

LICENCE

Chapter 865 NEWSPAPER BOXES - LICENSING

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WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality.

Article 1
INTERPRETATION

865.1.1 Commissioner - defined

“Commissioner” means the Town’s Commissioner of Engineering and Public Works and includes any Acting Commissioner or his or her designate.

865.1.2 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill.

865.1.3 Highway - defined

“highway” includes a common and public highway, road, road allowance, street, avenue, parkway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

865.1.4 Hitching post - defined

“hitching post” means a metal bar in a form approved by the Commissioner of Engineering and Public Works embedded in concrete to which newspaper boxes may be chained.

865.1.5 Licence Hearing Committee - defined

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter.

865.1.6 Licensing Officer - defined

“Licensing Officer” means the Licensing Officer for the Town of Richmond Hill.

865.1.7 Newspaper - defined

“newspaper” means but is not limited to any publication containing news, current events, feature articles or advertising.

865.1.8 Newspaper box - defined

“newspaper box” means any type of vending box or other receptacle used for the purpose of displaying or distributing any newspapers, magazines or other publications.

865.1.9 Person - defined

“person” means an individual, firm, corporation, association, or partnership.

865.1.10 Town - defined

“Town” means The Corporation of the Town of Richmond Hill.

Article 2 GENERAL PROVISIONS

865.2.1 Placement - without licence - prohibited

No person shall place or maintain or permit to be placed or maintained any newspaper box for the dispensing of newspapers, magazines, periodicals, printed, written or photographic material of any kind on any highway under the jurisdiction of the Town without a licence issued by the Licensing Officer.

865.2.2 Licence agreement - conditions - set out

Notwithstanding Section 865.2.1, the holder of a licence issued under Article 3 and Section 865.2.14 may place a newspaper box, satisfactory to the Commissioner, for the dispensing of newspapers on any highway at a location satisfactory to the Commissioner and as described in the licence, provided that the licence holder has entered into an agreement with the Town stipulating all of those matters set out in Sections 865.2.2 through 865.2.13 inclusive.

865.2.3 Application processing fee - each location

Subject to Section 865.4.3, the licence holder will pay the Town an application processing fee for each proposed location as set out in Chapter 684 of the Town of Richmond Hill Municipal Code - Tariff of Fees.

865.2.4 Licence fee - each location

Subject to Sections 865.4.6 and 865.4.7, that the licence holder will pay to the Town an annual, non-refundable licence fee for each of the newspaper boxes as set out in Chapter 684 of the Town of Richmond Hill Municipal Code - Tariff of Fees; such licence fee to be reviewed annually.

865.2.5 Indemnification - Town held harmless

The licence holder will always indemnify and hold harmless the Town from and against all actions, suits, claims and demands which may be brought against the Town referable to this Chapter.

865.2.6 Order to remove - compliance - conditions

Subject to Section 865.2.16, the licence holder shall remove each newspaper box from the highway upon receiving an order to do so and shall replace and restore the highway to a safe and proper condition to the satisfaction of the Commissioner, provided that if the licence holder neglects or fails to remove the newspaper box or boxes or neglects or fails to restore the highway to the satisfaction of the Commissioner, the Town may undertake such work and recover the costs thereof from the licence holder.

865.2.7 Order to remove - no claim against Town

A licence holder required to remove one or more newspaper boxes pursuant to Section 865.2.6 shall make no claims against the Town on account of such removal.

865.2.8 Installation - at owner's expense

The licence holder shall, at his or her own expense, install and locate each newspaper box so that it does not interfere with the safe movement of pedestrians and motor vehicles in accordance with Article 3.

865.2.9 Maintenance - box - location - owner responsibility

The licence holder shall be responsible for the upkeep and maintenance of his or her newspaper box or boxes and that he or she shall be responsible for maintaining the newspaper box location free from litter, garbage and other debris at all times.

865.2.10 Insurance policy - minimum requirement

The licence holder shall maintain a policy of insurance in an amount of not less than \$2,000,000 with an insurance company and in a form satisfactory to the Town's Commissioner of Finance.

