

**CORPORATION OF THE TOWN OF ERIN**

**By-Law # 04 - 75**

**Being a By-Law for licensing, regulating and governing Outdoor Vendors.**

**WHEREAS** Section 150 of the Municipal Act, 2001, as amended permits municipalities to license, regulate and govern any business wholly or partly carried on within the municipality.

**AND WHEREAS** Council for the Corporation of the Town of Erin deems it expedient to exercise their licensing powers for the licensing, regulating and governing of Outdoor Vendors for public health and safety reasons;

**AND WHEREAS** it is deemed important to regulate the sale of fireworks or any class thereof and to prohibit the sale of fireworks or any class thereof on any days during the year specified in the by-law;

**AND WHEREAS** it is deemed desirable to establish regulations to license and govern vehicles from which refreshments are sold for consumption by the public and to revoke any such license;

**AND WHEREAS** a public meeting was held on November 23, 2004 at which time any person who attended was given an opportunity to make representation on the matter;

**NOW THEREFORE, THE COUNCIL FOR THE CORPORATION OF THE TOWN OF ERIN ENACTS AS FOLLOWS:**

**Section A - Definitions**

1. (a) **Annual Fair or Exhibition** means an event where agricultural or fishing products are presented in conjunction with the Fair or Exhibition Boards of an Agricultural Society.
- (b) **Business** means a trade or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of sale or hire of samples, patterns or specimens of any goods and any activity or thing a local municipality may license in accordance with this by-law but does not include:
  - (1) a manufacturing activity or an industry, except to the extent that it sells its products or raw materials by retail;
  - (2) the selling of goods by wholesale; or
  - (3) the generation, exploitation, harvesting, processing, renewal or transportation of natural resources.
- (c) **Canteen** means a vehicle designed to permit the storage and sale of refreshments.
- (d) **Cart** means a vehicle, other than a motor vehicle, in which food and/or beverages are sold to the public and is capable of being moved from place to place.
- (e) **Certified** in this by-law means investigated and identified by a nationally or provincially recognized testing agency as conforming to recognized standards or requirements or accepted test reports.
- (f) **Charitable Organization** means an organization, which performs services of public good or welfare without profit.

- (g) **Chip Wagon** means a mobile or immobile vehicle in good repair and appearance either mounted on blocks or supported by a conventional wheel, tire and axle system, with a bottom skirt, from which french fries, popcorn, potato chips, chocolate bars, nuts and non-alcoholic beverages are offered for sale or sold to the public;
- (h) **Food vehicle** means a chip wagon, mobile food preparation vehicle, refreshment vehicle or refrigerated bicycle cart;
- (i) **Fireworks** means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, Daygo bombs, sparklers, or other fireworks of like construction and any fireworks containing an explosive substance, except that the term "fireworks" shall not include toy pistols, toy canes, or toy guns or other devices in which paper caps manufactured in accordance with the Department of Mines and Technical Surveys, Explosives Division regulations for packing and shipping of toy paper caps are used and toy paper caps manufactures as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.
- (j) **Goods** means flowers, seafood products, hot dogs, fruits and vegetables, fireworks and french fries.
- (k) **Highway** includes a common and public highway, street, avenue, parkway, drive, 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.
- (l) **Intersection** means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other.
- (m) **Operator** includes owner and the individual operating or conducting business where a license is required under this by-law.
- (n) **Outdoor Vending** means the offering to sell, the display for sale, and the sale of goods.
- (o) **Refreshments** means any food or drink and includes but is not limited to coffee, sandwiches, hot dogs, potato chips, fruit, nuts, french fries, ice cream.
- (p) **Sidewalk** means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians.
- (q) **Special Event** means a social or other occasion involving a gathering of persons at one location for a specific purpose such as a sporting event, fundraising event or other event of a municipal, provincial or federal significance.
- (r) **Vehicle** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, a commercial motor vehicle whether permanently stationary or otherwise.
- (s) **Vendor** means a person(s) to whom a license has been issued, or is required to

have a license pursuant to this by-law.

