

**The Corporation of the City of Cornwall
By-law #197-2005**

Being a By-law of The Corporation of the City of Cornwall
to provide for licensing, regulating, governing
and inspecting Rickshaws

WHEREAS Section 150 of the Municipal Act 2001 authorizes Council to pass By-laws for licensing, regulating, inspecting and governing local business.

AND WHEREAS Section 150 of the Act authorizes Council to pass By-laws for the licensing, regulating, governing, classifying and inspecting of rickshaws, and classes thereof and for the revoking or suspending any such licenses to be granted.

AND WHEREAS the Corporation of the City of Cornwall deems it advisable, having regard among other matters to the potential for health and safety and nuisance, has enacted a By-law to govern total class of rickshaws.

THEREFORE the Council of the Corporation of the City of Cornwall enacts as follows:

DEFINITIONS AND INTERPRETATIONS

1. For the purpose of this By-law:

Applicant. - shall mean a person applying for the issuance or renewal of a license.

Board. - shall mean the Police Services Board for the Corporation of the City of Cornwall.

Board of Health. - shall mean the Eastern Ontario Health Unit.

Business. - includes a trade, calling or occupation.

Certificates of Proof of Age. - shall mean a Driver's License issued by the Province of Ontario with a photograph of the person to whom the license is issued; a Canadian Passport; a Canadian Citizenship Card with a photograph of the person to whom the card is issued; a Canadian Armed forces Identification Card; or a Photo Card issued by the Liquor License Board of Ontario.

Chief Building Official. - shall mean the authority having jurisdiction over the Building Permits and By-law Enforcement Section, Department of Planning and Housing Services, and administer the related By-laws of the Corporation of the City of Cornwall under the direction of the Manager of Planning Services.

Chief of Police. - shall mean the Chief of Police for the Corporation of the City of Cornwall or his/her appointee.

City. - shall mean the Corporation of the City of Cornwall.

Enforcement Officer. - shall mean a police officer, By-law enforcement officer, a special constable or any other public officer engaged in the enforcement of this By-law.

Fire Chief. - shall mean the municipal Chief Fire Official for the Corporation of the City of Cornwall or a member or members of the fire department designated by the municipal Fire Chief or a person appointed by the Fire Marshall of Ontario.

Highway.- includes the entire right-of-way of a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles.

Licensing. - shall mean a license issued under this By-law.

Licensing Officer. - shall mean the Chief Building official, also known as Issuer of Licenses, and/or his/her appointees for the Corporation of the City of Cornwall.

Municipal Law Enforcement Officer. - shall mean the person or persons authorized by the Council of the Corporation of the City of Cornwall to enforce all By-laws under its jurisdiction.

Municipality.- shall mean the Corporation of the City of Cornwall.

Non-Resident.- shall mean a person or persons or their agent's who's address is not within the boundaries of the municipality.

Owner. - shall mean any person who operates or conducts a business, trade or calling under which the municipality has the power to license.

Police Department.- shall mean the Chief of Police of the Cornwall Police Service or his/her appointee.

Private property.- means all property in the city and includes property of the municipal, federal and provincial government.

Sidewalk.- includes all such parts of a highway as are set aside by the corporation for the use of pedestrians or used by the general public for the passage of pedestrian, and includes the boulevard.

Stall holder. - means a person who has entered into a contract for a market stand with the corporation and to whom the markets manager has assigned a stand, or who has been issued a daily permit by the corporation and to whom the markets manager has assigned a stand.

Stand. - means the area of the public markets assigned to a stall holder.

Stand contract.- means the contract between the stall holder and the corporation with respect to a stand.

Street.- means that part of the highway that is improved, designed or ordinarily used for vehicular traffic.

Rickshaw. - (pedicabs) means a small 2-wheeled vehicle usually for one or two passengers that is pulled by one man.

