



CLEARVIEW

## REPORT TO COUNCIL

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**Report Number:** CS-029-2021  
**Department:** Community Services (Planning & Development)  
**Meeting Date:** May 31<sup>st</sup>, 2021  
**Subject:** Zoning By-law Amendment for Vending and Shipping Containers and Amendment to the Licensing By-law 14-42 (Vending By-law)

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### RECOMMENDATION:

Be It Resolved, that Council of Township of Clearview hereby:

- 1) Receive report CS-029-2021 from the Director of Community Services regarding an amendment to By-law 14-42 (Vending By-law) and a Zoning By-law Amendment related to vending and shipping containers (2021-014-ZB);

### BACKGROUND:

At the March 8<sup>th</sup>, 2021 Council meeting, Council directed staff to hold a public meeting on an amendment to the Vending By-law and to the Zoning By-law as per report CS-010-2021.

### Subject Lands

The proposed amendment applies to the whole of the Township.

### The Proposal

#### Zoning By-law Amendment:

The purpose of the proposed amendment is to clarify the Zoning By-law as it works with the intent of the Vending By-law 14-42, particularly as it relates to the prohibition of temporary vending from shipping containers and street and rail cars.

Currently the Zoning By-law has a general provision that restricts the use of shipping containers and street and rail cars along with portable structures, vehicles and

accessory buildings for storage and for sales. The provision then goes on to say that if the sales are licensed under the Vending By-law 14-42, that the use is permitted.

As the provisions for both storage and sales are contained within one sentence, the provision could be misconstrued to be interpreted that this permits vending in a shipping container, or a street or rail car. As the Vending By-law is for temporary structures that can be easily removed from a site and that there are size restrictions on vending vehicles in the By-law, Staff are of the opinion that the reference to the shipping container, street and rail car, relate specifically to the prohibition of both storage and sales and given the intent of the Vending By-law, are not intended to permission for these uses as temporary vending opportunities. A copy of what changes are proposed in a tracked changes version is attached to this report.

The Vending By-law is the parent By-law that regulates vending and contains the specific details for this use. Schedule B of the Vending By-law states that for a Class B - For Profit, or Commercial, Non-motorized Sales to mean the "sale of food or merchandise, or the provision of services, which primarily based from a non-motorized, muscular powered, or stationary equipment or booth and shall include but not limited to bicycle carts, portable barbeques or grills, tables and coolers." In reading this section, it lends to the intent being temporary structures.

Council has directed staff to do an education campaign regarding the prohibition of shipping containers; have undertaken a Community Improvement Plan to improve the look of our commercial areas and entrances to the communities; and require architectural control for commercial, industrial, institutional and residential development. It would then appear to be counterproductive to permit vending from shipping containers and given staff's interpretation of the Zoning By-law is not permitted. This proposal will clarify this in the Zoning By-law.

Regarding street and rail cars, these are not simple temporary structures to be moved. They do not move upon their own power, nor can they be hooked up and towed down the road. They require a large flatbed tractor trailer for relocation and can require police escort, MTO approval and even local road closures. The use of these structures/buildings would not be consistent with the Vending By-law and as such, this proposal will also address this.

### **Vending By-law Amendment:**

The proposed amendment to the Vending By-law would clear up the inconsistency in this By-law.

The By-law permits two types of licenses, Class A and Class B. Class A operates from a motorized vehicle that is defined under the Highway Traffic Act and is capable of travelling or being hauled behind a motor vehicle and has current motor vehicle licensed plates. That means that as a transient trader, the vehicle or trailer can be moved at any time with ease.

Class B is for non-motorized, muscular powered or stationary equipment or booth and shall include, but not limited to bicycle carts, portable barbeques or grills, table or coolers. The examples given here are highly portable as is the intent.

In both Class A and B, the intent of the By-law is to provide for a vendors license for a working licensed vehicle or trailer that can be moved at any time or of temporary portable structures or things. The amendment is proposed to ensure there is no confusion regarding the two classes of licenses.

A copy of a tracked changes version of the By-law is attached for information.

