



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

Number 133 - 2006

A By-law to Amend By-law 1-2002  
To broaden grounds for refusal or revocation of business  
licences, to introduce grounds for plate removal, to clarify  
appeal procedures and to make other changes

WHEREAS Section 150 of the *Municipal Act* permits a local municipality to license, regulate and govern any business carried on within the municipality;

AND WHEREAS the health and safety, nuisance control and consumer protection goals set out in Section 150 (2) of the *Municipal Act* are more effectively achieved if there is an efficient and transparent machinery for regulation of licence holders and applicants;

The Council of The Corporation of the City of Brampton ENACTS as follows:

1. Section 12 of By-law 1-2002 is repealed and the following substituted therefore:

## GROUND FOR REFUSAL OF A LICENCE

12. (1) In this Section, "applicant" includes an applicant for a licence, a holder of a licence, or in the case of a partnership, a partner of the partnership applying for or holding the licence, or in the case of a corporation, an officer or director of the corporation applying for or holding the licence.
- (2) An applicant whose application or licence meets all the requirements of this By-law and its Schedules is entitled to a licence except where:
  - (a) The past or present conduct of the applicant affords reasonable grounds for the belief that the business which is the subject of the licence or licence application will not be carried on in accordance with the law and with integrity and honesty;
  - (b) There are reasonable grounds to believe that any application or other document provided to the Licensing Issuer by or on behalf of the applicant contains a false statement, or provides false information;
  - (c) The financial position of the applicant affords reasonable grounds to believe that the business will or has not been carried on in a financially responsible manner;
  - (d) There are reasonable grounds to believe that the applicant does not meet:

- (i) all the requirements of this By-law; or
- (j) any other City By-law;

or that such business is carried on or intended to be carried on in an area where such business is prohibited. Where the reason for refusal is solely by reason of the location of the business, Section 150(12) of the *Municipal Act* applies to prevent a refusal, revocation or suspension, in cases where the business was lawfully being carried on at that location on May 1, 2006.

- (e) The applicant has failed to pay a fine or fines imposed by a court for convictions for breach of a City by-law;
  - (f) There are reasonable grounds to believe that the building, premises or place or part thereof in which the business is carried on or intended to be carried on does not comply with the provisions of this By-law, or with any other law, or by-law, including any applicable zoning or building requirements, or is dangerous or unsafe;
  - (g) There are reasonable grounds to believe that the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of or engaging in the business licensed hereunder is misleading to consumers, dangerous, or unsafe;
  - (h) The fee payable for the licence or licence application has not been paid, or
  - (i) Any additional fee imposed on a licensee remains unpaid after the due date as indicated in a Notice of Additional Fee sent to the licensee.
2. By-law 1-2002 is amended by adding to it the attached, as Appendix C.
  3. Sections 37 to 72 of By-law 1-2002 are repealed and the following substituted therefore, including new sections 73 to 79:

#### **INCOMPLETE APPLICATION**

37. The Licence Issuer may require any fee or document, including proof that any requirement of any law or by-law has been met, before a licence is issued. If the Licence Issuer has made reasonable efforts to obtain the required information but the application remains incomplete, the Licence Issuer may issue a Notice of Incomplete Application and close the file.
38. A closed application file is subject to a \$50 administration fee.
39. The issuance of a Notice of Incomplete Application is not a statutory power of decision and is not subject to appeal to Council.

#### **PLATE REMOVAL**

40. Where the Licence Issuer, acting reasonably, has reason to believe that one or more of the sections listed in Schedule C is or has been contravened, he or she may physically remove the plate from a vehicle or appliance.
41. The Licence Issuer may retain the plate until the contravention has been remedied to the satisfaction of the Licence Issuer.

## REFUSALS AND HEARING PROCEDURES

42. In the following Sections, in addition to its ordinary meaning, the word "applicant" shall have the additional meanings as set out in Section 12 (1).

