

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 2009-097

A by-law to regulate and prohibit the sale and discharge of Fireworks and to provide for the issuance of permits for the sale and discharge of Fireworks and to repeal By-law 93-49.

WHEREAS the Council of The Corporation of the Town of Caledon deems it expedient to regulate and/or prohibit the sale, storage, display and the setting off of fireworks, pyrotechnics and pyrotechnic special effect devices and to prescribe conditions under which a permit for the sale and setting off of fireworks may be issued;

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law

“Consumer Fireworks” means low hazard fireworks, generally having a recreational use, as classified and defined in the Explosives Regulations, C.R.C. c. 599, and any amendments or successor Regulations, made under the *Explosives Act*, R.S. 1985, c. E-17, as amended, including but not limited to fireworks showers, fountains, golden rain, lawn lights, pin wheels, roman candles, volcanoes, sparklers, Christmas crackers and caps for toy guns, but excluding “Display Fireworks” and “Prohibited Fireworks”, and highway flares, fuses or other small distress signals

“Display Fireworks” means high hazard fireworks as defined in the Explosives Regulations, C.R.C. c. 599, and any amended or successor Regulations, made under the *Explosives Act*, R.S. 1985, c. E-17, as amended, including but not limited to rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons, but excluding “Consumer Fireworks” and “Prohibited Fireworks”

“Fire Chief” means the Fire Chief for the Town of Caledon or a member or members of the Town of Caledon Fire Department as designated by the Fire Chief

“Firecracker” means

1. any class of fireworks that explodes when ignited and does not make any significant display or visible effect after the explosions, and
2. includes the device commonly known as Chinese firecracker but does not include caps for toy guns

“Fireworks” means a substance that is made, manufactured or used to produce an explosion or detonation or a pyrotechnic device and includes fireworks composition and manufactured fireworks as defined in *The Explosives Regulations* made pursuant to the *Explosives Act* (Canada), R.S., c.E-15, s.1, as amended

“Fireworks Supervisor” means a person who is the holder of a valid Fireworks Supervisor Certificate issued under the authority of the *Explosives Act*, R.S. 1985, c. E-17, as amended, or any Regulations made thereunder

“Highway” includes a common and public highway and a street and a bridge forming part of a highway or on, over or across which a highway passes

“Permit” means permission to sell, set off, discharge, fire or to hold a display of Consumer Fireworks (excepting only on Victoria Day or Canada Day), Display Fireworks or Pyrotechnics, or to hold a pyrotechnics special effects event, issued by the Town in accordance with the terms of this by-law and signed by the Fire Chief on a form approved from time to time by the Fire Chief

“Person” includes a natural individual, a corporation, partnership, proprietorship or other form of business association and the heirs, executors, administrators, successors and assigns, or other legal representatives thereof, or a receiver or mortgagee in possession

“Prohibited Fireworks” means fireworks included on the most recent list of prohibited fireworks or explosives set out in the *Explosives Act*, R.S. 1985, c. E-17, as amended, and any Regulations made thereunder, including but not limited to 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’s, silver salutes and flash crackers; throw down and step on torpedoes, 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 similar trick devices or practical joke devices

“Pyrotechnics” and “Pyrotechnics Special Effects” means high hazard fireworks as defined in the *Explosives Act*, R.S. 1985, c. E-17, as amended, and any Regulations made thereunder, including but not limited to large distress signals, sound, pyrotechnic and smoke signals, railway track signals, distress and line-throwing rockets, salutes, theatrical effects and wildlife control devices

“Town” means The Corporation of the Town of Caledon.

PROHIBITIONS

2. (1) No person shall sell, use, set off, discharge, fire, cause or permit to be sold, used, set off, discharged or fired, or possess for the purpose of being set off, discharged or fired any firecrackers, pyrotechnics, pyrotechnics special effects or prohibited fireworks.
- (2) No person shall sell, use, set off, discharge, fire, cause or permit to be sold, used, set off, discharged or fired, or possess for the purpose of being set off, discharged or fired any consumer fireworks or display fireworks, except in accordance with the provisions of this by-law.

