

THE CORPORATION OF THE TOWN OF BLIND RIVER

BY-LAW 17-42

Being a By-law to provide for
the licensing and regulation of various businesses
within the Town of Blind River.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a local municipality may license and regulate any business, wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipal council may delegate by by-law various responsibilities associated with the licensing and regulation of businesses, including enforcement and inspection related to same;

AND WHEREAS the Council of the Corporation of the Town of Blind River considers it desirable and necessary to license and regulate certain types of businesses;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF BLIND RIVER enacts as follows:

1. Citation

1.1 This By-law may be cited as the "*Licensing By-law*".

1.2 All references made within this By-law shall be found within this By-law unless otherwise noted.

2. Definitions

2.1 Words shown in italicized script in this By-law shall have the meaning as follows:

- (a) **Act** means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
- (b) **Applicant** means person applying for a *license* or the renewal of a *license* under this By-law;
- (c) **Auctioneer** means a person who conducts a sale by auction;
- (d) **Business** means any business wholly or partly carried on within the Town even if the business is being carried on from a location outside the Town and includes:
 - (i) Trades and occupations,
 - (ii) Exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise,
 - (iii) The sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader,
 - (iv) The display of samples, patterns or specimens of goods for the purpose of sale or hire;
- (e) **By-law** means this Licensing By-Law;
- (f) **Certificate of Insurance** means a certified copy of a policy of insurance in the form of a certificate issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the *Insurance Act*, R.S.O. 1990, c.1.8;
- (g) **Clerk-Administrator** means the Clerk-Administrator of the Town, or his or her designate;
- (h) **Corporation** means the Corporation of the Town of Blind River;
- (i) **Council** means the Council for the Corporation of the Town of Blind River;
- (j) **Fee** means a fee in addition to the license fee, imposed by the Town on a business at any time during the term of the license for costs incurred by the Town attributable to the activities of the business, which may be included in the User Fees for Municipal Services By-Law;

- (k) **Fire Chief** means the Chief of the Blind River Fire Department, or his or her designate;
- (l) **Food** means food or drink for human consumption, and includes but is not limited to refreshments and confections including pre-packaged, prepared, wholesale, bulk or catered food;
- (m) **Food premises** means a food premises as defined in the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*, as amended;
- (n) **Hawker-Peddler** means every person who goes from place to place or to a particular place with goods, for the sale or hire of goods or services on an intermittent or one time basis; and the display of samples, patterns or specimens of goods for the purpose of sale or hire shall obtain a license for doing so from the Town;
- (o) **Highway** means a highway as defined in the *Municipal Act, 2001*, and includes a King's Highway as defined in the *Highway Traffic Act, R.S.O. 1990, c. H.8* or a road, street, bridge or highway laid out but not assumed for public use or established by by-law, whether built by a private person or corporate body;
- (p) **Individual** means a natural person and does not include a corporation, partnership or association;
- (q) **Legislation** means any provincial or federal statute or regulation or any other statutory instrument, including a code, order, permit, standard or requirement;
- (r) **License** means an authorization issued under this By-Law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;
- (s) **License Committee** means the Planning and By-Laws Committee for the Town;
- (t) **Licensee** means a person who holds a license pursuant to this By-Law;

- (u) **License Fee** means a fee imposed by the Town related to the application and issuance of a license under this By-Law;
- (v) **Non-resident** means a person who does not reside or have a regular place of business in the Town;
- (w) **Officer** means an employee of the Town who is duly appointed by Council as a Municipal Law Enforcement Officer or the Ontario Provincial Police;
- (x) **Operator** means a person who alone or with others: operates, manages, supervises, runs or controls or directs a Business and “operate” and “operation” and other words of like or intent shall be given a corresponding meaning;
- (y) **Owner** includes a person who alone or with others owns and/or has the ultimate control over a business and/or who directs the operation of a business under this By-Law and whose name appears on the license issued by the Town for such business pursuant to the By-Law;
- (z) **Person** includes a corporation and its directors and officers, sole proprietor, and partnership and the heirs, executors, assignees and administrators or the other legal representatives of an individual and their respective successors and assignees;
- (aa) **Place of business** means any place, premises or location, or part thereof, in which a business is carried on, and including but not limited to a ship, store office, a dwelling unit or vehicle;
- (bb) **Property Standards By-Law** means the Property Standards By-Law of the Town of Blind River, enacted under section 15.1 of the *Building Code Act, 1992, S.O. 1992, c.23*, that prescribes standards for the maintenance and occupancy of a property;
- (cc) **Regular place of business** means the place of business in which a business is normally carried on, but does not include a place, premises, or location in which a business is conducted on a one-time or temporary basis;

