

TOWN OF LADYSMITH

BYLAW NO. 2115

A bylaw to regulate, prohibit and impose requirements on the sale, possession and discharge of fireworks

The Council of the Town of Ladysmith in open meeting assembled enacts as follows:

1.0 Definitions

In this Bylaw:

"Corporate Officer" means the municipal officer appointed under section 148 of the *Community Charter*;

"Display Fireworks" means outdoor high hazard fireworks defined in Class 7, Division 2, Subdivision 2 of the Federal Regulations (generally described as large fireworks used for public fireworks displays) but excluding Firecrackers and Entertainment Industry Pyrotechnics;

"Enforcement Officer" means: (a) a member of Ladysmith Fire/Rescue holding the rank of Fire Chief or Assistant Fire Chief; (b) a Bylaw Compliance Officer; or (c) a member of the Royal Canadian Mounted Police;

"Entertainment Industry Pyrotechnics" means explosive articles and explosive substances used in the performing arts to create pyrotechnic special effects;

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

"Family Fireworks" means low hazard fireworks generally used for recreation but excluding Christmas crackers, sparklers and caps for toy guns;

"Federal Regulations" means the Explosives Regulations enacted under the *Explosives Act* [RSC, 1985, c. E-17];

"Fire Chief" means the person appointed under the Fire Department Bylaw;

"Fire Safety Plan" means a plan dealing with the procedures to follow to protect public safety when firing, setting off or exploding Entertainment Industry Pyrotechnics, approved by the Fire Chief;

"Firecracker" means a small pyrotechnic device, used primarily as a noisemaker, that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers;

"Fireworks" means Display Fireworks and Family Fireworks;

"Fireworks Event" means the observance or celebration of a special event or festival where Fireworks are desired to be fired, set off or exploded;

"Fireworks Permit" means a current and valid permit issued in the form attached as Schedule "A" and forming part of this Bylaw, authorizing a person to hold, possess, store, fire, discharge, set off, explode, or otherwise use Family Fireworks or Display Fireworks;

"Livestock" has the same meaning as prescribed under the *Livestock Act* [RSBC 1996] Chapter 270, as revised or replaced from time to time;

"Livestock Property" means land where Livestock is raised, reared or grazes;

"Low Hazard Fireworks" has the same meaning as prescribed under Class 7 – Firework Class, Subdivision 1 of Division 2 of the Federal Regulations;

"Pyrotechnic Event" means the observance or performance of a production where Entertainment Industry Pyrotechnics are desired to be fired, set off or exploded;

"Pyrotechnic Permit" means a current and valid permit issued in the form attached as Schedule "B" and forming part of this Bylaw authorizing a person to fire, set off or explode Entertainment Industry Pyrotechnics;

"Town" means the Town of Ladysmith.

2.0 Prohibitions

- 2.1 No person shall sell, offer to sell, give away, trade, or otherwise dispose of Fireworks, Entertainment Industry Pyrotechnics or Firecrackers to any other person.
- 2.2 No person shall buy, hold, possess, store, fire, discharge, set off, explode, or otherwise use Fireworks without a valid Fireworks Permit.
- 2.3 No person who holds a valid Fireworks Permit shall store, hold, possess, fire, set off, explode or otherwise use Fireworks in contravention of the Fireworks Permit.
- 2.4 No person shall store, hold, possess, fire, set off or explode Entertainment Industry Pyrotechnics without a valid Pyrotechnics Permit.
- 2.5 No person who holds a valid Entertainment Industry Pyrotechnics Permit shall store, hold, possess, fire, set off, explode or otherwise use Entertainment Industry Pyrotechnics in contravention of the Pyrotechnics Permit.
- 2.6 No person shall hold, possess, store, fire, discharge, set off, explode, or otherwise use Fireworks or Entertainment Industry Pyrotechnics in a manner that increases the risk of physical injury to any person or damage to any public or private property.
- 2.7 No person shall hold, possess, store, fire, discharge, set off or explode Firecrackers.

2.8 No person shall hold, possess, store, fire, discharge, set off, explode, or otherwise use Fireworks within 500 metres from a Livestock Property.

