

The Corporation of the City of Kawartha Lakes

By-Law 2016-210

A By-Law To Licence, Regulate and Govern Transient Trader Businesses in Kawartha Lakes

Recitals

1. Section 150 – 153 of The *Municipal Act, 2001*, S.O. 2001 c.25, as amended, authorizes Council to licence, regulate and govern businesses and events.
2. This authority includes but is not limited to the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, to regulate or govern the place used in the carrying on of such businesses, and to prevent the carrying on of such businesses without a licence.
3. Section 425(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, is guilty of an offence.
4. Section 429(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2016-210.

Section 1.00: Definitions and Interpretation

1.01 **Definitions**: In this by-law:

“**agent, trustee**” means any person who may represent the owner or the transient trader’s business and includes but is not limited to an employee or operator of the business;

“**applicant**” includes a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension;

“**business**” means a trade that requires a licence pursuant to this by-law, whether or not a licence has been issued or maintained for that business;

“**by-law**” means this by-law, as it may be amended from time to time. The recitals to, and the schedules attached to this by-law are considered integral parts of it;

“**charity**” is a corporation which is registered by the Canadian government as a charity for the purposes of the Federal Income Tax Act, as amended;

“**Chief Building Official**” means the person within the City’s administration who fulfills the function of the chief building official as required by the *Building Code Act, 1992*, S.O. c.23, as amended or their delegate;

“**City**”, “**City of Kawartha Lakes**”, “**Kawartha Lakes**” or “**municipality**” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

“City Clerk” means the person within the administration of the City who fulfils the function of the City Clerk as required by the *Municipal Act, 2001 S. O. 2001 c.25*, as amended or their delegate;

“City facility” means any property owned by the City that is not a highway;

“City Treasurer” means the person who holds that position within the administration of the City and their delegate(s) or, in the event of organizational changes, another person designated by Council;

“Council” means the municipal council for the City;

“Department Head” means the person who holds that position and their delegate(s) or, in the event of organizational changes, another person designated by Council;

“Door-to-Door Sales Person” means a Transient Trader who conducts their trade by approaching individuals at a dwelling unit with the intent of selling a product or service without prior notice but does not include employees of the City of Kawartha Lakes, or individuals representing a charitable or religious organization;

“Dwelling” means a building or structure any part of which is or is intended to be used for the purpose of human habitation and includes a Building that would be used or intended to be used for such purposes;

“Dwelling Unit” means a suite or unit, used or intended to be used as a domicile by 1 or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

“Fees By-Law” means the City of Kawartha Lakes Fees By-Law as amended or any subsequent by-law known as the Consolidated Fees By-Law;

“Fire Chief” means the person within the City’s administration who fulfills the function of the fire chief as required by the Fire Protection and Prevention Act, 1997 S. O. c.4, as amended or their delegate;

“Health Unit” means the Haliburton, Kawartha, Pine Ridge District Health Unit;

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof, as defined in the Highway Traffic Act, R.S.O. 1990, Chapter H.8 as amended;

“licence” means a licence to operate a trade issued pursuant to this by-law;

“licensee” means the owner of a licence;

“Licensing Officer” means the municipal licensing Officer for the City, responsible for the issuing, administration and approval of licences in accordance with provincial legislation and City policies and procedures, or their delegate;

“Medical Officer of Health” means the Medical Officer of Health of the Health Unit or their delegate;

“Municipal Act” means the *Municipal Act, 2001 S.O. 2001 c.25* as amended from time to time;

“Municipal Law Enforcement Officer” is a person duly appointed within the City’s administration to enforce the by-laws of the City, and includes the Licensing Officer;

“Non-Profit” is an adjective used to describe a person who meets one or more of the following requirements:

- (a) it is registered in Ontario as a non-profit corporation by the applicable Provincial or Federal authority or Ministry;
- (b) it is certified by an Accountant (to the satisfaction of the Treasurer) as a person that makes no profit and intends to make no profit in its day to day business operations;
- (c) it files no income tax return as a commercial business;
- (d) it is a minor sports association or organization; or
- (e) it is a Community Betterment Organization or Group that returns 100% of its net proceeds to the community for the community’s benefit;

