

CITY OF PORT ALBERNI

BYLAW NO. 4819

FIREWORKS BYLAW

A BYLAW TO REGULATE THE SALE AND POSSESSION OF FIREWORKS AND LIMIT THE DISCHARGE OF FIREWORKS

WHEREAS the Council may, by bylaw, establish and impose regulations regarding the possession and discharge of fireworks.

NOW THEREFORE the Council for the City of Port Alberni in open meeting assembled enacts as follows:

1. TITLE

This bylaw may be cited as "Fireworks Regulation Bylaw, 2013, No. 4819".

2. DEFINITIONS

In this Bylaw, unless the context requires otherwise:

"Act" means the *Explosive Act, Revised Statutes of Canada, 1985, Chapter E-17* and its affiliated Regulations as amended or replaced from time to time.

"Consumer Fireworks" means an outdoor, low hazard, recreational firework classified by the Explosives Regulations as Class 7.2.1/F.1, and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, roman candles and volcanoes but does not include Christmas crackers, sparklers and caps for toy guns.

"Discharge" means to fire, ignite, explode or set off or cause to be fired, ignited, exploded or set off and the words "discharged" and "discharging" have a similar meaning.

"Display Fireworks" means an outdoor, high hazard, recreational firework classified by the Explosives Regulations as Class 7.2.2/F.2, and includes rockets, serpents, shells, bombshells, tourbillons, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, set pieces and pigeons but does not include firecrackers;

"Explosives Regulatory Division" means the Explosive Regulatory Division of the Explosives Branch of the Minerals and Metals Sector of Natural Resources Canada

"Explosives Regulations" regulations made by the Governor in Council for carrying the purposes or provisions of the Explosives Act of Canada into effect, as of the date of adoption of this Bylaw;

"Fire Chief" means a person appointed by the Council to be in charge of the Fire Department or authorized subordinates;

“Firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion classified by the Explosives Regulations as Class 7.2.5/F.3 and includes those devices commonly known as Chinese firecrackers;

“Fire Safety Plan” means a plan dealing with the procedures for a permit holder to follow to protect public safety and property when discharging fireworks, which meets the requirements specified by the Fire Chief;

“Fireworks” means consumer fireworks, display fireworks, and pyrotechnic special effects fireworks;

“Fireworks Event” means the observance of a special event or festival where a permit has been issued to allow the discharge of display fireworks or pyrotechnic special effects fireworks;

“Fireworks Event Permit” means a current and valid permit issued under this Bylaw specifying and authorizing a person to discharge display fireworks or pyrotechnic special effect fireworks;

“Fireworks Supervisor” means a person who is an approved purchaser of display fireworks and who is qualified under the *Act* to supervise the discharge of display fireworks;

“Insurance Requirements” means the liability insurance requirements set out in Schedule “E” to this Bylaw;

“Municipality” means the City of Port Alberni;

“Peace Officer” means a person employed by the Fire Department of the City of Port Alberni, acting as a Local Assistant to the Fire Commissioner as defined under the *Fire Services Act* (RSBC, 1996, Chapter 144 or any person employed by the municipality as a Bylaw Enforcement Officer or any member of the Royal Canadian Mounted Police;

“Permit” means a current and valid permit in the form attached as Schedule “A” to this Bylaw specifying and authorizing a person to discharge consumer fireworks or display fireworks;

“Prohibited Firework” includes but is not limited to after-market modified fireworks, cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down torpedoes and crackling balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers and other trick devices or practical jokes as included on the most recent list of prohibited fireworks as published from time to time under the *Act*;

“Pyrotechnician” means a person who is certified under the *Act* as a Theatrical User, an Assistant, a Pyrotechnician or a Special Effects Pyrotechnician and is qualified to purchase and supervise the display of pyrotechnic special effect fireworks under the *Act*;

“Pyrotechnic Special Effects Firework” means a high hazard firework classified by the Explosives Regulations as Class 7.2.5/F.3, and that is used to produce a special pyrotechnic effect for indoor or outdoor performances and includes black powder bombs, bullet effect, flash powder, air bursts, smoke compositions, gerbs, lances and wheels;

“Pyrotechnic Special Effects Fireworks Event” means an event or production, generally for the entertainment industry, where a pyrotechnics permit has been issued to allow the discharge of pyrotechnics special effects fireworks;

