



**THE CORPORATION OF THE CITY OF MISSISSAUGA
OUTSIDE FIREWORKS VENDORS LICENSING
BY-LAW 340-01**

(amended by 530-02, 197-08, 152-14, 266-15, 93-16, 223-16, 104-18)

WHEREAS subsection 37 of section 210 of the *Municipal Act*, R.S.O. 1990, c.M.45, provides that municipal councils may pass by-laws to regulate and prohibit the sale of fireworks;

AND WHEREAS the Council of The Corporation of the City of Mississauga deems it advisable to license and regulate the sale of fireworks from a place other than inside a building;

NOW THEREFORE the Council of The Corporation of the City of Mississauga enacts the following:

DEFINITIONS

1. For the purposes of the By-law and the annexed Schedules:

“Appeal Tribunal” means an all-citizen Tribunal duly appointed by Council to conduct hearings under this By-law. (197-08)

“Chinese New Year” means the first day of the Chinese calendar; (266-15, 223-16)

“City” means The Corporation of the City of Mississauga and its physical boundaries as described in the Regional Municipality of Peel Act, R.S.O. 1990, c. R. 15, as amended;

“Class 7 Division 2 Fireworks” comprises manufactured Fireworks and has five (5) subdivisions, as defined in the explosive regulations made pursuant to *The Explosives Act*, R.S., c. E-15, s.1, as amended (“*Explosives Act*”);

“Clerk” means the Clerk of the City of Mississauga or their duly appointed Deputy;

“Council” means the Council of The Corporation of the City of Mississauga;

“Designated Location” means an area or site approved by the City, in accordance with paragraph 7(3) herein, used for the purpose of vending;

“Diwali” means the days(s) during the Indian festival of lights where the fireworks will be permitted, the day(s) of which will be confirmed by the Fire Chief each year; (266-15, 223-16)

“Fire Chief” means the Chief of the municipality's Fire and Emergency Services Division and includes any staff official acting on their behalf;

“Firecracker” means any class of Fireworks that explodes when ignited and does not make any significant display or visible effect after the explosion but does not include caps for toy guns;

“Fireworks” means a pyrotechnic device or a substance that is made, manufactured or used to produce an explosion or detonation and includes Fireworks composition and manufactured Fireworks as defined in the *Explosives Regulations* made pursuant to the *Explosives Act*;

“Fireworks Portable Display Unit” means a stand, container, cart, seat, display rack, trailer or other movable display unit used for the purpose of sales by retail of Fireworks offered for sale but does not include a motorized vehicle;

“Fireworks Storage Unit” means a container, trailer or other movable storage unit used for the storage of the Fireworks offered for sale to which the public is prohibited and which has two (2) exits;

“Holiday” means: (266-15, 104-18)

(a) the following statutory holidays: Canada Day and Victoria Day; and

(b) other days: Diwali and Chinese New Year;

“Individual” means a natural person and does not include a corporation, partnership or association;

“Inspector” means a duly appointed Municipal Law Enforcement Officer;

“Motor Vehicle” includes an automobile, truck, motorcycle and any other vehicle propelled or driven otherwise than by muscular power but does not include a motorized snow vehicle, motor-assisted vehicle or trailer;

“Operator” means any person who sells or offers for sale by retail, or displays or exposes for the purpose of sale by retail any Fireworks Portable Display Unit;

“Owner” means the owner of the Fireworks Portable Display Unit;

“Person” includes a corporation and its directors and officers, and the heirs, executors, and administrators or other legal representatives of an individual and their respective successors and assignees;

“Premises” includes lands, and any fences, buildings, sheds or similar structures situated thereon;

“Sell” includes display for sale, expose for sale or offer for sale;

“Separation Barrier” means either a natural or man made blockade which provides adequate division between designated locations or an existing business selling similar products to those of the vendor;

“Licence Manager” means the Manager of the Mobile Licensing and Enforcement Section of the City’s Enforcement Division and includes his or her designates. (197-08)

“Licensing Section” means the Mobile Licensing and Enforcement Section of the City’s Enforcement Division. (197-08)

LICENSING REQUIRED

2. No person shall:
 - (a) own a Fireworks Portable Display Unit being operated in the City,
 - (b) operate a Fireworks Portable Display Unit in the Cityunless the person is licensed under this By-law.
3. Where the licensed Fireworks Portable Display Unit Owner is also the Operator, a Fireworks Portable Display Unit Operator's licence will not be required.
4. A person shall carry on business only in the name in which the business is licensed.
5. No person shall publish or cause to be published any representation that the person is licensed under this By-law if the person is not so licensed.