“operator” means a person who alone or with others operates, manages, supervises, runs or has care and control of a business at any given point in time. The terms “operate”, “operation” and words of like import or intent have corresponding meanings;

“owner” means a person who alone or with others has legal title to real or personal property, the right to possess or occupy a business or actually does possess or occupy a business and includes a lessee of a business or of premises upon which a business is located. The terms “own”, “ownership”, and words of like import or intent have corresponding meanings;

“person” includes but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person;

“Police” means the Chief of Police or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, or their delegate;

“pop-up shop” means a retail business which leases or otherwise occupies commercial space on a temporary basis but does not include a retail business that sets up on a temporary basis within a retail establishment that operates on a year-round basis within the City;

“retail establishment” means a building or part thereof in which

goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public;

“schedule” means a schedule to this by-law;

“shopping centre” means one or more buildings containing at least four individual business establishments, planned, developed, owned and managed as a unit with contiguous common parking and pedestrian uses and common off street parking. Single commercial/retail uses in stand-alone buildings on the same lot shall be permitted as ancillary to the predominant use as a Shopping Centre;

“site plan” means an accurate drawing of the property outlining the street address and street location where the fixed sales location will be, proximity to building and business;

“Special Community Event” means but is not limited to any cultural, recreational, or educational event of limited duration, including an exhibition, show, display, concert, festival, or race, competition, public entertainment, parade, and any other organized public amusement, whether free or for a fee, that is open to members of the public to attend and is expected to attract 350 or more people over the entirety of the event;

“Special Community Event Organizer” means a person who alone, or with others, is responsible for the planning and management of a Special Community Event;

“Special Community Event Vendor” is a transient trader as defined herein who operates within the City limits at Special Community Events for not more than three (3) consecutive days per event;

“trade” includes business, calling or occupation and “carrying on a trade” includes any act of:

- (a) selling any goods or services; or
- (b) soliciting business or offering or exposing goods or services for sale or hire;

“transient trader” is a person who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the City afterwards. Without limiting the generality of the foregoing, the term “hawker” or “peddler” has an identical meaning. A person vending at a craft show or trade show is not a “transient trader” for the purposes of this by-law. A person vending fireworks is not a “transient trader” for the purposes of this by-law;

1.02 **Interpretation Rules:**

- (a) Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable
- (c) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Licensing Requirements

2.01 **Licence Requirement:** Every person carrying on the business of a Transient Trader shall obtain a licence from the City authorizing them to carry on that business. This section is subject to any exemption provided for within this by-law. No person shall, either directly or indirectly, carry on or continue to carry on a business, either for profit or not for profit, without first having obtained the required licence. Failure to comply with this section or any provisions of this by-law shall be an offence.

- 2.02 **Regulations**: A person who operates a Transient Trader business shall comply with the regulations set out in this by-law. Failure to comply with the regulations is an offence.
- 2.03 **Responsibility of Agents**: An agent, trustee or representative of Persons carrying on a Transient Trader Business in Kawartha Lakes shall also be personally liable for the compliance of his or her principal, beneficiary or persons they represent in connection with this by-law. The owner of the Transient Trader Business shall be liable for any action of their agent(s) that is in breach of any section of this by-law.
- 2.04 **Locational Requirement**: A licence shall be obtained for each location from which a Business is carried on. (A warehouse incidental to the conduct of a business and used only for that purpose is not considered a separate location of the business.) Failure to comply with this section shall be an offence.
- 2.05 **Liability Insurance**: No Person shall be granted or hold a licence for a Transient Trader Business unless the Applicant, upon application, or at the request of the Licensing Officer, provides proof of general commercial liability insurance in accordance with the provisions of this by-law. Failure to maintain insurance as required constitutes an offence.
- 2.06 **Criminal Charges and Convictions**: Any Persons that have pending criminal charges shall not be eligible for a Licence under this By-law until documented proof of an absolute or conditional discharge of such charges is provided to the Licensing Officer.
- 2.07 **Exemptions**: Notwithstanding Section 2.01, no such Licences shall be required for the following types of Transient Traders:
- a. persons peddling goods, wares, or merchandise to wholesale or retail dealers in similar goods, wares or merchandise;
 - b. growers, producers, or manufacturers (or their authorized agents or employees) who reside in Kawartha Lakes and are peddling goods, wares or merchandise which are grown, produced or manufactured in Ontario;
 - c. a resident in Ontario peddling only goods, wares, merchandise or produce from their own farms or gardens;
 - d. persons who lease or own realty within Kawartha Lakes upon which they operate a business selling the same wares that are proposed to be peddled;
 - e. persons who are agents or employees of non-profit or charitable organizations, who are vending for the benefit of the non-profit or charitable organization;
 - f. entertainers who are not covered by any other municipal by-law;
 - g. tag days;
 - h. persons who sell wares at "home parties" upon the invitation of the owner or occupant of the dwelling unit from which the sale will take place;
 - i. yard or garage sales held on residential properties;
 - j. persons leasing space within a Shopping Centre;
 - k. persons operating a transient trader at an event organized by a non-profit agricultural society or organization.

