

CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

BY-LAW NO. 2016-25

BEING A BY-LAW FOR LICENSING, REGULATING AND GOVERNING BUSINESSES IN THE TOWNSHIP OF BLACK RIVER-MATHESON

WHEREAS the Municipal Act, S.O. 2001, c. 25, Section 10(2) authorizes a single tier municipality to pass by-laws respecting business licensing;

AND WHEREAS the Municipal Act, S.O. 2001, Ch.25 Section 151(1) permits a municipality to provide for a system of licenses with respect to a business and;

- a) Prohibit the carrying on or engaging in the business without a license;
- b) Refuse to grant a license or revoke or suspend a license;
- c) Impose conditions as a requirement of obtaining, continuing to hold or renewing a license;
- 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 license;
- e) Impose conditions, including special conditions, as a requirement of continuing to hold a license at any time during the term of the license;
- f) License, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
- g) Require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licenses established by the municipality.

AND WHEREAS it is considered desirable to license, regulate and govern businesses in the Corporation of the Township of Black River-Matheson for the reasons of Health and safety, Nuisance control and Consumer Protection;

NOW THEREFORE the Council for the Township of Black River-Matheson **ENACTS AS FOLLOWS:**

1. TITLE

This by-law shall be known as the Business Licensing By-law.

2. DEFINITIONS

- **APPLICANT** means the person applying for a new license or renewing a license under this By-law.
- **AUCTION** means a public sale to Persons in which bids on goods, articles, merchandise, effects, etc., are received by an auctioneer and where each bid

offers more than the last previous bid, the article being put up for Auction sold to the highest bidder. This shall not include a Silent Auction or Chance Auction, as defined as follows:

- i. **Silent Auction** means an Auction conducted by means of written bids given on displayed goods, wares or merchandise with the final declaration of sale being made to the last individual having submitted a bid on the specified sheet for that item; and
 - ii. **Chance Auction** (also known as a Chinese Auction) means an Auction conducted by means of predetermining a set price on an item, thence receiving verbal bids on such an item. The final declaration of sale shall be made to the highest bidder who shall then pay the price, based on the difference between the predetermined price and the highest bid.
- **BUSINESS** shall mean the activity of providing goods and services for gain or profit.
 - **CHIEF BUILDING OFFICIAL** means the Chief Building Official appointed the Corporation of the Township of Black River-Matheson for the purposes of enforcement of the Building Code Act, the Ontario Building Code.
 - **CLERK** means the Clerk of the municipality designated by the Council of the Corporation of the Township of Black River-Matheson.
 - **COUNCIL** shall mean the Council of the Corporation of the Township of Black River-Matheson.
 - **DWELLING UNIT** means a building or part thereof used as a home, residence or sleeping place of an individual or family either continuously, permanently, temporarily or transiently.
 - **FIRE CHIEF** means the person appointed by Council as the Fire Chief of the Corporation of the Township of Black River-Matheson.
 - **HEALTH UNIT** means the Porcupine Health Unit.
 - **KENNEL** means an establishment where dogs, cats or other small domestic animals or household pets are bred or raised primarily for the purpose of sale or are trained or boarded for gain or profit, but does not include a veterinary clinic.
 - **LICENSE** means the actual license issued pursuant to this By-law, and includes a renewal license.
 - **LICENSEE** means the person who holds a license pursuant to this By-law.

- **LICENSING OFFICER** means the Clerk of the Municipality or any other person so designated by the Clerk.
- **MUNICIPALITY** shall mean the Corporation of the Township of Black River-Matheson.
- **MUNICIPAL LAW ENFORCEMENT OFFICER** means the By-law Officer appointed by the Council of the Corporation of the Township of Black River-Matheson.
- **OFFICER** means the By-law Officer, Fire Chief, Clerk or the Chief Administrative Officer or there designates any other person so designated by the Clerk.
- **OWNER** means the registered owner of the lands and premises or the person or their authorized agent in lawful control of the premises, building or occupancy and who permits the operation or maintenance of any business.
- **PERSON** shall include an individual, a partnership, a firm or corporation.
- **PREMISES** means land, including any and all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of a business.

3. GENERAL PROVISIONS

- 3.1 No person shall carry on, conduct, operate, maintain, keep or engage in any of the following categories of business within the Municipality without a current license (Schedule "M"):
- i. Auctioneer (Schedule A)
 - ii. Group A Business (Schedule B)
 - iii. Group B Business (Schedule C)
 - iv. Group C Business (Schedule D)
 - v. Hawker and Pedlar (Schedule E)
 - vi. Home Occupation (Schedule F)
 - vii. Home Industry (Schedule G)
 - viii. Kennel (Schedule H)
 - ix. Refreshment Vehicle (Schedule I)
- 3.2 Every person carrying on, conducting, operating, maintaining, keeping or engaging in any business, outlined in this by-law shall be required to obtain a license form the Licensing Officer for the Municipality.
- 3.3 Every person who is required to obtain a license shall renew the license each year by the date indicated in this by-law.

