



The Corporation of the Town of Pelham

By-law No. XX-2024

Being a By-law to licence and regulate travelling vendors operating in the Town of Pelham and to repeal By-law Nos. 3186(2011) and 41-2024.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*” or “the statute”) provides that the powers of a municipality under the statute or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;

AND WHEREAS section 11 of the *Municipal Act, 2001* authorizes a lower-tier municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, the protection of persons and property including consumer protection, and business licensing;

AND WHEREAS section 151 of the *Municipal Act, 2001* authorizes a municipality to provide for a system of licences with respect to a business or any activity, matter or thing for which a by-law may be passed under sections 9 and 11 of the statute;

AND WHEREAS section 391 of the *Municipal Act, 2001* authorizes a municipality to impose fees and charges on persons for services or activities provided or done by or on behalf of the municipality;

AND WHEREAS sections 425 and 429 of the *Municipal Act, 2001* authorize a municipality to create offences for the contravention of its by-laws and to establish a system of fines for offences under its by-laws;

AND WHEREAS section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction or order of the municipality;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that where a municipality is satisfied that a by-law contravention has occurred, it may make an order requiring the person who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it necessary and desirable to licence and regulate travelling vendors operating in the Town of Pelham and to enact this By-law for that purpose;

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

1. Purpose

1.1. The purpose of this By-law is to provide for a system of licences for travelling vendors operating in the Town of Pelham to regulate such operations and thereby protect and promote public safety, consumer interests, and the economic well-being of the Town.

2. Definitions

2.1. In this By-law:

“Administrative Penalty” means an Administrative Penalty issued pursuant to Town of Pelham Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023, as amended from time to time.

“Annual Vendor Licence” means a licence issued to a Vendor under this By-law that is valid for the balance of the calendar year in which it is issued.

“Applicable Law” means all applicable by-laws of the Town and Niagara Region and all applicable provincial and federal statutes and regulations.

“By-law Enforcement Officer” means a by-law enforcement officer of the Town and includes the Director.

“Clerk” means the Clerk of the Town or designate.

“Community Planning and Development” means the Community Planning and Development Department of the Town.

“Council” means the Council of the Town.

“Director” means the Director of Fire and By-law Services of the Town or designate.

“Enforcement Authority” means the Director, a By-law Enforcement Officer, and any Person appointed or otherwise delegated the authority to administer and enforce this By-law.

“Fees and Charges By-law” means Town of Pelham By-law No. 3728 (2016), as updated or amended from time to time.

“Fire and By-law Services” means the Fire and By-law Services Department of the Town.

“Food Vendor” means a Vendor that offers or provides any food or beverage for consumption, whether or not a Refreshment Vending Cart or Refreshment Vending Vehicle is used, and includes Vendors of food or beverages that operate from a tent or other temporary structure.

“Highway” means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (“*Highway Traffic Act*”).

“Hold” means to organize, host, present or operate a Special Event and **“Holding”** and **“Held”** have corresponding meanings.

“Limited Vendor Licence” means a licence issued to a Vendor under this By-law that is valid for the duration of a Special Event to be attended by the Vendor for the purposes of practicing, carrying on, conducting or soliciting for any trade, calling, business or occupation.

“Local Vendor” means a Person that occupies a Place of Business for the purposes of practicing, carrying on, conducting or soliciting for any trade, calling, business or occupation.

“Niagara Region” means the Regional Municipality of Niagara.

“Order” means an Order issued to a Person under this By-law.

“Owner” means the registered owner of Property.

“Person” means an individual, corporation, partnership or association.

“Place of Business” means all or part of a building or structure located in the Town, which is not a temporary building or structure and is subject to municipal property taxation, and that is used by a Local Vendor for the purposes of practicing, carrying on, conducting or soliciting for any trade, calling, business or occupation.

“Private Property” means Property owned by a Person other than the Town, Niagara Region, the Province of Ontario or Canada.

“Property” means any land or premises within the Town.

“Public Property” means Property under the ownership or jurisdiction of the Town, Niagara Region, the Province of Ontario or Canada.

“Refreshment Vending Cart” means a non-motorized wheeled wagon, trolley, cart or similar apparatus that offers or provides food or beverage for consumption and that may or may not be specially equipped for the purposes of food or beverage preparation.

“Refreshment Vending Vehicle” means a motorized vehicle that offers or provides food or beverage for consumption and that may or may not be specially equipped for the purposes of food or beverage preparation.

“Special Event” means a Special Event as defined in Town of Pelham Special Event Permit By-law No. XX-2024 as enacted and amended from time to time.