- 2.08 **Onus of Proof of Qualification for Exemption:** Any Transient Trader who claims an exemption under section 2.07 shall, at the request of the Licensing Officer, provide the appropriate evidence in support of the claim for the exemption. Similarly, in a prosecution for breach of this by-law, the onus of proving an exemption from requirement for a Transient Trader's licence shall be upon the person claiming the exemption.

Section 3.00: Licensing Procedures

- 3.01 **Application:** An application for a Licence or renewal of a Licence required under this By-law may be obtained from the main administrative offices of the City, or at any of the City's municipal service centres, on the form prescribed by the Licensing Officer.
- 3.02 **Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application in support of the application as outlined in Sections 4.00, 5.00, and 6.00 and shall be accompanied by the appropriate licensing fee as outlined in the Fees By-Law.
- 3.03 **Photograph:** The Licensing Officer or designate shall take a photograph of every Applicant under Section 3.02, which shall be filed with the City and upon application for renewal of the Licence, the applicant shall attend for a new photograph if required to do so by the City.
- 3.04 **Additional Documents Required:** In addition to the requirements prescribed in Subsection 3.02, the applicant shall, at the request of the Licensing Officer, or when application is being made for a new or altered business, provide the following:
- a) a site plan drawing outlining the location of all roads or streets and their names, all buildings and their proximity to other buildings, on site and on abutting lots, and property lines;
 - b) documentation from the Development Services Department that the property upon which the Transient Trader will operate is appropriately zoned;
 - c) documentation from the City's Chief Building Official confirming that all buildings, structures and facilities, on site, or the plans for same, are or will be in compliance with the requirements of Property Standards By-law and the Building Code Act S. O. 1992, c.23, as amended;
 - d) a Police Criminal Records Check for each Applicant or Agent;
 - e) documentation from the Fire Chief confirming that all buildings, structures and facilities, or the plan for same, are in compliance with applicable fire safety regulations; and
 - f) documentation from the Medical Officer of Health that all health requirements have been met.
- 3.05 **Additional Criteria Considered:** The Licensing Officer may deny a licence or issue a licence with specific conditions based on, but not limited to the following criteria:
- a) the applicant's premises or place of trade are the object of an order to comply made under the Property Standards By-law, or an order made under the Building Code Act S. O. 1992, c.23, as amended;

- b) the applicant's premises (or use of such for the business requested) is not in compliance with the Zoning By-law or any parking requirements of the City;
- c) the applicant's premises requires corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
- d) the applicant's premises requires corrective action pursuant to an order of the Fire Chief;
- e) the applicant has been found to have discriminated against a member of the public contrary to The Ontario Human Rights Code R. S. O. 1990 c.H.19;
- f) the applicant has been convicted of an offence pursuant to the Criminal Code of Canada, R.S.C. 1985, c. C.46;
- g) the applicant was previously convicted of an offence pursuant to this or a predecessor by-law;
- h) the applicant is financially obligated to the City in some manner other than for current taxes; and
- i) the applicant is in breach of this or some other City by-law or law of Ontario or Canada.