- 3.4 The owner of a premises shall not permit a person to operate a business on the premises without a license, where such license is required by this By-law.
- 3.5 A license shall be required for each separate business.
- 3.6 Unless otherwise indicated, the administration of this by-law is assigned to the Clerk who may delegate the performance of his/her functions under this By-law from time to time as occasion requires.
- 3.7 The enforcement of this by-law is assigned to the By-law Officer for the Municipality.
- 3.8 The Licensing Officer may impose conditions as requirements of obtaining, continuing to hold or renew a license.
- 3.9 No person shall hinder or obstruct or attempt to hinder or obstruct any Licensing Officer or Officer while exercising their powers and performing their duties under this By-law.
- 3.10 A person is not eligible to hold a license if the proposed use of the property, land, building or structure is not permitted by the Municipality's Zoning By-law that applies to the property, unless the land, building or structure was lawfully used for the purpose on the day of the passing of the zoning by-law, or amendments thereto. Prior to issuance of the license, all zoning provisions will be reviewed by municipal staff.
- 3.11 A person is not eligible to hold a license if the property, land, building or structure to be used for carrying on the business does not conform with all applicable law, including but not limited to the Property Standards By-law of the Municipality, the Fire Protection and Prevention Act, the Ontario Fire Code, the Building Code Act, the Ontario Building Code and the Health Protection and Promotions Act.
- 3.12 The Licensing Officer may refuse, revoke, to renew or suspend a license if the Licensing Officer believes the business will contravene the provisions of this by-law, statute, regulation, municipal by-law or applicable law.
- 3.13 Every licensee shall post the license on the Premises to which the license relates, in a conspicuous place that is clearly visible to the public.
- 3.14 No person shall knowingly provide false information in any application under this by-law or in any document, correspondence or other form of communication required to be furnished under this by-law.

4. APPLICATION FOR NEW LICENSE

- 4.1 Every person required to obtain a license pursuant to this by-law shall:

- i. Apply in writing on the appropriate application form as set out in Schedule “J”,
 - ii. Provide any documentation, approvals, inspections required by the provisions as set out in the application or as deemed necessary by the Licensing Officer, and
 - iii. Pay the required, non-refundable, license fee as set out in Schedule “K” for each business category.
- 4.2 The applicant shall be responsible for obtaining all necessary approvals, inspections, documents as set out on the application form and as deemed necessary by the Licensing Officer.
- 4.3 Upon receipt of a completed application, together with all required documentation and the appropriate license fees have been paid, the Licensing Officer may, prior to the issuance of any such license:
 - i. Make any inquiries to any municipal official or employee, who has carried out inspections relative to the business under application,
 - ii. Receive reports from such municipal officials and employees as may be deemed necessary, and
 - iii. Inquire into all relevant matters in order to ascertain if the applicant is entitled to a license under the provisions of this by-law.
- 4.4 The license issued under this by-law shall be valid from the date of issue and shall expire on the 31st of December of each year.

5. APPLICATION FOR RENEWAL LICENSE

- 5.1 Every person required to renew a license previously granted under this by-law shall submit to the Licensing Officer and application form for renewal of the license as provided by the Licensing Officer.
- 5.2 Every applicant shall ensure that the information on the application is up to date and provide any such documents and approvals as deemed necessary by the Licensing Officer.
- 5.3 Every applicant shall pay the required license fee as set out in Schedule “K”.
- 5.4 Every person required to renew a license previously granted under this by-law shall do so by the 31st of January of each year. If an application to renew a license is not received by the 31st of January, the Licensing Officer may suspend or revoke the license (see provision 3.1).

5.5 If the Licensing Officer revokes a license, a new license application and required fees must be submitted with all required documents necessary as deemed by the Licensing Officer.

6. CHANGE OF NAME

Where the ownership of a business is not changed or affected but the operating name has changed, the licensee shall within thirty (30) business days of such change notify the Licensing Officer and upon being satisfied that there has been no other change in the circumstances of the licensed business, the Licensing Officer may issue a replacement. The licensee shall return and surrender their license in order to affect such a change at no cost. The expiry date of the license shall be the same as the one being replaced.

7. CHANGE OF OWNERSHIP

Every licensee shall, upon change of ownership of the licensed business, return and surrender their current license to the Licensing Officer. The new owner shall make application for a new license as set out in this by-law.

8. CHANGE OF PREMISES

Where a currently licensed business changes premises, such new premises shall not be deemed to be licensed. The licensee shall notify the Licensing Officer within seven (7) business days of the change of location and surrender to the Licensing Officer the license issued with respect to their previous premises. The Licensing Officer shall, being satisfied that the new location meets all the requirements as set out in the by-law, issue a replacement to the original license. The expiry date of the license shall be the same as the one being replaced.

9. INSPECTION

9.1 An Officer may at all reasonable time, inspect or cause to be inspected the premises, facilities, equipment, vehicles and any other property used or kept for hire in connection with the carrying on of a business that is licensed or that is required to be licensed pursuant to this by-law.

9.2 The owner of a premises shall, upon request by an Officer, provide forthwith information relating to any person conducting business on the premises who is required to obtain a license pursuant to this by-law, including the corporate name, business name, address, phone number and dates of operation at that premises.

10. ENFORCEMENT

The Clerk, By-law Officer, Fire Chief or any other person duly appointed by the Clerk shall have the authority to enforce the provisions of this by-law.

11. PENALTY

Every person who contravenes any provision of this by-law is guilty of an offence and liable upon conviction to a fine, exclusive of costs as authorized by the Provincial Offences Act, R.S.O. 1990 Chapter P.33, as amended, except where otherwise expressly provided by law which shall be recoverable under the provisions of the Provincial Offences Act and all the provisions of the said Act shall apply to any prosecution for any offence under the provisions of this By-law.

The Set Fines for offences or contraventions of this by-law, are set out in Schedule "L", attached hereto.

12. SEVERABILITY

If any section, clause or provision of this by-law, including anything contained in any schedule attached hereto, is for some reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the section, clause or provisions so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses or provisions of this by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have to be declared invalid.

13. REPEAL

That by-law 26-2008 and any amendments thereto are hereby repealed.

14. ENACTMENT

This by-law shall not become operative until the date of final passing thereof and upon final approval of the Set Fine Schedule by the Ministry of the Attorney General.

Read a first and second time on this _____ day of _____, 2016.

Read a third and finally passed on this _____ day of _____, 2016.

MAYOR

CLERK

