

Corporation of the City of Owen Sound

By-law No. 2023-XXX

A By-law to Provide for the Licence and Regulation
of Businesses in the City of Owen Sound

WHEREAS section 11(2) of the Municipal Act, 2001 S.O. 2001 c.25 (the "Act") provides that municipalities may pass by-laws for the purpose of ensuring economic, social well-being of the municipality, and the health, safety and well-being of people in the municipality; and

WHEREAS section 151 of the Act provides for a system of business licences for any business wholly or partially carried on within the municipality and allows a municipality to prohibit the carrying on or engaging in the business without a licence, to refuse to grant a licence, to revoke or suspend a licence or to impose special conditions for a licence; and

WHEREAS section 445 of the Act provides that if a by-law has been contravened, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention and that the municipality may provide that any person who contravenes such an order is guilty of an offence; and

WHEREAS section 447 of the Act provides that if an owner is convicted of knowingly carrying on or engaging in a trade, business or occupation without a licence required by a business licensing by-law, the court may order that the premises or part of the premises be closed for no longer than two years; and

WHEREAS section 447.1 of the Act provides that upon application, a Superior Court of Justice may issue an order for all or part of a premises to close if activities on the premises constitute a public nuisance which has a detrimental impact on the use and enjoyment of nearby property and the owner or occupants knew or ought to have known of the nuisance and did not take adequate steps to eliminate it; and

WHEREAS section 441 of the Act provides that the City's treasurer may give written notice of any fines imposed for the contravention of a business licensing by-law that become due and payable, the final date on which fines are payable, and if the fine remains unpaid after the final date, the fine is determined to be unpaid taxes; and

WHEREAS on September 9, 2014, the Council of The Corporation of the City of Owen Sound (the "City") passed By-law No. 2014-150 to provide for the licensing and regulation of business; and

WHEREAS on XXX, City Council passed Resolution XXX directing staff to bring forward the subject by-law for approval and to repeal By-law No. 2014-150, in consideration of staff report CR-23-XXX, presented to the Corporate Services Committee on November 9, 2023;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Part I. Short Title, Purpose and Scope

Short Title

1. This by-law ~~shall may be referred to be known as~~ the "Business Licensing By-law" ~~and when so referenced includes all future amendments, unless otherwise specified.~~

Purpose

2. This by-law has been enacted to licence and regulate businesses to:
 - a. protect the economic well-being of the City;
 - b. prevent nuisance and maintain order in the City;
 - c. protect the health, safety and well-being of the citizens of the City; and
 - d. ensure compliance with applicable rules and regulations, including building, zoning, fire safety and public health requirements; ~~and~~
~~create a Business Licence registry.~~
- 4.3. For greater clarity, this by-law has not been enacted to endorse or guarantee:
 - a. the quality of products, workmanship or services provided by the Business; or
 - b. the skills or credentials of a Business owner, operator or employee.

Scope

- 5.4. This by-law ~~shall apply~~ applies to every business operating in the city except:
 - ~~a. the fundraising activities of a not for profit Business, except where the activity involves a Mobile Food Business;~~
 - b.a. exhibitions, concerts, festivals and other organized public amusements that do not have vendors operating on-site;
 - e.b. Farmer's Market vendors or other temporary sale of farm products in the form of honey, maple syrup, or unprocessed fruits, vegetables and grains; and
 - d.c. businesses set out in the Municipal Act or the regulations under it which the City does not have authority to regulate including:
 - i. the sale or service of liquor or any condition respecting containers of, or facilities for the return of, alcoholic beverages;
 - ii. a courier or transportation business or owners or drivers of vehicles used in courier or transportation business;
 - iii. a business of trading in real estate or persons registered under the Real Estate and Business Brokers Act who are carrying on business as real estate brokers, salespersons or brokerages;
 - iv. electricians, master electricians or electrical contractors;
 - v. any requirement for a tradesperson to complete examinations or obtain any certificate issued by the City in relation to their competence to perform the trade if they hold an Ontario College of Trades certificate of qualification in that trade;

- vi. a manufacturing or an industrial business, except to the extent that it sells its products or raw material by retail;
- vii. the sale of goods by wholesale; or
- ~~viii.~~ the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources;
- d. short-term rentals, which are regulated by the City's Short-Term Rental By-law;
- e. dog kennels, which are regulated by the City's Kennel Licensing By-law; and
- e.f. non-commercial sales such as the sale of second-hand goods on digital platforms or at yard sales.

Part II. Interpretation

Headings

~~6.5.~~ The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect the interpretation of the by-law.

References to Applicable Law

~~7.6.~~ All references to applicable law are ambulatory and apply as amended from time to time.

