

BY-LAW No. 2002-01

Being a By-law to license, regulate and govern any business carried on within the municipality.

WHEREAS the Municipal Act, R.S.O. 1990, Chapter M.45, Section 257.2 (1) provides that subject to the Theaters Act and the Retail Business Holidays Act, a Council of a local municipality may pass by-laws for licensing, regulating and governing any business within the municipality; and

WHEREAS the Municipal Act, R.S.O. 1990, Chapter M.45, Section 236 (17) provides that a local municipality may pass by-laws for licensing, regulating and governing transient traders; and

WHEREAS it is deemed expedient and necessary to implement such licensing for businesses and transient traders within the municipality;

NOW THEREFORE the Council of the Corporation of the Township of Dubreuilville enacts as follows:

1. DEFINITIONS

- (1) "Business" means a trade, business or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of sale or hire of samples, patterns or specimens of any goods and an activity or thing a local municipality may licence under paragraph 6 or 7 of section 236 of the *Municipal Act* and including but not limited to those businesses defined in paragraph 1.(14)(16)(17), (18) and (19); but does not include,
 - 1) a manufacturing activity or an industry, except the extent that it sells its products or raw material by retail sale;
 - 2) the selling of goods by wholesale; or
 - 3) the generation, exploitation, extraction, harvesting, renewal or transportation of natural resources.
- (2) "Chief Building Official" means the Chief Building Official of the Corporation of the Township Dubreuilville or his designate;
- (3) "Council" means the Council of the Corporation of the Township of Dubreuilville;
- (4) "Fire Chief" means the Fire Chief of the Dubreuilville Volunteer Fire Department of the Corporation of the Township of Dubreuilville or designate;
- (5) "Itinerant" means a person who offers goods, ware, or merchandise for sale by going from place to place or door to door within the municipality;

- (6) "Licence" means a licence issued under the authority of this By-Law;
- (7) "Municipality" means the Corporation of the Township of Dubreuilville;
- (8) "The Municipal Act" means the Municipal Act, R.S.O. 1990, Chapter M. 45, as amended and regulations thereto;
- (9) "Municipal Clerk" means the Clerk for the Corporation of the Township of Dubreuilville or his designate;
- (10) "Person" includes any individual, firm or occupation and the successors or other legal representative thereof, unless contents indicates otherwise;
- (11) "Police" means the local detachment of the Ontario Provincial Police having jurisdiction in the Township of Dubreuilville;
- (12) "The Provincial Offences Act" means the Provincial Offences Act, R.S.O. 1990, Chapter P33, as amended, and regulation thereto;
- (13) "Public Health Inspector" means the Public Health Inspector for the Algoma Health Unit who conducts inspections in the Township of Dubreuilville;
- (14) "Resident" means a person who has resided continuously within the Township of Dubreuilville for at least three (3) months prior to the application for a licence hereunder or has the intention of residing in Dubreuilville; and "Non-Resident" means a person who has not resided for a continuous period of three (3) months prior to such application for a licence hereunder;
- (15) "Transient Trader" means a person who offers goods, wares or merchandise for sale in any manner in the municipality:
 - 1) other than on a permanent basis, or
 - 2) on a permanent basis if the total time the person has operated the business on a permanent basis and the time the person continuously resided in the municipality immediately before beginning to operate the business on a permanent basis is less than three months.
- (16) "Zoning Administrator" means the Director of Planning and Development for the Corporation of the Township of Dubreuilville or his designate.
- (17) "Home Based Business" means a business as defined in Subsection 1(1) which is carried out either in a whole or in part from a person's personal residence.
- (18) "Professional Business" means a business providing services to clients and carried on by a person, partnership, or corporation, whereby the said business is licensed by a licensing body established by either Provincial or Federal legislation and/or regulation, including, but not limited to, the following professions; lawyers, doctors, accountants, chiropractors, physiotherapists, massage therapists, funeral homes and funeral directors.

- (19) "Retail Business" means a business that is engaged in the sale or hire of goods in any manner whatsoever, save and except for the selling of goods by wholesale.
- (20) "Service Business" means a business involved in the sale or hire of any and all services whatsoever and in any manner whatsoever, including, but not limited to, the following; auto and/or mechanical, electrical or plumbing repair and service, hair styling, funeral, delivery of goods, contracting of any kind.

