



THE CORPORATION OF THE CITY OF CAMBRIDGE

Outdoor Vendors By-law #106-09

Being a by-law of the Corporation of the City of Cambridge for the licensing, regulating and governing of Outdoor Vendors and to repeal By-law 63-08 and By-law 137-03 as amended.

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BY-LAW NO. 106-09

OF THE

CORPORATION OF THE CITY OF CAMBRIDGE

Being a by-law of the Corporation of the City of Cambridge for the licensing, regulating and governing of Outdoor Vendors and to repeal By-law 63-08 and By-law 137-03 as amended.

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.

AND WHEREAS pursuant to the Municipal Act, 2001, S.O. 2001, c. 25 Section 121, the Council of a local municipality may pass by-laws for prohibiting and regulating the sale of fireworks and the setting off of fireworks.

AND WHEREAS it is deemed desirable to establish regulations to licence, regulate and govern vehicles from which refreshments are sold for consumption by the public.

NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF CAMBRIDGE ENACTS AS FOLLOWS:

Definitions:

1. (a) Applicant means the owner of the outdoor vending cart/stand applying for an outdoor vendors license.
- (b) Approval means acceptable to the enforcing authority.
- (c) In this by-law Business means:
 - i) trades and occupations;
 - ii) exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise;
 - iii) the sale or hire of goods and services on an intermittent or one-time basis and the activities of a transient trader; and
 - iv) the display of samples, patterns or specimens of goods for the purpose of sale or hire.In this by-law Business does not mean:
 - i) a manufacturing or industrial business except to the extent that it sells its products or raw materials by retail;
 - ii) the sale of goods by wholesale or;
 - iii) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.
- (d) Cart means a vehicle, other than a motor vehicle in which food and/or beverages as noted in Section 5(a) are sold to the public and is capable of being moved from place to place.

- (e) Certified as defined under section 12 of this by-law means (with respect to any appliance, component, accessory, equipment) investigated and identified by a nationally recognized testing agency as conforming to recognized standards or requirements or accepted test reports.
- (f) Charitable Organization means an organization which performs services of public good or welfare without profit.
- (g) Competing Commercial Establishment means a permanent commercial establishment in which similar goods or merchandise are sold. Products sold ancillary to the main products such as beverages are not considered identical goods for the purposes of this by-law.
- (h) Fireworks means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other fireworks of like construction and any fireworks containing an explosive or flammable compound, or any tablets or other device containing an explosive substance, except that the term "fireworks" shall not include toy pistols, toy canes, or toy guns or other devices in which paper caps manufactured in accordance with the Department of Mines and Technical Surveys, Explosives Division regulations for packing and shipping of toy paper caps are used and toy paper caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper caps offered for retail sale shall be labelled to indicate the maximum explosive content per cap.
- (i) Goods means flowers, seafood products, hot dogs, fruits and vegetables, flags, art objects, fireworks, ice cream, clothing, electronics and books/magazines.
- (j) Highway means a common and public highway, street, avenue, parkway, drive, square place, bridge, viaduct or tressel any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.
- (k) Intersection means the area embraced within the prolongation or connection of the lateral curve lines or if none then of the lateral boundary lines of two or more highways that join one another at an angle whether or not one highway crosses the other.
- (l) Operator means the individual operating or conducting business at the cart/stand licensed under this by-law.
- (m) Outdoor Vending means the offering to sell, the display for sale, and the sale of goods.
- (n) Sidewalk means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians.
- (p) Stand means a stall, booth, counter, or the like, where articles are displayed for sale or where business is carried on; also the framework on or in which articles are placed for support and for sale.
- (o) Vendor means a person(s) to whom a licence has been issued pursuant to this by-law.

Purpose of Licencing Outdoor Vendors

2. The Corporation of the City of Cambridge exercises its licencing powers including imposing conditions on outdoor vending for the following purposes:
 - (a) Health and Safety

Explanation

3. An explanation as to the reason why the municipality is licencing outdoor vending or imposing the conditions and how that reason relates to the purpose under Section 2 of this by-law is attached as Schedule 'C' hereto.
4.
 - (a) Nothing contained within this by-law shall prevent the sale of ice cream cones, ice milk and other iced confectionery in accordance with City of Cambridge By-law No. 135-03.
 - (b) Nothing contained within this by-law shall prevent the operation of canteens, refreshment vehicles in industrial areas and construction sites in accordance with the Business Licensing By-law.

