



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 343-2006

A By-law to amend Licensing By-law 1-2002
to re introduce the public interest as a ground
for refusal of a business licence

WHEREAS Section 150(2) of the *Municipal Act, 2001*, permits a municipality to exercise its business licensing powers for one or more of the following purposes:

1. Health and Safety;
2. Nuisance Control; and
3. Consumer protection.

AND WHEREAS a ground for which Council may refuse, revoke or suspend a license was inadvertently omitted in a previous revision to the Licensing By-law, namely the "public interest";

AND WHEREAS Council considers the public interest should be a matter to be considered when it makes licensing decisions;

AND WHEREAS the present system whereby the Licence Issuer recommends and Council decides on the Licence Issuer's recommendation may contravene the *Municipal Freedom of Information Act*;

AND WHEREAS it is desirable for the purposes of the protection of the privacy of individuals for the Licence Issuer to make a decision directly, subject to Council appeal, to avoid disclosing personal information about an identifiable individual;

NOW THEREFORE 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 Section 12 of By-law 1-2002 is repealed and the following substituted for it:

"GROUNDS FOR REFUSAL OF A LICENSE

- 12 (1) In this Section, "applicant" includes an applicant for a license, a holder of a license, or in the case of a partnership, a partner of the partnership applying for or holding the license, or in the case of a corporation, an officer or director of the corporation applying for or holding the license.

- (2) An applicant whose application or license meets all the requirements of this By-law and its Schedules is entitled to a license except where any of the following occurs.
- (a) Council is of the opinion that the issuance of a license or the holding of a license would be contrary to the public interest in respect of:
- 1) the health and safety of any person; or
 - 2) a nuisance affecting any land or person in Brampton or Canada; or
 - 3) the protection of any consumer.
- (b) The past or present conduct of the applicant affords reasonable grounds for the belief that the business, which is the subject of the license or license application, will not be carried on in accordance with the law and with integrity and honesty.
- (c) There are reasonable grounds to believe that any application or other document provided to the License Issuer by or on behalf of the applicant contains a false statement, or provides false information.
- (d) 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.
- (e) There are reasonable grounds to believe that the applicant does not meet:
- (i) all the requirements of this By-law; or
 - (ii) any other Brampton by-law.
- (f) The business of the applicant is carried on or intended to be carried on in an area where it is prohibited. Where the reason for refusal is based solely on 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.
- (g) The applicant has failed to pay a fine or fines imposed by a court for convictions for breach of a City by-law.
- (h) 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.
- (i) 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.
- (j) The fee payable for the license or license application has not been paid.
- (k) 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. The definition of "licence issuer" in Section 1 of By-law 1-2002 is replaced with:

' "licence issuer" means those persons appointed under By-law 87-2005, namely:

the Director of Enforcement and By-law Services, Legal Services;
the Supervisor, Licensing Enforcement, Legal Services; and
the Manager of Vital Statistics/Licensing/Permits, Council and Administrative
Services, Management and Administrative Services;

and includes his or her designates;’.

3. Sections 43 to 45 of By-law 1-2002 are replaced with:

Refusals

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 that decision and give the applicant written notice, and advise that the decision is effective thirty days after the day the City has sent the applicant the written notice (“the sending date”).

Notice shall advise of right of appeal

44. The written notice in Section 43 shall also advise that the applicant may appeal to the Committee of Council (Licencing) by filing written notice to the City Clerk, accompanied by the appeal fee as set out in the City’s User Fee By-law, within fifteen days after the sending date.

Where no appeal

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

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 11th DAY OF
OCTOBER, 2006

~~Susan Pennell, Mayor~~

G. MANNING DEPUTY MAYOR

Kathryn Zammit, City Clerk

Approved as to Form and Content

T. Yao
Legal Counsel