

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2026 - 019

A BY-LAW TO REGULATE BUSINESS LICENSING IN THE TOWN OF  
AMHERSTBURG

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**WHEREAS** subsection 5(3) of the *Municipal Act, 2001* provides that, a municipal power shall be exercised by by-law;

**AND WHEREAS** section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001* or any other *Act*;

**AND WHEREAS** subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**AND WHEREAS** subsection 10(2) of the *Municipal Act, 2001* provides that a

municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and wellbeing of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

**AND WHEREAS** pursuant to the provisions of Part IV of the *Municipal Act, 2001*, as amended, a municipality may pass by-laws for licensing, regulating and governing businesses;

**AND WHEREAS** subsection 151 (1) of the *Municipal Act, 2001* provides that, without limiting sections 9, 10 and 11 of the *Act*, a municipality may provide for a system of licences with respect to a business and may:

- a) Prohibit the carrying on or engaging in the business without a licence;
- b) Refuse to grant a licence or to revoke or suspend a licence;
- c) Impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- e) Impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- f) License, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and,

**AND WHEREAS** the Municipal Council for The Corporation of the Town of Amherstburg considers it necessary and desirable for the public to exercise its licensing powers for

The purposes of:

- a) Health and safety of patrons, including service providers and consumers; and/or
- b) Nuisance control; and/or

- c) Consumer protection; and/or
- d) Suppressing conditions conducive of crime

**AND WHEREAS** section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

**AND WHEREAS** the Municipal Council for The Corporation of the Town of Amherstburg is of the opinion that the delegation of legislative powers under this by-law to the Manager of Licensing and Enforcement including without limitation the power to issue, revoke, suspend and impose conditions on a licence and prescribe operational standards to be imposed on licensees, including without limitation operational standards such as signage requirements, advertising requirements, hours of operation and records that are to be kept by licensees and the form and content thereof, are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

**AND WHEREAS** subsection 391 (1) of the *Municipal Act, 2001* without limiting sections 9,10 and 11 those sections authorize a municipality may impose fees and charges on persons:

- a) For services or activities provided or done by or on behalf of it;
- b) For costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- c) For the use of its property including property under its control.

**SHORT TITLE**  
**BUSINESS LICENSING BY-LAW**  
**PART 1- DEFINITIONS**

1.1 In this By-law:

"Antique" means any object or article which is at least 50 years old, is in limited supply, and is no longer made or manufactured in its existing state;

"Applicant" means a person applying for a licence under this By-law;

"Auctioneer" means a person conducting an auction; and,

- (a) "Auction" means a publicly-held sale where goods are sold to the highest bidder;
- (b) An Auctioneer's Place of business is an Auction Establishment as defined in the Zoning By-law 1999-52 (as amended);

"Authority Having Jurisdiction" means any department through Municipal, Provincial or Federal government that has authority to regulate and enforce law;

"Body Modification" means a premises, building or part of a building in which persons are engaged or employed in furnishing services and otherwise administering to the individual the personal needs of a person and includes, a tattoo parlour, body piercing establishments, or body scarification establishments;

- (a) "Body Piercing" means the practice of inserting ornaments or other items not required for medical purposes into human tissue, not including the ear, with a needle or other implement;
- (b) "Scarification" means the practice of cutting or abrading human skin to bring about permanent scarring and includes the placement of implants not required for medical purposes beneath the skin;

(c) "Tattoo" means the practice of permanently depositing pigments not required for medical purposes into human skin by the use of a needle or other implement;

"Business owner" means an individual(s) or entity that is legally responsible for the ownership of a business's assets, liabilities or equity;

"Business Registry" – means list kept and updated by Licensing Department advising of all eligible and licensed businesses within Town limits;

"Charitable Organization" means a registered Charity, as defined in Subsection 248(1) of the *Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)*, or successor legislation, that has a registration number issued by the Canada Revenue Agency, or successor agency;

"Chief of Police" means the person in charge of the Police Agency servicing the Town as appointed by Municipal Council;

"Clerk" means the Town Clerk for the Town or a person delegated by them;

"Company" means a corporation with share capital;

"Confections" means items whose primary ingredient is sugar or chocolate including but not limited to: chocolate bars, fudge, truffles, chocolates, candies, caramels, marshmallows, jellies, nougat, toffee, pop/juice;

"Conspicuous" – located in a manner that is visible to the public and easily accessible upon request by all individuals for enforcement purposes

"*Consumer Protection Act*" – Provincial Law that regulates consumer rights and obligations in Ontario;

