



Item
Meeting2016 June 13

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2016 June 08

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 42000 20
FIRE CHIEF *Reference: Bylaw Text Amdmt*

SUBJECT: FIREWORKS SALES

PURPOSE: To propose amendments to the Fire Services Bylaw to prohibit fireworks sales.

RECOMMENDATIONS:

1. **THAT** Council authorize the City Solicitor to prepare the necessary bylaw amendments to the Fire Services Bylaw to prohibit fireworks sales, as outlined in Section 4.0 of this report, for advancement to Council at a future date.
2. **THAT** a copy of this report be sent to previously licensed fireworks retailers, as listed in *Appendix A*, and that they be advised that Council will consider public comment on the proposed bylaw amendment following First Reading and prior to Second Reading.

REPORT

1.0 INTRODUCTION

At its meeting of 2016 January 14, the Public Safety Committee received an informational report from the Fire Chief on the sale and use of fireworks in Burnaby. In the report, it was noted that regulation of fireworks retailers is challenging due to the temporary nature of the use.

This report details those concerns and considers the implications of a ban on fireworks sales. It concludes by recommending that the Burnaby Fire Services Bylaw be amended to prohibit fireworks sales.

2.0 BACKGROUND

2.1 Fireworks Sales

In Burnaby, the sale of consumer fireworks is restricted to the week leading up to and including Halloween. As such, fireworks sales are a temporary use that occurs either as a seasonal display in an existing retail outlet or as a "pop-up" establishment in a vacant commercial unit. During the 2015 Halloween season, 14 existing retail establishments and 10 temporary vendors were licensed to sell fireworks. These outlets were distributed throughout the City, with many located along commercial thoroughfares, including Hastings Street, Edmonds Street and Sixth Street. A list of businesses licensed to sell fireworks last year is included as *Appendix A*.

2.2 Regulation of Fireworks Sales in Burnaby

The sale of fireworks is regulated specifically by the Fire Services Bylaw, and more generally by the Zoning Bylaw, the Sign Bylaw, and the Business Licence Bylaw. The Fire Services Bylaw provides detailed regulations for fireworks vendors, including type and quantity of fireworks, operating dates, display and storage, purchaser age, and safety provisions. The Zoning Bylaw regulates the location of fireworks vendors and provides conditions of use, dimensional standards, and parking and loading requirements. The Sign Bylaw regulates all commercial signage, including for fireworks vendors. The Business Licence Bylaw regulates fireworks vendors as retail traders. Specific regulations that apply to fireworks are outlined below.

Fire Services Bylaw

The Fire Services Bylaw provides operating requirements for fireworks sales in Burnaby. It regulates the types of fireworks that may be sold, and provides standards for the safe display and handling of merchandise. The Bylaw also specifies that:

- Fireworks sales are limited to October 25 – October 31;
- Purchasers must be at least 18 years old; and
- Fireworks vendors must have a Fireworks Retailer Permit, issued by the Fire Chief, and a business licence.

Sections 40 through 43 of the Fire Services Bylaw are attached for reference as *Appendix B*.

Zoning Bylaw

Under the Zoning Bylaw, fireworks sales are considered “retail sales” or a “retail store that sells new or used goods.” These use categories are allowed in the following zone districts:

- C1 Neighbourhood Commercial
- C2 Community Commercial
- C3 General Commercial
- C4a Service Commercial
- C8 Urban Village Commercial (Hastings)
- C9 Urban Village Commercial
- M3a Heavy Industrial District (as an accessory use to low hazard fireworks storage)
- CD Comprehensive Development District based on any of the above

Conditions of use vary by District, but all require the use to be within a completely enclosed building and to be oriented to pedestrian needs and access. As fireworks vendors typically locate in existing buildings, dimensional requirements, such as building setbacks and height, generally do not apply. Parking is assessed at one space for every 28 m² (301.40 ft²) of retail floor area or 46m² (495.16 ft²) of gross floor area. The provisions of Section 6.7, which allow temporary buildings for a number of purposes, do not apply to fireworks vendors.

Sign Bylaw

The Sign Bylaw regulates the location, size, and appearance of all signs in the City. The intent of the bylaw is to promote public safety and minimize visual nuisances. To ensure its requirements are met, the Sign Bylaw requires issuance of a permit for all signs with limited exceptions. The bylaw also restricts the location of signs. Temporary businesses such as fireworks vendors are subject to the requirements of the Sign Bylaw.

Business Licence Bylaw

Fireworks vendors are considered “retail traders” under the Business Licence Bylaw and are subject to the general provisions that apply to licensed businesses. The Bylaw contains no specific regulations for fireworks vendors. The annual business licence fee for “retail traders” is \$426 for a new licence and \$125 for a renewal. The licence must be issued on or before the first calendar Friday in October, to allow adequate time for Fire Department processing and inspections prior to issuance of the Fireworks Retailer Permit.

2.3 Regulation of Fireworks Sales in Other Lower Mainland Municipalities

A survey of 15 Metro Vancouver municipalities found that only five others – District of North Vancouver, Langley (Township), Port Moody, Vancouver, and District of West Vancouver – allow fireworks sales.

