

TOWN OF CRESTON

BYLAW NO. 1778

A Bylaw to regulate or prohibit the possession of fireworks and limit the discharge of fireworks.

WHEREAS Section 8(3) of the *Community Charter* allows Council, by bylaw, to establish and impose regulations regarding the possession and discharge of fireworks;

NOW THEREFORE the Council of the Town of Creston in open meeting assembled enacts as follows:

Part 1 Citation

1.1 This Bylaw may be cited as “Fireworks Regulation Bylaw No. 1778, 2012”.

Part 2 Definitions

2.1 In *this bylaw*, unless the context otherwise requires,

“**act**” means the *Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17*, and the Regulations enacted thereunder as amended from time to time or any *Act* and regulations enacted in substitution therefore;

“**Bylaw Notice**” means a notice issued under this bylaw to a person that has failed to comply with the regulations, prohibitions and requirements of this bylaw and that the person must comply within a certain period of time and meet certain conditions;

“**certification card**” means documented proof of the completion of either the Fireworks Supervisor Level 1 or 2 training course conducted by the Explosives Regulatory Division;

“**consumer firework**” means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the *Act* 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;

“**consumer fireworks event**” means the observance or celebration of a special event or festival where a permit has been issued to allow the discharge of consumer fireworks;

“**costs**” in the context of costs recovered by the *fire department* under *this bylaw*, means costs as defined in the *Fees and Charges Bylaw*.

“**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 firework**” means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the *Act*, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons, but does not include firecrackers;

“**display fireworks event**” means the observance or celebration of a special event or festival where a permit has been issued to allow the discharge of display fireworks;

“**Explosives Regulatory Division**” means the Explosives Regulatory Division of the Explosives Branch of the Minerals and Metals Sector of Natural Resources of Canada;

“Federal Regulations” means the Explosives Regulations enacted under the Explosives Act, Revised Statutes of Canada, 1985, Chapter E-17, as of the date of adoption of this Bylaw;

“fee” and **“fees”** means the fees and charges prescribed by the *Fees and Charges Bylaw*;

“Fees and Charges Bylaw” means the Fees and Charges Bylaw in force from time to time and adopted by the *Council* under section 194 of the *Community Charter* or similar successor legislation;

“Fire Chief” means a person appointed by the Council to be in charge of the Fire Department or Deputy Chief - Human Resources;

“firecracker” means a pyrotechnic device 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;

“fire safety plan” means a plan dealing with the procedures for a permit holder to follow to protect public safety when discharging pyrotechnic special effects fireworks, which meets the requirements specified by the Fire Chief;

“fireworks” means consumer fireworks, display fireworks, and pyrotechnic special effects 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 body incorporated as the Town of Creston and the Town’s territorial jurisdiction, according to its context in this bylaw;

“Peace Officer” means, for the purposes of *this bylaw* only, a person employed as the *Fire Chief* of the *municipality* or appointed as a Local Assistant to the Fire Commissioner for the *municipality*, any person employed or appointed by the *municipality* as a *Bylaw Enforcement Officer*, a member of the Royal Canadian Mounted Police or any municipal police officer;

“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;

“Pyrotechnics Permit” means a current and valid permit in the form attached as Schedule “B” to this Bylaw specifying and authorizing a person to discharge pyrotechnic special effect fireworks;

“pyrotechnic special effects firework” means a high hazard firework that is classed as a subdivision 5 of Division 2 of Class 7 Firework under the Act 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.

Part 3 Prohibitions

- 3.1 No person may *sell fireworks*.
- 3.2 No person may buy, *sell*, hold, possess, store, *discharge*, or otherwise use any prohibited *fireworks*.
- 3.3 No person may buy, *sell*, hold, possess, store, *discharge*, or otherwise use *firecrackers*.
- 3.4 No person may hold, possess, store, *discharge*, or otherwise use *consumer fireworks* or *display fireworks* without a *permit*.
- 3.5 No person may *discharge consumer fireworks* except on October 31st of each year between 5:00 p.m. and 10:00 p.m. or through exceptional circumstances as stated by council resolution or in the case of October 31st falling on a Sunday, October 30th shall be the day designated.
- 3.6 No *consumer fireworks* or *display fireworks permit* holder may hold, possess, store, *discharge*, or otherwise use *consumer fireworks* or *display fireworks* in contravention of a *permit*.
- 3.7 No person may hold, possess, store, *discharge*, or otherwise use *fireworks* in a manner that increases the risk of physical injury to any person or damage to any public or private property.
- 3.8 No person under the age of eighteen (18) years may hold, possess, store, *discharge*, or otherwise use any *fireworks*.
- 3.9 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*.
- 3.10 No person shall provide any person under the age of eighteen (18) years of age any *consumer firework*, prohibited *firework* or *firecracker*.
- 3.11 No person may hold, possess, store, *discharge*, or otherwise use *pyrotechnic special effects fireworks* without a *pyrotechnics permit*.
- 3.12 No *pyrotechnics permit* holder may hold, possess, store, *discharge* or otherwise use the *pyrotechnic special effect fireworks* in contravention of a *pyrotechnics permit*.