LICENSING SECTION

6. The Licensing Section shall: (197-08)
 - (1) receive and process all applications for licences and renewal of Licences;
 - (2) issue all licences when an application is made in accordance with the provisions of this By-law and the attached Schedules, and meets all requirements under this By-law and attached Schedules
 - (3) impose terms and conditions on a Licence where the Licence Manager is of the opinion that a term or condition of a Licence should be imposed;
 - (4) refuse to issue, renew a Licence or revoke or suspend a Licence, where the Licence Manager is of the opinion that the Applicant is disentitled to a Licence under Section 12;

- (5) maintain complete records showing all applications received and licences issued;
- (6) enforce the provisions of this By-law and attached Schedules; and
- (7) generally perform all the administrative functions conferred upon it by this By-law and the attached Schedules.

APPLICATION FOR A LICENCE

7. (1) An application for a Fireworks Portable Display Unit Owners licence shall be completed on the forms provided by the Licensing Section.
- (2) Each executed application for a Fireworks Portable Display Unit Owner's licence shall be submitted to the Licensing Section and be accompanied by:
 - (a) the fee in the appropriate amount as set out in Schedule 1 to this By-law;
 - (b) if the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information filed or, if a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration;
 - (c) a letter of authorization including the following information from the property owner where the Fireworks Portable Display Unit is to be located:
 - (i) the name of the Fireworks Portable Display Unit Owner; and
 - (ii) a plan of the private property showing the Designated Location on the property where the Fireworks Portable Display Unit and Fireworks Storage Unit will be located; and
 - (iii) the term for which the approval is granted by the property owner;
 - (d) a certificate of insurance endorsed to provide both that the Licensing Manager will be given at least ten (10) days notice in writing prior to any cancellation, expiration or change in the amount of the policy and that the insured has policy coverage in respect to any one accident a third party liability limit of at least \$5,000,000. (197-08)
- (3) The Designated Location referred to in clause (2)(c)(ii) above shall only be approved where:
 - (a) The Designated Location is not within thirty (30) metres (98 feet) of any intersection;

- (b) The Designated Location is not within one hundred (100) metres (328 feet) of the entrance to any public park;
 - (c) The Designated Location is not within one hundred (100) metres (328 feet) of the property line of any land occupied by a public, separate or private school;
 - (d) The Designated Location is not within five hundred (500) metres (1,640) feet of another approved Designated Location except where there is a separation barrier; and
 - (e) The Designated Location is not within five hundred (500) metres (1,640) feet of a business which sells to the public similar products and where a Business Licence has been issued for the sale of the products as required under the Business Licensing By-law.
8. A Fireworks Portable Display Unit Owner must make a separate application for a licence for each of the Designated Locations at which the Owner carries on business.
9. (1) An application for a Fireworks Portable Display Unit Operators licence shall be completed on the forms provided by the Licensing Section.
- (2) Each executed application for a Fireworks Portable Display Unit Operator's licence shall be submitted to the Licensing Section and be accompanied by:
- (a) a letter of potential employment for the Fireworks Portable Display Unit Owner for whom they will work; and
 - (b) the fee in the appropriate amount as set out in Schedule 1 to this By-law;
10. Where an application for a licence is refused, the fees paid pursuant to paragraph 7(2)(a) or 9(2)(b) shall be fully refunded.
11. No individual shall be licensed under this By-law unless the individual is eighteen (18) years of age or over.

GROUND FOR REFUSAL TO LICENCE OR TO REVOKE

12. An applicant whose application meets all the requirements of this By-law and its Schedules is entitled to a licence or the renewal of a licence except where:
- (a) there are reasonable grounds to believe that any application or any other document provided to the Licensing Section by or on their behalf contains a false statement or provides false information; or

- (b) the past or present conduct of the applicant, or of any partner, in the case of an applicant which is a partnership, or of any director or officer of the corporation, if the applicant is a corporation, affords reasonable grounds to believe that the business in respect of which the application is made will not be carried on in accordance with the law and with integrity and honesty; or
 - (c) the financial position of the applicant affords reasonable grounds to believe that the business will not be carried on in a financially responsible manner; or
 - (d) there are reasonable grounds to believe that the applicant does not meet all the requirements of this By-law or any other applicable City By-law, or that the business is carried on or intended to be carried on in an area of the City where such business is prohibited by this By-law, or in respect of which the issuing of a licence in respect of the business is not permitted by this By-law; or
 - (e) the applicant has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of a by-law enacted by the City; or
 - (f) there are reasonable grounds to believe that the equipment, vehicles and other personal property used in connection with the carrying on of or engaging in the business licensed hereunder is dangerous or unsafe; or
 - (g) the fee payable in respect of the licence applied for has not been paid.
13. Council may refuse to issue a licence or revoke a licence where the applicant is disentitled to a licence under section 12 or on such grounds as are in the discretion of Council.