**Section B - Relationship to other By-laws**

2. (a) Notwithstanding Section 4, a licensed canteen may operate in industrial areas and construction sites.

**Section C - Regulations**

3. The following goods or services shall be regulated by this by-law and shall be permitted to be sold subject to obtaining a license:
- (a) hot dogs/sausage/non-alcoholic beverages
  - (b) seafood products, produce including fruits and vegetables
  - (c) flowers
  - (d) fireworks
  - (e) french fries/canteen product
  - (f) any other goods or services as permitted by resolution of the Council of the Corporation of the Town of Erin as an exemption to this by-law
4. Any person, licensed pursuant to the provision of this by-law shall:
- (a) operate only in areas with the zoning designation C1, C2, C3 or designated OS areas, specifically Victoria Park, Barbour Field, Erin Community Centre, Centre 2000, Lion's Club Park, Erin Fairgrounds, and the Elora-Cataract Trailway.
  - (b) not sell or offer any goods or services as an outdoor vendor without an Outdoor Vending License issued by the Town of Erin. The issuance of such license is regulated herein.
5. Any person, licensed pursuant to the provision of this by-law shall:
- (a) operate only in areas with the zoning designation of C1, C2, C3 and designated OS areas, specifically Victoria Park, Barbour Field, Erin Community Centre, Centre 2000, Lion's Club Park, Erin Fairgrounds, and the Elora-Cataract Trailway.
  - (b) not operate within fifty (50) metres of an intersection.
  - (c) not operate, locate or sell from a highway, including the public sidewalk.
  - (d) not operate within thirty metres of the nearest corner of the building of a competing commercial establishment.
  - (e) not operate within thirty metres of any other outdoor vendor.
  - (f) operate only from the location(s) noted on the license.
  - (g) produce the license when requested by a police officer or a Town of Erin Municipal Law Enforcement Officer.

**Power of Council**

6. The powers of Council to license, regulate and govern a business include:
- (a) the power to prohibit the carrying on of or engaging in the business without a license.
  - (b) the power to grant or refuse to grant a license.

- (c) the power to fix the time for which the license shall be in force.
  - (d) the power to revoke or suspend a license.
  - (e) the power to define classes of businesses and to separately license, regulate and govern each class.
  - (f) the power to impose conditions as a requirement of obtaining, continuing to hold or renewing a license, including conditions
    - (i) requiring the payment of license fees
    - (ii) restricting the hours of operation of the business and
    - (iii) requiring the persons carrying on or engaged in the business to allow the municipality at any reasonable time to inspect places or premises used in the carrying on of the business and the equipment, vehicles and other personal property used or kept for hire in connection with the operation of the business
  - (g) the power to impose special conditions on a business in a class that have not been imposed on all of the businesses in that class as a requirement of obtaining, continuing to hold or reviewing a license of the business.
  - (h) the power to impose conditions, including special conditions, as a requirement of continuing to hold a license at any time during the term of the license.
  - (i) the power to license, regulate or govern the place or premises used in the operation of the business and the persons engaged in it.
  - (j) the power to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the operation of the business.
  - (k) the power to exempt any business or person from all or any part of the by-law.
  - (l) the power to immediately revoke a license in the event that the issuance of a municipal outdoor vendor license interferes with permanent business operation requiring a provincial or federal license, and the provisions set out in Section 8 and Section 9 shall not apply in this instance.
7. Council of the Corporation of the Town of Erin may receive from the license issuer, a recommendation to revoke, not issue, or suspend a license.
8. The Council of the Corporation of the Town of Erin shall hold a hearing, held under the Statutory Powers and Procedures Act, RSO 1990, in an open public meeting of Council prior to revoking, refusing or suspending a license.
9. The operator must receive notice within 14 days of a decision to revoke, not issue or suspend a license. The operator may then submit a written appeal to the Town Clerk within 14 days of issuance of the Notice. Council will hear the appeal within 14 days of receiving the appeal.
10. Where a business license is revoked by Council, the licensee shall be entitled to a refund of the license fee proportionate to the unexpired part of the term for which it was granted.