Part 4 Permits For Consumer Fireworks or Display Fireworks

- 4.1 Any person eighteen (18) years of age or older before *discharging consumer fireworks* or *display fireworks* must apply for and receive a *permit*.

Permit applications for *consumer fireworks events* must be submitted to the *municipality* by no later than 12:00 p.m. on October 31st, and if October 31st falls on a day other than a business day, no later than 12:00 p.m. of the last business day prior to October 31st.

In the case of a *consumer fireworks event* approved through resolution of Council as a special circumstance, the required *consumer fireworks permit* application must be submitted no later than thirty (30) days prior to the date upon which the *consumer fireworks event* is to occur.

Permit applications for *display fireworks events* must be submitted to the *municipality* at least thirty (30) days prior to the date upon which the *display fireworks event* is to occur.

All *permit* applications must include:

- (a) a completed Schedule "A" application;
- (b) if the consumer fireworks event or display fireworks event is to occur on property that is not owned by the applicant or is on property owned or controlled by the municipality, a written agreement of the property owner in the form attached as Schedule "C";
- (c) if the consumer fireworks event or display fireworks event is being organized or sponsored by any person other than the applicant, a written agreement of such person in the form attached as Schedule "D";
- (d) for display fireworks, provide of a copy of a current valid certification card;
- (e) the permit application fee. established in Schedule "F".

- 4.2 The *Fire Chief* will consider all *permit* applications and issue a *permit* provided that:

- (a) in the case of municipal property, the property upon which the *consumer fireworks event* or *display fireworks event* is to occur is available for such use on the date and time set out in the application;
- (b) the *consumer fireworks event* or *display fireworks event* will not, in the opinion of the *municipality*, create a public safety risk to public or private property;
- (c) the applicant has submitted to the *municipality* the items described in section 4.1 and any additional information in relation to the *consumer fireworks event* or *display fireworks event* that the *municipality* may reasonably require to determine whether the *consumer fireworks event* or *display fireworks event* will create a public safety risk or risk to public or private property; and,
- (d) for a *display fireworks event*, the applicant has submitted to the *municipality* a site plan including firing location and limiting distance set out in the *act*, and a copy of the applicant's insurance policy that meets the *insurance requirements* listed in Schedule "E".

Part 5 Pyrotechnics Permits for Pyrotechnic Special Effects Fireworks

5.1 *Permit applications for pyrotechnic special effects fireworks events must be submitted to the municipality at least thirty (30) days prior to the date upon which the pyrotechnic special effects fireworks event is to occur.*

The *Fire Chief* may issue a *pyrotechnics permit to discharge pyrotechnic special effects fireworks* to a person who is over the age of eighteen (18) years provided that the applicant meets all the requirements of this bylaw and submits:

- (a) a completed Schedule "B" application;
- (b) a copy of the *Explosive Regulatory Division* event approval;
- (c) a *fire safety plan* approved by the *Fire Chief* after the *Fire Chief* has visited the location for the *pyrotechnics special effects fireworks event* and determined the amount of fire protection required;
- (d) if the *pyrotechnic special effects fireworks event* is to occur on property that is not owned by the applicant or is on property owned or controlled by the *municipality*, a written agreement of the property owner in the form attached as Schedule "C";
- (e) if the *pyrotechnic special effects fireworks event* is being organized or sponsored by any person other than the applicant, a written agreement of such person in the form attached as Schedule "D";
- (f) 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;
- (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;
- (h) a valid *permit* if *consumer fireworks* or *display fireworks* are used in the *pyrotechnics special effects fireworks event*; and
- (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*, a valid Level 2 *certification card*, issued by the *Explosives Regulatory Division*.

