



FIREWORKS LAW

Musqueam Indian Band

2023

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ON 10 / 10 / 2023
(day/month/year)

M Louie

MIB Legal Department

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PREAMBLE

WHEREAS:

- A. The Musqueam Indian Band has taken control and management over Musqueam Reserve lands and resources pursuant to the *Framework Agreement on First Nations Land Management* (entered into on February 12, 1996) and has enacted the *Musqueam Land Code* which was approved by Musqueam Band membership on December 3, 2012.
- B. Under the *Musqueam Land Code*, the Musqueam Council is authorized to pass various laws relating to development, protection, management, use and possession of Musqueam lands and to do all other things as may be necessarily incidental or ancillary to exercising its authority. Specifically, Council may make laws either on its own or following a recommendation from the Lands Committee.
- C. Acknowledgement that the *Musqueam Nuisance By-Law*, made pursuant to section 81(d), (q) and (r) of the *Indian Act* provides:
 - (i) "no person shall make or cause, or permit to be made or caused, any noise or sound in a street, park or similar public place which disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and such noises or sounds are hereby prohibited, and, [...]"
- D. The elected Council of the Musqueam Indian Band deems it advisable and in the best interests of the Musqueam Indian Band to enact a law to ban the manufacture, sale, possession and use of fireworks and firecrackers within Musqueam lands.
- E. It is the intention of Musqueam Council that this law will be a temporary measure. It is the intent that Musqueam Council and administration will begin community engagement on a replacement law. It is anticipated that engagement will take place in 2024.
- F. Through this law and other enactments, we are continuing to exercise our inherent right of self-determination and self-government. The elected Council of the Musqueam Indian Band strives to govern in an accessible, accountable and transparent manner, with a key priority being the safety and well-being of all individuals residing on or visiting the Musqueam lands and the protection of lands and buildings on and around Musqueam lands.

NOW THEREFORE the elected Council of the Musqueam Indian Band enacts as follows:

PART 1 - INTERPRETATION

Citation

1. This law may be called the, "*MIB Fireworks Law*."

Purpose

2. The purpose of this law is to promote safety and to protect Musqueam lands, members, residents, guests, buildings and resources from potentially hazardous or disruptive, unauthorized uses of fireworks or firecrackers.

Application

3. This law applies to all Musqueam lands, members and any person present on Musqueam lands.

Definitions

4. For the purposes of this law, where applicable, terms have the same definitions as in the Musqueam Land Code.

5. In this Law,

"band" means the Musqueam Indian Band;

"band owned building" means any building or parcel of real property on which said building is situated, this is owned, leased or rented by the Band and includes dwelling houses;

"community" means the community constituted by Musqueam members;

"consumer fireworks" means a pyrotechnic and any other explosive device producing quantities or effects of light, sound and/or smoke by the combustion of explosive or flammable composition;

"council" means the elected Chief and Council of the Musqueam Indian Band;

"firecracker" means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion;

"fireworks" means any pyrotechnic device producing effects of light, sound and smoke by the combustion of explosive or flammable composition;

"Musqueam land" means any portion of a Musqueam reserve land and Musqueam lands as defined in the Musqueam Land Code;

"noise" means the unwanted sound that materially impairs the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or public health, safety or welfare of Musqueam lands and resources. This does not include sound to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

"officer" means any duly sworn police officer; police constable or other person charged with the duty to preserve and maintain the peace. For the purposes of this law, this also includes a by-law officer appointed by Council for the purpose of enforcing Musqueam by-laws and laws and includes any member of the Musqueam Safety and Security;

"person" means for the purposes of this law, person includes an established or temporary business and corporation;

"property" means within any reserve of the Band, a building or structure or part of a building or structure and includes the lands and premises and all mobile homes, mobile buildings, mobile structures, out buildings, fences and erections thereon and anything affixed to the land and includes vacant property;

"reserve" means any of the reserves of the Band, where ever situated, including Indian Reserves 2, 3, 4, including, but not limited to, any sub-surface rights and lands legally described in Musqueam Indian Band's individual agreement under the Land Code.

