

# **THE CORPORATION OF THE TOWN OF AJAX**

## **BY-LAW NUMBER 36-2005**

Being a By-law to regulate and govern owners and operators of carnivals, circuses, concerts, exhibitions, festivals and other organized public amusements held for profit or otherwise for the purpose of health and safety and nuisance control.

WHEREAS the Municipal Act, 2001, S.O 2001, authorizes a municipal council to pass by-laws for licensing, regulating, governing, classifying and inspecting any business wholly or partly carried on within the municipality, including exhibitions, concerts, festivals, and other organized public amusements held for profit or otherwise;

AND WHEREAS the Council of the Town of Ajax considers it desirable and necessary to licence, regulate and govern owners and operators of carnivals, circuses, concerts, outdoor entertainment and outdoor festivals for the purposes of health and safety, and nuisance control, and an explanation as to the reason why the municipality is licensing these businesses and how these reasons relate to the stated purpose is contained in Schedule "A" attached to this By-Law;

NOW THEREFORE, the Council of the Corporation of the Town of Ajax hereby enacts as follows:

### **1. SHORT TITLE**

1.1 This By-law may be cited as the Carnival, Circus and Festival By-law.

### **2. DEFINITIONS**

2.1 In this by-law,

- (a) "Amusement Device" means a machine, contrivance, structure or vehicle used in an amusement park to entertain members of the public by moving them or causing them to be moved.
- (b) "Carnival" means an exhibition, display, event or amusement show which may include the operation of one or more Amusement Devices.
- (c) "Committee" means the Committee of Council to which Council has delegated the responsibility of handling licensing matters;
- (d) "Licence" means an authorization under this By-law to carry on the trade, calling, business or occupation specified therein.
- (e) "Licencee" means any Person Licenced under this By-law.
- (f) "Licencing Officer" means a Municipal Law Enforcement Officer appointed by Council.
- (g) "Person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession.
- (h) "Principal Applicant" means the company or Person that will be named as the Licencee on the Licence.
- (i) "Town" means the Corporation of the Town of Ajax.

### **3. GENERAL PROVISIONS**

- 3.1 No Person shall operate or conduct a Carnival, circus, public entertainment or outdoor festival in the Town without first obtaining a Licence from the Town.
- 3.2 The Licencee shall not operate within 75 metres from the lot line of any residentially zoned and occupied property.
- 3.3 No Licence is required for a Town endorsed public entertainment event or outdoor festival such as Ajax Home Week and similar events.
- 3.4 No Licence fee is required for an outdoor festival or public entertainment event given by a church, religious institution, service club or other charitable organization, provided that the proceeds are used for charitable purposes, and provided that all other requirements of this by-law are complied with.

### **4. NATURE OF LICENCE**

- 4.1 A Licence shall expire on the date of termination of the event or activity to which the Licence relates, unless it is sooner forfeited or revoked.
- 4.2 The fee for Licence shall be \$100.00 per day or any part thereof. The maximum amount of the Licence fee shall not exceed \$400.00.
- 4.3 A Licence shall not be issued for a period that exceeds 4 consecutive days.

### **5. APPLICATION, RENEWAL AND REVOCATION OF LICENCE**

- 5.1 An application for a Licence shall include:
  - (a) The written consent of the owner of the lands where the event is to be held.
  - (b) A sketch of the property on which the event is to be held showing the location of the event on that property and its location relative to surrounding properties.
  - (c) A list of all Amusement Devices to be operated at the proposed Carnival and a copy of the inspection certificate issued pursuant to the Technical Standards and Safety Act for each Amusement Device, if applicable.
  - (d) Commercial General Liability insurance subject to limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, arising from such activity. Such insurance shall be in the name of the Principal Applicant and shall name the Town of Ajax as an additional insured thereunder. A Certificate of Insurance satisfactory to the Town shall be provided as proof that this insurance is in place during the term of the event. The Principal Applicant shall indemnify and save harmless the Town of Ajax for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Town resulting from the negligent acts, omissions and/or breach of contract in the performance of the Principal Applicant obligations under this By-Law.
  - (e) A copy of the applicant's current Licence issued pursuant to the Technical Standards and Safety Act 2000, S.O. 2000 c.16, as amended, if applicable
  - (f) The Licence fee as noted in Section 4 of this By-law.