“Special Event Host” means the Person, organization or entity that Holds a Special Event.

“Special Event Permit” means a permit issued by the Town pursuant to Town of Pelham By-law No. XX-2024 to authorize the Holding of a Special Event.

“Town” means the Corporation of the Town of Pelham or the geographic area of the municipality, as the context requires.

“Town Special Event” means a Special Event that is Held by the Town and that is designated by the Clerk as a Town Special Event.

“Travelling Vendor” means a Person that travels from place to place, attends temporarily at a particular place, or attends a Special Event for

the purposes of practicing, carrying on, conducting or soliciting for any trade, calling, business or occupation.

“Vendor” means a Local Vendor or a Travelling Vendor.

“Vendor Licence” means an Annual Vendor Licence or a Limited Vendor Licence issued under this By-law.

“Zoning By-law” means Town of Pelham Comprehensive Zoning By-law No. 4481(2022), as enacted and amended from time to time.

3. General Prohibitions

- 3.1. No Travelling Vendor shall operate in the Town and no Person shall cause or permit a Travelling Vendor to operate in the Town except in accordance with this By-law and all Applicable Law.
- 3.2. No Local Vendor shall operate at a Property other than its Place of Business and no Person shall cause or permit a Local Vendor to operate at a Property other than its Place of Business except in accordance with this By-law and all Applicable Law.

4. By-law Application and Exemptions

- 4.1. This By-law applies to all Travelling Vendors operating on Private Property or Public Property in the Town unless otherwise provided for herein.
- 4.2. This By-law does not apply to Local Vendors while operating at the Place of Business of the Local Vendor. Local Vendors are subject to this By-law while operating at any other Private Property or Public Property unless otherwise provided for herein.
- 4.3. This By-law does not apply to any Person that carries on business as a farmer in the Town provided that the only products offered for sale are produce and/or meat raised and harvested by the Person and that the said products are offered for sale only at the Pelham Farmers Market and/or the Private Property of the Person.
- 4.4. This By-law does not apply to Travelling Vendors or Local Vendors that participate in a Special Event where:
 - (a) the Special Event Host has obtained a Special Event Permit;
 - (b) the Vendor is listed as a participating Vendor in the application for the Special Event Permit; and
 - (c) the Vendor is not a Food Vendor.
- 4.5. This By-law does not apply to Travelling Vendors or Local Vendors that participate in a Town Special Event where:
 - (a) the Vendor has applied to and been accepted by the Town as a Vendor for the Town Special Event; and
 - (b) the Vendor is not a Food Vendor.

5. Vendor Activities Requiring Licence

- 5.1. Subject to subsections 4.4, 4.5 and 5.2 of this By-law, no Travelling Vendor shall operate at any Private Property or Public Property in the Town without first obtaining an Annual Vendor

Licence.

- 5.2. Notwithstanding subsection 5.1, a Travelling Vendor that operates solely at one (1) or more Special Events or Town Special Events is not required to obtain an Annual Vendor Licence provided that the Travelling Vendor obtains a Limited Vendor Licence for each Special Event or Town Special Event it attends.
- 5.3. Subject to subsections 4.4, 4.5 and 5.4 of this By-law, no Local Vendor shall operate at any Private Property or Public Property in the Town other than the Place of Business of the Local Vendor without first obtaining an Annual Vendor Licence.
- 5.4. Notwithstanding subsection 5.3, a Local Vendor that operates solely at its Place of Business and at one (1) or more Special Events or Town Special Events is not required to obtain an Annual Vendor Licence provided that the Local Vendor obtains a Limited Vendor Licence for each Special Event or Town Special Event at which it attends.

6. Administration

- 6.1. This By-law shall be administered by the Clerk, who shall perform all administrative functions conferred under this By-law and without limitation may:
 - (a) determine if a Local Vendor or a Travelling Vendor requires a Vendor Licence and advise the Vendor accordingly;
 - (b) prepare forms to be used for applications under this By-law;
 - (c) receive and process all applications for Vendor Licences;
 - (d) require investigations to assess compliance with this By-law;
 - (e) confer and consult with other Town departments as required to assess compliance with this By-law;
 - (f) issue Vendor Licences in accordance with this By-law;
 - (g) impose terms and/or conditions on any Vendor Licence; and
 - (h) refuse, suspend or revoke a Vendor Licence where any requirement of this By-law or any term or condition imposed on a Vendor Licence is contravened.