Pedal-powered rickshaw. - (pedicabs) means a small two-wheeled vehicle usually for one or two passengers that is pulled or pushed by a bicycle which has tandem wheels and is propelled by human power.

Zoning Inspector. - shall mean an officer or agent employed by the Corporation of the City of Cornwall for the purpose of enforcing and regulating the uses of its Zoning By-law.

LICENSES

2. a) No person shall carry on within the City of Cornwall any of the trades, callings, businesses or occupations listed herein and forming part of this By-law, unless he/she has obtained from the Corporation a license authorizing him/her to carry on the trade, calling, business or occupation.
- b) Every person who holds a license shall, in carrying on or engaging in the trade, calling, business, or occupation for which the license is issued, comply with this By-law and the regulations herein this By-law that relate to the person or the persons trade, calling, business, or occupation.

APPLICATION

3. Every person who requires a license under the provisions of this By-law for any trade, calling, business, or occupation shall:
 - a) apply to the Chief Building Official upon such form or forms as may be prescribed by the Corporation;
 - b) provide any documents required under the applicable By-law;
 - c) pay, by cash or cheque, the applicable license and non-refundable application fee set out in the City of Cornwall By-law establishing licensing fees. (By-law #203-2005 and any amendments hereto)
4. a) the license fee referred to in Schedule 3(c) shall not be reduced or prorated.
5. a) where a partnership or an association applies for a license, the names and addresses of each member of the partnership or association shall be set out in the application;
- b) the applicant shall include the name, address and contact information of the registered owner of the property where the business is being operated.

PROCESSING AND ISSUANCE

6. The Chief Building Official shall, upon receipt of the application referred to in Section 3, make or cause to be made all investigations considered necessary or which are required By-law or by the Corporation relative to the application.

REFUSAL TO ISSUE

7. The issue of a license shall be refused by the Chief Building Official until it has been determined that the licensee has complied with:
 - a) the regulations under the jurisdiction of the Board of Health;
 - b) this or any other By-laws of the Corporation, or which may be contrary to the law;
 - c) any other Federal or Provincial statutes and regulations.

EXPIRY

8. The licenses for the several trades, callings, businesses or occupations set out herein this By-law shall, unless they are expressed to be for a shorter or longer time, be for one year and unless they are sooner forfeited or revoked shall in each case expire on January 31st of the year which succeeds the year the license was issued for.

RENEWAL

9. The Chief Building Official shall renew an existing license if the licensee:
 - a) meets all of the requirements of this By-law; and
 - b) pays by cash or cheque the applicable license fee set out in the City of Cornwall By-law establishing licensing fees. (A late fee shall be levied, as per that By-law, for all annual licenses due February 1 that are not obtained by May 1).

REFUSAL TO RENEW

10. A license shall not be renewed by the Chief Building Official until it has been determined that the licensee has complied with:
 - a) the regulations under the jurisdiction of the Board of Health;
 - b) this or any other By-laws of the Corporation, which may be contrary to the law;
 - c) any other Federal or Provincial statutes and regulations.
11. The Chief Building Official shall refuse to renew the license if the licensee does not meet all of the requirements for renewal as set out in Section 10 of this By-law.

12. If the Chief Building Official refused to renew the license, the licensee shall receive notice of refusal in writing, said notice to be served personally upon or sent by prepaid registered mail to the licensee.
13. If the licensee is not satisfied with the terms of the notice referred to in Section 13 of this By-law, he/she may appeal to the Chief Building Official within thirty (30) days after service of the notice of refusal.

TRANSFERS

14. No license shall be transferable.
15. No person owning or operating a licensed premise under this By-law shall move from one location to another within the City of Cornwall without first paying the initial application fee set out in the By-law establishing fees and fulfilling the requirements for a license application as set out in this By-law.

