

**THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW #3186 (2011)**

**Being a By-law to License and to
Regulate Various Businesses in the
Town of Pelham.**

WHEREAS Section 150 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, allows a local municipality to 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 s. 11(2) and 11(3) of the *Municipal Act* set out the purposes for which a municipality may pass by-laws including a by-law to license a business, those purposes including but not limited to health, safety and well-being of persons; and protection of persons and property, including consumer protection;

AND WHEREAS for the purpose of health and safety and consumer protection and to ensure that holders of licences comply with the requirements of the by-law it is necessary to license door to door and itinerant sellers, refreshment vehicles and those other businesses as provided for in this by-law;

AND WHEREAS the costs associated with preparation, issuance, inspections and enforcement of such by-law have been estimated;

AND WHEREAS the Council of The Corporation of the Town of Pelham deems it necessary to implement licensing and registration regulations with respect to door to door sales, itinerant sellers, refreshment vehicles and those other businesses as specified in this by-law and with regard to the provisions of the Municipal Act, 2001;

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

1. **DEFINITIONS**

For the purposes of this by-law:

- (a) **"Corporation"** means the Corporation of the Town of Pelham;
- (b) **"Food Vending Vehicle"** or **"Refreshment Vehicle"** means a vehicle, as defined in the *Highway Traffic Act*, (including a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power including muscular power, but does not include a motorized snow vehicle or a street car), from which refreshments are sold for consumption by the public and includes but is not limited to a basket, wagon, cart or other motorized/non-motorized vehicle;
- (c) **"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;
- (d) **"Itinerant Seller," "Door to Door Seller",** and/or **"Hawker"** or **"Peddler"** means a person who goes from place to place or to a particular place with goods, wares or merchandise for sale by retail, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise for sale by retail that are to be delivered in the Town of Pelham afterwards;
- (e) **"Licence"** means a licence issued under the authority of this by-law;
- (f) **"Local Retailer"** shall mean any individual or business which provides for the selling or offering for sale of goods, wares, merchandise or services at a building or structure located within the Town of Pelham which building is subject to property tax in the Town of Pelham;
- (g) **"Municipal Law Enforcement Officer"** means the Municipal Law Enforcement Officer of the Corporation appointed to enforce this or any other by-law of the Corporation and includes a police officer;
- (h) **"Person"** means any individual, firm or corporation and the successors or other legal representatives thereof, unless the context indicates otherwise;
- (i) **"Place of Business"** means the physical building and/or property thereon situate;
- (j) **"Registered Charitable Organization"** means any charity that is registered or is eligible to be registered with the Federal Government and has a registered charity number that has been issued;
- (k) **"Special Event", "Registered Non-Profit Fund-raising Event"** shall mean an annual community event with all proceeds donated for charitable or not-for-profit purposes.

2. **LICENCE REQUIREMENTS**

- (1) The following businesses or activities shall require a license:
 - (a) Food Vending Vehicle/Refreshment Vehicle;
 - (b) Itinerant Seller.
 - (c) Door to Door Seller
 - (d) Hawker;
 - (e) Peddler.
- (2) Every person before carrying on any of the businesses or activities for which a licence is required under this by-law shall obtain a licence from the Corporation authorizing him/her so to do, for which that person shall pay to the Corporation a fee fixed by this by-law, as may be amended from time to time;
- (3) No such licence is required for selling goods, wares or merchandise:
 - (a) to wholesale or retail dealers in similar goods, wares or merchandise;
 - (b) by existing local farmers if the produce they are selling is being sold from their own property and has been grown and harvested by them, or as a participant in the Pelham Farmers' Market;
 - (c) by persons who enter into a written agreement with a registered non-profit charitable organization to sell their goods, wares or merchandise at a special event, show or fund-raising event organized by the registered non-profit charitable organization and only during the hours of operation of the organization's fund-raising event or show, provided such person(s) shall have obtained all relevant inspections and approvals including fire, building and health;
 - (d) by persons who participate in a consumer show open to the public or a trade show open by invitation or registration only, the primary purpose of which is the display of goods, wares or merchandise, which also includes a consumer show or trade show operating as an integral part of a convention or conference.
- (4) No licence is required for a Local Retailer selling his or her goods, wares, merchandise or services from his or her place of business in the Town of Pelham. Any Local Retailer wishing to carry on business outside of their place of business and for which such business requires

a licence under this by-law is subject to the requirements of this by-law.

3. **LICENCE FEES**

- (1) The licence fees listed below shall be for a licence referred to in Section 2 for the year in which it is issued or any part thereof:
- (removed)
(By-law 3728(2016)) Itinerant Seller, Hawker, Peddler, Door to Door Seller \$200.00
- Refreshment Vehicle & Food Vending Vehicle \$250.00
- (2) Where a licence granted is revoked or cancelled and where a fee has been paid for the granting of the licence, such fee or any part thereof is non-refundable.
- (3) Where a person who has obtained a licence ceases to operate and where a fee has been paid for the granting of the licence, such fee or any part thereof is non-refundable.