2. GENERAL

- (1) No Business shall go from place to place or to a particular place temporarily or permanently within the Township of Dubreuilville with goods, wares, or merchandise, or services, for sale, or carry on exposed samples, patterns, or specimens of any goods, wares, or merchandise that are to be delivered in the Municipality afterwards without first acquiring a licence from the Township of Dubreuilville.
- (2) For the purpose of subsection 257.2(1) of the Municipal Act R.S.O. 1990, a business shall be deemed to be carried on within a municipality if any part of the business is carried on within the municipality even if the business is carried on from a location outside the municipality.
- (3) No such licence is required for a Business for the selling of goods, wares, or merchandise:
 - a) to wholesale or retail dealers in similar goods, wares, or merchandise;
 - b) if the goods, wares, or merchandise are grown, produced, or manufactured in Ontario and sold by the grower, producer, or manufacturer, or an agent or employee of them having written authority to do so in the Municipality in which the grower, producer, or manufacturer resides (grown, produced, manufactured in the Township of Dubreuilville);
 - c) if the goods, wares, or merchandise are grown or produced by a farm or resident in Ontario who offers for sale, or sales only, the produce of the farmer's own farm;
 - d) by persons who sell milk, or cream, or fluid milk products to the customer, or to any person for resale;
 - e) by persons who enter into a written agreement with a non-profit charitable organization to sell their goods, wares, or merchandise at a show or fundraising event organized by the non-profit charitable organization and only during the hours of operation of the non-profit charitable organization's fund raising event or show.
- (4) Every person who is required by the terms of this By-law to obtain a licence shall pay a fee at the time of applying for such licence in an amount fixed by this By-law.

3. APPLICATION

- 1) Every person desiring a licence under this By-Law shall first make application to the Municipal Clerk and to obtain a licence under this By-Law the applicant shall:
 - a) file with the Municipal Clerk an application in writing on forms supplied by the Municipal Clerk for that purpose;

- b) pay to the Municipal Clerk all applicable fees as set out in Schedule "A" attached hereto and forming part of this by-law;
 - c) furnish a statement in writing containing a full description of the trade or business to be performed;
 - d) provide any information as may be deemed necessary by the Police having jurisdiction within the Municipality, the Fire Chief, the Chief Building Official, the Zoning Administrator, and the Public Health Inspector for the municipality in order to protect and serve the best interest of the public;
 - e) Council shall not refuse to grant a licence to carry on or engage in any business by reason only of the location of the business if the business was being legally carried on or engaged at that location at the time the by-law requiring the licence came into force;
- 2) When the provisions of Section 3(1) of this By-Law have been satisfied, the Municipal Clerk shall then issue the required license. No such application is required when a business desires renewal of a license and the facts and conditions in relation thereto are the same as when the original license was issued.
- 3) Every person issued a licence under this By-Law shall cause the licence to be prominently and permanently displayed in the place of business at all times during the full term in which the business is carrying on.

4. APPLICABLE LICENCE FEE

- 1) The licence fee shall be set as per attached schedule

5. APPEALS TO COUNCIL

- 1) In the event that an application for a licence is refused, the applicant may appeal to Council which, after due consideration of the application and such reports from the Municipal Clerk as may be required by Council, and after hearing such representations as the applicant may desire to make, may direct or refuse the issuance of a licence to the applicant notwithstanding any non-conformity with this By-Law.

6. REVOCATION OF LICENCE

- 1) Council may revoke any licence issued under this By-Law where such power to revoke may, pursuant to the Municipal Act or any other Act be exercised by By-Law of Council and Council may revoke any licence where the holder of such is in contravention of any of the provisions of this By-Law or any other relevant By-Law of the municipality.

- 2) Notice of the revocation of any licence may be given by the Council in writing by registered mail, mailed to the address given on the licence application, or by communication to the licensee in any manner whatsoever, and upon such notice, the licence revoked shall cease and terminate and be null and void
- 3) Upon the revocation of a licence issued under this By-Law, the licensee shall return to the Municipal Clerk all licence certificates and any and all other indicia issued by the municipality with reference to such licence.

