

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 4324/160/02

BEING A BY-LAW FOR THE LICENSING AND REGULATION
OF VARIOUS BUSINESSES

WHEREAS Section 257.2(1) of the *Municipal Act*, R.S.O. 1990, c. M.45, as amended provides that subject to the *Theatres Act* and the *Retail Business Holidays Act* the council of a local municipality may pass by-laws for licensing, regulating and governing any business carried on within the municipality.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE ENACTS AS FOLLOWS:

PART 1 **BEING GENERAL REGULATIONS TO GOVERN BUSINESSES LICENSED
UNDER THE PROVISIONS OF THIS BY-LAW**

1. **DEFINITIONS**

- (a) "Act" means the *Municipal Act*, RSO 1990, c. M.45, as amended.
- (b) "Activities" means and includes any trade, business, occupation, calling, object, vehicle, place or premises for which a licence is required by this by-law.
- (c) "business" means a trade, business or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of sale or hire of samples, patterns or specimens of any goods and an activity of thing a local may license under paragraph 6 of 7 of section 236 of the *Act* but does not include,
 - (a) a manufacturing activity or an industry, except to the extent that it sells its products or raw material by retail;
 - (b) the selling of goods by wholesale; or
 - (c) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.
- (d) "Clerk" means the Clerk of The Corporation of the City of Port Colborne.
- (e) "Corporation" means The Corporation of the City of Port Colborne.
- (f) "Council" means the Council of the Corporation of the City of Port Colborne.
- (g) "Licence" includes a renewal licence.
- (h) "Person" includes a firm or corporation to which the context can apply.
- (i) For purposes of this by-law a business shall be deemed to be carried on within the municipality if any part of the business is carried on within the municipality even if the business is being carried on from a location outside the municipality.

2. **LICENCES REQUIRED; FEES PAYABLE**

- (i) Every person before carrying on any activity set forth in Part II of this by-law shall obtain a licence from the Corporation authorizing him or her so to do for which said licence the person obtaining the same shall pay to the Corporation the fee fixed by this by-law, and no person shall within the limits of the Corporation carry on any such activity until he or she has procured a licence so to do.

3. APPLICATIONS

On an application for a licence required by Section 2, the applicant shall complete an application form as set out in Schedule A. Such application shall authorize reasonable inspection as provided in Section 9 of this by-law.

4. INVESTIGATIONS

The Clerk shall, upon receipt of the application for a licence, cause investigations of the licensed thing or activity, including any premises wherein such activity is to be carried out, to be made by one or more of the following agencies, as the circumstances may require:

- (i) the Public Health Department of the Regional Municipality of Niagara
- (ii) the City of Port Colborne Fire Department
- (iii) the City of Port Colborne Building Division
- (iv) the City of Port Colborne Planning & Development Services Division

to be followed by a written submission by each investigating agency to the Clerk, approving or disapproving the issue of the licence, in the latter case with reasons therefor.

5. APPROVAL REQUIRED

No licence shall be issued unless approval is given by every agency conducting an investigation under Section 4 unless the Council after due consideration of the application, orders the issue of such licence by the Clerk.

6. ISSUE OF LICENCE

When the Clerk has received a written submission from each investigating agency under Section 4 approving the issue of the licence and upon payment of the applicable licence fee, the Clerk or any other person designated by Council shall sign and issue the licence in the name of the Corporation and shall report such issue forthwith to the Council.

7. FORM OF LICENCE

A licence shall be in the form attached as Schedule "B".

8. POSTING UP

Every person obtaining a licence under this by-law, where the same applies to premises, shall keep the licence posted up in some conspicuous place on the premises in which the licensed activity is carried on, and every person so licensed shall, when so requested by any person authorized by the Council, shall produce the licence for inspection.

9. INSPECTIONS

Any person duly authorized by the Council may at all reasonable times inspect any vehicle or as much of any house, place or premises as is used for the carrying on of any activity in respect of which any person has or is required to have a licence under this by-law, and any such person so authorized may inspect any goods or articles relating to any such activity; but nothing herein authorizes any unlawful entry or trespass by such persons.

