

**CORPORATION OF THE MUNICIPALITY OF SOUTH HURON**

**BY-LAW #67 - 2004**

**"Being a by-law to license, govern and regulate hawkers, peddlers,  
transient traders, and refreshment vehicles."**

**WHEREAS** Part IV of the *Municipal Act*, 2001 S.O. 2001, c.25, Part IV being entitled "Licensing and Registration" sets out the conditions precedent to a municipality licensing a business;

**AND WHEREAS** s. 150(2) of the *Municipal Act* sets out three purposes for which a municipality may license a business, those purposes being *health and safety, nuisance or consumer protection or a combination of all three*;

**AND WHEREAS** the types of allowable costs for license fees are set out in s. 150(10) of the said *Municipal Act*, those costs being the costs associated with preparation of the by-law, inspections related to the by-law, enforcement of the by-law against the person operating without a license, prosecution and court proceedings, and reciprocal licensing arrangements;

**AND WHEREAS** Council of the Corporation of the Municipality of South Huron deem it expedient to license hawkers, peddlers, and transient traders for the purpose of nuisance control and consumer protection to ensure that the business is not a nuisance by hindering vehicles or pedestrian traffic and/or causing a hazard in any way and/or having a negative aesthetic impact on the Municipality, and to protect the consumer who is purchasing the products being sold;

**AND WHEREAS** Council of the Corporation of the Municipality of South Huron deem it expedient to license refreshment vehicles for the purpose of health and safety, nuisance control and consumer protection to ensure that the vendor is following all required health regulations, to ensure that the consumer does not become ill, and to ensure that the vendors 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;

**AND WHEREAS** the fee for each hawker, peddler, and transient trader license is proposed to be \$344.00 for each day of a licensed event and the fee for each refreshment vehicle license is proposed to be \$344 for each period of the refreshment vehicle season;

**AND WHEREAS** the costs of preparing, reviewing and circulating this by-law for comments, and circulating it after it has been considered by Council are estimated to be \$570.00;

**AND WHEREAS** the costs of advertising the public meeting to be held to consider the passing of the by-law along with preparing the notice and arranging for it to be placed in the local newspaper are estimated to be \$197.00;

**AND WHEREAS** the costs of issuing hawker, peddler, and transient trader licenses are estimated to be \$582.00 including review of application and preparation of licenses, issuance of the license and responding to inquiries regarding peddler licenses plus additional costs for materials, supplies, and overhead (2 hrs per license x 6 licenses x \$31 per hour = \$372, plus additional costs of \$210.00);

**AND WHEREAS** the costs of inspections of the various hawker, peddler, and transient trader license is estimated to be \$715.00 per year (2 hrs per license x 6 licenses x \$60 per hour = \$720 plus mileage estimated at \$20 per license x 6 licenses = \$120);

**AND WHEREAS** the above-noted costs total \$2,064.00;

**AND WHEREAS** a notice of the public meeting for consideration of this by-law was given in accordance with s. 150(4) of the *Municipal Act*; and a public meeting was held on December 20, 2004;

**NOW THEREFORE** Council of the Corporation of the Municipality of South Huron pursuant to the *Municipal Act*, 2001, S.O. 2001, c.25, **ENACTS** as follows:

**DEFINITIONS:**

- a) **"Clerk"** shall mean the Clerk of the Corporation of the Municipality of South Huron or a person designated by the Clerk for the purpose of this by-law.
- b) **"Corporation"** shall mean the Corporation of the Municipality of South Huron.
- c) **"Council"** shall mean the Council of the Corporation of the Municipality of South Huron.
- d) **"Owner"** with respect to Premises shall mean the registered owner of the land on which the premises is situated and includes a trustee acting on behalf of the registered owner, the estate of a registered owner, and a person with a leasehold interest in the land.
- e) **"Owner"** with respect to a Business shall mean the person, company or partnership that carries on the trade, business, or occupation and whose name appears on the license issued by the municipality for such trade, business or occupation pursuant to this by-law.
- f) **"Person"** shall include an individual, a partnership, a firm, or a corporation.
- g) **"Municipality"** is defined as the Corporation of the Municipality of South Huron.
- h) **"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.
- i) **"Transient Trader"** shall mean a person who passes through or by a place with only a brief stay and whose business is buying, selling, or barter by themselves or by a licensed auctioneer, of goods, wares, and merchandise, obtained outside the Municipality, and also includes a corporation commencing business for a short period of time and not on a regular or weekly basis.
- j) **"Transient Auctioneer"** shall mean a person from outside the Municipality who passes through or by a place with only a brief stay and whose business is the selling by auction, of goods, wares, or merchandise brought into the municipality by a transient trader.

