



THE CORPORATION OF THE TOWN OF GODERICH

BY-LAW NO. 40 OF 2006

**A BY LAW TO AMEND BY-LAW 106 OF 2004, BEING A BY-LAW TO LICENCE,
REGULATE AND GOVERN OUTDOOR CAFES, MOBILE CANTEENS AND
REFRESHMENTS STANDS, AND HAWKERS AND PEDDLERS IN THE TOWN
OF GODERICH**

WHEREAS Council, on a recommendation of the Board of Management of the Business Improvement Area, had been request to amend By-Law 106 of 2004 with regards to Part 3, Hawkers, Peddlers and Transient Traders, by adding a section h) to the By-Law;

BE IT THEREFORE RESOLVED that By-Law 106 of 2004, Part 3, Hawkers, Peddlers and Transient Traders to point h) be added as follows;

Part III Hawkers, Peddlers and Transient Traders

2. h) Sale in Community Facilities Prohibited

Any hawker, peddler, and/or transient trader applying to the Town of Goderich to obtain the specified license, shall identify the municipal address and location(s) where s/he plans to conduct sale activities, and no license shall be granted and no sale(s) shall take place on any lands that are zoned to permit, or be used as, as community facility.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10th
DAY OF APRIL, 2006.**

MAYOR, Deb Shewfelt

CLERK, Larry J. McCabe

**THE CORPORATION OF THE TOWN OF GODERICH
BY-LAW NO. 106 OF 2004**

A By-law to license, regulate and govern outdoor cafes, mobile canteens and refreshment stands, and hawkers, peddlers and transient traders, in the Town of Goderich, and to repeal By-law No. 43 of 1997, By-law No. 75 of 2002 and By-law No. 76 of 2002.

WHEREAS, pursuant to the provisions of Part IV of *Municipal Act*, S.O. 2001. c. 25, as amended, the Council of the Corporation of the Town of Goderich may pass by-laws for licensing, regulating and governing business;

AND WHEREAS Section 150 of the *Municipal Act*, allows a municipality to license, regulate and govern any business wholly or partially carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS in accordance with Section 150(4)(a) and (b) of the *Municipal Act*, proper notice of a public meeting was given, and a public meeting was held at which any persons who attended had an opportunity to make representation with respect to this By-law;

AND WHEREAS pursuant to Section 150(2) of the *Municipal Act*, the Council of the Corporation of the Town of Goderich is exercising its licensing power under this section, including imposing conditions, for one or more of the following purposes:

- 1) Health and safety
- 2) Nuisance control
- 3) Consumer protection

AND WHEREAS pursuant to Section 150 (3) of the *Municipal Act*, the following businesses are licensed for the following reasons:

“MOBILE CANTEEN,” “OUTDOOR CAFE,” and “REFRESHMENT STAND” to ensure that the canteens, cafes and refreshment stands are not hindering vehicle or pedestrian traffic and/or causing a hazard in any way and/or having a negative aesthetic impact on the Municipality which would fall under nuisance control.

“HAWKER, PEDDLER AND TRANSIENT TRADER” for the purpose of ensuring that the business is not a nuisance by hindering vehicles or pedestrian traffic and/or causing a hazard in any way and to protect the consumer who is purchasing the products being sold.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF GODERICH ENACTS AS FOLLOWS:

PART I - Outdoor Cafes

1. For the purpose of this by-law:
 - a) "cafe" includes any area where seating is provided for the serving or consumption of food or beverage;
 - b) "Town" means the Corporation of the Town of Goderich.
 - c) "Town-owned property" shall include property owned by the Town of Goderich and shall include all road allowances and parks;
 - d) "highway" includes the untravelled portion of a roadway, including sidewalks and boulevards;

- e) "person" includes, without limiting the generality thereof, any individual, body, group, organization or company, whether incorporated or not, and shall include the "applicant" under this by-law.
2. No person shall place or authorize the placing of, or operate a cafe, cart or stand on any highway within the Town or on Town-owned property without a written consent from the Town. Such written consent shall be in the form of a Town licence issued by the Town Clerk or his designate.
3. An applicant may apply for consent to use Town-owned property or part thereof in the form and content as required by the Town and such application shall include such drawings and other information as deemed necessary by the Town.
4. The operation of cafes or retailing on Town owned property under this by-law is exempt from any parking requirements.
5. In complying with the requirements of this by-law, the applicant shall ensure that:
 - a) sufficient, unobstructed pedestrian access is maintained along the sidewalk or walkway and such access is also maintained to any adjacent planter or light pole. The distance from the curb to the outside edge of cafe area is to be a minimum distance of two metres.
 - b) sufficient litter containers are provided and maintained by the applicant;
 - c) the area is kept clean of any litter, garbage, waste or refuse at all times;
 - d) the area is cleaned of any residue, spoil or spill;
 - e) unless special consent is granted, no permanent fixtures or apparatus are affixed to the ground or wall or any object and all furniture must be of a commercial weight and construction.
 - f) unless special consent is granted, all components of the cafe, shall be removed each evening after the closing of the business operations and shall not be replaced until the commencement of business operations on the next business day and cafes must stop serving by 11 p.m. each day.
 - g) unless otherwise authorized, cafe seating shall be adjacent to the building and shall be immediately in front of or adjacent to his place of business.
 - h) the cafe does not interfere with the normal care and maintenance of the Town owned property.
6. The granting of a consent under this by-law may be for such time period and under such conditions as determined by the Town.
7. The Town may, at any time, revoke its consent, and the Applicant shall, upon receiving notice in writing from the Town, cease operations on the day specified in said such notice. Any person operating a cafe, after said specified date shall be deemed to be operating without the consent of the Town.
8. The granting of a consent under this by-law shall not preclude the requirements of any other by-laws of the Town or any other regulations pertaining thereto. The Applicant covenants to use the area in a proper and orderly manner, and not to permit anything to be done upon the area which is in violation of any by-law of the Town in force during the said term, or which may create a nuisance or be objectionable; provided, however, that the orderly use of the area shall not be deemed to be a nuisance or to be objectionable.
9. The following fee for consent shall be for a one-year period or portion thereof, said period expiring on December 31 in each year, and is payable before a consent is

