

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 143-2004

WHEREAS pursuant to the provisions of The Municipal Act, 2001, S.O. 2001, c. 25, as amended, a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS the Council of the Corporation of the Town of Ajax deems it expedient to pass a By-Law to licence, regulate and govern vehicles from which refreshments are sold to the public and the owners and operators thereof for the purposes of health and safety, consumer protection and nuisance control;

AN EXPLANATION as to the reasons why the municipality is licencing these businesses and how these reasons relate to the stated purposes is contained in Schedule "B" attached to this By-law.

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

1. SHORT TITLE

1.1 This By-law may be cited as the Refreshment Vehicle By-law.

2. DEFINITIONS

2.1 In this By-law

- (a) "Annual Inspection Certificate" means a certificate issued by a Provincially authorized motor vehicle inspection mechanic.
- (b) "Committee" means the Committee of Council to which Council has delegated the responsibility of handling licensing matters.
- (c) "Council" means the Council of The Corporation of the Town of Ajax.
- (d) "Gas Certificate" means a certificate issued by a Provincially authorized propane or natural gas fitter, as the case may be, certifying that a refreshment vehicle complies with the applicable equipment and performance standards for propane or natural gas, as prescribed by the Province of Ontario.
- (e) "Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.
- (f) "Ice Cream Cart" means a refreshment vehicle which is propelled by muscular power and from which ice cream, frozen milk, frozen yogurt and frozen water products are sold.
- (g) "Licence" means Licence as issued under the provisions of this By-Law.
- (h) "Licencing Officer" means a person appointed by the Town to issue licenses, and includes a person appointed by Council for the express purpose of issuing licenses under this By-Law;
- (i) "Officer" means a Municipal Law Enforcement Officer appointed to enforce the By-Laws of the Town or a Police Officer.
- (j) "Number Plate" means a metal identification plate or an identification sticker that is issued along with the Owners Licence.

- (k) "Operate" means the selling or offering for sale of refreshments from such vehicle.
- (l) "Operator" means a Person who Operates and sells from a vehicle, refreshments for consumption by the public; and if an Owner is also an Operator, the words Owner and Operator shall have a corresponding meaning.
- (m) "Owner" means a Person who owns a vehicle or vehicles from which refreshments are sold for consumption by the public, and any Person who rents or leases a vehicle or vehicles from which refreshments are sold for consumption by the public.
- (n) "Park Land" means all land used by the Town for public park purposes including any and all buildings, structures, facilities, erections, improvements and equipment of any nature or kind located in or on such land, for so long as the land is used for public park purposes.
- (o) "Person" includes a firm, society, association, partnership or corporation.
- (p) "Refreshment Vehicle" includes a motor vehicle, trailer or cart, propelled or driven by any kind of power, including muscular power which is used for the storage, preparation or sale of food or drink intended for consumption by the public.
- (q) "Town" means The Corporation of the Town of Ajax.

3. GENERAL

- 3.1 No Owner shall, either directly or indirectly, Operate a Refreshment Vehicle within the Town without first having obtained a Licence.
- 3.2 No Operator of a Refreshment Vehicle shall Operate within the Town without first obtaining a Licence.
- 3.3 A Person who received a Licence issued pursuant to this By-Law shall comply with the regulations set out in this By-law

4. LICENCE APPLICATION

- 4.1 All Licences expire December 31 of the year of issuance, and shall be renewed by application to the Licencing Officer not later than January 31 of the following year.
- 4.2 Every applicant shall appear in person before a Licensing Officer and shall complete such License application forms as may be provided from time to time by the Licensing Officer in accordance with the requirements of this By-law and shall provide all information requested thereon, including valid photo identification of the applicant.
- 4.3 The applicant for a Refreshment Vehicle Licence shall submit the following:
 - (a) A copy of a valid Insurance Certificate pursuant to this By-law;
 - (b) A Gas Certificate not more than 36 days old if equipped with gas or propane fuel,
 - (c) A valid Annual Inspection Certificate for any Refreshment Vehicle over 180 kilograms in weight, which is operated on a Highway,
 - (d) A valid motor vehicle registration for any Refreshment Vehicle over 180 kilograms in weight;
 - (e) Proof that the Refreshment Vehicle is equipped with a properly maintained A.B.C. fire extinguisher, if required under the provisions of this By-law,
 - (f) Proof of a favorable inspection by the Durham Region Health Department not more than 30 days old,
 - (g) Proof of a valid Ontario Driver's licence, and,
 - (h) Proof of permission to Operate a Refreshment Vehicle on private property.