3.0 Exemptions

3.1 This Bylaw does not prohibit or regulate the use of torpedoes, flares, fuzzes, or similar pyrotechnic devices by motorists, mariners, police or other agencies for signaling purposes or illumination.

4.0 Permits

4.1 *Family or Display Fireworks Permits*

Any person eighteen (18) years of age or older shall apply for a Fireworks Permit to fire, discharge, set off or explode Family Fireworks or Display Fireworks by submitting to the Fire Chief, at least three (3) business days prior to the date upon which the Fireworks Event is to occur:

- a) A completed application in the form as prescribed in Schedule "A" of this bylaw;
- b) The applicable Fireworks Permit application fee as prescribed in Schedule "D" of this bylaw;
- c) Written authorization from the property owner if the Fireworks Event is to occur on property that is not owned by the applicant, including land that is owned or controlled by the Town;
- d) Written authorization from the person organizing or sponsoring the Fireworks Event if the Fireworks Event is being organized or sponsored by any person other than the applicant; and
- e) In the case of Display Fireworks, proof acceptable to the Fire Chief that the applicant is a Certification Card holder.

4.2 The Fire Chief shall consider each application and issue a Fireworks Permit to the applicant if:

- a) The property upon which the Fireworks Event is to occur is available for such use on the date and time set out in the application;
- b) The environmental or weather conditions are such that the use of Fireworks would not endanger or pose a risk to property or the safety of the public;
- c) The Fire Chief considers the Fireworks Event will not create a public safety risk or risk to the public or private property;
- d) The property upon which the Fireworks Event is to occur is at a distance of not less than 500 metres from a Livestock Property; and

- e) The applicant meets all the requirements of this Bylaw and all other applicable Bylaws of the Town.

4.3 *Entertainment Industry Pyrotechnics Permits*

Any person eighteen (18) years of age or older may apply for a Pyrotechnics Permit to fire, discharge, set off or explode Entertainment Industry Pyrotechnics by submitting to the Fire Chief, at least thirty (30) days prior to the date upon which the Pyrotechnics Event is to occur:

- a) A completed application in the form as prescribed in Schedule "B" of this bylaw;
- b) A written agreement from the property owner in the form as prescribed by the Corporate Officer, if the Pyrotechnics Event is to occur on property that is not owned by the applicant, including land that is owned or controlled by the Town;
- c) A written agreement from the person organizing or sponsoring the Pyrotechnics Event in the form as prescribed by the Corporate Officer, if the Pyrotechnics Event is being organized or sponsored by any person other than the applicant;
- d) A copy of the Explosives Regulatory Division's approval of the Pyrotechnic Event;
- e) A Fire Safety Plan approved by the Fire Chief after the Fire Chief has visited the location for the Pyrotechnics Event and determined the amount of fire protection required;
- f) A site plan drawn to scale with the direction of firing, separation distances, position of ramps and mortars, any significant ground features, right-of-ways, buildings or structures, overhead obstructions, parking areas or spectator viewing areas, fallout zone, north arrow, traffic control plans, and location of emergency vehicles;
- g) An event description which should include a time schedule of the event, attendance estimates, lists of fireworks or explosives or flammable and/or combustible products to be used, firing procedures, emergency response procedures, and a list of crew members, including contact information;
- h) A Fireworks Permit if Family Fireworks or Display Fireworks are used in the Pyrotechnic Event;
- i) Proof acceptable to the Fire Chief that the applicant holds either a valid Level 1 Certification Card or, for unconventional sites as defined by the Explosives Regulatory Division under the Federal Regulation, and a valid Level 2 Certification Card;

- j) Paid the Pyrotechnic Permit application fee as prescribed in Schedule "D" of this bylaw; and,
- k) Paid the Fire Safety Plan review fee as prescribed in Schedule "D" of this bylaw.