865.2.11 Box moved - construction - maintenance

In the event that the Town or any public utility company or the Regional Municipality of York must remove a newspaper box for the purpose of making repairs to, maintaining or constructing additional public services, the licence holder shall reimburse the Town, the Public Utility Company or the Regional Municipality of York, as the case may be, the additional costs, if any, incurred by them by reason of the placement of a newspaper box.

865.2.12 Agreement - permission to install - maintain - only

Nothing contained in the agreement shall be construed as giving to the licence holder anything more than permission to install and maintain a newspaper box as set out therein until such time as an order as previously set out shall have been given to the licence holder to remove the same.

865.2.13 Transfer - licence - prohibited

The licence granted to the licence holder to install and maintain a newspaper box as set out in this Chapter shall not be transferred or assigned by the licence holder and such licence shall immediately terminate in the event that the licence holder ceases to be the owner of the said newspaper box unless the consent of Council upon the recommendation of the Commissioner is obtained to the transfer or assignment.

865.2.14 Applicant non complying - report to Council - request

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 3, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

865.2.15 Licence non-transferable - without Council approval

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

865.2.16 All costs incurred - paid by licensee

All costs associated with the installation of newspaper boxes in accordance with this Chapter shall be set out in Chapter 684 of the Town of Richmond Municipal Code - Tariff of Fees and shall be borne by the licence holder.

865.2.17 Removal of box - improperly placed

Any person who owns or who places or who permits the placing upon any highway of any newspaper box for dispensing any other material or matter contrary to Section 865.2.1 or contrary to the provisions of an agreement made under Sections 865.2.2 through 865.2.13 inclusive or contrary to the provisions of a licence issued under this Chapter, shall remove the said newspaper box from the highway within forty-eight hours of receiving an order to do so from the Town, provided, where such order deems the placement of the said newspaper box to have created an emergency situation, the person who owns or who placed or who permitted the placing of the said newspaper box shall remove the said newspaper box from the highway forthwith upon receiving the order to do so from the Town.

865.2.18 Failure to remove box - authority to seize

Upon the default of any such person referred to in Section 865.2.17 to remove a newspaper box, the Commissioner is hereby authorized and empowered to seize and remove the said newspaper box from the highway and place it in storage at the expense of the person who placed the said newspaper box upon the highway or the owner of the said newspaper box.

865.2.19 Seized box - storage - time limitation before disposal

Salvaged newspaper boxes that are seized will be held by the Town for fourteen days and subsequently disposed of or may be returned to the owner upon payment of a fee as set out in Chapter 684 of the Town of Richmond Municipal Code - Tariff of Fees.

Article 3**ISSUE OF LICENCE****865.3.1 Conditions for issue of licence**

The Licensing Officer shall issue a licence to permit the placement of a newspaper box for the dispensing of newspapers on any highway, provided that the conditions set out in Sections 865.3.2 through 865.3.17 inclusive, are met.

865.3.2 Licence agreement - with Town

A condition of licence shall be the applicant has entered into a licence agreement with the Town as required by Sections 865.2.2 through 865.2.13 inclusive.

865.3.3 Location - limitation

A condition of licence shall be newspaper boxes do not occupy more than one of the corners at an intersection except that newspaper boxes shall be permitted to occupy up to two corners at intersections on arterial roads.

865.3.4 Location - number of boxes - limitation

A condition of licence shall be a maximum number of six newspaper boxes will be permitted at any location approved by the Commissioner and no further licences will be issued for that location.

865.3.5 Separation - minimum distance - mid-block placement

A condition of licence shall be a minimum of 50 metres (165 feet) be provided between newspaper box locations for mid-block placement on each side of the street.

865.3.6 Positioning - straight line - location

A condition of licence shall be all newspaper boxes adjacent to each other are positioned in a straight line, parallel to the line of the curb and/or sidewalk and located on the side of the sidewalk furthest from the travelled portion of the highway, unless in the opinion of the Commissioner, the said newspaper boxes will not cause an obstruction to motorist sight lines.

865.3.7 Location - not adverse - satisfactory to Commissioner

A condition of licence shall be the Commissioner is satisfied that the newspaper boxes will not adversely affect pedestrian or motor vehicle movement, snow removal, sidewalk cleaning, traffic safety, or other public uses of any highway.