GENERAL PROVISIONS

16. Every person obtaining a license under this By-law:
 - a) Shall keep his/her license posted up in a conspicuous place on the premises in respect to which the license is issued;
 - b) Where the license does not apply to a premise, shall keep on his/her person the license issued.
17. Every person applying for or holding a license under this By-law shall comply with the regulations set out in this By-law.
18. A license is issued subject to the condition that the holder of the license indemnifies and saves harmless the Corporation and the employees, contractors and agents of the Corporation from all loss, damage, legal action, costs and expenses arising from the carrying on of the business, trade, calling or occupation for which the license was issued.
19. No person shall enjoy vested right in the continuance of a license and upon the issue, renewal, cancellation or suspension thereof, the value of the license shall be the property of the Corporation of the City of Cornwall.
20. No person licensed under this By-law shall refuse entry to a person with a service dog as provided for in the Health Protection and Promotion Act - O.Reg. 74/04.

INSPECTIONS

21. A Municipal Law Enforcement Officer or any other municipal official may with the owners approval:
 1. At all reasonable times, inspect the building, place or premise that is used for a trade, calling, business or occupation for which a person is licensed or is required to be licensed; and,
 2. When deemed necessary by the said officer, inspect the books, records or other documents of the trade, calling, business or occupation.

22. No person who is licensed or required to be licensed, shall hinder or obstruct inspections referred to in this section, or cause the inspections to be hindered or obstructed.
23. Every person who obtains a license under this By-law shall produce the license when requested to do so by a Municipal Law Enforcement Officer or a Police Officer.

REVOCATION AND SUSPENSION

24.
 - a) Where the Chief Building Official refuses to issue, suspends, or revokes a licence, the procedure as set out in By-law #204-2005 (A By-law Respecting Appeal Procedure for Municipal Licensing) shall be followed.
 - b) Upon suspension or revocation of a license issued under this By-law, the licensee shall return to the Corporation all licenses and all plates where applicably issued by the Council with reference to such license, and the person authorized by Council shall have access to any premises, vehicle or other property for the purpose of receiving or taking the plates, and no person shall refuse to deliver the plates to such persons authorized by the Council or shall, in any way, prevent or hinder such persons from receiving or taking the same.

REGULATIONS

LICENSES REQUIRED

25. The following types of license may be issued:
 - a) Rickshaw (pedicabs)
 - b) Pedal Powered Rickshaw (pedicabs)

CONDITIONS FOR ISSUANCE OF A RICKSHAW OWNER LICENSE

26. No applicant for a rickshaw OWNER's license shall be issued a license unless:
 - a) the applicant is at least sixteen (16) years of age;
 - b) the rickshaw to be used by the applicant has complied with the standards prescribed by Section 30 hereof; and,
 - c) the applicant has insurance in accordance with the requirements of Section 31 hereof.
27. Every person who owns a rickshaw shall obtain a separate license for each rickshaw to be operated pursuant to this By-law.

CONDITIONS FOR ISSUANCE OF RICKSHAW OPERATOR LICENSE

28. No applicant for a rickshaw operator's license shall be issued a license unless:
 - a) the applicant is the holder of a current driver's license; and,

- b) the applicant has provided the name and address of the rickshaw owner who will be the business affiliate or employer of the applicant; and,
- c) No owner shall permit any person other than a licensed driver employed or otherwise retained by such owner to operate the pedicab or to make it available for hire. Nothing in this section prevents an owner from operating his own pedicab.

VEHICLE STANDARDS

29. Every rickshaw shall:
- a) be structured so as to be safe and stable with or without passengers;
 - b) have affixed on the rear of the vehicle a slow moving vehicle sign that is the same as the signs set out in the Highway Traffic Act;
 - c) carry at the rear two red reflectors, one of which shall be affixed as nearly as possible to the extreme right side of the vehicle;
 - d) be in a clean and sanitary condition; and,
 - e) be in a state of good repair and appearance.