7. Vendor Licence Application

- 7.1. An application for a Vendor Licence shall be made in writing by the Vendor in the prescribed form and shall be submitted not less than thirty (30) days prior to the commencement of the operations for which the Vendor Licence is required.
- 7.2. An application under subsection 7.1 shall be accompanied by the applicable fee established by the Fees and Charges By-law, which is non-refundable irrespective of the outcome of the application.
- 7.3. Where the applicant is a Travelling Vendor that is not a Food Vendor, the application shall contain the following:
 - (a) the name and contact details of the Vendor including address, telephone number and email address;
 - (b) a description of the business to be carried on including the

general nature of the products and/or services to be offered, days and hours of operation, and addresses for all Properties at which the Vendor will operate;

- (c) if the Vendor does not own a Private Property at which it will operate:
 - i. the name, address, telephone number and email address of the Owner(s) of the Property; and
 - ii. written permission from the Owner(s) of the Property for the Vendor to operate at the Property;
- (d) if the Vendor will operate on Public Property:
 - i. where the Town is not the Owner, written permission and confirmation from the Owner(s) of the Public Property that the operations of the Vendor do not contravene any Applicable Law; and
 - ii. an acknowledgment by the Vendor that its operations on Public Property shall comply with all applicable conditions set out in section 9 of this By-law; and
- (e) proof of general liability insurance with limits of not less than three million dollars (\$3,000,000) per occurrence.

7.4. Where the applicant is a Local Vendor that operates at any Private Property or Public Property other than its Place of Business and is not a Food Vendor, the application shall contain the following:

- (a) the name and contact details of the Vendor and its Place of Business including address, telephone number and email address;
- (b) the reason(s) that the Vendor will operate at a Property other than its Place of Business;
- (c) a description of the business to be carried on including the general nature of the products and/or services to be offered, days and hours of operation, and addresses for all Properties at which the Vendor will operate;
- (d) if the Vendor does not own a Private Property at which it will operate:
 - i. the name, address, telephone number and email address of the Owner(s) of the Property; and
 - ii. written permission from the Owner(s) of the Property for the Vendor to operate at the Property;
- (f) if the Vendor will operate on Public Property:
 - i. where the Town is not the Owner, written permission and confirmation from the Owner(s) of the Public Property that the operations of the Vendor do not contravene any Applicable Law; and
 - ii. an acknowledgment by the Vendor that its operations on Public Property shall comply with all applicable conditions set out in section 9 of this By-law; and
- (e) proof of general liability insurance with limits of not less than three million dollars (\$3,000,000) per occurrence.

- 7.5. In addition to the requirements of subsections 7.3 and 7.4, where the applicant is a Food Vendor, the application shall contain the following:
- (a) if the Food Vendor operates a Refreshment Vending Cart or Refreshment Vending Vehicle:
 - i. if the Food Vendor does not own the Refreshment Vending Cart or Refreshment Vending Vehicle, the name and contact details of the owner(s) including address, telephone number and email address;
 - ii. if applicable, a current and valid Safety Standard Certificate issued by the Ministry of Transportation;
 - (b) if a propane or gas-fired system is to be used, an inspection certificate from the Technical Standards and Safety Authority pursuant to the *Technical Standards and Safety Authority Act, 2000* S.O. 2000, c. 16, valid for the year in which the Vendor Licence will be issued;
 - (c) a record of inspection and approval by Niagara Region Public Health or, at the discretion of the Clerk, another public health authority in Ontario, within one (1) year of the date on which the application is made;
 - (d) a record of inspection by the Pelham Fire Department or, at the discretion of the Clerk, another fire department in Ontario, within one (1) year of the date on which the application is made; and
 - (e) in lieu of the insurance coverage required under subsections 7.3 and 7.4, proof of general liability insurance with limits of not less than five million dollars (\$5,000,000) per occurrence.
- 7.6. In addition to the requirements of subsections 7.3, 7.4 and 7.5, where a Vendor requires approval from any agency or authority other than the Town, the Vendor shall secure all such approvals and append them to the application.
- 7.7. Upon receipt of an application for a Vendor Licence, the Clerk shall review it for completeness and may require the applicant to provide such additional information or documents as the Clerk determines are reasonably necessary to complete the application.
- 7.8. Upon receipt of a complete Vendor Licence application, the Clerk shall circulate it to Community Planning and Development, Fire and By-law Services, any other required Town department, and any other relevant agency or authority for review and comment. Any reviewing Town department, agency or authority may request that conditions of approval be imposed.

