

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #1818 (1996)

Being a by-law to regulate and license refreshment vehicles, refreshment cycles and refreshment carts in the Town of Pelham.

WHEREAS Section 236 (11) of the Municipal Act, R.S.O. 1990, Chapter M.45, as amended, provides that by-laws may be passed by a council for licensing, regulating and governing vehicles from which refreshments are sold for consumption by the public, and for revoking any such license;

AND WHEREAS Section 210 (124) of the said Municipal Act provides that council may pass by-laws for allowing the parking of motor vehicles or any class or classes thereof on designated parts of highways for specified periods or during specified hours pursuant to permits issued and charging such fee as the council may determine for the privilege of parking for such periods and during such times;

AND WHEREAS Section 234 (3) of the said Municipal Act, as amended, provides that by-laws may be passed by councils for prohibiting the sale of refreshments or confections, including, without limiting the generality of the foregoing, fruit, candy, peanuts, popcorn, ice cream, ice cream cones, iced milk and other iced confectionary from a basket or wagon, cart or other vehicle upon any highway or part of it or in any public park or other public place but no by-law passed under this paragraph applies to a farmer, market gardener or other persons selling or delivering goods at any place of business or residence upon such highway or part thereof;

AND WHEREAS Section 109.1 of the said Municipal Act, as amended, provides that subject to The Theatres Act, a council or police services board may (a) grant a business license to an applicant; (b) refuse to grant a business license to an applicant; (c) temporarily suspend or revoke a business license at any time during its term; or, (d) impose conditions on a business license at the time it is granted or at any time during its term;

AND WHEREAS it is deemed desirable to license, regulate and govern vehicles from which refreshments are sold for consumption by the public;

NOW THEREFORE THE COUNCIL OF THE TOWN OF PELHAM ENACTS
AS FOLLOWS:

(1) **Vehicles Defined:**

(a) For the purposes of description and regulation, the types of vehicles are named as follows:

(i) "refreshment vehicle" means a motorized vehicle which has equipment inside the vehicle for preparing food and requires the proprietor to be inside the vehicle to prepare the food for consumption by the public.

(ii) "refreshment cart" means a wheeled, pedalled or transported, non-motorized refreshment vehicle, other than a refreshment cycle.

(iii) "refreshment cycle" means a non-motorized bicycle or tricycle from which ice cream, frozen desserts or other frozen confections are sold.

(2) **License and Application:**

(a) Every person who carries on, conducts, operates, maintains or keeps in the Town of Pelham the business of operating a refreshment vehicle, refreshment cart or refreshment cycle shall take out a license for same in the manner prescribed in this by-law.

(b) Every person who operates a refreshment vehicle, refreshment cart or refreshment cycle in the Town of Pelham shall pay an annual license fee as follows and a separate license shall be required for each refreshment vehicle, refreshment cart or refreshment cycle if more than one such refreshment vehicle, refreshment cart or refreshment cycle is operated by any one owner:

Refreshment Vehicle	\$500.00 per vehicle
Refreshment Cart	\$500.00 per cart
Refreshment Cycle	\$200.00 for first cycle; \$50.00 for any additional cycles

(c) (i) Any applicant for a license, as herein provided, shall file an application with the Town Clerk and shall file therewith the following:

- (a) approval of the Medical Officer of Health or designate;
- (b) approval of the Director of Fire Services or designate, if required;
- (c) compliance certificate under The Ontario Propane Code, if required;

(d) a site plan setting out the proposed location of the refreshment vehicle or refreshment cart showing the location(s) from which the operator intends to sell.

(c) (ii) Every application for a license for a refreshment vehicle, refreshment cart or refreshment cycle shall be approved by Council.

(d) Any person applying for a refreshment vehicle, refreshment cart or refreshment cycle license shall supply the following information with the application:

(a) a list of the types of refreshments to be sold specifying whether the items include ice cream, frozen desserts, or other frozen confections.

(b) particulars of the type of vehicle, including the serial number and in the case of a motorized refreshment vehicle, a valid and current safety standard certificate as issued by the Ministry of Transportation for the vehicle,

(c) name and address of business under which the refreshment vehicle, refreshment cart or refreshment cycle will be operated.

(d) the intended location(s) and times for such operation of a refreshment vehicle, refreshment cart or refreshment cycle.

(3) **Locations:***

(a) At the pleasure of Council, operators may be licensed to operate a refreshment vehicle on any commercially zoned property in the Town of Pelham where such uses are permitted in accordance with Section 6.38 of Zoning By-law #1136 (1987), as amended, save and except vacant properties, subject to the following:

(i) Such vehicles shall be located on surplus parking space.

(ii) The license shall continue on an annual basis subject to compliance with the provisions of this by-law. If the applicant fails to renew the license then such license may go to any other person who so applies and complies with the provisions of this by-law.

(iii) The provision of a letter of consent from the owner of the subject property.

(v) Any application to locate a vehicle on the lands occupied by a gas station shall provide that the vehicle shall be located at least 50 feet from the gas pumps.

(vi) The provision of a site plan drawing showing the proposed location of the vehicle on the lands delineated as surplus parking space and in relationship to the property line, other buildings and highways bounded by the said lands.

(b) At the pleasure of Council, operators may be licensed to operate a refreshment cart or refreshment cycle on a temporary basis at the location(s) and time(s) approved by Council.

(4) **General Provisions:**

(a) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped and maintained with a clean compartment for the storage of food and in the case of an ice cream vehicle the compartment shall be refrigerated.

(b) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped with a suitable refuse container.

(c) Any person operating a refreshment vehicle, refreshment cart and refreshment cycle, for the sole purpose of selling ice cream on a highway or part thereof shall be equipped and maintained as follows:

(i) with the warning "**WATCH FOR CHILDREN**" in readily legible black letters at least six inches high on a yellow background, conspicuously displayed on the rear of the vehicle;

(d) Every refreshment vehicle and refreshment cart, not including refreshment cycle, shall be a minimum of 45.72 metres (150 feet) away from the nearest restaurant unless written permission has been granted by the property owner and the operator of such establishment consents to a distance of less than 45.72 metres (150 feet). Such consent shall be provided annually upon renewal of the license. Such distance shall be measured from the location of the vehicle to the nearest exterior wall of the restaurant or the restaurant portion of the building having multiple occupancy.

(e) Upon receipt of an application for a refreshment vehicle or refreshment cart, the Clerk and the Director of Building & Enforcement Services of the Town of Pelham shall ensure that the proposed location of such vehicle complies with this by-law.

(f) This by-law does not apply to a farmer, market gardener or other persons selling or delivering goods at any place of business or residence upon such highways or part thereof.

(g) The operator shall ensure that the area of sale is kept clean and tidy at all times.

(h) No application shall be considered for any municipal park that operates a refreshment canteen or for any municipal property that is bound by a lease or agreement for the provision of refreshments and/or food therein.

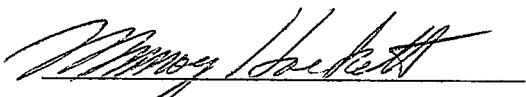
(i) Liability insurance in the amount of Two Million Dollars (\$2,000,000.00) naming the Town of Pelham as additional insured shall be provided to the Clerk prior to the issuance of the license.

(5) **Penalty:**

Every person who contravenes any of the provisions of this by-law is guilty of an offence and liable upon conviction to a penalty as prescribed under the Provincial Offences Act.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
24th. DAY OF JUNE, 1996 A.D.


MAYOR


CLERK