- 4.4 Without limiting the generality of any other provision in this By-law, every corporation applying for a License shall file with the Licensing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating documents and shall file a statutory declaration, in writing signed by an officer of the corporation, which declaration shall state:
- (a) The full name of every shareholder and the address of his/her ordinary residence;
 - (b) The name or names under which it carries on or intends to carry on business;
 - (c) That the Persons therein named are the only shareholders of the corporation; and
 - (d) The mailing address for the corporation.
- 4.5 The Licensing Officer shall:
- (a) Receive and process all applications for Licenses and renewal of Licenses 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 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;
 - (e) Issue Licenses to Persons who meet the requirements of this By-law and revoke Licenses pursuant to the requirements of this By-law;
 - (f) Where a License has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the Licenses of Persons who meet the requirements of this By-law;
- 4.6 The Licensing Officer shall issue or renew the License 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 License fee is paid;
 - (d) The investigations do not disclose that the issuing of such License may be adverse to the public interest;
 - (e) The Licensing Officer has no grounds to believe the applicant will not conduct himself/herself in accordance with the law or with honesty and integrity.
- 4.7 Where the Licensing Officer determines that a License should not be issued as a result of any matter in Section 4.6 of this By-law he/she shall notify the applicant.
- 4.8 Where an applicant advises the Licensing Officer in writing, and within 14 days of the applicant's notification, that he/she disputes the determination made by the Licensing Officer under Section 4.7 of this By-law or submits that the License applied for should be issued despite that determination, the matter shall be referred forthwith by the Licensing Officer to the Committee which shall hear representations from the Licensing Officer and the applicant.

- 4.9 The Committee may authorize the Licensing Officer to issue the License where it determines that the determination in Section 4.7 of this By-law, is not sufficient to justify refusing to issue the License.
- 4.10 Where the Committee determines that a License should not be issued the Licensing Officer shall advise the applicant of such determination.
- 4.11 (a) The Licensing Officer shall notify a Licensee, by registered mail, at his/her last known address or business address on record his/her License shall be revoked when;
- (i) the Licensing Officer has cause to believe, on reasonable grounds, that any of the information which the Licensee, as an applicant or a Licensee, is required to provide, including any verification thereof, is inaccurate; and/or
 - (ii) the Licensee has been convicted of an offence which is a contravention of this By-Law;
- (b) The Licensing Officer shall notify the Licensee of his/her grounds for License revocation and that unless the inaccuracy, conviction, revocation, cancellation, or contravention is corrected, overturned, or reinstated within thirty days, the License shall be revoked.
- 4.12 Where a Licensee advises the Licensing Officer, in writing and within thirty days that he/she disputes the revocation of the License, the matter shall be referred forthwith, to the Committee, which shall hear representations from the Licensee and either confirm the revocation of the License or reinstate the License as it sees fit.
- 4.13 Unless the matter giving rise to the notice issued under section 4.12 of this By-law has been corrected, overturned or reinstated within the time allotted, the Licensing Officer shall forthwith revoke the License and notify the Licensee by registered mail at his/her last known address or business address on record.
- 4.14 Every change of address or telephone number of any Person Licenced under this By-Law shall be reported to the Licencing Officer within 15 days.
- 4.15 A Licence and Number Plate issued under this By-Law is non-transferable and remains the property of the Town.

5. PROHIBITIONS AND PROVISIONS

- 5.1 No Person shall fail to comply with all motor vehicle, safety, health and sanitary regulations applicable either to a Refreshment Vehicle or to the food or goods sold therefrom.
- 5.2 No Person shall fail to keep his Refreshment Vehicle in a clean and sanitary condition.
- 5.3 The Operator of a Refreshment Vehicle shall be clean while serving the public from the vehicle.
- 5.4 No Person shall Operate a Refreshment Vehicle drawn by animals.
- 5.5 No Person shall Operate a Refreshment Vehicle which contains cooking, heating or cooling equipment without a 5 lb A.B.C. fire extinguisher, which is maintained in a good operating condition.
- 5.6 (a) No Person shall enter Rotary Park, Cedar Park, or Sportsplex to locate or Operate a Refreshment Vehicle without the express written consent of the Director of Recreation Services, or their designate.