5.2 Every *pyrotechnics permit* issued must:

- (a) specify the *fireworks* that the *pyrotechnics permit* holder are authorized to *discharge*;
- (b) specify the day and the hours on which, and the description of the property or place where the *fireworks* may be *discharged*;

- (c) include a copy of the applicant's insurance policy that meets the insurance requirements listed in Schedule "E".

Part 6 Pyrotechnic Special Effects Fireworks – Cost Recovery Charges

- 6.1 Every applicant for a *pyrotechnics permit* shall pay a *fee* for:
- (a) Review of their fire safety plan by the *Fire Chief*; and
 - (b) Fire protection services provided.
- 6.2 The *municipality* may recover all *costs* and expenses it incurs incidental to the provision of any fire protection services for a pyrotechnics event, jointly and severally from any person who at the time had the charge, management or control of the building or premises where the *pyrotechnics special effects fireworks event* occurred.

Part 7 Enforcement of Bylaw

- 7.1 No person shall obstruct a *Peace Officer* or any other designated person engaged in the administration or enforcement of this bylaw.
- 7.2 A *Peace Officer* may rescind a *permit* if:
- (a) the *permit* holder or *pyrotechnics permit* holder fails to comply with any term or condition of the *permit* or *pyrotechnics permit* without the prior written consent of the *Fire Chief*; or
 - (b) the *permit* holder or *pyrotechnics permit holder* violates or breaches any of the provisions of this bylaw; or
 - (c) circumstances arising or ascertained after the *permit* or *pyrotechnics permit* was issued demonstrate that a public safety risk to public or private property exists in connection with the *fireworks* event; or
 - (d) the *municipality* determines that the *permit* holder or *pyrotechnics permit* holder submitted false or inaccurate information in his or her *permit* or *pyrotechnics permit* application.
- 7.3 *Fireworks* seized under this bylaw may be disposed of without compensation.
- 7.4 Any person who violates any provision of this bylaw may be issued a *Bylaw Notice* by a *Peace Officer*.
- 7.5 Nothing shall prevent, hinder or prohibit the *municipality* from pursuing any violation by way of summary conviction.

Part 8 Exemption

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

Part 9 Offence and Penalty

- 9.1 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.
- 9.2 A person who violates a provision of this bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this bylaw, or who neglects or refrains from doing anything required by a provision of this bylaw, commits an offence and is liable, upon summary conviction, to a fine not exceeding \$10,000 and not less than \$2,500, and is liable to either or both of the minimum or maximum fine for each day that the offence continues.
- 9.3 Each day that a violation continues or exists under this Bylaw is a separate offence.

Part 10 Severability

- 10.1 If any portion of this bylaw is for any reason found invalid by decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this bylaw.

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

Part 11 Repeal and Effective Date

- 11.1 Town of Creston Bylaw No. 1724, cited as "Fireworks Regulation Bylaw No. 1724, 2009", and all amendments thereto, are hereby repealed.
- 11.2 This bylaw shall come into full force and effect upon adoption.

READ A FIRST time by title and SECOND TIME by content this 26th day of June, 2012.

READ A THIRD TIME by title this 26th day of June, 2012.

ADOPTED this 10th day of July, 2012.

"Ron Toyota"
Mayor Ron Toyota

"Bev Caldwell"
Bev Caldwell, Executive Assistant

SCHEDULE "A"

Application for Permit – Consumer Fireworks or Display Fireworks

Name of applicant: _____

Proof of age by: _____ Age: _____

Mailing address: _____

_____ Phone: _____

Email: _____

Fireworks Supervisor Level and Card No. _____

(For *Display Fireworks* only attach photocopy)

THE APPLICANT HEREBY applies to discharge CONSUMER or DISPLAY (circle one) *Fireworks* on property within the municipality as follows:

Location: _____

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

Description of event: _____

Estimated number of spectators: _____

Expected type and quantity of fireworks: _____

Contact name and phone for organizer or sponsor of consumer fireworks event or display fireworks event:

Contact name and phone for property owner: _____

Information collected on this form is for the purpose of issuing a permit and is subject to the Freedom of Information and Protection of Privacy Act.