4.4 The Fire Chief shall consider each application and issue a Pyrotechnics Permit to the applicant if:

- a) The property upon which the Pyrotechnics Event is to occur is available for such use on the date and time set out in the application;
- b) The environmental or weather conditions are such that the use of Fireworks would not endanger or pose a risk to property or the safety of the public;
- c) The Fire Chief considers the Pyrotechnics Event will not create a public safety risk or risk to the public or private property;
- d) The property upon which the Fireworks Event is to occur is at a distance of not less than 500 metres from a Livestock Property; and,
- e) The applicant meets all the requirements of this Bylaw and all other applicable Bylaws of the Town.

4.5 *Fireworks Permit and Pyrotechnics Permit Conditions*

The Fire Chief in issuing a Fireworks Permit or Pyrotechnic Permit may impose one or more of the following terms and conditions that the Fire Chief considers reasonable:

- a) The days and the hours during which Fireworks or Entertainment Industry Pyrotechnics may be fired, discharged, set-off, exploded or otherwise used;
- b) The location to which Fireworks or Entertainment Industry Pyrotechnics may be fired, discharged, set off, exploded or otherwise used, including the minimum distance from the nearest building, public street or highway, utility, tree or overhead obstruction;
- c) The type of Fireworks or Entertainment Industry Pyrotechnics that may be fired, discharged, set off, exploded or otherwise used;
- d) Require the applicant to complete a fireworks safety and legal awareness course offered by the Explosives Regulatory Division, Natural Resources Canada;
- e) Special requirements to promote public safety, including the number of fire extinguishers that must be available on site during the Fireworks Event; and

- f) Proof that the Fireworks Permit and/or Pyrotechnics Permit holder has notified the adjacent properties.

At the time of issuance of the Display Fireworks Permit or the Pyrotechnics Permit, the Display Fireworks Permit or Pyrotechnics Permit Holder shall provide to the Fire Chief a certificate of insurance that meets the Insurance Requirements as set out in Schedule "C" of this bylaw.

4.6 *Permit Holder Requirements*

Every Fireworks Permit or Pyrotechnics Permit Holder shall:

- a) Fire, discharge, set off, explode or use only those Fireworks or Entertainment Industry Pyrotechnics specified in the Fireworks Permit or Pyrotechnics Permit;
- b) Fire, discharge, set off, explode or use Fireworks or Entertainment Industry Pyrotechnics only in accordance with the terms and conditions of the Fireworks Permit or Pyrotechnics Permit;
- c) Fire, discharge, set off, explode or use Entertainment Industry Pyrotechnics only in accordance with the Fire Safety Plan;
- d) Ensure that the Fireworks or Entertainment Industry Pyrotechnics are only fired, discharged, set off, exploded or used under the Fireworks Permit or Pyrotechnics Permit Holder's direct supervision and responsibility; and
- e) Ensure that the use, handling, discharge, possession, and storage of the Fireworks or Entertainment Industry Pyrotechnics conforms in every respect to the *Explosives Act* and regulations, the Display Fireworks manual as published by the Explosives Regulatory Division, and this Bylaw.

4.7 *Revocation of Permit*

- a) The Fire Chief may revoke a Fireworks Permit or Pyrotechnics Permit at any time if the Fireworks Permit or Pyrotechnics Permit Holder:
 - i. Fails to comply with any term or condition of the Fireworks Permit or Pyrotechnics Permit; or
 - ii. Violates or breaches any of the provisions of this Bylaw.
- b) The Fire Chief may revoke a Fireworks Permit or Pyrotechnics Permit at any time if:
 - i. The Provincial fire danger rating is high or extreme; or
 - ii. The weather conditions such as rain, fog or wind, make it impractical and/or unsafe to set off Fireworks, the Fire Chief may designate an alternate day and time.

5.0 Enforcement

- 5.1 No person shall obstruct an Enforcement Officer engaged in the administration or enforcement of the Bylaw.
- 5.2 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.

6.0 Cost Recovery Fees

- 6.1 Every Pyrotechnics Permit Holder shall pay for any fire protection services provided by the Town for the Pyrotechnics Event. The fees shall be calculated in accordance with Schedule "D" of this bylaw.
- 6.2 Every Fireworks Permit or Pyrotechnics Permit Holder shall pay all costs and expenses of any fire protection services, materials or resources expended or incurred by the Town as a result of a fire caused by a Fireworks or Pyrotechnics Event. The fee shall be calculated in accordance with Schedule "D" of this bylaw.
- 6.3 Every Fireworks Permit or Pyrotechnics Permit Holder shall pay all costs and expenses to remove any litter and debris expended or incurred by the Town that is left on site at the conclusion of a Fireworks and/or Pyrotechnics Event. The fee shall be calculated in accordance with Schedule "D" of this bylaw.

