THE CORPORATION OF THE DISTRICT OF KENT

BYLAW NO. 1381

"A bylaw to regulate and prohibit fireworks in the District of Kent"

WHEREAS the Council of the Corporation of the District of Kent has deemed it advisable to regulate, prohibit and impose requirements in relation to firecrackers, fireworks and explosives.

NOW THEREFORE the Council of the Corporation of the District of Kent, in open meeting assembled, enacts as follows:

1. **TITLE**

   This bylaw may be cited as the **District of Kent Fireworks Regulation Bylaw No. 1381, 2007"**

2. **DEFINITIONS**

   "consumer fireworks" means all fireworks of every nature and kind, except display fireworks, Christmas crackers, sparklers and caps for toy guns;

   "display application" means an application for display permit in the form attached as Schedule "A" to this bylaw;

   "display fireworks" means Class 7, Division 2, Subdivision 2 explosives as defined in the regulations (being generally described as large fireworks used for public fireworks displays) and theatrical pyrotechnic effects but does not include firecrackers;

   "display permit" means a current and valid permit in the form attached as Schedule "A" to this bylaw authorizing a person to fire or set off display fireworks;

   "District" means the Corporation of the District of Kent

   "firecracker" means a small explosive charge and a fuse in a heavy paper casing, exploded to make noise, but having little or no pyrotechnic effect;

   "insurance requirements" means the liability insurance requirements set out in Schedule "B" to this bylaw;

   "Local Assistant" means the Local Assistant of the Fire Commissioner who has jurisdiction in the District of Kent

   "regulations" means the Explosives Regulations enacted under the *Explosives Act*, R.S.C., 1985, c. E-17, as the date of adoption of this bylaw;

3. PROHIBITIONS

a) No person may sell, offer for sale or otherwise dispose of consumer fireworks to any person.
b) No person may sell, offer for sale or otherwise dispose of firecrackers to any person.
c) No person may fire, set off or explode firecrackers.
d) No person may fire, set off or explode display fireworks indoors or outdoors without a display permit.
e) No person may fire, set off or explode consumer fireworks.
f) No person may store consumer fireworks or firecrackers in an unsafe manner.
g) No display permit holder may store, fire, set off, explode or otherwise use display fireworks in contravention of that display permit, or in an unsafe manner.

4. DISPLAY PERMITS

a) Any person 18 years of age or older desiring to fire, set off or explode display fireworks for the purpose of the observance or celebration of a special event, festival or theatrical performances may apply for a display permit by submitting to the Local Assistant, at least ten days prior to the date upon which the fireworks event is to occur:

i. a completed "Application and Permit for Display Fireworks Event" in the for attached as Schedule "A"
ii. if the fireworks event is to occur on property that is not owned by the applicant or owned or controlled by the District, a written agreement of the property owner in the form attached as Schedule "C";
iii. if the 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";
iv. evidence that the applicant is authorized by Natural Resources Canada to possess and fire or set off display fireworks; and
v. a display permit application fee of $50.00

b) The Local Assistant will consider all display applications and issue a display permit to an applicant if:

i. the property upon which the fireworks event is to occur is available for such use on the date and time set out in the display application;
ii. the fireworks event will not create a public safety risk or risk to public or private property; and
iii. the applicant has submitted to the Local Assistant the items described in Section 4 and any additional information in relation to the fireworks event that the Local Assistant may require.

c) Every display permit holder must comply with the insurance requirements as outlined in the form attached as Schedule "B"

d) The display permit holder will be required to pay the District a fee equal to the cost of any fire fighting or remediation work, materials or resources expended by the District as a result of a fire caused by fireworks used during the permitted event. The fee shall be calculated according to Schedule "E".

e) The Local Assistant must rescind a display permit in the event:

i. circumstances arising or ascertained after the display permit was issued demonstrate to the Local Assistant that a public safety risk or risk to public or private property exists in connection with the fireworks event; or
ii. the Local Assistant determines that the display permit holder submitted false or inaccurate information in his or her display application.