### Recommendation for Refusal

43. Where the Licence Issuer is of the opinion that:
- (1) an application for a licence should be refused,
  - (2) a reinstatement should not be made,
  - (3) a licence should be revoked;
  - (4) a licence should be suspended; or
  - (5) a term or condition of a licence should be altered

he or she shall make a recommendation to Council to refuse, revoke or suspend the licence or alter the term or condition.

### Issuer to Advise of Recommendation

44. Notice of the recommendation in Section 43 shall be given to the applicant. The applicant is entitled to a hearing before the Committee of Council (Licencing), if the applicant delivers a letter requesting a hearing to the Clerk, within fourteen days after notice has been sent. The letter must be accompanied by a \$75.00 appeal fee.

### Where No Appeal

45. Where no request for a hearing is received within thirty days after the sending of the recommendation to the applicant ("the sending date"), the recommendation is deemed final and binding, and the refusal, revocation, suspension, or change of term or condition is effective thirty days after the sending date.

### Service of Notice

46. Any written notice required to be given by the City Clerk or Licence Issuer shall be deemed served seven days following mailing of such notice to the last address given by the applicant to the Licence Issuer.

### 60-day Suspension

- 47.
- (1) Where it comes to the Licence Issuer's attention that the holder of a licence has been convicted of an offence or has unpaid fines so as to lead the Licence Issuer to conclude that the holder's business will not be carried on in accordance with the law and not with integrity and honesty, contrary to Section 12(a), the Licence Issuer may suspend the licence for a period not to exceed 60 days.
  - (2) During this time it is an offence for the holder to continue to carry on the business for which the licence was issued.
  - (3) The suspension shall operate:
    - (a) if the notice of suspension is served personally, from the date of service;
    - (b) if the notice is served by registered or ordinary mail, seven days after the latest date of mailing.

- (4) When a license is suspended under this section, the holder shall be deemed to have appealed to the Committee of Council (Licencing) and Section 45 (where no appeal) shall not apply to the holder's appeal.
- (5) Upon a suspension being made under Section 47(1), the Clerk shall forthwith take steps to schedule a hearing, either within the 60-day period or beyond it, but failure of the Clerk to schedule a hearing within 60-day period shall not invalidate the suspension.
- (6) If a hearing is not scheduled within the 60-day period, the licence is reinstated at the end of the sixty days and the Licence Issuer shall not issue a second 60-day suspension for the same conviction, or unpaid fine that led to the first 60-day suspension.

#### **Hearing Procedure**

48. On receipt of a written request for a hearing from the applicant, the City Clerk shall schedule a hearing and shall give the applicant and the Licence Issuer reasonable written notice of the date, time and place of the hearing.
49. The panel for the hearing need not follow the three councillor quorum requirements of Section 5.3 of Procedure By-law 160-2004.
50. The final decision in the hearing is deemed to involve a statutory power of decision within the meaning of the *Statutory Powers Procedure Act* and that Act, except for Sections 17.1 (power to award costs), 18 (requirement to send copies of final decision and order) and 19 (enforcement of order by filing with Superior Court of Justice), applies to the Committee of Council (Licencing) and the hearing conducted by it.
51. If the panel of the Committee of Council (Licencing) so requires, it may meet privately to deliberate, or to write a decision or order, notwithstanding Section 239(1) of the *Municipal Act*.
52. When an applicant who has been given written notice of the hearing does not attend at the appointed time and place, the panel may proceed in his or her absence, and the applicant shall not be entitled to any further notice of the hearing.

#### **Council to Make Final Decision**

53. (1) The panel shall provide its recommendations to Council, after which Council may make the final decision.
- (2) When it makes the final decision pursuant to Section 53(1), Council is not required to hold a hearing or hear any further deputation.
- (3) Council is not required to give reasons for its decision.
- (4) Notice of Council's decision shall be given to the parties that were at the hearing before the panel, and any other persons as Council may direct, and notice shall be given within ten days after the date Council makes its decision.
54. Council may make any decision permitted by law and may:
  - refuse;
  - refuse to reinstate;
  - revoke;
  - suspend; or
  - grant a licence upon terms and conditions

or any combination of these.