- (dd) **Resident** means a person who resides or has a regular place of business in the Town;
- (ee) **Sidewalk** means any public highway, trail or portion of a highway between the curb line or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians;
- (ff) **Sign** means any surface, structure and other component parts, which are used or capable of being used as a visual medium to attract attention to a specific subject matter for identification, information or advertising purposes and includes an advertising device or notice;
- (gg) **Town** means The Corporation of the Town of Blind River or the geographic area of the municipality as may be applicable in the context;
- (hh) **Zoning by-law** means a by-law enacted under section 34 of the *Planning Act, R.S.O. 1990, c.P.13*, which restricts the use of land within the geographical boundaries of the Town.

3.0 License Committee:

- 3.1. Sections 5-15, 21 and 24 of the *Statutory Powers and Procedures Act, R.S.O. 1990, c.S.22*, shall apply to all hearings conducted by the License Committee.
- 3.2. A person who wishes to appeal the Licensing Officer's decision to the Licensing Committee shall file an application for a hearing and pay a fee in accordance with the Town's User Fees for Municipal Services By-Law.
- 3.3. The License Committee will hold a hearing and is entitled to modify, uphold or quash the decision of the Licensing Officer or direct a license to be suspended, issued, renewed or reinstated.
- 3.4. Decisions of the License Committee shall be circulated to Council and Council shall have the authority to modify, uphold or quash the decision of the Licensing Committee.

4.0 Administration

- 4.1 The Licensing Officer is responsible for the administration of this By-Law.
- 4.2 A Licensing Officer shall have the following administrative and legislative responsibilities, including any duties that are incidental or accessory to the responsibilities noted below:
- (a) Preparing the necessary documentation and forms;
 - (b) Receiving and processing all applications for licenses and renewal of licenses;
 - (c) Issuing licenses when an application is made in accordance with the provisions of this by-law;
 - (d) Maintaining records in accordance with the Town's Record Retention By-Law;
 - (e) Generally performing all the administrative and legislative functions of a minor nature conferred upon by the Officer of this By-Law;
 - (f) Any duties that may be assigned by Council by resolution.
- 4.3 Every application for a new license or for a renewal or extension of an existing license shall be submitted to the Licensing Officer on the prescribed form.
- 4.4 Every application for a new license or a renewal or extension of a license shall be accompanied by the full license fee, as set out in the applicable schedules in the User Fees for Municipal Services By-Law for the Town.
- 4.5 Except as otherwise provided in the applicable schedule, the license fee for the current year will be waived if an application for a **new license** is submitted thirty (30) days prior to the license expiry date (December 31st) and is accompanied by the full license fee for the next fiscal and/or calendar year.
- 4.6 The full license fee shall be paid, regardless of the date of application
- 4.7 Every license shall be renewed yearly on or before the 1st day of March to receive renewal discount. Renewed license fees after 1st day of March will pay full license fees.

- 4.8 Every application for a license will be reviewed to determine whether it meets all the provisions set out in Part 5 – General Regulations and any special conditions set out in the applicable schedule for that business.
- 4.9 Adjustments in the license fee structure shall be reviewed annually by the Clerk-Administrator in conjunction with the User Fees for Municipal Services By-Law.
- 4.10 As part of the license application review process, an application will be circulated by the applicant to the various departments and agencies set out in the applicable schedule for that business, unless otherwise authorized by the Licensing Officer.
- 4.11 Where an application is circulated to a department or agency in accordance with the applicable schedule for that business, the department or agency is entitled to require an inspection of the proposed place of business.