865.3.8 Visibility - not obstructed

A condition of licence shall be the Commissioner is satisfied that the placement of the newspaper box shall not obstruct the visibility of any advertising panel on a transit shelter.

865.3.9 Installation - mounting - types

A condition of licence shall be all newspaper boxes shall be installed on concrete pads and secured both vertically and horizontally by means of a hitching post unless, in the opinion of the Commissioner, another method of securing the said newspaper boxes is more appropriate to a particular location.

865.3.10 Distance separation - from existing above ground objects

A minimum of 1.2 metres (4 feet) must be maintained between any newspaper box and any existing above-ground objects such as trees, signs, street furnishings, utility poles, utility or pedestrian accesses.

865.3.11 Distance - from vehicular access

A minimum of 6 metres (20 feet) must be maintained between a newspaper box location and a vehicular access.

865.3.12 Distance - from school crossing - pedestrian crossing

No newspaper box may be placed within 15 metres (50 feet) of a signed school crossing or signed pedestrian crossing.

865.3.13 Distance - from fire hydrant

A minimum of 10 metres (33 feet) must be maintained between a newspaper box location and a fire hydrant.

865.3.14 Park frontage - placement on - prohibited

No newspaper box may be placed on the frontage of a park.

865.3.15 Paper material - inside box - recycled fibre content

All paper material proposed to be placed in the newspaper box shall contain recycled fibre.

865.3.16 Advertising on exterior of box - restriction

No advertising other than the name of the newspaper, the logo, the price or promotion features in the newspaper shall be permitted on any newspaper box.

865.3.17 Placement - in front of residence - prohibited

No newspaper box may be placed in front of a residential dwelling on a highway.

Article 4**REFUSAL - REVOCATION - SUSPENSION OF LICENCE****865.4.1 Licence - refusal - grounds set out**

An applicant is entitled to be licensed and a licensee is entitled to have his or her licence renewed, except where:

- (a) having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed;
- (b) the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty;
- (c) the issuance of the licence or renewal of the licence would be contrary to the public interest;
- (d) the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter; or
- (e) if the applicant or licensee is a corporation,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
 - (ii) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
 - (iii) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
 - (iv) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

865.4.2 Refusal to issue licence - Council authority

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Section 865.4.1.

865.4.3 Licence refusal - fee refund - limitation

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

865.4.4 Licence issue - subject to additional terms

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 865.4.15.

865.4.5 Revocation - suspension - disentitlement to renewal

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Section 865.4.1.

865.4.6 Revocation - application for refund

When a licence is revoked under Section 865.4.5, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

865.4.7 Revocation - refund not applicable - conditions

The provisions of Section 865.4.6 do not apply when the unexpired part of the term is less than four months.

865.4.8 Cancellation of a licence - upon request

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

865.4.9 Licensing Officer recommendation not to issue licence

When an applicant or a licensee is not entitled to be licensed or to have his or her licence renewed for any of the grounds set out in Section 865.4.1, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 865.4.4 that Council issue a licence on terms and conditions.

865.4.10 Notice - of Licensing Officer recommendation

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

865.4.11 Notice - of refusal to licence - content

The written notice to be given under Section 865.4.10 shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer;
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

865.4.12 Request for hearing - Committee - convened

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

865.4.13 Notice - service - form

The written notice referred to in Sections 865.4.10 and 865.4.11, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the licensing section records.

865.4.14 Notice - service by mail - when deemed served

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, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

865.4.15 Hearing - held - applicant not present - procedure

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

865.4.16 Hearing - conclusion - recommendation to Council

At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

865.4.17 Council decision - final

Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

865.4.18 Revocation - suspension - licence returned - box removed

When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council and remove the newspaper box that was the subject of the licence.

865.4.19 Refusal to obey ruling - obstruction - prohibited

When a person has had his or her licence revoked or suspended under this Chapter the licensee shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, and removing the newspaper box that was the subject of the licence in accordance with Section 865.4.18.

**Article 5
ENFORCEMENT****865.5.1 Fine - for contravention**

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and, upon conviction is liable to a fine and other penalties imposed pursuant to the *Provincial Offences Act* as amended.

**Article 6
ENACTMENT****865.6.1 Effective date**

This Chapter comes into force on September 6, 2005. By-law 91-05, 25 July, 2005.