

# 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 Municipal Act, 2001, S.O. 2001, c.25;*

AND WHEREAS *Council has determined that snow on snow disposal sites can block visibility of pedestrian and vehicular traffic and that runoff from melting snow can pool and freeze thus causing unsafe conditions;*

AND WHEREAS *Council has determined that snow piled on snow disposal sites can attract children to play in unsafe locations;*

AND WHEREAS *Council has determined that melting snow may cause a nuisance to surrounding property owners leaving sand and salt deposits and pooling of water that may freeze over;*

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 8, 2004;*

AND WHEREAS *a public meeting was held on October 18, 2004 to allow any person attending to make representations with respect to this by-law.*

## **Article 1 INTERPRETATION**

### **588.1.1 Site map - defined**

“site map” means a detailed and accurate drawing that outlines the proposed location of a snow disposal site, shows the location of the fencing required by this Chapter, and shows the distance from the snow disposal site to all adjacent property lines.

### **588.1.2 Snow disposal site - defined**

“snow disposal site” means only those lands on which snow is placed after being brought to the lot from another lot, and shall not include areas to which snow is moved to one portion of a lot after being cleared from the rest of the lot.

## **Article 2 GENERAL PROVISIONS**

### **588.2.1 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.

### **588.2.2 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.

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

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

### **588.2.4 Operation - without licence - prohibited**

No person shall operate a snow disposal site without having made application and having received a snow disposal site licence issued in the name of the Council by the Manager of Licensing or his/her delegate.

### **588.2.5 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.

**588.2.6 Land owner - to ensure user licensed**

No person who owns land shall permit that land to be used as a snow disposal site unless a current snow disposal site licence has been issued with respect to the land.

**588.2.7 Fencing requirement**

No person shall own or operate a snow disposal site unless a fence of at least five feet (1.5 metres) in height is installed and maintained to enclose the snow disposal site and restrict entrance thereto.

**588.2.8 Licence - available for inspection - upon request**

Every person obtaining a licence under this Chapter shall make his/her/its licence available to any Municipal Law Enforcement Officer or agent of the City who requests to see it.

**588.2.9 Applications - to include site map**

Applications for a licence under this Chapter must include a site map.

**588.2.10 Investigations - additional - documentation required**

In addition to the investigations set out in Chapter 500 of the City of Kitchener Municipal Code, the Manager of Licensing may require the applicant to have investigations conducted by, to obtain documentation from and provide to the Manager of Licensing, or have documentation provided by the Director of Engineering Services or his/her designate, and environmental agencies and authorities including but not limited to the Grand River Conservation Authority and the Regional Municipality of Waterloo.

**588.2.11 Licence expiry - annual**

Every licence issued pursuant to this Chapter will expire on the last day of April in each year.

**588.2.12 Licence issue - seasonal**

No licence shall be issued for the months of May, June, July, August or September. Licences are seasonal and shall not be pro-rated.

**588.2.13 Application - deemed incomplete**

In addition to the grounds set out in Schedule 'A' hereto, an application shall be deemed incomplete where the applicant has failed to deliver a site map approved by the appropriate City staff with respect to zoning and property standards requirements.

**588.2.14 Licence - location specific**

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

**588.2.15 Operation - licence - suspended - revoked - prohibited**

No person shall operate or permit to be operated a snow disposal site while a licence issued under this Chapter is suspended or revoked by Council.

**588.2.16 Condition of licence - compliance**

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

**Article 3  
ENFORCEMENT****588.3.1 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).

**588.3.2 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****588.4.1 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****588.5.1 By-law - previous**

By-law 2002-240 and the contents of the previous Chapter 588 are hereby repealed as of January 1, 2005.

**588.5.2 Effective date**

This Chapter comes into force and effect on January 1, 2005. By-law 2004-251, 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 2004-251, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.