

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2017-13

Being a By-law to the Township of Tay to provide for the licensing, regulating and governing of certain businesses, trades or occupations carried on, or engaged in within the Township of Tay and to repeal By-law 2009-29

WHEREAS pursuant the *Municipal Act, 2001, S.O. 2001, c. 25, as amended* a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS the Corporation of the Township of Tay deems it expedient to pass a by-law pursuant to the said section;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AS FOLLOWS;

1. DEFINITIONS FOR THE PURPOSE OF THIS BY-LAW

- 1.1 "AUCTION" means a sale in which bids on goods, articles, merchandise or effects are received by an Auctioneer and where each bid offers more than the last previous bid and where the goods, articles, merchandise or effect being put up for sale is sold to the highest bidder.
- 1.2 "AUCTIONEER" means any person selling or putting up for sale goods, wares, merchandise or effects by public auction and, without limiting the foregoing, may include livestock;
- 1.3 "COMPLAINANT" means a person who has filed a formal complaint under the provisions of this By-law.
- 1.4 "FARMERS MARKET" means a seasonal, multi-vendor organization selling agricultural products, food, art and craft products including homegrown produce, home-made crafts and value added products where the majority of vendors are primary producers (including preserves, baked goods, meat, dairy products, etc.)
- 1.5 "HAWKERS AND PEDDLERS" means any person or a motor vehicle, trailer, cart or stand, propelled, towed or driven by any kind of power, including muscular power, which who goes from property to property or to a particular location with the intent to sell goods, wares, merchandise or produce.
- 1.6 "REFRESHMENT VEHICLES" means a motor vehicle, trailer or cart, propelled, towed or driven by any kind of power, including muscular power, which is used for the storage, preparation or sale of food or drink intended for consumption by the public and which without limiting the generality thereof includes a coffee stand, hot dog cart, and chip truck.
- 1.7 "SALVAGE YARD/RECYCLING ESTABLISHMENT" shall include lands or premises whereon or wherein scrap metal, steel, plastic, lumber or other such substances or second-hand goods, are kept or stored or processed or fabricated or wrecked or sorted or cut or recycled, or anyone or more of the foregoing activities takes place, whether or not any of such goods or substances are made available for sale, or for other purposes, form the said lands or premises, and without limiting

the generality of the foregoing, a salvage yard shall include a wrecking yard for automobiles, other vehicles or appliances, and a yard for the storage or sale of parts thereof.

2. GENERAL PROVISIONS

- 2.1 Every application for a licence shall be made in writing on the designated form and the required fee, as set out in the Township's User Fees & Service Charges By-law, shall be paid at the time of application.
- 2.2 Any license issued shall be valid for the remainder of the calendar year in which said License is issued and shall expire on December 31st of that year. The applicable fee shall apply for a license issued throughout the year and shall not be pro-rated.
- 2.3 Subject to the applicant meeting the requirements set out in this by-law, the Clerk or designate shall issue the said licence.
- 2.4 Every licence issued in accordance with this by-law shall be displayed in a prominent place and be clearly visible to the public at all times.
- 2.5 All approvals must be received from each department and/or agency, as set out in this by-law, before a licence is issued.
- 2.6 No hawker or peddler, or refreshment vehicle shall operate in a Township park, or on a public road allowance or other public property within the Township, unless in conjunction with a Council authorized event or under agreement with the municipality. If permission is granted, the applicant shall provide proof of insurance in the amount of \$2 million (\$2,000,000) comprehensive liability insurance naming the Township as an additional insured prior to obtaining their licence.

3. LICENSING FOR HAWKERS AND PEDDLERS

- 3.1 No Hawker or Peddler shall operate with the Township of Tay without having first obtained a licence to do so.
- 3.2 The applicant for a Hawkers and Peddlers License shall submit the following:
 - Completed application with required license fee
 - If the applicant is not the owner of the property on which the business is to be located, proof of permission to operate on private property is required.
- 3.3 In addition to the items listed under section 3.2, prior to issuing the license the applicant must:
 - Obtain zoning clearance
 - If applicable, provide a site diagram/sketch, drawn to scale showing the location of the proposed hawker or peddler on the property including setbacks from the adjacent property lines, the proposed location of any parking, signage and garbage/recycling containers as well as entrances/exits where applicable.
 - Provide a business outline of what goods and merchandise are to be sold
- 3.5 No person shall hawk or peddle any goods, wares or merchandise other than what is indicated on their license.
- 3.6 No person shall hawk or peddle any goods, wares or merchandise at a particular place other than the place indicated on the license.
- 3.7 A Hawkers and Peddlers License shall not be required by the following:
 - (a) Persons/organizations who intend to sell goods, wares or merchandise "door-to-door" on behalf of a non-profit charitable organization or a non-profit non-charitable organization.