7. REFUND OF LICENCES FEE

- 1) Where a licence granted is revoked or cancelled, and where a fee has been paid for the granting of the licence, the Municipal Clerk may refund that part of the licence fee that is proportionate to the portion of the term remaining from the date upon which the licence was revoked or cancelled.
- 2) Where a business in respect of which a licence has been granted, cease to operate and where a fee has been paid for the granting of the licence, the Municipal Clerk may, upon the application of the licensee, refund that part of the licence fee that is proportionate to the portion of the term remaining from the date upon which the business ceases to operate.
- 3) Where a licence is revoked or canceled under Paragraph (1) or (2) of this Section, no refund of less than ten dollars (\$10.00) shall be granted.
- 4) In the case where an application for the business license is not approved by Council or the applicant wishes the license to be canceled prior to commencing the business for which the licence was approved, the applicant shall be refunded the licence fee except ten dollars (\$10.00) which amount shall be retained by the municipality.

8. LOST LICENCES

- 1) Upon his being satisfied that a licence has been lost, and that the applicant for new licence has made a diligent search therefore and is making application for a new licence form in good faith, and if such applicant undertakes in writing to the Municipal Clerk to surrender the lost licence form to him if found, the Municipal Clerk may issue a duplicate licence upon which the word "duplicate" is endorsed over the signature of the Municipal Clerk. The fee of \$10.00 shall be charged for any replacement licence issued.

9. TRANSFER OF LICENCE

- 1) No person shall enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer or suspension thereof, the value of a licence shall be the property of the municipality.

- 2) No license shall be transferred without the prior written approval of the municipality.

10. EXPIRATION OF LICENCE

- 1) All licences granted under this By-Law shall expire on the 31st day of January following the date of issuance after which the licence shall be null and void unless renewed in accordance with the provisions contained herein with the exception of the “Transient Trader” category.
- 2) All annual licences granted to the “Transient Traders” category under this By-Law shall expire 12 months from the date issued.

11. RENEWAL OF LICENCE

- 1) All licences granted under this By-Law may be renewed on an annual basis upon payment of the prescribed fee if the facts and conditions in relation thereto are the same as when the original licence was issued.
- 2) In the event the facts and conditions in relation to the licence requiring renewal have changed, a new application must be submitted as per the provisions of Section 3(1) of this By-Law.

12. ABATEMENT OF NUISANCES

- 1) Every person licensed under this By-Law, in addition to any other requirements contained in this By-Law shall:
 - a) at all times maintain and keep clean and safe and in good condition and repair any vehicle, place or premises for which a licence has been issued under this By-Law.
 - b) not cause, suffer or permit any nuisance to arise in, on or in connection with the vehicle, place or premise for which the licence was issued.
 - c) not cause, suffer or permit any profane, offensive or abusive language or disorderly conduct in, on or in connection with any vehicle, place or premises for which the licence was issued.

13. COMPLIANCE WITH BY-LAW

- 1) Every person applying for or holding a licence under this By-law who is liable to be licenced under this By-law, shall, in such application or in carrying on such business, observe, comply with and be governed by the provisions set out in this By-law including, but not limited to, the schedules hereto, which relate to such business.

14. INSPECTION

- 1) Any person duly authorized by the municipality may at all reasonable times inspect as much of any place or premises on the carrying on of any business in respect of which any person has or is required to have a licence under this By-law.

15. PENALTY

- 1) Every person who contravenes any provision of this By-Law is guilty of an offence and shall be liable upon conviction to a fine exclusive of costs that is consistent with the general penalty provision found under the Provincial Offences Act.
- 2) For the purposes of this Section, a separate violation shall be deemed to have been committed for each and every day during which such violation continues and conviction in respect of a violation shall not operate as a bar to further prosecution if such violation continues.

16. INTERPRETATION

- 1) In this By-law unless the contexts otherwise requires, words importing the singular member shall include the plural and words importing the masculine shall include the feminine or neuter genders.

17. CONFLICT

- 1) In the case of a conflict between the provisions of this by-law and any other municipal by-law, the provisions of this by-law shall prevail.

18. SEVERANCES

- 1) If any section, subsection, sentence, clause, phrase, word or provision of this by-law is for any reason held by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the by-law. The Municipality hereby declares that it would have passed this by-law and each section, subsection, sentence, clause, phrase, word and provisions hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, words or provisions be declared invalid.

19. EFFECTIVE DATE

That this By-Law shall come into force and take effect on its reading and being passed.

20. EXPIRY DATE

That this By-Law shall expire five years after its enactment or on the day it is repealed.

Passed this 17th day of January, 2002.


MAYOR


CLERK