The changes proposed are as follows:

1. Remove the words "from a merchandise vehicle" out of the definition for merchandise vendor since a merchandise vendor could work under a Class B license where they would have a boot or something similar but not a vehicle. This is just an error in the definition.
2. Adding a definition for "temporary" as this is a term used often in the By-law but is not defined.
3. Adding provisions under Administration that:
  - a. ensure that a permanent business in a storefront location does not need a license;
  - b. That a drawing of the structures proposed is required to obtain a license, so that we know what we are licensing;
  - c. That a license extension has to be applied for annually;
  - d. That the Owner of the property must give written permission;
  - e. A list of which departments and groups are to be circulated the license for approval to provide more clarity to applicants and staff; and
  - f. A list of things to be considered in reviewing a license including health and safety and community planning, added also to provide clarity to the applicant and to staff.
4. Some other changes removed duplication and moved what are general regulations that apply to both classes of licenses were moved to the general administration section.
5. Added provisions regarding the need to obtain approval from the Health Unit and meeting the provisions of the applicable Act where required to make it more clear what applicant require.
6. Relocating the powers of the By-law Officer from the General Regulations section to the Inspection - Power of Entry section where it belongs. Also relocated a few other articles to their appropriate location such as under exemptions.
7. Added a provisions for TSSA approval where required to be clear to the applicants and staff.
8. Cleaning up Sections 7 and 8 and the Schedules. Most of Schedule "A" is duplicated in the body of the By-law and therefore are proposed to be removed

from the Schedule. Further, other than Appendix 1 to Schedule B which is the area around the Creemore BIA, the rest of Schedule B is also a duplicate of everything already covered in the By-law. Therefore Appendix 1 to Schedule B can be relabeled Schedule B and the rest of Schedule B is not required. This will make the By-law much simpler to read and understand.

## **COMMENTS AND ANALYSIS:**

### **Provincial Policy Statement (2014)**

As the proposal is simply to clarify some minor technical matters, the Provincial Policy doesn't have any specific policies that address the proposal. Hence, the proposal is consistent with the Provincial Policy Statement (2014) issued under the *Planning Act*.

### **A Place to Grow - Growth Plan for the Greater Golden Horseshoe (2019)**

Similar to the Provincial Policy Statement, this proposal only clarifies the existing intent of the Zoning By-law is technical in nature. A Place to Grow doesn't have policies that either support or oppose the proposal. Hence, the proposal is consistent with A Place to Grow - Growth Plan for the Greater Golden Horseshoe (2019) issued under the Planning Act.

### **County of Simcoe Official Plan**

Similar to the Provincial Policies, the policies of the County Official Plan do not support nor oppose the proposed technical amendment. Hence, the proposed housekeeping amendment conforms to the County of Simcoe Official Plan.

### **Clearview Township Official Plan (2001)**

The proposed amendment is minor and technical in nature and conforms to the Township's Official Plan.

## **CLEARVIEW STRATEGIC PLAN:**

The Strategic Priorities of the Strategic Plan 2017-2022 are not applicable to this report.

## **COMMUNICATION PLAN:**

The Notice of Public Meeting regarding this application will be distributed in accordance with the requirements of the Planning Act.

## **FINANCIAL IMPACT:**

Other than the public notice expenses, this proposal has no financial impact on the municipality.

**REPORT SCHEDULES:**

- A. Tracked changes version of the Zoning Amendment
- B. Draft Zoning By-law Amendment
- C. Draft Licensing By-law Amendment
- D. Tracked changes version of Licensing By-law

**PREPARED BY:**

Mara Burton, MCIP, RPP  
Director of Community Services

**REVIEWED BY:**

John Ferguson  
CAO

## Red-line Revisions to Section 2.35 "General Provisions, Uses Permitted in all Zones"

### 2.35 USES PERMITTED IN ALL ZONES

Any use which is not a permitted use in accordance with this By-law is a prohibited use.

Unless specifically permitted in a given zone or in a general provision of this By-law, the following uses are prohibited within the corporate limits of the Township of Clearview:

- ~~e) The use of any portable structure, vehicle, cargo container, street or rail car, or accessory building/structure for human habitation, except where an accessory dwelling unit is permitted to be located in a detached building.~~
- ~~f) The use of any portable structure, vehicle, cargo container, or street or rail car for storage or sales except where a license has been issued for vending only of merchandise or food, for a particular operation and at a particular location in accordance with License By-law 14-42.~~
- e) The use of any structure, vehicle, shipping container, moving container, or street or rail car for storage or human habitation.
- f) The use of any accessory building for human habitation, except where an accessory dwelling unit is permitted to be located in a detached dwelling.
- g) The use of any shipping container, moving container, or street or rail car.
- h) The use of any portable structure or vehicle except where a license has been issued for vending of only merchandise or food in accordance with By-law 14-42 or its successors.
- i) The parking or storage of any portable structure, vehicle, shipping or moving container, or street or rail car on a vacant lot.