10. PARTNERSHIPS

Where two or more persons carry on or engage in partnership in any of the activities set out in part II, the licence may be issued in the name of one partner only, if so directed in writing by the remaining partner(s), but when the application is made, the name and address of each member of the partnership shall be set out therein as well as the partnership name or style. Failing such direction the licensee shall be the partners as such.

11. LICENSES PERSONAL; TRANSFERS

- (a) No person shall enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof, the value of a licence shall be the property of the Corporation.
- (b) No licence shall be transferred except after an assignment in the form attached as Schedule "C" has been delivered to the Clerk by the transferee. Such transfer shall be permitted and new licence issued to the transferee, subject to the same requirements and in the same way as the issue of a licence except that no fee shall be required.
- (c) A licence may be transferred from one person to another but not from one location to another.

12. REVOCAION

The Council may revoke any licence issued under this by-law where the power to revoke may, pursuant to the *Municipal Act* or any other Act be exercised by Council. Where the Council has the statutory power to revoke any licence the Council may revoke any or all licences held by the licensee. Where any such licence is revoked the licensee shall be entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.

13. NOTICE OF HEARING

- (i) No licence shall be revoked until the licensee has been afforded a hearing before the Council or the General Committee of Council either in person or by a solicitor or agent in order to present the case of the licensee in support of the licence. Notice of the time and place of such hearing shall be in writing given to the licensee at least two weeks prior to the date fixed for the hearing, or mailed by prepaid registered mail to the licensee at least three weeks prior to the date fixed for the hearing.
- (ii) Notice of the decision of Council following such hearing shall be given to the licensee by registered mail, and if such decision is to revoke, the licence(s) shall terminate and be of no further force or effect on the fourth day following such mailing.

14. TIME

Wherever any time is referred to in this by-law the same shall be considered to be Eastern Standard Time or Daylight Saving Time, whichever may be in effect at the period under consideration.

15. EXPIRY DATE

The licences authorized by this by-law shall, unless they are expressed to be for a shorter or longer period, or unless they are sooner forfeited or revoked, expire on the 31st day of December next following their date of issue.

16. LICENCE REGISTER

The Clerk shall keep a Licence Register in which shall be recorded the full name and address of each licensee, the address of the place or premises licensed or the make, model, year and provincial licence number of each vehicle licensed, the number and date of the issue of the licence, the amount of the licence fee paid therefor, the date of expiry of the licence, the type of licence issued and other particulars or remarks pertaining to the same which are useful or necessary.

17. RENEWALS

- (1) Upon the application for each renewal of a licence the Clerk shall mark or stamp the word "Renewal".
- (2) "Renewal of Licence" or "Renewal Licence" is a licence granted in a second or subsequent year to a licensee for the same activity for which he was first licensed for that activity.
- (3) Notwithstanding the expression "Renewal Licence" or "Renewal of Licence", every renewal licence shall be in the same form as the original licence except as altered by the Council, and need not bear any words indicating it is a renewal.
- (4) The issue of a licence or of a renewal licence does not imply or in any way give the right to a renewal or further renewal of same.
- (5) An application for renewal may be granted and the renewal licence issued by the Clerk without the investigation(s) required preceding the issue of the first licence, but the Clerk may, if he deems it necessary, again require one or more of such investigations.
- (6) All licence renewals shall be reported forthwith to the Council.

18. DUPLICATE LICENCES

In the event that a licence issued under this by-law is lost or destroyed, the Clerk shall, upon production of a satisfactory proof of such loss or destruction, issue a duplicate of the original licence upon which there shall be stamped or marked the word, "Duplicate" and shall make a corresponding entry in the Licence Register.