"Council or Town Council" means the Municipal Council of The Corporation of the Town of Amherstburg;

"Customer Service Representative" – means a Town employee working the front kiosk at Amherstburg Town Hall;

"Daily Permit" means a permit issued by the Town to a Stationary Refreshment Vehicle to operate for the day within a park or other Town owned parcel of land;

"Declaration Form" – means official document used to provide necessary information about an individual or business which affirms that the information provided is true and accurate to the best of their knowledge;

"Door-to-Door Salesperson" means a person carrying on or engaging in any trade, business or occupation who attends at residential property for the purpose of selling, hiring or offering to sell or hire any goods or services, unless exempt in accordance with the *Putting Consumers First Act* or the *Consumer Protection Act*;

"Federal Law" – means the body of law created by the Federal government of Canada;

"Festivals" means a day or period of organized celebration;

"Flea Market Vendor" means the individual(s) selling goods at a Flea Market;

"Flea Market" means an event that provides space for vendors to sell goods;

"Food Store" means any premises where food or milk is processed, prepared, stored, handled, displayed, sold or offered for sale, but does not include a private residence from which food is sold or offered for sale and excludes the sale of confections and/or non-perishable goods not regulated by Provincial or Federal law. Food Store is also a land use as defined in the Zoning By-law 1999-52 as amended;

"Food" means a substance excluding liquor taken into the body to maintain growth;

"Good standing" refers to the status of an individual, entity or business that is, in compliance with all legal and regulatory requirements;

"Hazard" means any source of potential damage, harm, or adverse health effects on people, property or the environment;

"Host Property" means the parcel of land zoned Residential or Agricultural where a Stationary Refreshment Vehicle caters a single day special occasion event;

"Issuer of Licenses" means Manager of Licensing and Enforcement and designate(s);

"Legislated authorizations" means all laws and requirements under Municipal, Provincial and Federal law;

"License Application" means the paperwork with all required information needing to be obtained to issue requested License(s);

"License revocation" means the formal withdrawal or cancellation of a license by the issuing authority;

"License suspension" means a temporary withdrawal of an individual(s) or businesses right to perform the activities that the license allowed;

"Licensee" means any holder of any licence issued under this by-law;

"Licensing Committee" means a body of individual(s) appointed by Council responsible for hearing and ruling on any appeals filed by business owner(s);

"Licensing Officer" means the individual(s) responsible for processing licenses and ensuring compliance with regulations;

"Liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

"Local" generally means within the boundaries of the municipality of The Town of Amherstburg but when in reference to obtaining a police clearance means the municipality in which applicant normally resides;

"Manager of Licensing and Enforcement" – Individual who oversees the Licensing and Enforcement Department within the Town of Amherstburg and designate(s);

"Mobile Refreshment Vehicles" means an individual(s) who sells consumable goods from a vehicle, cart, basket or other container which is not intended to be stationary and may be moved from place to place;

"*Municipal Act*" means *Municipal Act, 2001, S.O. 2001, c.25* and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

"Municipal Fees" means charges levied by a municipality for various services or costs associated with local governance;

"Municipality" means the geographic area known as the Town of Amherstburg;

"Not for profit" means organization or enterprise that does not earn profit for its owners;

"Obstruct" means interfere, prevent, hinder or block;

"Obtain" means to purchase, receive or take in exchange or pledge;

"Officer" means a By-law Enforcement Officer or Municipal Law Enforcement Officer appointed by Council, a police officer with the Police Agency as appointed by Council or an officer, employee or agent of the Town whose responsibilities include the enforcement of this By-law;

"Old Gold" means gold or any other precious metal, including platinum and silver, which is not newly minted, and includes old jewelry or similar articles intended to be smelted, dismantled, sold or exchanged;

"Owner" means:

(a) with respect to a business, the person that carries on the trade, business, or occupation and whose name appears on the licence issued for such trade, business or occupation under this By-law;

(b) with respect to premises, the registered owner of the land on which the premises is situated and includes a trust acting on behalf of the registered owner, the estate of the registered owner and a person with a leasehold interest in the land or premises;

"Park" means any land owned by the Town that is designated by Council as such, and intended to be used and enjoyed by the public for pleasure and recreation;

"Pawnbroker" means a person who exercises the trade of receiving or taking by way of pawn or pledge, any goods for the repayment of money lent thereon as defined in the *Pawnbroker Act* but does not include consignment shops;

"Person" means any individual, company, firm, organization, partnership, body corporate or politic, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

"Pet Shop" means a premise where animals or birds for use as pets are sold, adopted or kept for sale or adoption;

