

The Corporation of the Town of Ajax
By-Law Number 160-2006

Being a by-law to licence, regulate, and govern Entertainment Establishments within the Town.

Whereas the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the “Act”), authorizes a Municipal Council to pass by-laws for licencing, regulating, governing, classifying and inspecting 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 Council deems it advisable to pass a By-law for the purposes of health and safety by regulating the minimum standards to address crowd control and by regulating the minimum amount of security needed for Entertainment Establishments;

And Whereas Council deems it advisable to pass a By-law for the purpose of consumer protection by regulating the minimum insurance required for Entertainment Establishments;

And Whereas Council deems it advisable to pass a By-law for the purpose of nuisances by regulating the hours of operation, the use of amplified devices, the control of litter and debris;

And Whereas a Public Meeting was held in the Council Chambers of the Town of Ajax to discuss the proposed By-law on December 11th, 2006;

Now therefore, the Corporation of the Town of Ajax hereby enacts as follows:

1. Short Title

1.1 This By-law may be cited as the Entertainment Establishment By-law.

2. Definitions

2.1 In this By-law,

- a) “Committee” means the Committee of Council to which Council has delegated the responsibility of handling licencing matters;
- b) “Entertainment Establishment” means a premises whose primary function at any time provides for the sale and consumption of alcoholic beverages and the provision of theatrical performances, prerecorded music, or live musical entertainment, whether such pre-recorded music or live music is provided for listening or dancing by the patrons, or any combination of the above functions, and whose accessory function is the sale and consumption on the premises of food, but does not include a restaurant, banquet facility, or an adult entertainment parlour as defined in the Town’s Zoning By-law;
- c) “Entertainment Establishment Licence” means a Licence issued to an Owner under this By-law;
- d) “Entertainment Establishment Operator’s Licence” means a Licence issued to an Operator under this By-law;
- e) “Licence” means any licence issued under this By-law;
- f) “Licencing Officer” means a Person appointed by the Town to issue licences, and includes a Person appointed by Council for the express purpose of issuing licences under this by-law, and includes a Municipal Law Enforcement Officer;

- g) "Operator" means a person who, alone or with others, operates, manages, supervises, runs or directs the business carried on at an Entertainment Establishment;
- h) "Owner" means the Person who holds the Entertainment Establishment Licence under this By-Law;
- i) "Person" includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, and a body corporate;
- j) "Security guard" means a person whose exclusive responsibility or duty while engaged or hired by an Entertainment Establishment is to guard or patrol the premises for the purpose of ensuring orderly conduct and protecting persons or property; and
- k) "Town" means The Corporation of the Town of Ajax.

3. General

- 3.1 No Person shall own or operate, or permit to be operated, an Entertainment Establishment in the Town without making application for, obtaining and maintaining an Entertainment Establishment Licence, pursuant to the terms of this By-law.
- 3.2 No Person shall be an Operator of an Entertainment Establishment without making application for, obtaining and maintaining, pursuant to the terms of this By-law, an Entertainment Establishment Operator's License.
- 3.3 No Owner or Operator shall permit an Entertainment Establishment to be open for business unless the Owner or Operator is in attendance in person on the premises.
- 3.4 Every Owner or Operator of an Entertainment Establishment shall comply with any and all conditions imposed by the Town in the Licence or in this By-law.
- 3.5 Where the application is for a new Entertainment Establishment Licence, a letter of compliance from the Town's Planning and Development Services is required to indicate that an Entertainment Establishment is a permitted use in the Town's Zoning By-law.
- 3.6 All Entertainment Establishments licenced under this by-law shall comply with all Provincial Legislation, Regulations, and all By-laws.
- 3.7 Every Owner of an Entertainment Establishment shall post and maintain the Entertainment Establishment Licence in a prominent location visible to the attending public.
- 3.8 For the purposes of health and safety and to avoid nuisances, every Owner shall;
 - (a) ensure that all areas immediately adjacent to the Entertainment Establishment are kept clean and free of litter, refuse and other debris; and
 - (b) install and maintain containers for the deposit of litter, refuse and other debris as approved by the Licensing Officer.
- 3.9 For the purposes of consumer protection in the event of personal injury and/or property damage every Owner shall;
 - (a) provide and maintain Commercial General Liability insurance, by a licenced insurer within the Province of Ontario, subject to limits not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property including loss of use

thereof arising from such activity;