granted and is non-refundable:

Cafe - \$70.00 per year

10. The Applicant shall, at all times, indemnify and save harmless the Town of Goderich from all loss, costs and damages which the Town may suffer, be at or be put to for or by reason or on account of any matter or thing which may occur, be done or arise by reason of the use of the area, or of any other property of the Town, to gain ingress to or egress from the area or anything which may be done thereon or which may be neglected to be done thereon by the applicant, his agents, servants, or others.
11. The applicant shall provide and maintain at his/its sole expense, liability to cover all operations of the owner and property damage insurance in the minimum amount of two million dollars (\$2,000,000.00), to protect the Town as owner of the area against all liability. The Town shall be added as an additional named insured; the policy shall not be lapsed, cancelled or materially changed without at least 30 days prior written notice to the Town; and that the Town will require proof of the above insurance by means of a certificate of insurance.
12. Upon the termination of such privilege, the highway or sidewalk shall be restored to its former condition at the expense of the person to whom the privilege was granted, by filling in the area or opening or removing said object, or otherwise as may be required in the by-law. Payment or such annual or other charge and expense incurred by the municipal corporation in restoring the highway or sidewalk to its former condition may be enforced in like manner as taxes that are due and payable.
13. Any person who contravenes any of the provisions of this by-law is guilty of an offence and shall, on conviction thereof, be subject to the penalties provided for in the *Provincial Offences Act*.
14. Except for food or refreshment, the provisions of this by-law shall not apply to the owner or operator of a business who:
 - a) sells or offers for sale goods, wares or merchandise or exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality thereafter, which are normally sold from his place of business, and,
 - b) sells or offers for sale such goods, wares or merchandise or exposes such samples, patterns or specimens from the sidewalk or open area immediately in front of or adjacent to his place of business,

provided that :

- i) no goods, wares or merchandise or samples, patterns or specimens are:
 - a) placed on the roadway,
 - b) placed on the sidewalk in such a way as to obstruct the flow of pedestrian traffic, (minimum unobstructed width 2 metres).
 - c) placed in any landscaped areas including grass, gardens, planters, etc.
- ii) the goods, wares or merchandise or samples, patterns and specimens that are placed on open areas immediately adjacent to the place of business are placed in front of, or adjacent to, property owned or leased by the owner or operator of the business.
- iii) all goods, components shall be removed at the close of business each day.
- iv) the applicant shall, at all times, indemnify and save harmless the Town of Goderich from all loss, costs and damages which the Town may suffer, be at or be put to for or by reason or on account of any matter or thing which may occur, be done or arise by reason of the use of the area, or of any other property of the Town, to gain ingress to

or egress from the area or anything which may be done thereon or which may be neglected to be done thereon by the applicant, his agents, servants, or others.

- v) The applicant shall provide and maintain at his/its sole expense, liability to cover all operations of the owner and property damage insurance in the minimum amount of two million dollars (\$2,000,000.00), to protect the Town as owner of the area against all liability. The Town shall be added as an additional named insured; the policy shall not be lapsed, cancelled or materially changed without at least 30 days prior written notice to the Town; and that the Town will require proof of the above insurance by means of a certificate of insurance.

15. The provisions of this by-law shall come into force and effect on the 1st day of January 2005.

16. By-law No. 43 of 1997 is repealed effective January 1, 2005.

PART II - Mobile Canteens and Refreshment Stands

For the purpose of this by-law:

- a) “refreshment stand” means a food stand, booth or temporary set-up that is not a restaurant or mobile canteen from which food is sold or prepared for sale and for consumption to the public.
- b) “mobile canteen” means a vehicle from which food or drink is offered for sale or sold to the public.

No person nor his agent, owning and/or operating a refreshment stand or mobile canteen in the Town of Goderich shall do so without having first obtained a license issued by the Corporation of the Town of Goderich.