5.0 General Regulations

- 5.1 No person shall hold, own, operate, sell, carry on or engage in any business set out in Section 8 of this By-Law within the Town of Blind River without first having obtained a license pursuant to this By-Law.
- 5.2 A license shall be taken out under this By-law by every Person who:
 - (a) owns or operates a Restaurant, Food Service or Tavern;
 - (b) sells Retail;
 - (c) owns or operates a Cleaning Service;
 - (d) owns or operates as a Beautician or Wellness Services;
 - (e) owns or operates a Leisure Service;
 - (f) sells Auto/Marine/Sport Supplies; or
 - (g) is engaged in the business of Transportation.
- 5.3 The defined terms for the businesses listed within subsection 5.2 are found in Schedule “A” attached to this By-law.

- 5.4 A person is not eligible for a Hawkers & Peddler license unless he or she has provided a valid photo I.D to the Licensing Officer and must be worn at all times while working.
- 5.5 A person is not eligible for a license unless his or her application is accompanied by the full license fee for that business, as set out in the applicable schedule or as determined under Sections 4.4 or 4.5.
- 5.6 Except as otherwise provided in the applicable schedule, a license is valid for one (1) calendar year and shall expire unless it is renewed prior to the license expiry date.
- 5.7 A licensee is not eligible for the renewal or extension of a license unless the licensee has provided a complete application form approved by the Licensing Officer and has paid the full license fee for that business, as set out in the applicable schedule.
- 5.8 No person shall falsely identify himself/herself as having a license issued under this By-law and no person shall publish or cause to be published any representation that the person is licensed under this By-Law if the person is not licensed.
- 5.9 A license is transferable from person to person when applicable fees are paid.
- 5.10 A person shall carry on business only in the name in which the business is licensed.
- 5.11 For the purpose of this By-Law, a business shall be deemed to be carried on within the Town if any part of the business is carried on in the Town, even if the business or a portion thereof is being conducted from a location outside the Town.
- 5.12 No person shall carry on any business for which a license is required under this By-Law:
 - (a) if the license has expired or been revoked; or
 - (b) while the license is under suspension.

- 5.13 If work that requires a building permit under the *Building Code Act, 1992* is to be undertaken on the property to be used for carrying on a business, a person shall not submit an application for a license until the work has been completed in accordance with the requirements of the *Building Code Act, 1992*.
- 5.14 A person is not eligible to hold a license if the proposed use of the land, building or structure is not permitted by a zoning by-law that applies to the property, unless the land, building or structure was lawfully used for this purpose on the day of the passing of the zoning by-law, or amendments thereto.
- 5.15 A person is not eligible to hold a license if the property to be used for carrying on the trade, business or occupation does not conform with all applicable law, including but not limited to the Property Standards By-Law, the *Fire Protection and Prevention Act, 1997*, S.O. 1994, c.4 and the *Ontario Fire Code*, and the *Health Protection and Promotion Act*, R.S.O. 1990, c.H.7.
- 5.16 Despite Section 5.12, a conditional license may be issued to an applicant if it is determined that there are deficiencies that can be remedied within a specified time frame in order to bring the matter into compliance, and if the deficiencies are not likely to constitute a danger to the public.
- 5.17 A conditional license shall set out the duration of the conditional license, and if the applicant fails to bring the matter into compliance with any legislation or this By-Law within the time specified, then the license shall become null and void.
- 5.18 A person is not eligible to hold a license if the operation of his or her business does not conform with the applicable standards and requirements of:
- (a) All applicable by-laws of the Town,
 - (b) All applicable legislation, with respect to the qualifications of the persons carrying on or engaged in the business and with respect to the vehicles and equipment used for the purposes of the business.