3.06 **Inspection Requirement:** The Licensing Officer or designate may inspect any property where a Transient Trader is to operate prior to the issuance of any licence or at any time during the licence period.

3.07 **Licence Refusal:** The Licensing Officer has the right to deny the issuance of or revoke a Licence if any of the terms of this by-law are not met. If the application is denied, the Applicant has the right to appeal the decision in accordance with the procedures outlined in Section 10.03.

3.08 **Disclosure of Private Information:** It shall be a condition of every licence that an owner or operator shall consent to the disclosure of all records and personal information with respect to any licence application, approval refusal or revocation to any law enforcement agency, provincial ministry, federal department, agency, board or commission thereof or any other municipality, or to the Transient Trader, pursuant to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.m.56,s.32., as amended.

3.09 **Time Limited:** Licences shall be issued for a maximum period of one year and shall come into effect on the date that they are issued, and expire no later than December 31 of that same year.

Section 4.00: Annual Transient Trader Licence

4.01 **Licence Requirement:** Any Transient Trader who travels from place to place within the City to carry on their trade for four (4) or more consecutive days in a calendar year, or who occupy a storefront for a period of one (1) to no more than thirty (30) days shall obtain an Annual Transient Trader Licence.

4.02 **Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with the application as outlined below:

- a. a fully completed application form as supplied by the City;

- b. documentation, providing proof that he or she is the property owner of the land from which the Business will operate or, alternatively, that he or she has the authority of the property owner, property manager, or agent to operate from the site;
- c. proof satisfactory to the Licensing Officer that the property from which they are proposing to operate the business is appropriately zoned, if applicable;
- d. a copy of Ontario Master Business Licence or articles of incorporation;
- e. proof of valid insurance in accordance with Section 9.00 of this by-law;
- f. the appropriate licence fee in accordance with the Fees By-Law.

4.03 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.

Section 5.00: Special Community Event Transient Traders Licence

5.01 **Licence Requirement:** Any organizer of a Special Community Event where Transient Traders will be operating shall obtain a Special Community Event Transient Traders Licence. Failure to comply with this section is an offence.

5.02 **Responsibility of Special Community Events Organizer:** It shall be the responsibility of the Special Community Events Organizer to submit a complete Special Community Event Transient Trader Application as supplied by the City and required documents as outlined in Section 5.03 of this by-law. A Special Community Event Transient Trader application and supplementary documents must be submitted to the Licensing Officer no later than 21 days prior to the date of the Special Community Event. Failure to comply with this section is an offence.

The Special Community Events Organizer is responsible for ensuring that Transient Traders at the Special Community Event are in compliance with the requirements of this by-law.

5.03 **Transient Traders at Special Community Events Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary documents to be completed or submitted by the Special Community Events Organizer in conjunction with either application in support of the application as outlined below:

- a. a fully completed application form as supplied by the City;
- b. information for each Transient Trader including:
 - i. Transient Trader business name;
 - ii. Transient Trader personal name(s);
 - iii. Transient Trader business address;
 - iv. Transient Trader personal address(es);
 - v. Transient Trader phone number;
 - vi. Transient Trader Drivers Licence number(s);
 - vii. Description of goods and/or services to be offered and/or sold.
- c. proof of valid insurance coverage as outlined in Section 9.00 of this by-law;
- d. the appropriate licence fee required in accordance with the Fees By-Law.

5.04 **Failure to Comply:** Failure to comply with any of the provisions of this Section is an offence.

