



The Corporation of the Municipality of

Central Elgin

BY- LAW 1818

Being a By-law to License, Regulate and Govern Outdoor Vendors

WHEREAS pursuant to the Municipal Act, 2001 S.O. 2001, c. 25 Section 150-165, the Council of a local municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS it is deemed desirable to provide for the licensing, regulating and governing of Outdoor Vendors;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Corporation of the Municipality of Central Elgin hereby enacts as follows:

In this By-law:

1. DEFINITIONS

- (a) "Corporation" means the Corporation of the Municipality of Central Elgin.
 - (b) "CAO/Clerk" means Chief Administrative Officer/Clerk for the Corporation or his or her designate.
 - (c) "Licence" shall mean an Outdoor Vendor Licence issued pursuant to this By-law and "Licensee" shall mean the person, Corporation, or entity to which such Licence is issued.
 - (d) "Municipality" shall mean the Municipality of Central Elgin.
 - (e) "Municipal Council" means the Council for the Corporation.
 - (f) "Outdoor Vendor" shall include any person who goes from place to place or to a particular place for a temporary period with any goods, wares, services, or merchandise for sale, or who carries and exposes samples, patterns or specimens or any goods, wares or merchandise that are to be delivered in the municipality afterwards.
2. Except as specifically permitted in this By-law, every Outdoor Vendor operating within the Municipality of Central Elgin shall obtain a Licence from the CAO/Clerk before selling or offering for sale any goods, wares, services, or merchandise within the Municipality of Central Elgin.
 3. Each Licence shall be issued in the name of the Corporation by the Chief Administrative Officer/Clerk or Designate.
 4. The fee to be paid to the Corporation for a Licence pursuant to the provisions of this By-law shall be \$300.00.
 5. All Outdoor Vendor Licences issued under the provisions of this By-law shall be for the period of time indicated on the Licence.
 6. No Outdoor Vendor shall sell goods, wares, services, or merchandise on a public highway, public park, public playground, or other public property within the territorial limits of the Municipality, unless having first obtained a Licence from the CAO/Clerk.
 7. The CAO/Clerk is authorized to and may issue an Outdoor Vendors Licence, including imposition of any condition to obtain or continue to hold such Licence,

after an Applicant therefor has complied with the following requirements:

- (a) Submission of a complete Application form as provided by the Corporation, setting forth, to the satisfaction of the CAO/Clerk, the following information:
 - i. The name, address, and contact information for the Applicant;
 - ii. A full and complete description of any goods, wares, services, or merchandise that the Outdoor Vendor proposes to sell or offer for sale in the Municipality;
 - iii. The municipal address or addresses and location or locations where the Applicant proposes to conduct sales;
 - iv. A plan illustrating the location on the property at the municipal address or addresses as described above at which the Applicant proposes to conduct sales;
 - v. Written confirmation from the owner of the property comprising the municipal address or addresses upon which sales are to be conducted that he, she, or it consents to such sales and the issuance of a Licence to the Applicant; and,
 - vi. Where necessary, approval of the Elgin St. Thomas Health Unit;
- (b) Payment of the Licence fee as described above.

8.

- (a) Where, in the opinion of the CAO/Clerk, the Applicant for an Outdoor Vendor Licence fails to comply with the requirements of this By-law, the said CAO/Clerk shall refuse to issue the Licence applied for by the Applicant.
- (b) In the event that the CAO/Clerk shall refuse an Application for an Outdoor Vendor Licence, he or she shall notify the Applicant, in writing, as to the reasons for such refusal and, furthermore, inform the Applicant of his or her right of appeal of such refusal to Municipal Council.
- (c) Unless the Applicant shall request an appeal hearing before Municipal Council as contemplated below, the CAO/Clerk or his designate shall return and/or reimburse the Licence fee to the Applicant.

9. No Licence as contemplated by this By-law shall be issued for an activity or activities which contravenes any Zoning By-law in effect for lands within the territorial limits of the Municipality of Central Elgin.

10. Every Outdoor Vendor shall, at all times while carrying on business, have a copy of the Licence issued by the Municipality and, upon demand, shall exhibit that Licence to any By-law Enforcement Officer or Police Officer. Failure to produce the said Licence on demand or request shall constitute an offence under this By-law.

11.

- (a) Subject of the provisions of subsections (b) through (d) below, the Corporation, by its CAO/Clerk, may at any time suspend or cancel a Licence issued hereunder if it is determined either that the continuation of activity under such Licence poses a danger to the health or safety of any person or to any property or that the Licensee has failed to comply with the conditions imposed on such Licence.
- (b) Prior to suspending or cancelling any Licence issued pursuant to this By-law, the CAO/Clerk shall notify the Licensee, either orally or in writing, of such impending suspension or cancellation and the reasons therefor and

thereafter allow the Licensee a reasonable opportunity to respond to those reasons.