Information on requirements can be obtained through the Fire Department
Telephone: 250-428-4321

READ CAREFULLY

THE APPLICANT CERTIFIES that the applicant understands and will be guided by the provisions of Fireworks Regulation Bylaw No. 1778, 2009, as amended from time to time, and all applicable Provincial and Federal laws and regulations, in force from time to time, and any conditions or restrictions imposed in this permit by the Fire Chief.

THE APPLICANT FURTHER CERTIFIES that the applicant has reviewed and fully understands the attached Fireworks Safety Information Sheet.

THE APPLICANT FURTHER CERTIFIES that the applicant is authorized to the appropriate level by Natural Resources Canada to possess and fire, set off or explode fireworks of the class specified within this application.

IN CONSIDERATION of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which the applicant acknowledges), the applicant covenants that the applicant will indemnify and save harmless the municipality and its elected officials, employees, officers, agents and contractors from and against any and all manner of actions or causes of action, which the municipality or its elected officials, employees, officers, agents or contractors may sustain, incur, or be put to by reason of or arising out of:

- a) the issuance of this permit;
- b) the consumer fireworks event or display fireworks event, including, without limitation, the handling, storage, discharging or other use of fireworks in connection with this permit;
- c) the applicant's use or occupation of the location upon which the consumer fireworks event or display fireworks event is to occur; or,
- d) any act or omission of the applicant or any person for whom the applicant is at law, responsible, including, without limitation, the non-observance or non-performance of any obligation imposed by Federal or Provincial law.

The applicant acknowledges that he or she has had the opportunity to seek independent legal advice as to the contents of this agreement and that he or she is not under any legal disability.

Signature of Applicant

Date

PERMISSION IS GRANTED to the above applicant to discharge consumer or display (circle one) fireworks, at the location and on the date and time(s) as set out above, subject to "Fireworks Regulation Bylaw No. 1778, 2009", 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 discharge fireworks.
- The applicant may only discharge the type and quantity of fireworks described in the application.
- The applicant must ensure that all debris and litter related to a consumer fireworks event or display fireworks event that occurs on municipal property, including any litter left by the spectators, is removed from the location at the conclusion of the consumer fireworks event or display fireworks event.
- For a display fireworks event, in accordance with requirements of "Fireworks Regulation Bylaw No. 1778, 2009", 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 no later than twenty-one (21) days prior to the permitted event.

Other:

Fire Chief or Authorized Designate

Date of Issue

SCHEDULE "B"

Application for Pyrotechnics Permit

Name of applicant: _____ Date: _____
Mailing Address: _____

Phone: _____
Email: _____ Fax: _____
Date of Birth: _____ (Proof of Age Provided)
Explosives Regulatory Division Event Approval: _____ (attach photocopy)
Fireworks Supervisor Level and Card No. _____ (attach photocopy)

THE APPLICANT HEREBY applies to discharge pyrotechnic special effects fireworks on property within the municipality as follows:

Location: _____
Date(s): _____
Time: (Start) _____ (End) _____ (attach time schedule of production)
Site plan: _____ (attach plan)
Estimated attendance: _____
Type and quantity of fireworks, explosives and combustible products: _____

(Schedule may be attached)
Firing procedures: _____

Emergency response procedure: _____

Description of fire safety plan: _____

(attach photocopy of Fire Chief approval)
Security deposit for fire safety plan: _____

List of crew members: _____

Information collected on this form is for the purpose of issuing a permit and is subject to the Freedom of Information and Protection of Privacy Act.

Information on requirements can be obtained through the Fire Department
Telephone: 250-428-4321

READ CAREFULLY

THE APPLICANT CERTIFIES that the applicant understands and will be guided by the provisions of Fireworks Regulation Bylaw No. 1778, 2009, as amended from time to time, and all applicable Provincial and Federal laws and regulations, in force from time to time, and any conditions or restrictions imposed in this permit by the Fire Chief.

IN CONSIDERATION of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which the applicant acknowledges), the applicant covenants that the applicant will indemnify and save harmless the municipality and its elected officials, employees, officers, agents and contractors from and against any and all manner of actions or causes of action, which the municipality or its elected officials, employees, officers, agents or contractors may sustain, incur, or be put to by reason of or arising out of:

- a) the issuance of this permit;
- b) the pyrotechnic special effects fireworks event, including, without limitation, the handling, storage, discharging or other use of fireworks in connection with this permit;
- c) the applicant's use or occupation of the location upon which the pyrotechnic special effects fireworks event is to occur; or,
- d) any act or omission of the applicant or any person for whom the applicant is at law, responsible, including, without limitation, the non-observance or non-performance of any obligation imposed by Federal or Provincial law.