8. Vendor Licence Issuance

- 8.1. Upon completion of the application process set out in section 7, the Clerk shall issue a Vendor Licence where the Clerk is satisfied that the Vendor meets the requirements of this By-law.
- 8.2. Notwithstanding subsection 8.1, the Clerk may impose such terms and conditions on a Vendor Licence as the Clerk considers to be appropriate in the circumstances.

- 8.3. The Vendor shall pay the fee established by the Fees and Charges By-law for the issued Vendor Licence. This fee is non-refundable in any event, including if the Vendor ceases operations or the Vendor Licence is suspended or revoked in accordance with this By-law.
- 8.4. The Clerk may refuse to issue a Vendor Licence or may suspend or revoke a Vendor Licence where the Vendor fails to comply with the requirements of this By-law, other Applicable Law and/or the terms and conditions of the Vendor Licence.
- 8.5. Where the Clerk refuses to issue a Vendor Licence or suspends or revokes a Vendor Licence, the Clerk shall provide written reasons. The decision of the Clerk is final.
- 8.6. Annual Vendor Licences issued pursuant to this By-law shall be valid from the date of issuance until the end of the calendar year, unless suspended or revoked in accordance with this By-law.
- 8.7. Limited Vendor Licences issued pursuant to this By-law shall be valid from the date of issuance until the end of the Special Event to which the Limited Vendor Licence pertains, unless suspended or revoked in accordance with this By-law.
- 8.8. Vendor Licences are not transferable.

9. Vendor Licence Conditions

- 9.1. The following conditions attach to every Vendor Licence issued under this By-law:
 - (a) the operations of the Vendor shall not obstruct or interfere with pedestrian or vehicular traffic or otherwise create a hazard;
 - (b) the operations of the Vendor shall not obstruct or interfere with the ordinary operations of the Town;
 - (c) the Vendor Licence shall be displayed in accordance with section 10 of this By-law; and
 - (d) the Vendor and all Persons for whom it is responsible shall comply with the requirements of this By-law, other Applicable Law and the terms and conditions of the Vendor Licence.

10. Display of Vendor Licence

- 10.1. Where a Travelling Vendor operates from a building or structure, including a temporary structure, the Vendor Licence shall be displayed in a conspicuous location on the building or structure.
- 10.2. Where a Local Vendor operates from a building or structure other than its Place of Business, including a temporary structure, the Vendor Licence shall be displayed in a conspicuous location on the building or structure.
- 10.3. Where a Vendor operates a Refreshment Vending Cart or Refreshment Vending Vehicle, the Vendor Licence shall be displayed in a conspicuous location on the Refreshment Vending Cart or Refreshment Vending Vehicle.
- 10.4. Where a Travelling Vendor does not operate from a building or

structure or operate a Refreshment Vending Cart or Refreshment Vending Vehicle, the Travelling Vendor shall retain and carry the Vendor Licence at all times while engaged in the operations for which it was issued.

11. Enforcement

- 11.1. This By-law shall be administered and enforced by the Town and Enforcement Authorities.
- 11.2. An Enforcement Authority may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001*.
- 11.3. An Enforcement Authority may, at all reasonable times, enter and inspect any Property to determine if this By-law is being complied with and may, for the purposes of such an inspection, require the production of documents and/or require information from a Person concerning a matter related to the inspection.
- 11.4. An Enforcement Authority who is satisfied that a contravention of this By-law has occurred may make an Order requiring the Person who contravened the By-law, the Person who caused or permitted the contravention and/or the Owner of the Property where the contravention occurred to discontinue the contravening activity.
- 11.5. No Person shall obstruct or hinder, or attempt to obstruct or hinder, any Enforcement Authority in the exercise of a power or the performance of a duty under this By-law.

12. Penalty

- 12.1. Every Person who contravenes any provision of this By-law or an Order made under section 11.4 is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Provincial Offences Act, R.S.O. 1990, c. P.33*.
- 12.2. Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023 applies to each Administrative Penalty issued pursuant to this By-law.
- 12.3. Every Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023, be liable to pay to the Town an Administrative Penalty in accordance with that By-law.

13. General

- 13.1. The short title of this By-law is the "Vendor Licensing By-law".
- 13.2. If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.
- 13.3. If there is a conflict between a provision of this By-law and a provision of any other By-law of the Town, the provision that

establishes the higher standard shall prevail.

13.4. This By-law shall be read with all changes in number or gender as are required by context.

13.5. Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.

13.6. The Town Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

14. Repeal and Enactment

14.1. By-law Nos. 3186(2011) and 41-2024 are hereby repealed and replaced.

14.2. This By-law shall come into force on the date that it is enacted.

Marvin Junkin, Mayor

Sarah Leach, Acting Town Clerk