



THE CORPORATION OF THE TOWN OF ERIN

By-Law # 21 – 22

Being a By-law for licensing, regulating and governing Outdoor Vendors and to repeal By-law 04-75

Whereas Section 150 of the *Municipal Act*, 2001, as amended permits municipalities to license, regulate and govern any business wholly or partly carried on within the municipality.

And whereas Council for the Corporation of the Town of Erin deems it expedient to exercise their powers for the licensing, regulating and governing of Outdoor Vendors for public health and safety reasons;

Therefore be it resolved that the Council of the Corporation of the Town of Erin Enacts as follows:

That By-law # 21-22 shall be cited as the “Outdoor Vendor By-law”;

And that Schedule A attached hereto form part of this By-law;

And that each Outdoor Vendor must have a license from the Town of Erin in order to operate. The issuance of such license is regulated herein.

Section A – Definitions

Charitable Organization – means registered charities that are charitable organizations, public foundations or is participating in an event managed by a charitable organization. They must use their resources for charitable activities and have charitable purposes that fall into one or more of the following categories:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; and/or
- other purposes that benefit the community

Daylight Triangle – means an area free of buildings, structures or obstacles determined by measuring from the point of intersection of street lines on a corner lot, the distance required by the Zoning By-law 07-67, as amended, along each such street line and joining such points with a straight line.

Goods – means the merchandise for vending which includes but is not limited to any lawful food, plant, hand-crafted materials, non-alcoholic beverages, etc.

Highway – as defined by the *Highway Traffic Act*, 1990.

Hours of Operation – means the time in which the Vendor is permitted to sell Goods.

Intersection – as defined by the *Highway Traffic Act*, 1990.

Outdoor Vendor License – means the permitted authority to operate as an Outdoor Vendor. The applicant must select one of the following licenses:

- **General** – means that the Vendor can operate for a maximum of six (6) months.
- **Temporary** – means a license that is a one-time usage exclusively for a 72 hour period including inoperable hours.
- **Charitable/Non-profit Organization** – means if the Vendor is considered a charitable/non-profit organization, or is participating in an event managed by a charitable organization, as defined herein, then the Vendor can operate for a maximum of six (6) months at no cost.

- **Event Vending** – means a social or other occasion involving a gathering of multiple licensed outdoor vendors at one location for a specific purpose such as a sporting event, fundraising event or other event of a municipal, provincial or federal significance. The license expires upon the termination of the event.
- **Municipal Event** – means an organized gathering that is managed by the Town of Erin which includes the participation of Outdoor Vendors. The license expires upon the termination of the event.

Non-profit organizations – means associations, clubs, or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit.

Examples of non-profit organizations are:

- Social, recreational, or hobby groups (bridge clubs, curling clubs, and golf clubs);
- Certain amateur sports organizations (hockey associations, baseball leagues, and soccer leagues); and
- Certain festival organizations (parades and seasonal celebrations).

Outdoor Vending – means the offering to sell, the display for sale, and the sale of goods not within a permanently established structure. The applicant must identify as one of the following three classifications of vendors:

- **Outdoor Cart Vendor** – means a cart which is propelled by muscular power or is motor assisted and is equipped with a means of preparing and/or selling goods.
- **Outdoor Mobile Vendor** – means a mobile motorized vehicle in good repair and supported by a conventional wheel, tire and axle system, and is equipped with a means of preparing and/or selling goods.
- **Outdoor Stationary Vendor** – means any immobile vehicle or structure that is temporarily placed at a location for the duration of the license and is equipped with a means of preparing and/or selling goods.

Sidewalk – means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians.

Vehicle – includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, a commercial motor vehicle whether permanently stationary or otherwise.

Vendor – means a person(s) to whom a license has been issued, or is required to have a license pursuant to this by-law includes owner and the individual operating or conducting business where a license is required under this by-law.

Section B – Administration

- 1) The provisions of this by-law shall be administered by the Town Clerk and/or delegate(s) and the Municipal Law Enforcement Officer.
- 2) The Clerk and/or delegate(s) will review all applications and will license the Outdoor Vendor, if approved, based on the specifications in the application.
- 3) Every application for an Outdoor Vending License shall be in accordance with the application form approved by the Town of Erin, all requirements herein, and the applicable application fee as set out in Schedule 'A'. If the application is not approved then the applicant will receive a fifty percent (50%) refund. Completed Applications must be submitted thirty (30) days prior to the proposed operation date, unless otherwise authorized by the Clerk.
- 4) The applicant must indicate which Outdoor Vendor License is being applied for and which Outdoor Vendor classification applies, both as defined herein.

