

"FIREWORKS REGULATION BYLAW 2007 No. 7049"

Consolidated Version

2007-SEP-10
Includes Amendment 7049.01

CITY OF NANAIMO

BYLAW NO. 7049

A BYLAW TO REGULATE, PROHIBIT AND
IMPOSE REQUIREMENTS IN RELATION TO FIREWORKS

WHEREAS Section 8 of the *Community Charter* authorizes a council, by bylaw, to regulate, prohibit and impose requirements in relation to firecrackers, fireworks and explosives;

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. Title

This bylaw may be cited as the "FIREWORKS REGULATION BYLAW 2007 No. 7049"

2. Definitions

Schedule "A" contains definitions of terms used in this bylaw.

3. Interpretation

Unless otherwise defined in Schedule "A", all words and phrases in this bylaw shall be construed, as the context and circumstances may require, in accordance with the meaning assigned to them by the Fireworks Act, R.S.B.C. 1996, c.146 (the "Fireworks Act"), the British Columbia Building Code 2006, the Fire Services Act, R.S.B.C. 1996, c.144 (the "Fire Services Act"), the British Columbia Fire Code 2006, or any successor legislation.

4. Selling, Giving or Trading Fireworks

No person shall offer for sale, sell, give, or trade Fireworks within the boundaries of the City.

5. Possession of Fireworks

No person shall possess Fireworks within the boundaries of the City unless that person holds a valid Fireworks Permit issued under this bylaw.

6. Fire or Discharge of Fireworks

No person shall explode, light, activate, fire or discharge Fireworks within the boundaries of the City unless that person holds a valid Fireworks Permit issued under this bylaw.

7. Fireworks Permit

A person may apply to the Fire Chief for a Fireworks Permit to possess, explode, light, activate, fire, or discharge Fireworks.

8. Fireworks Permit Requirements

Every holder of a Fireworks Permit must:

- (a) possess, explode, light, activate, fire, or discharge only those Fireworks specified in the permit;
- (b) possess, explode, light, activate, fire, or discharge the Fireworks in accordance with the terms and conditions of the Fireworks Permit;
- (c) ensure that the Fireworks are possessed, exploded, lit, activated, fired, or discharged only by the holder of the Fireworks Permit or under the direct supervision of the holder of the Fireworks Permit; and
- (d) present the Fireworks Permit for inspection immediately upon demand by a Peace Officer.

9. Power to Grant Permits

The Fire Chief is authorized and empowered to grant a Fireworks Permit provided that the applicant satisfies the requirements in this bylaw.

10. Power to Suspend or Revoke Permits

The Fire Chief is authorized and empowered to suspend or revoke any Fireworks Permit in the following circumstances:

- (a) in the opinion of the Fire Chief, weather or other site conditions present an undue risk of an Incident; or
- (b) the Fire Chief determines or becomes aware that the holder of the Fireworks Permit has contravened, or has permitted or suffered the contravention of any provision of this bylaw.

11. Fee Established

Every applicant for a Fireworks Permit shall pay the Permit Fee prescribed in Schedule "B".

12. Site Inspection

Before issuing any Fireworks Permit a Fire Prevention Officer may, at the expense of the applicant, conduct one or more site inspections. The fee for such inspection or inspections is established in Schedule "B".

13. Time for Application

Every application for a Fireworks Permit shall be made to the Fire Chief at least 14 days before the date of the event, in the form prescribed by the Fire Chief.

14. Contents of Application

Every application for a Fireworks Permit shall include:

- (a) the deposit of security with the City in the form of a cash deposit, irrevocable letter of credit, or other form of security acceptable to the City, in the amount of \$1,000, to be used for the purposes of paying any costs and expenses incurred or suffered by the City, including but not limited to costs arising or resulting from damage to City property or enforcement costs, caused by or arising from the applicant's failure to comply with the requirements of this bylaw and all other applicable laws, provided that, any amount of security not required for the foregoing purposes shall be returned to the applicant one week after the Fireworks Permit event date;
- (b) payment of the applicable Permit Fee prescribed in Schedule "B", except that the Permit Fee may be discounted by the Fire Chief by ninety percent (90%) for any of the following:
 - (i) events sponsored by the City;
 - (ii) the Empire Days Society and the Nanaimo Bathtub Society held at the Nanaimo Harbour;
 - (iii) events held by not for profit community or rate payer associations incorporated under the Society Act of British Columbia and operating within the City;
- (c) proof of public liability insurance in the name of the applicant and the City, such insurance to be with one or more insurance companies registered to do business in the Province of British Columbia and in a form acceptable to the City, and the insurance shall provide coverage in an amount not less than two million dollars (\$2,000,000) per occurrence;
- (d) proof of a valid Fireworks Supervisor's Certificate;

- (e) a fire safety plan that includes:
 - (i) a site plan, drawn to scale with the direction of firing;
 - (ii) separation distances;
 - (iii) positions of ramps and mortars, if any;
 - (iv) description of any significant ground features, rights of way, buildings or structures, or overhead obstructions;
 - (v) parking areas or spectator viewing areas;
 - (vi) fallout zone;
 - (vii) a north arrow; and
 - (viii) traffic control plans and locations for emergency vehicles;
- (f) an event description that includes:
 - (i) a time schedule for the event;
 - (ii) attendance estimates;
 - (iii) a list of all Fireworks to be used;
 - (iv) firing procedures;
 - (v) emergency response procedures;
 - (vi) a list of crew members;
- (g) the name, address and telephone number of the applicant;
- (h) the name, address and telephone number of each wholesaler or retailer from whom the applicant will obtain the Fireworks; and
- (i) the name, address and telephone number of the owner of the property on which the Fireworks will be used, along with a written statement signed by the property owner indicating that the property owner has granted permission for the use of Fireworks on the property.