**BY-LAW NUMBER 21-26**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

**A By-law to amend the Comprehensive Zoning By-law 06-54 that regulates the use of land and the character, location and use of buildings and structures on lands within the Township of Clearview.**

**WHEREAS** pursuant to Section 34 of the Planning Act R.S.O., 1990, c.P.13, as amended, the Council of the Township of Clearview has passed By-law 06-54 being the comprehensive Zoning By-law for the Township of Clearview;

**AND WHEREAS** pursuant to Section 34(17) of the Planning Act, R.S.O., 1990, c. P.13, as amended, Council determines that no further notice is required in respect of the proposed By-law;

**AND WHEREAS** the amendment is in conformity with the Township of Clearview Official Plan;

**AND WHEREAS** the Council of the Corporation of the Township of Clearview, wishes to amend By-law 06-54;

**NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW HEREBY ENACTS AS FOLLOWS:**

1. That Section 2.35(f) "General Provisions, Uses Prohibited in all Zones" be amended by replacing the words "cargo container" with the words "shipping container, moving container".
2. That Section 2.35(g) "General Provisions, Uses Prohibited in all Zones" be deleted in its entirety and replaced with the following and that the remaining section be renumbered accordingly:
  - "(c) The use of any portable structure, vehicle, shipping container, moving container, or street or rail car for storage.
  - (d) The use of any portable structure, vehicle, shipping container, moving container, or street or rail car for sales except where a license has been issued for vending of only merchandise or food, in a portable structure or vehicle in accordance with By-law 14-42 or its successors."
3. That Section 4.0 "Definitions" be amended by deleting the definition "Cargo Container" in its entirety.

4. That all other provisions of By-law 06-54, as amended, which are not inconsistent with the provisions of this By-law, shall continue to apply when the By-law comes into effect.
5. This By-law shall come into force and take effect in accordance with the provisions of the Planning Act R.S.O, 1990 c.P.13, as amended.

By-law Number 21-26 read a first, second and third time and finally passed this \_\_\_ day of \_\_\_\_, 2021.

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MAYOR

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DIRECTOR OF LEGISLATIVE SERVICES/CLERK

**BY-LAW NUMBER 21-25**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

**A By-law to amend the By-law 14-42 being a By-law to License, regulate, and govern the owners and drivers of businesses within the Township of Clearview.**

**WHEREAS** the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a local municipality may license, regulate and govern any business, wholly or in part carried on within the municipality, even if the business is being carried on from a location outside of the municipality;

**AND WHEREAS** the Council of the Corporation of the Township of Clearview considers it desirable and necessary to amend By-law 14-42;

**NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW HEREBY ENACTS AS FOLLOWS:**

1. That Article 1.1 "Definitions" be amended by amending the definition for "Merchandise Vendor" by deleting the words "from a merchandise vehicle".
2. That Article 1.1 "Definitions" be amended by adding the following definition:

**"Temporary'** means not affixed to the ground; serviced by sewer or water; or requiring a building permit pursuant to the Ontario Building Code , and such vehicle, trailer, bicycle, cart, wagon, portable barbeque or tent can be easily removed from a property by means of either its own power; hooking up behind a vehicle by a built in hitch or packed up into a vehicle as in the case of a tent, cart, wagon or barbeque."

3. That Part 2 "Administration" be amended by adding the following Article after subject 2.1 and that the remaining Articles be renumbered accordingly:

"2.2 A license can only be issued where vending is temporary. All other vending shall be at a regular place of business, as defined by this By-law."

4. That Part 2 "Administration" be amended by adding the following Article after article 2.3 and that the remaining Articles be renumbered accordingly:

"2.4 An applicant that requests permission to operate from a stationary position shall include a drawing showing the proposed location

of all facilities associated with vending and of adjacent structures, and setbacks to property lines.”