- 5) Any person selling locally grown produce, provided that the sale of such produce occurs from the property areas zoning designated as A (Agricultural) on which it was grown, is exempt from the provisions of this by-law.
- 6) No other outdoor vending, soliciting or panhandling is allowed within the Town of Erin unless authorized by Council.
- 7) A license issued under this by-law shall be valid from the first date of permitted operation to the expiry provided for on the Outdoor Vendor License;
- 8) The Vendor will be given the opportunity to renew the license within thirty (30) days of expiration to guarantee the same location(s);
- 9) The Clerk and/or their delegate(s) may amend a license based on errors and omissions.
- 10) Following the issuance of a license the Vendor may operate in accordance with the license and application specifications and the provisions of this by-law.
- 11) The Town of Erin Municipal Law Enforcement may inspect all aspects of the Outdoor Vending, upon request.

Section C – Legislative Requirements

The licensed vendor must comply with all applicable federal and provincial legislation and all applicable Town of Erin by-laws & policies, specifically:

- 1) Zoning By-law, as amended (i.e. location); and
- 2) Noise By-law, as amended (i.e. hours of operation).

Section D – General Requirements

All Outdoor Vendors shall:

- 1) Be permitted to only sell, display or offer to sell Goods, as defined and regulated herein, that are identified in the license application;
- 2) Present the Outdoor Vendor license when requested by a Police Officer or a designated staff personnel;
- 3) Not use loud speakers, amplifiers, flashing lights or other hailing devices;
- 4) Only operate between the hours of pursuant to the time limits permitted in the Noise By-law;
- 5) Agree that the license is not transferrable;
- 6) Agree to surrender the license if the license has been revoked under resolution of the Council for any contravention of the provisions of this by-law, any Town of Erin by-law or applicable legislation;
- 7) Only operate on the date(s) specified on the license;
- 8) Agree to hold harmless the Corporation of the Town of Erin and the County of Wellington, if applicable, from any claim of any nature or kind resulting from the operation of the Outdoor Vending pursuant to this license. Prior to issuance of a license, you will be required to submit a certificate of general liability insurance in the amount of \$5,000,000.00 containing a cross-liability clause naming the Town of Erin, as appropriate, as an additional named insured;

- 9) Submit and maintain a valid insurance policy for each vehicle, if applicable.
- 10) Submit a valid motor vehicle permit issued by the Ministry of Transportation and Communications for Ontario, if required;
- 11) Be properly licensed for the vehicle from which they are operating, if applicable;
- 12) Obtain the written approval from the jurisdictional Public Health Unit which shall be dated within thirty (30) days of the date of application for an Outdoor Vending license;
- 13) Obtain the written approval from the Town of Erin Fire Department following an equipment and fire inspection, to ensure compliance of the Ontario Fire Code, within thirty (30) days of the date of application for an Outdoor Vending License. *This approval will be internally coordinated;*
- 14) Obtain the written approval from the Building & Planning Department to ensure compliance with Zoning By-law, as amended. *This approval will be internally coordinated.*

Section E – Location Requirements

All Outdoor Vendors, if applicable, shall:

- 1) Have a license for each individual type of outdoor vending and if a stationary Outdoor Vendor must have a license for each location;
- 2) Submit written authorization from the property owner;
- 3) If an Outdoor Stationary Vendor, only operate at the specified location(s) provided out on the license;
- 4) Operate only in areas with the zoning designation M1, M2, M3 (Industrial), C1, C2, C3 (Commercial) or designated OS (Outdoor Space) areas. Additionally, when reviewing requests for locations within thirty (30) metres of residentially zoned areas, the Town Clerk and/or Municipal Law Enforcement Officer will consider the potential disruption to the residential area and will deny requests for locations where any potential for residential disruption exists;
- 5) Submit a site plan, if an Outdoor Stationary Vendor, indicating the position of the structure on the site which must be a minimum of thirty (30) metres from a side or rear lot line where the lot line is abutting or diagonally adjacent to a property on which a legal residential use is located. The Vendor may not be re-located on the site without written permission of the Town;
- 6) Submit a planned route with anticipated sale location(s) with the exception of the Outdoor Stationary Vendor;
- 7) Not operate within thirty (30) metres of an intersection;
- 8) Not operate within thirty (30) metres of any other outdoor vendor, notwithstanding the participation in Event Vending as defined herein;
- 9) Not operate within thirty (30) metres of the nearest corner of the building of a competing commercial establishment where the primary goods are the same;
- 10) Not operate within the daylight triangle as defined herein and in the Zoning By-law, as amended;

