



THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 117-2004

A BY-LAW TO LICENSE, REGULATE AND GOVERN EATING ESTABLISHMENTS IN THE TOWN OF ORANGEVILLE.

WHEREAS Subsection 150(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that, subject to the *Theatres Act* and the *Retail Business Holidays Act*, a local municipality may licence, regulate and govern 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 Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may only exercise its licensing powers under Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, including imposing conditions for the purposes of health and safety, nuisance control or consumer protection;

AND WHEREAS Subsection 150(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires that a by-law licensing or imposing any condition on any business or class of business passed after Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, comes into force shall include an explanation as to the reason why the municipality is licensing it or imposing the conditions and how that reason relates to the purposes under Subsection 150(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

AND WHEREAS this by-law is passed for the following purposes:

- (i) Health and safety - being an activity or undertaking that could result in hazardous conditions, injury or loss.
- (ii) Nuisance control - being an activity that adversely affects, or could possibly adversely affect, the "quality of life" of any person(s).
- (iii) Consumer protection - being the prevention of unfair or potentially unfair business practices that could result in loss(es) on the part of the consumer.

AND WHEREAS a public meeting has been held pursuant to Subsection 150(4) of the *Act*;

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the Town of Orangeville as follows:

1 SHORT TITLE

This by-law shall be known as the "Restaurant By-law".

2 DEFINITIONS

In this by-law:

"Clerk" means the Clerk of The Corporation of the Town of Orangeville.

"Council" means the Council of The Corporation of the Town of Orangeville and, with respect to the holding of hearings or any hearing, includes, as the context allows, a committee under Section 252 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorized to hold any such hearing or hearings.

"eating establishment" includes premises where food is sold to be eaten therein, or prepared and offered for sale to be eaten elsewhere, and a place for the refreshment or entertainment of the public.

"licence" means authorization under this by-law to carry on the trade, calling, business or occupation specified therein.

"licensee" means any person who is licensed as required by this by-law.

"Licensing Officer" means the Licensing Officer for the Town, or his designate and includes the Clerk.

"Medical Officer of Health" means the Medical Officer of Health of the Wellington-Dufferin-Guelph Health Unit.

"Officer" means a municipal by-law enforcement officer, provincial offences officer, police officer, medical officer of health, licensing officer or public health inspector.

"operator" means a person who alone or with others operates, manages, supervises, runs or controls an eating establishment or any serving person employed or performing services therein.

"owner" means a person who alone or with others has, in respect of premises, an estate for life, or a greater estate legal or equitable, or a leasehold estate.

"premises" means any premises licensed or required to be licensed under this by-law and includes any trade or calling required to be so licensed.

"serving person" includes a waiter, waitress, host, hostess, bartender, cook, and every other person serving or making available food, or providing entertainment in pursuance of a trade, calling, business or occupation in an eating establishment, and every person involved in providing such services.

"specified body areas" means:

- In the case of a female person, her breasts.
- In the case of all persons, the pubic, perineal and perianal areas and the buttocks.

"Town" means The Corporation of the Town of Orangeville and its locality including its geographic area.

3 REQUIREMENT FOR LICENCE

3.1 No person shall conduct any business in or upon any premises or part thereof, or carry on any trade or calling in the Town of Orangeville, for which a licence is required under this by-law, unless he holds a licence issued therefor by the Licensing Officer, and has paid the fee prescribed by this by-law.

3.2 No licence issued under the provisions of this by-law shall be transferred.

3.3 No licence shall be issued contrary to the provisions of any applicable zoning by-law.

4 APPLICATION AND LICENCE FEE

4.1 Every applicant for a licence, as required by this by-law, shall file with the Clerk a completed application in the form prescribed by the Clerk and such other information or documentation as the Clerk may require and shall pay the required licence fee as set out in Schedule "A" to this by-law.

- 4.2 Every fee paid under this part is refundable if the licence applied for is not issued by the Clerk.
- 4.3 Acceptance of the licence fee does not constitute approval of the application or oblige the Town to issue a licence.
- 4.4 No fee pursuant to Section 4.1 shall be pro-rated for a portion of the year.
- 4.5 Upon receipt of each application completed in accordance with the requirements of this by-law, the Clerk shall request comments or reports from the Medical Officer of Health, the Planning Department, the Building and By-law Enforcement Department and the Fire Department, and may request comments regarding such application from any other department of the Town or make such other inquiries and obtain and review such other information and documents relevant to the application, as the Clerk considers necessary for the proper processing of the application.

5 COMMENCEMENT AND EXPIRY OF LICENCE

- 5.1 Any licence issued under the provisions of this by-law shall be for the current year and shall expire on the 31st day of January following the year of issue or until said licence is revoked.

6 RENEWAL

- 6.1 All applicants previously licensed under this by-law shall make application for renewal of such licence prior to the expiration of the said licence and in any event no later than two weeks prior to the expiry date, indicating the location of the premises for which the licence is sought and indicating alterations or changes in conditions which have been effected since the application for a licence or any renewal thereof.
- 6.2 A renewal application may not be required to be forwarded to all of the approval bodies set out in Section 4.5 unless the conditions of the original application have changed.

7 CHANGE OF STATUS

- 7.1 Where there is to be any change of the particulars relating to the business licensed under this by-law, which particulars are to be filed with the Town on applying for a licence under this by-law, such change shall be reported to the Town within seven (7) days of the change.
- 7.2 A licence shall automatically expire upon any owner ceasing to be the owner.

8 POSTING OF LICENCE

- 8.1 Each licence, when issued, shall be posted in a conspicuous place on the premises so licensed.
- 8.2 At the request of an Officer, the owner or operator shall produce for inspection any licence required under the provisions of this by-law.

