



THE CORPORATION OF THE TOWN OF GODERICH

BY-LAW NO. 123 OF 2016

A BY-LAW TO LICENCE, REGULATE, PROVIDE STANDARDS AND GOVERN OUTDOOR CAFES, MOBILE CANTEENS, REFRESHMENT STANDS, HAWKERS AND PEDDLERS, IN THE TOWN OF GODERICH, AND TO REPEAL BY-LAW 106 OF 2004, BY-LAW 40 OF 2006 AND BY-LAW 82 OF 2013

WHEREAS, pursuant to the provisions of Part IV of *Municipal Act*, S.O. 2001. c. 25, as amended, provides that a local municipality may pass by-laws for licensing, regulating and governing business;

AND WHEREAS Sections 150 and 151 of the *Municipal Act*, allow a municipality to licence, regulate, provide standards and govern 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 Council of the Town of Goderich considers it desirable and necessary to licence, regulate and govern outdoor cafes, mobile canteens and refreshment stands for the purposes of Health and Safety, to ensure that outdoor cafes, mobile canteens and refreshment stands be inspected to meet certain health and safety standards prior to issuance of a licence;

AND WHEREAS the Council of the Corporation of the Town of Goderich considers it desirable and necessary to licence, regulate and govern outdoor cafes, mobile canteens, refreshment stands and hawkers and peddlers for the continuing purposes of Nuisance Control, promote professional behaviour, fair dealing amongst participants in the industry or occupation, ensure courteous treatment and health and safety, and to limit and mitigate unsightliness, unnecessary noise, nuisance or disruption for clients and the general public;

AND WHEREAS the Council of the Corporation of the Town of Goderich considers it desirable and necessary to licence, regulate, provide standards and govern mobile canteens, refreshment stands, and hawkers and peddlers for the purposes of Consumer Protection, to enhance and encourage equal, fair and courteous treatment of clients in providing services, promote accountability, support appropriate and good business practices;

AND WHEREAS pursuant to Section 151 and Section 160 of the *Municipal Act*, the Council of the Town is exercising its licensing power under these sections, including imposing conditions, for of the following purposes:

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

AND WHEREAS pursuant to Section 151 (4) of the *Municipal Act*, the following businesses are licenced for the following reasons:

“MOBILE CANTEEN,” “OUTDOOR CAFE,” and “REFRESHMENT STAND” to ensure that mobile canteens, outdoor cafes and refreshment stands meet health and safety standards, and are not hindering vehicular 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.

“HAWKERS AND PEDDLERS” for the purpose of ensuring the business is not a nuisance by hindering vehicular or pedestrian traffic and/or causing a hazard in any way, and to protect consumers by monitoring the goods and merchandise offered for sale and the manner in which those items are sold;

AND WHEREAS a public meeting relating to this by-law was held on March 14, 2016 in accordance with the Town's Public Notice By-law;

AND WHEREAS Council deems it necessary to create set fines at \$110.00;

AND WHEREAS for the purpose of proceedings under Part I of the Provincial Offences Act, the amount of fine set by the court for an offence is such amount as may be set by the Chief Judge of the Ontario Court (Provincial Division);

AND WHEREAS a copy of the Judge's approved set fine schedule will be attached to this By-Law;

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

DEFINITIONS FOR THE PURPOSE OF THIS BY-LAW

"Clerk" shall mean the Clerk for the Corporation of the Town of Goderich or his/her designate;

"Downtown Area" shall mean the area bounded by the north side of Elgin Avenue, the west side of Victoria Street, the south side of Nelson Street, and the east side of Waterloo Street and includes Courthouse Square and Courthouse Park.