19. REGULATIONS

- (i) Every person licensed under this by-law, in addition to any other requirements expressed elsewhere in this by-law shall,
 - (a) At all times maintain and keep clean and safe and in good condition and repair any object, vehicle, place or premises for which a licence has been issued under this by-law;
 - (b) Cause, suffer or permit no nuisance to arise in, on or in connection with the activity for which the licence was issued;
 - (c) Cause, suffer or permit no shouting, noise or other disturbance on, in, or in connection with the activity for which the licence was issued which is unnecessary, unreasonable or contrary to any by-law prohibiting same, and if any shouting, noise or other disturbance shall occur, shall at once take steps to cause the same to be abated;
 - (d) Cause, suffer or permit no obstruction on any highway, lane or public

place in front of or adjoining the place or premises for which the licence was issued;

- (e) Cause suffer or permit no profane, offensive or abusive language or disorderly conduct, in, on or in connection with any vehicle, place or premises for which the licence was issued; and
 - (f) Cause, suffer or permit no breach of any by-law of the Corporation or of any Statute, Order-in-Council or Regulation of the Legislature or of the Parliament of Canada in, upon or in connection with the activity for which the licence was issued.
- (ii) Every person licensed under this by-law is responsible for the due observance and performance of all the regulations under this by-law governing the activity to which the licence applies.

20. **LICENCE INSPECTOR**

The Council shall by by-law appoint one or more Municipal Law Enforcement Officers whose duties shall include enforcement of this by-law.

21. **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.

22. **PART II, SCHEDULES**

Part II and Schedules A, B and C attached form part of this by-law to the same extent as if written herein.

Part II lists the particular activities licensed and regulated by this by-law, the licence fees applicable to each, and the special regulations applicable to each activity if applicable.

Schedule A is the form of application to be made by the applicant for a licence under this by-law.

Schedule B is the form of licence to be issued by the Corporation and signed by the Clerk.

Schedule C is the form to be used on assigning or transferring the licence to another person.

23. **PENALTIES**

Any person contravening any provision of this by-law is guilty of an offence and liable on conviction to a fine as provided in the Provincial Offences Act.

24. **GENDER, NUMBER**

This by-law shall read with all changes of gender and number required by the context.

25. **ULTRA VIRES SECTIONS OR PARTS**

Should any section of this by-law including any section or part of this By-law be declared by a Court of competent jurisdiction to be ultra vires, the remaining parts shall nevertheless remain valid and binding and shall be read as if the offending section had been struck out.

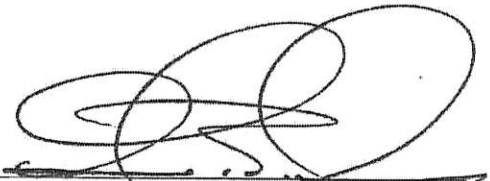
26. **REPEAL**

By-law 237/72 of the Corporation of the City of Port Colborne, a By-law Respecting the Issue of Licenses, enacted on the 27th Day of November A.D. 1972 and all amendments thereto are hereby repealed.

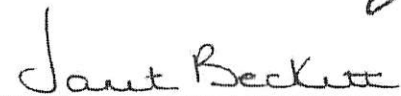
27. **EFFECTIVE DATE**

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

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED BY
COUNCIL THIS 16TH DAY OF DECEMBER 2002.**



Vance M. Badawey
MAYOR



Janet Beckett
CLERK

PART II**PARTICULAR ACTIVITIES LICENSED AND REGULATED BY THIS BY-LAW AND LICENCE FEES APPLICABLE TO EACH.****1. APPLICATION**

The regulations hereinafter enacted for any particular activity shall be in addition to the general regulations hereinbefore expressed in Part I of this by-law.