15. Indoor & Outdoor Movie/TB/Concerts Pyrotechnics

If, in the opinion of the Fire Chief, the use of Fireworks at an indoor or outdoor film or television shoot, concert or stage production, or any other event will require on-site fire protection, then the Fire Chief may require the site to be attended by such Fire Rescue Department equipment and personnel as the Fire Chief considers necessary or desirable for the protection of persons, property or safety generally, and the cost for the attendance of the Fire Rescue Department, equipment and personnel shall be paid to the City by the holder of the Fireworks Permit in accordance with the rates established in Schedule "B".

16. Offences and Penalties

Every person that contravenes or violates any provision of this bylaw or any term or condition of a Fireworks Permit, or who suffers or permits any act or thing to be done in contravention or in violation of any provision of this bylaw or any term or condition of a Fireworks Permit, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw or any term or condition of a Fireworks Permit, commits an offence and shall be liable, on summary conviction, to a fine of not more than \$10,000 or if an information is laid by means of a ticket, in accordance with the procedure set out in the *Offence Act*, to a minimum fine as stipulated in Schedule "B" of this bylaw. Where the offence is a continuing one, each day that the offence continues shall be a separate offence.

17. Any person who possesses Fireworks in violation of this bylaw shall immediately surrender the Fireworks to a Peace Officer and the Peace Officer may dispose of them without compensation.

18. Severability

If any section or subsection of this bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the bylaw without affecting the validity of the remainder of the bylaw.

19. Schedules

All Schedules attached to this bylaw form part of this bylaw.

20. "FIREWORKS REGULATION BYLAW 1994 NO. 4828", and all amendments thereto is hereby repealed in its entirety.

PASSED FIRST READING 2007-JUN-25.
PASSED SECOND READING 2007-JUN-25.
PASSED THIRD READING 2007-JUN-25.
ADOPTED 2007-JUL-09.

G. R. KORPAN
MAYOR

I. HOWAT
DIRECTOR,
LEGISLATIVE SERVICES

SCHEDULE 'A'

DEFINITIONS

"City"	means the City of Nanaimo.
"Fire Chief"	means the person appointed by Council as the Fire Chief, or his designate, or a Fire Prevention Officer.
"Fire Prevention Officer"	means a member of the Fire and Loss Prevention Division and authorized in writing by the Fire Chief to be a Local Assistant to the Fire Commissioner.
"Fire Rescue Department"	means the regularly constituted Fire Rescue Department of the City of Nanaimo.
"Fireworks"	means all of those fireworks classified as "Class 7" in the Explosives Regulation (Canada), C.R.C., c.599 (the "Explosives Regulation"), or its successor regulation, but 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, or highway flares or other small distress signals used exclusively for that purpose.
"Fireworks Permit"	means a permit to possess, explode, light, activate, fire and discharge Fireworks issued by the Fire Chief and includes the fire safety plan required in section 14(e) of this bylaw.
"Fireworks Supervisor's Certificate"	means either a Level 1 Supervisor or Level 2 Supervisor's Certificate issued by the Explosives Branch of Natural Resources Canada, but does not include an Apprentice Certificate.
"Incident"	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 Fire Rescue Department has responded or will respond.
"Owner"	shall have the meaning assigned to it under the Community Charter of British Columbia and includes the authorized agent of the Owner.
"Peace Officer"	means a person employed by the Fire Department of the City of Nanaimo, acting as a Local Assistant to the Fire Commissioner as defined under the <i>Fire Services Act</i> (RSBC 1996, c.144), or any person employed by the City of Nanaimo as a Bylaw Enforcement Officer, or any person carrying out the duties of a Municipal Police Officer for the City of Nanaimo.
"Permit Fee"	means the permit fee as set forth in Schedule "B".

Bylaw 7049 Consolidated

(Bylaw 7049.01)

SCHEDULE 'B'

FEE AND FINE SCHEDULE

<u>Description</u>	<u>Section #</u>	<u>Amount</u>
Fireworks permit	7	\$100.00 per event
Site inspection	12	\$100.00 per inspection
Selling fireworks	4	\$200.00
Possession without permit	5	\$200.00
Discharge fireworks without permit	6	\$200.00
Not in accordance with permit	8 (b)	\$100.00
Not supervised	8 (c)	\$100.00
Failure to present permit	8 (d)	\$100.00
Equipment	15	\$250.00 per hour for equipment, plus 10%
Personnel Attendance	15	\$65.00 per hour for each person, plus 10%