"Hawkers and Peddlers" shall mean 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, including packaged food, 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 and unless exempted under Part III (10), this shall include any person or company who assembles groups of vendors to participate in a sale in a particular place or door-to-door canvassing;

"Highway" shall mean any provincial or municipal highway within the geographic limits of the Town and includes sidewalks, boulevards and all municipally owned property between privately owned properties;

"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 offered for consumption to the public;

"Licence" shall mean a licence issued by the Town of Goderich pursuant to the provisions of this by-law;

"Licencee" shall mean an individual, body, group, organization or company, whether incorporated or not, to whom a licence has been issued;

"Mobile Canteen" means a mobile vehicle from which food is sold or prepared for sale and for consumption to the public;

"Outdoor Cafe" includes any area on Town-owned property where seating is provided for the serving or consumption of food or beverage and does not include as a component, food preparation;

"Peddling or Hawking" means a trade, business or occupation, including a) the sale or hire of goods or services, including packaged food, 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. It shall be deemed to be carried on within the municipality if any part of the peddling or hawking 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;

"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;

"Town" means the Corporation of the Town of Goderich;

"Town-owned property" shall include property owned by the Town of Goderich and shall include all road allowances and parks;

PART I - Outdoor Cafes

1. No person shall place or authorize the placing of, or operate a cafe, on any Town-owned property, or any part thereof, without prior written consent from the Town. Written consent shall be in the form of a licence issued by the Town Clerk or his/her designate. Individuals seeking consent to operate an outdoor cafe on Town-owned property shall submit their request in writing to the Clerk and the request shall include drawings and any other information deemed necessary by the Town.
2. Licenced outdoor cafes on Town owned property are exempt from any parking requirements.
3. To keep a licenced outdoor cafe in good standing the licensee shall ensure:
 - a) sufficient, unobstructed pedestrian access is maintained along the sidewalk or walkway and such access is maintained adjacent to any planter or light pole. The required minimum distance to be maintained from the curb to the outside edge of cafe area is two metres;
 - b) sufficient litter containers are provided and maintained by the licensee;
 - c) the outdoor cafe area is kept free of any litter, garbage, waste or refuse at all times;
 - d) the area is kept free of any residue, spoil or spill;
 - e) patio enclosures must be anchored to the ground or wall and upon termination or expiration of an outdoor cafe licence, the sidewalk or walkway shall be restored to its former condition at the expense of the person to whom the privilege was granted, by repairing the area or opening or removing objects, or otherwise as may be required in the licence;
 - f) all furniture used for an outdoor cafe must be of a commercial weight and construction;
 - g) the outdoor cafe must stop serving food and beverages by 11 p.m. each day;
 - h) unless special permission has been granted by Council, cafe seating shall be located immediately adjacent to the building conducting the business;
 - i) the cafe does not interfere with the normal care and maintenance of Town owned property;
 - j) the cafe must comply with the requirements of the LCBO, if applicable; and
 - k) activities in the licenced area do not violate any Town by-law in force during the term of the licence, or allow uses which may create a nuisance or be objectionable. Town staff will have the authority to decide and will advise licensees of activities which are a nuisance or objectionable.
4. The Town may cancel or suspend a licence for good and sufficient cause as determined by the Town, in which event the licence fee is nonrefundable. Upon such cancellation, the Town shall provide the reason(s) to the licensee.
5. Unless there is a specified period of time stated in a licence, licence fees shall be for a period not exceeding one-year, said period expiring on December 31 in each year, and is payable before a licence is granted and is non-refundable. The licence fee is contained in the

Town's Consolidated Fee By-law and the Town has the authority to attach conditions to the licence.

6. The licensee 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/her agents, servants, or others.
7. The licensee shall provide and maintain at their sole expense, liability insurance 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 proof of the above insurance will be provided to the Town by means of a certificate of insurance and prior to the issuance of a licence.
8. Transfer of a licence to another person or business owner is prohibited.
9. The issuance of a licence under this Part does not relieve the licensee from adhering to the requirements of any other Town by-law or any other regulations pertaining thereto. Other by-laws that may apply include the Town's Signage By-law.

