

**THE CORPORATION OF THE
MUNICIPALITY OF WAWA**

BY-LAW NO. 3201-19

BEING A BY-LAW to licence and regulate Temporary Vendors in the Municipality of Wawa including Transient Traders, and Hawkers and Peddlers.

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001 c. 25 (hereinafter referred to as the "Municipal Act"), provides that the powers of the Municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs as they consider appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 150 of the Municipal Act defines a business as any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside of the municipality and includes the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader;

AND WHEREAS Sections 151 and 160 of the Municipal Act provide that a municipality may provide for a system of licences with respect to a business and pass by-laws licensing businesses under any section of the Municipal Act or any other Act;

AND WHEREAS Section 425(1) of the Municipal Act states that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS Section 429 of the Municipal Act permits a municipality to establish a system of fines for offences under a by-law of the municipality passed under this Act and designates an offence as a continuing offence;

AND WHEREAS Section 436 of the Act states that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act;

AND WHEREAS the Council for the Municipality of Wawa deems it expedient to establish regulations to control business activities relating to the sale of goods on a temporary basis;

NOW THEREFORE the Council of the Municipality of Wawa enacts as follows:

1. DEFINITIONS

- 1.1 **"Applicant"** means a person, company or organization that has made an application for or is required to be licensed as a temporary vendor or who has been issued a temporary vendor business licence by the Municipality.
- 1.2 **"Charitable Organization"** means an organization or group recognized by the Canada Revenue Agency (CRA) as being charitable.
- 1.3 **"Chief Building Official"** means the Chief Building Official for the Municipality of Wawa or other designated Officer, such as a By-Law Enforcement Officer or any Police Officer employed by the Ontario Provincial Police.
- 1.4 **"Door to Door Sales"** means attending a property for the purpose of attempting to sell a product or service or discussing the potential sale of a product or service on other than an invitation basis.
- 1.5 **"Highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and any part of which is intended for or used by the general public for the passage of vehicles.
- 1.6 **"Licence"** means a business licence issued by the Municipal Clerk to an applicant permitting the applicant to carry on business as a temporary vendor within the Municipality under the authority of this by-law.
- 1.7 **"Licensee"** means an applicant person, company or organization that has been issued a temporary vendor business licence.
- 1.8 **"Non-Profit"** means a service club, athletic team or other group or organization seeking to raise money through donations and/or sales for the advancement of education, athletics, the arts, health and welfare with all proceeds from the donations or sales benefitting the service club, athletic team or an organization legally registered as a Non-Profit Organization in Ontario or Canada.

- 1.9 **"Owner"** means the registered owner of the land on which the temporary vendor business is being or is to be conducted, or the person, company or organization appearing as the applicant or owner on the temporary vendor business licence application or business licence issued by the Municipality.
- 1.10 **"Permanent Business"** means a business that is currently operating from a fixed location within the Municipality of Wawa inside a building on a property currently paying property tax to the Municipality.
- 1.11 **"Temporary Vendor"** means a person, company or organization that sells or offers for sale any goods, wares, merchandise or services or who carries and exposes goods, wares or merchandise that are to be delivered afterwards but shall not include any of the activities of a permanent business or as otherwise exempted under this by-law and includes Transient Traders, Hawkers and Peddlers.

2. LICENCE APPLICATION

- 2.1 Every person, company or organization making application for a temporary vendor business licence shall submit the information and/or documentation to the Chief Building Official as part of a complete application package as contained in sections 2.2 to 2.5.
- 2.2 A completed business licence application form indicating the name of the applicant, the requested term of the business licence along with the required business licence application fee as contained in the Municipality of Wawa's Schedule of Fees By-Law currently in effect;
- 2.3 Written permission from the owner of the property upon which the temporary vendor proposes to conduct business operations confirming: that the applicant is permitted to operate from the property; the nature of the sales activity that the applicant has indicated will take place from the property; the period of time the applicant will be permitted to conduct business operations on the property and any other other documentation as determined by the Chief Building Official;
- 2.4 Temporary vendor business licence application fees are contained in the current Municipality Schedule of Fees By-Law. A business licence application fee for a temporary vendor is non-refundable and is not pro-rated.

- 2.5 The term of every temporary vendor business licence shall be indicated on the business licence after which time the business licence shall become null and void.
- 2.6 A temporary vendor business licence issued to a specific licensee is valid only for the business operations conducted by that licensee. Once issued, no business licence may be transferred, sold or otherwise used by any other person, company or organization without the express approval of the Municipal Clerk.

3. LICENCE ISSUANCE/SUSPENSION/REVOCATION

- 3.1 The Chief Building Official shall receive, review and process all submitted applications for a temporary vendor business licence and the Municipal Clerk shall issue a business licence to the applicant if the requirements of this by-law have, in the opinion of the Municipal Clerk, been satisfied.
- 3.2 The Municipal Clerk may refuse to issue a temporary business licence and may suspend or cancel an issued business licence when: a) The applicant or licensee does not meet or has failed to adhere to the requirements of this by-law, other Municipality by-laws or any applicable provincial or federal legislation; b) the location and/or operation of the proposed temporary vendor business are likely to create or have created a public nuisance; c) the temporary vendor business operation is or is likely to be contrary to the public interest.
- 3.3 Notice of the suspension or cancellation of an issued business licence shall be in a written form and may be communicated to the licensee via any one of the following approved methods: a) Personal service to a person working as a temporary vendor; b) Posting the notice in a prominent location on the premises of the temporary vendor; c) Mailing the notice through regular mail to the licensee at the address noted on the business licence application and the licence shall be deemed to be cancelled or suspended three (3) business days after mailing.