- (b) ensure that the insurance be in the name of the Owner and shall name the Town of Ajax as an additional insured thereunder;
- (c) deliver a Certificate of Insurance listing the requirements as set out in (a) and (b) above which insurance shall remain in effect for the term of the Licence and shall not be cancellable except on thirty days prior notice to the Town; and
- (d) indemnify and save harmless the Town of Ajax for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Town resulting from the negligent acts, omissions, and/or breach of contract in the performance of the Owner's obligations under this By-law.

3.10 The Town may impose any conditions deemed appropriate to a Licence to increase public safety or to minimize public nuisances including, but not limited to:

- (a) The Owner reimbursing the Town for any costs incurred by the Town for retaining the services of Police Officers and any equipment, including vehicles, for the purposes of increasing public safety and preventing public nuisances that may result or do result from the operation of the Entertainment Establishment on public property adjacent to or near the Entertainment Establishment. Where such costs have been determined prior to any event being held in the Entertainment Establishment such costs shall be paid to the Town three days prior to the date of the event;
- (b) Every Owner or Operator having private security at a ratio designated by the Town while the Entertainment Establishment is open, wearing identification and clothing by which the private security can readily be identified as Security guards;
- (c) A security deposit of not less than \$1,000.00 for repairs and clean up to both the Owner's property and adjacent property;
- (d) A detailed parking analysis to ensure that the location can accommodate the event and other regular uses;
- (e) A crowd control plan which would include a description of the manner in which people seeking entry or re-entry into the Entertainment Establishment may line up outside of the Entertainment Establishment prior to entry. This plan would include the location of such line ups, the maximum number of people permitted to be in such line ups, the procedures used by the Entertainment Establishment to monitor the line ups, how to control the number of people in the line ups, how to ensure orderly conduct by the people in the line ups, and how to ensure that the line ups do not restrict or interfere with the use of public property;
- (f) A Noise Control Plan that may include:
 - (i) The maximum volume levels for music within the Entertainment Establishment as approved by the Licencing Officer;
 - (ii) A complete description of all music or sound producing equipment being used in the Entertainment Establishment including the wattage of the equipment and number of speakers, etc.; and
 - (iii) The sound insulation methods or mechanisms used within the Entertainment Establishment or within the building in which the Entertainment Established is located.

4. Nature of Licence

- 4.1 No Person shall enjoy a vested right in the continuance of a Licence and the value of a Licence shall be the property of the Town and shall remain so irrespective of the issue, renewal or revocation thereof.
- 4.2 No Person licensed to carry on any business or occupation pursuant to this By-law may advertise or promote or carry on such trade, calling, business or occupation under any name other than the name endorsed upon his/her Licence.
- 4.3 The Licences required by this By-law shall, unless they are expressed to be for a shorter or longer time, be for the period up to and including the 31st day of December in the year of issuance, unless they are sooner forfeited or revoked.
- 4.4 No Licence shall be transferred or assigned and if an Owner sells, leases or otherwise disposes of his/her interest in the business carried on at an Entertainment Establishment, their Licence in respect of such Entertainment Establishment shall, notwithstanding any other provision of this By-law, be revoked.
- 4.5 Every Entertainment Establishment Licence shall have endorsed thereon the location of the Entertainment Establishment and such endorsement shall be for one location only and such Licence shall be valid only for the location endorsed thereon.
- 4.6 A duplicate Licence may be issued by the Licencing Officer to replace any Licence previously issued which has been lost, stolen or destroyed, upon written application by the Licencee and payment of \$10.00.

5. Application, Renewal and Revocation of Licence

- 5.1 Every applicant shall appear in person before a Licensing Officer and shall complete such Licence application forms as may be provided from time to time by the Licencing Officer in accordance with the requirements of this By-law and shall provide all information requested thereon, such information to include:
 - (a) a Canadian Police Clearance Letter dated within thirty (30) days of the date of the application; and
 - (b) current valid photo identification, satisfactory to the Licensing Officer.