5. That Part 2 “Administration” be amended by adding the following article after Article 2.5 and that the remaining Articles be renumbered accordingly:

“2.6 A licensee is not eligible for the renewal or extension of an existing license unless the licensee has provided an application form annually/per event where required by the Clerk;

2.7 If a food/refreshment/merchandise vendor is required to be set up on private property, written permission from the property owner to operate such vending is required;”

6. That Part 2 “Administration” be amended by adding the following Article after article 2.11 and that the remaining Articles be renumbered accordingly:

“2.12 Prior to issuance of a permit or license, the following departments and Board shall be circulated for comments, inspection (if required) and approval:

- 1) Building Department
- 2) Clearview Fire Department
- 3) Public Works Department
- 4) Community Planning and Development Department
- 5) Creemore Business Improvement Area; location only for area identified in Schedule B of this By-law.

2.13 A permit or license shall not be issued without the concurrence of each of these Departments with respect to the applicant meeting the standards and requirements which those Departments administer.”

7. That Part 2 “Administration” be amended by adding the following article after article 2.14 and that the remaining articles be renumbered accordingly:

“2.15 Reason for Licensing/Conditions:

When reviewing an application, the following matters are considered:

2.15.1 Health and Safety – to ensure that proper food handling procedures are met, that all combustible materials are safely stored; to ensure that equipment is operating safely and is inspected annually with the applicable governing agency and that the operation is situated so as to ensure the safety of pedestrians.

2.15.2 Community Planning – to ensure that activities are compatible with adjacent uses; to not interfere with the enjoyment of private property; to not create traffic congestion or interference with pedestrians, bicyclists and motorists; to meet community aesthetic and compatibility standards; to not interfere with other businesses; and to govern appropriate use of public lands.”

8. That Part 3 “General Regulations” be amended by replacing article 3.1 with the following:

“3.1 All vendors on either private or public lands shall require a license for the current year or event unless exempt under Part 6 by this By-law;”

9. That article 3.2 “General Regulations” be amended by replacing the word “Section” with the word “Part”.

10. That Part 3 “General Regulations” be amended by deleting articles 3.3, 3.5 and 3.6 in their entirety and renumber accordingly.

11. That Part 3 “General Regulations” be amended by adding the following provision after renumbered article 3.9 and that the remaining articles be renumbered accordingly:

“3.10 Certificate of Insurance naming the Township of Clearview as a third party insured in the amount of \$2 million.”

12. That Part 3 “General Regulations” be amended by adding the following article after renumbered article 3.11:

“3.12 Food/refreshment/merchandise vendor shall only be permitted on private/public lands where all of the following requirements are complied with:

- a) The subject lands are zoned for the proposed use in the Zoning By-law;
- b) the use and location will meet all applicable provisions of the Comprehensive Zoning By-law with respect to yards, setbacks, coverage, and parking;
- c) The food/refreshment/merchandise vendor will not interfere with the proper implementation and maintenance of an approved site plan;
- d) The food/refreshment/merchandise vendor will not block or otherwise interfere with a required ingress/egress, parking space, loading space, truck turning area, aisle, pedestrian walkway, trail, drainage or storm water management feature, municipal service, or fire route;

- e) The food/refreshment/merchandise vendor shall not be located in a required landscaping or open space area; and,
- f) The food/refreshment/merchandise vendor will not occupy more than two parking spaces and will not reduce the number of available parking spaces to less than the required number for all uses on the lot (for clarity, the food/refreshment/merchandise vehicle shall only occupy parking spaces surplus to the requirements for all other uses on the lot)."

13. That Part 3 "General Regulations" be amended by deleting existing article number 3.13 being "A person is not eligible to hold a license if the proposed use of land, building or structure is not permitted by the Zoning By-law that applies to the property, unless the land, building or structure was lawfully used for this purpose on the day of passing of this the Zoning By-law;" and that the remaining articles be renumbered accordingly.