The applicant acknowledges that he or she has had the opportunity to seek independent legal advice as to the contents of this agreement and that he or she is not under any legal disability.

Signature of Applicant

Date

PERMISSION IS GRANTED to the above applicant to discharge pyrotechnic special effects fireworks, at the location and on the date and time(s) as set out above, subject to "Fireworks Regulation Bylaw No. 1778, 2009", as amended from time to time, and to the following conditions and restrictions:

- In accordance with requirements of "Fireworks Regulation Bylaw No. 1778, 2009", 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 no later than twenty-one (21) days prior to the permitted event.
- This pyrotechnics permit is not transferable. Only the applicant is authorized under this permit to discharge fireworks.
- The applicant may only discharge the type and quantity of pyrotechnic special effects fireworks described in the application and in accordance with the approved fire safety plan.
- The applicant must ensure that all debris and litter related to a pyrotechnic special effects fireworks event that occurs on municipal property, including any litter left by the spectators, is removed from the location at the conclusion of the pyrotechnic special effects fireworks event.

Other:

Fire Chief or Authorized Designate

Date of Issue

SCHEDULE "C"

**Agreement of Property Owner for Fireworks Event or
Pyrotechnic Special Effects Fireworks Event**

Name of applicant: _____ Date: _____

Mailing Address: _____

Contact Name: _____ Phone: _____

Location of fireworks event or pyrotechnic special effects fireworks event:

Name of organizer or sponsor of fireworks event or pyrotechnic special effects fireworks event:

Date of Event: _____ Time of Event: _____

Property Owner(s): _____ Phone: _____

The property owner has agreed and consented to the organizer/sponsor holding and the applicant performing a fireworks event or pyrotechnic special effects fireworks event on the date and at the location and time described above. The applicant has applied to the municipality for a permit to perform such fireworks event or a pyrotechnics permit to perform such pyrotechnic special effects fireworks event.

In consideration of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the property owner), the property owner hereby remises, releases and forever discharges the municipality and its elected officials, employees, officers, agents and contractors of and from any and all matter of actions, damages, causes of action, suits, debts, claims, demands and damages of any nature or kind whatsoever which the property owner may at any time have against the municipality or its elected officials, employees, officers, agents or contractors arising out of any cause, matter or thing in respect of or arising out of:

- a) the issuance of the permit or pyrotechnics permit to the applicant;
- b) the fireworks event or pyrotechnic special effects fireworks event, including, without limitation, the handling, storage, discharging or other use of fireworks in connection therewith;
- c) the use or occupation of the location upon which the fireworks event or pyrotechnic special effects fireworks event is to occur; or
- d) any act or omission of the applicant or organizer/sponsor or any persons for whom either is, at law, responsible, including, without limitation, the non-observance or non-performance of any obligation imposed by Federal or Provincial law.

The property owner acknowledges that he or she has had the opportunity to seek independent legal advice as to the contents of this agreement, and that he or she is not under any legal disability.

Signature(s) of property owner(s) Date

Information collected on this form is for the purpose of issuing a permit and is subject to the Freedom of Information and Protection of Privacy Act.

Information on requirements can be obtained through the Fire Department
Telephone: 250-428-4321

SCHEDULE "D"

**Agreement of Organizer or Sponsor of a Fireworks Event or
Pyrotechnic Special Effects Fireworks Event**

Name of applicant: _____ Date: _____

Mailing Address: _____

Contact Name: _____ Phone: _____

Location of fireworks event or pyrotechnic special effects fireworks event:

Name of organizer or sponsor of fireworks event or pyrotechnic special effects fireworks event:

Date of Event: _____ Time of Event: _____

The organizer/sponsor has engaged the applicant to perform a fireworks event or pyrotechnic special effects fireworks event on the date and at the location and time described above. The applicant has applied to the municipality for a permit to perform such fireworks event or a pyrotechnics permit to perform such pyrotechnic special effects fireworks event.