In the case of an Entertainment Establishment that is owned by a partnership, such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners, and in the case of an Entertainment Establishment owned by a corporation, such appearance shall be made by an officer of the corporation and not by an agent thereof.

- 5.2 Receipt of the application and/or the Licence fee by the Town shall not represent approval of the application for the issuance of a Licence nor shall it obligate the Town to issue such Licence.
- 5.3 Without limiting the generality of any other provision in this By-law, Persons associated in a partnership applying for a Licence under this By-law shall file with their application a statutory declaration, in writing, signed by all members of the partnership, which declaration shall state:
 - (a) the full name of every partner and the address of his/her ordinary residence;
 - (b) the name or names under which they carry on or intend to carry on business;
 - (c) that the Persons therein named are the only members of the

partnership;

- (d) the mailing address for the partnership; and
- (e) the date the statutory declaration was entered into by each

member; The statutory declaration shall be dated within 30 days of the date of the application.

- 5.4 If any member of a partnership applying for a Licence is a corporation, such corporation shall be deemed to be applying for a Licence as appropriate in place and stead of the partnership.
- 5.5 Without limiting the generality of any other provision in this By-law, every corporation applying for a Licence shall file with the Licencing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating documents and shall file a statutory declaration, in writing signed by an Officer of the corporation, which declaration shall state:
- (a) the full name of every shareholder and the address of his/her ordinary residence;
 - (b) the name or names under which it carries on or intends to carry on business;
 - (c) that the Persons therein named are the only shareholders of the corporation; and
 - (d) the mailing address for the corporation.
- 5.6 Every applicant for an Operators License, where such applicant is a natural individual, shall provide two (2) passport size photographs, which must be taken within thirty (30) days of the License application.
- 5.7 At the time of submission of an Entertainment Establishment application, every applicant shall pay to the Town the fee of one hundred dollars (\$100.00).
- 5.8 At the time of submission of an Entertainment Establishment Operator's application, every applicant shall pay to the Town the fee of twenty five dollars (\$25.00).
- 5.9 The Licencing Officer shall:
- (a) receive and process all applications for Licences and renewal of Licences to be issued under this By-law;
 - (b) co-ordinate the enforcement of this By-law;
 - (c) generally perform all the administrative functions conferred upon him/her by this By-law;
 - (d) make or cause to be made all investigations and inspections which he/she deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws;
 - (e) issue Licences to Persons who meet the requirements of this By-law and revoke Licences pursuant to the requirements of this By-law; and,
 - (f) where a Licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the Licences of Persons who meet the requirements of this By-law;

- 5.10 The Licencing Officer shall issue or renew the Licence only where;
- (a) all the information which the applicant is required to provide under this By-law has been provided, and verified;
 - (b) all the documents which the applicant is required to provide under this By- law have been provided;
 - (c) the Licence fee is paid;
 - (d) the investigations do not disclose that the issuing of such Licence may be adverse to the public interest;
 - (e) the Licencing Officer has no grounds to believe the applicant will not conduct himself/herself in accordance with the law or with honesty and integrity.
- 5.11 Where the Licencing Officer determines that a Licence should not be issued as a result of any matter in Section 5.10 of this By-law he/she shall notify the applicant.
- 5.12 Where an applicant advises the Licencing Officer in writing, and within 14 days of the notification set out in Section 5.11, that he/she disputes the determination made by the Licencing Officer under Section 5.11 of this By-law or submits that the Licence applied for should be issued despite that determination, the matter shall be referred forthwith by the Licencing Officer to the Committee which shall hear representations from the Licencing Officer and the applicant.
- 5.13 The Committee may authorize the Licencing Officer to issue the Licence where it determines that the determination in Section 5.11 of this By-law is not sufficient to justify refusing to issue the Licence.
- 5.14 Where the Committee determines that a Licence should not be issued, the Licencing Officer shall advise the applicant of such determination.
- 5.15 The Licencing Officer shall notify a Licencee, by registered mail, at his/her last known address or business address on record when he/she has cause to believe, on reasonable grounds, that any of the information which the Licencee, as an applicant for a Licence, is required to provide, including any verification thereof, is inaccurate and that unless the inaccuracy, conviction, revocation, cancellation, or contravention is corrected, overturned, or reinstated within thirty days, the licence shall be revoked.
- 5.16 Where a Licencee advises the Licencing Officer, in writing and within thirty days of notification that a Licence is being revoked, that he/she disputes the revocation of the Licence, the matter shall be referred forthwith to the Committee, which shall hear representations from the Licencee and either confirm the revocation of the Licence or reinstate the Licence as it sees fit.
- 5.17 The Licencing Officer may immediately suspend a Licence that has been issued pursuant to this By-law for;
- (a) flagrant violations of the By-law;
 - (b) an Owner failing to maintain any conditions on a Licence as imposed by the Town;
 - (c) an Owner failing to maintain the insurance requirements pursuant to this By-law;
 - (d) a disproportionate amount of complaints or requests for action received by the Town or by Durham Regional Police Service; and
 - (e) an Owner failing to reimburse the Town within 5 calendar days