PART II - Mobile Canteens and Refreshment Stands

1. No person shall operate a mobile canteen and/or refreshment stand within the geographic limits of the Town of Goderich or on Town owned property without a licence issued by the Town of Goderich. Unless permission has been granted from Council, licences will not be issued to operate a mobile canteen and/refreshment stand on a vacant Town owned parcel of land.
2. No person shall operate a refreshment stand or mobile canteen in beach area unless permission has been granted by Council. Licences shall not be issued which permit mobile canteen and/or refreshment stands to locate on the 'retail' side of Courthouse Square or in the beach area. The Beach Hut at the main beach and the refreshment stand at Rotary Cove are located on Town owned property and are permitted in the beach area. A mobile canteen located at the main beach, north east of The Beach Hut may be permitted under a separate lease agreement between the user and the Town subject to Council approval.
3. Prior to the issuance of a licence for a mobile canteen and/or refreshment stand the licensee shall:
 - (a) Provide a photo of the mobile canteen and/or refreshment stand to be used;
 - (b) Provide a photo of the serial number of the mobile canteen and/or refreshment stand;
 - (c) Pay the required fee in accordance with the Town's Consolidated Fee By-law;
 - (d) Provide a map identifying the location(s) for the mobile canteen(s) and/or refreshment stand(s).
4. To keep a licenced mobile canteen and/or refreshment stand in good standing the licensee shall ensure:
 - a) sufficient, unobstructed pedestrian access is maintained along the sidewalk or walkway and such access is maintained adjacent to any planter or light pole. The required minimum distance to be maintained is two meters;
 - b) sufficient litter containers are provided and maintained by the licensee;
 - c) the mobile canteen and/or refreshment stand area is kept clean of any litter, garbage, waste or refuse at all times;
 - d) the area is kept clean of any residue, spoil or spill;
 - e) unless special permission has been granted by Council, no permanent fixtures or

- apparatus can be affixed to the ground or wall or any object;
- f) unless special permission has been granted by Council, all components of the mobile canteen and/or refreshment stand shall be removed each day after the closing of the business and shall not be replaced until the commencement of business operations on the next business day;
 - g) the mobile canteen and/or refreshment stand must stop serving food and beverages by 11 p.m. each day;
 - h) unless special permission has been granted by Council, the mobile canteen and/or refreshment stand is located in accordance with the licence;
 - i) the mobile canteen and/or refreshment stand does not interfere with the normal care and maintenance of Town owned property;
 - j) activities associated with the mobile canteen and/or refreshment stand do not violate any Town by-law in force during the period of the licence term, or allow uses which may create a nuisance or be objectionable. Town staff will decide and advise licencees of activities which are a nuisance or objectionable.
5. The granting of a licence under this Part shall be for a period not exceeding one-year, and the said period expiring on December 31 in each year.
 6. The Town has the authority to attach conditions to the licence, if necessary. The conditions may include removal of garbage on a daily basis and/or a mat under the mobile canteen and/or refreshment stand.
 7. The Town may cancel or suspend a licence for good and sufficient cause as determined by the Town, in which event the licence fee is nonrefundable. Upon such cancellation, the Town shall provide the reason(s) to the licencee.
 8. The total number of licences issued pursuant to this by-law for mobile canteen and refreshment stands shall not exceed four. Individuals with licences will be issued a letter in December reminding them that their licence expires on December 31. Existing licence holders who had sales in the previous calendar year have until the last business day in January to renew their licence pursuant to Part II (3). Unused licences are available the first business day in February on a first come first serve basis pursuant to Part II (3).
 9. The issuance of a licence under this by-law does not relieve the licencee from adhering to the requirements of any other Town by-law or any other regulations pertaining thereto. Other by-laws that may apply include the Town's Signage By-law.
 10. The licencee shall, at all times, indemnify and save harmless the Town of Goderich from all loss, costs and damages which the Town may suffer from 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/her agents, servants, or others.
 11. The licencee shall provide and maintain at their sole expense, liability insurance 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 property owner against all liability. The property owner 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 property owner; and proof of the above insurance will be provided to the Town by means of a certificate of insurance and prior to the issuance of a licence.
 12. Upon termination or expiration of the mobile canteen/refreshment stand licence, the land on which the activity was conducted shall be restored to its former condition at the expense of the person to whom the privilege was granted, by repairing the area, filling in the area or opening, or removing objects, or otherwise as may be required in the licence. Payment of such annual or other charge and expense incurred by the municipal corporation in restoring the land to its former condition may be enforced in like manner as taxes that are due and payable.
 13. Transfer of a licence to another person or mobile canteen/refreshment stand is prohibited.
 14. Mobile canteen and refreshment stands being operated by one of the following

organizations for fundraising purposes are exempt from paying the mobile canteen and refreshment stand fee provided the canteen/refreshment stand does not operate in excess of three consecutive days. All other provisions of this Part apply unless special permission has been granted by Council. The listed organizations are responsible for ensuring the licencing provisions of this by-law are met. In the event there is disagreement whether the fee exemption applies, Council will make the final decision.

