The impact will be monitored.
Procurement:	Procurement of signage will be resourced from an existing procurement framework.
Council Strategic Plan:	Grand Challenge 4 - Deliver Essential Services in a Sustainable, Innovative and Efficient way for our Communities.

Equality and Socio-Economic Impacts:

Does the proposal support the Council's Equality Outcomes 2021-25? Please specify.	. No.
What are the potential equality impacts as a result of this report?	Positive impacts have been identified as part of the Scottish Govt – Fairer Scotland Duty Assessment and Equality Impact Assessment particularly in relation to the following groups: people with autism and other sensory issues, and people suffering from PTSD who are more sensitive to loud bangs and flashes; pregnant women who are more sensitive to loud bangs during their pregnancy; children and young people who are more likely to be harmed, or to cause harm by fireworks ; and men who are more likely to be harmed, or to cause harm by fireworks.

Please highlight if the policy/proposal will help address socio-economic disadvantage.	No impact identified.

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify:	. No
What are the potential climate impacts as a result of this proposal?	n/a
Will the proposal contribute to Glasgow's net zero carbon target?	No

Privacy and Data Protection Impacts:	The platform that will be used for community requests and consultations is SMART survey. SMART Survey is the Council approved consultation platform.

14. Recommendations

14.1 The City Administration Committee is asked to:

Approve the use of the discretionary power during the period around the 5th November.