

# **LICENCE**

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Schedule 'A' - Business Licence Procedure

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WHEREAS *it is deemed expedient to exercise the powers conferred on Council by the Municipal Act, 2001, S.O. 2001, c. 25;*

AND WHEREAS *Council has determined that licensing buskers protects consumers as there is a record of licence holders and the ability to hold buskers accountable where the performance is not conducted in accordance with the law or with honesty and integrity;*

AND WHEREAS *Council considers that buskers can cause a nuisance to businesses and property owners by setting up in inappropriate places or creating disturbances;*

AND WHEREAS *Council considers that buskers may interfere with pedestrian and vehicular traffic if inappropriately located and thus diminish the safety of drivers and pedestrians;*

AND WHEREAS *Council has determined that the ability to add conditions to, suspend, revoke or refuse licences encourages buskers to comply with the by-law requirements;*

AND WHEREAS *notice of a public meeting was given by advertisement in a local newspaper on October 22, 2004;*

AND WHEREAS *a public meeting was held on November 1, 2004 to allow any person attending to make representations with respect to this by-law.*

## **Article 1 INTERPRETATION**

### **523.1.1 Busker - defined**

“Busker” means a person who plays, acts, sings or otherwise performs or entertains for reward in or upon any highway or public place.

## **Article 2 GENERAL PROVISIONS**

### **523.2.1 General provisions - Chapter 500**

The provisions of Chapter 500 of the City of Kitchener Municipal Code shall apply to this Chapter. In the event of any conflict, the provisions of this Chapter shall apply.

### **523.2.2 Fees - Chapter 501**

The fees for a licence under this Chapter shall be as set out in Chapter 501 of the City of Kitchener Municipal Code.

### **523.2.3 Schedule ‘A’ - Business Licence Procedure**

The provisions of Schedule ‘A’ hereto shall form a portion of this Chapter.

### **523.2.4 Operation - without licence - prohibited**

No person shall act as a busker without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

### **523.2.5 Applicable - all locations - within - outside - City**

The provisions of this Chapter apply to any trade, occupation, calling or business described herein that is carried on either wholly or partly within the City even if the business is being carried on from a location outside the City.

### **523.2.6 ID tag - visibly displayed - at all times**

Every person licensed under this Chapter shall visibly display on his/her person the busker ID tag issued by the City at all times when acting as a busker.

### **523.2.7 Amplification - external - prohibited**

No person shall use any form of external amplification when acting as a busker.

### **523.2.8 Sale of recordings - permitted**

Every person licensed under this Chapter may, at any time he/she is acting as a busker, display, offer for sale and sell audio recordings of his/her performances.

### **523.2.9 Obstruction - pedestrians - vehicles - prohibited**

No person shall obstruct pedestrian or vehicular traffic while acting as a busker.

**523.2.10 Obstruction - by audience - prohibited - responsibility**

No person shall permit his/her audience to obstruct pedestrian or vehicular traffic.

**523.2.11 Operation - licence suspended - revoked - prohibited**

No person shall act as a busker while a licence issued under this Chapter is suspended or revoked by Council.

**523.2.12 Conditions of licence - compliance**

No person shall violate any condition that Council places on a licence issued under this Chapter.

**Article 3  
ENFORCEMENT****523.3.1 Fine - for contravention - person**

Every person other than a corporation who contravenes any provision of this Chapter and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding Twenty-Five Thousand Dollars (\$25,000).

**523.3.2 Fine - for contravention - corporation**

Every corporation that contravenes any provision of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Fifty Thousand Dollars (\$50,000).

**Article 4  
VALIDITY****523.3.3 Severability**

It is hereby declared that each and every of the foregoing Sections of this Chapter is severable and that, if any provisions of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

**Article 4  
REPEAL - ENACTMENT****523.4.1 By-law - previous**

By-law 2001-123 is hereby repealed as of January 1, 2005.

**523.4.2 Effective date**

This Chapter comes into force and effect on January 1, 2005. By-law 2004-237, 6 December, 2004.

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### SCHEDULE

#### Schedule 'A' - Business Licence Procedure

1. Upon receipt of a complete licence application the Manager of Licensing shall either issue or renew a licence hereunder or shall refer the matter to Council or a Committee of Council where appropriate under the provisions of this Chapter or any other by-law of Council.
2. Save as otherwise provided herein, every licence issued or renewed pursuant to this Chapter shall be issued in the name of Council by the Manager of Licensing.
  3. The Manager of Licensing shall not process an application where that application is incomplete. An application will be deemed incomplete where:
    - (a) required information has not been provided on the application form;
    - (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
    - (c) the prescribed licence fee is unpaid; or
    - (d) the Manager of Licensing has received an unsatisfactory report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City and the conditions causing the report to be unsatisfactory have not been remedied.
4. Where the Manager of Licensing receives an incomplete application, the Manager of Licensing shall, where an address or other contact information has been provided, notify the applicant that the application is incomplete and of the steps required to complete the application.
5. Where the Manager of Licensing decides an application is incomplete, the applicant shall have the right to appeal that decision to Council or a Committee of Council.
6. If the Manager of Licensing is unable to determine whether an application is incomplete, he/she may refer the matter to Council or a Committee of Council for consideration.

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7. The Manager of Licensing may refer an application or a licence to Council or a Committee of Council where:
  - (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
  - (b) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
  - (c) the past or present 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 or with honesty and integrity;
  - (d) without limiting the generality of Section 7(c), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
  - (e) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met; or
  - (f) the provisions of this Chapter provide grounds not to issue or renew in the circumstances.
8. When any matter has been referred or appealed to Council or a Committee of Council, the applicant or licensee shall be given reasonable notice of the time and place of the hearing and shall be invited to make submissions.
9. When any matter has been referred or appealed to Council or a Committee of Council, after due consideration of the application or licence and after Council or a Committee of Council has heard such representations as the applicant or licensee and staff may care to make, Council may direct that the licence be issued or renewed, or may refuse, suspend, revoke or add conditions to a licence where:

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- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
- (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
- (c) the application is incomplete or the prescribed licence fee is unpaid;
- (d) the Manager of Licensing receives an unfavourable report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City;
- (e) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
- (f) the past or present 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 or with honesty and integrity;
- (g) without limiting the generality of Section 9(f), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
- (h) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met;
- (i) the provisions of this Chapter provide grounds not to issue or renew in the circumstances; or

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- (j) the applicant or licensee has consented to the refusal, suspension, revocation or adding of conditions to the licence.
10. Where a licensee is convicted of an offence under any federal or provincial Act, any regulation made thereunder, or any by-law of the City in relation to or during the carrying on of the trade, calling, business or occupation licensed hereunder, the licence may be suspended forthwith by Council until such time as the matter can be heard and finally determined by Council. By-law 2004-237, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.