



BYLAW NO. 1609

FIREWORKS

A Bylaw to regulate the use and sale of firecrackers and fireworks.

WHEREAS pursuant to provisions contained in Section 8 of the Community Charter, Council may, by bylaw, regulate, prohibit and impose requirements in relation to firecrackers, fireworks and explosives;

AND WHEREAS, pursuant to the provisions contained in Section 8 of the Community Charter, Council may, by bylaw, regulate, prohibit and impose requirements in relation to the protection and enhancement of the well-being of its community in relation to noise, vibration, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public

AND WHEREAS, Council deems it expedient and desirable to provide such regulations.

NOW THEREFORE, the Council of the Town Of Smithers, in open meeting assembled, enacts as follows:

1. CITATION:

This Bylaw may be cited for all purposes as "Bylaw No. 1609 - Fireworks", and comes into effect on the date of adoption.

2. REPEALS:

- a) This Bylaw repeals "Bylaw No. 163 – Prevention of Sale of Fireworks Bylaw", and any amendments thereto.

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3. SECTION I – DEFINITIONS:

In this Bylaw, unless the context otherwise requires:

"COUNCIL", means the Municipal Council of the Town of Smithers.

"EXPLOSIVE", means gunpowder, nitro glycerin, gun cotton, dynamite, blasting gelatin, gelignite, fulminate or mercury, or other metals, coloured fire and every other substance used or manufactured to produce a violent effect by explosion, or a pyrotechnic effect, and shall include fireworks, fuses, rockets, percussion caps, detonators, cartridges, and ammunition.

"FIRE CHIEF", means the person who is appointed to be head of the Smithers Fire Department and every person designated by Council under the Community Charter by name of office or otherwise to act in the place of the Fire Chief;

"FIRE DEPARTMENT", means the organization known as the Smithers Volunteer Fire Department.

"FIRE CRACKER", means a small fireworks with entwined fuses used solely as noise makers, not for pyrotechnic effects or have little or no pyrotechnic effect and without limitation includes bottle rockets, screechers, screecharoos, humaroos, supersonic bang, butterfly thunder and air bombs and items similarly named or are in the same noise producing category.

"FIREWORKS", means manufactured goods intended to be used for pyrotechnic effect that are classified by the Canada Explosives Regulations as low hazard fireworks for recreation (Class 7.2.1) such as fireworks showers, fountains, golden rain, lawn lights, pinwheels, Roman candles, volcanoes and sparklers.

"MINOR", means a person under the age of majority.

"OCCUPANT", means an owner, tenant, lessee, agent, licensee and any other person who has the right of access to, and control of any land, building or premises to which this Bylaw applies.

"OFFICER", means any person appointed by the Fire Chief to exercise the powers vested under this Bylaw or the Fire Services Act. An Officer includes members of the Fire Department appointed from time to time to the positions of Deputy Chief, Assistant Chief, Captain or Acting Captain.

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"PEACE OFFICER", means a person employed by the Fire Department of the Town of Smithers, 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 Town of Smithers as a Bylaw Enforcement Officer, or any person carrying out the duties of a R.C.M.P. Officer for the Corporation of the Town of Smithers.

"PERSON", includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to this Bylaw.

4. SECTION II: GENERAL

1. No person may offer for sale, sell, give or trade firecrackers or other fireworks of any nature or kind in the Town of Smithers.
2. No person may throw, propel, eject, light, fire, explode, set off, discharge or possess firecrackers or other fireworks of every nature or kind in the Town of Smithers, except for a person first having obtained a permit from the Fire Chief.
3. 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. Fireworks seized under this bylaw may be disposed of without compensation.
4. A person, defined as a Peace Officer pursuant to this Bylaw, is empowered to exercise the powers conferred by this Bylaw, and further, the Fire Chief and appointed Officers of the Fire Department are empowered to exercise the powers conferred by this Bylaw and the powers conferred by the Fire Services Act.
5. The authority to set additional terms and conditions under this section is hereby delegated to an Officer.
6. Any and all costs that are incurred while mitigating fires resulting from the misuse of fireworks will be charged to the person or persons responsible for discharging the fireworks or firecrackers.

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8. The cost of mitigating fires resulting from misuse of fireworks will be assessed at the rate of \$450.00 per hour for every fire truck and \$30.00 per hour for every fire fighter.
9. No person shall sell, give or furnish fireworks to a minor.
10. No minor shall be in possession, ignite or explode fireworks

5. SECTION III – PENALTIES:

1. Every person who violates any of the provisions of this Bylaw or who permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects to do or refrain from doing anything required to be done by any of the provisions of this Bylaw, shall be guilty of an offence punishable on summary conviction and shall be liable of a fine of \$2,500.00 or to imprisonment for not more than six (6) months, or to both, the penalties being enforced and the fines and costs being recoverable upon summary conviction in the manner provided by the Offence Act [RSBC 1996] CHAPTER 338 as amended.

6. SECTION IV – SEVERABILITY:

1. If any section, subsection or clause of the Bylaw is declared or held to be invalid by a court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been enacted and adopted without the invalid and severed section, subsection or clause.

READ A FIRST TIME THIS 22ND DAY OF SEPTEMBER, 2009.

READ A SECOND TIME THIS 22ND DAY OF SEPTEMBER, 2009.

READ A THIRD TIME THIS 22ND DAY OF SEPTEMBER, 2009.

RESCINDED THIRD READING THIS 27TH DAY OF OCTOBER, 2009.

AMENDED THE BYLAW AT SECOND READING THIS 27TH DAY OF OCTOBER, 2009.

ADOPTED THE AMENDMENT THIS 27TH DAY OF OCTOBER, 2009.

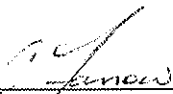
ADOPTED THIRD READING, AS AMENDED, THIS 27TH DAY OF OCTOBER, 2009.

ADOPTED THIS 10TH DAY OF NOVEMBER, 2009.

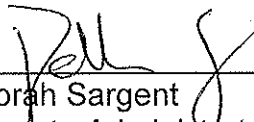
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The Corporate Seal of the Town of
Smithers was hereto affixed in the
presence of




Cress Farrow
Mayor



Deborah Sargent
Corporate Administrator (CAO)

CERTIFIED A TRUE AND CORRECT
COPY of Bylaw No. 1609 cited as "Bylaw
No. 1609 - Fireworks"



Deborah Sargent
Corporate Administrator (CAO)

KS/SB/plg