- (b) Service clubs, registered charitable organizations or a person offering for sale goods or wares for the purpose of raising money for either a religious, charitable, philanthropic patriotic purpose.
- 3.8 The Township of Tay reserves the right to restrict the number of licensed business regulated by this by-law.
- 3.9 **Special Events** - A Hawker and Peddler Licence shall not be required if the vendor is participating in a vendor/flea market/fair as part of a special event **not lasting more than 72 hours or in conjunction with any Council approved special event**. The organizers may be required, at the sole discretion of the Township, to produce a listing of all vendors approved to participate in the special event.

4. LICENSING FOR REFRESHMENT VEHICLES

- 4.1 No person shall operate or maintain a refreshment vehicle within the municipality without first having obtained a licence to do so.
- 4.2 The applicant for a Refreshment Vehicle License shall submit the following:
- Completed application with required license fee
 - Proof of minimum \$2 million (\$2,000,000) liability insurance
 - Simcoe Muskoka District Health Unit approval (within last 6 months)
 - Proof of Propane/Gas inspection by licensed installer (within last 6 months), if applicable
 - If the applicant is not the owner of the property on which the business is to be located, proof of permission to operate on private property is required.
 - Fuel fired appliances must meet current TSSA requirements
 - Provide a business outline of what goods and merchandise are to be sold
- 4.3 In addition to the items listed under section 4.2, prior to issuing the license the applicant must:
- Pass Fire Inspection
 - Obtain zoning clearance
 - Provide a site diagram/sketch, drawn to scale showing the location of the proposed refreshment vehicle on the property including setbacks from the adjacent property lines, the proposed location of any parking, signage and garbage/recycling containers as well as entrances/exits where applicable.
- 4.4 If during the licensed period the applicant wishes to relocate the refreshment vehicle within the Township of Tay, a revised license may be issued provided that the requirements of Section 4.3 are met for the new location and the prescribed fee is submitted.
- 4.5 No person shall sell any items other than what is indicated on their license.
- 4.6 No Person shall fail to keep his Refreshment Vehicle in a clean and sanitary condition. In addition, such a vehicle shall be in good repair (i.e. no rust) and the exterior shall be clean and maintained.
- 4.7 The Operator of a Refreshment Vehicle shall be clean while serving the public from the vehicle.
- 4.8 No Person shall operate a Refreshment Vehicle drawn by animals.
- 4.9 No Person shall operate a Refreshment Vehicle which contains cooking, heating or cooling equipment unless the appropriate number and type of fire extinguisher are on board and are maintained in good operating condition.

- 4.10 No Person operating a Refreshment Vehicle shall activate bells, horns or music at a volume that disturbs the residents of the Township of Tay.
- 4.11 A Refreshment Vehicle License shall not be required by service clubs, registered charitable organizations or a person operating a Refreshment Vehicle for the purpose of raising money for either a religious, charitable, philanthropic patriotic purpose provided the fundraising event is less than 60 hours in duration.
- 4.12 The licensee shall take out a separate licence for each refreshment vehicle owned and operated by him/her.
- 4.13 The Township of Tay reserves the right to restrict the number of licensed business regulated by this by-law.
- 4.14 **Special Events:** Every person who wishes to carry on business as a Refreshment Vehicle within the Township of Tay as part of a special event **not lasting more than 72 hours** shall submit the following:
- Completed application with required temporary event license fee
 - Proof of minimum \$1 million (\$1,000,000) liability insurance
 - A letter, with site diagram, from the event organizer advising that the refreshment vehicle will be part of the organized event.
 - Simcoe Muskoka District Health Unit approval (within last 6 months)
 - Proof of Propane/Gas inspection by licensed installer (within last 6 months), if applicable
 - Fuel fired appliances must meet current TSSA requirements
 - Pass Fire Inspection

