



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 005-2015

A BY-LAW TO LICENCE, REGULATE AND GOVERN ITINERANT VENDORS

WHEREAS pursuant to Section 150(1) to Section 153 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended a local municipality may exercise its power to license, regulate and govern any business and events carried on within the municipality;

AND WHEREAS the Council of the Corporation of the Town of Cobourg considers it desirable by implementing such licensing and registration regulations with respect to itinerant vendors;

AND WHEREAS pursuant to Section 425(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended is guilty of an offence;

AND WHEREAS pursuant to Section 429(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

1.0 INTERPRETATION

“Council” shall mean the Council of the Corporation of the Town of Cobourg;

“Garage Sale” or “Yard Sale” shall mean a sale of goods from a residential premise where the sale lasts no longer than two days, the sale from that premise occurs no more than two times per year and the second hand vendor is either the user of the goods sold, or is one of not more than three households conducting a sale of goods used by the members of those households or is a tenant or condominium association relating to a residential building

“Goods” shall mean all forms of goods, wares or merchandise, offered for sale or intended to be offered for sale;

“Itinerant Vendor” shall mean:

- (a) any person who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries or exposes samples, patterns or specimens of any goods, wares or merchandise which are delivered in the municipality afterwards, and includes any door to door business, trade or calling, transient traders and hawkers and peddlers.

(b) any person engaged in the sale of any item or service while on a public street, sidewalk or other municipal property under the jurisdiction of the Town of Cobourg;

(c) any person whose business includes soliciting, negotiating or arranging for the signing by a buyer, at a place other than the seller's permanent place of business.

"Licence" shall mean a licence issued under the authority of this by-law;

"Municipal Clerk" shall mean the Municipal Clerk of the Corporation of the Town of Cobourg;

"Non-profit" shall mean an adjective used to describe an applicant who meets one or more of the following requirements:

(a) is registered in Ontario as a non-profit corporation by the applicable provincial or federal authority or ministry;

(b) is a minor sports association or organization;

(c) is a community service organization or group that returns 100% of its net proceeds to the community for the community's benefit;

"Officer" shall mean any sworn member of the Cobourg Police Department or a Municipal Law Enforcement Officer as appointed by Council;

"Owner" shall mean the person or persons shown on the Land Registry Office record, or Municipal tax roll, as having title to the land or responsibility for it, as well as the tenant and person or persons lawfully in possession of, or exercising control over, the property;

"Person" shall mean an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person, and "Persons" has a corresponding meaning;

2.0 LICENCING PROCEDURES

2.1 An application for a licence, renewing of a licence, or a transfer of a licence shall be made to the Municipal Clerk and/or designate.

2.2 An annual itinerant vendor licence fee shall be set out within the Town of Cobourg Fees and Charges By-law.

2.3 A semi-annual itinerant vendor licence fee shall be set out within the Town of Cobourg Fee and Charges By-law.

2.4 Licences shall be issued for a maximum period of one year or a period of half a year, and shall come into effect on the date that they are issued, and expire no later than December 31st of that same year.

2.6 The Itinerant Vendor Licence Application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application as outlined below:

a) a fully completed application form as supplied by the Town;

- b) an original Criminal Record Check for an applicant who is carrying on or engaging in a trade, calling, business or occupation as an Itinerant Vendor.
- c) documentation from the applicant that they have the authority of the property owner and/or manager to operate from the site; and lists the address and premises from which the trade, business or occupation will be carried out.
- d) the appropriate licence fee required in accordance with this by-law and the fees and charges by-law;
- e) lists the name of the applicant and the applicant's permanent address; and is signed by the applicant; and
- f) the applicant must demonstrate that, in the event of an operation from a fixed location, that the proposed location is appropriately zoned to permit the sale of goods from that location, and required setbacks from any entrance, road allowance or other structures will be met and that permission has been granted from the Owner allowing the applicant to operate from their property for a specified duration;

3.0 GENERAL PROVISIONS

3.1 No person shall carry on any trade, business or occupation as an Itinerant Vendor within the Town unless that person has first obtained a valid Licence from the Municipal Clerk.

