



The Corporation of the City of Peterborough

By-Law Number 21-[insert number]

Being a by-law to establish a system of licences.

Recitals..... 1

Short Title 1

Interpretation 1

Licence Required..... 2

Licence Applications 2

Conditions Applicable to all Licences..... 3

Administration of By-law 3

Licence Revocation 3

Appeal to Hearing Officer 4

Administrative Penalties 4

Offences 4

General..... 5

Schedule A: Tree Service Providers..... 6

Recitals

1. Council has determined that it is appropriate and desirable to provide for a system of licences for certain matters and businesses within the City of Peterborough.

Now therefore, The Corporation of the City of Peterborough by its Council hereby enacts as follows:

Short Title

1. This By-Law may be referred to as the “Licensing By-law”.

Interpretation

2. Unless otherwise stated:
- a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
 - b) a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
 - c) a reference to a section, paragraph, clause or schedule is a reference to this By-law’s section, paragraph, clause or schedule.
3. The table of contents and headings in this By-law are for convenience only and do not form part of this By-law.
4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
5. In the event of any inconsistency between a provision of this By-law and of any other City by-law, the provision that, in the opinion of the City Clerk, more restrictively regulates prevails to the extent of the inconsistency.
6. The requirements of each schedule to this By-law are in addition to the requirements of the body of this By-law.

7. This By-law applies within the territorial limits of the City.
8. In this By-law:
 - a) "Applicant" means each Person who or that submits an Application.
 - b) "Application" means an application for a Licence.
 - c) "By-law" means this By-law including its schedules.
 - d) "City" means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
 - e) "City Clerk" means the City's Clerk and includes the City's Deputy City Clerk.
 - f) "Council" means the City's Council.
 - g) "Hearing Officer" means a hearing officer appointed pursuant to Hearing Officer By-law 20-077.
 - h) "Licence" means a licence described in a schedule to this By-law.
 - i) "Licence Decision Notice" means a notice described in section 13.
 - j) "Licence Revocation Notice" means a notice described in section 20.
 - k) "Licensee" means a Person to whom or to which a Licence has been issued.
 - l) "Person" includes an individual, corporation or partnership.

Licence Required

9. No Person may undertake an activity for which a Licence is required except pursuant to a Licence.

Licence Applications

10. The City Clerk may refuse to accept an Application unless the City Clerk is satisfied that:
 - a) the Application is complete, legible and submitted on forms from time to time established by the City Clerk;
 - b) an individual Applicant is not a minor;
 - c) a corporate Applicant is incorporated pursuant to the laws of Ontario and is in good standing; and
 - d) the Application is accompanied by payment in full of any fee established by Council.
11. The City Clerk may issue a Licence to an Applicant if the City Clerk is satisfied that the Application complies with section 10 and that the Applicant has complied and will comply at all times with this By-law. The City Clerk may otherwise refuse to issue a Licence.
12. In addition to conditions otherwise imposed pursuant to this By-law, the City Clerk may, at any time and from time to time, impose conditions to a Licence as the City Clerk determines are necessary to maintain the general intent and purpose of this By-law.
13. If the City Clerk issues a Licence with conditions pursuant to section 12 or refuses to issue a Licence pursuant to section 11, the City Clerk must give to the Applicant as soon as is reasonably practicable a Licence Decision Notice that includes the following information:
 - a) where a Licence is issued with conditions pursuant to section 12, particulars of the conditions;
 - b) where a Licence is refused, particulars of the reasons for refusing to issue the Licence;
 - c) information respecting the process by which the Applicant may exercise the Applicant's right to appeal to the Hearing Officer against the conditions or the refusal to issue the Licence; and

- d) a statement that the City Clerk's decision, unless modified or rescinded by a Hearing Officer, will be final and not subject to review including review by any Court.
14. An Applicant who or that receives a Licence Decision Notice may appeal the conditions or the refusal to the Hearing Officer pursuant to section 23.
15. A Licence Decision Notice that is not appealed pursuant to section 23 is final and is not subject to review including review by any Court.
16. A Licence expires on the earlier of:
- a) the first (1st) anniversary of the day on which it was issued; and
 - b) the day on which it is revoked.

Conditions Applicable to all Licences

17. Each of the following is a condition of obtaining and continuing to hold a Licence:
- a) the Licensee complies with all applicable law respecting the matter or business the subject of the Licence including this By-law;
 - b) the Licensee notifies the City Clerk in writing of any change to the information provided in an Application within three (3) days of the change;
 - c) without limiting paragraph a), the Licensee complies with all conditions to the Licence imposed pursuant to section 12;
 - d) the Licensee provides to the City Clerk such information as the City Clerk may from time to time require in relation to this By-law; and
 - e) the Licensee is not indebted to the City for any fee, fine or penalty.

Administration of By-law

18. The City Clerk may do such things as the City Clerk considers appropriate in the administration of this By-law including:
- a) determining Application requirements and related forms for the purposes of paragraph 10.a);
 - b) requiring information pursuant to paragraph 17.d); and
 - c) making any determination that a Schedule to this By-law contemplates is to be made by the City Clerk.
19. It is Council's opinion that the powers delegated pursuant to this By-law are of a minor nature having regard to the number of people, the size of geographic area and the time period affected by an exercise of the power.

