

# THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

## BY-LAW 652-05

Being a by-law to prohibit the sale of refreshment or confections on certain highways, public parks and other public places.

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 the Council of the Corporation of the Municipality of Leamington wishes to ensure that all refreshment and confection stand operations conform to measures protecting health and safety and consumer protection;

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 consumer protection and to protect the health and safety of its residents by exercising authority to regulate the operation of refreshment stands on certain highways, public parks and other places.

### DEFINITIONS

2. In this By-law:

- a) "refreshment stand" shall mean any mobile cart from which food and refreshments pursuant to this by-law are for sale or sold for consumption by the public.

Certified to be a true copy of  
By-law No. 652-05  
Enacted by the Council of the  
Corporation of the Municipality of Leamington  
at its meeting held the 21<sup>st</sup> day of November, 2005

  
Deputy Clerk


**GENERAL PROVISIONS**

3. No person shall use or operate any refreshment stand upon any highway, including sidewalks, public parks or any public lands within the Municipality of Leamington.
4. Notwithstanding Section 3 of this By-law, a person may operate a refreshment stand upon certain sidewalks within the Municipality provided the person has obtained a licence pursuant to the provisions of this by-law.
5. Refreshment stands may be situated only on those sidewalk locations abutting Erie Street, Talbot Street, John Street, Robson Road Part/Municipal Marina.
6. No items other than sausages, hotdogs, buns, soft drinks, popcorn, packaged chips and cotton candy may be offered for sale at a refreshment stand.
7. No refreshment stand shall exceed four (4) feet in width, five (5) feet in height not including an umbrella or other like covering, or six (6) feet in length.
8. All refreshment stands shall be of sufficiently sound construction to provide reasonable protection against dirt, dust, flies, and other injurious matter or things.
9. The floor and walls of the refreshment stand shall be of impervious material, free of holes, cracks or crevices, and the surface shall be readily washable and shall be kept clean and in good condition.
10. The refreshment stand shall be equipped with either:
  - a. a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least daily;
  - b. a disposal litter container which shall be replaced daily;and such container shall be used for the disposal of all refuse.
11. Every person selling or handling refreshments shall wear clean clothes be clean and neat in appearance and shall not be suffering from any communicable or contagious disease.
12. No person shall use or operate a refreshment stand on any sidewalk location as described in section 4 of this by-law until a fee of \$500 has been paid and a licence has been issued by the Municipal Clerk.
13. The owner of any refreshment stand shall have an insurance policy in force providing for comprehensive liability coverage in a minimum amount of \$4, 000,000 at all times that the refreshment stand is being used or operated on Municipal Sidewalks. The owner shall provide proof of insurance at any time upon the request of the Municipal Clerk.
14. No person shall, except a member of the Downtown Business Improvement Area, operate a refreshment stand within the area designated as the Downtown Business Improvement Area during a sidewalk sale sponsored by the Downtown Business Improvement Area Association without the prior permission of the Clerk.

**PENALTY CLAUSE**

15. Any person who contravenes any provision of this by-law shall be guilty of an offence and subject to a penalty pursuant to the provisions of the Provincial Offences Act.
16. This by-law shall take effect on the date of passing by Council and shall remain in effect until the date it is repealed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS  
21<sup>st</sup> DAY OF NOVEMBER 2005.**

  
\_\_\_\_\_  
John Adams, MAYOR

  
\_\_\_\_\_  
Brian R. Sweet, CLERK

CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

By-law 652-05

SCHEDULE A

ANNUAL LICENCE FEE:

REFRESHMENT STAND \$500.00 annually