No licence for a refreshment stand and/or for a mobile canteen shall be issued unless the required fee is paid in accordance with the following schedule:

Refreshment Stands - \$210.00
Mobile Canteens - \$210.00

Any license issued under this by-law shall be for a twelve (12) month period from the date of issue.

No refreshment stand or mobile canteen shall be operated from municipally owned property unless in accordance with the exemption section of this by-law.

The number of refreshment stands and mobile canteens will together not exceed three.

No mobile canteens or refreshment stands will be allowed in the beach area other than the Beach Hut and the Cove Rotary Club concession.

Exemptions

- a) Charitable and non-profit events, or events sponsored by organizations, such as the Festival of Lights and the Flea Market for which the net proceeds are for a charitable purpose, may be exempted from this by-law subject to the approval of Council.
- b) Profit and non-profit vendors which operate at the Flea Market on the jail property, however, shall be restricted to a total of three vendors notwithstanding Section 5 of this by-law.

9. Penalty

Every person who breaches a section of this by-law is guilty of an offence and subject to a penalty as provided under the *Provincial Offences Act*.

10. The provisions of this by-law shall come into force and effect on the 1st day of January 2005.

11. By-law No. 76 of 2002 is repealed effective January 1, 2005.

PART III - Hawkers, Peddlers and Transient Traders

For the purpose of this by-law:

- a) "Hawker" or "Peddler" includes any person, and any retailer that has an employee or agent who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Municipality afterwards.
- b) "Transient Trader" shall mean a person who passes through or by a place with only a brief stay and whose business is buying and selling or barter and also includes a corporation commencing business for a short period of time, and who offers goods, wares or merchandise for sale by auction, conducted by themselves or by a licenced auctioneer or in any other manner.
- c) "Peddling" means a trade, business or occupation, including a) the sale or hire of goods or services, and/or b) the showing, for the purpose of sale or hire, of samples, patterns or specimens of any goods or services, on an intermittent or one-time basis.
- d) "Peddling" shall be deemed to be carried on within the municipality if any part of the peddling is carried on within the municipality even if the parent trade, business or occupation is being carried out or originates from a location outside the municipality.

General Provisions

- a) Operation without License Prohibited

Except as specifically permitted in this by-law, no hawker, peddler or transient trader shall engage in peddling within the Town of Goderich without a license.

- b) Compliance with Zoning

No license shall be issued that contravenes the Town of Goderich Zoning By-law.

- c) License to be Carried

While conducting business, the licensee shall carry his/her license available for immediate production upon demand being made by a by-law enforcement officer or upon request by any other person.

- d) Failure to Produce License - An Offence

Failure to produce license on demand or request shall constitute an offence.

- e) Cancellation, Suspension - Refund

The Corporation may at any time cancel or suspend a license issued under this by-law provided that any license fee collected is refunded for the period of the cancellation or suspension.

f) Cancellation, Suspension - Privileges Discontinued

While his/her license is cancelled or suspended, the licensee shall not attempt to exercise any right conferred by such license and any attempt to do so is subject to the same penalties as if no license had been obtained.

g) Sale on Public Highways or on Adjacent Vacant Lots Prohibited

No sales are allowed from temporary outdoor displays in or upon any public street or highway or on a vacant lot adjacent thereto within the Town limits except where approved by Council.

3. License Requirements

a) Procedure

Each license shall be issued in the name of the Corporation by the Administrator or his/her designate.

b) License Period

Each license issued under this by-law shall be for the period of time indicated on the license.

c) Renewal

Following the expiry of a license, any person may apply for a new license in the same manner as a new applicant.

d) Transfer Prohibited

A person's license is not transferable to another person.

4. Fees

The license fee for hawker, peddler or transient trader individual or business shall be \$250.00 per day.

5. Exemptions

a) Special Exemptions

Notwithstanding section 2(a), the following activities and groups are exempt from the provisions of this by-law:

- Festival of Arts and Craft
- Huron County Goal flea Market
- Canadian Bible Society
- Home and Garden Show
- Goderich Car Dealership Car Show
- Celtic Festival
- B.I.A. Farmers' Market
- all events sponsored or sanctioned by the Town of Goderich
- service club events approved by Council

- charities
- churches
- schools

b) Exemption for Tax-payers Peddling Door to door

A license for *door to door* peddling is not required by a tax-payer in the municipality, his/her employee or his/her agent.

c) Exemption for Peddling from a Location

A license for *peddling from a temporary location* is not required where the peddler is acting as an agent of the producer of the product being sold and where the peddling is from a location on which the producer pays tax to the municipality.

6. Penalty

Every person who breaches a section of this by-law is guilty of an offence and subject to a penalty as provided under the *Provincial Offences Act*.

7. The provisions of this by-law shall come into force and effect on the 1st day of January 2005.

8. By-law No. 75 of 2002 is repealed effective January 1, 2005.

READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS THIRTEENTH DAY OF DECEMBER 2004

MAYOR

CLERK