**Outdoor Vendors - Hot Dogs/Sausage/Non-Alcoholic Beverages**

11. The issuance of every Outdoor Vending License for hot dog vendors shall be subject to

the following requirements:

- (a) every operator of outdoor vending of hot dogs/sausage/non-alcoholic beverages shall have a municipal license from the Town of Erin..
- (b) a license shall be required for each cart, and shall be available for presentation on demand by a Police Officer or a Town of Erin Municipal Law Enforcement Officer.
- (c) that the cooking appliance comprised of burners, valves, tubing, hoses, regulators, and the appliance itself overall is Canadian Gas Association certified, and so labeled to verify this listing.
- (d) that the appliance be located not less than 7 ½ metres (25 ft.) from any exit door or unprotected glass opening or combustible wall panel.
- (e) that the mobile cart be equipped with a portable fire extinguisher of a size not smaller than 2A, 10 BC.
- (f) that the appliance be inspected on an annual basis by a licensed propane fitter and that the annual inspection report be provided to the Town of Erin Fire Department indicating the location where the appliance will be in operation.
- (g) indoor storage of propane cylinders is not permitted. Where vandalism and other destruction to these carts is a concern the tank cylinders shall be disconnected and stored in a secure exterior location.
- (h) the operator shall maintain the cart in good repair and appearance.
- (i) the operator shall equip the cart with refuse container(s) and keep the adjoining area in a clean and sanitary condition.
- (j) the operator shall agree to hold harmless the Town of Erin and the County of Wellington, if applicable, from any claim of any nature or kind resulting from the operation of the Outdoor Vending cart pursuant to this license. The applicant shall agree to purchase liability insurance in the amount of \$1,000,000.00 insuring the applicant, the Town of Erin and, if applicable, the County of Wellington, and any employee of the applicant conducting business pursuant to this license. A certified copy of such insurance shall be filed with the Town and be in good form and content satisfactory to the Town prior to the issuance of the license and shall be in good standing at all times.
- (k) the operator shall comply with all applicable provisions and regulations under the Health Protection and Promotion Act, Chap H.7, R.S.O. 1990.
- (l) the operator shall not use loud speakers, amplifiers, flashing lights or other hailing devices.
- (m) the operator shall agree that the license shall not be transferred.
- (n) the operator shall agree to surrender the license if the license has been revoked under resolution of the Council of the Corporation of the Town of Erin if any of the provisions of this by-law or any Town of Erin by-law or statute enforced by the Town of Erin has been breached.
- (o) an operator holding an outdoor vending license shall not interfere with a construction program and shall move to another approved location.
- (p) a license issued under this by-law shall be valid for a period of time not

exceeding one year expiring December 31<sup>st</sup> of the current year and shall be subject to renewal annually upon payment (January 1<sup>st</sup>) of the appropriate fee.

**Outdoor Vendors - Flowers, Seafood, Fruit and Vegetables**

12. The issuance of every Outdoor Vending License for flower vendors, seafood products and fruit and vegetable vending shall be subject to the following requirements:

- (a) every operator of outdoor vending of flowers and/or fruit and vegetables and/or seafood shall have a municipal license from the Town of Erin.
- (b) every operator of outdoor vending flowers and/or fruit and vegetables and/or seafood shall maintain the stand in good repair and appearance.
- (c) every operator of outdoor vending of flowers and/or fruit and vegetables and/or seafood shall maintain the area around the stand in a clean, and sanitary condition.
- (d) the operator shall agree to save harmless the Town of Erin and the County of Wellington, if applicable, from any claim of any nature or kind resulting from the operation of the outdoor vending of flowers and/or fruit and vegetables and/or seafood pursuant to this license.
- (e) the operator shall comply with all applicable provisions and regulations under the Health Protection and Promotion Act, Chap.H.7, R.S.O., 1990.
- (f) the operator shall agree that the license shall not be transferred.
- (g) the operator shall agree to surrender the license if the license has been revoked under resolution of the Council of the Corporation of the Town of Erin if any of the provisions of this by-law or any other Town by-law or statute enforced by the Town of Erin has been breached.
- (h) an operator holding an outdoor vending license shall not interfere with a construction program, and shall move to another approved location.
- (i) a license issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31<sup>st</sup> of the current year and shall be subject to renewed annually upon payment (January 1<sup>st</sup>) of the appropriate fee.