7.0 Citation

This Bylaw may be cited for all purposes as "Fireworks Regulation Bylaw 2022, No. 2115".

READ A FIRST TIME on the	7 th day of	June,	2022
READ A SECOND TIME on the	7 th day of	June,	2022
READ A THIRD TIME on the	7 th day of	June,	2022
ADOPTED on the	21 st day of	June,	2022





Mayor (A. Stone)



Corporate Officer (D. Smith)

SCHEDULE "A"

TOWN OF LADYSMITH

Celebrate our Present. Embrace our Future. Honour our Past.

FIREWORKS PERMIT – "FIREWORKS REGULATION BYLAW 2022, NO. 2115"

Name of Applicant: _____

Location: _____

Date: _____ Time: (Start) _____ (End) _____

PERMISSION IS GRANTED to the above Applicant to fire, discharge, set off or explode:

Family Fireworks | Display Fireworks
(circle one)

at the location and on the date and time(s) as set out above, subject to the Town of Ladysmith Fireworks Regulation Bylaw, as amended from time to time, and to the following conditions and restrictions:

- This permit is not transferable. Only the Applicant is authorized under this permit to fire, discharge, set off or explode fireworks;
- The Applicant may only fire, discharge, set off or explode the type and quantity of fireworks described in the application;
- The Applicant must ensure that all debris and litter related to the Fireworks Event, including any litter left by the spectators, is removed from the location at the conclusion of the Fireworks Event; and
- In accordance with requirements of the Fireworks Regulation Bylaw, the Applicant shall obtain a Comprehensive General Liability insurance policy with an inclusive limit of not less than \$5,000,000.00 per occurrence for bodily injury and property damage and provide evidence of the same to the Fire Chief at the time of issuance of this Permit. [Required for **Display Fireworks** only]

Other: _____

Fire Chief or authorized designate

Date of Issue

The personal information on this form is collected under the general authority of the *Community Charter* and *Freedom of Information & Protection of Privacy Act (FOIPPA)* and is protected in accordance with *FOIPPA*. Personal information will only be used by authorized staff to fulfill the purpose for which it was originally collected or for a use consistent with that purpose. If you have any questions about the use and collection of this information, contact the Corporate Officer at 250.245.6417 or foi@ladysmith.ca.

SCHEDULE "B"

TOWN OF LADYSMITH

Celebrate our Present. Embrace our Future. Honour our Past.

PYROTECHNIC PERMIT – "FIREWORKS REGULATION BYLAW 2022, NO. 2115"

Name of Applicant: _____

Location: _____

Date: _____ Time: (Start) _____ (End) _____

PERMISSION IS GRANTED to the above Applicant to fire, discharge, set off or explode **Entertainment Industry Pyrotechnics**, at the location and on the date and time(s) as set out above, subject to the Town of Ladysmith Fireworks Regulation Bylaw, as amended from time to time, and to the following conditions and restrictions:

- In accordance with requirements of the Fireworks Regulation Bylaw, the Applicant shall obtain a Comprehensive General Liability insurance policy with an inclusive limit of not less than \$5,000,000.00 per occurrence for bodily injury and property damage and provide evidence of the same to the Fire Chief at the time of issuance of this Permit;
- This permit is not transferable; only the Applicant is authorized under this permit to fire, set off, discharge or explode Entertainment Industry Pyrotechnics;
- The Applicant may only fire, discharge, set off or explode the type and quantity of Entertainment Industry Pyrotechnics described in the application; and
- The Applicant must ensure that all debris and litter related to a permitted event that occurs on Town property, including any litter left by the spectators, is removed from the location at the conclusion of the permitted event.