55. No member of the Committee of Council (Licencing) or its staff is personally liable for anything done by it, or him or her under authority of this by-law.

#### **RETURN OF LICENCE**

56. (1) Where for any reason, an applicant has been refused a licence, or a licence has been revoked or suspended, the Licence Issuer shall notify the applicant in writing, and such applicant shall return any licence or plates issued by the Licence Issuer with reference to such licence forthwith.
- (2) No person whose licence has been revoked or suspended shall refuse to deliver the licence or plates to the Licence Issuer or in any way obstruct or prevent the Licence Issuer from receiving or taking the same. The Licence Issuer may enter upon the business premises or vehicles of the licensee for the purpose of receiving, taking or removing the said licence and plates.
57. An applicant whose licence has been refused or revoked, shall not be entitled to make a new application for a similar type of licence for a period at least eighteen (18) months from the date of the refusal or revocation.

#### **FEE REQUIRED FOR LICENCE TO BE ISSUED**

58. Notwithstanding any decision of, or statement by the Council respecting the granting of a licence, or a licence application, no person shall be deemed to be licensed to carry on or engage in the trade, calling, business or occupation, for which such licence is required until, he or she has paid the required fee and has received the physical licence, plate, or other evidence of the granting of such licence continues to be provided for in this By-law.

#### **NO VESTED RIGHT**

59. No person shall enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof, the value of a licence shall be the property of the Corporation of the City of Brampton.
60. No person licensed to carry on business under this by-law shall advertise, promote or carry on the business under any name other than the name endorsed upon his licence without the approval of the Licence Issuer.

#### **INSPECTION**

61. The Licence Issuer may at all reasonable times:
- (1) inspect as much of any licensed premises that are used for the carrying on of any trade, calling, business or occupation in respect of which any person has a licence under this by-law; and
  - (2) inspect any goods, articles, books, records and other documents of or relating to any the licence, calling, business or occupation.
  - (3) In this Section "licenced premises" includes premises for which a licence application has been made and "licenced trade", etc. has a similar meaning.

- 62. Upon the request, every person shall forthwith provide to the Licence Issuer any goods, articles, books, records and other documents of, or relating to any such trade, calling, business, or occupation.
- 63. Where the Licence Issuer finds that any provision of this by-law is being contravened, he or she may issue a notice in writing directing compliance with the provision within a specified time.

**GENERAL PROHIBITIONS**

- 64. No person shall alter, erase or modify a licence or allow the alteration, erasure or modification of a licence without the approval of the Licence Issuer.
- 65. Every person applying for, or holding a licence under this by-law shall, in such application, or in carrying on or engaging in the trade, calling, business or occupation in respect of which the licence is issued, observe, comply with and be governed by the regulations set out in the respective schedules to this by-law.
- 66. No person shall, within the limits of the City of Brampton, carry on or engage in any of the said trades, callings, businesses or occupations referred to in the schedules unless he or she possesses a valid licence for this activity.
- 67. No person shall obstruct or hinder the making of any inspection under this by-law, or obstruct the Licence Issuer in the execution of his or her duties.
- 68. On application by a charitable organization, the Licence Issuer may waive the payment of the required licence fee.

**DISCRIMINATION**

- 69. No person licensed pursuant to this by-law shall discriminate against any member of the public.
- 70. No person licensed under this by-law shall, in respect of any blind person being guided or led by a dog:
  - (1) refuse to serve such person;
  - (2) refuse to permit such person to enter with such dog into or upon any place, premises, vehicle or thing to which the licence relates; or
  - (3) refuse to permit such person and such dog to remain in or upon such place, premises, vehicle or thing, by reason only of the presence of the said dog.
- 71. No person licensed under this by-law shall in respect of any physically challenged person:
  - (1) refuse to serve such person;
  - (2) refuse to permit such person to enter into or upon any place, premises, vehicle or thing to which the licence relates; or
  - (3) refuse to permit such person to remain in or upon such place, premises, vehicle or thing; by reason only of the presence of such physical handicap.