LICENCE ON TERMS AND CONDITIONS

14. Notwithstanding any other provisions of this By-law, Licence Manager may issue a licence subject to terms and conditions including special conditions as are necessary to give effect to this By-law and the attached Schedules and may include, but are not limited to, conditions restricting the hours of business, conditions relating to the location where the business may be operated or that the business owner or operator have employees in attendance at the business location during the hours of operation to ensure public safety and comfort. (196-08)

INSPECTION

15. On receipt of an application for a licence or as a condition of the continuation of a licence, the inspector may, at any reasonable time make an inspection to ensure that all the provisions of this By-law and the appropriate Schedules have been satisfied.
16. Upon an inspection under section 15, the inspector is entitled to inspect all books of account, vouchers, correspondence and the records of the person being inspected relevant to the purposes of the inspection.

17. No person shall obstruct the person inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector.

DISPLAY OF LICENCE

18. The licensee shall carry the licence at all times when the licensee is engaged in the activity for which the licence has been issued and shall produce the licence upon request by the Licensing Manager, an Inspector or a peace officer. (197-08)

LICENCE NON-TRANSFERABLE

19. A licence issued under this By-law is not transferable.

CHANGE OF LICENCE

20. No person to whom a licence has been issued under this By-law shall alter, erase or modify or permit the alteration, erasure or modification of that licence or any part thereof, unless approved by the Licensing Manager. (197-08)

TERM OF LICENCE

21. Every licence expires on the expiry date set out in Schedule 2 to this By-law.

CHANGES

22. (1) Every Fireworks Portable Display Unit Owner shall notify the Licensing Section in writing within four (4) days after the event of;
 - (a) any change in the licensee's address;
 - (b) any change in number or composition of officers, or directors, if a corporation, or in partners, if a partnership; or
 - (c) any change in business name.
 - (2) Where a change of business name or the licensee's address has occurred and notification has been made in accordance with Subsection 1 of this section, every licensee shall attend within four (4) days of the date of notification of the Licensing Section and produce the licence for amendment.
23. Every Fireworks Portable Display Unit Operator shall notify the Licensing Section in writing within four (4) days after the event of a change in the Owner that they are operating for.

THE LICENCE MANAGER'S POWER TO REFUSE TO ISSUE, RENEW A LICENCE OR REVOKE OR SUSPEND A LICENCE

24. (1) The powers and authority to refuse to issue or renew a Licence, to cancel, revoke or suspend a Licence, or to impose terms and conditions on a Licence, are hereby delegated to the Licence Manager and his or her delegates. (197-08)
- (2) Where the Licence Manager is of the opinion that: (197-08)
- (a) an application for a licence or renewal of a licence should be resumed,
 - (b) a reinstatement should not be made;
 - (c) a licence should be revoked
 - (d) a licence should be suspended, or
 - (e) a term or condition of a licence should be imposed,
- he or she shall make that decision.
- (3) After a decision is made by the Licence Manager, written notice of that decision shall be given to the Applicant or Licensee advising the Applicant or Licensee of the Licence Manager's decision with respect to the application or licence. (197-08)
- (4) No Person shall re-apply with the Licence Manager to obtain or renew a Licence for a minimum of one year from the later of: (152-14)
- (a) the date of the Licence Manager's decision to refuse to issue, renew or revoke a Licence; or
 - (b) where the decision of the Licence Manager is appealed, the date of the Appeal Tribunal's decision if the Appeal Tribunal upholds the decision to refuse to issue, renew or revoke a Licence.

THE HEARING BEFORE THE APPEAL TRIBUNAL

25. (1) The powers and authority to conduct appeal hearings under this By-law are hereby delegated to an all-citizen Appeal Tribunal duly appointed by By-law.(197-08)
- (2) The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O 1990, c. S.22, as amended, shall apply to all hearings conducted by the Appeal Tribunal under this By-law. (197-08)

- (3) When the Applicant or Licensee who has been given written notice of the hearing does not attend at the appointed time and place, the Appeal Tribunal may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceedings. (197-08)
- (4) At the conclusion of a hearing, the Appeal Tribunal may give its decision orally or reserve its decision, but in any case it shall provide its decision in writing, with reasons, within fourteen (14) days of the hearing to the Applicant or Licensee and the Licence Manager. (197-08)
- (5) In making its decision the Appeal Tribunal may uphold or vary the decision of the Licence Manager, or make any decision that the Licence Manager was entitled to make in the first instance. The decision of the Appeal Tribunal issued under this By-law is final. (197-08)

RETURN OF LICENCE

26. (1) When a Licence has been revoked, deemed unrenewable, cancelled or suspended, the holder of the Licence shall return the Licence to the Licensing Section within twenty four (24) hours of service of written notice of the decision of the Licence Manager or, where an appeal has been filed, the decision of the Appeal Tribunal and, the Licence Manager, may enter upon the business Premises of the Licensee for the purpose of receiving, taking, or removing the said Licence. (197-08)
- (2) When a Person has had his Licence, revoked or suspended under this By-law, he shall not refuse to deliver up or in any way obstruct or prevent the Licence Manager from obtaining the Licence in accordance with subsection 910. (197-08)

ORDER TO COMPLY

27. Where a licensee has contravened any provisions of this By-law, or its Schedules the inspector may:
 - (a) serve a written notice on the licensee, advising of the contravention and directing compliance; or
 - (b) direct in a written order that a thing or matter is required to be done and in default of such matter or thing being done, the matter or thing will be done at the licensee's expense by the City and that the City will recover the expense by action or in like manner as municipal taxes.

