

**THE CORPORATION OF THE TOWNSHIP OF TAY**

**BY-LAW NO. 2009-29**

**Being a By-law to repeal By-law No. 2004-97  
and to licence and regulate Refreshment Vehicles,  
Hawker and Peddlers and Auctioneers  
within the Township of Tay**

**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** it is the intent of the Council of the Corporation of the Township of Tay to regulate Refreshment Vehicles, Hawkers, Peddlers and Auctioneers within the municipality to protect and promote the health and safety of its residents by regulating the goods and merchandise sold, the manner in which those items are sold and the locations from which they are sold;

**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** "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.
- 1.5** "HAWKERS AND PEDDLERS" means any person or a motor vehicle, trailer or cart, propelled, towed or driven by any kind of power, including muscular power, which who goes from place to place or to a particular location with the intent to sell goods, wares or merchandise.

## **2. LICENSING FOR REFRESHMENT VEHICLES**

- 2.1** Every person who wishes to carry on business as a Refreshment Vehicle within the Township of Tay is required to submit the necessary application form together with the prescribed fee for an Annual License as set out in Schedule “A” attached hereto and forming part of this By-law.
- 2.2** A Refreshment Vehicle License issued under Section 2.1 shall be valid for the remainder of the calendar year in which said License is issued and shall expire on December 31<sup>st</sup> of that year. The applicable fee shall apply for a Refreshment Vehicle License issued throughout the year and shall not be pro-rated.
- 2.3** The applicant for a Refreshment Vehicle License shall submit the following:
- Completed application with required license fee
  - Proof of minimum \$1 million (\$1,000,000) 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.
- 2.4** In addition to the items listed under section 2.3, prior to issuing the license the applicant must:
- Pass Fire Inspection, including NFPA 96 Compliance for deep fryers, if applicable
  - 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.
- 2.5** Upon receiving the necessary application and fee for a Refreshment Vehicle License, and providing the application was approved the Clerk will issue to the applicant an Annual Refreshment Vehicle License. Every Refreshment Vehicle License shall bear a License Number. The original License must be prominently displayed on site.
- 2.6** If during the licensed period the applicant wishes to relocate the refreshment vehicle within the Township of Tay, and providing the application was approved the Clerk may issue a revised license with the new location for the prescribed fee as set out in Schedule “A”.
- 2.7** No person shall sell any items other than what is indicated on their license.
- 2.8** No license shall be issued for any refreshment vehicle located within 50 metres (164 ft) of any restaurant, similar prepared food service establishment or other refreshment vehicle in the Township.

- 2.9** 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.
- 2.10** The Operator of a Refreshment Vehicle shall be clean while serving the public from the vehicle.
- 2.11** No Person shall operate a Refreshment Vehicle drawn by animals.
- 2.12** No Person shall operate a Refreshment Vehicle which contains cooking, heating or cooling equipment without a 5 lb A.B.C. Fire Extinguisher, which is maintained in good operating condition.
- 2.13** No Person operating a Refreshment Vehicle shall activate bells, horns or music at a volume that disturbs the residents of the Township of Tay.
- 2.14** 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.
- 2.15** The Township of Tay reserves the right to restrict the number of licensed business regulated by this by-law within the four settlement areas.

### **3. LICENSING FOR HAWKERS AND PEDDLERS**

- 3.1** Every person who wishes to carry on business as a Hawker and Peddler within the Township of Tay is requested to submit the necessary application form together with the prescribed fee for a License as set out in Schedule "A" attached hereto and forming part of this By-law.
- 3.2** A Hawkers and Peddlers License issued under Section 3.1 issued shall be valid for the remainder of the calendar year in which said License is issued and shall expire on December 31<sup>st</sup> of that year. The applicable fee shall apply for a Hawker and Peddlers License issued throughout the year and shall not be pro-rated.
- 3.3** 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.
- 3.4** In addition to the items listed under section 3.3, 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.

- 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 his license.
- 3.7** No license shall be issued for any hawker or peddler located within 50 metres (164 ft) of any similar establishment or other hawker or peddler in the Township.
- 3.8** Upon receiving the necessary application and fee for a Hawkers and Peddlers License, and providing the application was approved the Clerk will issue to the applicant a Hawkers and Peddlers License. Every Hawkers and Peddlers license shall bear a License Number. The original License must be prominently displayed on site.
- 3.9** 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.
- 3.10** The Township of Tay reserves the right to restrict the number of licensed business regulated by this by-law within the four settlement areas.