REGULATIONS

5. No person(s) shall sell or permit to be sold any goods or services as an outdoor vendor unless such person holds a valid Outdoor Vending Licence issued by the City of Cambridge and as regulated herein and shall display the licence in a conspicuous place and shall produce the licence on demand by a Police Officer or City of Cambridge By-law Enforcement Officer. No person shall sell or permit to be sold any goods or services as an outdoor vendor except as follows, and in accordance with the provisions of this bylaw:
 - a) Hot Dogs/Sausage/Non-alcoholic beverages;
 - b) Seafood Products, produce including fruits and vegetables;
 - c) Flowers;
 - d) Flags, art objects, fireworks, ice cream, clothing, electronics and books/magazines; and
 - e) Any other goods or services as permitted by resolution of the Council of the Corporation of the City of Cambridge as an exemption to this by-law.
6. Any person, licenced pursuant to the provision of this by-law shall:
 - (a) Operate only in specified C-class and CS-class zones as set out in the City of Cambridge Zoning By-law, except for lands located in the Business Improvement Areas as established by the City of Cambridge.
 - (b) Not operate within five metres of an intersection.
 - (c) Not operate, locate or sell from or on the traveled portion of the highway, or on a public sidewalk.
 - (d) Not operate within 30 metres of the nearest corner of the competing commercial establishment.
 - (e) Not operate within one hundred metres of any Elementary or Secondary school property.
 - (f) Not operate within 30 metres of any other outdoor vendor.
 - (g) Not operate on Region of Waterloo or City of Cambridge road allowances.
 - (h) Only operate from the location(s) noted on the licence.
 - (i) Not operate when the licence has been revoked or suspended.

- (j) Allow at any reasonable time, the municipality to inspect the places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business.
7. No person shall operate an outdoor vending cart/stand once a licence has been revoked or suspended.
8. No person shall deny an inspection of the place and premise used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business.

POWER OF COUNCIL

9. The powers of Council to licence, regulate and govern a business includes the power:
- a) to prohibit the carrying on of or engaging in the business without a licence;
 - b) to refuse to grant a licence or to revoke or suspend a licence;
 - c) to fix the expiry date for a licence;
 - d) to define classes of businesses and to separately license, regulate and govern each class; and
 - e) to impose conditions as a requirement of obtaining, continuing to hold or renew a licence, including conditions:
 - i) requiring the payment of licence fees,
 - ii) restricting the hours of operation of the business,
 - iii) allowing at any reasonable time, the municipality to inspect the places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business;
 - f) to impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
 - g) to impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
 - h) to licence, regulate or govern the place or premises used for the business and the persons carrying it on or engaged in it;
 - i) to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of or engaging in the business; and
 - j) to exempt any business or person from all or any part of the by-law.
10. The exercise of a power under clause 9(b), (f) or (g) is in the discretion of Council and Council shall exercise its discretion:
- (a) upon the grounds that the conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law;
 - (b) hold a hearing in an open public meeting of Council prior to refusing, revoking or suspending a business licence; and

- (c) the owner of the business as noted on the Business Licence shall be notified by registered mail in advance of any such hearing and, as well as, the reason for the hearing, and any party may make representation to Council regarding the refusing, revoking or suspending of a Business Licence.
11. Where Council revokes a Business Licence, the Licensee shall be entitled to a refund of the licence fee proportionate to the unexpired part of the term for which it was granted.
 12. For greater certainty "law" under Section 8(a) includes the laws and regulations of Canada and the Province of Ontario and the By-laws of the City of Cambridge including this by-law.
 13. A hearing under Section 8(b) shall proceed under the Statutory Powers Procedure Act, R.S.O., 1990 c.s.22, or any successor thereof, with the exception of Sections 17, 17.1, 18 and 19.