Licence Revocation

20. In addition to any other remedy, where the City Clerk has reason to believe that a Licensee has not complied with this By-law, the City Clerk may give to the Licensee a Licence Revocation Notice that includes the following information:
- a) a statement that the Licence is to be revoked on a day which is no fewer than fourteen (14) days following the day on which the notice is given;
 - b) particulars of the reasons for which the Licence is to be revoked;
 - c) information respecting the process by which the Licensee may exercise the Licensee's right to appeal to the Hearing Officer against the Licence Revocation Notice; and
 - d) a statement that the City Clerk's decision to revoke the Licence, unless modified or rescinded by a Hearing Officer, will be final and not subject to review including review by any Court.
21. A Licensee to whom or to which a Licence Revocation Notice has been given may appeal to a Hearing Officer against the pending Licence revocation pursuant to section 23.
22. Where the Licensee to whom or to which a Licence Revocation Notice is given does not appeal against it pursuant to section 23, the Licence will be deemed to be

revoked on the fourteenth (14th) day following the day on which the Licence Revocation Notice was given.

Appeal to Hearing Officer

23. The following rules and conditions apply to appeals to the Hearing Officer:

- a) A Licensee's right to appeal expires if it has not been exercised in the manner prescribed in paragraph b) before 4:30 p.m. on the tenth (10th) day after the Licence Decision Notice or the Licence Revocation Notice has been given to the Licensee.
- b) A right to appeal is exercised by:
 - i) giving to the City Clerk written notice of the appeal that includes particulars of all grounds upon which the appeal is made; and by
 - ii) paying the fee from time to time prescribed by Council.
- c) The City Clerk will give to the Licensee no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- d) Where the Licensee fails to appear at the time and place scheduled for a hearing of the appeal, the Licensee's appeal is deemed to be dismissed and the Licensee must pay to the City an administrative fee as from time to time prescribed by Council.
- e) Subject to paragraph d), the Hearing Officer may not decide the appeal unless the Hearing Officer has given each of the Licensee and the City Clerk an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- f) The Licensee is only entitled to be heard to the extent of the particulars included in the Licensee's notice given pursuant to clause b)i).
- g) The Hearing Officer may make any decision that the City Clerk could have made pursuant to this By-law.
- h) The decision of the Hearing Officer is final and not subject to review including review by any Court.

Administrative Penalties

24. AMP System By-law 20-073 applies to each administrative penalty issued pursuant to this By-law.

25. Subject to section 26, each person that contravenes this By-law is, upon issuance of a penalty notice in accordance with AMP System By-law 20-073, liable to pay to the City an administrative penalty of:

- a) \$175 for the remainder of the first day on which the contravention occurs; and
- b) \$275 for each subsequent day on which the contravention continues.

26. Each person that contravenes this By-law by undertaking an activity without a required Licence is, upon issuance of a penalty notice in accordance with AMP System By-law 20-073, liable to pay to the City an administrative penalty of:

- a) \$500 for the remainder of the first day on which the contravention occurs; and
- b) \$750 for each subsequent day on which the contravention continues.

Offences

27. Subject to section 28, each Person that contravenes this By-law is guilty of an offence and, upon conviction, is liable to a fine for each day or part of a day on which the offence occurs or continues of:

- a) not less than \$300 and not more than \$10,000 for a first conviction of an offence;
- b) not less than \$400 and not more than \$25,000 for a second conviction of the same offence; and
- c) not less than \$500 and not more than \$50,000 for a third or subsequent conviction of the same offence.

28. A Person is not guilty of an offence for which a penalty notice has been issued pursuant to sections 25 or 26.

General

29. For the purposes of a prosecution under the **Provincial Offences Act**, a proceeding under this By-law and a proceeding under AMP System By-law 20-073, the holding out to the public that an activity for which a Licence is required is being undertaken without the required Licence is admissible in evidence as proof, in the absence of evidence to the contrary, that the activity is being undertaken without the required Licence.

30. Any notice to be given to a Person other than the City is sufficiently given:

- a) when given verbally to the Person;
- b) when delivered in writing to the Person;
- c) on the third (3rd) day after it is sent by regular lettermail to the Person's last known address; or
- d) when sent to the Person by e-mail or by other means of electronic transmission.

31. For the purpose of paragraphs 30.c) and 30.d), a Person's last known address, last known e-mail address and other means of electronic transmission are deemed to include those provided pursuant to paragraph 10.a) as they may be changed pursuant to paragraph 17.b).

32. Any notice to be given to the City is sufficiently given:

- a) on the third (3rd) day after it is sent by regular lettermail to "Licensing Division, City Clerk Services, 500 George Street North, Peterborough, Ontario, K9H 3R9; or
- b) when sent by e-mail to clerks@peterborough.ca

33. No proceeding for damages or otherwise may be commenced against the City, a member of Council, or an officer, employee or agent of the City or a Person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

34. This By-law is in effect when it is passed.

By-law passed this 28th day of June, 2021.

Diane Therrien, Mayor

John Kennedy, City Clerk

Schedule A: Tree Service Providers

1. In this By-law:
 - a) “Tree Service Provider” means an individual to whom a Tree Service Provider Licence has been issued pursuant to this By-law.
 - b) “Tree Service Provider Licence” means a Licence issued to a Tree Service Provider pursuant to this By-law.
2. The City Clerk may refuse to issue a Tree Service Provider Licence unless the City Clerk is satisfied that the Applicant is an individual and:
 - a) has an Ontario College diploma or University degree in urban forestry, arboriculture or equivalent diploma or degree; or
 - b) has one or more of the following designations that is current and in good standing:
 - i) an Arborist qualified by the Ontario College of Trades;
 - ii) an Arborist certified by the International Society of Arboriculture;
 - iii) a consulting arborist registered as a member with the American Society of Consulting Arborists; or
 - iv) a Registered Professional Forester as defined in the **Professional Foresters Act, 2000**, S.O. 2000, c. 18.