- k) **"Local Retailer"** shall mean any individual or business which provides for the selling or offering for sale of goods or services at a building or structure located within the Municipality which is subject to property tax in the Municipality.
- l) **"Non Profit Charitable Organization"** shall mean any charity that is registered or is eligible to be registered with the Federal Government.
- m) **"Refreshment vehicle"** shall mean any vehicle from which, refreshments are sold for consumption by the public and includes, without limiting the generality of the foregoing, carts, wagons, trailers and trucks, irrespective of the type of motive power employed to move the refreshment vehicle from one point to another.
- n) **Waste** includes food, disposable eating utensils, paper, wood, cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a refreshment vehicle.
- o) **"Roadway"** means the part of the highway that is improved, designed or ordinarily used for vehicular traffic but does not include the shoulder and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all the roadways collectively.
- p) **"Sidewalk"** means that portion of a highway, between the curb lines of a roadway or the lateral edge lines of a roadway and the adjacent property lines, designed and intended for the use of pedestrians.

#### **BUSINESS PROHIBITED WITHOUT LICENSE**

No person shall, within the limits of the Corporation of the Municipality of South Huron, carry on or engage in any trade, calling, business, or occupation set out this by-law until he has procured such license so to do.

#### **LICENSE REQUIREMENTS**

1. Every Hawker, Peddler, or Transient Trader shall take out a license for each event at which goods, wares or merchandise are offered for sale by themselves or by auction by a licensed auctioneer, and shall pay to the Corporation at the time the license is taken out, the fee fixed by this by-law.
2. Every refreshment vehicle operator shall take out a license for each period of the refreshment vehicle season and shall pay to the Corporation at the time the license is taken out, the fee fixed by this by-law.

#### **LICENSE FEE**

1. The license fee for every Hawker, Peddler, or Transient Trader who applies for a license shall be \$344.00 per day for each individual event of up to, but not greater than, seven (7) days.
2. The license fee for every Refreshment Vehicle operator who applies for a license shall be \$344.00 for each period of the refreshment vehicle season.

### **LICENSE DEPOSIT**

1. In addition to the license fee noted above, every business licensed by the Clerk shall pay a \$2000 deposit by Certified Cheque, to cover potential costs incurred by the municipality attributable to the activities of the business including the cost of prosecution and court proceedings for any violation, by the licensee or his agent, of the provisions of this By-law or any By-law of the Municipality of South Huron.

### **CANCELLATION OR REVOCATION OF LICENSE**

1. Any license issued pursuant to the provisions of this by-law may be revoked or cancelled at any time by the Municipality subject to the provisions of the *Statutory Powers Procedures Act* and the *Municipal Act*. The reference in this by-law to circumstances where a license may be revoked or cancelled, or where a person shall show cause why a license should not be revoked or cancelled shall not be interpreted as derogating from the general power of the Municipality under this section.
2. Any licensee who violates provisions set out in this by-law or any by-law of the Corporation which results in the revocation or cancellation of a license shall not be licensed again or allowed to conduct business in the Municipality, at any time, from the date of the infraction onward.
3. Upon cancellation or revocation of a license, the licensee shall return to the Municipal Clerk all license certificates and other items issued by the Municipality with reference to such license.

### **REFUND OF LICENSE FEE**

1. Where a license granted is revoked or cancelled prior to the event taking place, and where a fee has been paid for the license, the Municipality shall retain an administration fee of \$65 and refund the balance of the license fee.
2. Where a licensee ceases to operate for the full term of the license, and the respective license fee has been paid, the Municipality may, upon written request of the licensee, refund that part of the license fee that is proportionate to the portion of the term remaining from the date upon which the licensee ceased to operate.

### **REFUND OF LICENSE DEPOSIT**

1. Where a license deposit is received from a hawker, peddler, or transient trader and there are no violations to any municipal by-laws or costs incurred by the municipality attributable to the activities of the business, the License deposit shall be refunded, in full, to the applicant within 7 days following conclusion of the business event for which a license was issued.
2. Where a license deposit is received for a refreshment vehicle and there are no violations to any municipal by-laws or costs incurred by the municipality attributable to the activities of the business, the License deposit shall be refunded, in full, at the end of the term for which the refreshment vehicle license was issued or carried over to the next following year at the request of the applicant.

