

THE MUNICIPALITY OF LEAMINGTON

BY-LAW NO. 638-05

Being a by-law to licence and regulate Transient Traders, Peddlers, and Mobile Vendors.

WHEREAS Section 150(1) of the Municipal Act, 2001, S.O. 2001 c.25 (herein, the 'Act') authorizes a municipality to licence, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS Section 150 (2) of the Act provides that a municipality may only exercise its licensing powers for the purposes of health and safety, nuisance control and consumer protection;

AND WHEREAS Section 150 (6) (c) provides that businesses that may be licensed include the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader;

AND WHEREAS Section 150 (9) provides that a municipality may charge a licence fee directly related to the administration and enforcement of such by-law;

AND WHEREAS a public meeting for consideration of this by-law has been held and notice was given in accordance with Section 150 (4) of the Act;

NOW THEREFORE BY ITS COUNCIL THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON ENACTS AS FOLLOWS:

PURPOSE

1. The purpose of this by-law is to provide for the licensing and governing of Transient Traders, Peddlers and Mobile Vendors operating within the Municipality of Leamington for the protection of the health and safety of its residents, nuisance control, and consumer protection.

DEFINITIONS

2. In this by-law:
 - a) "Council" shall mean the Council for the Municipality of Leamington.
 - b) "Licence" shall mean any licence that may be issued pursuant to this by-law;
 - c) Licencee shall mean any person to whom a licence is issued pursuant to this by-law;
 - d) "Mobile Vendor shall mean a person who uses a vehicle, motorized or not motorized, who travels from place to place throughout the business day for the purpose of offering goods for sale from the vehicle.
 - e) "Municipality" shall mean the Municipality of Leamington;

- f) "Peddler" shall mean any person who is not a mobile vendor who travels from place to place throughout the business day for the purpose of offering goods for sale.
- g) "Person" includes a corporation, partnership, association, club, or firm.
- h) "Transient Trader" shall mean any person who carries on business on private property which the person does not own or is not a lessee pursuant to a bona fide lease based upon fair market rent for a term of at least twelve months.

PROHIBITIONS

- 3. No person shall carry on business activities as a transient trader, peddler or mobile vendor within the municipality without a valid licence issued by the Municipality pursuant to this by-law.
- 4. No person shall carry on business activities as a transient trader, peddler or mobile vendor within the municipality except in accordance with a valid licence issued by the Municipality pursuant to this by-law.
- 5. No person shall permit the business activities of a transient trader upon property owned by the person unless a licence has been issued by the Municipality permitting such activity.

CLERK'S DUTIES

- 6. The Clerk Shall:
 - a) be responsible for the issuance of licences pursuant to this by-law;
 - b) accept application for licences required by this by-law;
 - c) maintain a record of all licences;
 - d) upon receipt of an application for the grant of a licence pursuant to this by-law, make or cause to be made all necessary investigations;
 - e) recommend to Council whether to refuse to grant, suspend or revoke a licence permit;
 - f) be responsible for enforcement of this by-law.

TRANSIENT TRADER LICENCE APPLICATION

- 7. An application for a transient trader licence must be filed on a form provided by the municipality, and shall include, to the satisfaction of the Clerk, the following:
 - a) the name, address and contact information for the owner of the business;
 - b) the nature of the goods to be sold;
 - c) the property address where the business activity will be carried on;
 - d) a plan illustrating how the business will be operated on the site, including set backs from property lines, parking and vehicle access;
 - e) confirmation that the owner of the property where the business activity is proposed consents to the licence being issued;
 - f) when necessary, approval from the Windsor-Essex Health Unit;
 - g) the licence fee as provided in Schedule A to this by-law.

PEDDLER LICENCE APPLICATION

8. An application for a peddler licence must be completed and filed on a form provided by the municipality, and shall include, to the satisfaction of the Clerk, the following:
- a) the name, address and contact information for the applicant;
 - b) the nature of the goods to be sold;
 - c) when necessary, approval from the Windsor-Essex Health Unit;
 - d) the licence fee as provided in Schedule A to this by-law.

MOBILE VENDOR LICENCE APPLICATION

9. An application for a mobile vendor licence must be filed in a form provided by the municipality, and shall include, to the satisfaction of the Clerk, the following:
- a) the name, address and contact information for the applicant;
 - b) the nature of the goods to be sold;
 - c) copy of ownership of motor vehicle, when applicable;
 - d) confirmation of minimum of \$1,000,000.00 liability insurance for motor vehicle;
 - e) when necessary, approval from the Windsor-Essex Health Unit, and
 - f) the licence fee as provided in Schedule A to this by-law.

LICENCE TERM

10. Every licence issued pursuant to this by-law, unless revoked by Council shall be valid for one year from the date of issue.
11. Every Licencee and every employee, assistant, agent or helper of a licencee shall have a copy of the said licence in their possession for the purpose of displaying it or producing it upon demand to any person authorized to enforce this by-law.

REFUSAL OR REVOCATION OF A LICENCE

12. Council may refuse an application in whole or in part or may grant an application subject to conditions in accordance with section 150 (8) of the Act.
13. Council may revoke a licence:
- a) to protect the safety of the public; or if
 - b) the licensee has not complied with all federal, provincial and municipal laws and regulations; or if
 - c) the conditions attached to the granting of the licence are being contravened.

PENALTY CLAUSE

14. Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction, forfeit and pay a penalty of not more than twenty five thousand dollars (\$25,000.00), exclusive of costs, pursuant to Section 161 of the Municipal Act and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990 c.P.33.

EXEMPTION

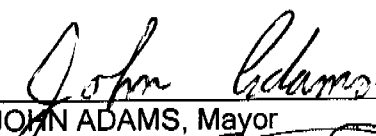
- 15.
- 1) No licence is required if a person is selling goods as part of a community event approved by Council, provided that the person has the written approval of the organizers of the event;
 - 2) The Leamington Fair, the Tomato Festival, and the Uptown Leamington Sidewalk Sale are approved community events, as are approved events held in any Municipal Park.

EFFECTIVE DATE

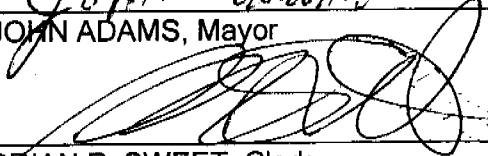
16. This by-law shall take effect on the date of passing by Council and shall remain in effect until the earlier of five years after it comes into force or the date it is repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS

17TH DAY OF OCTOBER 2005.



JOHN ADAMS, Mayor



BRIAN R. SWEET, Clerk

SCHEDULE A

ANNUAL LICENCE FEES

TRANSIENT TRADER	\$1200.00
PEDDLER	\$ 250.00
MOBILE VENDOR MOTORIZED	\$ 250.00
MOBILE VENDOR NON MOTORIZED	\$ 100.00