14. That Part 3 "General Regulations" be amended by adding the following article after renumbered article 3.13 and that the remaining articles be renumbered accordingly:

"3.14 It is the applicant's responsibility to obtain the required permit from the Simcoe Muskoka Health Unit (if required under this by law)

3.15 Where any food is prepared or served, the following regulations apply:

- a) The operation and maintenance of any off-site food premises shall conform with the requirements of the Health Protection and Promotion Act and the Food Premises Regulation;
- b) If the Health Unit finds that the operation and maintenance of a refreshment vehicle do not comply with the requirements of the Health Protection and Promotion Act and the Food Premises Regulation, the Clerk may suspend the license until the situation has been rectified;"

15. That Part 3 "General Regulations" be amended by adding the following article after renumbered article 3.18 and that the remaining articles be renumbered accordingly:

"3.19 Food/refreshment/merchandise vending shall not carry on business on any highway except:

- a) at a construction site where the highway has been closed to traffic or on private property which has private property permission to enter onto a property for their sales; or
- b) where the Clerk's Office has issued a permit for a sidewalk location.

Orders:"

16. That Part 3 "General Regulations" be amended by deleting the words "or as outlined in the applicable Schedules" and by adding the following sentence at the beginning of the paragraph after renumbered article 3.22 and that the remaining articles be renumbered accordingly:

"Display of License:

"3.23 Every vendor shall display the license permanently in a prominent place in his or her business and shall include the types of food /refreshments/merchandise to be sold and the address of any off-site premises at which food is to be prepared and cooked;"

17. That Part 3 "General Regulations" be amended by deleting existing articles 3.24, 3.25, 3.26, 3.31 and 3.32 being:

"3.24 Every person carrying on a trade, business or occupation for which a license may be required under this by-law shall allow, at any reasonable time, an Officer of the Township of Clearview to inspect their place of business and any other premises, equipment, vehicles or property used for purposes related to the trade, business or occupation, other than a room or place actually being used as a dwelling, to determine compliance with the requirements of this By-law." And that the remaining articles be renumbered accordingly.

3.25 No person shall obstruct, hinder or otherwise interfere with an Officer of the Township of Clearview while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law;

3.26 No licensee shall construct or equip a place of business or other premises used for the business so as to hinder the enforcement of the by-law;

3.31 Vending without a permit on private land shall be prohibited.

3.32 Vending without a permit shall be prohibited on Township lands and shall be considered trespassing, unless otherwise exempt under Part 6 of this by-law."

18. That Part 3 "General Regulations" be amended by adding the following article after renumbered article 3.31 and the remaining articles be renumbered accordingly:

"3.32 Where combustible materials are used, an application shall include a certificate of inspection from a licensed gas fitter annually and a TSSA form is required to be submitted;"

19. That Part 3 "General Regulations" be amended by adding the following article after renumbered article 3.33 and the remaining articles be renumbered accordingly:

"3.34 No vendor shall stop, park or otherwise carry on business from a motorized or non-motorized vendor vehicle for the purpose of selling or offering for sale any food, refreshments, products or services, at a distance of less than one hundred metres (100 m ) from any intersection or less than two hundred meters (200 m) from any school grounds, any business establishment or any other area or building in which similar products are sold, unless specifically authorized by the municipality to do so in the condition of the permit.

Vehicles:

3.35 Where an application is to operate out of a vehicle, the following additional regulations apply:

- a) An Application for a refreshment/food/merchandise vehicle license shall include a copy of the vehicle registration and of a current inspection certificate indicating that the vehicle meets the requirements of the Highway Traffic Act;
- b) The dimensions of the food/refreshment/merchandise vehicle shall not be greater than 6.7 meters in length and 2.6 meters in width;"

20. That Part 4 "Inspection – Powers of Entry" be amended by deleting the following "No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or Person exercising a power or performing a duty under this By-law." And be further amended by adding the following articles after article 4.1:

"4.2 Every person carrying on a trade, business or occupation for which a license may be required under this By-law shall allow, at any reasonable time, an Officer of the Township of Clearview to inspect their place of business and any other premises, equipment, vehicles or property used for purposes related to the trade, business or occupation, other than a room or place actually being used as a dwelling, to determine compliance with the requirements of this bylaw;

4.32 No person shall obstruct, hinder or otherwise interfere with an Officer of the Township of Clearview while carrying out an investigation, making inquiries, or performing an inspection for the purposes of performing is duty under this By-law or enforcing this By-law; No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or Person exercising a power or performing a duty under this By-law.

4.4 No licensee shall construct or equip a place of business or other premises used for the business so as to hinder the enforcement of the by-law;"

21. That Part 6 "Exemptions" be amended by the addition of the following article after article 6.3 and that the remaining articles be renumbered accordingly:

"6.3 A vendor operating out of a regular place of business as defined herein;"

22. That renumbered Article 3.24(i) is hereby amended by replacing the word "under" with the words "in accordance with" by adding the word "Special" before "Events" and by adding the words "or as approved by the Clerk" at the end of the sentence.