**SIGNATURE OF LICENSE**

The Municipal Clerk or designate shall, on behalf of the Municipality, sign all licenses issued pursuant to this by-law, and such license shall be in such form as the Municipality may, from time to time, specify.

**LOST LICENSES**

Upon being satisfied that a license has been lost and that the applicant has made a diligent search therefore and is making application for a new license form in good faith, and if such applicant undertakes in writing to the Municipal Clerk to surrender the lost license form if found, the Clerk may issue a duplicate license to such applicant and it shall consist of a true copy of the original license upon which the word "duplicate" is endorsed over the signature of the Clerk. A fee of \$20.00 shall be charged for any replacement license issued.

**LICENSE TO BE POSTED**

1. Every person obtaining a license under this by-law, where the same applies to a place or premises used in the carrying on of the business, shall keep the license posted up in some conspicuous place on the business premises in respect of which the license is issued, and every person so licensed shall, when so requested by any member of Council, Municipal staff, or the Ontario Provincial Police produce a license for inspection.
2. Every person obtaining a license under this by-law, where the same applies to the occupation of such person, shall carry his license with him when engaged in the occupation for which the license is issued, and every person so licensed shall, when so requested by any member of Council, Municipal staff, or the Ontario Provincial Police produce a license for inspection.

**PARTNERSHIP**

1. Where two or more persons carry on or engage in partnership in business, the license may be issued in the name of one partner only, but when the application for license is made, the name and address of each member of the partnership shall be set out therein.
2. Where a business is carried on under a name other than that of the licensee, the license shall nonetheless be issued in the name of the licensee, but there shall be endorsed thereon the name under which the business is carried on and no person shall carry on any such business under any name other than a name so endorsed upon the license.

**TRANSFER OF LICENSE**

1. No person shall enjoy a vested right in the continuance of a license and upon the issue, renewal, transfer or suspension thereof, the value of a license shall be the property of the Municipality.
2. No license shall be transferred except upon the written approval of the Municipality.

**COMPLIANCE WITH REGULATIONS**

Every person applying for or holding a license under this by-law, or who is liable to be licensed under this by-law, shall in such application or in carrying on such business, observe, comply with and be governed by the regulations set out in this by-law which relate to such business.

### **INSPECTION**

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 license.

### **PENALTIES**

1. Any person violating any of the provisions of this by-law is guilty of an offence and upon conviction thereof, shall be subject to fine, and such fine shall be recoverable 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 each separate violation shall not impede further prosecution if such violation continues.

### **GRANTING OF LICENSE**

1. If, after making the inquiries required under this by-law, the Clerk is satisfied that a license should be issued, the Clerk shall issue a license to the applicant.
2. If, after making the inquiries required under this by-law, the Clerk is of the opinion that a license should not be issued, the Clerk shall so advise the applicant in writing. The applicant may, within fourteen days of being so advised, request that the matter of the issuance of the license be referred to Municipal Council for a final determination of whether a license should be issued.

### **INTERPRETATION**

In this by-law, unless the context otherwise requires, words importing the singular member shall include the plural and words importing the masculine shall include the feminine.

### **CONFLICT**

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.

### **SEVERANCES**

If any section, subsection, sentence, clause, phrase, 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 and provision herein, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, phrases or provisions be declared invalid.

### **REPEAL**

This By-law repeals and replaces any Hawker, Peddler, Transient Trader, and Refreshment Vehicle by-laws previously passed by the former Town of Exeter, Township of Stephen, and Township of Osborne.

**EFFECTIVE DATE**

This by-law shall be effective on the date of its final passing.