- (b) No Person shall locate or Operate a Refreshment Vehicle on any other Park Land within the limits of the Town of Ajax without the express written consent of the Director of Operation Services, or their designate.
- 5.7
- (a) The Owner shall provide and maintain Commercial General Liability insurance subject to limits not less than \$2,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof arising from such activity.
 - (b) Such insurance shall be in the name of the Owner and shall name the Town of Ajax as an additional insured thereunder.
 - (c) A Certificate of Insurance satisfactory to the Town, shall be provided as proof of insurance is in place for the term of the Licence.
 - (d) The Owner 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 Owner's obligations under this By-law.
- 5.8 The Owners and Operators of a Refreshment Vehicle shall comply with all relevant By-laws of the Town, and without limiting the generality of the foregoing, comply with all Parking, Traffic and Zoning regulations.
- 5.9 No Person shall Operate a Refreshment Vehicle without providing on the exterior of the vehicle, at all times, a minimum 20 litre garbage receptacle.
- 5.10 When requested to do so by an Officer, the Operator of a Refreshment Vehicle shall move the vehicle immediately, as instructed.
- 5.11 No Person shall vend from a Refreshment Vehicle at a location other than that authorized on the Licence.
- 5.12 Every Person operating a Refreshment Vehicle shall:
- (a) Prominently display the Number Plate on the exterior of the vehicle at the rear;
 - (b) Produce the Licence for inspection when requested to do so by an Officer; and,
 - (c) Not obstruct an Officer inspecting any food, goods or documents at any reasonable times.
- 5.13 No Person operating a Refreshment Vehicle shall activate bells, horns or music at a volume that disturbs a resident of the Town.
- 5.14 No Person shall Operate or permit the Operation of an ice cream truck or Ice Cream Cart between 10:00 p.m. and 7:00 a.m. the day following.

6. ADMINISTRATION AND ENFORCEMENT

- 6.1 This By-law shall be enforced by a Licencing Officer, Officer or a Peace Officer.
- 6.2 The annual fee for a Licence shall be set out in Schedule "A" to this By-law.
- 6.3 If a Court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-Law and it is hereby declared that the remainder of the By-Law shall be valid and shall remain in force.
- 6.4 Any Person who contravenes any section of this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of cost as prescribed by the Provincial Offences Act, R.S.O. 1990.

7. REPEAL

7.1 That By-law 134-2000 is hereby repealed.

READ a first and second time this
Twenty-Second day of November,
2004.

READ a third time and passed this
Twenty-Second day of November,
2004.

Mayor

Clerk

"SCHEDULE A"

TO BY-LAW 143-2004

Fees for Licences - Refreshment Vehicles	
Coffee Truck	\$250.00 per annum.
Ice Cream Cart	\$100.00 per annum for the first cart \$50.00 per annum for each additional cart.
All other Refreshment Vehicles	\$200.00 per annum.
Operator	\$25.00 per annum. This does not apply to the Operator who is the Owner, or to the Operator of an Ice Cream Cart

SCHEDULE "B"

TO BY-LAW 143-2004

EXPLANATION OF REASONS FOR LICENCING

The Council of the Corporation of the Town of Ajax considers it necessary and desirable to Licence, regulate and govern Refreshment Vehicles for the following Reasons:

HEALTH AND SAFETY

The Town has chosen to Licence, regulate and govern the Owners and Operators of Refreshment Vehicles to enhance and encourage safe, clean and sanitary practices.

This reason relates to health and safety of the products sold to consumers and the vehicles used in the trade.

CONSUMER PROTECTION

The Town has chosen to Licence, regulate and govern the Owners and Operators of Refreshment Vehicles to enhance and encourage fair and courteous treatment of customers, promote accountability and support good business practices.

This reason relates to consumer protection as licencing and regulating aim to ensure Owners and Operators carry proper insurance, Operate safe vehicles, and are accountable for their dealings with consumers.

NUISANCE CONTROL

The Town has chosen to Licence, regulate and govern the Owners and Operators of Refreshment Vehicles to promote professional behaviour, limit unsightliness and noise and to control access to Town facilities.

This reason relates to nuisance control, as licencing and regulating aim to permit inspection, control litter and noise, and access to Park Land.