23. That Part 7 is amended by replacing deleting the words ": ADDITIONAL CONDITIONS FOR INDIVIDUAL BUSINESSES" and the word "The Following schedules are attached hereto and form part of this By-law: SCHEDULE "A" BUSINESSES REQUIRING A LICENCE 1. Food/Refreshment/Merchandise Vendors SCHEDULE "B" FOOD/REFRESHMENT/MERCHANDISE VENDOR & APPLICATION" and that the following article is added:

"Schedule A and Schedule B attached hereto, form part of this By-law."

24. That Schedule "A" is hereby amended by deleting the following words "BUSINESSES REQUIRING A LICENCE 1. Food/Refreshment/Merchandise Vendors Applicable to: Every vehicle from which food/refreshment and/or merchandise is sold" and by deleting the charts of "Definitions", "Exemptions", "Reason for Licensing/Conditions", "License Fee", "Special Conditions", and "Application Circulated to".

25. That "Appendix 1 to Schedule B" replace Schedule "B" in its entirety and that "Appendix 1 to Schedule B" be renamed "Schedule B", attached hereto.

26. This By-law shall come into force and take effect in accordance with the provisions of the Municipal Act, 2001 S.O. 2001, c.25, as amended.

By-law Number 21-25 read a first, second and third time and finally passed this \_\_\_ day of \_\_\_, 2021.

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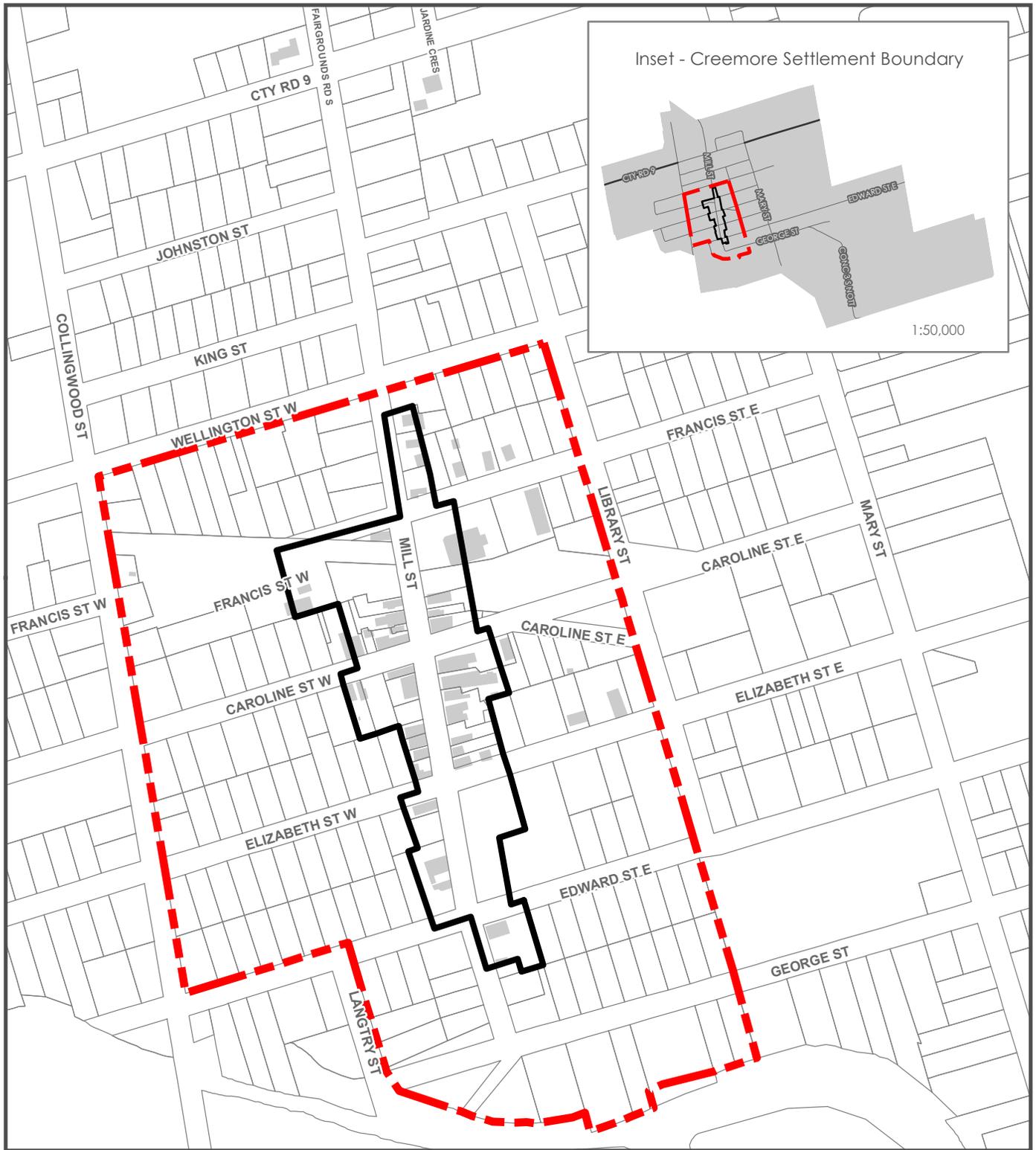
MAYOR