4. NOTICE AND APPEAL

- 4.1 A licensee that has had a temporary vendor business licence application refused or an issued business licence suspended or cancelled by the Municipal Clerk may make a written application to Council to have the decision of the Municipal Clerk overturned.

- 4.2 Upon receipt of a written application as outlined in section 3, Council may either confirm the decision of the Municipal Clerk or overturn the decision.
- 4.3 At Council's sole discretion, permit the applicant an opportunity to address Council.
- 4.4 Any decision made by Council to allow or deny an applicant to address Council at a public meeting, to uphold the initial business licence refusal, suspension or cancelation or to issue the business licence with or without conditions, shall be final.

5. GENERAL PROVISIONS

- 5.1 A temporary vendor shall not operate anywhere within the Municipality of Wawa without possessing and displaying in a location visible to customers a valid temporary vendor business licence issued by the Municipality under the authority of this by-law.
- 5.2 A temporary vendor business licence may be issued for any one of the following durations:
- a) One day per week (24 hours maximum).
 - b) Weekend (Friday, Saturday and Sunday – 48 hours maximum).
 - c) One month (first to last day of a calendar month).
 - d) One Year (January to December of current calendar year. There is no prorating of the fee).
- 5.3 A separate temporary vendor business licence shall be required for every different location in which a temporary business operates.
- 5.4 A temporary vendor shall not conduct door to door sales at any time within the Municipality of Wawa.
- 5.5 A temporary vendor shall not operate on any portion of a highway or municipal property without prior approval of the Municipal Clerk.
- 5.6 A temporary vendor shall not operate within the Municipality for a period exceeding 180 days in total in any one calendar year.

6. EXEMPTIONS

- 6.1 This by-law shall not apply to a religious organization or member of a religious organization or a political candidate or a volunteer working on behalf of a political candidate when canvassing door to door for the purpose of providing information, literature or an election sign only.

- 6.2 This by-law shall not apply to a temporary vendor operating and included as part of a special event or as otherwise specifically recognized and authorized by Council motion including the Wawa Music Festival, Wawa Drag Races, Wawa By-Hands Festival, Wawa Ice Fishing Derby, Wawa Fall Fair and Wawa Winter Carnival.
- 6.3 Temporary vendors who are residents of the Municipality of Wawa will not have to apply for a licence while operating from the Wawa Goose Nest Summer Market.
- 6.4 This by-law shall not apply to a temporary vendor operating on a not for profit or charitable basis when all of the proceeds obtained by the temporary vendor are retained by or being provided to the not for profit or charitable organization as determined by the Municipal Clerk.
- 6.5 The following activities shall not be deemed to be temporary vendors for the purpose of business licensing under this by-law:
- a) A manufacturing activity or industry;
 - b) The sale of goods by wholesale;
 - c) The generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources;
 - d) The sale of consumable or manufactured goods, wares or merchandise if they were lawfully grown or produced by a farmer, family member or employee of a farmer on land within the Municipality of Wawa;
 - e) Business operations conducted during regular business hours whether inside or outside of the building on the property upon which the permanent business is located;
 - f) A yard sale or garage sale held and operated by a Charitable, Religious or non-profit organization or a residential or commercial taxpayer; or
 - g) The sale of goods, wares or merchandise by auction.

7. INSPECTIONS

- 7.1 The Chief Building Official or other designated Enforcement Officer may enter onto land at any reasonable time and may be accompanied by any person for the purpose of carrying out an inspection, taking photographs and obtaining evidence to determine whether a temporary vendor is in compliance with this by-law or an order issued under the authority of this by-law.

7.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, an officer or person assisting the Officer when exercising a power or performing a duty under this by-law. For the purposes of this section, the failure to properly identify upon request by an officer shall be deemed to be obstruction of the officer.

7.3 A temporary vendor shall provide proof of being currently licensed to the Officer upon request. Refusal to provide proof of being currently licensed to the Officer shall be deemed obstruction as indicated in section 8.2 of this by-law.

8. OFFENCES AND PENALTIES

8.1 Any person who contravenes any provision of this by-law is guilty of an offence and is, upon conviction, liable to any penalty provided under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended and the Municipal Act, 2001, S.O. 2001 c.25.

8.2 Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Justice of the Ontario Court of Justice shall be requested to establish set fines.

8.3 For the purpose of this by-law, each day of a continuing offence shall be deemed to be a separate offence.

9. VALIDITY AND SEVERABILITY

9.1 Every provision of this by-law is declared severable from the remainder and if any such provision of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the by-law.

10. FORCE AND EFFECT

10.1 This by-law shall come into force and effect upon the date Council approves the by-law.

10.2 That the Mayor and the Clerk are hereby authorized to execute this by-law and to affix the Corporate Seal thereto.

10.3 That this by-law shall be referred to as the "Temporary Vendor By-Law".

11. REPEAL

11.1 That By-Law Nos. 865-93 and 1040-96 be and are hereby repealed.

READ a first, second and third time and be finally passed this 4th day of June, 2019.





RON RODY, MAYOR



CATHY CYR, CLERK