"Place of business" means any place, premises or location, or part thereof, in which a business is carried on, and includes a shop, store or office, an office in a dwelling unit which is accessible to the public and, where there is no such place, premises or locations from which the business is carried on, it includes a vehicle or other equipment used for the purpose of carrying on the business;

"Pop Up Vendor" means an independent business or persons who sell new, used or handmade items for a short period set up under a temporary structure or in a temporary booth during events such as but not limited to flea markets, special events, tradeshow, outdoor markets;

"Premise" means land, including any, and all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of the business;

"Private property" means ownership of property by private parties which can include individual(s) or groups rather than the government;

"Prohibited Downtown Zone" means the south side of North Street (from Dalhousie to Sandwich Street South), the west side of Sandwich Street South (from North Street to Murray Street), all of Dalhousie Street (from North Street to Murray Street), and all of Murray Street from Sandwich Street South to Dalhousie;



"Provincial Law(s)" means the laws passed by the legislature of a province and encompasses various elements including statutory rules, common law rules and constitutionally entrenched rules;

"*Provincial Offences Act*" means a procedural code in Ontario that governs the enforcement and adjudication of regulatory offences and by-laws;

"Provincial Offences Officers" means a person authorized under the *Ontario Provincial Offences Act* to enforce specific statutes and regulations;

"Provision" means a condition or requirement in a legal document;

"Public Property" means property owned by the government or its agencies which is accessible to the general public;

"Quorum" means the minimum number of members of a group that must be present at a meeting to make the proceedings valid;

"Registered Charitable Organization" shall mean any charity that is registered or is eligible to be registered with the Federal Government and has a registered charity number that has been issued;

"Request for Appeal" means a written request by an appellant for a hearing to review an action taken or a decision made by an individual(s) or department;

"Restaurant" means a building, structure or part thereof used primarily for the preparation and serving of food and beverage to patrons for immediate consumption therein or within a physically defined open air, sit down eating area located on the same lot therewith including taverns or take-out restaurants. As an accessory use, a restaurant may offer entertainment, exclusive of a dance floor. Restaurant is a land use as defined in the Zoning By-law 1999-52 as amended;

"Retail/Resale or Consignment Shop" means a building or any part thereof used for the purpose of buying, selling or otherwise dealing in used goods of all kinds excluding scrap or salvage material or antiques or works of art. Retail Store is a land use as defined in the Zoning By-law 1999-52 as amended;

"Salvage Yard" means premises or part thereof used for receiving, storing, or dealing in scrap or salvage material. Salvage Yard or Scrap Yard are land uses as defined in Zoning By-law 1999-52 as amended;

"Single day special occasion event" means a special event hosted by the family that resides on the property, where such event does not result in any financial gain for the

family, and that occurs on private property zoned Residential or Agricultural for the maximum time of one (1) day or twenty-four (24) hours consecutively;

"Stationary Refreshment Vehicle" means a vehicle from which consumable goods are prepared and served and which is stationary, in a fixed location for an allocated time, for the purpose of serving food and refreshments;

"Take-out Restaurant" means a building, structure or part thereof where food, prepared on or off the premises, is offered for sale to the public, and where the food is ordered for delivery or pick-up with consumption of all food occurring off the premises. Fast Food Restaurants also a land use as defined in the Zoning By-law 1999-52 (as amended);

"Tavern" means a building, structure or part thereof which serves both food and liquor but whose liquor sales monetarily exceed 50% of its gross sales. As an accessory use, a tavern may offer entertainment, exclusive of a dance floor. Tavern is a land use as defined in the Zoning By-law 1999-52 as amended;

"Temporary Vending Site Operator" does not include Pop-up Vendor but shall include the sale of goods such as, but not limited to, flowers and fresh produce for a one to seven day period from one specific location such as, but not limited to, a parking lot, a service station, or a vacant commercial lot where the use is permitted in accordance with the Town's Zoning By-law (as amended);

"Tobacconist" means a person who keeps for sale tobacco in any form;

"Town" means The Corporation of the Town of Amherstburg;

"Unsafe condition" refers to a hazardous physical environment that increases the likelihood of accidents or injuries, often due to poor maintenance, environmental factors or negligence;

"Vehicle" means a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle, cart and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a streetcar;

"Written Notice" means a directive or written order to comply issued under a Town of Amherstburg By-law to a licensee or property owner requiring who contravened this bylaw; or who caused or permitted a contravention of this by-law; or the owner of property on which the contravention occurred to do work to correct the contravention;

## **PART 2 - BUSINESSES REQUIRING LICENSES**

2.1 No person shall carry on, conduct, operate, maintain, keep, or engage in any business set forth in PART 3 of this by-law regardless of whether the business is being carried on wholly or partly within the Town, unless they first obtains the appropriate Town of Amherstburg licence to do so from the Issuer of Licenses. The Licence Application fee identified in the User Fee By-law must be paid in full once the License is approved and available for issue. All licensed businesses shall form part of a Business Registry maintained by the Town.