- 5.19 Where any order issued by the Licensing Officer has been appealed and upheld by the License Committee, or where there has been no appeal requested, the Licensing Officer may suspend or revoke the license.
- 5.20 A license shall display the license in a prominent place in its place of business or as outlined in the applicable schedules.
- 5.21 In the case of vehicles and other equipment used for the purposes of the business, a license shall display the license or evidence of the license prominently on each vehicle and other equipment or as outlined in the applicable schedules.
- 5.22 A licensee who does not have a place of business shall carry the license on his or her person at all times while carrying on the business.
- 5.23 Every licensee shall produce the license for inspection on the request of an Officer.
- 5.24 Every person carrying on a business for which a license is required under this By-Law shall allow, at any reasonable time, an Officer to inspect his or her place of business and any other premises, equipment, vehicles or property used for purposes related to the business, other than a room or place being used as a dwelling, to determine compliance with the requirements of this By-Law.
- 5.25 No person shall obstruct, hinder or otherwise interfere with an Officer while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-Law. Withholding, destroying, concealing or refusing to furnish any information or thing required by an Officer in the exercise of a power or the performance of a duty under this By-Law shall be deemed to be hindering the enforcement of this By-Law.
- 5.26 No licensee shall construct or equip a place of business or other premises used for the business so as to hinder the enforcement of this By-Law.
- 5.27 Every licensee shall maintain its place of business in a clean and sanitary condition as determined in the sole discretion of an Officer or Licensing issuer, with adequate measures for the storage and disposal of garbage

and waste and sufficient levels of illumination to permit the safe use of the premises.

- 5.28 Every licensee shall hold general commercial liability insurance in the amount of \$ 2,000,000.00, unless otherwise identified in a schedule to this By-Law, for the duration of the license and provide to the Licensing Officer a Certificate of Insurance for the required coverage prior to a license being issued.

6.0 Inspection

- 6.1 An Officer or other duly appointed individual may at any reasonable time enter on any land for the purpose of carrying out an inspection to determine whether or not the provisions of this By-Law are being complied with, a direction or order is being complied with, a condition of a license is being complied with, or a court order is being complied with.
- 6.2 Despite the provisions of this Part, no person shall enter or remain in any room or place actually being used as a dwelling unless,
- (a) The consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under a warrant as authorized by the provisions of the Municipal Act, 2001;
 - (b) An order issued under the provisions of the Municipal Act, 2001;
 - (c) A warrant issued under the provisions of the Municipal Act, 2001;
 - (d) The delay necessary to obtain an order under the provisions of the Municipal Act, 2001, to obtain a warrant under the provisions of the Municipal Act, 2001, or the consent of the occupier would result in the immediate danger to the health or safety of any person; or
 - (e) An Officer or any other duly appointed individual has given notice of its intention to enter to the occupier of the land as required under the provisions of the Municipal Act, 2001 and the entry is authorized under the provisions of the Municipal Act, 2001.
- 6.3 The Licensing Officer may waive the requirement for any inspection, approval or documentation as may be required pursuant to this By-Law where such inspection, approval or documentation is not applicable to the

carrying on of the business which is licensed or required to be licensed under this By-Law.

- 6.4 For the purposes of an inspection, an Officer or other duly appointed individual may:
- (a) Require the production for inspection of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purposes of making copies or extracts;
 - (c) Require information from any person concerning a matter related to the inspection; and,
 - (d) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 6.5 Where a sample is taken under Section 6.4, the sample shall be divided into two parts, and one part shall be delivered to the person from whom the sample was taken, if the person so requests at the time the sample is taken and provides the necessary facilities. If a sample has been taken and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.
- 6.6 A receipt shall be provided for any document or thing removed and the document or thing shall be promptly returned after the copies or extracts are made.

7.0 Power To Refuse/Renew/Revoke Or Suspend A License

- 7.1 The Licensing Officer may refuse to issue a license, refuse to renew a license or may revoke a license or suspend a license or impose terms and conditions on a license.
- 7.2 If it is determined that an application meets the requirements of this By-Law and all circulated agencies, the Licensing Officer will issue the license if the fee has been paid.