Similar to Burnaby, these municipalities limit sales to a one week period prior to Halloween and require vendors to obtain a Fire Department permit and a business licence.

The following municipalities prohibit fireworks sales:

- Coquitlam
- Delta
- Langley (City)
- Maple Ridge
- New Westminster
- North Vancouver (City)
- Pitt Meadows
- Port Coquitlam
- Richmond
- Surrey

3.0 DISCUSSION

3.1 Safety and Property Use Issues

The standards governing fireworks sales respond to two main areas of concern: safety and property use. The hazardous nature of fireworks, combined with the transient nature of fireworks

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sales, results in a regulatory dilemma in which enforcement of safety standards is both critical and difficult. In addition, the aggressive marketing employed by many fireworks outlets can decrease traffic safety and constitute a visual nuisance. The safety and property use issues associated with fireworks sales are discussed in turn below.

Safety

The Fire Services Bylaw includes provisions to increase safety in fireworks outlets by reducing the potential for damage and injury due to accidental combustion or product mishandling. It also endeavours to increase consumer safety by limiting allowable fireworks to those that are defined as “low hazard” under the *Explosives Regulations* of the *Explosives Act*, and restricting purchaser age to 18 or older. In addition, application of general safety regulations, such as BC Building Code standards, is paramount given the hazardous nature of the product stored on site.

However, the transient nature of fireworks sales makes enforcement of the necessary regulations difficult, both in communicating requirements, identifying violations and in following up with penalties. In Burnaby, some vendors have operated on a “guerrilla” basis, setting up shop without a business licence and without Fire Services inspection. Others have located their businesses in substandard buildings without proper electrical and other building permits, or installed makeshift signage that has collapsed or flown loose from the building. Those locations that undergo inspection can consume a significant amount of City resources. Follow-up enforcement activities require additional resources and may not achieve compliance given the short time frame.

Property Use

Retail sale of fireworks is permitted only in the C1, C2, C3, C4a, C8, and C9 Commercial Districts, and as an accessory use in conjunction with the storage of low hazard fireworks in the M3a Heavy Industrial District. As such, it is subject to the zoning regulations governing those Districts. In addition, fireworks vendors must obtain a business licence and a permit for any signage. The intent of these regulations is to ensure the compatibility of the use with the surrounding neighbourhood and to prevent visual blight and other nuisances associated with excessive signage.

The Sign Bylaw prohibits the types of aggressive signage often used by fireworks vendors, including flashing signs, portable signs, inflatable signs, revolving signs, banners and billboards. These signs may distract drivers, block sidewalks, overshadow the signage of neighbouring businesses, and generally diminish the attractiveness of the streetscape. Because they are unpermitted, these signs receive no inspection and may pose safety risks as noted above.

As with fire and building regulations, enforcement of zoning and sign regulations is made more challenging by the temporary nature of fireworks sales. This is particularly the case with temporary vendors, whose short tenure provides little incentive to comply with applicable regulations.

3.2 Access to Fireworks

Fireworks are hazardous and to many represent a nuisance. The sale of fireworks in Burnaby provides ready access to those residents who wish to purchase them and as such, encourages their use. Although fireworks can be purchased in some neighbouring municipalities, the convenience of purchasing them nearby, particularly on Halloween, may contribute to greater usage and associated hazards.

4.0 RECOMMENDATIONS

As discussed above, fireworks sales pose a number of regulatory challenges due to the transience of the use and the hazardous nature of the product. Fireworks sales do provide some additional revenue for retailers; however, given the numerous difficulties associated with fireworks sales, including public nuisance and safety hazards, and the amount of City resources spent on inspections and enforcement, a ban on sales would provide a greater benefit to the community.

For all of these reasons, staff recommends that the Fire Services Bylaw be amended to prohibit fireworks sales. It is recommended that these amendments become effective immediately upon adoption, in order to apply to the 2016 Halloween season.

It is further recommended that a copy of this report be sent to previously licensed fireworks retailers, as listed in *Appendix A*, and that they be advised that Council will consider public comment on the proposed bylaw amendment following First Reading and prior to Second Reading.

In addition, Section 59 of the *Community Charter* requires that proposed changes to a business regulation be published as a notification of intention prior to bylaw adoption. This notification provides an opportunity for those who consider that they are affected by the bylaw to make representation to Council. If Council adopts the staff recommendations and provides First Reading of the amending bylaw, notice will be published in a local newspaper to invite written comments for submission to Council prior to Second Reading.

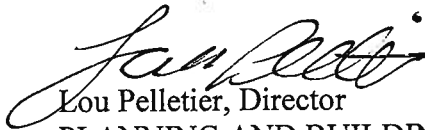
Although outside the scope of this report, in order to address hazard and nuisance concerns regarding fireworks use, it is recommended that options for further regulation be considered and advanced, if advisable, in a future report.