“Sell” includes offer for sale, cause or permit to be sold, trade, or to otherwise dispose of; and to possess for the purpose of sale; and the words “selling” and “sold” have a similar meaning; and

3. PROHIBITIONS:

1. No person may sell fireworks.
2. No person may buy, sell, hold, possess, store, discharge, or otherwise use any prohibited fireworks.
3. No person may buy, sell, hold, possess, store, discharge, or otherwise use firecrackers.
4. No person may hold, possess, store, discharge or otherwise use consumer fireworks at anytime.
5. No person under the age of eighteen (18) years may hold, possess, store, discharge, or otherwise use any fireworks.
6. No person being the parent or guardian of any person under the age of eighteen (18) years shall allow that person to hold, possess, store, discharge, or otherwise use any fireworks.
7. No person may hold, possess, store, discharge, or otherwise use any fireworks in a manner that increases the risk of physical injury to any person or damage to any public or private property.
8. No person may hold, possess, store, discharge, or otherwise use display fireworks without a fireworks event permit.
9. No display fireworks permit holder may hold, possess, store, discharge, or otherwise use display fireworks in contravention of a fireworks event permit.
10. No person may hold, possess, store, discharge, or otherwise use pyrotechnic special effects fireworks.

4. FIREWORKS EVENT PERMITS:

1. Any person before discharging fireworks must apply for and receive a fireworks event permit.

2. Every application for a fireworks event permit must be submitted to the municipality at least 30 days prior to the date upon which the fireworks event is to occur.
3. Every application for a permit under this bylaw, shall be made by the person setting off the fireworks, shall be in writing and be in general accordance with Schedule "A" attached to this bylaw.
4. Every applicant for a fireworks event permit shall hold a current and valid Fireworks Supervisor and/or Pyrotechnics Certification card as issued by Natural Resources Canada.
5. The applicant shall, without limiting its obligations or liabilities under the Fireworks Event permit, purchase and maintain at its own expense and cost, the insurance policy listed in Schedule "E" attached to this bylaw. The insurance policy shall be maintained continuously from the date of commencement of the Fireworks Event Permit until the date of the expiry of the Fireworks Event Permit or such further period as may be specified in Schedule "E".
6. An applicant shall submit a written agreement from the owner of the property on which the Fireworks Event is to take place and a written agreement from any Sponsoring Organization of the Fireworks Event, in general accordance with Scheduled "C" and "D", attached to this bylaw. In the case of Fireworks Events that are to take place on City owned property, permission from the City is required.
7. Every Fireworks Event Permit issued under this section shall be in general accordance with the form in Schedule "A" attached to this bylaw and shall be issued by the Fire Chief. Prior to the issuance of the Fireworks Event Permit, the applicant shall provide evidence, satisfactory to the City, of the insurance required under subsection 6 of this section.
8. Fireworks Events shall end prior to 11:00 p.m. and may not start prior to 8:00 a.m. on any day and shall be started and completed within the time period specified on the Fireworks Event Permit, except as authorized by the Fire Chief.
9. Fireworks Events may be inspected by the Port Alberni Fire Department to ensure all safety aspects have been adhered to as set out in the Act and in general accordance with Schedule "A" attached to this bylaw.
10. The Fire Chief may revoke a Fireworks Events Permit issued under this bylaw at any time.
11. A Fireworks Events permit issued under this bylaw is not transferable.
12. All fireworks and all debris from the Fireworks Event shall be removed and safely disposed of by the Permit holder as soon as practical after the Fireworks Event is completed and on or before the expiry of the permit.

5. ENFORCEMENT

1. Peace Officers are designated to enforce this bylaw by means of the issuance of a ticket.
2. No person shall obstruct a Peace Officer or any other designated person engaged in the administration or enforcement of this bylaw.
3. Every person who contravenes a provision of this Bylaw commits an offence and each day that the violation is caused or allowed to continue constitutes a separate offence.
4. Any person guilty of an infraction of this bylaw is liable on summary conviction, to a fine of not less than \$100.00 and not more than \$10,000.00 or imprisonment not exceeding the maximum allowed by the Offence Act.
5. Every person who possesses or discharges fireworks contrary to the provisions of this bylaw commits an offence and shall when directed to do so, surrender all fireworks in their immediate possession to a Peace Officer who shall be authorized to search and seize and hold all such firecrackers or fireworks in the interest of public safety and as evidence of the commission of the offence.
6. Fireworks seized under this bylaw may be disposed of without compensation.