- 11) Not interfere with the visibility or safe passage of pedestrians and vehicles;
- 12) Not operate, locate or sell from a highway, including the public sidewalk;
- 13) Not interfere with a construction program and shall move to another approved location. This may require new approvals from the applicable departments;
- 14) Not be permitted to operate on a highway or street frontage and may only be located in an area where there is minimum parking/standing space for six (6) vehicles, this parking/standing not being located on a highway or street frontage and access being obtained by means of a properly constructed, approved driveway;
- 15) Not be located so as to further reduce the required number, size or type of off-street parking facilities as per the prescribed regulations of the Town of Erin Comprehensive Zoning By-law, as amended;
- 16) Not be permitted within three (3) meters from a means of egress, property names or number, fire hydrants or display windows. The minimum distance applies to any part of the operation such as display signs, equipment, propane tanks, etc; and
- 17) Not interfere with other authorized uses of the street allowance (i.e. mail, etc).

Section F – Equipment & Operation Requirements

All Outdoor Vendors, if applicable, shall:

- 1) Maintain the premise, cart and/or vehicle in good repair and appearance including any storage shelving and appliance(s), etc;
- 2) Comply with all applicable provisions and regulations under the *Health Protection and Promotion Act*, Chap H.7, R.S.O. 1990 specifically O. Reg. 493/17;
- 3) Maintain all equipment used for the preparation and/or sale of Goods and ensure that all Goods are kept in a clean and sanitary condition;
- 4) Have refuse container(s) readily accessible to persons making purchases and keep the adjoining area in a clean and sanitary condition. The refuse container(s) must be stored to prevent wildlife nuisance and must move with the Vendor;
- 5) Ensure that all equipment and cooking appliance(s) such as burners, valves, tubing, hoses, regulators, are certified by applicable Acts, Regulations and Authorities within Federal, Provincial and Territorial jurisdictions specifically with O. Reg. 213/07 Fire Code under the *Fire Protection and Prevention Act*;
- 6) Ensure all appliances are installed and maintained as per the Ontario Fire Code;
- 7) Be required to have all fire protection equipment as required by the Ontario Fire Code;
- 8) Not permit indoor storage of natural gas or propane cylinders. Where vandalism and other destruction to the equipment is a concern the tank cylinders shall be disconnected and stored in a secure exterior location; and
- 9) Submit the annual inspection report by a certified gas fitter whose vending involves propane or other fuel heaters. The report should indicate the location where the appliance will be in operation.

Section G – Power of Council

- 1) Council of the Corporation of the Town of Erin may:
 - i. Revoke or suspend a license;
 - ii. Restrict the hours of operation of the business;
 - iii. Impose special conditions on a license;
 - iv. License, regulate or govern the place or premises used in the operation of the Outdoor Vending;
 - v. Regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the operations; and
 - vi. Exempt any business or person from all or any part of the by-law.
- 2) Council may receive from the public or staff, a recommendation to revoke, not issue, or suspend a license.
- 3) Council shall hold a hearing, held under the *Statutory Powers and Procedures Act*, RSO 1990, in an open public meeting of Council prior to revoking, refusing or suspending a license.
- 4) The operator must receive notice within fourteen (14) days of a decision to revoke, not issue or suspend a license.
- 5) Where the Outdoor Vendor license is revoked by Council, the licensee shall forfeit the entire license fee of the unexpired term for which it was granted.

Section H - Enforcement/Penalties

- 1) Any person who contravenes any of the provisions of this by-law is guilty of an offense and upon conviction is liable to a fine as provided for in the *Provincial Offenses Act*, R.S.O. 1990, as amended.
- 2) It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent therefor and enacted as such.
- 3) The Corporation of the Town of Erin has no responsibility with respect to the operation or success of any Outdoor Vendor license venture.
- 4) This by-law shall come into effect on the date of the final passing thereof.
- 5) By-Law # 04-75 is hereby repealed.

Passed in open Council on May 18, 2021.



Mayor



Clerk

OUTDOOR VENDOR BY-LAW 21-22 - SCHEDULE 'A'

License Fee Schedule	
General (maximum of six (6) months)	\$250.00
Temporary (maximum one 72 hour period including inoperable hours)	\$100.00
Charitable Organization/Event (maximum of six (6) months)	\$0.00
Event Vending (One event per license)	\$100.00
Municipal Event (One event per license)	\$50.00