**ORDERS OF INSPECTOR**

72. Every person who fails to comply with an order issued by a Licensing Inspector made under this by-law is guilty of an offence.

**CONTRAVENTIONS AND PENALTIES**

73. Every person who contravenes this by-law, and every director or officer of a corporation, who concurs in such contravention, is guilty of an offence and upon conviction is liable to a fine of not more than \$25,000, exclusive of costs.
74. If a corporation is convicted under Section 73, the maximum penalty, exclusive of costs, is \$50,000 instead of \$25,000.
75. (1) Notwithstanding Sections 73 and 74, every person who contravenes any of the provisions of this by-law relating to Schedules S-13 and S-26 (adult entertainment establishment and body rub parlour), or any provision of this by-law in relation to an adult entertainment establishment licence or body rub parlour licence, and any director or officer of a corporation who concurs in such contravention, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or both.
- (2) Where a corporation is convicted of an offence under Section 75 (1), the maximum penalty that may be imposed on the corporation is \$50,000.

**INTERPRETATION**

76. The Schedules and Appendices to this by-law shall form part of this By-law.
77. The provisions of the *Interpretation Act* shall apply to this by-law.
78. If what is known as "Daylight Saving Time" has been generally adopted in the Brampton area for any period of the year under any Statute, Order in Council, By-law, Resolution or Proclamation, whether the same is effective in law or not, such time shall be held to be the time referred to during such period in any reference to time in this by-law.
79. In the event of conflict between any of the general provisions of this by-law and any provisions set out in the schedules hereto, the provisions of the Schedule shall prevail.

**READ a FIRST, SECOND and THIRD TIME and PASSED** in Open Council this 8 day of May, 2006

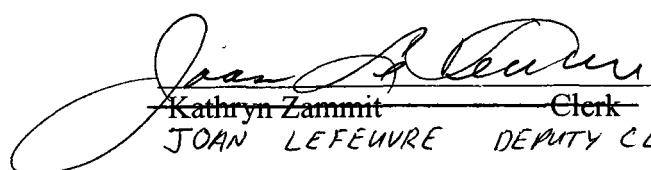
THE CORPORATION OF THE CITY OF BRAMPTON

  
Susan Fennell Mayor

Approved as to form and content

  
Ted Yao

Legal Counsel

  
Kathryn Zammit Clerk  
JOAN LEFEUVE DEPUTY CLERK

## APPENDIX E TO BY-LAW 1-2002

List of sections, for which contravention  
may lead to plate removal

**By-law 1-2002**

- Section 8 (insurance)
- Section 9 (fail to produce licence, etc)
- Section 10 (change of information)
- Section 11 (incomplete application)
- Section 12 (grounds for refusal)
- Section 13 (incomplete application)
- Section 14 (no drivers licence)
- Section 15 (vehicle not maintained)
- Section 16 (no vehicle inspection)
- Section 17 (vehicle fails inspection)
- Section 19 (malfunctioning vehicle)
- Section 20 (maintain current licence in vehicle)
- Section 21 (unlicensed driver)
- Section 22 (fail to report suspension)
- Section 23 (wrong plate)
- Section 24 (uninspected vehicle)
- Section 25 (plate transfer)
- Section 26 (non affixed plate)
- Section 31 (discontinued brokerage business)
- Section 32 (suspend for administrative requirements)
- Section 33 (fail to submit to inspection)
- Section 34 (further documentation)
- Section 35 (administrative requirements)
- Section 52 (fail to obey Licence Issuer's order)

**SCHEDULE M-1 TO BY-LAW 1-2002**

(Relating to persons who carry on the business of teaching persons to operate motor vehicles, including truck driving schools and driving instructors employed in such business)

- Section 2 (loss of licence associated with business)
- Section 4 (various mechanical or plate offences)
- Section 5 (unapproved vehicle)
- Section 6 (2) (fail to show books)