No Relief of Duties

~~8.7.~~ The provisions of this by-law or issuance of a business licence ~~shall~~does not relieve any person operating a business from provincial business registration requirements or the requirements of any applicable by-law, act or regulation.

Definitions

~~9.8.~~ For the purposes of this by-law:

"Business" means any hawker peddler operating in the City or any business wholly or partly Operating in the City even if the business is Operating from a location outside the City and includes organization or enterprising entity engaged in commercial, industrial or professional activities, for profit or otherwise, with an office or place of business located within the City, and includes but is not limited to:

- a. trades and occupations;
- b. exhibitions, concerts, festivals and other organized public amusements, held for profit or otherwise, that have on-site vendors;
- c. the sale or hire of goods or services on an intermittent or one-time basis ~~and the activities of a Hawker Peddler;~~ and
- d. the display of samples, patterns or specimens of goods for the purpose of sale or hire;

"Business Licence" means a valid licence issued by the City to a business pursuant to this by-law;

"City" means the Corporation of the City of Owen Sound and a reference to the City is a reference to its geographical area or to the municipal corporation, as the context requires;

"City Clerk" means the Clerk of the City or their designate;

"Council" means the Council of the City;

"Enforcing Officer" means ~~and includes~~ a Police Officer of the Owen Sound Police Service; a By-law Enforcement Officer, Building Inspector, Fire Chief, Fire Prevention Officer or the Chief Building Official, appointed by the City; and the Medical Officer of Health of the Health Unit or their designate;

"Hawker Peddler" means a person operating a business in the City, on a temporary basis or without leasing for longer than three months, or without owning property in the City, including operating by way of:

- a. flyer or phone sales; or
- b. traveling from place to place or door to door;

"Health Protection and Promotion Act" means the *Health Protection and Promotion Act*, R.S.O. 1990, c H.7;

"Health Unit" means the Grey Bruce Health Unit;

~~"Hawker Peddler" means a Person Operating a Business in the City, on a temporary basis or without leasing for longer than three months, or without owning property in the City, including Operating by way of:~~

- c. ~~flyer or phone sales; or~~
- d. ~~traveling from place to place or door to door;~~

"Home ~~Based~~ Occupation Business" means a business within a dwelling unit or an accessory building or structure, which is an accessory use to the principle residential use by a resident therein;

"Mobile Food Business" includes street food vending carts, mobile preparation premises and catering vehicles as defined in Ontario Regulation 562 under the Health Protection and Promotion Act;

"Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, c. 25;

"Operate" or "Operating" when referring to a business, includes carrying on, conducting, maintaining, owning or keeping the business;

"Person" includes an individual, partnership, firm or corporation and any heirs, executors or legal representatives to whom the context can apply;

"Provincial Offences Act" means the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

~~"Mobile Food Business" includes street food vending carts, mobile preparation premises and catering vehicles as defined in Ontario Regulation 562 under the Health Protection and Promotion Act;~~

~~"Summer Student Business" means a Business Operating under an Owen Sound and Area Business Enterprise Centre program for a summer Business Operated by a student and also includes individual ice cream bicycles Operating between May and September of a calendar year; and~~

"Short-term rental" means all or part of a legally established dwelling that operates or offers a place of temporary residence, lodging or occupancy by way of a rental agreement or similar commercial transaction for a period of twenty-eight (28) consecutive nights or less and, for greater clarity, includes bed & breakfasts;

“Street Vendor Agreement” means an agreement between the operator of a mobile food business and the City that allows the business to operate on City property, including but not limited to sidewalks and walkways;

“Technical Standards and Safety Act” means the *Technical Standards and Safety Act, 2000*, S.O. 2000, c. 16.

Part III. General

Operation

~~10.9.~~ No person ~~shall~~may operate a business in the City without a business licence.

~~11.10.~~ No person ~~shall~~may operate a business in the City where a business licence has expired or been refused, revoked or suspended.

~~12.11.~~ No person ~~shall~~may operate a business in the City contrary to an order issued by an enforcing ~~official~~officer or a superior court of justice.

Additional Requirements

~~13.12.~~ Without limiting any provision of this by-law, no person ~~shall~~may operate a business described in column 1 of the table to this section without adhering to the requirements identified in column 2 in the same row.

