

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW #2205 (2000)


Being a by-law to authorize the Mayor & Clerk to enter into
a Lease Agreement with the Lions Club of Fenwick with
respect to the Concession Booth located at Centennial Park,
999 Church Street.

WHEREAS the Council of the Corporation of the Town of Pelham deems
it desirable to enter into a Lease Agreement with the Lions Club of Fenwick with respect to
use of the Concession Booth located at Centennial Park, 999 Church Street, Fenwick;

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

- (1) THAT the Lease Agreement attached hereto and made part of this by-law
between the Corporation of the Town of Pelham and the Lions Club of
Fenwick be and the same is hereby approved.
- (2) THAT the Mayor and Clerk be and each of them is hereby authorized and
instructed on behalf of the Corporation of the Town of Pelham to execute the
said Lease Agreement and the Clerk is hereby authorized to affix the
Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
18th. DAY OF SEPTEMBER, 2000 A.D.



MAYOR



CLERK

THIS AGREEMENT made in duplicate this 1st day of October,
2,000.

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM
Hereinafter referred to as the "Town",

- and -

LIONS CLUB OF FENWICK,
Hereinafter referred to as the "Club".

WHEREAS the Town owns and operates a Community Recreation Centre and park known as Centennial Park (the "Park"), located in that portion of the Town known as the Village of Fenwick;

AND WHEREAS the Club did construct and operate a Food Booth and Pavilion (the "Booth") at the Park under the authority of By-law No. 604 (1980);

AND WHEREAS the Club is desirous of continuing to operate the Booth;

AND WHEREAS both parties acknowledge and agree that the Booth is now owned by the Town;

AND WHEREAS the Community Recreation Centres Act, R.S.O. 1990, Chapter C.22 (the "Act"), Section 2 (5) authorizes the council of a municipality to prescribe fees and fix charges for the admittance to or the use of a community recreation centre and from year to year or for any time not exceeding ten years to let the right to sell refreshments within the community recreation centre on such terms and conditions as the council may prescribe;

NOW THEREFORE WITNESSETH that in consideration of the rents, covenants and agreements hereinafter set out:

1. Commencing as of the 1st day of October, 2000 and for a term of ten years terminating as of the 30th day of September, 2010 (the "Term"), the Town grants to the Club the right to operate the Booth provided that the Club procures all necessary licences to operate the Booth. The Club agrees this Booth will only be used for its own purposes during the term of this agreement and only for the sale of refreshments as permitted in the Act..

2. The Club hereby agrees to bear all the operating costs of the Booth during the Term including and not limited to all public utility costs, maintenance costs, etc. The Club will be exempt from the payment of municipal taxes.
3. The Club hereby agrees to install in the Booth, at it own expense, all equipment, fixtures and appliances that it requires for its operation.
4. The Club will prepare specifications for any proposed renovation, construction or reconstruction which they intend to undertake and which will improve the appearance and value of the Booth. These specifications shall be submitted by the Club to the Town and are subject to approval in writing by the Town prior to the Club proceeding with the work.
5. The Club agrees to pay all costs of any necessary renovations to put the Booth into a satisfactory state of repairs for use by the Club and of any improvement project proposed by the Club and approved by the Town, pursuant to the terms of paragraph 4.
6. The Town agrees to acquire and maintain insurance on the Booth itself in such amounts and values as determined by the Town.
7. The Club agrees to acquire and maintain insurance on the contents of the Booth in an amount sufficient to cover all equipment, fixtures, appliances and other items used by the club and located in or on the Booth and owned by the Club. The Town shall not be responsible whatsoever for obtaining such insurance or have any liability in regard to such items.
- 9.a) The Club agrees to deposit with the Town's Clerk a certified copy of an insurance policy of a minimum amount of liability coverage of TWO MILLION DOLLARS (\$2,000,000.00) for bodily injury and property damage, including products liability, and the Club agrees to maintain the said policy in force during the Term. This policy shall include a provision whereby the insurer shall give the Town a minimum of thirty (30) days written notice of any decision to cancel such policy.
- 9.b) The Club hereby indemnifies and saves the Town harmless from and against any and all claims, actions, causes of action, demands, costs and expenses which arise directly or indirectly by reason of the operation of the Booth. The Club further acknowledges that the maintaining of any insurance it is required to obtain does not relieve the Club of its indemnification herein.