CONSUMER FIREWORKS

SALE OF CONSUMER FIREWORKS

3. No person shall sell at retail consumer fireworks at any time during the calendar year except for the ten days immediately preceding the day set by statute for the observance of Canada Day and Victoria Day, and except in accordance with the following provisions
 - (1) no person shall sell such fireworks to anyone under 18 years of age;
 - (2) no person shall exhibit such fireworks in any display window except imitations of fireworks containing no explosive or chemical;
 - (3) no person shall sell such fireworks on any lands of the Town of Caledon;
 - (4) no person shall sell such fireworks except from a supervised display not readily accessible to children;
 - (5) no person shall sell such fireworks except from a building equipped with adequate safeguards against fire;
 - (6) no person shall store such fireworks except in a cool dry place, remote from flammable materials and out of the reach of children; and
 - (7) no person shall sell such fireworks unless he has received a permit therefore from the Fire Chief.
4. A person requiring a permit for the sale of consumer fireworks shall file an application in writing to the Fire Chief in the form set out in Schedule “A” to this by-law.
5. An applicant shall provide all the information required to complete the application form, and shall furnish such other information that may be required by the Fire Chief so that he may be able to determine whether or not the sale of consumer fireworks conforms to any applicable statute, regulation or by-law and whether adequate safeguards against fire will be in place for the sale of fireworks.

6. Every application for the sale of consumer fireworks shall
 - (1) include a completed application in the form attached as schedule "A" to this by-law;
 - (2) be accompanied by the payment of a non-refundable application fee in the amount as described in the current Town of Caledon Municipal Act Fees By-law;
 - (3) describe the location for the sale of the consumer fireworks in a way that readily identifies and locates the lands upon which the sales will occur;
 - (4) be made by the vendor of the consumer fireworks or his authorized agent;
 - (5) be accompanied by a consent in writing from the owner of the lands upon which the sale of the consumer fireworks will occur, or his authorized agent, indicating that the owner consents to the sale of the consumer fireworks on the lands owned by him;
 - (6) include any such further information or documentation as the Fire Chief may require.
7. The Fire Chief may issue a permit for the sale of consumer fireworks where the application is in conformity with the requirements of this by-law.
8. The vendor of consumer fireworks shall display the permit during all times that he is selling the consumer fireworks.
9. Every permit for the sale of consumer fireworks shall expire on the 31st day of December of the year in which it was issued.

SETTING OFF OF CONSUMER FIREWORKS

10. (1) A person may use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired or hold a display of any consumer fireworks on Victoria Day and Canada Day on property owned by him or her.
- (2) In the event of rain on either Victoria Day or Canada Day in such amount that it is impractical to fire or set off the fireworks, the day next following Victoria Day or Canada Day, as the case may be, shall be considered to be the statutory holiday for purposes of subsection (1).

DISPLAY FIREWORKS AND PYROTECHNICS

11. (1) No person shall use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired display fireworks or hold a display of any fireworks at any time without first having obtained a permit issued by the Town in accordance with the terms of this by-law and signed by the Fire Chief.
 - (2) No person other than a Fireworks Supervisor may make application in writing to the Town's Fire Chief for a permit under subsection 11(1) to use, set off, discharge, fire or cause or permit to be set off, discharged or fired, display fireworks or to hold a display of fireworks.
12. Every application for a permit under subsection 11(1) shall include:
 - (1) a completed application in the form attached as Schedule "B" to this by-law submitted at least thirty (30) days prior to the fireworks event taking place;
 - (2) the payment of a non-refundable application fee in the amount as described in the current Town of Caledon Municipal Act Fees By-law;
 - (3) proof of comprehensive general liability insurance in an amount not less than Five Million Dollars (\$5,000,000.00), naming The Corporation of the Town of Caledon as an additional insured, and, where applicable, naming the neighbouring properties as an additional insured, and containing an

approved cross-liability clause in the form attached as Schedule "C" to this by-law;