List of sections, for which contravention  
may lead to plate removal

**SCHEDULE M-2 TO BY-LAW 1-2002**

(Relating to owners, operators and drivers of vehicles from which refreshments are sold for consumption by the public)

- Section 3 (unlicenced driver)
- Section 4 (improper display of owner's name)
- Section 5 (sell in prohibited zone)
- Section 6 (sell on highway)
- Section 7 (sell in residential zone)
- Section 8 (locate on private property without consent)
- Section 9 (unwholesome food)
- Section 11 (no refuse container)
- Section 12 (unsanitary vehicle)
- Section 13 (fail to comply with schedule)
- Section 14 (vehicle not in good condition)
- Section 15 (improperly packaged foods)
- Sections 16,17,18 (no approval of MOH)
- Section 19 (meat not cooked)
- Section 20 (improperly stored foods)
- Section 21 (noise making devices)
- Section 22 (sales in downtown Brampton)
- Section 23 (special event requirements)

**SCHEDULE M-3 TO BY-LAW 1-2002**

(Relating to owners, operators and drivers of tow trucks)

- Section 3 (incomplete information)
- Section 5 (fail to return plate)
- Section 6 (unlicenced driver)
- Section 7 (improper plate)
- Section 8 (malfunctioning vehicle or equipment)
- Section 14 (revise rates without notice)
- Section 20 (unauthorized passenger)
- Section 21 (fail to return plate)
- Section 22 (improper equipment)
- Section 23 (improper signage)
- Section 24 (fail to file rates)
- Section 30 (no log)
- Section 31 (logs not maintained for 1 year)
- Section 32 (fail to keep licence with driver)

## APPENDIX E TO BY-LAW 1-2002

List of sections, for which contravention  
may lead to plate removal

**SCHEDULE M-3 TO BY-LAW 1-2002 cont'd**

- Section 34 (weight restriction)
- Section 35 (no wrecker body)
- Section 36 (equipment)

**SCHEDULE M-4 TO BY-LAW 1-2002**

(Relating to limousines, limousine drivers and owners)

- Section 3 (plate maintenance, etc)
- Section 4 (produce licence, etc)
- Section 5 (1) (operate without licence)
- Section 5 (2) (no vehicle examination)
- Section 5 (3) (limousine operated as taxi cab)
- Section 5 (5) (number of passengers exceeds capacity)
- Section 5 (6) (driver's view obstructed)
- Section 5 (7) (no radio, etc)
- Section 5 (8) (advertising prohibited)
- Section 6 (fail to furnish documents)
- Section 7 (fail to file rates)

**SCHEDULE M-5 TO BY-LAW 1-2002**

(Relating to taxicabs, brokers, owners and drivers)

- Section 4 (fail to return plate)
- Section 6 (accessible taxi driver requirements)
- Section 8 (no wheel chair tie downs)
- Section 9 (broker records, etc)
- Section 12 (unauthorized transfer of plate)
- Section 13 (maintain run sheets)
- Section 15 (corporate records)
- Section 17 (no drivers licence)
- Section 18 (log of driver)
- Section 19 (unauthorized private transport)
- Section 20 (vehicle markings and equipment)
- Section 21 (unauthorized emblems, etc)
- Section 22 (deceptive operation)
- Section 23 (no tariff card)
- Section 24 (fail to keep trip record)
- Section 25 (unauthorized plate transfer)

## APPENDIX E TO BY-LAW 1-2002

List of sections, for which contravention  
may lead to plate removal

**SCHEDULE M-5 TO BY-LAW 1-2002 cont'd**

- Section 26 (plate transfer requirements)
- Section 27 (plate transfer to unauthorized person)
- Section 28 (plate lease requirements)
- Section 38 (improper designated agent)
- Section 39 (deceptive markings)
- Section 40 (broker requirements)
- Section 42 (3) (fail to carry drivers licence)
- Section 42 (8) (fail to display photograph)
- Section 43 (1) (number of passengers exceeds capacity)
- Section 43 (3) (alcohol beverages)
- Section 43 (7) (use unauthorized tariff)