- a) An Ontario organization which provides service to Goderich residents and has a registered charitable status number;
 - b) An Ontario registered non-profit organization with charitable purposes which has direct benefits to Goderich residents;
 - c) Local churches, local schools and local service clubs events;
 - d) Business Improvement Area Association events; and
 - e) Events sponsored or approved by Town Council.
15. The issuance of a licence under this Part does not relieve the licensee from adhering to the requirements of any other Town by-law or any other regulations pertaining thereto. Other by-laws that may apply include the Town's Signage By-law.
16. The owner of a mobile canteen or refreshment stand is responsible for ensuring that his or her mobile canteen or refreshment stand meets all standards, approvals and requirements mandated by the Public Health Unit, the Technical Standards and Safety Authority (TSSA) and other provincial legislation regulations as applicable.

PART III – Hawkers and Peddlers

1. No person shall operate as a hawker or peddler within the geographic limits of the Town of Goderich without a license issued by the Town of Goderich. The licence shall be issued in the name of the Corporation by the Clerk or his/her designate.
2. Prior to the issuance of a licence to be a hawker or peddler the licensee shall:
 - (a) Provide a list of the goods, wares, merchandise and/or packaged foods to be sold;
 - (b) Provide the location(s) for the sale of the goods, wares, merchandise and/or packaged foods;
 - (c) In the event the licence is not being issued for door to door peddling, proof that the selected location(s) complies with the Town of Goderich Zoning By-law;
 - (d) Detail the days and times the list of goods, wares, merchandise and packaged foods will be sold;
 - (e) Provide a requested timeframe for the licence;
 - (f) Pay the required fee in accordance with the Town's Consolidated Fee By-law; and
 - (g) In the event the licence is not being issued for door to door peddling, proof by means of an insurance certificate and maintain at his/her sole expense, liability insurance 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 property owner against all liability. The property owner shall be added as an additional named insured, and the policy shall not be lapsed, cancelled or materially changed without at least 30 days prior written notice to the property owner.
3. Unless permission has been granted by Council, no licence shall be granted and no sale(s) shall take place on any lands that are zoned to permit, or to be used as, a community facility.
4. While conducting business, the licensee shall carry his/her licence and shall immediately produce it upon demand being made by a Municipal Law Enforcement Officer or upon request by any other person. Failure to produce licence on demand or request shall constitute an offence and may result in a fine.
5. The Town may cancel or suspend a licence for good and sufficient cause as determined by the Town, in which event the licence fee is nonrefundable. Upon such cancellation, the Town shall provide the reason(s) to the licensee.

6. While his/her licence is cancelled or suspended, the licensee shall not attempt to exercise any right conferred by such licence and any attempt to do so is subject to the same penalties as if no licence had been obtained.
7. No person shall allow sales 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.
8. Each licence issued under this by-law shall be for the period of time indicated on the licence. Renewal of the licence is at the discretion of the municipality and may not be renewed due to previous violations of this by-law or violations of terms and conditions of the expired licence.
9. Transfer of a licence to another person or retailer is prohibited.