Section 6.00: Door-to-Door Sales Transient Traders

- 6.01 **Licence Requirement:** Any person working as a Door-to-Door Sales Transient Trader shall obtain a Door-to-Door Sales Transient Traders Licence. Failure to comply with this section is an offence.
- 6.02 **Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with the application as outlined below:
- a. A fully completed application form as supplied by the City;
 - b. a copy of Ontario Master Business Licence or articles of incorporation;
 - c. proof of valid insurance in accordance with Section 9.00 of this by-law;
 - d. a police criminal records check;
 - e. the appropriate licence fee in accordance with the Fees By-Law.
- 6.03 **Door-to-Door Sales Transient Trader Requirements:** A Door-to-Door Sales Transient Trader licenced under this by-law shall:
- (a) carry at all times on their person any City issued identification;
 - (b) only conduct their trade from Monday to Saturday from 9:00am – 6:00pm;
 - (c) provide to the Licensing Officer a calendar outlining the dates, times, and locations at which they will be conducting their Trade;
 - (d) carry and provide when requested, written documentation and/or marketing materials outlining the goods and/or services being peddled;
 - (e) cease sales activities at the dwelling unit upon the first request of the person occupying the dwelling unit;
 - (f) not request entry or enter a dwelling unit without authorization from the occupant of the dwelling unit;
 - (g) not engage occupants of a dwelling unit where a sign indicating no solicitation is present on the property;
 - (h) not misrepresent themselves as employees or representatives of the City of Kawartha Lakes or utility providers already servicing the property.
- 6.04 **Failure to Comply:** Failure to comply with any of the provisions of this Section is an offence.

Section 7.00: General Licensing Provisions

- 7.01 **Standards – Age Restriction:** No person under the age of 16 shall be employed as a Transient Trader under the provisions of this by-law.
- 7.02 **Location:** It is an offence for a Transient Trader who is licensed to sell from place to place, to establish a display with their wares in one location and to vend from it under the auspices of that licence within 100 metres of an established business with the main product the same as that sold by the

Transient Trader, unless they have written permission from the established business.

- 7.03 **Municipal Property**: No person shall operate a transient trader operation on municipal property without written authorization from the appropriate Director or a rental agreement with the appropriate City department.
- 7.04 **Duplicate Licence**: A duplicate licence may be issued by the Licensing Officer to replace any licence previously issued which has been lost, stolen or destroyed, upon written application by the licensee and upon payment of a fee, as set out in the Fees By-law.
- 7.05 **Posting & Production of Licences**: Where a licensee or an employee of a licensee, travels from place to place to perform their business, they shall carry their licence at all times when engaged in the business. Persons licensed under this by-law shall, when requested by the Licensing Officer, Municipal Law Enforcement Officer, or any person authorized by Council, produce the licence for inspection and shall exhibit the licence to any person to whom the licensee is offering goods or services for sale.
- 7.06 **Misuse of Place-to-Place Licence**: Any Transient Trader who is licensed under this by-law shall not establish a display with their wares in one location and to vend from it under the auspices of that licence. All goods, wares, merchandise, signs, and other paraphernalia of the Transient Trader must remain on the site which is licensed, and must not be situated, even temporarily, on abutting properties, including highways or on properties not identified on the licence. Failure to comply with this section is an offence.
- 7.07 **Partnerships and Corporations and Unincorporated Associations**:
- (a) A partnership, a corporation, an association or a combination of persons is considered as a single applicant for any one business.
 - (b) On any application by a partnership, the licence shall be issued in the name under which, business is carried on by the applicant. The names and addresses of all partners must be listed on the application form.
 - (c) Any application by a corporation shall contain the names and addresses of the officers and directors of the corporation.
 - (d) A change in composition of the members of a partnership or in the officers and/or directors of a corporation shall be reported to the Licensing Officer within five (5) business days of the change. Failure to comply with this section is an offence.
- 7.08 **Change of Address**: Every change of mailing address or telephone number of any licensee shall be reported to the Licensing Officer within five business days. Failure to comply with this section is an offence.
- 7.09 **No Transfer**: It is an offence to attempt to transfer or assign a licence issued under this by-law except in accordance with subsection 8.10.
- 7.10 **Licence Transfer**: Upon cessation or sale or other transfer of a business, the licensee of that business shall notify the Licensing Officer of the cessation or transfer. Where the business is being transferred, and subject to any restrictions in the applicable schedule, the new owner or operator shall be required to submit an application for the licence transfer, in the form prescribed by the Licensing Officer. The Licensing Officer may, depending upon the circumstances of the transfer, require the new owner or operator to submit any or all of the same documentation and/or information that would have been required for a new application for the licence in question. The requirements of this by-law apply to applications for licence transfer.