OUTDOOR VENDORS - HOTDOGS/SAUSAGES/NON-ALCOHOLIC BEVERAGES

14. The issuance of every Outdoor Vending Licence for hotdog vendors shall be subject to the following requirements, and every licensed outdoor vending applicant/operator shall comply with the following requirements:
 - (a) A valid licence shall be required for each cart/stand, and shall either be displayed in a conspicuous place on the said unit or available for presentation on demand by a Police officer or a City of Cambridge By-law Enforcement Officer.
 - (b) That the cooking appliance shall be comprised of approved burners, valves, tubing, hoses, regulators and the appliance itself overall shall be Canadian Gas Association certified or other applicable standard, and so shall be labelled to verify this listing.
 - (c) That the appliance be located not less than 7 1/2 metres (25 ft.) from any exit door or unprotected glass opening or combustible wall panel, as required by Article 12.5.4.2 of the CANS-1-B149.2-M, as amended.
 - (d) That the cart/stand shall be equipped with a portable fire extinguisher of a size not smaller than 3A 10BC.
 - (e) That the applicant/operator shall ensure that the appliance be inspected on an annual basis by a licenced propane fitter and that the annual inspection report be provided to the Cambridge Fire Department indicating the location (where the appliance will be in operation).
 - (f) No applicant/operator shall store propane cylinders indoors. Applicants/operators shall disconnect tank cylinders and store them in a secure exterior location.
 - (g) The applicant/operator for an Outdoor Vending Licence shall maintain the cart/stand in good repair and appearance.
 - (h) The applicant/operator shall equip the cart/stand with refuse containers(s) and keep the adjoining area in a clean, sanitary and attractive condition.
 - (i) The applicant/operator shall agree to save harmless the City of Cambridge and the Regional Municipality of Waterloo if applicable from any claim of any nature or kind resulting from the operation of the Outdoor Vending cart/stand pursuant to this licence. The applicant shall purchase liability insurance in the amount of \$2,000,000.00 insuring the applicant, the City of Cambridge and if applicable the Regional Municipality of Waterloo and any employee of the applicant conducting business pursuant to this licence. A certified copy of such insurance shall be filed with the City and be in good form and content satisfactory to the City prior to the issuance of the licence and shall be in good standing at all times.

- (j) The applicant/operator shall comply with all applicable provisions and regulations under the Health Protection and Promotion Act, Chap.H.7, R.S.O. 1990.
- (k) The applicant/operator shall not use loud speakers, amplifiers, flashing lights or other hailing devices.
- (l) The applicant shall not transfer the issued licence.
- (m) The applicant shall surrender the licence if the licence has been revoked under resolution of the Council of the Corporation of the City of Cambridge if any of the provisions of this by-law or any other City by-law or statute enforced in the City of Cambridge has been breached.
- (n) If in the opinion of the City of Cambridge the applicant holding an outdoor vending licence will interfere with a construction site, the applicant/operator shall move to another location upon being directed to do so.
- (o) A licence issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31st of the current year and shall be subject to renewal annually upon payment (January 1st) of the appropriate fee.

OUTDOOR VENDORS - FLOWERS, SEAFOOD, FRUIT AND VEGETABLES, FLAGS, ART OBJECTS, CLOTHING, ELECTRONICS, BOOKS/MAGAZINES

15. The issuance of every Outdoor Vending Licence for flower vendors, seafood products, fruit and vegetables, flags, art objects, clothing, electronics and books/magazines vending shall be subject to the following requirements and every licensed outdoor vending applicant/operator shall comply with the following conditions:
- a) Every applicant/operator of outdoor vending shall have a valid municipal licence.
 - b) Every applicant/operator of outdoor vending shall maintain the stand in good repair and appearance.
 - c) Every applicant/operator of outdoor vending shall maintain the area around the stand in a clean, sanitary and attractive condition.
 - d) The applicant/operator shall agree to save harmless the City of Cambridge and the Regional Municipality of Waterloo if applicable from any claim of any nature or kind resulting from the operation of the outdoor vending of flowers and/or fruit and vegetables pursuant to this licence. The applicant shall agree to purchase liability insurance in the amount of \$2,000,000.00 insuring the operator, the City of Cambridge and if applicable the Regional Municipality of Waterloo and any employee of the applicant conducting business pursuant to this licence. A certified copy of such insurance shall be filed with the City and be in good form and content satisfactory to the City prior to the issuance of the licence and shall be in good standing at all times.
 - e) The applicant/operator shall comply with all applicable provisions and regulations under the Health Protection and Promotion Act, Chap.H.7, R.S.O., 1990.
 - f) The applicant shall not transfer the issued licence.
 - g) The applicant shall surrender the licence if the licence has been revoked under resolution of the Council of the Corporation of the City of Cambridge if any of the provisions of this by-law or any other City by-law or statute enforced by the City of Cambridge has been breached.
 - h) If in the opinion of the Commissioner of Transportation and Public Works, the applicant holding an outdoor vending licence will interfere with a construction site, the applicant/operator shall move to another location upon being directed to do so.

- i) A licence issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31st of the current year and shall be subject to renewal annually upon payment (January 1st) of the appropriate fee.