Other: _____

Fire Chief or authorized designate

Date of Issue

The personal information on this form is collected under the general authority of the *Community Charter* and *Freedom of Information & Protection of Privacy Act (FOIPPA)* and is protected in accordance with *FOIPPA*. Personal information will only be used by authorized staff to fulfill the purpose for which it was originally collected or for a use consistent with that purpose. If you have any questions about the use and collection of this information, contact the Corporate Officer at 250.245.6417 or foi@ladysmith.ca.

SCHEDULE "C"

Insurance Requirements

A Display Fireworks Permit or Pyrotechnics Permit Holder shall, at their own expense, for the duration of the Fireworks Event or Pyrotechnics Event, secure and maintain a Comprehensive General Liability insurance policy with an inclusive limit of not less than \$5,000,000.00 per occurrence for bodily injury and property damage. The Comprehensive General Liability insurance policy shall:

- 1) Include all premises and operations necessary or incidental to the Fireworks Event or Pyrotechnics Event;
- 2) Include "Broad Form" Property Damage coverage on an occurrence basis, including loss of use of property;
- 3) Include, but not necessarily limited to, the following coverage:
 - a) Contingent Employers Liability;
 - b) Owners and Contractors Protective Liability;
 - c) Contractual Liability assumed with respect to the event;
 - d) Non-Owned and Hired Auto; and,
 - e) Personal Injury Liability;
- 4) Include the Town, its elected officials, officers, agents and employees, and contractors acting on behalf of the Town as additional insured's;
- 5) Be primary and non-contributing with respect to any insurance carried by the Town of Ladysmith;
- 6) Not include a deductible greater than \$5,000.00 per occurrence (unless the Town of Ladysmith advises in writing that it has determined that a greater deductible is acceptable);
- 7) Include a Cross Liability clause;
- 8) Preclude subrogation claims by the insurer against any of the insured;
- 9) Include a provision requiring the insurer to give the Town of Ladysmith thirty (30) days' prior written notice before making any material change to the insurance coverage, or the termination or cancellation thereof;
- 10) Provide that the Town of Ladysmith, its elected officials, officers, agents and employees, and contractors acting on behalf of the Town of Ladysmith are protected notwithstanding any act, neglect or misrepresentation of the Display Fireworks Permit or Pyrotechnics Permit Holder which might otherwise result in the avoidance of a claim and that such policy is not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insured;
- 11) Be underwritten by a responsible insurance company or companies licensed to do business in the Province of British Columbia and that meet with the reasonable approval of the Town of Ladysmith;
- 12) Maintenance of the insurance required herein and the performance by the Display Fireworks Permit or Pyrotechnics Permit Holder of their obligations under this clause shall not relieve the Display Fireworks Permit or Pyrotechnics Permit Holder from liability under any covenant to indemnify the Town of Ladysmith;
- 13) It shall be the sole responsibility of the Display Fireworks Permit or Pyrotechnics Permit Holder to determine their own additional insurance coverage, if any, including workers' compensation, that are necessary and advisable for their own protection or to fulfill their obligations with respect to the Fireworks Event or Pyrotechnics Event. Any such additional insurance shall be secured and maintained by the Display Fireworks Permit or Pyrotechnics Permit Holder at their own expense;
- 14) The foregoing insurance provisions shall not limit the insurance the Display Fireworks Permit or Pyrotechnics Permit Holder is required to secure and maintain by the provincial or federal law; and,
- 15) If the Display Fireworks Permit or Pyrotechnics Permit Holder fails to secure or maintain insurance as required herein, then the Town of Ladysmith shall have the right, but not the duty or obligation, to secure and maintain such insurance and give evidence thereof to the Display Fireworks Permit or Pyrotechnics Permit Holder. The Display Fireworks Permit or Pyrotechnics Permit Holder shall pay the cost thereof to the Town of Ladysmith on demand.

SCHEDULE "D"
Fees

Family Fireworks Permit Application	\$10
Display Fireworks Permit Application	\$100
Pyrotechnics Permits Application	\$200
Fire Safety Plan Review for Fireworks / Pyrotechnics	\$200
Fire Protection Cost Recovery Fee for Fireworks	\$550/hour
Clean up litter and debris left on Town property	Actual costs