INSURANCE

30. Every rickshaw owner shall be required to provide a copy of an Insurance Policy which includes third party liability in the minimum amount of \$2,000,000.00 naming the Corporation of the City of Cornwall as an additional named insured. As well, the rickshaw owner shall provide a receipt of the premium payment, and the City of Cornwall, Licensing Office will be given ten (10) days notice in writing of any cancellation, expiration or suspension of the policy or any reduction in the amount of coverage under the policy.

ISSUANCE OF LICENSE

31. Upon issuance of a rickshaw owner's license, the Licensing Officer shall furnish to the licensee, in addition to the license, one (1) plate for each vehicle bearing an identifying number, the words "rickshaw" and a serial number to be encoded on the rickshaw if the vehicle does not have one.

DISPLAY OF PLATE

32. Every owner or operator shall ensure that the plate furnished pursuant to Section 32 is securely affixed to the rear of the rickshaw so as to be clearly visible to the public during the currency of the license.
33. Every licensee who operates a rickshaw under the authority of a license shall ensure that the plate affixed to the vehicle corresponds to the license issued by the Licensing Officer.
34. Every owner or operator of a rickshaw shall produce his or her license for inspection when requested by the municipal law enforcement officer or peace officer.

TRANSFERS OF LICENSE

35. No rickshaw operator's license shall be transferred.

LOCATION

36. No owner or operator shall allow his or her rickshaw to be placed or left unattended on any Highway, private, public property at any time.
37. No owner or operator shall allow his or her rickshaw to be placed at a metered area without paying.

TIME

38. No owner or operator shall allow his or her rickshaw to be operated on any City street under the jurisdiction of the Corporation or road at any time when no parking or no stopping restrictions are in place shall keep his or her rickshaw at all times in a clean and sanitary condition and in a state of good repair and appearance.
39. Every owner or operator shall keep his or her rickshaw at all times in a clean and sanitary condition and in a state of good repair and appearance.
40. Every owner shall ensure that:
- a) he or she conforms, where applicable, with the Highway Traffic Act;
 - b) he or she conforms with By-law Number 69-89 as amended entitled "A By-law of The Corporation of the City of Cornwall regulating traffic and parking on highways", as amended;
 - c) he or she does not interfere with the normal movement of pedestrian traffic in the City, and
 - d) he or she does not interfere with the normal movement of vehicular traffic in the City
41. No licensee shall operate his or her rickshaw in a reckless or erratic manner.

APPROVALS


42. a) The issuance of a Rickshaw license, upon its initial license shall be subject to the written approval of the following:
- 1. By-law Enforcement Officer

PENALTY

43. Any person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed herein or who performs an act prohibited herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the Provincial Act (as amended), is liable to:

- a) A penalty in the case of persons, other than a corporation, not to exceed \$25,000.00 or imprisonment for a term not to exceed one year or both;
 - b) a penalty in the case of a corporation, not to exceed one year or both; and
 - c) an order closing the premises which are subject of the contravention for a period not to exceed two years.
44. Where a provision of this By-law conflicts with a provision of another By-law in force in the City of Cornwall, provisions that establish the higher standards shall prevail in order to protect the health, safety and welfare of the general public.
45. A Municipal Law Enforcement Officer or a Cornwall Police Services Officer of the Corporation of the City of Cornwall may enforce the provisions of this By-law.
46. It is the declared intention of the Council of the Corporation of the City of Cornwall that any section or part of a section of this By-law which may subsequently be held to be illegal shall be severable from the remainder of the By-law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of the By-law.
47. That By-law #111-1998 and #143-2002 and all other By-laws or parts of By-laws inconsistent with this By-law are hereby repealed. All licenses previously issued shall, during the period for which the same have been issued, remain in full force and effect, unless for other reasons the same are forfeited or revoked.
48. This By-law shall come into force and take effect on January 1, 2006.

Read a first, second and third time, signed and sealed, in open Council, this 14th day of November, 2005.


DENISE LABELLE-GÉLINAS
CITY CLERK


MAYOR PHIL POIRIER