2.2 Annual licence renewals shall require the business owner to submit a completed Annual Declaration form to the Town indicating whether or not there have been any changes since the original Licence Application that was approved. The Annual Declaration form will also require the business owner to identify if they have any deficiencies or outstanding Orders issued by any Provincial or Federal Agencies related to their business. There is no annual renewal fee unless Section 2.3 of this By-law is applicable or as outlined in 2.4 and 2.5. Annual Declaration forms can be submitted each year after January 1st but no later than February 28<sup>th</sup>.

2.3 In the event of an ownership change, address change or business name change a new Licence Application must be submitted for review and the license fee will be due prior to the licence being issued.

2.4 Mobile or Stationary Refreshment Vehicles operating in accordance with Section 6.1 and 6.2 of this by-law will be subject to an annual licence fee as outlined in the User Fee By-law.

2.5 Temporary Vending Site Operators will be subject to an annual licence fee as outlined in the User Fee By-law;

2.6 General provisions that shall be complied with are set forth in PART 4 of this by-law.

2.7 Businesses and/or business activities set forth in PART 5 of this by-law are prohibited from operating in the Town unless they satisfy an exemption clause identified in PART 5.

2.8 Mobile Refreshment Vehicles and Stationary Refreshment Vehicles shall be regulated under PART 6 of this by-law.

2.9 Exempted businesses and business activities identified PART 7 of this by-law shall not require a license or be part of the business license registry.

### **PART 3 - BUSINESS TYPES**

Auctioneer	Petting Farm
Bed & Breakfast	Pet Shop
Body Modification	Restaurant / Tavern / Take-out Restaurant
Food Store	Salvage Yard
Mobile and Stationary Refreshment Vehicle	Temporary Vending Site Operator
Old Gold Dealer	Tobacconist
Pawnbroker	Vape Retailer

### **PART 4- GENERAL REGULATIONS**

4.1 All Businesses identified in the By-law, shall;

- a) Not operate without a license issued by the Town;
- b) Maintain good standing with the Business Licensing Registry;
- c) Display the Business License in a conspicuous place in or on the Premises;
- d) Operate in accordance with any governing Federal, Provincial and/or Municipal Statute(s) related to the Business;
- e) Not operate if subject to a license suspension;
- f) Not operate in the event of being subject to a license revocation;
- g) No business shall operate in a manner that creates an unsafe condition or hazard

4.2 No person, corporation, business owner or employee shall;

- a) Obstruct an Officer designated to enforce any Federal, Provincial or Municipal legislation;
- b) Refuse to produce any documentation that is proof of a legal requirement for the Business to operate;
- c) Operate a prohibited business in Town;

d) Engage in a prohibited business activity in Town;

## **PART 5 - Prohibited Businesses / Prohibited Business Activities**

5.1 The following are prohibited pursuant to this By-law:

- a) Any business that possesses, sells, harbours, provides accommodation or care to animals that are prohibited in the Town;
- b) Door to door sales person(s) unless exempt in accordance with the Consumer Protection Act;
- c) Any business type or activity that is not permitted in accordance with Amherstburg Zoning By-law 1999-52 (as amended);
- d) Properties zoned Residential or Agricultural are prohibited from hosting a Stationary Refreshment Vehicle more than two (2) separate days per calendar year;
- e) Stationary Refreshment Vehicles are prohibited from servicing persons not in attendance at the host property.

## **PART 6 – Stationary and Mobile Refreshment Vehicle**

6.1 Stationary and Mobile Refreshment Vehicles shall:

- a) Obtain an annual licence to operate in Amherstburg;
- b) Operate in accordance with any governing Federal, Provincial or Municipal Statute(s) related to the business;

6.2 Stationary and Mobile Refreshment Vehicles shall not:

- a) Operate within the Prohibited Downtown Zone unless exempt in accordance with Section 7.1 (a);
- b) Operate in any Town park or other Municipally owned parcel without the required daily permit;
- c) Operate within One-hundred and fifty (150) meters of a brick and mortar restaurant unless exempted under 7.1 (a) of this by-law;
- d) Operate in a manner that creates an unsafe condition or hazard;