- (4) proof that the applicant for a permit has been approved by the Chief Inspector of Explosives as a Fireworks Supervisor by providing a copy of the applicant's Fireworks Supervisor Certificate;
 - (5) a description of the site to be used for the setting off of the display fireworks sufficient to identify and locate the site, the set off, discharge or firing area, the fallout area, and the safety distance from the audience or any members of the public, and, where more than one site is proposed, a separate application shall be made for each site;
 - (6) an Indemnification Agreement signed by the person duly authorized to bind the applicant in the form attached as Schedule "D" to this by-law;
 - (7) a description of the manner and means of restraining unauthorized persons from attending near the location where the display fireworks are being set off;
 - (8) a description of the manner in which unused fireworks are to be disposed of;
 - (9) indicate the number of persons authorized to handle and set off the display fireworks, each of whom shall be responsible and competent individuals of at least eighteen (18) years of age.
 - (10) written consent of the property owner, if applicable; and
 - (11) such further and other information as the Fire Chief may require.
13. Every permit issued under subsection 11(1) of this by-law shall
- (1) specify the name of the applicant;
 - (2) define the location where the fireworks are to be used, set off, discharged or fired or where the fireworks may be or are to be set off;
 - (3) describe the methods and means which may be used to set off the fireworks;
 - (4) describe the manner and means of restraining unauthorized persons from attending near the location where the fireworks are being set off;
 - (5) describe the manner in which unused fireworks are to be disposed of; and
 - (6) indicate the number of persons authorized to handle and set off the fireworks, each of whom shall be responsible and competent individuals of at least eighteen (18) years of age.
14. No person shall use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired, display fireworks or hold a fireworks display at any time as follows:
- (1) at a location, site, date or time, other than as specified in the permit, as issued;
 - (2) outside the site boundaries as specified in the permit, as issued;
 - (3) on any land or site that is not owned by him or her, unless the prior written permission has been obtained from the owner, lessee or other person in charge of such land and the date is clearly specified in the written permission;
 - (4) into, in or on any highway, street, lane, square or other public place, which the public or any member thereof has access to, may have access to, uses or may use;

- (5) within three hundred (300) metres of any premises or place where explosives, gasoline or other highly flammable liquid or gas substances or compounds are manufactured or stored in bulk; or
 - (6) within three hundred (300) metres of a hospital, nursing home, home for the aged, church or school unless the consent of the Town and the owner or authorized representative thereof is obtained.
15. Nothing in clause 14(4) shall prohibit the setting off or holding of a display of fireworks in a public place in accordance with the provisions of this by-law and any permit issued under subsection 11(1).
16.
 - (1) No person, except a Fireworks Supervisor being the holder of a valid Certificate or Card for the category of Supervisor, shall use, set off, discharge, fire or cause or permit to be used, set off, discharged or fired, display fireworks or hold a display of any fireworks.
 - (2) The Fireworks Supervisor, who is named in the application for a Permit, shall be present in person at all times when the display fireworks are being used, set up, set off, discharged or fired, and when the site is being cleaned up.
17. Notwithstanding any other provision of this by-law, no person shall use, set off, discharge or fire, or continue to use, set off, discharge or fire, cause or permit to be used, set off, discharged or fired, display fireworks or hold a display of any fireworks in a manner that creates or may create, at or in respect of any place, location or site, or in respect of any person, property or thing, any of the following:
 - (1) a nuisance;
 - (2) an unsafe condition;
 - (3) a danger from fire; or
 - (4) a risk of accident, injury or damage.
18. Every person who uses, sets off, discharges, fires, or causes or permits to be used, set off, discharged or fired, display fireworks or holds a display of any fireworks shall at all times provide and maintain fully operational fire extinguishing equipment, including portable fire extinguishers or charged garden hose, present and ready for immediate use, and for a reasonable time thereafter, at the site or location where the fireworks may be set off, discharged or fired.