5.0 CONCLUSION

Regulation of fireworks sales is problematic due to the hazardous nature of the product and the transient nature of the use. Fireworks sales have resulted in numerous safety, property use, and nuisance issues, including unlicensed businesses; zoning and code violations; makeshift signs that have endangered public safety; and aggressive displays that have created visual nuisances. Given the limited time frame, enforcement of the necessary regulations is difficult, both in communicating requirements and identifying violations, as well as achieving compliance and following up with penalties. It is therefore recommended that Council authorize the City Solicitor to prepare the necessary amendments to the Fire Services Bylaw to prohibit fireworks

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sales, as outlined in Section 4.0 of this report, for advancement to Council at a future date. It is further recommended that a copy of this report be sent to previously licensed fireworks retailers, as listed in **Appendix A**, and that they be advised that Council will consider public comment on the proposed bylaw amendment following First Reading and prior to Second Reading.


Lou Pelletier, Director
PLANNING AND BUILDING


FOR Joe Robertson
FIRE CHIEF

LF/sla/sa
Attachments

cc: Deputy City Manager
Chief Building Inspector
Chief Licence Inspector
City Solicitor
City Clerk

Appendix A - Fireworks retailers licensed in Burnaby, October 2015

Address	Existing retailer	Temporary vendor
102 - 2900 Bainbridge Avenue	X	
201 - 3300 Boundary Road		X
12 - 5901 Broadway		X
5097 Canada Way		X
7337 Edmonds Street		X
7359 Edmonds Street	X	
7502 Edmonds Street	X	
3849 Hastings Street	X	
105 – 4161 Hastings Street		X
4233 Hastings Street		X
6504 Hastings Street	X	
4388 Imperial Street		X
9930 Lougheed Hwy		X
5886 Marine Drive	X	
7567 Sixth Street	X	
7665 Sixth Street	X	
7670 Sixth Street		X
7747 Sixth Street	X	
7807 Sixth Street		X
7892 Sixth Street	X	
5012 Smith Avenue	X	
1431 Sperling Avenue	X	
5962 Sperling Avenue	X	
2 - 4739 Willingdon Avenue	X	

Appendix B – Sections 40 to 43, Fire Services Bylaw

FIREWORKS AND FIRECRACKERS

40. No person shall use, detonate, explode, offer for sale, sell, or possess firecrackers.
41. Except as provided in this Bylaw, no person shall:
- (a) use, detonate, or discharge fireworks;
 - (b) offer for sale or sell fireworks.
42. (1) It shall be unlawful for any person to sell or offer for sale whether on-site, by mail order or by internet low hazard fireworks except: (Bylaw No. 13174)
- (a) during the period commencing on the 25th day of October and ending on the 31st day of October in each year;
 - (b) to a person who is at least eighteen (18) years of age;
 - (c) with a valid business license issued on or before the first calendar Friday in October of the current year; (Bylaw No. 13174)
 - (d) with a valid fireworks retailer permit issued by the Department on or before the 18th day of October of the current year. (Bylaw No. 13174)
- (2) No person shall sell or offer for sale a Roman candle or a noisemaker except as part of a family pack.
- (3) Except as provided in subsection (5), fireworks shall not be set off, detonated or discharged at any time except on the 31st day of October.
- (4) It shall be lawful for a person who is at least eighteen (18) years of age to use, set off or discharge low hazard fireworks on private property with the consent of the owner of the property.
- (5) The Fire Chief may issue a permit to a person who is at least eighteen (18) years of age to use, detonate or discharge low hazard fireworks for a special occasion at any time of the year other than the date specified in subsection (3) on such terms and conditions as the Fire Chief may specify.
- (6) No person shall set off or discharge fireworks on public property without a permit from the Fire Chief.
- (7) No person shall point or direct a firework at any person, animal, motor vehicle, building or improvement where such firework is in the process of exploding or detonating, and where the firework is capable of projecting or discharging a charge or pyrotechnical effect.
- (8) No person shall discharge a firework within thirty (30) meters of a gas station or service station, lumber yard, propane tank, or other location where flammable materials are stored.
- (9) A local assistant under the Fire Services Act or a Peace Officer who observes any contravention of the requirements of subsection (1), (2), (3), (4), (6), (7), or (8) may confiscate the fireworks.

(BYLAW #11987)

43. Every person who sells low hazard fireworks to the public shall:
- (a) not sell fireworks to any person less than 18 years of age;
 - (b) have not more than 25 kg (55 lbs.) of fireworks on display;
 - (c) only display fireworks in a glass case with a top or behind a counter and where the fireworks are not exposed to the sun, direct heat, or any other source of ignition;
 - (d) not permit customers or members of the public to handle the fireworks prior to a sale of those fireworks;
 - (e) not store more than 100 kg (220 lbs.) of fireworks on the premises;
 - (f) store fireworks that are not on display in a separate room away from any and all sources of ignition;
 - (g) maintain a functional ABC dry chemical or pressure water fire extinguisher of at least 5 lbs. size in each of the rooms in which fireworks are displayed or stored;
 - (h) not smoke or permit any other person to smoke tobacco or any other substance in any of the rooms in which fireworks are displayed or sold; and
 - (i) post and keep posted "No Smoking" signs so that they are clearly visible from all parts of the rooms in which the fireworks are displayed or stored.