**Outdoor Vendors - French Fries/Canteen Products**

13.1 Chip wagons and food vehicles are not permitted to operate on a highway or street frontage and may only be located in an area where there is minimum parking/standing space for six (6) vehicles, this parking/standing not being located on a highway or street frontage and access being obtained by means of a properly constructed, approved driveway.

13.2 The issuance of every Outdoor Vending License for french fries/and or canteen products shall be subject to the following requirements:

- (a) every operator of outdoor vending of french fries/canteen products shall have a municipal license for the Town of Erin.
- (b) produce a valid motor vehicle permit issued by the Ministry of Transportation and Communications for Ontario, if required.

- (c) produce a valid insurance policy for each vehicle in the amount of \$1,000,000.00.
- (d) every operator must be properly licensed for the vehicle from which they are operating.
- (e) the operator shall agree to hold harmless the Town of Erin and the County of Wellington, if applicable, from any claim of any nature or kind resulting from the operator of the outdoor vending of french fries or canteen products pursuant to this license
- (f) produce a signed certificate of approval from the Wellington-Dufferin Health Unit for the vehicle which shall be dated within 30 days of the date of application for an Outdoor Vending license.
- (g) obtain equipment inspection approval from the Town of Erin Fire Department.
- (h) present the vehicle to be used for inspection by the Town of Erin Municipal Law Enforcement.
- (i) No owner of a canteen shall offer for sale any refreshments unless:
  - (i) the body, doors and windows of the vehicle are of sound construction so as to provide reasonable protection against dust, dirt, and insects.
  - (ii) the interior of the vehicle is clean, dry and in good repair.
  - (iii) the exterior of the vehicle is clean, in good repair, free from exterior body damage and has a well maintained exterior paint finish.
  - (iv) the storage shelves within the vehicle are clean and of sound construction.
  - (v) the vehicle is equipped with a portable litter basket or refuse container, which is carried inside the vehicle while in motion and when stopped is readily accessible to persons making purchases.
  - (vi) all equipment used for dispensing refreshments are kept in a clean and sanitary condition.
  - (vii) only single service disposable cups, plates, forks, spoons and serviettes which are individually wrapped or provided in dispensers are used.
  - (viii) milk products are sold only in individual disposable containers.
  - (ix) perishable foods must be refrigerated at a temperature no higher than 4<sup>0</sup> C.
  - (x) all hot prepared foods are maintained at a temperature on not less than 66<sup>0</sup> C.
- (j) the operator shall agree that the license shall not be transferred.
- (k) the operator shall agree to surrender of the license if the license has been revoked under resolution of the Council of the Corporation of the Town of Erin if any of the provisions of this by-law or any other Town by-law or statute enforced by the Town of Erin has been breached.
- (l) An operator holding an outdoor vending license shall not interfere with a construction program, and shall move to another approved location.

- (m) a license issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31<sup>st</sup> of the current year and shall be subject to renewal annually upon payment (January 1<sup>st</sup>) of the appropriate fee.
- (n) The owner/operator of a chip wagon/food vehicle must produce a letter of authorization from the owner of the property on which the chip wagon/food vehicle is to be located, indicating the property owner's approval for the location of the chip wagon/food vehicle.
- (o) The owner/operator of a chip wagon/food vehicle must produce a site plan, if required, indicating the position of the chip truck/food wagon on the site. The chip wagon/food truck may not be re-located on the site without written permission of the Town.
- (p) A chip wagon/food truck may not be located on property owned by the Municipality.