6. EXEMPTION:

This bylaw does not prohibit or regulate the use of torpedoes, flares, fuzzes or similar pyrotechnic devices by motorists, boat operators, railroads, police or other agencies for signalling purposes or illumination.

7. VALIDITY OF BYLAW:

If any section, subsection, sentence, clause or phrase of this bylaw is for any reason found invalid by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.

8. SCHEDULES

The schedules attached to this bylaw form part of this bylaw.

9. REPEAL

Fireworks Regulation Bylaw, 2002, Bylaw No. 4511, is hereby repealed.

READ A FIRST TIME THIS 9TH DAY OF SEPTEMBER, 2013.

READ A SECOND TIME THIS 9TH DAY OF SEPTEMBER, 2013.

READ A THIRD TIME THIS 9TH DAY OF SEPTEMBER, 2013.

ADOPTED THIS 23RD DAY OF SEPTEMBER, 2013.

Mayor

Clerk

SCHEDULE "A"
FIREWORKS BYLAW
CITY OF PORT ALBERNI
DISPLAY FIREWORKS EVENT PERMIT APPLICATION

Part 1 – Application

A. Fireworks Supervisor:

Name: _____

Fireworks Supervisor Operator certificate #: _____ Expiry Date: _____

Company Name: _____

Address: _____ City: _____

Postal Code: _____ Telephone: _____ Email: _____

B. Sponsoring Organization:

Name: _____

Address: _____ City: _____

Postal Code: _____ Telephone: _____ Fax: _____

Email: _____

Contact Person: _____ Contact Telephone: _____

Location of Display: _____

Date of Display: _____ Hours of Display: _____

Rain Date (if applicable): _____

Signature: _____ Date: _____

Fireworks Supervisor in Charge of Event

Part 2 – Required Information

Please include the following:

1. Written permission from the Owner of the venue where the Fireworks Event is to be held.
2. Site plan, drawn to scale, with the direction of firing, separation distances, position of ramps and mortars, any significant ground features, rights of way, buildings or structures, overhead obstructions, parking areas or spectator viewing areas, fallout zone, north arrow, traffic control plans and location of emergency vehicles indicated.
3. A complete list and description of all products to be used including charge size, effects and manufacturer's name.
4. A description of the firing system to be used.
5. A written copy of the Fire Safety Plan.
6. Where, and in what fashion, will the fireworks be stored within City limits

Note: *Upon request by the Port Alberni Fire Department, a demonstration of the product(s) to be used may be required.*

Note: *Upon request by the Port Alberni Fire Department, references from previous Fireworks Events may be required.*

Note: *Schedules "B", "C", and "D" must be completed and attached to this application. Applicant will be required to provide proof of insurance in accordance with Schedule "E" and will be required to provide evidence of such insurance to the satisfaction of the City, prior to receiving the permit under this bylaw.*

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of the Fireworks Regulation Bylaw No. 4819. The information is collected under the authority of Freedom of Information Bylaw No. and the <i>Community Charter</i> . If you have any questions about this collection, please contact the City Clerk, City of Port Alberni, (250) 720-2810.
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Part 3 – Approval by Authority Having Jurisdiction

Pursuant to Fireworks Regulation Bylaw, 2013, No. 4819

The applicant has complied with local requirements and is permitted to display fireworks at the location, date and time noted above as per the site plan and written event description submitted with this application.

Expiration Date of Permit: _____ Expiration Time of Permit: _____

Signature: _____ Date: _____

Name of Approving Officer: _____ Rank: _____

SCHEDULE "B"

FIREWORKS BYLAW

CITY OF PORT ALBERNI

APPLICANT SAVE HARMLESS AGREEMENT

I, _____ being the Applicant for the Fireworks Event Permit, agree to the following:

The Applicant shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City of Port Alberni, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Event Permit, excepting only where such loss, costs, damages, and expenses are as a result of the sole negligence of the Indemnities.

