

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 4322/158/02

**A BY-LAW FOR LICENSING AND REGULATING THE OWNERS AND OPERATORS OF PUBLIC GARAGES**

WHEREAS Subsection 257.2(1) of the *Municipal Act*, R.S.O. 1990, c. M.45, provides that Subject to the *Theatres Act* and the *Retail Business Holidays Act*, the council of a local municipality may pass by-laws for licensing, regulating and governing any business carried on within the municipality;

AND WHEREAS the Council of the Corporation of the City of Port Colborne is desirous of licensing and regulating the owners and operators of public garages;

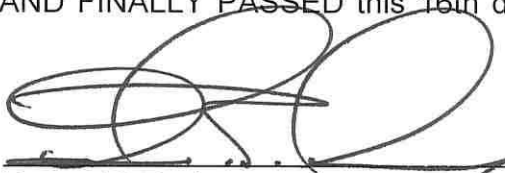
NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE ENACTS AS FOLLOWS:

1. In this by-law,
  - (a) "Public garage" means a building or place used as a motor vehicle repair shop including a building or place where motor vehicles may be oiled, greased or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed and includes a parking station or parking lot or building or place where motor vehicles are hired or kept or used for hire or where such vehicles are stored or kept for sale.
  - (b) "Corporation" means the municipal Corporation of the City of Port Colborne.
  - (c) "Clerk" means the Clerk of the Corporation of the City of Port Colborne.
  - (d) "Municipal Law Enforcement Officer" means a person appointed by by-law by the Council of the Corporation of the City of Port Colborne to enforce the by-laws of the Corporation.
2. No person shall within the corporate limits of the City of Port Colborne:
  - (a) own or operate a public garage unless or until he shall procure a license so to do and every person so licensed or required to be licensed shall be subject to the provisions of this by-law.
3. The Municipal Law Enforcement Officer shall carry out and enforce the provisions of this by-law.
4. An application for a license hereunder shall be made in writing upon the form provided by the Clerk or his/her designate and shall be filed with the Clerk.
5. Upon receipt of the application, the Clerk shall refer the same to the City of Port Colborne Fire Department, the Building & By-law Division, the Planning and Development Services Division and the Regional Niagara Public Health Department to be followed by a written submission by each investigating agency to the Clerk, approving or disapproving the issue of the licence, in the latter case with reasons therefor.
6. The City Clerk shall prepare a report on all applications so submitted and report staff's recommendations concerning the same to Council provided, however, that before making such report, the Clerk may require the applicant to file with the application the following:
  - (a) A plot plan of those lands and premises showing all structures and buildings erected thereon;

- (b) copy of the Certificate of Approval from the Technical Standards and Safety Authority, Ministry of the Consumer and Business Services or successor thereof;
  - (c) plans of fencing of the storage area;
  - (d) written confirmation that the use is permitted under zoning by-law 1150/97/81, as amended or has a legal non conforming status.
7. Upon an application for a license being approved by the Council the Clerk shall, upon payment of the proper license fee as prescribed by this by-law, issue a license in accordance with such approval.
  8. Application for renewal of licenses issued under this by-law shall be made to the Clerk upon the form provided by him for that purpose and subject to there being no change in circumstances from the original application, as verified on an inspection by the Municipal Law Enforcement Officer, the Clerk shall, upon payment of the proper fee as herein prescribed, issue a renewal of such license. Renewal of licenses must be obtained on or before February 28th of each year.
  9. The license fees payable for licenses, renewals and transfers of licenses issued under this by-law shall be as set forth in Schedule "A" attached hereto or as may be amended from time to time, and no license shall be issued unless and until the proper fee is paid. The license shall remain in force from the date of issue until the thirty-first day of December next succeeding and no longer.
  10. The Council may revoke a licence issued under this by-law for breach of any condition of this by-law. Where any such licence is revoked the licensee shall be entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.
  11. The issuance of a new license any time between the first day of January and the first day of July in any year, the full license fee shall be payable therefore; and if the license is authorized at any time between the first day of July and the thirty-first day of December in any year, one-half of the full license fee shall be payable therefor.
  12. All licenses issued under this by-law shall be in the form provided for that purpose, and shall be signed by the Clerk.
  13. The Clerk shall keep a License Register containing the names of every person licensed, the place or premises occupied under such license, the number and date of issue of such license, the amount paid therefor, and other particulars or remarks pertaining or necessary to the same.
  14. Subject as hereinafter provided, no person other than the one to whom a license is issued shall, at any time, use or enjoy such license nor shall the same be used or enjoyed in respect of any place or premises other than the one described in such license.
  15. An application for the transfer of a license shall be made in like manner as an application for a license.
  16. Upon the application for transfer being approved by Council, the Clerk shall, upon payment of the transfer fee, endorse on such license the conditions and particulars of such transfer and shall cause to be made the necessary changes in the License Register.
  17. The Clerk shall account to the City Treasurer for all license fees received by him and pay over such fees to the City Treasurer forthwith upon receipt thereof, and shall from time to time render to the Council or to the Treasurer such statements and other information as may be required in connection therewith, or with respect to any other matters arising under this by-law.

18. Each person licensed under this by-law and the premises occupied for the purpose of a public garage and the conducting of business on such premises, shall comply with the regulations and requirements of the Technical Standards and Safety Act 2000, S.O. 2000, c. 16.
19. The provisions of The Technical Standards and Safety Act and the regulations made thereunder in so far as they are applicable shall be deemed to form a part of this by-law as if incorporated herein, and where any conflict exists between this by-law and the provisions of the said Technical Standards and Safety Act and regulations, the said Act and regulations shall govern.
20. No person owning or keeping a public garage licensed under the provisions of this by-law shall use or permit the public garage to be used for the purpose of wrecking motor vehicles.
21. A person owning or keeping a public garage may display in any open area on its premises, new motor vehicles or used certified mechanically fit motor vehicles and sell same.
22.
  - (a) All uncertified motor vehicles, motor vehicles in a state of road unworthiness or disrepair and/or parts thereof and motor vehicles stored for a period in excess of 7 days shall be placed in a fenced area. The fence shall be of opaque construction, of a minimum height of six feet and otherwise erected in accordance with the provisions of the City of Port Colborne Fence By-law, as amended.
  - (b) Provided however that should a fenced area exist in a state of good repair on the lands and premises being the subject of the application on the date of passage of this by-law and be of a non-opaque construction or less than six feet in height, but otherwise conforming to the City of Port Colborne Fence by-law, as amended, it shall be deemed to be erected in accordance with the provisions of paragraph 22 (a) hereof.
23. All vehicles used for towing purposes shall be licensed by the Niagara Regional Police Services Board.
24. Any person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for under the Provincial Offences Act.
25. Should any provision of this by-law be declared by a court of competent jurisdiction to be void or ultra vires for any reason, the remaining provisions shall, nevertheless, remain valid and binding and shall be read as if the offending section or sub-section had been struck out.
26. The provisions of this by-law are to have retrospective operation.
27. By-law 2428/44/90 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 16th day of December, 2002.

  
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Vance M. Badawey  
MAYOR

  
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Janet Beckett  
CLERK

SCHEDULE "A" TO BY-LAW NO. 4322/158/02

Column 1	Column 2	Column 3
<u>Description of License</u>	<u>License and Renewal</u>	<u>Annual Fee Transfer Fee</u>
Public Garage as defined in paragraph 1(a) of this by-law	\$30.00	\$10.00