#### **Outdoor Vendors - Fireworks**

14. The issuance of every Outdoor Vending License for Fireworks shall be subject to the following requirements:
- (a) every operator of outdoor vending of Fireworks shall have a municipal license from the Town of Erin.
  - (b) every operator of outdoor vending of Fireworks shall maintain the stand in good repair and appearance.
  - (c) the operator shall agree to hold harmless the Town of Erin and the County of Wellington, if applicable, from any claim of any nature or kind resulting from the operator of the outdoor vending of fireworks pursuant to this license. The operator shall agree to purchase liability insurance in the amount of \$1,000,000.00 insuring the operator, the Town of Erin and, if applicable, the County of Wellington, and any employee of the operator conducting business pursuant to this license. A certified copy of such insurance shall be filed with the Town and be in good form and content satisfactory to the Town prior to the issuance of the license and shall be in good standing at all times.
  - (d) the manufacture, storage, transportation and sale of fireworks shall conform to the federal "Explosives Act" and "Explosive Regulations".
  - (e) the operator shall not sell by retail or supply any fireworks:
    - (i) to any person apparently under the age of eighteen years.
    - (ii) to any person except on Canada Day and on the day fixed by proclamation of the Governor General for the observation of Victoria Day and during the preceding ten (10) days prior to the said days.
    - (iii) of a type which is prohibited by the provisions of this by-law.
  - (f) the operator shall agree that the license shall not be transferred.
  - (g) the operator shall agree to surrender of the license if the license has been revoked under resolution of the Council of the Corporation of the Town of Erin if any of the provisions of this by-law or any other Town by-law or statute enforced by the Town of Erin has been breached.
  - (h) an operator holding any outdoor vending license shall not interfere with a construction program, and shall move to another approved location.



- (i) a license issued under this by-law shall be valid for a period of time not exceeding one year expiring December 31<sup>st</sup> of the current year and shall be subject to renewal annually upon payment (January 1<sup>st</sup>) of the appropriate fee.

**Section D - Administration**

15. Every application for an Outdoor Vending License shall be in accordance with an application form approved by the Town of Erin.
16. The provisions of this by-law shall be administered by the Town Clerk and/or designate and the Municipal Law Enforcement Officer.
17. The license fees as noted in Schedule "A" shall accompany the completed application form.
18. Any charitable organization wishing to vend shall be subject to the provisions of this by-law save and except any fee may be waived by the Town Clerk or the Municipal Law Enforcement Officer.
19. Any Annual Fair or Exhibition shall be exempt from the provisions of this by-law.
20. Any person selling locally grown produce, provided that the sale of such produce occurs from the property on which it was grown, is exempt from the provisions of this by-law.
21. No other outdoor vending, soliciting or panhandling is allowed within the Town of Erin unless authorized by Council under a special event license.
22. That this by-law be known as the Outdoor Vending By-law.

**Section E - Enforcement/Penalties**

23. Any person who contravenes any of the provisions of this by-law is guilty of an offense and upon conviction is liable to a fine as provided for in the Provincial Offenses Act, R.S.O. 1990, as amended.
24. This by-law shall come into effect on the date of the final passing thereof.
25. By-Law # 02-97 and amending By-Law #04-22 are hereby repealed.

**READ a FIRST, SECOND and THIRD**

**Time and PASSED in open Council**

**This 7 day of December, 2004**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

**Schedule "A"**

Annual Outdoor Vending License	\$250.00 per location
Charitable Organization	No Charge
Special Event	\$100.00

**THE CORPORATION OF THE TOWN OF ERIN  
5684 Wellington Rd. #24  
R. R. # 2, Hillsburgh, Ontario N0B 1Z0**

**OUTDOOR VENDOR LICENSE APPLICATION**

Year: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_  
                    Number Street Name City Prov. Postal Code

Business Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Name of Company that you are driving/operating for:  
\_\_\_\_\_

Company Address: \_\_\_\_\_  
                    Number Street Name City Prov. Postal Code

Ontario Driver's License Number: \_\_\_\_\_

1. Is your Ontario Driver's License current and valid? Yes \_\_\_ No

The business will operate in the Town of Erin during the year \_\_\_\_\_ or on the following dates:

I hereby acknowledge receipt of a copy of the Town of Erin By-law 02- and agree to comply with the regulations specified therein.

