

CITY OF KELOWNA

BYLAW NO. 8789

FIREWORKS BYLAW

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1.0 CITATION

This Bylaw maybe cited for all purposes as “Fireworks Bylaw No. 8789”.

2.0 INTERPRETATION

In this Bylaw, unless the context otherwise requires the following words shall have the meanings assigned:

Act means the “Explosives Act, Revised Statutes of Canada, 1985”, and the regulations enacted thereunder, as amended or replaced from time to time;

City means the City of Kelowna;

Council means the Municipal Council of the City of Kelowna;

Display Fireworks means the manufactured pyrotechnic device producing effects of light and/or sound classed under the **Act** as high hazard, Class 7.2.2 fireworks, but does not include **firecrackers**;

Consumer Fireworks means a pyrotechnic device producing quantities or effects of light, sound and/or smoke by the combustion of explosive or flammable composition and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, roman candles, and volcanoes, classed under the **Act** as low hazard, Class 7.2.1 fireworks, but does not include Christmas Crackers, sparklers or caps for toy guns;

Fire Chief means the person duly appointed by **Council** as the head of the City of Kelowna Fire Department and shall also include any member of the City of Kelowna Fire Department acting under the direction of the **Fire Chief**;

Firecracker means a pyrotechnic device that explodes instantaneously when ignited and does not produce any visible effect after the explosion but does not include items classed under the **Act** as low hazard Class 7.2.1 fireworks, but does not include Christmas Crackers, sparklers or caps for toy guns;

Fireworks means any **Display Fireworks**, **Consumer Fireworks** or **Pyrotechnic Special Effects** but does not include Christmas Crackers, sparklers or caps for toy guns;

Pyrotechnic Special Effects means a manufactured pyrotechnic device used to produce a special effect for indoor or outdoor performance use, and that any device used, is an authorized pyrotechnic effect under the Explosives Regulatory Division of Natural Resources Canada, Class 7.2.5, Class 1.1 and Class 3;

3.0 REGULATIONS

- 3.1 No person shall sell or offer for sale any **Firecrackers** or **Fireworks** within the **City**.
- 3.2 No person shall discharge, fire or set off any **Firecrackers** or **Fireworks** within the **City**, unless authorized under this Bylaw.
- 3.3 No person shall store **Display Fireworks** within the **City** unless authorized under this Bylaw.
- 3.4 No person shall use, set off or allow to be used or set off any **Fireworks** in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the setting off of any **Fireworks**.
- 3.5 Except as provided in Section 4 of this Bylaw, no person shall discharge, fire or set off any **Fireworks**, unless the person has obtained a valid Permit from the **City**.

4.0 PERMIT FOR FIREWORKS

- 4.1 The **Fire Chief** is hereby authorized to issue a Permit to any person or organization for the purpose of the observance or celebration of any special event or festival by the use of **Fireworks**, subject to the terms and conditions outlined in this Bylaw.
- 4.2 Every application for a Permit pursuant to this Section shall be made by the person setting off the **Fireworks**, shall be in writing, addressed to the **Fire Chief**, and be in the form prescribed by Schedule “A” attached to and forming part of this Bylaw.
- 4.3 Every applicant for a **Fireworks** Permit pursuant to this section shall hold a current and valid Fireworks Supervisors and/or Pyrotechnics Certification card as issued by Natural Resources Canada.
- 4.4 The applicant shall, without limiting its obligations or liabilities under the Fireworks Permit, procure and maintain, at its own expense and cost, the insurance policy listed in Schedule “G”, attached to and forming part of this Bylaw. The insurance policy shall be maintained continuously from the date of commencement of the Fireworks Permit until the date of expiry of the Fireworks Permit or such further period as may be specified in Schedule “G”.
- 4.5 An applicant shall submit a written agreement from the owner of the property on which the **Fireworks** is to take place and a written agreement from any Sponsoring Organization of the **Fireworks**, in accordance with Schedules “D” and “E”, attached to and forming part of this Bylaw. In the case of **Fireworks** that are to take place on **City** owned property, a Permit under the **City’s** Outdoor Events Bylaw No. 8358 may be required or alternatively a letter of authorization from the **City’s** Director of Leisure Services is required.
- 4.6 Every Permit authorized pursuant to this Section shall be in the form prescribed by Schedule “F” attached to and forming part of this Bylaw, and shall be issued by the **Fire Chief**. Prior to the issuance of Schedule “F”, the applicant shall provide evidence of the insurance required under Section 4.4 of this Bylaw, in the form of Schedule “G-1”, attached to and forming part of this bylaw.
- 4.7 **Fireworks** shall end prior to 11:00 p.m. and may not commence prior to 8:00 a.m. on any day and shall be started and completed within the time period specified on the Permit, except as otherwise authorized by the **Fire Chief**.