2. HAWKERS AND PEDDLERS

- (a) Every person who goes from place to place or to a particular place in the Corporation with goods, wares or merchandise for sale or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the Corporation afterwards shall obtain and be required to have a licence.
- (b) Notwithstanding section 2(a) of this Part, no Hawkers and Peddlers Licence shall be required for hawking, peddling or selling foods, wares or merchandise:
 - (i) to wholesale or retail dealers in similar goods, wares or merchandise; or
 - (ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or an agent or employee of them having written authority so to do, in the municipality in which the grower, producer or manufacturer resides; or
 - (iii) local farm growers are exempt from obtaining a hawkers or peddlers licence if the produce they are selling is being sold from their own property and has been grown and harvested by them; or
 - (iv) if the goods, wares or merchandise are hawked, peddled or sold from premises in the municipality that are in a prescribed business property class for municipal tax purposes;
 - (v) existing local retailers are exempt from obtaining a hawker or peddlers licence and paying a licence fee for "day sales" or "seasonal sales" if the temporary selling activity is an extension of the existing business at that location; or
 - (vi) if the goods, wares or merchandise are hawked, peddled or sold by a person at the Port Colborne Farmers' Market who has paid the applicable fee under the Corporations Market By-law or at a municipal special events venue under arrangement with the Corporation's event organizer; or
 - (vii) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale; or
 - (viii) by persons, who go from place to place in the Municipality and who can prove to the Clerk with 24 hours of a demand by any Municipal or Peace Officer that they are peddling for a charitable or non-profit purpose.

- (c) An agent or employee referred to in subsection 2(b)(ii) shall exhibit his or her authority when required so to do by any municipal or peace officer.
- (d) In a prosecution for a breach of the by-law, the onus of proving that a licence is not required by any person charged for a reason mentioned in section (b) is upon that person.
- (e) A person proposing to hawk and peddle goods at a particular place on private property must file a letter of consent from the property owner with the application for license.
- (f) No person shall hawk or peddle goods, wares or merchandise at a particular place other than the place indicated on his/her licence.
- (g) No person licensed, or required to be licensed, as a "Hawker" or "Peddler" shall carry on the business of hawker or peddler in any public park in the City except under a permit of the Corporation.
- (h) Any person who does not have a licence indicating a particular place shall hawk or peddle any goods, wares or merchandise at any one location for not more than 15 minutes in any day.
- (i) The fee for a Hawkers and Peddlers licence shall be:
 - (i) where the person applying has resided continuously within the City of Port Colborne for at least one year prior to the application, the sum of \$50.00;
 - (ii) where the person applying has not resided continuously within the City of Port Colborne for at least one year prior to the application, the sum of \$125.00.
- (j) The licensee shall at all times while carrying on business have the licence with him or her and shall upon demand exhibit it to any municipal or peace officer, and if the licensee fails to do so is guilty of an offence, unless the same is accounted for satisfactorily.
- (k) A person operating a "chip stand" or other "vending cart" at a particular location shall be deemed to be a "hawker and peddler" for purposes of this by-law and in addition to the foregoing shall be subject to the following special provisions:
 - (i) the "chip stand" etc. shall be located on private property that is zoned for commercial purposes
 - (ii) the application for licence shall be accompanied by a site plan showing the intended location of the "vending cart"
 - (iii) no vending cart shall be operated on private property with 200 feet of any restaurant or food outlet legally operating in a structure that is assessed under the *Assessment Act*, R.S.O. 1990, c. A.31.
 - (iv) the applicant shall provide the Clerk with a certificate of insurance which provides for general commercial liability insurance in the amount of \$2,000,000.00 and shows the City of Port Colborne as an additional insured in respect of the licenced activity
 - (v) approval of the Port Colborne Fire Department and the Niagara Public Health Department shall be required as a condition of license renewal.

5. REFRESHMENT VEHICLES

- (a) In this section "refreshment vehicle" means any of any type vehicle from which food products are sold and that is moved from one location to another location upon the completion of each sale and where the food products are prepared or cooked on the vehicle or elsewhere.
- (b) Every owner of a vehicle which is used or to be used for the sale of refreshments to the public shall obtain one licence for each such vehicle.
- (c) The licence fee for each such vehicle shall be in accordance with the following:
- | | |
|---------------------------|-----------|
| motorized vehicle: | \$ 150.00 |
| manually operated vehicle | \$ 25.00 |
- (d) Every operator of a vehicle licensed under this part and every other person employed in the vehicle shall keep himself and his wearing apparel in a clean and sanitary condition at all times.
- (e) No operator of a vehicle licensed under this part shall obstruct or permit to be obstructed any highway, lane or public place, with his vehicle, nor permit such vehicle to stop, rest or remain upon any highway, lane or public place for a longer period than thirty minutes at any time and then only while engaged in selling or offering refreshments for sale, and he shall not erect any booth, stall, stand or any other like contrivance or thing, on any highway lane or public place for the purpose of selling refreshments to the public.
- (f) No person who has obtained, or is required to obtain a "Refreshment Vehicles" licence shall carry on the licenced activity in any public park in the City except under a permit of the Corporation.
- (g) No person shall operate a refreshment vehicle without the vehicle having the name of the licensee displayed on each side thereof in letters at least 10 centimetres (4 inches) in height.
- (h) Each person applying for a "refreshment vehicle" license shall supply the following information with the application:
- (i) The intended locations and times for such operation of each vehicle