4. **POWER TO LICENCE AND ADMINISTRATION**

- (1) Unless otherwise indicated, the administration of this by-law including approval of applications and issuance of licences shall be assigned to the Town Clerk who may delegate the performance of this function under this by-law from time to time as the occasion requires. This power to licence shall include renewal of a licence where the requirements and conditions of this by-law have been fulfilled.
- (2) Any licence may be revoked by reason of a violation of this by-law, the failure of the person holding the licence to comply with any of the provisions of this by-law or the failure by such person to maintain the minimum standards and requirements necessary for licensing in the first instance.

5. **EXEMPTION AND ONUS**

In a prosecution for a breach of this by-law the onus of proving that a person does not require a licence under this by-law for any of the reasons mentioned in Section (2) shall be upon the person charged.

6. **BUSINESS PROHIBITED WITHOUT LICENCE**

- (1) No person shall within the limits of the Town of Pelham carry on or engage in any trade, calling, business or occupation set out in Section 2(1) of this by-law until he or she has procured such license so to do.

- (2) Every licence issued pursuant to this by-law shall permit the licensee to carry on or engage in any trade, calling, business or occupation set out in Section 2 of this by-law only in the particular location for which the licence has been issued, and not in any other location unless a separate licence has been issued for said location.

7. **APPLICATION FOR LICENCE**

- (1) Applications for all licences issued under the provisions of this by-law and applications for renewal of such licences shall be made to the Town Clerk on the forms to be provided by the Office of the Town Clerk;
- (2) The Town Clerk, upon receipt of such completed application, shall make or cause to be made all investigations required by law or by the Corporation relative to such application by circulation to applicable officers for inspection and approval.
- (3) All persons applying for a licence must comply with all requirements as set out in the application.

8. **LICENCE – PROPERTY OF TOWN – TRANSFER PROHIBITED**

Every licence, at all times, is owned by and is the property of the Town and is valid only in respect of the person and the premises or of the person named therein and for the nature of business stated in the licence, and no licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

9. **LICENCE TO BE POSTED**

No person holding a licence issued pursuant to this by-law shall fail to:

- (1) with respect to premises, display the licence in a conspicuous place in or on the said premises; or
- (2) with respect to a vehicle, display the licence in a conspicuous place in or on said vehicle; or
- (3) with respect to an individual, maintain the licence on their person while conducting the activity for which the licence was issued.

10. **COMPLIANCE WITH REGULATIONS**

Every person applying for or holding a licence under this by-law, or who is liable to be licensed under this by-law, shall in such application or in carrying on such business, observe, comply with and be governed by the regulations set out in this by-law which relate to such business.

11. **INSPECTION**

Any person duly authorized by the Town may at all reasonable times inspect as much of any place or premises on which the carrying on of any business in respect of which any person has or is required to have a licence.

12. **ENFORCEMENT**

The Enforcement of this by-law shall be primarily assigned to the Municipal Law Enforcement Officer for the Town.

13. **PENALITIES**

Any person contravening any of the provisions of this by-law is guilty of an offence and liable on conviction to a fine as provided under the Provincial Offences Act, R.S.O. 1990, c.P. 33.

14. **HIGHWAYS AND MUNICIPAL PROPERTY**

The sale of refreshments, confections, goods, wares, merchandise, or effects of any kind is prohibited upon any highway or part of a highway or municipally-owned properties within the Town of Pelham.

15. **ZONING BY-LAWS**

Nothing in this by-law shall be deemed to authorize any activity in any place where such activity is not permitted by the applicable zoning by-law.

16. **SIGNS AND ADVERTISING DEVICES**

No person shall erect, construct or otherwise display or cause to be erected, constructed or otherwise displayed any sign or other advertising device except in accordance with the Town of Pelham Sign By-law in effect from time to time.

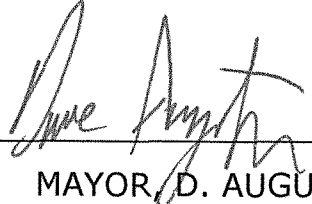
17. **DURATION OF LICENCE**

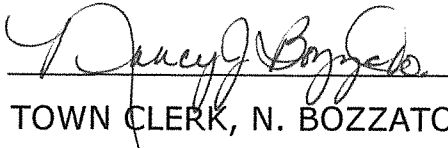
The licences for the trades, callings, business and occupations set out in this by-law shall expire in each year on the 31st day of December. Application must be made on a yearly basis if the business continues within the municipality.

18. **EFFECTIVE DATE**

This by-law shall come into force and effect on the day of passing.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
4th DAY OF APRIL, 2011.


MAYOR, D. AUGUSTYN


TOWN CLERK, N. BOZZATO