- 4.8 **Fireworks** may be inspected by the Kelowna Fire Department to ensure all safety aspects have been adhered to as set out in the **Act** and in accordance with Schedule “B” attached to and forming part of this Bylaw.
- 4.9 The **Fire Chief** is hereby authorized to revoke a Permit issued under this Bylaw at any time.
- 4.10 The **Fireworks** shall be set off by the person to whom the Permit is issued and shall be conducted in a manner that is consistent with all safety procedures required under the **Act**.
- 4.11 A Permit issued under this Bylaw is non-transferable.
- 4.12 All **Fireworks** and all debris from the **Fireworks** shall be removed and safely disposed of by the Permit Holder as soon as practical after the **Fireworks** is completed and on or before the expiry of the Permit.

5.0 PENALTY

- 5.1 Every person guilty of an infraction of this Bylaw shall be liable for a penalty under the City of Kelowna Ticket Information Utilization Bylaw No. 6550-89 as amended or replaced from time to time.

6.0 SCHEDULES

- 6.1 The schedules attached to this Bylaw form part of this Bylaw.

7.0 REPEAL

- 7.1 Fireworks Regulation Bylaw, No. 7643 and all amendments thereto are hereby repealed.

8.0 SEVERABILITY

- 8.1 In the event of any section of this Bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or sub-section shall be severed from and not effect the remaining provisions of this Bylaw.

9.0 EFFECTIVE DATE

- 9.1 This Bylaw shall take full force and effect upon the date of adoption.

Read a first, second and third time this 15th day of July, 2002

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE “A”

FIREWORKS BYLAW NO. 8789

APPLICATION FOR FIREWORKS PERMIT

1. Applicant must be the person setting off the Fireworks.
2. Application must be submitted to the Fire Chief, City of Kelowna Fire Department, 2255 Enterprise Way, Kelowna, B.C., V1Y 8B8.
3. A completed Checklist For Fireworks in the form of Schedule “B” must be attached to this application.
4. A signed “Applicant Save Harmless Agreement” in the form of Schedule “C” must be attached to this application.
5. If the Fireworks are not on property owned by the Applicant, written approval from the Owner of the property in the form of Schedule “D” must be attached to this application.
6. If applicable, a signed “Sponsoring Organization Save Harmless Agreement” in the form of Schedule “E” from the sponsoring organization must be attached to this application.

Application No. _____

Name of Applicant _____

Mailing Address _____

Postal Code _____ **Tel.** _____ **Fax.** _____

I hereby make application to purchase fireworks on behalf of myself (X) _____ or
Sponsoring Organization: _____

Address of Fireworks : _____

Location of Fireworks at Address: _____

Owner of Property on which Fireworks will take place : _____

Date and Time of Fireworks: _____

Date of Delivery of Fireworks: _____ **Completion Date:** _____

Name of Special Event or Festival: _____

I certify that I have completed a course for Fireworks Supervisors, or for Pyrotechnics Certification, have read, understand and will be guided by the principles and safety rules in the Fireworks Manuals and that I will fulfil my legal duty of care as defined therein, and by the specified instructions of the manufacturer governing a particular fireworks, and further that I will comply with all requirement of the City of Kelowna Fireworks Bylaw No. 8789

Signature of Applicant _____ **Date:** _____

Fireworks Supervisors **Card No.** _____ **Level:** _____ **Exp. Date:** _____

Pyrotechnics Certification **Card No.** _____ **Exp. Date:** _____

Level of Certification _____

NOTE: SCHEDULES “B”, “C”, “D” (if applicable), and “E” (if applicable) MUST BE COMPLETED AND ATTACHED TO THIS APPLICATION.

