

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 3038

A bylaw to regulate Fireworks within the Township of Esquimalt.

THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1.0 CITATION

This Bylaw may be cited as “*FIREWORKS BYLAW, 2021, NO. 3038*”.

2.0 DEFINITIONS

“Fire Chief” means the person appointed from time to time by the Municipality as the Fire Chief of the Esquimalt Fire Department or their designate;

“Fireworks”

- a) means any Consumer or Display Fireworks, any firecracker, or any Special Effect Pyrotechnics;
- b) does not include sparklers, Christmas Crackers, caps for toy guns, model rocket engines or highway and marine flares or other small distress signals used exclusively for that purpose;

“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 Esquimalt Fire Department has responded;

“Municipality” means the Corporation of the Township of Esquimalt;

“Peace Officer” means the Fire Chief or any other person employed by the municipality as a Bylaw Enforcement Officer or any Municipal Police Officer or member of the Royal Canadian Mounted Police;

“Wholesaler” 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.

3.0 GENERAL REGULATIONS

3.1 Selling, Giving or Trading Fireworks

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

3.2 Possession of Fireworks

Except as authorized in section 4.0, a person must not possess Fireworks within the Municipality unless that person is a wholesaler.

3.3 Discharging of Fireworks

Except as authorized in section 4.0 a person must not fire or discharge Fireworks within the Municipality.

4.0 COMMUNITY EVENTS

A community group may apply to the Township of Esquimalt Council for a special community fireworks event which Council has determined to be for the benefit of the community at large, and where:

- (1) In the assessment of Council, the fireworks event would create minimal nuisance or hazards to person or property;
- (2) For an event that is to occur on property not owned by the applicant, the applicant will provide a written agreement with the property owner;
- (3) The Township will be named as an insured party to the satisfaction of the Township's Risk Manager;
- (4) The community group will contract with a certified Fireworks company with the appropriate Fireworks Supervisor Certification for the class of Firework being discharged;
- (5) Provide a safety plan for the event; and
- (6) Meet any other conditions that Council has placed upon the community event.

5.0 FEES AND PENALTIES

5.1 Incident Cost Recovery

A person that causes an incident attributable to the person's use of Fireworks including but not limited to, the person's failure to comply with this bylaw, in addition to any other penalty imposed by the 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. All fees will be based off the British Columbia Office of the Fire Commissioner current rates. All fees will be charged from the start of the call until the last responding apparatus return from the incident to regular service.

5.2 Offence and Penalties

- (1) Every person who contravenes any provision of this Bylaw commits an offence which is punishable in accordance with the *Community Charter*.

- (2) Every person who is guilty of an offence under this Bylaw is liable to a fine of not more than \$10,000.
- (3) A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- (4) This Bylaw may be enforced by the issuing of a ticket for contravention in accordance with the Ticket Information Utilization Bylaw, 2005, No. 2619 or the Bylaw Notice Enforcement Bylaw, 2014, No. 2839, as may be amended or replaced from time to time.
- (5) Without limiting and in addition to Section 6.1, 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 possession to a Peace officer who shall be authorized to receive and hold all Fireworks in the interest of public safety and as evidence of the commission of an offence. A person that contravenes this subsection by failing to surrender Fireworks upon request commits an offence.
- (6) Fireworks surrendered pursuant to this Bylaw may be disposed of by the Municipality without compensation.

6.0 SEVERABILITY

Any section, subsection, sentence, clause or phrase of this Bylaw which for any reason is 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.

7.0 REPEAL

"FIREWORKS BYLAW, 2007, NO. 2663" and amendments thereto, are hereby repealed.

READ a first time by the Municipal Council on the 27th day of September, 2021.

READ a second time by the Municipal Council on the 27th day of September, 2021.

READ a third time by the Municipal Council on the 27th day of September, 2021.

ADOPTED by the Municipal Council this day of , 2021.

BARBARA DESJARDINS
MAYOR

DEBRA HOPKINS
CORPORATE OFFICER