OUTDOOR VENDORS - FIREWORKS

- 16. The issuance of every Outdoor Vending Licence for Fireworks shall be subject to the following requirements and every applicant/operator shall comply with the following conditions:
 - a) Every applicant/operator of outdoor vending of Fireworks shall have a valid municipal licence.
 - b) Every applicant/operator of outdoor vending of Fireworks shall maintain the stand in good repair and appearance.
 - c) Every applicant/operator of outdoor vending of Fireworks shall maintain the area around the stand in a clean, sanitary and attractive condition.
 - d) The applicant/operator shall agree to save harmless the City of Cambridge and the Regional Municipality of Waterloo if applicable from any claim of any nature or kind resulting from the operation of the outdoor vending of fireworks pursuant to this licence. The applicant shall agree to purchase liability insurance in the amount of \$2,000,000.00 insuring the operator, the City of Cambridge and if applicable the Regional Municipality of Waterloo and any employee of the applicant conducting business pursuant to this licence. A certified copy of such insurance shall be filed with the City and be in good form and content satisfactory to the City prior to the issuance of the licence and shall be in good standing at all times.
 - e) The manufacture, storage, transportation and sale of fireworks shall conform to the federal "Explosives Act" and "Explosive Regulations".
 - f) The applicant/operator shall not sell by retail or supply any fireworks:
 - i) To any person apparently under the age of eighteen years;
 - ii) To any person except on Canada Day and on the day fixed by proclamation of the Governor General for the observation of Victoria Day and during the preceding ten (10) days prior to the said days; and
 - iii) Of a type the setting off of which is prohibited by the provisions of this by-law.
 - g) The applicant shall not transfer the issued license.
 - h) The applicant shall surrender the licence if the licence has been revoked under resolution of the Council of the Corporation of the City of Cambridge if any of the provisions of this by-law or any other City by-law or statute enforced by the City of Cambridge has been breached.
 - i) If in the opinion of the Commissioner of Engineering and Public Works, the applicant holding an outdoor vending licence will interfere with a construction site, the applicant/operator shall move to another location.
 - j) A licence issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31st of the current year and shall be subject to renewal annually upon payment (January 1st) of the appropriate fee.

OUTDOOR VENDOR – ICE CREAM

17. The issuance of every Outdoor Vending Licence for ice cream vendors shall be subject to the following requirements and every licensed outdoor vending applicant/operator shall comply with the following conditions:
- a) Every applicant/operator of outdoor vending of ice cream shall have a valid municipal licence.
 - b) Every applicant/operator of outdoor vending of ice cream shall maintain the cart/stand in good repair and appearance.
 - c) Every applicant/operator of outdoor vending of ice cream shall maintain the area around the cart/stand in a clean, sanitary and attractive condition.
 - d) The applicant/operator shall agree to save harmless the City of Cambridge and the Regional Municipality of Waterloo if applicable from any claim of any nature or kind resulting from the operation of the outdoor vending of ice cream pursuant to this licence. The applicant shall agree to purchase liability insurance in the amount of \$2,000,000.00 insuring the operator, the City of Cambridge and if applicable the Regional Municipality of Waterloo and any employee of the applicant conducting business pursuant to the licence. A certified copy of such insurance shall be filed with the City and be in good form and content satisfactory to the City prior to the issuance of the licence and shall be in good standing at all times.
 - e) The applicant/operator shall comply with all applicable provisions and regulations under the Health Protection and Promotion Act, Chap. H.7, R.S.O., 1990.
 - f) The applicant shall not transfer the issued license.
 - g) The applicant shall surrender the licence if the licence has been revoked under resolution of the Council of the Corporation of the City of Cambridge if any of the provisions of this by-law or any other City by-law or statute enforced by the City of Cambridge has been breached.
 - h) If in the opinion of the Commissioner of Transportation and Public Works, the applicant holding an outdoor vending licence will interfere with a construction site, the applicant/operator shall move to another location.
 - i) A licence issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31st of the current year and shall be subject to renewal annually upon payment (January 1st) of the appropriate fee.

ADMINISTRATION

18. The licence fees as noted in Schedule "A" shall accompany the completed application form.
19. Schedule "B" forming part of this by-law contains regulations/requirements for obtaining and maintaining an outdoor vendors license.
20. Any charitable organization wishing to vend shall be subject to the provisions of this by-law save and except any fee may be waived provided all the net proceeds from any sale shall be used for charitable purposes.
21. No person or organisation shall operate or engage in outdoor vending or soliciting of a nature not covered by this bylaw within the City of Cambridge unless authorized by Council under a specific event.
22. This by-law be known as the Outdoor Vending By-law.