5. ENFORCEMENT

a) This bylaw does not prohibit or regulate the use of torpedoes, flares, fuzees or similar pyrotechnic devices by motorists, railroads, police or other agencies for signalling purposes or illumination

b) A display permit is cancelled if the display permit holder:
i. fails to comply with any term or condition of the display permit without the prior written consent of the Local Assistant; or
ii. violates or breaches any of the provisions of this bylaw.

c) Every person who violates or breaches any of the provisions of this bylaw is guilty of an offence and each day that the violation is caused or allowed to continue constitutes a separate offence.

d) Every person who violates or breaches any of the provisions of this bylaw is liable on summary conviction to a fine or imprisonment, or a fine and imprisonment. No fine imposed under this bylaw may exceed $10,000.00, and in no circumstances shall the fine imposed be below $100.00

e) A bylaw enforcement officer may issue a municipal ticket for any offence against this bylaw that has been designated as a ticketable offence pursuant to the District's Municipal Ticket Information bylaw, in force from time to time.

f) A bylaw enforcement officer may issue a municipal ticket for any offence against this bylaw that has been designated as a ticketable offence pursuant to the District's Bylaw Notice Enforcement Bylaw, in force from time to time.

g) If any section, subsection, sentence, clause or phrase of this bylaw is for any reason found invalid by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

h) The schedules attached to this bylaw form part of this bylaw.

i) If any provision of this bylaw is held to be invalid, it shall be severed and the remainder of the bylaw shall remain in effect.

6. SEVERABILITY

If any section, subsection, sentence, clause or phrase in this bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of the bylaw.

7. REPEAL

This bylaw hereby repeals Bylaw 1256, a bylaw to regulate the storage, sale and explosion of fireworks and firecrackers within the Corporation of the District of Kent and all amendments thereof.

THAT this bylaw may be cited for all purposes as "District of Kent Fireworks Regulation Bylaw No. 1381, 2007."

READ A FIRST TIME this 9th day of October 2007.

READ A SECOND TIME this 9th day of October2007.

READ A THIRD TIME this 9th day of October 2007.

FINALLY PASSED AND ADOPTED this 13th day of November 2007

Mayor

C.A.O.

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "A"

Schedule "A"

District of Kent Application and Permit For Display Fireworks Event

Name of Applicant:_____ Age: _____

Mailing Address: _____

_____ Phone: _____

Fireworks Supervisor Level and Card No. _____

THE APPLICANT HEREBY applies to fire, set off or explode fireworks on property within the District of Kent as follows:

Location: _____

Date: _____ Time: _____

Description of Event: _____

Estimated Number of Spectators: _____

Type and Quantity of Fireworks: _____

_____

_____

_____

Description of Safety Precautions: _____

_____

_____

_____

Contact Name and Phone for Organizer or Sponsor of Fireworks Event: _____

_____

Contact Name and Phone for Property Owner: _____

_____

_____

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "A" – Page 2

THE APPLICANT CERTIFIES that the Applicant understands and will be guided by the provisions of the District Fireworks Regulation Bylaw, in force 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 Local Assistant of the Fire Commissioner.

THE APPLICANT FURTHER CERTIFIES that the Applicant is authorized by Natural Resources Canada to possess and fire, set off or explode "display fireworks" (Class 7, Division 2, Subdivision 2 explosives as defined in the *Explosives Act*).

IN CONSIDERATION of being granted this permit, the Applicant covenants that the Applicant will indemnify and save harmless the District and its elected officials, employees, officers, agents and contractors from and against all manner of actions or causes of action, damages, costs, loss, or expenses of whatever kind (including, without limitation, legal fees) which the District or its elected officials, employees, officers, agents or contractors may sustain, incur, or be put to by reason of or arising out of:

(1) the issuance of this permit;
(2) the fireworks event, including, without limitation, the handling, storage, firing, setting off,
exploding or other use of fireworks in connection therewith;
(3) the Applicant's use or occupation of the location upon which the fireworks event is to occur; or
(4) any act or omission of the Applicant or any person for whom it 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 AGREES to pay a fee to the District of Kent equivalent to any costs incurred by the District for fire fighting or remediation work, materials and resources expended as a result of a fire caused by fireworks used during the event authorized by this permit. The fees shall be calculated according to Schedule "E" of the Fireworks Regulation Bylaw, in force from time to time.

_____ _____

Signature of Applicant Date

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "A" – Page 3

PERMISSION IS GRANTED to the above Applicant to fire, set off or explode fireworks, in the location and at the date and time set out above, subject to the District Fireworks Regulation Bylaw, in force from time to time, and to the following conditions and restrictions:

- In accordance with requirements of the Fireworks Regulation Bylaw, in force from time to time, the Applicant shall obtain 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 Local Assistant of the Fire Commissioner no later that ten (10) days prior to the fireworks event.

- This permit is not transferable. Only the Applicant is authorized under this permit to fire or set off or explode fireworks.

- The Applicant may only fire, set off or explode the type and quantity of fireworks described above.

_____

_____

_____

_____ _____

Local Assistant of the Fire Commissioner Date of Issue

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "B"

Schedule "B"
Insurance Requirements

1. A display permit holder shall, at his or her own expense, for the duration of the 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.