SCHEDULE "A"
TO BY-LAW NO. 4324/160/02

THE CORPORATION OF THE CITY OF PORT COLBORNE
APPLICATION FOR BUSINESS LICENCE

Licence Year _____

NAME: _____ PHONE#: _____
PLEASE PRINT NAME OF OWNER OR OPERATOR

ADDRESS: _____
RESIDENTIAL ADDRESS

NAME OF BUSINESS: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE #: _____

NEW LICENCE RENEWAL TRANSFER

I hereby agree to observe and comply with all regulations set out in By-Law No. 237-72 and any Amendments made thereto, which pertain to the Licence for which I have made an Application

DATE: _____ SIGNATURE OF APPLICANT _____

LICENCE FEE \$ _____
OTHER APPLICABLE FEES \$ _____
TOTAL FEES PAYABLE \$ _____

LICENCE REQUIRED:

HAWKERS AND PEDDLERS	
REFRESHMENT VEHICLES	

I hereby approve this Licence Application

I hereby approve this Licence Application

NIAGARA REGIONAL HEALTH UNIT

FIRE DEPARTMENT

Date: _____
=====

Date: _____
=====

I hereby approve this Licence Application

I hereby approve this Licence Application

CHIEF BUILDING OFFICIAL

PLANNING & DEVELOPMENT SERVICES

Date: _____

Date: _____

Forwarded To Council _____
(Date)

SCHEDULE "B"

TO BY-LAW NO. 4324/160/02



BUSINESS LICENSE

City of Port Colborne

66 Charlotte Street, Port Colborne, Ontario, L3K 3C8

Phone 1-905-835-2900

Web Page: www.portcolborne.com

License Number 119 - 2002

Licensee	
Address	

THE ABOVE NAMED PERSON IS HEREBY LICENSED, pursuant and subject

to municipal authority conferred under the **MUNICIPAL ACT**, to carry on the

Business of

at the following location

THE LICENSEE SHALL observe all by-laws, rules and regulations, matters and things as are, or may be enacted by the Council of the municipality or its legally constituted police services board, as the case may be, as well as any other applicable law.

Subject to revocation, this license shall continue in force until January 1, 2003 and no longer.

Issued at PORT COLBORNE this day of

License fee of \$ received this day of

(Seal)

Licensing Officer

The personal information on this license forms part of a public record and will be used for the licensing and regulation records of the municipality. For further information, please contact the Municipal Clerk/ Freedom of Information and Privacy Co-ordinator.

SCHEDULE "C"
TO BY-LAW NO. 4324/160/02

ASSIGNMENT OF LICENCE

FOR VALUE RECEIVED the undersigned Licensee does hereby grant, transfer and assign to:

of _____

Licence No. _____ for the year _____, and all the right, title and interest of the undersigned therein, such licence being for the following trade, calling or activity:

This assignment is subject to the consent of the Licensor and to the Assignee entering into all the agreements and covenants required by the Licensor on an application for an original licence by the Assignee.

It is further understood that acceptance by the Licensor of this assignment shall relieve the undersigned from all obligations respecting the said number licence from the time of such acceptance.

IN WITNESS WHEREOF I have hereunto set my hand and seal this _____ day of _____, 20 ____.

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

_____ (seal)

The above assignment accepted this _____ day of _____, 20_____.

Janet Beckett, Clerk
The Corporation of the City of Port Colborne