GENERAL

19. No person shall set off any fireworks on lands owned, leased or occupied by the Town of Caledon except with the consent of the Council.
20. No person shall set off any fireworks of any kind at any time on any highway within the Town of Caledon.
21. The issuance of any permit by the Fire Chief shall not relieve the permittee from compliance with any other applicable law.
22. Any permit issued pursuant to this by-law is non-transferrable.
23. Where the Fire Chief is of the opinion that the forms set out in the Schedules attached to this by-law should be amended for administrative accuracy or efficiency he may so amend the form provided that the intent of this by-law and the substance of the form is maintained.

REVOCAION OF PERMIT

24. The Fire Chief may revoke without prior notice to the permit holder or any other person any permit issued pursuant to this by-law

- (1) where the sale, use, set-off, discharge, firing or holding a display of fireworks is contrary to
 - (b) the provisions of this by-law;
 - (c) any conditions upon which the permit was issued; or
 - (d) any other applicable law; or
- (2)
 - (a) if the permit was issued on mistaken, false or incorrect information;
 - (b) if it was issued in error; or
 - (c) if the holder requests in writing that it be revoked.

SCHEDULES

25. The Schedules attached hereto shall form part of this by-law.

VALIDITY

26. If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law, that each and every other provision of this by-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

OFFENCE

27. Any person who contravenes any provisions of this by-law is guilty of an offence.

REPEAL

28. By-law 93-49 of The Corporation of the Town of Caledon is hereby repealed.

**READ THREE TIMES AND FINALLY
PASSED IN OPEN COUNCIL
THIS 4th DAY OF AUGUST 2009.**

Marolyn Morrison, Mayor

Karen Landry, Clerk



Schedule "A" to By-law 2009-097

The Corporation of the Town of Caledon
Application for permit to sell
Class 7.2.1. Consumer Fireworks

Permit No. _____

Location of Sales

Street address: _____

City: _____ Postal Code: _____

Fireworks Sales Permit Vendor/Applicant

Name: _____

Address: _____

Phone: _____ Bus: _____ Fax: _____

I, _____, do solemnly declare that I have appointed
(vendor of fireworks)
_____ as my agent for the purpose of this fireworks sale application.
(name of agent)

(Signature of vendor of fireworks)

I, _____, do solemnly declare that the information provided
(name of applicant)

in this application is true and correct.

(Date)

(Signature of applicant)

Property Owner Consent – Sale of Fireworks

Name: _____

Address: _____

Phone: _____ Bus: _____ Fax: _____

I, _____, consent to the sale of fireworks from my property.
(Owner of property)

(Signature of owner)



Schedule "A-1" to By-law 2009-097
The Corporation of the Town of Caledon
Application for Permit to sell Fireworks

Days of sale

1. From _____ To _____
2. From _____ To _____

Description of fireworks to be sold:

Method of display of fireworks:

Safeguards against fire:

For office use

Zoning designation _____

Permit issued _____ ~~Application cancelled~~ _____

Comments: _____

Schedule "B" to By-law 2009-097



Class 7.2.2. Display Fireworks Event Approval / Purchase Form

Printed Name of Applicant: _____

Mailing Address: _____

Telephone / Fax / E-mail: _____

Supervisor's Certificate Number: _____

Class: _____ Expiry Date: _____

Company (if applicable): _____

Address: _____

Telephone / Fax / E-mail: _____

Sponsoring Organization (if applicable): _____

Address: _____

Event Location: _____

Dates: _____

Name of Insuring Agency: _____

Amount: _____

Address: _____

Telephone / Fax / E-mail: _____

Place and Method of Pyrotechnic Storage on Site: _____

Signature of Supervisor: _____ Date: _____

Permission of Local Authority Having Jurisdiction

Printed Name: _____ Title: _____

Organization: _____

Address: _____

Telephone / Fax / E-mail: _____

Site Plan Attached: Yes No

Event Description Attached: Yes No

Signature: _____

Date: _____

Comments:

