

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2663

A Bylaw to Regulate the Use of Fireworks

WHEREAS the Council may provide any service that the Council considers necessary or desirable, and may regulate, prohibit and impose requirements in relation to its services in relation to fireworks and the safety and protection of persons and property;

AND WHEREAS the Council considers it desirable to permit fireworks displays for significant community and cultural events;

NOW THEREFORE the Council of the Corporation of the Township of Esquimalt, in an open meeting assembled, enacts as follows:

1. CITATION

This Bylaw may be cited as the *"FIREWORKS BYLAW, 2007, NO. 2663."*

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this bylaw, unless otherwise requires:

<i>"Municipality"</i>	means the Corporation of the Township of Esquimalt;
<i>"Fire Chief"</i>	means the person appointed from time to time by the Municipality as the Fire Chief of the Esquimalt Fire Department or their designate;
<i>"Fireworks"</i>	(a) means the "Class 7" fireworks in the Explosives Regulation (Canada) or its successor regulation; (b) does not include sparklers, Christmas crackers, caps for toy guns, model rocket engines as specified in Subdivision 3, Division 2, Class 7 of the Explosives Regulation (Canada), or highway flares or other small distress signals used exclusively for that purpose;
<i>"Fireworks Supervisor"</i>	means a person possessing a valid Fireworks Supervisor Certificate issued by the Explosive Branch of Natural Resources Canada;
<i>"Incident"</i>	means a fire, an explosion, a situation where a fire or explosion has occurred or is imminent or any other situation presenting a danger or possible danger to life

	or property and to which the Esquimalt Fire Department has responded
<i>“Owner”</i>	shall have the meaning assigned to it under the <i>Community Charter</i> of British Columbia and includes the authorized agent of the Owner;
<i>“Peace Officer”</i>	means the Fire Chief or any person employed by the Municipality as a Bylaw Enforcement Officer or any Municipal Police Officer or member of the Royal Canadian Mounted Police;
<i>“Permit”</i>	means a permit to discharge Fireworks issued by the Fire Chief;
<i>“Ticket”</i>	means a municipal ticket information in the form described in the <i>Community Charter Bylaw Enforcement Ticket Regulation</i> ;
<i>“Wholesaler”</i>	means a permit holder engaged in the bulk sales of Fireworks, under a business license issued by the Municipality, to Permit holders; and includes all officials, employees and shipping contractors of the Wholesaler, and, for greater certainty, does not include a person engaged in the retail sale of Fireworks to the general public.

3. FIREWORKS DETAILS

3.1 Selling, Giving or Trading Fireworks

A person who is not a Wholesaler must not offer for sale, sell, give or trade Fireworks within the Municipality.

3.2 Possession of Fireworks

A person must not possess Fireworks within the Municipality unless that person holds a current Permit issued under this bylaw or is a Wholesaler.

3.3 Fire or Discharge of Fireworks

A person must not fire or discharge Fireworks within the Municipality unless authorized by a Permit issued under this bylaw.

3.4 Fireworks Supervisor Certificate

An applicant for a Permit to discharge Fireworks shall provide the Fire Chief with proof of a valid Fireworks Supervisor Certificate.

4. PERMITS AND FEES

4.1 Fireworks Permits

- (a) Every application for a Permit shall be submitted on the form prescribed by the Fire Chief at least 30 days before the date of the event.
- (b) Every person making application for a Permit shall:
 - (i) pay the Permit fee prescribed in Schedule “A” of this bylaw.
 - (ii) obtain and maintain public liability insurance in the name of the applicant and the Municipality and include proof of such insurance coverage along with the application. Such insurance shall be with one or more insurance companies registered to do business in the Province of British Columbia and in a form acceptable to the Municipality, and shall provide coverage on an “occurrence basis”, in an amount not less than five million (\$5,000,000.00) dollars;
 - (iii) provide proof of a valid Fireworks Supervisor Certificate in accordance with the requirement in Section 3.4;
 - (iv) provide a site plan and details of the location, duration and safety measures in place for the event to the Fire Chief; and
 - (v) accompany any Esquimalt Fire Department member on an initial site inspection and any required site re-inspections and, if required, pay the applicable re-inspection fees prescribed in Schedule “A” of this bylaw.
- (c) Where the Fire Chief considers that an application for a Permit is a significant community or cultural event, the Fire Chief may refer any application for Permit to the Municipal Council for consideration prior to any decision respecting the issuance of the Permit.
- (d) Subject to this Bylaw and the *Explosives Act* (Canada), the Fire Chief may grant or refuse a Permit.