#### **4. LICENSING FOR AUCTIONEERS**

- 4.1** Every person who wishes to carry on business as an Auctioneer within the Township of Tay shall complete and submit the necessary application form together with the prescribed fee for an Annual License as set out in Schedule "A" attached hereto and forming part of this By-law.
- 4.2** An Auctioneers Annual License issued under Section 4.1 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 an Auctioneers Annual License issued throughout the year and shall not be pro-rated.
- 4.3** Upon receiving the necessary application and fee for an Auctioneers Annual License, and providing the application was approved the Clerk will issue to the applicant an Auctioneers Annual License. Every License shall bear a License Number. The original License must be prominently displayed at each auction within the Township of Tay.
- 4.4** Every person who wishes to carry on business as an Auctioneer within the Township of Tay on a one-time basis is required to submit the necessary application form together with the prescribed fee for an Auctioneers Event License as set out in Schedule "A" attached hereto and forming part of this By-law.

**4.5** An Auctioneers Event License issued under Section 4.4 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.

**4.6** Upon receiving the necessary application and fee for an Auctioneers Event license and providing the application was approved the Clerk will issue to the applicant an Auctioneers Event License. Every license shall bear a License Number. The original License must be prominently displayed during the event.

## **5. REGULATIONS FOR AUCTIONEERS LICENSE**

**5.1** 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.

**5.2** 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.

**5.3** 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.

**5.4** 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.

**5.5** 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.

## **6. PARTIES EXEMPTED FROM OBTAINING AN AUCTIONEERS LICENSE**

**6.1** A 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.

## **7. REPLACEMENT AND REGISTRATION OF A LICENSE**

**7.1** 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 fee set out in Schedule "A".

**7.2** 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.

**7.3** 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.

**7.4** 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.

## **8. REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE**

**8.1** Notwithstanding Sections 2, 3 and 4 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 would fail to comply to 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.

**8.2** In addition to 8.1 the Township reserves the right to suspend or revoke 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 the prescribed investigation Fee as set out on Schedule "A" of this By-law; or
- b) The Township has reasonable grounds to allege that the Applicant has failed to comply with the 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.

**8.3** Where the Township intends to proceed under Section 8.1 or 8.2, the Clerk and/or Officer(s) shall investigate and prepare a Report to Council.

**8.4** Where Council wishes to hold a Hearing to consider whether to refuse or suspend or revoke a License based on a formal complaint,

- 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 at least fifteen days prior to the date and time fixed for such Hearing.

**8.5** 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, resolve into the Committee of the Whole to debate the matter and to reach its decision.
- f) The decision made by Council sitting in the Committee of the Whole shall be confirmed in open Council by resolution immediately following the Committee of the Whole, 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 a License, suspend a License 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.

## **9. PENALTIES**

**9.1** Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c P. 33, as amended.

**10. GENERAL**

**10.1** This By-law shall be known as a by-law for the licensing, regulating and governing of businesses including Refreshment Vehicles, Hawkers and Peddlers and Auctioneers in the Township of Tay and may be cited by its short title, "The Refreshment Vehicles, Hawkers and Peddlers and Auctioneers Licensing By-law".

**10.2** Every provision of this by-law is declared to be severable from the remainder of the by-law and if any provision of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder thereof.

**11. REPEAL**

**11.1** That By-law 2004-97 be hereby repealed.

**12. ENACTMENT**

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

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF MAY, 2009.**

**THE CORPORATION OF THE TOWNSHIP OF TAY**

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**MAYOR**

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**CLERK**

/at

**SCHEDULE "A"****Refreshment Vehicles:**

Original Annual License	\$300.00
Revised License	\$25.00
Replacement License	\$10.00

**Hawkers and Peddlers:**

Original License	\$100.00
Replacement License	\$10.00

**Auctioneers:**

Original Annual License	\$50.00
Event License	\$15.00
Replacement License	\$10.00
Investigation Fee	\$30.00

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

**By-Law #2009-29**

<b>ITEM</b>	<b>Column 1 Short Word Form Wording</b>	<b>Column 2 Offence Creating Provision</b>	<b>Column 3 Set Fine (Includes Costs)</b>
1	Fail to apply for a valid Refreshment Vehicle License.	Section 2.1	\$105.00
2	Fail to apply for a revised Refreshment Vehicle License due to relocation.	Section 2.6	\$105.00
3	Fail to apply for a valid Hawkers and Peddlers License.	Section 3.1	\$105.00
4	Fail to apply for a valid Annual Auctioneers License.	Section 4.1	\$105.00
5	Fail to apply for a valid Auctioneers Event License.	Section 4.4	\$105.00

Note: The penalty provision(s) for the offences indicated above is Section 9.1 of By-Law #2009-29 a certified Copy of which has been filed.

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