

**The Corporation of the City of Cornwall  
By-law #199-2005**

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

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**WHEREAS** Section 150 of the Municipal Act 2001 authorized 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 seasonal stationary premises, 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 seasonal stationary food premises.

**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.

**Chip Truck Mobile.** - (Mobile Food Premise)

**Chip Truck Stationary.** - (See seasonal Stationary Food Premise)

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

**Eating Establishment.** - shall mean any premise where meals or meal portions are prepared for immediate consumption or sold or served in a form that will permit immediate consumption on the premise or elsewhere.

**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.

**Food.** - shall mean food or drink for human consumption, and include an ingredient of food or drink for consumption.

**Food Premise.** - shall mean premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence.

**Food Services Vehicle.** - (See Mobile Food Premises By-law)

**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.

**Mobile Food Premises.** - shall mean a vehicle or other itinerant food preparation premise from which food prepared therein is offered for sale to the public. (See Mobile Food Premises By-law)

**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 municipalities

**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.

**Seasonal Stationary Food Premise.** - means a business where food is sold for consumption by the public and where this business closes its operation for more than 90 consecutive days on a yearly basis.

**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 shall 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 Section 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 shall 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 31<sup>st</sup> 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) produces his/her license on or before the expiry date; or,
  - b) fulfills the application requirements set out in Section 3(a) to Section 3(b) inclusive and other requirements set out in this By-law; and,
  - c) 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 shall 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 shall 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 shall 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

25. No person shall own or operate a Seasonal Stationary Food Premises without first obtaining a Seasonal Stationary Food Premise license from the City to do so, and paying the license fee for a Seasonal Stationary Food Premise as set out in the Business Licensing By-law.
26. Prior to establishing a Seasonal Stationary Food Premise, the owner of the land or its agent, along with the applicant, if different from the owner, shall submit a site plan and sketch showing location and details of the said structure and shall within the following order:
- a) obtain proper building and plumbing permit;
- b) connect to city services (ie: water and sewer services)
27. All premises licensed under the provisions of this Schedule shall, at all times, be kept and maintained in a sanitary condition and in compliance with the Property Standards By-law.

### APPROVALS

28. **Newly established** structures of Seasonal Stationary Food Premises, prior to beginning business, shall obtain inspection approvals from the following:
1. Chief Building Official or designate
  2. Plumbing Inspection
  3. Zoning Administrator
  4. Fire Prevention Officer
  5. Electrical Safety Authority
  6. Municipal By-law Enforcement Officer
  7. The applicant shall submit the required form of the Eastern Ontario Health Unit (E.O.H.U.) filled out and signed by a representative of the E.O.H.U. prior to the issuance of the license.

If structure of Seasonal Stationary Food Premise remains on its site and upon re-opening for another season, shall obtain approval from the following prior to opening business, every year:

1. Chief Building Official or Designate
  2. Fire Prevention Officer
  3. Municipal By-law Enforcement Officer
29. In accordance with the Gasoline Handling Act, R.S.O. 1990, Section 8, Sub-section 179(c), and amendments thereto, a Seasonal Stationary Food Premise shall not be permitted to locate within a minimum of 25 feet of any service station gasoline pump or storage tank.
30. The applicant/owner shall provide a certificate of approval, on a yearly basis, from a licensed propane fitter, if equipped with propane, indicating that the equipment has been inspected and is in good working order.
31. The applicant/owner shall equip the Seasonal Stationary Food Premise with commercial cooking equipment as per N.F.P.A. 96 and U.L.C. 1254 standards.
32. The applicant/owner shall provide written approval from the owner of lands where the said Seasonal Stationary Food Premise is located.
33. The operator of a Seasonal Stationary Food Premise shall provide the use of one picnic table at its location, where such table shall not exceed a seating capacity of more than six people.
34. Notwithstanding Section 12 above, an operator shall provide more than one picnic table only where the operator has provided the use of public washrooms are deemed a permanent structure and meet the regulations of the Ontario Building Code.
35. The applicant/owner must ensure that the use of a Seasonal Stationary Food Premise meets all applicable zoning requirements

#### **PENALTY**

36. 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 Offences Act (as amended), is liable to:
1. 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;
  2. a penalty in the case of a corporation, not to exceed \$50,000.00; and
  3. an order closing the premises which are the subject of the contravention for a period not to exceed two years.
37. 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.

38. A Municipal Law Enforcement Officer or a Cornwall Police Services Officer of the Corporation of the City of Cornwall shall enforce the provisions of this By-law.
39. 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 shall 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.
40. 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.
41. 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**