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DIRECTOR OF LEGISLATIVE SERVICES/CLERK

# Schedule B

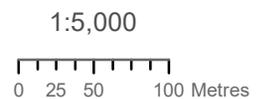
## By-law 14-42



Document Name:  
Creemore\_BIA\_ByLaw\_14-42\_ScheduleB

### Map Features

- No Vending Limits Under By-Law 14-42
- Creemore BIA Area
- Building Footprints (COMMERCIAL)
- Assessment Parcels



**BY-LAW NUMBER 14-42  
OF THE  
CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

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**BEING A BY-LAW TO LICENSE, REGULATE AND GOVERN THE OWNERS  
AND DRIVERS OF BUSINESSES WITHIN THE MUNICIPALITY, AND TO  
REPEAL ALL PREVIOUS BY-LAWS AND POLICIES**

**WHEREAS**, the *Municipal Act, 2001 S.O. 2001, c 25*. as amended, provides that a local municipality may license, regulate and govern any business, wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality; and

**WHEREAS**, the *Municipal Act, 2001* provides that Council may delegate by by-law some of its responsibilities associated with the licensing, regulation and governing of businesses to Township of Clearview Staff; and

**WHEREAS** the Council of the Corporation of the Township of Clearview considers it desirable and necessary to license, regulate and govern owners and drivers of businesses for the purposes of health and safety, consumer protection and nuisance control; and

**WHEREAS** a public meeting was held on May 12, 2014 in regard to the passing of this By-law;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW ENACTS AS FOLLOWS:**

**PART 1 – DEFINITIONS**

1.1 In this By-law:

“**Applicant**” means a person applying for a new or renewing a License under this By-law.

“**Business**” means any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality and includes:

- a. trades and occupations,
- b. exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise,
- c. the sale or hire of goods or services on an intermittent or one-time basis and the activities of a Transient Trader,
- d. the display of samples, patterns or specimens of goods of the purpose of sale or hire;

“**Certificate of Insurance**” means a written document stating that insurance is in the effect which includes general statement of policy’s coverage including coverage limits and effect dates, and;

The Licensee shall obtain Comprehensive General Liability Insurance satisfactory to the municipality, including the following:

Issued in the amount of not less than **\$2,000,000** per occurrence / **\$2,000,000** annual aggregate for any negligent acts or omissions by the licensee relating to its obligations under this License. The municipality shall be named as an additional insured.

“**Clerk**” shall mean the Clerk of the Municipality, or his or her designate.

“**Council**” shall mean the Council of the Corporation of the Township of Clearview.

“**Fee**” means a fee, in addition to the License fee, imposed by the Municipality on a business at any time during the term of the License for costs incurred by the Municipality attributable to the activities of the business

“**Fire Chief**” means the Chief of the Fire Department of the Township of Clearview or his or her designate.

“**Fire Approval**” means approval by the Township of Clearview Fire Department.

“**Food**” means food or drink for human consumption, and includes refreshments, confections, pre-packages, prepared, wholesale, bulk or catered.