ENFORCEMENT/PENALTIES

23. 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.
24. That By-law 63-08 and By-law 137-03 as amended is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME

ENACTED AND PASSED, THIS 13TH DAY OF JULY, 2009

DOUG CRAIG
MAYOR

ALEX MITCHELL
CLERK

SCHEDULE "A"
TO BY-LAW 106-09
OF THE
CORPORATION OF THE CITY OF CAMBRIDGE

Licence Fee

Annual Outdoor Vending	\$78.50 per location (Subject to change as per the annual rate review)
Charitable Organization	No Charge
Late Fee	\$25.00 after March 1 st

SCHEDULE "B"

REGULATIONS/REQUIREMENTS FOR OUTDOOR VENDING
UNDER BY-LAW NO. 106-09
CITY OF CAMBRIDGE

These regulations/requirements are designed to assist persons applying for permission to vend from a vehicle, cart/stand or stand at specific locations in the City of Cambridge.

- 1) The City Clerk and or designate or Licensing Officer will review all applications for approval.
- 2) Outdoor vending is only allowed in specified C and CS class zones as set out in the City's Zoning By-law, except for lands located in the Business Improvement Areas as established by the City of Cambridge. When reviewing requests for locations near residentially zoned areas, the City Clerk and or designate or Licensing Officer will consider the potential disruption to the residential area and will deny requests for locations where any potential for residential disruption exists.
- 3) Outdoor Vending from a public sidewalk is not permitted. Outdoor Vending is not permitted from or on the traveled portion of a highway, or on Region of Waterloo road allowances.
- 4) Vendors will not be permitted directly in front of building entrances/exits, names or number, standpipes, fire hydrants or display windows.
- 5) Vending operations will not interfere where applicable with other authorized uses of the street allowance (i.e., news vending boxes, transit shelters, etc).
- 6) Vending carts/stands will not interfere with the visibility of pedestrian and vehicles.
- 7) The requested location will be on private property.
- 8) Proof of written approval from the property owner is required when making application for a licence.
- 9) The applicant/operator will comply with the distance restrictions outlined in this by-law.
- 10) The maximum area permitted for hotdog carts/stands will be 2.32 metres square (25.0 square feet), and the space will include waste receptacles(s).
- 11) All Food Vendor applications will be accompanied by details of waste receptacles, food store area, heating, cooling or other equipment as required by the Regional Medical Officer of Health and Inspection thereof.
- 12) Applicants/operators whose vending involves propane or other fuel heaters require an inspection of the cart/stand by a certified gas fitter.
- 13) Prior to issuance of a licence, you will be required to submit a certificate of general liability insurance in the amount of \$2,000,000.00 containing a cross-liability clause naming the City of Cambridge and the Regional Municipality of Waterloo, as appropriate, as an additional named insured.
- 14) Requisite fees as outlined in Schedule "A" of this by-law must accompany the application and will be refunded if the application is not approved.
- 15) On issuance of a licence you are free to vend in your approved location in accordance with the provisions of this by-law.
- 16) The licence will be issued for a one (1) year period and all licences shall expire on December 31st of each year. Each licensee shall have thirty (30) days from the expiration date to renew the licence for the same location.

- 17) Appropriate dress in accordance with the Health Code standards is required.
- 18) During winter operation a vendor shall be responsible for snow removal for their location.
- 19) A minimum of ten working days are required by staff to process any annual licence applications or relocation requests.
- 20) If the requested vending location has not been previously designated a photograph plus a detailed sketch of the requested location must accompany the application.
- 21) Applications must be complete to be accepted.
- 22) An applicant must obtain from a propane dealer and submit with their application, a certificate of inspection for each cart/stand. The certificate will include the registration number of the cart/stand, date of inspection, name and licence number of the inspector.
- 23) Upon renewal of every year the following documents and approvals are to be submitted to the Licensing Officer: Health and Fire Department Inspections, Propane Tank Inspection and current Insurance Certificate.

SCHEDULE C

TO BY-LAW 106-09

OF THE

CORPORATION OF THE CITY OF CAMBRIDGE

Explanation:

The Corporation of the City of Cambridge is licensing Outdoor Vendors for the purpose of ensuring health and safety within the municipality. Health concerns include proper food handling and cooking techniques as regulated by the Region of Waterloo Health Department. Safety concerns related to the use of propane for cooking and the physical location of outdoor vendors to the highways and sidewalks within the municipality. As well, safety concerns are addressed in this by-law in relation to the handling, storage and sale of fireworks. Improper handling and storage of fireworks could cause physical injury to the vendor and/or public and property damage. As a result, various conditions to licensing have been imposed to ensure health and safety is maintained if individuals wish to participate in the activity of Outdoor Vending within the City of Cambridge.