- 7.3 If it is determined that an application does not meet the requirement of this By-Law or is objected to by a circulated agency, the Licensing Officer will refuse to issue the license and will refund the license fee.
- 7.4 If, at any time the Licensing Officer determines, as a result of evidence that is provided that the operation of a licensed business does not conform to the requirements of this By-Law, the Licensing Officer may suspend or revoke the license.
- 7.5 A person whose application for a new license or a renewal of a license has been refused or a person whose license has been suspended or revoked may, within fourteen (14) days of being notified of the decision of the Licensing Officer, apply to the License Committee for a review of the decision.
- 7.6 If no appeal is registered by the applicant or licensee within fourteen (14) days of the notice from the License Committee, the recommendation of the Licensing Officer is final.
- 7.7 The Clerk, upon receipt of a written request from the applicant or licensee within the time limit specified in Section 7.5, shall schedule a hearing before the License Committee and send written notice of the hearing to the applicant or licensee, which notice may be personally delivered, sent via facsimile, by email or sent by regular or registered mail, to the address set out in the application for license unless the request for a hearing specifies a different address.

8.0 Exemptions

- 8.1 The requirement to obtain a license under this By-Law does not apply to a business that is engaged exclusively in the sale of goods by wholesale.
- 8.2 The requirement to obtain a license under this By-Law does not apply to those persons or classes of business that are exempted in a schedule to this By-Law.
- 8.3 The Town is exempt from the provisions of this by-Law.

- 8.4 Notwithstanding any other provisions of this By-Law, any carnival and any vendor selling products or merchandise at special events only and not at any other location within the Town and who is operating under the “Town of Blind River Special Events By-Law and Policy” shall be exempt from the requirement to obtain a license under the provisions of this By-Law.
- 8.5 No license is required by persons who are agents or employees of non-profit, charitable organizations, religious or educational institutions, who are selling for the benefit of the charitable organization, religious or educational institution.
- 8.6 No license is required for hawking, peddling or selling goods, wares or merchandise for a craft show including the exhibiting or offering for sale, on a temporary basis at one location by Canadian crafts people for goods, wares or merchandise which they themselves have produced.

9.0 Schedules: Additional Conditions for Individual Businesses

- 9.1 The following schedules are attached hereto and form an integral part of this By-Law:
- (a) Schedule B Sale of Fireworks
 - (b) Schedule C Taxi and Limousine Operators
 - (c) Schedule D Home Occupation/Industry

10.0 Enforcement

- 10.1 The provisions of this By-Law shall be enforced by an Officer.

11.0 Offences and Penalties

- 11.1 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine of not less than \$ 500.00 not more than \$ 100,000.00.

- 11.2 A director or officer of a corporation who knowingly concurs in the violation or contravention by a corporation of any provision of this By-Law is guilty of an offence and, upon conviction, is liable to a minimum fine of not less than \$ 500.00 and a maximum fine of not more than \$ 10,000.00.
- 11.3 An offence under this By-Law constitutes a continuing offence and for each day or part of a day that the offence continues, the minimum fine shall be \$ 500.00 and the maximum fine shall be \$ 10,000.00.
- 11.4 Upon a conviction being entered, the Court in which the conviction was entered and any Court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed in this By-Law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

12.0 Interpretation and Validity

- 12.1 If a court of competent jurisdiction declares to be invalid, unenforceable, illegal or beyond the powers of Council to enact, any provisions or parts of any provisions of this By-Law, it is the intention of Council in enacting this By-Law that the remainder of this By-Law shall be deemed to be separate and independent therefrom and that the remainder of this By-Law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to the law.
- 12.2 Any reference to a statute, regulation or other legislation in this By-Law shall include such statute, regulation or other legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.
- 12.3 The terms in this By-Law shall be construed with all changes in number and gender as may be required by the context.

13.0 Conflict With Any Other By-Law

13.1 In the event of any conflict between any provisions of this By-Law and any other by-law enacted by the Town, the provisions of this By-Law shall prevail.

14.0 Effective Date

14.1 This By-Law shall come into full force and effect on January 1, 2018 at which time all by-laws and/or resolutions that are inconsistent with the provisions of this By-Law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-Law.

PASSED IN OPEN COUNCIL THIS 21st DAY OF AUGUST, 2017.



Mayor

Clerk Administrator

CERTIFICATION BY THE CLERK:

I, K. Scott, Clerk Administrator of the Corporation of the Town of Blind River, do hereby certify that the above is a true certified copy of By-Law No. 17-42 which was passed in Open Council on the 21st day of August, 2017.

K. Scott