- 7.11 **No Vested Right**: No person enjoys a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension, all licences remain the property of the City.
- 7.12 **Licensees to Use Name on Licence**: It is an offence for a person licensed to carry on a business under this by-law to advertise or carry on that business under any other name than the one endorsed on their licence.
- 7.13 **Inspections**: The Licensing Officer, the Police, the Medical Officer of Health, the Fire Chief, a Municipal Law Enforcement Officer or any person acting under those persons, or any person authorized by Council, may at reasonable times or at anytime the business is operating, inspect:
- (a) any premises or place where a business subject to this by-law is carried on or where there are reasonable grounds to believe a business subject to this by-law is being carried on;
 - (b) any goods, or equipment, used or to be used by the applicant in connection with the business subject to this by-law.

It is an offence to obstruct or permit the obstruction of an inspection.

- 7.14 **Failure to Comply**: Failure to comply with any of the provisions of this section is an offence.

Section 9.00: Insurance Requirements

- 9.01 **Insurance Requirements**: Any person who obtains a Transient Trader licence shall provide, to the Licensing Officer, prior to the issuance of such licence and any renewals thereafter, a current and valid Certificate of Insurance evidencing General Liability Insurance including but not limited to bodily injury including death, personal injury and property damage including the loss of use thereof, contractual liability and contain a cross liability/severability interest clause. This insurance shall be with an insurance company authorized by law to underwrite such insurance in the province of Ontario. The amount of the insurance shall be not less than two million (\$2,000,000) dollars per occurrence and in a form satisfactory to the Licensing Officer.

The policy shall include a provision that the Licensing Officer shall be provided thirty (30) days written notice in advance by registered mail of any cancellation, expiration or variation in coverage provided by the policy. If for any reason such insurance is cancelled, expires, or for any other reason does not remain in effect or fails to meet the requirements of the Licensing Officer, the licence shall become void on the final date for which the insurance was valid.

Where the business is operating on City property the policy shall name the Corporation of the City of Kawartha Lakes as an additional insured.

- 9.02 **Special Community Event Insurance Requirements**: Any Special Community Event Organizer applying for a Special Community Event Transient Trader Licence shall provide, to the Licensing Officer, prior to the issuance of such licence and any renewals thereafter, a current and valid Certificate of Insurance evidencing Commercial General Liability Insurance including but not limited to bodily injury including death, personal injury and property damage including the loss of use thereof, contractual liability and contain a cross liability/severability interest clause, that names all vendors to be covered by the policy. This insurance shall be with an insurance company authorized by law to underwrite such insurance in the province of Ontario. The amount of the insurance shall be not less than five million (\$5,000,000) dollars per occurrence and in a form

satisfactory to the Licensing Officer. The policy shall name the Corporation of the City of Kawartha Lakes as an additional insured.

The policy shall include a provision that the Licensing Officer shall be provided thirty (30) days written notice in advance of any cancellation, expiration or variation in coverage provided by the policy. If for any reason such insurance is cancelled, expires, or for any other reason does not remain in effect or fails to meet the requirements of the Licensing Officer, the licence shall become void on the final date for which the insurance was valid.

Those vendors not covered by the policy obtained by the Special Community Event Organizer must comply with the insurance provisions outlined in Section 9.01 of this by-law in an amount not less than two million (\$2,000,000) dollars per occurrence and in a form satisfactory to the Licensing Officer. Where the business is operating on City property, the policy shall name the Corporation of the City of Kawartha Lakes as an additional insured.

- 9.03 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.

Section 10.00: Granting, Refusal and Revocation Of Licenses

- 10.01 **Grant Licence:** The Licensing Officer shall issue a licence or licence renewal where the applicant is in full compliance with the terms of this By-law and all other applicable By-laws, Provincial and Federal legislation and regulations.