APPLICANT WILL BE REQUIRED TO PROVIDE INSURANCE IN ACCORDANCE WITH SCHEDULE “G” AND WILL BE REQUIRED TO PROVIDE EVIDENCE OF SUCH INSURANCE AS PER SCHEDULE “G-1” PRIOR TO RECEIVING THE PERMIT UNDER THIS BYLAW

NOTE: Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of the Fireworks Regulation Bylaw No. 8789. The information is collected under the authority of Freedom of Information Bylaw No. 7603 and the <i>Local Government Act</i> . If you have any questions about this collection, please contact the Fire Chief, City of Kelowna, (250) 860-6419.
--

SCHEDULE “B”

FIREWORKS BYLAW NO. 8789

CHECKLIST FOR FIREWORKS

VENUE OF THE DISPLAY : _____

DISPLAYER’S NAME: _____

DATE AND TIME OF DISPLAY(S): _____

This checklist forms part of the Permit process for Fireworks. It must be fully completed by the Applicant and returned to the City of Kelowna Fire Department prior to the issuance of a Permit for the Fireworks.

1. Written permission from the Owner of the venue where the Fireworks are to be used.
2. A site diagram showing the location of all Fireworks to be used.
3. A complete description of all products to be used, including charge size, effects and manufacturer’s name.
4. A description of the firing system to be used.
5. A description of the Fire Safety Plan in place.
6. The position of all fire extinguishers in relation to the Fireworks. This shall be included on the site plan.
7. The distance from the Fireworks to audiences and/or stage.
8. Where, and in what fashion, will the fireworks be stored while within City limits.
9. Upon request by the City of Kelowna Fire Department, a demonstration of the product(s) to be used may be required.
10. Upon request by the City of Kelowna Fire Department, references from previous Fireworks may be required.

SIGNATURE OF FIREWORKS APPLICANT: _____

COMPANY NAME: _____

DATE: _____

SCHEDULE “C”

FIREWORKS BYLAW NO. 8789

CITY OF KELOWNA

APPLICANT SAVE HARMLESS AGREEMENT

I _____, being the Applicant for the Fireworks Permit, agree to the following:

The Applicant shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities.

The Applicant shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

SIGNATURE OF APPLICANT: _____

DATE: _____

SCHEDULE “D”

FIREWORKS BYLAW NO. 8789

CITY OF KELOWNA
OWNER/OWNERS SAVE HARMLESS AGREEMENT

(To be signed by the Owner/Owners of the property on which the Fireworks is to take place.)

I/WE _____, being the Owner/Owners of
_____, consent to the holding of
Fireworks on the property described herein and to be held at, in, or near the above described
property in conjunction with:

_____ on _____, 20____,
Name of Special Event or Festival

pursuant to City of Kelowna Fireworks Bylaw and agree to:

The Owner/Owners shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities.

The Owner/Owners shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

SIGNATURE OF OWNER(S): _____

SIGNATURE OF OWNER(S): _____

DATE: _____

<p>NOTE: Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of the Fireworks Regulation Bylaw No. 8789. The information is collected under the authority of Freedom of Information Bylaw No. 7603 and the Local Government Act. If you have any questions about this collection, please contact the Fire Chief, City of Kelowna, (250) 860-6419.</p>

SCHEDULE “E”

FIREWORKS BYLAW NO. 8789

CITY OF KELOWNA

SPONSORING ORGANIZATION SAVE HARMLESS AGREEMENT

(To be signed by the Sponsoring Organization of the Fireworks Permit)

_____ hereby agrees that:

- A) It is the Sponsoring Organization of the Fireworks Permit and
- B) The Sponsoring Organization shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities and
- C) The Sponsoring Organization shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this Fireworks Permit, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

IN CONNECTION WITH _____
Name of Special Event or Festival

HELD AT OR NEAR _____, **KELOWNA, B.C.**

ON _____, 20____, **PURSUANT TO**

CITY OF KELOWNA FIREWORKS BYLAW NO. 8789.