In consideration of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the property owner), the organizer/sponsor hereby covenants to indemnify and save harmless the municipality and its elected officials, employees, officers, agents and contractors from and against any and all manner of actions or causes of action, damages, loss, or expenses of whatever kind (including, without limitation, legal fees) which the municipality or its elected officials, employees, officers, agents or contractors may sustain, incur, or be put to by reason of or arising out of:

- a) the issuance of the permit or pyrotechnics permit to the applicant;
- b) the fireworks event or pyrotechnic special effects fireworks event, including, without limitation, the handling, storage, discharging or other use of fireworks in connection therewith;
- c) the use or occupation of the location upon which the fireworks event or pyrotechnic special effects fireworks event is to occur; or
- d) any act or omission of the organizer/sponsor or applicant or any persons for whom either is, at law, responsible, including, without limitation, the non-observance or non-performance of any obligation imposed by Federal or Provincial law.

The organizer/sponsor acknowledges that he or she has had the opportunity to seek independent legal advice as to the contents of this agreement, and that he or she is not under any legal disability.

Signature(s) of organizer/sponsor: _____

Date: _____

Information collected on this form is for the purpose of issuing a permit and is subject to the Freedom of Information and Protection of Privacy Act.

Information on requirements can be obtained through the Fire Department
Telephone: 250-428-4321

SCHEDULE "E"

Insurance Requirements

A display fireworks permit holder or a pyrotechnics permit holder shall, at his or her own expense, for the duration of the fireworks event or pyrotechnic special effects fireworks 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:

- a) include all premises and operations necessary or incidental to the fireworks event or pyrotechnic special effects fireworks event;
- b) include "Broad Form" Property Damage coverage on an occurrence basis, including loss of use of property;
- c) include, but not necessarily be limited to, the following coverages:
 - (i) Contingent Employers Liability;
 - (ii) Owners and Contractors Protective Liability;
 - (iii) Contractual Liability assumed with respect to the event;
 - (iv) Non-Owned and Hired Auto; and,
 - (v) Personal Injury Liability;
- d) include the municipality, its elected officials, officers, agents and employees, and contractors acting on behalf of the municipality, as additional insureds;
- e) be primary and non-contributing with respect to any insurance carried by the municipality;
- f) not include a deductible greater than \$5,000.00 per occurrence (unless the municipality advises in writing that it has determined that a greater deductible is acceptable);
- g) include a Cross Liability clause;
- h) preclude subrogation claims by the insurer against any of the insured;
- i) include a provision requiring the insurer to give the municipality fourteen (14) days prior written notice before making any material change to the insurance coverage, or the termination or cancellation thereof;
- j) provide that the municipality, its elected officials, officers, agents and employees, and contractors acting on behalf of the municipality are protected notwithstanding any act, neglect or misrepresentation of the display fireworks permit holder or the 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;
- k) 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 municipality;

- l) twenty-one (21) days prior to the fireworks event or pyrotechnic special effects fireworks event and upon the municipality's written request from time to time, the display fireworks permit holder or pyrotechnics permit holder shall furnish the municipality with a certificate or certificates of insurance as evidence that the required insurance is in force;
- m) maintenance of the insurance required herein and the performance by the display fireworks permit holder or pyrotechnics permit holder of this or her obligations under this clause shall not relieve the display fireworks permit holder or pyrotechnics permit holder from liability under any covenant to indemnify the municipality;
- n) it shall be the sole responsibility of the display fireworks permit holder or pyrotechnics permit holder to determine his or her own additional insurance coverages, if any, including workers' compensation, that are necessary and advisable for his or her own protection or to fulfil his or her obligations with respect to the fireworks event or pyrotechnic special effects fireworks event. Any such additional insurance shall be secured and maintained by the display fireworks permit holder or pyrotechnics permit holder at his or her own expense;
- o) the foregoing insurance provisions shall not limit the insurance the display fireworks permit holder or pyrotechnics permit holder is required to secure and maintain by Provincial or Federal law; and
- p) if the display fireworks permit holder or pyrotechnics permit holder fails to secure or maintain insurance as required herein, then the municipality 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 holder or pyrotechnics permit holder. The display fireworks permit holder or pyrotechnics permit holder shall pay the cost thereof to the municipality on demand or the municipality may deduct such cost from any amount that is due or may become due to the display fireworks permit holder or pyrotechnics permit holder from the municipality.