Interpretation

6. (1) All defined terms are presented in lower case unless the context identifies otherwise.
- (2) References to "this law" include any regulations and policies made under this law.

Severability

7. The provisions of this law are severable, and where any provision of this law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this law and the decision that it is invalid must not affect the validity of the remaining portions of this law.

Validity

8. Nothing under this law must be rendered void or invalid by
 - (a) an error or omission in a notice, form or other document given or authorized under this law; or
 - (b) a failure of the Musqueam Indian Band or Musqueam Indian Band administration to complete any required acts within the required time.

Paramountcy

9. If there is any inconsistency or conflict between this law and the Musqueam Land Code, the Musqueam Land code shall prevail to the extent of the inconsistency or conflict.

PART 2 - GEOGRAPHIC LOCATIONS

Musqueam Indian Band Reserves

10. (1) All lands within the geographic limit of the reserves of Musqueam Indian Band shall be considered as the area affected by this law.

- (2) For greater certainty, the provisions of this law apply to all Musqueam lands held by certificate of possession, community land and all other interest in Musqueam lands. Also included are public spaces, all parks, sports fields and river banks.

PART 3 - AUTHORITY

Council Authority

11. Except as otherwise provided in the *Land Code* or the *First Nations Land Management Act*, or other law, Musqueam Council exercises its powers and functions under this law.

Prohibitions

12. No person shall emit or cause or permit the emission of noise resulting the act of igniting fireworks or firecrackers from any point on the premises of person on Musqueam lands.
13. No person is authorized to manufacture, package, re-package, sell or offer for sale or gift any fireworks or firecrackers within Musqueam lands.
14. No person shall use, discharge, fire or set off, or allow to be used, discharged, fired or set off any fireworks or firecrackers within Musqueam lands.

PART 4 - OFFENCES, PENALTIES AND ENFORCEMENT

Offence

15. Any person who violates any provision of this law or who permits any act or thing to be done in in contravention or in violation of any of the provisions of his law, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this law commits an offence.

Penalties

16. A person who violates any provision of this law is guilty of an offence and liable on summary conviction, to a fine of not more than one thousand dollars (\$1,000).
17. Each day a violation of this law continues will be deemed to be a separate offence, for which a fine may be imposed.

Enforcement

18. This *MIB Fireworks Law* may be enforced by an officer, including any duly sworn Vancouver Police Department police officer; police constable or any other person charged with the duty to preserve and maintain the peace. For greater certainty and the purposes of this law, authorization to enforce this law is extended to any Musqueam by-law officer appointed by Council for the purpose of enforcing Musqueam by-laws and laws, and any member of the Musqueam Safety and Security.

No Action

19. No action for damages lies or may be instituted against Musqueam council, past or present Council, any Musqueam enforcement officer, safety and security patrol members, any employees, contractors, servants or agents of Musqueam for any claim, loss, harm or damage arising from use, discharge, firing or setting-off of any fireworks or firecrackers within Musqueam lands.

PART 5 - AMENDMENT

Amendments to this Law

20. This law may be amended from time to time or repealed and replaced by a law made in accordance with the Land Code or the *Indian Act* provisions.

THIS LAW IS HEREBY DULY ENACTED at a duly convened meeting of Chief and Council of the Musqueam Indian Band, with the effective date of 10th day of October, 2023, at the Musqueam Indian Band Administration Office, in the Province of British Columbia.

Voting in favour of the Law are the following members of Council:




(Member of Council)

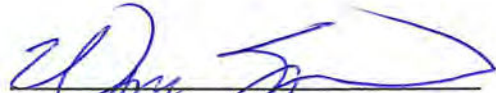
(Member of Council)



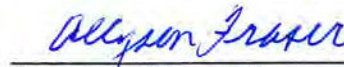
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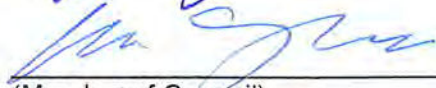
(Member of Council)



(Member of Council)



(Member of Council)



(Member of Council)



(Member of Council)



(Member of Council)

(Member of Council)

being the majority of those members of the Council of the Musqueam Indian Band present at the aforesaid meeting of the Council. The quorum of the Council is 5 members.