4.2 Permit Suspension or Revocation

The Fire Chief may suspend or revoke any Permit issued under this bylaw if the permit holder has contravened or authorized, permitted or suffered a contravention of any provision of this bylaw, the *Fire Services Act* and its regulations, or any other applicable statute or the conditions or restrictions attached to the Permit.

4.3 Conditions of Permit

A permit holder must;

- (a) not possess, fire or discharge fireworks other than those specified in the permit;
- (b) possess, fire and discharge fireworks only in accordance with the terms and conditions of the permit;
- (c) ensure that fireworks are possessed, fired and discharged only by the permit holder, or under that person's direct supervision;
- (d) immediately present the permit for inspection when that is requested by a peace officer.

4.4 Incident Cost Recovery

- (1) Every person that causes an Incident directly attributable to the person's misuse of Fireworks including but not limited to, the person's failure to comply with the provisions of this bylaw, a Permit or other applicable statute or regulations, in addition to any other penalty imposed by bylaw, shall be responsible for the costs incurred by the Esquimalt Fire Department by responding to the Incident and, for that purpose, shall pay a service fee calculated in accordance with and as prescribed in Schedule "A" of this bylaw.
- (2) For the purpose of section 4.4 (1) the duration of an incident shall be deemed to be the period of time beginning from the time the initial call is received requesting a response and ending when the last responding unit of equipment returns from the incident to regular service.

4.5 Offences and penalties

Any person who contravenes any provision of this Bylaw is guilty of an offence and is subject to the penalties imposed by this Bylaw, the Ticket Information Utilization Bylaw and the *Offence Act*.

Any person guilty of an infraction of this bylaw is liable, on summary conviction, to a fine of not more than \$10,000.00 and, where the offence is a continuing one, each day that the offence continues shall be a separate offence enforceable by a ticket and calculated in accordance with the penalties imposed by this Bylaw and the Ticket Information Utilization Bylaw.

The minimum penalty is a fine of \$200 for each separate occurrence of an offence contrary to any of the following sections:

- a) Section 4.3 [conditions of permit];

- b) Section 3.1 [offering for sale, selling, giving or trading fireworks];
- c) Section 3.2 [possession of fireworks];
- d) Section 3.3 [firing or discharging fireworks];
- e) Section 4.6 [failure to surrender fireworks].

- 4.6** (1) Without limiting Section 4.5, every person that possesses or discharges Fireworks contrary to the provisions of this bylaw commits an offence and shall, when requested to do so, surrender all Fireworks in their immediate possession to a Peace Officer who shall be authorized to receive and hold all such Fireworks in the interest of public safety and as evidence of the commission of the offence.
- (2) A person that contravenes subsection (1) by failing to surrender Fireworks upon request commits an offence.

5. SEVERABILITY

Any section, subsection, sentence, clause or phrase of this Bylaw which for any reason held to be invalid by the decision of any Court of competent jurisdiction, may be severed from the balance of this Bylaw without affecting the validity of the remaining portions of this Bylaw.

6. REPEAL

"Fireworks and Firecracker Regulation Bylaw, 1999", No. 2391", and amendments thereto, are hereby repealed.

Read a first time by the Municipal Council on the 04th day of September, 2007.

Read a second time by the Municipal Council on the 04th day of September, 2007.

Read a third time by the Municipal Council on the 04th day of September, 2007.

ADOPTED by the Municipal Council on the 17th day of September, 2007.

[Original Signed]

CHRIS CLEMENT
MAYOR

[Original Signed]

DONNA DUPAS
MUNICIPAL CLERK

SCHEDULE "A"**Fees and Cost Recovery****Permit Fees**

Fireworks Permit	4.1(b)(i)	\$100.00 per event
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Permit for:

- events sponsored by the Municipality		No fee
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- events held by not-for-profit community or rate payer associations incorporated under the Society Act of British Columbia and operating within the Municipality		No fee
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Cost Recovery

Site Re-inspection	4.1(b)(v)	\$100.00 per inspection
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Incident Cost Recovery	4.4	\$500.00 per hour of Incident For each unit of equipment (minimum of 3 hours payable)
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