AUTHORIZED SIGNATURE OF SPONSORING ORGANIZATION

Date: _____

PRINT NAME

SCHEDULE “F”

FIREWORKS BYLAW NO. 8789

PERMIT

Date: _____

Pursuant to Fireworks Bylaw No. 8789

PEMISSION IS HEREBY GRANTED TO _____

of _____ on behalf of

(Name of Sponsoring Organization)

To set off Fireworks as per Application No. _____ and in connection with _____
_____ to be held at _____ on
the _____ day of _____, 20____ between the hours of _____ and
_____.

AND TO USE AND EXPLODE the aforesaid Fireworks on the date and between
the hours above mentioned, and under the direct supervision of
_____.

The Permit shall be valid From _____ To _____.

This Permit shall be valid only for the above noted purpose, and during or on the
date(s) and during the hours herein specified, and is issued under authority of
Fireworks Bylaw No. 8789 and shall be subject to the Explosives Act, 1985, as
amended, and Explosives Regulations made thereunder, and may be cancelled at
any time by the Fire Chief of the City of Kelowna without prior notice.

Fire Chief, City of Kelowna

Schedule G – Insurance Requirements

1. Applicant To Provide

The Applicant shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2 of this schedule, with limits no less than those shown in the respective items, unless in connection with the performance of some particular part of the Fireworks Permit, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from the commencement date of the Fireworks Permit until expiry of the Fireworks Permit or such longer period as may be specified by the City.

2. Insurance

As a minimum, the Applicant shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

- 2.1 Workers' Compensation Insurance covering all employees of Applicant engaged in the Work or Services in accordance with the statutory requirements of the province or territory having jurisdiction over such employees.
- 2.2 Comprehensive General Liability Insurance
 - (i) providing for an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) for each occurrence or accident;
 - (ii) providing for all sums which the Applicant shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to the Fireworks Permit or any operations carried on in connection with the Fireworks Permit;
 - (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
 - (iv) including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgement made against any other Insured.

3. The City Named As Additional Insured

The policy required by section 2.2 of this schedule above shall provide that the City is named as an Additional Insured thereunder and that said policy is primary without any right of contribution from any insurance otherwise maintained by the City.

4. Certificates of Insurance

The Applicant agrees to submit a Certificate of Insurance, in the form of Schedule G-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of the Fireworks Permit. The Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellations of any such policy or policies.

5. Additional Insurance

The Applicant may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

6. Insurance Companies

All insurance, which the Applicant is required to obtain with respect to the Fireworks Permit, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

7. Failure to Provide

If the Applicant fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Applicant. The Applicant expressly authorizes the City to deduct from any monies owing the Applicant, any monies owing by the Applicant to the City

8. Non-payment of Losses

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Applicant shall not be held to waive or release the Applicant from any of the provisions of the Insurance Requirements or the Fireworks Permit, with respect to the liability of the Applicant otherwise. Any insurance deductible maintained by the Applicant under any of the insurance policies is solely for its account and any such amount incurred by the City will be recovered from the Applicant as stated in section 7 of this schedule.



SCHEDULE G-1
CERTIFICATE OF INSURANCE

This Certificate is issued to:

The City of Kelowna
 1435 Water Street
 Kelowna, BC V1Y 1 J4

Insured

Name:
Address:

Broker

Name:
Address:

Location and nature of operation or contract to which this Certificate applies:

--

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
Section 1 Comprehensive General Liability including: <ul style="list-style-type: none"> Products/Completed Operations; Blanket Contractual; Contractor's Protective; Personal Injury; Contingent Employer's Liability; Broad Form Property Damage; Non-Owned Automobile; Cross Liability Clause. 				Bodily Injury and Property Damage \$ <u>5,000,000.00</u> Inclusive \$ _____ Aggregate \$ _____ Deductible

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. **Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.**
2. **The City of Kelowna is named as an Additional Insured.**
3. **30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.**

 Print Name

 Authorized

 Date