10. The Club shall be responsible at its expense, for keeping and maintaining the Booth in a clean, sanitary and attractive condition is satisfactory to the Town and the Niagara Regional Health Unit.
11. The Club hereby agrees to regularly dispose of all garbage, waste material and rubbish accumulating in connection with the exercise of the Booth.
12. The Town agrees to be responsible for the maintenance of the exterior of the Booth as well as regular grounds maintenance at the Park.
- 13.a) The Town may terminate this agreement at any time for any reason upon giving the Club six (6) months notice in writing provided that if such termination occurs during the first five (5) years of the Term the Town shall compensate the Club for the cost of its equipment and appliances (collectively the "Equipment") located at the Booth. As compensation for the Equipment the Town shall pay the Club an amount equal to the lesser of:
 - (i) the depreciated value of the Equipment as shown in the financial statements for the Club at such time; or
 - (ii) the depreciated value of the Equipment as determined by reducing the value of the Equipment by twenty percent (20%) per year and any portion thereof during the Term since the Equipment was installed,provided that the Club gives the Town evidence regarding the purchase price of the Equipment. Such Equipment shall then become the property of the Town. If such notice by the Town should occur during the final five (5) years of the Term then the Town shall not be required to pay the Club for the Equipment and the Equipment shall remain the property of the Club.
- (b) The Town may immediately terminate this agreement at any time if the Club is in default pursuant to the terms of this agreement and has not rectified such default within thirty (30) days of being given written notice of such default. If the Town should terminate this agreement pursuant to the terms of this paragraph 13(b) then the Town shall not be obligated to compensate the Club whatsoever for the Equipment and the provisions of paragraph 13(a) shall not apply.
- (c) The Club may terminate this agreement at any time upon thirty (30) days notice in writing to the Town. The Town shall not be obligated to compensate the Club whatsoever for the Equipment and provisions of paragraph 13(a) shall not apply.

14. Any notice to be given by either party pursuant to this agreement shall be in writing and shall be delivered or sent by registered mail to:

The Town at: The Corporation of the Town of Pelham
20 Pelham Town Square,
P.O. Box 400,
Fonthill, On L0S 1E0

The Club at: Fenwick Lions Club
999 Church Street,
P.O. Box 373,
Fenwick, On L0S 1C0,

or at such other address as the party to whom such notice is to be given shall have last notified the party giving the same in the manner provided in this paragraph.

Any notice delivered to the party to whom it is addressed as provided in this paragraph shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day then the notice shall be deemed to have been given and received on the business day next following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth business day next following the date of its mailing.

For the purpose of this agreement "business day" shall mean a day other than a Saturday or Sunday on which the commercial banks located in Pelham, Ontario are open for business during normal banking hours.

15. Except as to any termination of this agreement pursuant to the provisions of paragraph 13(a), upon any termination of this agreement the Equipment shall remain the property of the Club and shall be removed by the Club at its expense. The Club shall be obligated to make, at its expense, all necessary repairs to the Booth resulting from the removal of the Equipment. All other fixtures and leasehold improvements shall, in any event, remain the property of the Town.

16. This agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and there are no other written or verbal agreements or representations between the parties hereto pertaining to the subject matter hereof. Any amendments to this agreement shall be in writing signed by all parties hereto.

17. If any term, clause or provision of this agreement shall be adjudged to be invalid, the validity of any other term, clause, or provision shall not be affected, and such invalid term, clause or provision shall be deleted from this agreement

18. This agreement shall be governed by and construed in accordance with the law of the Province of Ontario.

19. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors and administrators, successors, transferees, and permitted assigns, it being specifically understood and agreed that the Club may not assign this agreement without the consent in writing of the Town which consent may be arbitrarily withheld.

IN WITNESS WHEREOF the Corporation of the Town of Pelham and the Fenwick Lions Club have hereunto affixed their Corporate Seals duly attested by their proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED)
- in the presence of -)

) THE CORPORATION OF THE
) TOWN OF PELHAM

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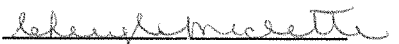
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MAYOR


CLERK

) THE FENWICK LIONS CLUB
) PER:

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PRESIDENT


SECRETARY / Vice.