(c) If the CAO/Clerk shall decide to suspend or cancel a Licence issued pursuant to this By-law, he or she shall so notify the Licensee, in writing, as to the reasons for suspension or cancellation, and, furthermore, inform the then Licensee of his or her right of appeal of such suspension or cancellation to Municipal Council.

(d) Unless the Licensee shall deliver a request for appeal hearing, the Licensee shall forthwith after receiving notice of suspension or cancellation surrender the Outdoor Vendor Licence issued hereunder to the CAO/Clerk and the CAO/Clerk shall reimburse to the Licensee a proportionate share of the Licence Fee based upon the balance of the term of the Licence as calculated as of the date of such suspension or cancellation, as the case may be.

12. In the event that an Applicant or Licensee, as the case may be, seeks to appeal the decision of the CAO/Clerk to refuse an Application for Licence or, alternatively, the suspension or cancellation of a Licence previously issued, the following rules shall apply:

(a) The appealing Applicant or Licensee, as the case may be and hereinafter referred to as "Appellant", shall file a written request for appeal hearing to Municipal Council within seven (7) days of receipt of the written decision of the CAO/Clerk; provided that, in the event of an appeal of a suspension or cancellation of a Licence previously issued, the then Licensee shall surrender the Outdoor Vendor Licence to the CAO/Clerk at the time of filing of the said Request for Appeal Hearing as referred to immediately above.

(b) Upon receipt of the said request for appeal hearing from the Appellant, the CAO/Clerk shall schedule a hearing before Municipal Council at the first reasonable opportunity and shall give the Appellant reasonable notice of the date, time, and place of such hearing.

(c) A written Notice of Appeal Hearing will be delivered by registered mail addressed to the Appellant at his or her last known address and shall, in the absence of confirmed personal receipt by the Appellant prior to such date, be deemed to be delivered on the seventh day after posting.

(d) An appeal hearing conducted hereunder by Municipal Council shall be conducted pursuant to the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended.

(e) When an Appellant fails to attend for appeal hearing, Municipal Council may proceed with the appeal hearing in such absence and the Appellant shall not be entitled to further notice of or participation within the proceeding.

(f) After completion of the appeal hearing contemplated herein, Municipal Council may allow or deny the appeal and, in so doing, may confirm the original refusal, suspension, or cancellation or otherwise direct issuance or reinstatement of an Outdoor Vendor Licence, including conditions thereto.

(g) The CAO/Clerk shall forthwith, in writing, notify the Appellant of the appeal decision of Municipal Council.

(h) In the event that Municipal Council shall allow the appeal and direct issuance or reinstatement of an Outdoor Vendor Licence, the CAO/Clerk shall forthwith prepare and issue such Licence or, in the case of reinstatement, return such Licence to the Appellant.

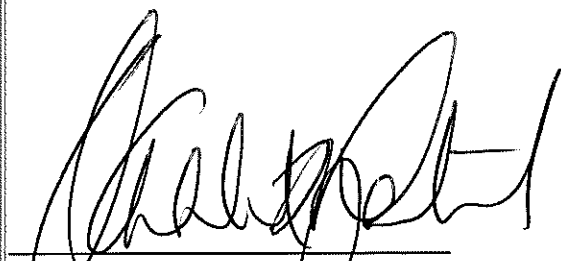
(i) In the event that the Municipal Council shall deny the appeal, the

CAO/Clerk shall reimburse to the Appellant, formerly the Licensee, a proportionate share of the Licence fee based upon the balance of the term of the Licence as of the date of suspension or calculation, as the case may be.

13. No person shall enjoy a vested right in the continuance of a Licence and upon issuance, cancellation or suspension, a Licence shall remain the property of the Municipality. Following the expiry of a Licence, any person may apply for a new Licence in the same manner as a new Applicant.
14. While his/her Licence is cancelled or suspended, the Licensee shall not attempt to exercise any right conferred by such Licence and any attempt to do so is subject to the same penalties as if no Licence had been obtained.
15. Any Licence issued pursuant to this By-law may not be transferred to another person or entity.
16. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
17. No Outdoor Vendors Licence is required for selling goods, wares, or merchandise:
 - (a) If the goods, wares, services, or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of his own farm, or;
 - (b) If the goods, wares, services, or merchandise are sold by a person who owns and operates a business established in a commercial zone in the Municipality, or;
 - (c) If the goods, wares or merchandise are sold at an event that has been issued a Special Events Permit pursuant to By-law No. 1481.
18. It is hereby declared that each and every of the foregoing provisions of the By-law is severable and that, if any provisions of this By-law should, for any reason, be declared invalid by any court, it is the intention and desire of this Council that each and every of the remaining provisions hereof shall remain in full force and effect.
19. This By-law shall come into force and effect immediately upon the final passing thereof.

READ a FIRST and a SECOND TIME this 26th day of January, 2015.

READ a THIRD TIME and FINALLY passed this 26th day of January, 2015.



Donald N. Leitch
CAO/Clerk.



David Marr
Mayor.