5. LICENSING FOR FARMERS' MARKETS

- 5.1 Every person or business who wishes to carry on as a Farmers' Market within the Township of Tay shall obtain a valid Farmers' Market Licence.
- 5.2 The applicant for a Farmers' Market License shall submit the following:
- Completed application with required license fee
 - Proof of minimum \$2 million (\$2,000,000) liability insurance
 - If the applicant is not the owner of the property on which the business is to be located, proof of permission to operate on private property is required.
 - Obtain zoning clearance
 - Provide a site diagram/sketch, drawn to scale showing the location of the market on the property including setbacks from the adjacent property lines, the proposed location of any parking, signage and garbage/recycling containers as well as entrances/exits where applicable.
- 5.3 An applicant applying for a Farmers' Market, if located on Township property, must enter into a Farmers' Market Agreement and provide all necessary documentation.
- 5.4 The number of licensed Farmers' Markets located on municipal property is limited to one per settlement area per season.
- 5.5 The applicant shall ensure that all Farmers' Market vendors are restricted to Simcoe County with the majority of producers of farm products primarily selling or offering for sale their own products. No vendors shall resell for products produced by others.

- 5.6 The applicant shall ensure that all certificates of approval that may be required from various agencies including the Simcoe Muskoka District Health Unit have been obtained from its vendors.
- 5.7 The applicant shall ensure that the Farmers' Market is operated under the terms of the Farmers Markets of Ontario Rules and Regulations.

6. LICENSING FOR SALVAGE YARDS/RECYCLING ESTABLISHMENTS

- 6.1 No person shall operate or keep a salvage yard or recycling establishment within the Township of Tay without first obtaining a licence to do so.
- 6.2 Site Plan – Requirement: In the case of an application for a Salvage Yard/Recycling Establishment Licence, where the Township has enacted a site plan control by-law pursuant to the provisions of the *Planning Act, R.S.O. 1990, c.P13*, as amended, which would apply to the lands and premises set forth in the application, the applicant shall provide a copy of the required site plan agreement to the Clerk, or designate, along with the application for the licence.
- 6.3 Unless otherwise specified in a site plan agreement, referred to in Section 6.2 of this By-law, no person shall operate a salvage yard/recycling establishment unless that part of the yard used for the keeping, storing, processing, fabricating, wrecking, sorting, cutting or selling of any of the substances referred to in this By-law, or any second-hand goods, is totally enclosed by a fence and/or berm no less than 2.4 metres and no more than 3.6 metres in height, of a quality and material approved by the Director of Planning & Development, or their designate, which fence and/or berm, shall at all times during the currency of any licence issued, be kept in good repair and free from any kind of hazard.
- 6.4 No owner or keeper of a salvage yard shall, after the coming into effect of this by-law, place any of the substances referred to in Section 1.4 of this by-law, or any second-hand goods, whether for storage or otherwise, or permit any such substances or second-hand goods to become so placed or stored, within an area 5 metres inside of the fence required by Section 6.3 so as to cause any such material to be stored or piled to a height higher than 0.3 metres below the height of the fence erected in compliance with that section or pursuant to a site plan agreement referred to in Section 6.2.
- 6.5 Every owner or keeper of a salvage yard shall take all reasonable steps to ensure the control and minimization of:
- (a) litter in and around the salvage yard/recycling establishment;
 - (b) dust in the salvage yard/recycling establishment on the roadways in its immediate vicinity;
 - (c) the presence of rodents and other pests;
 - (d) unnecessary noise caused by machinery or equipment and noise disturbing to members of the public;
 - (e) harmful and other negative effects upon the quality of life of inhabitants in the vicinity of the salvage yard
- 6.6 Lighting shall be installed, maintained and used in every salvage yard/recycling establishment in a manner sufficient to protect the health and safety of person within the salvage yard, and those coming to or leaving such yard.

- 6.7 A condition may be imposed on the issuing of a licence, such as requirements as to hours of operation of a salvage yard/recycling establishment as are deemed appropriate to prevent a nuisance to surrounding residents and users of land, and as are agreed upon by the applicant as a condition upon the issuing of the licence.
- 6.8 It shall be a condition of every licence issued under this Section that any person duly authorized by Council may at all reasonable times inspect any places or premises or part thereof used for the carrying on of any salvage yard/recycling establishment business which is licensed or required to be licensed under this By-law and any such person so authorized may inspect the books, records or other documents of the licensee relating to such trade, calling, business or occupation in conjunction with the regulation thereof.