## **PART 7 - EXEMPTIONS**

7.1 Circumstances for Exemption:

- a) Operating on private property zoned Residential or Agricultural for the purpose of a single day special occasion event;
- b) The Town is authorized to allow unlicensed Stationary and Mobile Refreshment Vehicles to operate in the Prohibited Downtown Zone for specific events as they see fit;
- c) Pop-up Vendors operating on private property in accordance with the By-law do not require a licence;
- d) Pop-up Vendors operating on public property with the authorization of the Town do not require a licence;
- e) On premise sales stands on agricultural zoned property selling product(s) in accordance with By-law 1999-52 (as amended) do not require a licence;
- f) Not for Profit and/or charitable organization holding an event on private property do not require a licence;

## **PART 8 - ADMINISTRATION OF BY-LAW**

### **8.1 Duties, Responsibilities and Authority**

- a) Town Council hereby appoints the Manager of Licensing and Enforcement for the Town to administer this by-law, and to engage such Officers, clerks and staff as may be necessary to carry out the administrative functions of this by-law including the enforcement thereof;
- b) The Manager of Licensing and Enforcement shall have the delegated authority to create and amend the procedure for the administration of this by-law with the approval of the CAO or designate;
- c) The enforcement of this by-law is assigned to By-law Enforcement Officers, Licensing Officer(s), and members of the Police Service as employed by the Town of Amherstburg including any Provincial Offences Officers appointed by Town Council;
- d) All of the regulations contained within this by-law shall apply to all licenses required under the provisions of this by-law;
- e) The issuance or renewal of a licence is not intended and shall not be construed as permission or consent by the Town for the holder of the licence to contravene or to fail to observe or comply with any law of Canada or Ontario or any by-law of the Town;
- f) The Manager of Licensing and Enforcement may revoke a licence that is voluntarily surrendered by the holder;
- g) Every licence, at all times, is owned by and is the property of the Town and is valid only in respect of the person and the premises or of the person named therein and for the nature of business stated in the licence, and no licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized, distrained or otherwise dealt with;
- h) The Manager of Licensing and Enforcement has the authority to refuse to issue a license, refuse to renew a license, suspend a license, place conditions on a license, or revoke a license;
- i) Written Notice shall be carried out in the event of any refused license, renewal declined, suspension, conditions imposed, or revocation and shall include a Request for Appeal Application and applicable guidelines;
- j) Proper service of written notice may be by personal service, courier service, registered mail, or email so long as there is proof that the email was received by the Licensee;

## **PART 9 – Right to File Appeal**

### **9.1 Criteria, Process and Rulings**

- a) A Licensee, who's license is; refused, renewal declined, suspended, conditions imposed or revoked shall have the right to file a Request for Appeal after receiving written notice by the Town;
- b) Licensee's Request for Appeal shall be filed in writing using the provided form, addressed to the Manager of Licensing and Enforcement within Fifteen (15) days of receipt of the written notice;
- c) A Request for Appeal application shall include the non-refundable payment or proof of payment in the fee amount identified on the application form;

- d) Request for Appeal can be personally submitted to the Licensing Officer, Customer Service Representative or any member of the Clerk's department. The Request can also be sent to the Town by courier or registered mail;
- e) Once a Request for Appeal has been received The Manager of Licensing and Enforcement shall notify the Licensing Committee and convene a hearing within a reasonable amount of time based on the Committee's availability;
- f) Unless an Authority Having Jurisdiction deems otherwise the Licensee shall continue to operate until the Licensing Committee states otherwise;
- g) A majority of the Licensing Committee members present will serve as a quorum;
- h) The decision of the Licensing Committee at appeal shall be final;

**PART 10 – PENALTY**

10.1 Each person who contravenes any provision of this By-law is guilty of an offence.

- a) A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part III of the *Provincial Offences Act, R.S.O. 1990, c. P.33*, is liable to a fine of no more than Ten Thousand Dollars (\$10,000);
- b) A person convicted of an offence contrary to a provision of this By-law in a proceeding commenced under Part I of the *Provincial Offences Act, R.S.O. 1990, c. P.33*, is guilty of an offence and on conviction is liable to a fine as provided in the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended;

**Part 11 - Severability**

11.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary;

**PART 12 – REPEAL**

12.1 The following by-laws are hereby repealed;

- a) 2009-44
- b) 2023-66

**PART 13 – ENACTMENT**

13.1 Read three times and finally passed this \_\_\_\_\_ day of \_\_\_\_\_, 2026

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Michael Prue – Mayor

\_\_\_\_\_

Kevin Fox - Clerk