for the costs incurred by the Town pursuant to Section 3.10 (a).

- 5.18 Where a Licencee advises the Licencing Officer, in writing and within thirty days of notification of the suspension of a Licence, that he/she disputes the suspension of the Licence, the matter shall be referred forthwith to the Committee, which shall hear representations from the Licencee and either confirm the suspension, revoke the Licence, or reinstate the Licence as it sees fit.
- 5.19 Unless the matter giving rise to the notice issued under section 5.17 of this By-law has been corrected, overturned or reinstated within the time allotted, the Licencing Officer shall forthwith revoke the Licence and notify the Licencee by registered mail at his/her last known address or business address on record.
- 5.20 Any Licence that has not been renewed as of December 31st in the year of its issuance or renewal shall expire on January 1st in the year following its issuance or renewal.

6. Change of Status

- 6.1 Where there is any change in any of the particulars relating to a Person licenced under this By-law, which particulars are required to be filed with the Town on applying for a Licence under this By-law, such Person shall report the change, in writing, to the Licencing Officer within seven (7) days of the change.
- 6.2 Where there is to be a change in the composition or the controlling interest of a partnership licenced under this By-law, the Persons licenced hereunder in partnership shall obtain the approval of the Licencing Officer to such change prior thereto. Where there has been any change in the controlling interest of the partnership by virtue of a number of transactions, the Licence may be suspended despite the Licencing Officer's prior approval of any one or more such transactions.
- 6.3 Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licenced under this By-law, the corporation shall obtain the approval of the Licencing Officer to such change prior thereto. Where there has been any change in the controlling interest of the corporation by virtue of a number of transactions, the Licence may be suspended, despite the Licencing Officer's prior approval of any one or more such transactions.

7. Offence, Penalty and Enforcement

- 7.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine not exceeding \$25,000.
- 7.2 Where a corporation is convicted of an offence under Section 7.1, the maximum penalty that may be imposed on the corporation is \$50,000.
- 7.3 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
- 7.4 Every Person shall comply with the provisions of this By-law applicable to him/her whether or not he/she is licenced under this By-law.
- 7.5 Every Owner shall, at all times during the hours of operation, permit the entry by and the inspection of the Entertainment Establishment by the Licencing Officer, a Municipal Law Enforcement Officer, or a Police Officer.
- 7.6 Every Owner or Operator of an Entertainment Establishment shall, during the operating hours of the Entertainment Establishment, make available for inspection by the Licensing Officer, a Police Officer, a Medical Officer of Health,

a Provincial Offences Officer, or a Municipal Law Enforcement Officer the original of any document or record or Licence referred to in this By-law.

- 7.7 No Person shall obstruct or hinder the entry to or the inspection of an Entertainment Establishment by the Licencing Officer, a Municipal Law Enforcement Officer, or a Police Officer.

8. Validity

- 8.1 The provisions of this By-law shall apply to all lands and premises within the Town.
- 8.2 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-law shall continue in full force and effect.
- 8.3 Wherever notice or materials are required to be provided to any Person pursuant to this By-law, such notice shall be deemed effective on the day that such notice or materials are personally delivered or two (2) days after mailing of the materials by registered mail to the last known address of that Person as indicated upon the Licence application or upon other material filed with the Town.

Read a first and second time this
Eleventh day of December 2006.

Read a third time and passed this
Eleventh day of December 2006.

Steve Parish
Mayor

Martha Pettit
D-Clerk