NOTICE

28. (1) Any notice or order required to be given or served under this By-law is sufficiently given or served if delivered personally or sent by registered mail, addressed to the person to whom delivery or service is required to be made at the last address for service appearing on the records of the Licensing Section.

- (2) Where service is made by registered mail, the service shall be deemed to be made on the seventh day after the date of mailing, unless the person on whom service is being made establishes that they did not, acting in good faith, through absence, accident, illness, or other cause beyond their control, receive the notice or order until a later date.

PENALTY

29. (1) Every person who contravenes any provisions of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.00, exclusive of costs.
- (2) If a corporation is convicted under subsection 29(1) the maximum penalty, exclusive of costs, that may be imposed is \$5,000 and not as provided under subsection (1).

VALIDITY

30. (1) If a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.
- (2) The Schedules annexed to this By-law in respect of the various licences set out in this By-law are hereby incorporated into and form a part of this By-law.

INTERPRETATION

31. (1) Words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the converse.
- (2) A word interpreted in the singular number has a corresponding meaning when used in the plural.

SHORT TITLE

32. This By-law may be referred to as the Outside Fireworks Venders Licensing By-law.

ENACTED and PASSED this 11th day of July, 2001.

Signed by: Hazel McCallion, Mayor and Arthur Grannum, City Clerk

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**Schedule 1 to By-law 0340-2001, as amended
relating to Fees**

(amended by By-law 530-02)

1.	<u>TYPE OF LICENCE</u>	<u>2003 Original</u>	<u>2004* Original</u>	<u>2005* Original</u>
	Fireworks Portable Display Unit Operator	\$22.00	\$29.00	\$35.00
	Fireworks Portable Display Unit Owner	\$103.00	\$103.00	\$103.00
2.	<u>OTHER FEES</u>	<u>2003-2005*</u>		
	Appeal Committee Hearing Fee	\$324.00		
	Photographs	\$19.00		
	Replacement fee for loss of Operator's or Owner's licence	\$12.00		

***Note:** These rates shall automatically increase and be rounded to the nearest dollar on the first day of January in each year, starting in 2004, by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the 12 month period ending on October 1 in the year immediately preceding the rate increase date.

**Schedule 2 to By-law 0340-2001 relating to
licence expiry dates**

(amended by 266-15)

1. The licences issued pursuant to this By-law shall be valid, subject to the other provisions of this By-law for a period of time not to exceed ten (10) days immediately preceding a Holiday.
(266-15)

**Schedule 3 to By-law 0340-2001 relating to
the sale of Fireworks from a
Fireworks Portable Display Unit**

(amended by 93-16)

1. Every application for a licence made under this By-law and this Schedule shall be accompanied by a description of the Fireworks to be sold.
2. Where the Fireworks Portable Display Unit is a trailer, a current provincial permit for the trailer issued and in good standing from the Ministry of Transportation of Ontario shall be supplied.
3. Every Owner and Operator licensed under this By-law and this Schedule shall ensure that:
 - (1) No Smoking signs are posted on the Fireworks Portable Display Unit and the Fireworks Storage Unit;
 - (2) The Fireworks Storage Unit is not located within thirty (30) metres of the Fireworks Portable Display Unit or within fifteen (15) metres of any public roads or within thirty (30) metres of any inhabited buildings;
 - (3) There shall be an area of at least thirty (30) metres in radius surrounding the Fireworks storage Unit that is properly cordoned off to prohibit access by the public with motorized vehicles;
 - (4) The public are not permitted within thirty (30) metres of the Fireworks Storage Unit;
 - (5) A 10 lb A.B.C. rated fire extinguisher is available for the Owner and each Operator in attendance during the time sales are taking place;
 - (6) No Fireworks are sold to anyone under the age of eighteen (18) years;
 - (7) No Firecrackers are sold; and
 - (8) The Fireworks Portable Display Unit and Fireworks Storage Unit are set up and operated only at the Designated Location indicated on their licence.
 - (9) No Fireworks are sold to any Person without first providing the Person with Firework Safety information, in a form as approved by the Licence Manager. (93-16)
4. No licensed Fireworks Portable Display Unit shall use the services of an unlicensed Operator.