READ a First and Second Time	December 20	2004
READ a Third Time and Finally Passed	January 3	2005

\_\_\_\_\_(Signed original on file)\_\_\_\_\_  
Robert Morley, Mayor

\_\_\_\_\_  
Sandra Strang, Clerk

**(see following schedules)**

**HAWKER, PEDDLER, AND TRANSIENT TRADER LICENSES**

1. No license is required:
  - (a) for sales to wholesale or retail dealers in similar goods, wares or merchandise in the municipality or
  - (b) if the goods, wares or merchandise are grown, produced or manufactured in the municipality including goods grown or produced by a resident farmer who offers for sale or sells only the produce of his own farm, or
  - (c) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays property tax or resides in the municipality, or by his employee, or by his agent, or
  - (d) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays property tax in the municipality in respect of such goods, wares or merchandise, or
  - (e) by a non-profit charitable organization or by persons who enter into a written agreement with a non-profit charitable organization to sell their goods, wares or merchandise for a fund-raising event organized by the non-profit charitable organization.
  - (f) by persons who participate in a consumer show open to the public or a trade show open by invitation or registration only, the primary purpose of which is the display of goods, wares or merchandise, and also excludes a consumer show or trade show operating as an integral part of a convention or conference.

**EXEMPTION AND ONUS**

1. Any person claiming the status of a servant or employee of the person described above shall show his authorization when required so to do by the Clerk, any Police Officer, or any other authorized municipal employee.
2. In a prosecution for a breach of this by-law the onus of proving that a person does not require a license under this by-law for any of the reasons mentioned shall be upon the person charged.

**APPLICATION**

1. On application for a license, the applicant shall complete the prescribed forms and shall furnish to the Clerk such information as the Municipality may direct to be furnished, including but not limited to the following:
  - a) the Better Business Bureau in Ontario in which the business is listed.
  - b) a statement in writing containing a full description of the goods, wares, or merchandise proposed for sale under such license.
  - c) each municipality in Ontario in which he has carried on business in the year immediately preceding his application for a license.



- d) where the applicant is a limited company the names and addresses of all the officers of the company.
- e) whether he, a partner, or a corporation of which he is an officer or director has been convicted of an offence under a by-law passed by another municipality regulating the types of businesses described in this by-law. In the event that any of these people have been convicted of an offence relating to fraud, theft or a violation of a hawker, peddler, or transient trader licensing by-law in another municipality, a license might not be issued to the applicant.
- f) the parking area(s), other than a public street, that will be used for the temporary parking of motor vehicles owned by the applicant and by its customers.
- g) the loading area(s), other than a public street, that will be used for the temporary parking of any commercial vehicle while loading or unloading goods, merchandise or material used in connection with the sale, and which has unobstructed access to a street or lane
- h) the area where goods will be temporarily stored during the term of the event. Outside storage of material, containers, finished products, or display material will not be permitted.
- i) his Retail Sales Tax number and Goods and Services Tax number and shall cause these numbers to be prominently and permanently displayed during the full term in which he or she is carrying on business.
- j) the name and address of the auctioneer conducting the sale, if applicable.

If a **Transient Auctioneer** has been engaged for the sale, the applicant shall furnish the Municipality with the following:

1. a copy of the Huron County Auctioneer's License issued to the auctioneer who will conduct the sale, and
  2. a copy of the auctioneer's current Auctioneers Association of Canada or the Auctioneers Association of Ontario membership.
- k) a copy of the Sign Permit issued by the Municipality of South Huron for any temporary signage intended to be used to advertise the event. The Sign Permit fee shall be paid in addition to the license fee.
2. Every license issued pursuant to this by-law shall permit the licensee to carry on or engage in any trade, calling, business or occupation set out in this by-law only in the particular location for which the license has been issued, and not in any other location, unless a separate license has been issued for said location.