3.2 No person shall carry on any trade, business or occupation as an itinerant vendor within the Town, except in accordance with a valid licence issued by the Town pursuant to the provisions of this by-law.

3.3 No person shall carry on any trade, business or occupation for which a Licence is required under this by-law if the Licence has expired or been revoked.

3.4 No person obtaining a Licence shall:

- (a) fail to have such Licence in their possession at all times; or
- (b) fail to produce such Licence upon request.

3.5 No Licence shall be granted to an applicant for carrying out or engaging in a trade, calling, business or occupation that involves going from door to door in the community unless and until the vendor has provided the Clerk with a criminal record check confirming that the applicant does not have a criminal record for the purpose of determining whether or not they are of good character.

For the purposes of this section, an individual person employed by a firm or corporation is a person carrying on or engaged in such a trade, calling, business or occupation so as to require a determination of whether or not they are of good character; and if any investigation so made discloses a criminal record, a Licence shall not be granted except upon a resolution of the Council after due consideration of the application.

3.6 All premises or vehicles to which a Licence applies may be inspected at all reasonable times by any Officer;

- 3.7 A Licence does not supersede or suspend the application of any federal or provincial Acts or regulations or municipal by-laws including but not limited to property standards by-laws and zoning by-laws.
- 3.8 No person shall obstruct, hinder or otherwise interfere with an authorized employee or agent of the Town while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this by-law.
- 3.9 No person shall operate as an Itinerant Vendor within any area of the Town designated as part of a festival or event covered by a Road Occupancy or Special Event Permit without prior written approval of the Municipal Clerk.
- 3.10 All approved non-profit or charitable organization, as defined where the persons involved are selling for the benefit of the charitable organization lawfully operating within the Town of Cobourg must obtain a permit from the Clerk, with no associated permit fees to be paid.
- 3.11 No person shall impede or accost another person in an attempt to sell their goods.
- 3.12 No person shall sell goods of any kind on any highway, or road allowance within the Town of Cobourg as an Itinerant Vendor.
- 3.13 No person shall sell goods of any kind in any public park, public playground, or other public property within the municipal limits of the Town of Cobourg unless prior written consent is obtained from Council by the Itinerant Vendor.

4.0 LICENCE TRANSFER, REVOCATION AND SUSPENSION

- 4.1 The Municipal Clerk, upon receipt of an application for a Licence may make, cause to be made, or request, any additional documents, investigations or inspections in respect of such application for a Licence as the Municipal Clerk deems appropriate or in the interest of the general public, and any costs incurred for such inspections or documents shall be at the applicant's expense.
- 4.2 Subject to the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22, the Council may revoke any Licence; granted pursuant to this by-law, and is not bound to give any reasons for so doing and the decision of Council in this regard is not open to question or review by any court.
- (a) Without restricting the generality, any Licence may be revoked by reason of a violation of this by-law, the failure of the Licensee to comply with any of the provisions of this by-law or the failure by the Licensee to maintain the minimum standards and requirements necessary for licensing in the first instance.
- (b) Where a Licence is revoked, the Licensee shall be entitled to a refund of a part of the Licence fee proportionate to the unexpired term for which it was granted.
- 4.3 A Licence shall be required for each separate place of business.
- 4.4 The Municipal Clerk may transfer a Licence from one person to another upon the payment of a fee of \$100.00; and the particulars of such transfer shall be endorsed on the original Licence; and the various approvals

required before a Licence is issued shall also be required before the Licence is transferred.