10. Exemptions

- a) Town of Goderich business owners, his/her employee or his/her agent, are exempt from obtaining a licence for *door to door* peddling; however, are subject to any provincial legislation regulating door-to-door sales including but not limited to prohibited door-to-door solicitation under section 35.1 of Ontario Regulation 17/05 and disclosure requirements found under section 43.1 in Ontario Regulation 8/18 of the Consumer Protection Act, 2002.
- b) A licence for *peddling from a temporary location* is not required where a Town of Goderich business owner is peddling from a location that is:
 - a) approved by the property owner;
 - b) the property owner pays tax to the municipality; and
 - c) the location(s) complies with the Town of Goderich Zoning By-law.
- c) Except for mobile canteen and/or refreshment stands, Town of Goderich business owners and/or operators who sell or offer for sale goods, wares, merchandise and/or packaged foods that are to be delivered in the municipality thereafter and which are normally sold from his/her place of business are exempt from the provisions of this by-law.
- d) Except for mobile canteen and/or refreshment stands, Town of Goderich business owners and/or operators who sell or offer for sale goods, wares, merchandise and/or packaged foods from the sidewalk or open area immediately in front of or adjacent to his/her place of business are exempt from the licensing and fee requirements of this by-law provided that:
 - (a) no goods, wares, merchandise and/or packaged foods are:
 - (i) placed on the roadway;
 - (ii) placed on the sidewalk in such a way as to obstruct the flow of pedestrian traffic, (minimum unobstructed width 2 metres);
 - (iii) placed in any landscaped areas including grass, gardens, planters, etc.; and
 - (iv) removed at the close of business each day.
- e) The following organizations are exempt from the hawkers and peddlers fee requirements of this by-law provided the use is for fundraising purposes and the activity does not continue in excess of three consecutive days. The listed organizations are responsible for ensuring the licencing provisions of this by-law are met. Town Hall must be notified in writing when this exemption provision is being exercised and in the event there is a disagreement as to whether this exemption provision applies, Town Council will make the final decision.
 - (i) An Ontario organization which provides service to Goderich residents and has a registered charitable status number;

- (ii) An Ontario registered non-profit organization with charitable purposes which has direct benefits to Goderich residents;
- (iii) Local churches, local schools and local service clubs events;
- (iv) Business Improvement Area Association events; and
- (v) Events sponsored or approved by Town Council.

11. The licensee 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 licensee, his agents, servants, or others.
12. The licensee shall provide and maintain at their sole expense, liability insurance 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 proof of the above insurance will be provided to the Town by means of a certificate of insurance and prior to the issuance of a licence.
13. The issuance of a licence under this Part does not relieve the licensee from adhering to the requirements of any other Town by-law or any other regulations pertaining thereto. Other by-laws that may apply include the Town's Signage By-law.
14. A licence for door-to-door peddling shall not be issued for the sale of goods and services as prescribed under section 35.1 of Ontario Regulation 17/05 and disclosure requirements found under section 43.1 in Ontario Regulation 8/18 of the Consumer Protection Act, 2002.

PART IV

OFFENCE

1. 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*.

PART V

ENACTMENT

1. That the set fines shall be \$110.00.
2. That the set fines shall not come into force and effect until it is filed and approved by the Regional Senior Justice, Ontario Court of Justice.
3. That the provisions of this by-law shall come into force and effect on the 1st day of January, 2017.
4. That By-laws No. 106 of 2004, 40 of 2006 and 82 of 2013 are hereby repealed effective January 1st, 2017.
5. That all other by-laws and motions which are contrary to this By-law are hereby rescinded effective January 1st, 2017.
6. That the Mayor and Clerk are hereby authorized to execute and affix the Corporate Seal.

READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 7th DAY OF NOVEMBER, 2016.

MAYOR, Kevin Morrison

CLERK, Dwayne Evans

**TOWN OF GODERICH
OUTDOOR CAFES, MOBILE CANTEENS, REFRESHMENT STANDS, AND
HAWKERS AND PEDDLERS BY-LAW
CONSOLIDATION**

This document is a consolidation of the Town of Goderich Outdoor Cafes, Mobile Canteens, Refreshment Stands, and Hawkers and Peddlers By-Law No. 123 of 2016 and subsequent amendments made thereto. This compilation is for convenience for administrative purposes and does not represent true copies of the by-laws it contains. Any legal interpretation of this document should be verified with the Town Clerk.

This Consolidated By-Law contains:

By-Law No. 123 of 2016
and the following amendments thereto:

By-Law No. 155 of 2017

By-Law No. 34 of 2018

Consolidated as of April 19, 2018