- 5.2 The Town may impose any conditions deemed appropriate for public safety to a Licence including, but not limited to:
- (a) Pay Duty Police Officers during the event.
  - (b) A certificate from the Medical Officer of Health stating that adequate sanitary facilities have been provided for.
  - (c) A security deposit of not less than \$1,000.00 for repairs and clean up.
  - (d) A detailed parking analysis to ensure that the location can accommodate the event and regular uses.
- 5.3 Receipt of the application and/or the Licence fee by the Town shall not represent approval of the application for the issuance of a Licence nor shall it obligate the Town to issue such Licence.
- 5.4 The Licencing Officer shall:
- (a) Receive and process all applications for Licences and renewal of Licences to be issued under this By-law.
  - (b) Co-ordinate the enforcement of this By-law.
  - (c) Generally perform all the administrative functions conferred upon him/her by this By-law.
  - (d) Make or cause to be made a circulation respecting each application for comments.
  - (e) Make or cause to be made all investigations and inspections which he/she deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws.
  - (f) Issue Licences to Persons who meet the requirements of this By-law and revoke Licences pursuant to the requirements of this By-law.
- 5.5 The Licencing Officer shall issue a Licence only where,
- (a) all the information which the applicant is required to provide under this By-law has been provided and verified;
  - (b) all the documents which the applicant is required to provide under this By-law have been provided;
  - (c) the Licence fee is paid;
  - (d) the investigations do not disclose that the issuing of such Licence may be adverse to the public interest;
  - (e) the Licencing Officer has no grounds to believe the applicant will not conduct himself/herself in accordance with the law or with honesty and integrity.
- 5.6 Where the Licencing Officer determines that a Licence should not be issued as a result of any matter in Section 5.5 of this By-law he/she shall notify the applicant.
- 5.7 Where an applicant advises the Licencing Officer in writing, and within 14 days of the applicant's notification, that he/she disputes the determination made by the Licencing Officer under Section 5.5 of this By-law or submits that the Licence applied for should be issued despite that determination, the matter shall be referred forthwith by the Licencing Officer to the Committee which shall hear representations from the Licencing Officer and the applicant.

- 5.8 The Committee may authorize the Licencing Officer to issue the Licence where it determines that the determination in Section 5.5 of this By-law is not sufficient to justify refusing to issue the Licence.
- 5.9 Where the Committee determines that a Licence should not be issued, the Licencing Officer shall advise the applicant of such determination.
- 5.10 A Licence may be revoked by the Licencing Officer if the Permit holder fails to comply with the requirements of the Permit and/or any other provision of this By-law.
- 5.12 Unless the matter giving rise to the notice issued under section 5.6 of this By-law has been corrected, overturned or reinstated within the time allotted, the Licencing Officer shall forthwith revoke the Licence and notify the Licencee by registered mail at his/her last known address or business address on record.

## **6. HOURS OF OPERATION**

- 6.1 A Carnival shall not be operated between the following hours:
- (a) Sunday to Thursday - 9:00 p.m. through to 10:00 a.m. the next day; and
  - (b) Friday and Saturday - 10:00 p.m. through to 10:00 a.m. the next day.

## **7. OFFENCE, PENALTY AND ENFORCEMENT**

- 7.1 Any Person who contravenes the provisions of this By-law, including every Person who fails to perform a duty imposed herein or who performs an act prohibited herein, and every director or officer of a corporation who concurs in such a contravention, is guilty of an offence and, upon conviction, pursuant to the provisions of the Municipal Act, as amended, is liable to;
- (a) a penalty in the case of Persons, other than a corporation, not to exceed \$25,000.00;
  - (b) a penalty in the case of a corporation, not to exceed \$50,000.00;
- 7.2 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
- 7.3 No Person shall obstruct or hinder the entry or the inspection of a Carnival or circus by a Municipal Law Enforcement Officer, a Provincial Offences Officer, the Licencing Officer, a Medical Officer of Health or a Police Officer.

## **8. VALIDITY**

- 8.1 The provisions of this By-law shall apply to all lands and premises within the Town.
- 8.2 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-law shall continue in full force and effect.
- 8.3 All schedules referred to in this By-law are deemed to be part of this By-law.
- 8.4 Wherever notice or materials are required to be provided to any Person pursuant to this By-law, such notice shall be deemed effective 2 days after mailing of the materials by registered mail to the last known address of that Person as indicated upon the Licence application or upon other material filed with the Town.

**9. REPEAL**

9.1 That By-law #41-2001 and By-law #43-2001 are hereby repealed.

READ a first and second time this  
Twenty Ninth day of March, 2005

READ a third time and passed this  
Twenty Ninth day of March, 2005.

---

Mayor

---

Clerk

## SCHEDULE "A" TO BY-LAW 2005

### EXPLANATION OF REASONS FOR LICENSING

The Town of Ajax considers it desirable and necessary to Licence, regulate and govern owners and operators of Carnivals and circuses for the purposes of health and safety and nuisance control.

#### **HEALTH AND SAFETY**

The Town has chosen to Licence, regulate and govern owners and operators of Carnivals and circuses to ensure that safe maintenance and operational practices are adhered to by the owners and operators in order to provide a safe and healthy environment for the residents of the Town.

#### **NUISANCE CONTROL**

The Town has chosen to Licence, regulate and govern owners and operators of Carnivals and circuses to promote professional behaviour, fair dealing amongst participants in the industry, ensure courteous treatment, and limit or mitigate unsightliness, unnecessary noise, nuisance or disruption for the residents of the Town.