2. The Comprehensive General Liability insurance policy shall:
   (1) include all premises and operations necessary or incidental to the fireworks event;
   (2) include "Broad Form" Property Damage coverage on an occurrence basis, Including loss of use of property;
   (3) include, but not necessarily be limited to, the following coverages:
      (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 District, its elected officials, officers, agents and employees, and contractors acting behalf of the District as additional insureds;

   (5) be primary and non-contributing with respect to any insurance carried out by the District;

   (6) not include a deductible greater than $5,000.00 per occurrence (unless the District 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 insureds;

   (9) include a provision requiring the insurer to give the District 30 days' prior written notice before making any material change to the insurance coverage, or the termination or cancellation thereof;

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "B" – Page 2

(10) provide that the District, its elected officials, officers, agents and employees, and contractors acting on behalf of the District are protected notwithstanding any act, neglect or misrepresentation of the display 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 insureds; and

(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 District.

3. Seven days prior to the fireworks event and upon the District's written request from time to time, the display permit holder shall furnish the District with a certificate or certificates of insurance as evidence that the required insurance is in force.

4. Maintenance of the insurance required herein and the performance by the display permit holder of his or her obligations under this clause shall no relieve the display permit holder from liability under any covenant to indemnify the District.

5. It shall be the sole responsibility of the display 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 fulfill his or her obligation with respect to the fireworks event. Any such additional insurance shall be secured and maintained by the display permit holder at his or her own expense.

6. The foregoing insurance provisions shall not limit the insurance the display permit holder is required to secure and maintain by provincial or federal law.

7. If the display permit holder fails to secure or maintain insurance as required herein, then the District shall have the right, but know the duty or obligation, to secure and maintain such insurance and give evidence thereof to the display permit holder. The display permit holder shall pay the cost thereof to the District on demand or the District may deduct such cost from any amount that is due or may become due to the display permit holder from the District.

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "C"

Schedule "C"

Agreement of Property Owner For Fireworks Event

Name of Applicant: _____

Name of Organizer or Sponsor of Fireworks Event: _____

Location of Fireworks Event: _____

Date: _____ Time: _____

Name of Property Owner: _____

Mailing Address: _____

Phone: _____ Contact Name (if any): _____

The Property Owner has agreed and consented to the Organizer/Sponsor holding and the Applicant performing a fireworks event on the date and at the location and time described above. The Applicant has applied to the District of Kent for a permit to perform such 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 District of Kent 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 or any nature or kind whatsoever which the Property Owner may at any time have against the District of Kent or its elected officials, employees, officers, agents or contractors arising out of any cause, matter or thing in respect of or arising out of:

(1) the issuance of the permit to the Applicant;

(2) the fireworks event, including, without limitation, the handling, storage, firing, setting off, exploding or other use of fireworks in connection therewith;

(3) the use or occupation of the location upon which the fireworks event is to occur; or

(4) 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.

SIGNATURES(S) OF PROPERTY OWNER:

_____

_____

_____

DATE

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "D"

Schedule "D"

Agreement of Organizer or Sponsor of Public Fireworks Event

Name of Applicant: _____

Location of Fireworks Event: _____

Date: _____ Time: _____

Name of Organizer or Sponsor of Fireworks Event: _____

Mailing Address: _____

Phone: _____ Contact Name (if any): _____

The Organizer/Sponsor has engaged the Applicant to perform a fireworks event on the date and at the location and time described above. The Applicant has applied to the District of Kent for a permit to perform such fireworks event.

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

(1) the issuance of the permit to the Applicant;

(2) the fireworks event, including, without limitation, the handling, storage, firing, setting off, exploding or other use of fireworks in connection therewith;

(3) the use or occupation of the location upon which the fireworks event is to occur; or

(4) any act or omission of the Organizer/Sponsor or Applicant or any persons for whom either is, at 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

"Fireworks Regulation Bylaw 2007, No. 1381" – Schedule "E"

Schedule "E"

Vehicle and Personnel Charges

Personnel and vehicles costs, to respond to incidents governed by this Bylaw.

VEHICLE COST

Engine	$150.00 per hour (minimum 2 hours)
Tanker	$150.00 per hour (minimum 2 hours)
Rescue	$100.00 per hour (minimum 2 hours)
Small Vehicles	$60.00 per hour

PERSONNEL COST

Charges for paid on-call staff responses will be $50.00 per hour for each firefighter called into service (minimum 2 hours).

Cost per incident will be assessed on each hour or portion thereof, for units dispatched and the number of Fire Department personnel responding to the incident, including those placed on standby. In addition to the preceding Vehicle and Personnel Costs, the following charges will be assessed:

Consumable Goods	Replacement value plus all applicable taxes
Administration Fee	15%