**REFRESHMENT VEHICLE LICENSE**

1. No person shall:
  - (a) operate a refreshment vehicle on a site located on or adjacent to a municipal roadway or sidewalk without a current and valid Refreshment Vehicle license issued under the provisions of this Part of this by-law;
  - (b) operate a refreshment vehicle on a site located on or adjacent to a municipal roadway or sidewalk during the period from and including November 1 of one year up to and including March 31 of the following year;
  - (c) operate a refreshment vehicle at a distance of 8 metres (26 feet) or less from the front entrance of an eating establishment or a place where foodstuffs are offered for sale, if the refreshment vehicle offers for sale similar food products as does the eating establishment or the place where foodstuffs are offered for sale;
  - (d) operate a refreshment vehicle without the vehicle having the name of the licensee displayed on each side thereof in letters at least 10 centimeters (4 inches) in height;
  - (e) fail to affix a Refreshment Vehicle License issued under the provisions of this by-law in a conspicuous place on the vehicle for which it was issued;
  - (f) allow waste to accumulate at the designated site to which that person has been assigned during the hours of operation of the said refreshment vehicle.
  - (g) operate a refreshment vehicle that uses propane fuel for the preparation and/or heating of food products without an annual safety certification of such propane components of the vehicle by a certified and registered gas fitter in accordance with the guidelines of the Technical Standards and Safety Authority.
2. Each refreshment vehicle shall have a separate license pertaining specifically to the refreshment vehicle and the said location. All locations shall be approved by the Municipal Clerk in conjunction with the Manager of Operations, and all decisions shall be final.
3. There shall be 2 periods during which Refreshment Vehicles will be permitted to operate on municipal sidewalks in the Municipality. The first period shall commence on April 1 and end on July 15 inclusive. The second period shall commence on July 16 and end on October 31 inclusive. The 2 periods shall form the Municipality "refreshment vehicle season". Such Refreshment Vehicle License shall be valid for only 1 period of the refreshment vehicle season. An applicant may apply for one or both periods that comprise the refreshment vehicle season.
4. Every person to whom a Refreshment Vehicle License is issued under the provisions of this by-law shall, at all times in respect of the premises or the vehicle for which the license has been issued hereunder keep the same, together with all utensils and equipment therein, in a clean and sanitary condition to the satisfaction of the Huron County Health Unit;

5. Persons to whom a Refreshment Vehicle License permit has been issued for business operation on a municipal sidewalk shall provide the Clerk proof of \$2,000,000.00 public liability insurance coverage with respect to their refreshment vehicle operations.
6. On application for a license, the applicant shall complete the prescribed forms and shall furnish to the Clerk such information as the Municipality may direct to be furnished, including but not limited to the following:
  - a) a description, including municipal address, of the site on or adjacent to a municipal sidewalk where the Refreshment Vehicle will be located.
  - b) each municipality in Ontario in which he has carried on business in the year immediately preceding his application for a license and where the applicant is a limited company the names and addresses of all the officers of the company shall be disclosed.
  - b) whether he, a partner, or a corporation of which he is an officer or director has been convicted of an offence under a by-law passed by another municipality regulating the types of businesses described in this by-law. In the event that any of these people have been convicted of an offence relating to fraud, theft or a violation of a hawker, peddler, transient trader, or transient auctioneer licensing by-law in another municipality, a license might not be issued to the applicant.
  - c) the parking area(s), other than a public street, that will be used for the temporary parking of motor vehicles owned by the applicant and by its customers.
  - d) the parking area, other than a public street, that will be used for the temporary parking of the refreshment vehicle during the term of the license.
  - e) the area where goods will be temporarily stored during the term of the license. Outside storage of material, containers, finished products, or display material will not be permitted.
  - f) his or her Retail Sales Tax number and Goods and Services Tax number on the license application and shall cause these numbers to be prominently and permanently displayed during the full term in which he or she is carrying on business.
  - g) Huron County Health Unit written acknowledgment of the business operation.
  - h) a copy of the Sign Permit issued by the Municipality of South Huron for any temporary signage intended to be used to advertise the business. The Sign Permit fee shall be paid in addition to the license fee.

**EXEMPTION FROM LICENSE FEE:**

Every Refreshment Vehicle operator is required to obtain a Refreshment Vehicle License, however, an applicant who pays property tax or resides in the Municipality is exempt from payment of the respective license fee.

## MUNICIPALITY OF SOUTH HURON

## BY-LAW #67- 2004

## CATEGORIZATION OF BUSINESS CLASSES TO BE LICENSED

HEALTH/SAFETY	NUISANCE CONTROL	CONSUMER PROTECTION
	Hawker-Peddler-Transient Trader	Hawker-Peddler-Transient Trader
Refreshment Vehicles	Refreshment Vehicles	Refreshment Vehicles

**LICENSE FEES:**

- |    |                                   |  |
|----|-----------------------------------|--|
| 1. | Hawker, Peddler, Transient Trader | \$344 per day for each individual event of not more than 7 days. |
| 2. | Refreshment Vehicle               | \$344 for each period of the Refreshment Vehicle season.         |

**LICENSE ADMINISTRATION FEES:**

- |    |   |      |
|----|---|------|
| 1. | License cancelled or revoked<br>Prior to event being held | \$65 |
| 2. | Replacement of lost license                               | \$20 |