7. LICENSING FOR AUCTIONEERS

- 7.1 No auctioneer or person shall operate, maintain or engage in the business, trade or occupation of an auctioneer within the Township of Tay without first having obtained a licence to do so.
- 7.2 Every person who wishes to carry on business as an Auctioneer within the Township of Tay shall obtain a valid Annual or Event Auctioneers Licence and receive zoning clearance prior to the license being issued.
- 7.3 An Auctioneers Event License issued under Section 7.2 shall be valid for the date and location listed on the application and is not transferable to any other auction. No refund shall apply if an auction is cancelled.
- 7.4 Every Auctioneer licensed under this By-law shall include in all public advertisements of any nature for an auction within the Township, the Auctioneer's name and License Number.
- 7.5 No Auctioneer licensed under this By-law shall:
- (a) Permit any disorder in the auction room or offices;
 - (b) Conduct or permit to be conducted any mock auction;
 - (c) Knowingly make, or permit to be made, any misrepresentation as to the nature, content quantity or value of any goods, wares, merchandise or effects offered for sale;
 - (d) Bidding; give away articles or sell articles for nominal amounts for the purpose of stimulating
 - (e) Do any act that is calculated to, or which may reasonably have the effect of, confusing a purchaser as the amount to be paid for any article(s);
 - (f) Avail the services of, or act in concert with, persons known in the trade as "beaters", "boosters" or "shills" for the purpose of raising or stimulating bids;
 - (g) Sell or put up for sale by auction any goods, wares, merchandise or effects held on a reserve bid basis without first announcing to those in attendance.

- 7.6 Every Auctioneer licensed under this By-law shall:
- (a) Keep proper books of account of the business transacted at every auction;
 - (b) List the names, addresses and phone numbers of the owners of the goods, wares, merchandise or effects to be sold, and the description of same and the sale price at the auction;
 - (c) List the names and addresses of persons purchasing goods, wares, merchandise or effects, or any portion thereof, sold by auction and the purchase price.
 - (d) Forthwith after the auction account for the proceeds and pay such amounts to the persons entitled to such proceeds, less the Auctioneer's legal and proper commissions and charges.
 - (e) In the case where no sale is made of such goods, wares, merchandise or effects, return such goods to the person(s) entitled to receive such goods upon the proper demand and payment of the Auctioneer's legal and proper costs and charges.
- 7.7 Every Auctioneer licensed under this By-law shall be responsible for the performance and observance of all regulations under this By-law by all persons connected directly or indirectly to the operation of an auction.
- 7.8 Every person carrying on business or engaged in business as an Auctioneer shall allow the Township or its Officers, at any reasonable time, to inspect places or premises used in the carrying on of the auction or its related business and said inspection may include such records as may be required under this By-law.
- 7.9 A Auctioneers License shall not be required by the following persons:
- (a) A sheriff or bailiff offering for sale goods and chattels seized under execution or distrained for rent;
 - (b) Service clubs and registered charitable organizations conducting Silent Auctions and Chinese Auctions;
 - (c) or a person offering for sale goods or wares by auction for the purpose of raising money for either a religious, charitable, philanthropic patriotic purpose.

8. REPLACEMENT AND REGISTRATION OF A LICENSE

- 8.1 An Applicant licensed under this By-law may apply for a Replacement License in the event that a valid License is lost or destroyed. Prior to the issuance of the Replacement License, the Applicant shall provide a written request to the Clerk and shall pay the prescribed fees.
- 8.2 A License issued under this By-law is personal to the Applicant and is not transferable to any other person, or to any other location.
- 8.3 The Clerk shall keep a License Register containing the business name, address, telephone number, contact name and License Number for each Applicant licensed under this By-law. In the event that a Replacement License is issued, the Clerk shall note the cancellation of the previous License Number and the new number assigned.
- 8.4 The Applicant shall forthwith provide any changes in the information provided on the application form to the Clerk and the Clerk shall amend the License Register, as required.

9. REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE

- 9.1 The Township reserves the right to refuse, suspend or revoke a License where:
- (a) The Township has suspended or revoked a License held by the Applicant within the preceding 12 month period;
 - (b) The Applicant has failed to comply with the provisions of this by-law, or any other applicable by-laws of the Township, or of an applicable statute, order-in-council or regulation of the Provincial Legislature or the Parliament of Canada;
 - (c) The Township has reasonable grounds to allege that the Applicant has failed to comply with provisions of this by-law, or any other applicable by-laws of the Township, or of any applicable statute, order-in-council or regulation of the Provincial Legislature or the Parliament of Canada.
- 9.2 In addition to 9.1 the Township reserves the right to suspend an Auctioneers License where;
- (a) The Township has received a formal complaint detailing an alleged violation of the terms of this By-law. To be deemed a formal complaint, the complaint shall be in writing and include the name of the Auctioneer, the date and location of the auction, specific details regarding the alleged violation and shall pay the prescribed fee set out in the Township's User Fees & Service Charges By-law.
- 9.3 Where Council wishes to hold a Hearing to consider whether to refuse, suspend or revoke a License,
- a) The Clerk shall fix a date and time for such Hearing and shall mail a Notice of Hearing to the Applicant at the address as shown on the Application form and to Complainant, if any.
 - b) Such Notice of Hearing shall be mailed to the Applicant and Complainant at least fifteen days prior to the date and time fixed for such Hearing.
- 9.4 At the Hearing;
- a) Council shall receive a report, either verbally or in writing, from the Clerk and/or Officer(s) or employees of the Township as may be considered by Council.
 - b) Council shall afford the Applicant, either personally or through an agent or solicitor, an opportunity to present such material and evidence relevant to the issue before Council as deemed expedient and may ask questions of any person presenting evidence or a report to Council relevant to the said issue.
 - c) Council may, in its sole discretion, afford any other person who applied to be heard and who appears to have an interest in the matters under discussion, an opportunity to present material and ask questions of any person presenting evidence or a report to Council relevant to the said issues.
 - d) For the purposes of this section, a quorum of Council shall be a majority of the members of Council and a decision by the majority of members present shall be the decision of Council.
 - e) Council may, after having heard all of the evidence and submissions retire into the Closed Session to debate the matter and to reach its decision.
 - f) The decision made by Council sitting in the Closed Session shall be confirmed in open Council by resolution immediately following the Closed Session and a certified copy of such resolution shall

be mailed by the Clerk to the Applicant, the Complainant and any person who has appeared before Council and requested that a copy of the resolution be provided.

- g) The decision of Council to refuse, suspend or revoke a License may be subject to such terms as Council shall impose and shall be final. Such decision may also include direction to refund, in whole or in part, the Investigation Fee.

10. PENALTIES

- 10.1 Every person who contravenes any of the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contravention by the corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.2 Every person who contravenes the provisions of this by-law and every director or officer of a corporation, who knowingly concurs in the contraventions by the corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25, as amended.
- 10.3 For the purpose of continuous offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.4 Despite section 10.3 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 10.5 For the purpose of multiple offences, every person who contravenes any provision of this by-law and every director or officer of a corporation who knowingly concurs in the contravention of a by-law of the corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 10.6 Despite section 10.5 and the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the total of all daily fines for the offence is not limited to \$100,000.
- 10.7 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 10.8 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 10.9 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.
- 10.10 Every person who contravenes any section of this by-law under a part 1 ticket, upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33 as amended.
- 10.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

11. TOWNSHIP NOT LIABLE

11.1 The Township assumes no liability for property damage or personal injury resulting from remedial action, remedial work and enforcement undertaken with respect to any person or property that is subject of this by-law.

12. VALIDITY AND SEVERABILITY

12.1 Should any section, subsection, clause, paragraph or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

13. SEPARATE OFFENCE

13.1 For the purpose of this by-law, each day of a continued offence shall be deemed to be a separate offence.

14. SHORT TITLE

14.1 The short title of this by-law is the Business Licensing By-law.

15. REPEAL

15.1 That By-law 2009-29 as amended be hereby repealed.

16. ENACTMENT

16.1 That this by-law shall take force and take effect immediately upon the final passage thereof.

16.2 That existing salvage yards be granted one year from date of passage to come into compliance with the business licensing requirements set out in Section 6.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 27th DAY OF MARCH, 2019.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR, Ted Walker

CLERK, Alison Gray

**THE CORPORATION OF THE TOWNSHIP OF TAY
PART 1 PROVINCIAL OFFENCES ACT**

By-Law #2017-13: Business Licensing

ITEM	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Fail to obtain a valid Hawker and Peddler Licence.	Section 3.1	\$135.00
2	Fail to obtain a valid Refreshment Vehicle Licence.	Section 4.1	\$500.00
3	Fail to obtain a valid Farmers' Market Licence.	Section 5.1	\$135.00
4	Fail to obtain a valid Salvage Yards/Recycling Establishment Licence.	Section 6.1	\$1000.00
5	Fail to obtain a valid Auctioneer Licence.	Section 7.1	\$135.00
6	Fail to obtain a valid Auctioneers Event License.	Section 7.2	\$135.00
7	Obstruct an Officer or Agent	Section 10.8	\$500.00

Note: The penalty provision(s) for the offences indicated above is Section 10.10 of By-Law #2017-13, as amended, a certified Copy of which has been filed.

**THE CORPORATION OF THE TOWNSHIP OF TAY
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