- 10.02 **Grant Licence With Conditions:** The Licensing Officer may, where the provisions of this By-law have been met, propose in writing to the Applicant to grant the Licence subject to conditions if appropriate. If within five (5) days following the written proposal to grant the Licence with conditions, the Applicant has not indicated an objection to the Licence with conditions, the Licence is deemed to have been issued on the day of the notice of the proposal to grant.

The Licensing Officer shall revoke a licence granted with conditions if the applicant has not met the imposed conditions within the stipulated time frame.

- 10.03 **Refuse Licence:** In the event that the Licensing Officer refuses for any reason to grant a Licence, or suspends or revokes a Licence, and the Applicant requests that the matter be considered by Council, the Licensing Officer shall prepare a report for the consideration of Council and the Applicant shall be provided with at least two (2) weeks written notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.

- 10.04 **Council Discretion:** Council may in its sole discretion grant, grant with conditions, refuse to grant, or revoke or suspend a Licence.

In the exercise of its discretion under Section 10.03 such discretion shall be exercised,

- i. upon such grounds as are set out in this By-law, or
- ii. upon the grounds of the conduct of a person, or in the case of a corporation, the conduct of its officers, directors, employees or agents, affords reasonable grounds for belief that the Person will not carry on or engage in the business in accordance with the law or with honesty and integrity.

- 10.05 **Consideration to Matters Raised:** Council may, in exercising its discretion pursuant to this By-law, consider any matter raised under Section 3.00 or any other matter that relates to the general welfare, health or safety of the public, the control of nuisances within Kawartha Lakes, or the protection of consumers.
- 10.06 **Surrender of Licence:** It shall be an offence for any person licenced under this by-law to fail to deliver or surrender to the Licensing Officer, a Licence issued by the City, upon suspension or revocation.

Section 11.00: Enforcement and Penalties

- 11.01 **Enforcement:** Municipal Law Enforcement Officers, Licensing Officer, Police or any other Person designated by Council may enforce this By-law.
- 11.02 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.
- 11.03 **Offence and Penalty:** Every Person who contravenes any of the provisions of this by-law is guilty of an offence pursuant to Section 429 of the Municipal Act, 2001, S.O. 2001, c. 25 and all contraventions of this by-law are designated continuing offences.
- 11.04 **Offence by an Individual:** Every Person, excluding a corporation, who is convicted of an offence under this by-law, is liable to a fine as stipulated by the set fines as attached to this by-law or as stipulated by the Provincial Offences Act R.S.O. 1990, Chapter P.33.
- 11.05 **Offence by a Corporation:** Every corporation who is convicted of an offence under this by-law is liable to a maximum fine of Fifty Thousand Dollars (\$50,000) for the first offence and a maximum fine of One Hundred Thousand Dollars (\$100,000) for any subsequent offence in accordance with the Municipal Act, 2001, S.O. 2001, c. 25 and Provincial Offences Act R.S.O. 1990, Chapter P.33.
- 11.06 **Multiple Offences:** The conviction of an offender for the breach of any provision of this By-law shall not operate as a bar to a prosecution against the same offender upon any subsequent or continued breach of any provision of this By-law.
- 11.07 **Court Order:** If this By-law is contravened and a conviction entered, the court in which the conviction is entered and any court that has jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or the repetition of the offence.

Section 12.00: Administration and Effective Date

- 12.01 **Administration of the By-law:** Unless otherwise indicated in this By-law, the administration of this By-law is assigned to the City Clerk whom may delegate the performance of any of the functions under this By-law from time to time as occasion requires.
- 12.02 **Effective Date:** This by-law shall come into force on January 1, 2017.

By-law read a first, second and third time, and finally passed, this 22nd day of November, 2016.

Andy Letham, Mayor

Judy Currins, City Clerk

Licence Fees

Annual Transient Trader Licence Fee per year or part year	\$300.00
Special Community Event 1-5 Transient Trader	\$25.00 per Transient Trader
Special Community Event 5 or more Transient Trader	\$25 for first 5 vendors, \$15 per each additional Transient Trader
Door-to-Door Sales Transient Trader Licence	\$500.00
Licence Replacement	\$15.00