

LICENCE

Chapter 542 EXHIBITION, CIRCUS, MIDWAY OR CARNIVAL

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SCHEDULE

Schedule 'A' - Business Licence Procedure

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 the ability to require special event operators to meet certain minimum standards with respect to sanitation, security, and fire and building safety protects consumers and contributes to their safety;*

AND WHEREAS *Council has determined that ensuring midway rides have been appropriately inspected is beneficial for the safety of the public;*

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

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

AND WHEREAS *Council has determined that the ability to add conditions to, suspend, revoke or refuse licences encourages licensees 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

542.1.1 Carnival - defined

“carnival” means any carnival or midway.

542.1.2 Concert - defined

“concert” means any outdoor concert.

542.1.3 Event - defined

“event” means any carnival, circus, concert not held at a permanent outdoor concert facility, exhibition or festival.

542.1.4 Exhibition - defined

“exhibition” means travelling circus, menagerie, wax works or other like travelling show.

542.1.5 Festival - defined

“festival” means any festival, neighbourhood festival and cultural festival.

542.1.6 Performance - defined

“performance” means any circus-riding, rope-walking, dancing, tumbling or other gymnastic or acrobatic performance and shall include any other exhibition or show not specifically provided for in this Chapter.

542.1.7 Permanent outdoor concert facility - defined

“permanent outdoor concert facility” means any place set up to house outdoor concerts on an ongoing basis.

**Article 2
GENERAL PROVISIONS**

542.2.1 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.

542.2.2 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.

542.2.3 Schedule ‘A’ - Business Licence Procedure

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

542.2.4 Operation - without licence - prohibited

No person shall act as an operator of a carnival, exhibition, circus, festival or permanent outdoor concert facility without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

542.2.5 Operation - without licence - prohibited - exceptions

No person shall act as an operator of a concert without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate unless the concert is held at a permanent outdoor concert facility.

542.2.6 Applicable - all location - 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.

542.2.7 Classes of licences - set out

There shall be the following classes of licences pursuant to this Chapter:

- (a) Class A circus or travelling circus, menagerie, wax works or any travelling show;
- (b) Class B carnival or midway;
- (c) Class C circus-riding, rope-walking, dancing, tumbling or other gymnastic or acrobatic performance, or any other exhibition or show not specifically provided for in this Chapter;
- (d) Class D festivals, neighbourhood festivals and cultural festivals;
- (e) Class E outdoor concerts;
- (f) Class F permanent outdoor concert facilities.

542.2.8 Concessions - other activities - specified in licence

No concession or activities other than specified in the licence shall be operated in conjunction therewith.

542.2.9 Other licences applicable

Any other Chapter or licensing requirement of the City applicable to a particular concession or facility will apply notwithstanding the issuance of a licence pursuant to this Chapter.

542.2.10 Rides - Safety Standards Certificate - requirement

In addition to the investigations set out in Chapter 500 of the City of Kitchener Municipal Code, an operator of a carnival or any other event where rides will be located shall provide to the Manager of Licensing or his/her delegate evidence of authorization for each ride pursuant to the *Technical Standards and Safety Act, 2000*.

542.2.11 Permanent outdoor concert facility

In addition to meeting the requirements as set out in Chapter 500 the operator of a permanent outdoor concert facility shall provide proof satisfactory to the Manager of Licensing or his/her delegate of satisfactory washroom facilities and security measures.

542.2.12 Insurance - minimum requirement

An applicant for a licence hereunder shall provide evidence satisfactory to the Manager of Licensing of Two Million Dollars (\$2,000,000) general commercial liability insurance which names the City as an additional insured for any event that will take place on City property.

542.2.13 Grounds - surrounding area - maintained

Every licensee hereunder shall keep good order in every location for which a licence applies and the grounds and premises outside and adjoining and used in connection therewith, and shall at his/her own expense keep a sufficient number of employees for such purposes.

542.2.14 MOH - other departments - report to Council

The Regional Medical Office of Health shall be notified by letter from the Manager of Licensing when an application to operate an event has been received by the City. The proposed engagement suggested by the application shall be jointly considered by the Regional Medical Officer of Health, the General Manager of Community Services and General Manager of Development and Technical Services who shall forward a written report on such an application to the Council before any pertinent licence shall be issued by it to the person making such application.

542.2.15 Official contact - listed - sanitation - health conditions

As a condition of a person proposing to operate the event being granted a licence by Council, the applicant shall furnish the name of one of its executive members, if any, to whom at all times during the proposed event the Regional Medical Officer of Health may refer any matter of discussion respecting sanitation or health conditions ensuing therefrom. Any instructions given to such person by the Regional Medical Officer of Health or any undertaking given by such person to the Regional Medical Officer of Health shall be considered as binding on the applicant.

542.2.16 Sanitary facilities - adequate - signs posted

The applicant must make arrangements satisfactory to the Regional Medical Office of Health to ensure that adequate sanitary facilities shall be readily available for the public attending an event. The location of such facilities shall be plainly indicated by temporary signs erected at designated points on the grounds where the event will be held.

542.2.17 Event closing hours - restrictions

All events and parts thereof and all concerts taking place at a permanent outdoor concert facility including rides, attractions, games or shows, lunch counters, etc. shall cease operating not later than 11:30 p.m. each day of the event or concert, and the grounds shall be completely cleared of all public patrons within one hour after the closing hour of 11:30 p.m.

542.2.18 Garbage - receptacles - area kept clean

The grounds upon which an event or concert taking place at a permanent outdoor concert facility is being performed shall be kept clean and devoid of paper, rubbish, etc., at all times by the deposit of such substance in covered metal containers and the said grounds must be restored to the condition which existed prior to the commencement of the event or concert within forty-eight hours of its final closing date.

542.2.19 Garbage removed - daily - paid by licensee

Garbage, rubbish, etc. which has been accumulated in the containers described in Section 542.2.18 must be removed from the grounds upon which an event or concert is being performed at least once daily before the hour of 11:30 a.m. during each day of the event or concert and satisfactory arrangements to carry out the intent of this provision shall be made with the General Manager of Community Services and any charges incurred by or on behalf of the City for performing such services shall be paid by the licensee directly to the City upon a written demand being made therefor by the City officials concerned therewith.

542.2.20 Lavatory facilities - employees - standards

Any lavatory facilities owned by a licensee and intended for use by its own personnel shall be so situated, constructed and operated on the premises so as to be in accordance and conformity with any regulations of the Waterloo Regional Health Unit that may be issued in relation thereto.

542.2.21 Licence - location specific

Every licence issued pursuant to this Chapter applies only with respect to the specified location.

542.2.22 Operation - while suspended - revoked - prohibited

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

542.2.23 Condition of licence - compliance

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

**Article 3
ENFORCEMENT**

542.3.1 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).

542.3.2 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**

542.4.1 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 5
REPEAL - ENACTMENT**

542.5.1 By-law - previous

By-law 2000-181, section 13 of By-law 2000-228, B-law 2001-154, section 10 of By-law 2001-233, section 14 of By-law 2001-239, section 10 of By-law 2001-241, section 15 of By-law 2002-233 and the contents of the previous Chapter 542 are hereby repealed as of January 1, 2005.

542.5.2 Effective date

This Chapter comes into force and effect on January 1, 2005. By-law 2004-233, 6 December, 2004.

EXHIBITION CIRCUS MIDWAY CARNIVAL

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.
7. The Manager of Licensing may refer an application or a licence to Council or a Committee of Council 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) 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:

EXHIBITION CIRCUS MIDWAY CARNIVAL

- (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 2004-233, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.