Business requirements Ttable

Column 1 - Business	Column 2 - Requirements
Mobile Food Business	Set out in Schedule 'A'
Hawker and Peddler	Set out in Schedule 'B'
Home Based Occupation Businesses	Set out in the City's Zoning By-law
Bed & Breakfast	Set out in Schedule 'C'
Adult Entertainment	Set by the Owen Sound Police Services Board
Body Rub Parlour	Set by the Owen Sound Police Services Board
Escort Services	Set by the Owen Sound Police Services Board
Salvage Yards	Set by the Owen Sound Police Services Board
Secondhand Shops	Set by the Owen Sound Police Services Board
Taxi Businesses	Set by the Owen Sound Police Services Board

Part IV. Business Licence

Licence Display

~~14.~~13. Every person who operates a business in the city ~~shall~~must display a business licence as follows:

- a. in a way which is visible to the public and enforcing officers, or
- b. by carrying a copy with them while operating a hawker peddler business and showing it to any person on request.

Business Relocation and Change of Ownership

~~15.~~14. Every person who operates a business in the city ~~shall~~must reapply for a business licence if the business ~~relocates~~moves to a new ~~place~~location or changes ownership.

Application

~~16.~~15. ~~It is the responsibility of every person who applies for a business licence to~~ Every person who applies for a business licence ~~must~~ contact the ~~City's PBuilding, planning and Fire departments and the Public Health Unit~~Division before submitting a business licence application to ensure that ~~the proposed business meets all zoning regulations.~~

- ~~a. any required permits are received, and~~
- ~~b. the proposed Business meets all regulations.~~

~~17.~~16. Every person who applies for a business licence ~~shall~~must provide the following to the City in the form or manner provided by the City:

- a. ~~a~~A complete business licence application;
- b. ~~a~~A non-refundable business licence fee as set out in the City's ~~F~~fees and ~~e~~Charges ~~B~~by-law;
- c. ~~a~~A sign permit application, if required; and
- d. ~~a~~Any other document required by the City Clerk.

Approval

~~18.~~17. Council hereby delegates authority to the City Clerk to issue business licences subject to the following conditions, limits, procedures and notice requirements:

- a. upon receipt, a business licence application ~~shall~~must be circulated to City departments, and to the Health Unit as required;
- b. the Clerk ~~shall~~may not issue the business licence until all parties which were circulated on the Business Licence application have confirmed that they have no objections to the proposed business;
- c. the City Clerk may issue business licences, subject to any applicable conditions, limits or expiry dates for the following businesses:
 - i. a general business;
 - ii. a home occupation business;
 - ~~iii. a Bed and Breakfast Business;~~
 - ~~iv. a mobile food business;~~
 - ~~v.iii. a Summer Student Business;~~ and
 - ~~vi.~~iv. a hawker peddler business; and

- d. notice of all approved business licences will be included on the Council ~~a~~Agenda.

Part V. Penalty and Enforcement

Enforcement

~~19:18.~~ The City Clerk and any enforcing officer may refuse, revoke or suspend a business licence, subject to any limits in the Municipal Act, ~~t, t,~~ ~~2001,~~ under the following circumstances;

- a. non-payment of any fees, charges or outstanding fines;
- b. non-compliance with an order, condition on a business licence or any provision of this by-law or any applicable by-law, Act or regulation;
- c. as directed by Council; or
- d. the continuation of the business poses an immediate danger to the health or safety of any person or to any property.

~~20:19.~~ Any enforcing officer may:

- a. enforce the provisions of this by-law;
- b. inspect, at any reasonable time, any business which is licenced or has applied for a business licence to determine if the business complies with this by-law or any applicable by-law, Act or regulation;
- c. issue a work order, order to discontinue activity or order to do any action or thing required to bring a business into conformity with this by-law or any applicable by-law or any Act or regulation; or
- d. apply to a Superior Court of Justice for an order for a business to close where the conditions for public nuisance or lack of a business licence set out in the Municipal Act, ~~2001,~~ have been satisfied.

20. Where an enforcing officer has reasonable grounds to believe that an offence has been committed by a person, the officer may require the name, address, date of birth and proof of identity of that person, and the person shall supply the required information.

21. No person shall provide false information or give a false statement to an enforcing officer, employee and/or agent of the City in the lawful exercise of a power or duty under this by-law.

~~21:22.~~ No person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an enforcing officer, employee and/or agent of the City in the lawful exercise of a power or duty under this by-law.

Penalty

~~22:23.~~ Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to the penalty set out in the Provincial Offences Act.

~~23:24.~~ For the purposes of this by-law, each day that a contravention of this by-law continues constitutes a separate and distinct offence.

~~24:25.~~ In addition to any other remedy provided for in law, where all or part of a fine under this by-law remains unpaid, such fine may be added to the tax roll for property owned in whole or in part by the person upon whom the fine is imposed and collected as municipal taxes.

Part VI. Part VI. Conflict and Transition**Conflict**

~~25,26.~~ In the event the provisions of this by-law are inconsistent with the provisions of the Municipal Act, ~~2001,~~ its ~~r~~Regulations or any other Act, the provisions of the Act or ~~r~~Regulation shall prevail.