5.0 EXEMPTIONS

5.1 A Licence shall not be required for persons selling goods:

- (a) to wholesale or retail dealers in similar goods;
- (b) which are grown, produced or manufactured in the Town of Cobourg and are sold by the grower, producer or manufacturer or his or her agent having written authority to do so;
- (c) if the goods are grown or produced by a farmer, resident in Ontario who offers for sale or sells only the goods and produce of his or her own farm;
- (d) if the goods are sold by an owner or operator of a business which has lawfully operated within the Town of Cobourg for at least twelve months prior to the date of selling and who is assessed real property tax in the Town of Cobourg in respect of premises used for the sale of such goods;
- (e) under the terms of a Direct Sales Contract as defined in and governed by the *Consumer Protection Act* R.S.O., c. C. 31;
- (f) as part of a recognized Farmer's Market lawfully operating within the Town of Cobourg;
- (g) as part of an approved craft or trade show operating lawfully within the Town of Cobourg;
- (h) in a Garage or Yard Sale;
- (i) does not include part-time sellers of toiletries or cosmetics or sales through "at home parties";
- (j) the Town of Cobourg as part of a Municipal area of responsibility i.e. selling of dog tags.
- (k) a license is not required for events acting under a Municipal Rental Agreement with approval by the Event Coordinator.
- (l) Any Municipal directive or program approved by the Town of Cobourg Council

6.0 PENALTY

6.1 In addition to any other penalty as prescribed, the Town may suspend or revoke any Licence issued pursuant to this by-law.

6.2 Every person who contravenes a provision of this by-law is guilty of an offence and upon CONVICTION, is liable to the penalties provided for in the *Provincial Offences Act* R.S.O. 1990, C. P.33, as well as subject to the set fines set out herein Schedule "A" of this By-Law.

6.3 This by-law shall come into force and take effect on the date that the Regional Senior Justice of the Ontario Court of Justice approves each set

fine as set out in Schedule "A" for offences under this by-law, and in accordance with the *Provincial Offences Act*, R.S.O 1990 CHAPTER P.33.

7.0 SEVERABILITY

7.1 If any section, clause or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council for the Town that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof may have been declared invalid.


8.0 REPEAL

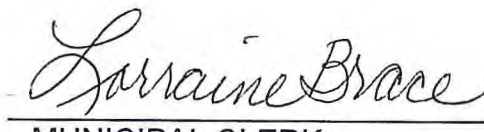
8.1 By-law No.032-2012 is hereby repealed.

9.0 EFFECTIVE DATE

9.1 This By-law shall come into full force and effect upon the date of its passing.

READ a first, second and third time and finally passed in Open Council this 12th day of January, 2015.


MAYOR


MUNICIPAL CLERK

SCHEDULE "A":

**The Corporation of the Town of Cobourg
By-Law No. 005-2015: Itinerant Vendors
Part I Provincial Offences Act**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions creating or defining offence	COLUMN 3 Set Fine
1.	Carry on any trade, business or occupation as an Itinerant Vendor without a licence.	Section 3.1	\$200.00
2.	Fail to conduct business in accordance with the Itinerant Vendors Licence	Section 3.2	\$200.00
2.	Carry on any trade, business or occupation if licence has expired or been revoked.	Section 3.3	\$200.00
3.	Failure to have licence in possession at all times.	Section 3.4 (a)	\$100.00
4.	Failure to produce licence upon request.	Section 3.4 (b)	\$100.00
5.	Interfere with a Town employee or agent carrying out an investigation, inspection, or making inquiries.	Section 3.8	\$200.00
6.	Operate as an Itinerant Vendor in any area designated as part of a festival or event without approval.	Section 3.9	\$200.00
7.	Impede or accost a person in attempt to sell goods.	Section 3.11	\$200.00
8.	Sell goods of any kind on any highway, road allowance or municipal lands.	Section 3.12	\$200.00
9.	Sell goods of any kind on public property without written consent from Council.	Section 3.13	\$200.00

NOTE: The general penalty provision for the offences listed above is Section 6.2 of By-law #0-2015, a certified copy of which has been filed.