9 GENERAL CONDITIONS

- 9.1 No serving person shall, in any eating establishment licensed under this by-law, entertain, serve or make available, food or entertainment, in pursuance of a trade, calling, business or occupation, or be involved in providing such service or entertainment therein, except while wearing clean, opaque clothing, fully covering such person's specified body areas.

- 9.2 No owner or operator of an eating establishment licensed under this by-law shall permit any serving person in such establishment, to entertain, serve or make available food or entertainment, in pursuance of a trade, calling, business or occupation, or to be involved in providing such service or entertainment, unless such serving person is clothed in accordance with Section 9.1.
- 9.3 No room in any premises licensed under this by-law shall be used for sleeping.
- 9.4 No dogs, cats or other animals shall be allowed on any premises or place where food is kept, stored, cooked, prepared or served.
- 9.5 Notwithstanding Section 9.4 of this by-law, no owner or operator of any premises licensed hereunder shall, in respect of any person accompanied by a special needs dog serving as an assistant to a person with a medical condition that requires such a dog:
- Refuse to serve such person.
 - Refuse to permit such person to enter with such dog into or upon any place or premises to which this licence relates.
 - Refuse to permit such person and such dog to remain in or upon such place or premises by reason only of the presence of the said special needs dog.

10 INSPECTION

- 10.1 Any person to whom a licence has been issued pursuant to this by-law, shall permit any Officer, at any reasonable time, to inspect the premises for which the licence was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

11 REFUSAL, REVOCATION, SUSPENSION

- 11.1 Any person who is licensed as required by this by-law shall at all times comply with the by-laws of the Town and any contravention of any by-law or any other law may be grounds for the refusal, suspension or revocation of the licence.
- 11.2 A licence may be refused, suspended or revoked upon seven (7) days notice in writing by the Town of Orangeville, mailed or delivered to the applicant/licensee's last known address, if any of the provisions of this by-law are contravened, or in the opinion of Council such refusal, suspension or revocation may be in the public interest.
- 11.3 Upon suspension or revocation of a licence issued under this by-law, the licensee shall return to the Licensing Officer all licences issued by the Town, and an Officer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the licence and no person shall refuse to deliver the licence to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking the same.

12 NOTICE AND APPEAL

- 12.1 Any person who has his licence refused, suspended or revoked shall be entitled to request a hearing of the matter by Council, provided that such a request is delivered to the Clerk's Department in the Town of Orangeville within seven (7) days of the notification by the Licensing Officer of the refusal, suspension or revocation of a licence. If a written request for a hearing is not received by the Clerk's Department within this time frame, the licence shall stand refused, suspended or revoked.

- 12.2 Upon receipt of a request for a hearing, Council shall conduct a hearing and either confirm the refusal, suspension or revocation of a licence, or direct the issuance or reinstatement of a licence upon such terms and conditions as Council shall deem advisable. The decision of Council in this regard shall be final.
- 12.3 When a hearing date has been fixed and the applicant or licensee has been given notice and does not attend at the place and at the time appointed for the hearing, the licence is deemed to be refused, suspended or revoked as of the date of the hearing, and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.
- 12.4 Any notice or order required to be given by the Licensing Officer to an applicant or a licensee shall be sufficiently served if delivered personally or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the application for the licence or licence records.
- 12.5 Any notice required to be given by an applicant for a licence, or by a licensee to the Town, shall be sufficiently served if delivered personally to the Licensing Officer or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the Town of Orangeville, Municipal Offices, 87 Broadway, Orangeville, Ontario L9W 1K1, facsimile number 519-941-9033.
- 12.6 When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
- 12.7 When service is made by telephone transmission of a facsimile between 4:30 p.m. and midnight, it shall be deemed to have been made on the following day.
- 12.8 When service is made by personal delivery, it shall be deemed to have been received on the day that it was delivered.

13 OFFENCE AND PENALTIES

- 13.1 Any person who contravenes any provision of this by-law or is party to such contravention commits an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
- 13.2 Notwithstanding Section 13.1 of this by-law, every person who contravenes any provision of this by-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000, exclusive of costs.
- 13.3 Notwithstanding Section 13.2 of this by-law, a corporation that contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine not exceeding \$50,000.
- 13.4 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.

13.5 If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that Section, the Treasurer for the Town or his agent may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that person at the person's residence or place of business.

13.6 If the fine referred to in Section 13.5 of this by-law remains unpaid after the final date specified in the notice, the fine shall be deemed to be unpaid taxes for the purposes of Section 351 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

14 WORD USAGE

14.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

14.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

15 SCHEDULES

15.1 The schedules referred to in this by-law shall form part of this by-law. Each entry in a column of a schedule shall be read in conjunction with the entries across from that entry and not otherwise.

16 SEVERABILITY

16.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

17 SUBJECT TO/CONFLICT WITH ANY OTHER BY-LAW

17.1 In the event of any conflict between any provisions of this by-law and any other by-law previously passed, the provisions of this by-law shall prevail.

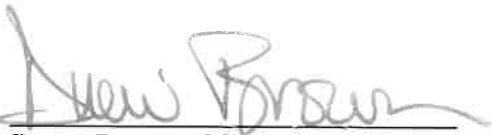
18 REPEALING SECTION


18.1 By-law 116-2002 of the Town of Orangeville is hereby repealed.

19 EFFECTIVE DATE

19.1 This by-law shall come into force and take effect on January 1, 2005.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 6TH DAY OF DECEMBER, 2004.


Drew Brown, Mayor


Cheryl Johns, Clerk

SCHEDULE "A"

ANNUAL LICENCE FEES

Column 1

Column 2

Restaurant

\$175.00