Terms Severable

~~26,27.~~ The terms and provisions of this by-law ~~shall beare~~ severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the by-law ~~shall will~~ continue to be in full force and effect.

Repeal and Amendment

~~27.~~ The following by laws are hereby repealed:

- a. ~~By law No. 2005-025;~~
- b. ~~By law No. 2005-115; and~~
- c. ~~By law No. 2005-125.~~

~~28.~~ Subsections 6b and 6c of By law No. 1971-3568 are hereby repealed.

~~Sections 3, 4, 5, 6, 11 and 12 of By law No. 1977-064 are hereby repealed.~~

~~29,28.~~ By-law No. 2014-150 is repealed.

Enactment

~~30,29.~~ This by-law ~~shall come comes~~ into full force and effect upon the final passing thereof at which time all by-laws, policies and resolutions that are inconsistent with the provisions of this by-law are hereby amended or repealed insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this ~~XX9th~~ day of ~~SeptemberXXX,~~
20142023.

Mayor Ian C. Boddy

Briana M. Bloomfield, City Clerk

Schedule 'A' – Mobile Food Business Regulations

Licence Application

1. In addition to the requirements set out in section 16 of this by-law, every person applying for a business licence for a mobile food business shall:
 - a. provide a photograph of the mobile food vehicle; and
 - ~~b. provide a Mobile Food Service Equipment (TSSA) form completed by a qualified inspector if fueled by propane or other cooking fuel; and~~
 - ~~c. provide proof of \$2 million liability insurance naming the City as an additional named insured which provides 30 days prior written notice of any material amendment or cancellation of the policy to the City.~~

Operation

2. Every person operating a mobile food business shall ensure that:
 - a. the mobile food business does not operate and is not on City property between the hours of 11:00 p.m. and ~~7~~8:00 a.m. the following day;
 - b. ~~accessible service is provided for any customer with a disability~~the business operates in compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Smoke-Free Ontario Act, 2017*;
 - c. the area around the mobile food business is clean and free of garbage, ~~and any grease, sidewalk markings or and snow is removed daily;~~
 - d. all health and safety regulations are followed, including but not limited to those set out in the the provisions of the Health Protection and Promotion Act, the Technical Standards and Safety Act, ~~2000~~, and National Fire Protection Association Code 96;
 - e. the business licence is displayed on the mobile food business; and
 - f. any signage complies with the City's Sign By-law.

Operating Locations

3. No person shall operate a mobile food business:
 - a. on a sidewalk or walkway which in any way blocks or creates a hazard to pedestrians; and
 - b. on any portion of a City highway or on-street parking space.
4. Subject to sections 5 and 6 of this schedule, mobile food businesses shall not be operated on property without the owner or occupier's permission.
5. To operate a mobile food business at a festival or event held in the city, the operator must:
 - a. have permission from the organizers of the event; and
 - b. operate in accordance with all event rules and regulations.
6. To operate a mobile food business on city property, including city parks and parking lots, the operator must have an approved lease or street vendor agreement with the City.

Street Vendor Agreements

- 7. Council hereby delegates authority to the City's Manager ~~of Economic Development and Tourism~~ or delegate to approve Street Vendor Agreements subject to the following:
 - a. the term of the agreement is for a calendar year or less; and
 - ~~b. approval of Street Vendor Agreements shall be determined by the best value for the City or~~ on a first come, first served basis; ~~and~~
 - ~~c. only one street vendor shall operate at a location at a time.~~

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Schedule 'B' – Hawkers Peddler Regulations

Licence Application

1. Applicants shall complete a business licence application as set out in section 16 of this by-law.

Licence Expiry

2. A hawker peddler business licence may be issued to:
 - a. a single hawker peddler business for one week or the calendar year;
 - b. organizers of a special event with multiple hawker peddlers for the duration of the event, up to one year; or
 - c. a property owner for the calendar year to permit multiple hawker peddlers to operate at the property.

Operation

3. For greater clarity, a business that has a [City](#) business licence is not required to purchase a hawker peddler business licence if their advertising involves flyer or phone sales or traveling from place to place or door to door.

Operating Locations

4. Without written consent from the City, no hawker peddler shall operate on any:
 - a. City property, including sidewalks, streets or highways; or
 - b. vacant lots in the City;

Licence Display

5. Persons ~~licenced~~[licensed](#) as hawker peddlers who are travelling door to door ~~shall~~[must](#):
 - a. carry a copy of their business licence with them; and
 - b. wear a tag identifying their name and the name of the business.

Signs

6. Signage must be displayed in accordance with the City's Sign By-law.