Applicant's Signature: \_\_\_\_\_

\*\*\*\*\*

**For Office Use Only**

License No: \_\_\_\_\_ Issuance Date: \_\_\_\_\_

License Issued: \_\_\_\_\_ Approved By: \_\_\_\_\_

License Fees: \_\_\_\_\_

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Personal Information contained on this application is collected pursuant to the Municipal Act R.S.O. 1990 M.45 and the Town of Erin Outdoor Vendors By-law and will be used for the purpose of issuing an Outdoor Vendor's License.

Note: Please obtain approvals in order as they appear below:

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**Zoning Report**

*I certify that the proposed use is in conformity with the zoning regulations currently in force.*

Date: \_\_\_\_\_

Building/Zoning Department  
Town of Erin

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**Fire Inspector Report**

*I approve the use of the premises/equipment for the purpose of the noted license.*

Date: \_\_\_\_\_

Per: Fire Inspector

Town of Erin

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**Medical Officer of Health Report**

*I approve the use of the premises/equipment for the purpose of the noted license.*

Date: \_\_\_\_\_

Per: Medical Officer of Health  
Wellington-Dufferin-Guelph  
Health  
Telephone: 821-2370

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**GUIDELINE FOR OUTDOOR VENDING  
UNDER BY-LAW  
TOWN OF ERIN**

These guidelines are designed to assist persons applying for permission to vend from a vehicle, cart or stand at specific locations within the Town of Erin.

The Town Clerk and/or designate or Municipal Law Enforcement Officer will review all applications for approval.

Outdoor vending is only permitted in zones specified in this by-law. When reviewing requests for locations near residentially zoned areas, the Town Clerk and/or Municipal Law Enforcement Officer will consider the potential disruption to the residential area and will deny requests for locations where any potential for residential disruption exists.

Outdoor Vending from a public sidewalk is not permitted. Outdoor Vending is not permitted from highway.

Vendors will not be permitted directly in front of building entrance/exits, names or number, fire hydrants or display windows.

Vending operations will not interfere where applicable with other authorized uses of the street allowance (i.e news vending boxes, etc)

Vending carts will not interfere with the visibility of pedestrians and vehicles.

Proof of written approval from the property owner is required when making application for a license.

The applicant will comply with the distance restrictions outlined in this by-law.

All Outdoor Vendor applications will be accompanied by details of waste receptacles, food storage area, heating, cooling or other equipment as required by the Wellington-Dufferin-Guelph Medical Officer of Health and inspection thereof.

Applications whose vending involves propane or other fuel heaters require an inspection of the cart by a certified gas fitter.

Prior to issuance of a license, you will be required to submit a certificate of general liability insurance in the amount of \$1,000,000.00 containing a cross-liability clause naming the Town of Erin and the County of Wellington, as appropriate, as an additional named insured.

Requisite fees as outlined in Schedule "B" of this by-law must accompany the application and will be refunded if the application is not approved.

On issuance of a license you are free to vend in your approved location in accordance with the provisions of this by-law.

The license will be issued for a one (1) year period and all licenses shall expire on December 31 of each year. Each licensee shall have thirty (30) days from the expiration date to renew the license for the same location.

Appropriate dress in accordance with the Health Code standards is required.

During winter operation a vendor shall be responsible for snow removal for their location.

An applicant must obtain from a propane dealer, and submit with their application, a certificate of inspection for each cart. The certificate will include the registration number of the cart, date of inspection, name and license number of the inspector.