The Applicant shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Events Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

Signature of Fireworks Applicant _____ **Date** _____

Company name _____

SCHEDULE "C"

FIREWORKS BYLAW

CITY OF PORT ALBERNI

PROPERTY OWNER/OWNERS SAVE HARMLESS AGREEMENT

I/WE, _____ being the Owner/Owners of _____, consent to the holding of a Fireworks Event on the described property and to be held at, in, or near the above described property in conjunction with:

_____ on _____
Name of Special Event or Festival Date

The Owner/Owners shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City of Port Alberni, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Event Permit, excepting only where such loss, costs, damages, and expenses are as a result of the sole negligence of the Indemnities.

The Owner/Owners shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Events Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

Signature of Owners _____ **Date** _____

Signature of Owners _____ **Date** _____

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of the Fireworks Regulation Bylaw No. 4819. The information is collected under the authority of Freedom of Information Bylaw No. and the *Community Charter*. If you have any questions about this collection, please contact the City Clerk, City of Port Alberni (250) 720-2810.

SCHEDULE "D"

FIREWORKS BYLAW

CITY OF PORT ALBERNI

SPONSORING ORGANIZATION SAVE HARMLESS AGREEMENT

(To be signed by the Sponsoring Organization of the Fireworks Event Permit)

_____ hereby agrees that:

- a) It is the Sponsoring Organization of the Fireworks Event Permit, and
- b) The Sponsoring Organization shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City of Port Alberni, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Event Permit, excepting only where such loss, costs, damages, and expenses are as a result of the sole negligence of the Indemnities; and
- c) The Sponsoring Organization shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Events Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

IN CONNECTION WITH _____
Name of Special Event or Festival

HELD AT OR NEAR _____, Port Alberni, BC

ON _____, 20 ____ pursuant to the City of Port Alberni Fireworks Regulation
Bylaw, 2013, No. 4819

_____ Date _____
AUTHORIZED SIGNATURE OF SPONSORING ORGANIZATION

Print name

SCHEDULE "E" – INSURANCE REQUIREMENTS

1. **Applicant to Provide**

The applicant shall procure and maintain, at its own expense and cost, the insurance policies listed in Section 2 of this schedule, with limits no less than those shown in the respective items, unless in connection with the performance of some particular part of the Fireworks Event Permit, the City advises, in writing, that it has determined that the exposure to liability justifies lower limits. The insurance policy or policies shall be maintained continuously from the commencement date of the Fireworks Event Permit until the expiry of the Fireworks Event Permit or such longer period as may be specified by the City.

2. **Insurance**

As a minimum, the Applicant shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

Workers Compensation Insurance covering all employees of the Applicant engaged in the works and services related to the Fireworks Event, in accordance with the statutory requirement of the Province or Territory having jurisdiction over such employees.

Comprehensive General Liability Insurance:

- (i) Providing for an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) for each occurrence or accident.
- (ii) Providing for all sums which the Applicant shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out or related to the Fireworks Event Permit or any operations carried on in connection with the Fireworks Event Permit.
- (iii) Including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgement made against any other Insured.

3. **The City Named as Additional Insured**

The policy required by section 2.2 of this schedule shall provide that the City is named as an Additional Insured thereunder and that said policy is primary without any right of contribution from any insurance otherwise maintained by the City.

4. **Certificates of insurance**

The Applicant agrees to submit a Certificate of Insurance, in a form satisfactory to the City, to the Administration Department, prior to the commencement date of the Permit. The Certificate shall provide that 30 days written notice shall be given to the Administration Department of the City prior to any material changes or cancellation of such policy or policies.

5. **Additional Insurance**

The Applicant may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

6. **Insurance Companies**

All insurance, which the Applicant is required to obtain with respect to the Fireworks event Permit, shall be with Insurance Companies registered in and licensed to underwrite such insurance in the Province of British Columbia.

7. **Failure to Provide**

If the Applicant fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Applicant. The Applicant expressly authorizes the City to deduct from any monies owing the Applicant, any monies owing by the Applicant to the City.

8. **Non-payment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Applicant shall not be held to waive or release the Applicant from any of the provisions of the Insurance Requirements of the Fireworks Event Permit, with respect to the liability of the Applicant otherwise. Any insurance deductible maintained by the Applicant under any of the insurance policies is solely for its account and any such amount incurred by the City will be recovered from the Applicant as stated in section 7 of this schedule.