 TOWN OF CALEDON	Certificate of Insurance – Standard <i>This is to certify that the Insured named below is insured as described below.</i>
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*** This form must be completed and signed by your insurer or insurance broker.***

- Note: 1. Proof of liability insurance will be accepted on this form only (with no amendments)
 2. **Insurance company must be licensed to operate in Canada.**

Named Insured	Telephone No. (including area code) ()
	Fax no. (including area code) ()
Insured's address (street name, city, province and postal code)	

Type of insurance	Insurer's Name	Policy number	Policy Period		Limits of Liability (bodily injury & property damage – inclusive)	Deductible
			From 12:01AM YYYY MM DD	To 12:01AM YYYY MM DD		
Commercial General Liability						
<input type="checkbox"/> Umbrella						
<input type="checkbox"/> Excess						
<input type="checkbox"/> Other (Explain)						
Commercial / General Liability includes: Occurrence basis, including Personal Injury, Property Damage, Broad Form Property damage, Contractual Liability, Non-owned Auto Liability, Owners & Contractors Protective Coverage, Products-Completed Operations, Contingent Employers Liability, Cross Liability and Severability of Interest Clause.						
Tenant's Legal Liability: <input type="checkbox"/> No or <input type="checkbox"/> Yes... (Limit) \$ _____ Liquor Liability: <input type="checkbox"/> No or <input type="checkbox"/> Yes						

THE CORPORATION OF THE TOWN OF CALEDON has been added as an additional insured but only with respect to their interest in the operations of the Named Insured.

Other policies	Insurer's Name	Policy number	Policy Period		Limits of coverage
			From 12:01AM YYYY MM DD	To 12:01AM YYYY MM DD	
Motor Vehicle Liability "All vehicles owned or operated by the insured"					

Motor Vehicle Liability – must cover all vehicles owned, operated by or on behalf of the insured.

This certifies that the policies of insurance described above have been issued by the undersigned to the Insured named above and are in force at this time. If cancelled or materially changed in any manner that would affect the Town of Caledon or other scheduled additional insured, for any reason, so as to affect this certificate, thirty (30) days prior written notice by registered mail or facsimile transmission will be given by the Insurer(s) to:	The Corporation of the Town of Caledon Legal Services Department 6311 Old Church Road Caledon, ON L7C 1J6 Fax: (905) 584-4325
DESCRIPTION OF OPERATIONS/LOCATIONS	

This certificate is executed and issued to the aforesaid Corporation of the Town of Caledon, the day and date herein written below.

Name of insurance company or broker (completing form)	Telephone No. (including area code) ()
Address (street name, city, province and postal code)	Fax no. (including area code) ()
Name of authorized representative or official	Signature of authorized representative or official
	Date (YR MM DD)

Schedule "D" to By-law 2009-097

INDEMNITY

_____ (Name of Applicant)

1. shall at all times indemnify and save harmless The Corporation of the Town of Caledon (the Town) from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever (including those under or in connection with the *Explosives Act* (Canada), or any successor legislation), made or brought against, suffered by or imposed on the Town or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and property of the Town) directly or indirectly arising out of, resulting from or sustained as a result of _____
_____ for the purpose of a fireworks display on _____.
2. acknowledge and agree that, in addition to any power or authority available to the Fire Chief or his designate under The Fire Protection and Prevention Act, 1997 and O. Reg. 388/97, as amended, the Town's Fire Chief or his designate may, at anytime, and without prior notice, cancel the fireworks display when the Town's Fire Chief or his designate has reasonable grounds to believe that at the time of the fireworks display there is a risk or threat of fire or a risk or threat for the spread of fire, if the fireworks display were to occur or were to continue.

3. wave and release the Town from any claim for any compensation of any kind whatsoever and waive and release any claim for damages, including consequential damages as a result of the cancellation of the fireworks display by the Fire Chief or his designate.

Dated at the _____ in the _____
this ___ day of _____.

Name:
Position:

Name:
Position:

I/We have authority to bind the corporation

Name:
Position:

Name:
Position:

I/We have authority to bind the corporation