“**Food Premises**” has the same meaning as in the *Health Protection and Promotion Act*;

“**Food/Refreshment Vendor**” means a person, corporation, or other business entity, who sells food or non-alcoholic drinks for human consumption and includes, but is not limited to refreshments and confections including prepackages, prepared, wholesale, bulk or catered food or the operator or proprietor of food premises.

“**Food/Refreshment Vehicle**” means any motor vehicles, trailer, as defined under the Highway Traffic Act, or any other portable structure that is used for the preparation and sale of food and or refreshments

“**Highway**” means a highway as defined in the *Municipal Act*, and includes a King's Highway as defined in the *Highway Traffic Act*, or a road, street, bridge or highway laid out but not assumed for public use or established by by-law, whether built by a person or corporate body;

“**Individual**” means a natural person and does not include a corporation, partnership or association.

“**Issuer of Licenses**” includes the Clerk of the Township of Clearview and their designate or any person designated by the Township of Clearview.

“**Licence Application**” means an application to become a vendor.

“**License**” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow.

“**Licensee**” a person or owner as defined in this by-law who holds a License within the Municipality granted under the provisions of this by-law.

“**Licensing Office**” means the Clerk or his or her designate of the Township of Clearview or such other departments as the Council may designate.

“**Licensing Officer**” means the Clerk or their designate or a duly appointed Municipal Law Enforcement Officer.

“**Licensed Premises**” means an establishment, which is referred to in a License issued under this By-law.

“**Merchandise Vendor**” means a person, corporation, or other business entity, who sells merchandise, goods or provides services, ~~from a merchandise vehicle~~

“**Merchandise Vehicle**” means any motor vehicles, trailer, as defined under the Highway Traffic Act, or any other portable structure that is used for the purpose of selling merchandise, goods or provides services.

“**Motorized Sales**” means sale of food or merchandise, or the provision of services, which are primarily based from a motorized mobile unit which includes any motor vehicle” as defined by the *Highway Traffic Act*, and includes Ministry of Transportation licensed/plated trailers or any other trailer hauled by a motor vehicle.

“**Municipality**” means the geographic area of the Township of Clearview.

“**Non-resident**” means a person who does not reside or have a regular place of business in the Township of Clearview.

“**Officer**” means an employee of the Township of Clearview who is duly appointed by Council as a Municipal Law Enforcement Officer and the Ontario Provincial Police, Zoning Official, Fire Department.

“**Operator**” includes a person who alone or with others: operates, manages, supervises, runs or controls or directs a Business and “operate” and “operation” and other words of like import or intent shall be given a corresponding meaning;

“**Owner**” includes a person who alone or with others owns and/or has the ultimate control over a Business and/or who directs the operation of a Business under this By-law and whose name appears on the License issue by the Township of Clearview for such Business pursuant to the By-law;

“**Permit**” means a vendor permit issued by the municipality under this policy.

“**Permit Application**” means an application to become a vendor.

“**Person**” includes a corporation and its directors and officers, sole proprietor, and partnership and the heirs, executors, assignees and administrators or the other legal representatives of an Individual and their respective successors and assignees.

**“Place of Business”** means any place, premises or location, or part thereof, in which a business is carried on, and including but not limited to a ship, store office, a dwelling unit or vehicle.

**“Private Property”** means property that is privately owned by a person or business.

**“Public Property”** means property owned by the municipality.

**“Regular Place of Business”** means the place of business in which a business is normally carried on, but does not include a place, premises, or location in which a business is conducted on a one-time or temporary basis.

**“Resident”** means a person who resides or has a regular place of business in the Township of Clearview.

**“Sidewalk”** means any public walkway, or portion of a highway between the curb line or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

**“Sign”** means any surface, structure and other component parts, which are used or capable of being used as visual medium to attract attention to a specific subject matter for identification, information or advertising purposes and includes an advertising device or notice.

**“Township of Clearview”** means the Corporation of The Township of Clearview.

**“Township Lands”** means lands owned by the Township which includes but is not limited to the full municipal road right-of-ways, municipal parks and recreation facilities, and municipal hall property. The terms “street” and “public street” shall be interpreted to include the full right-of-way including, but not limited to, the travelled road, the boulevard, and sidewalks.

**“Township approved event”** means an organized event open to the public on municipal lands approved by the Township. Such events do not include normal private individual use of parklands such as family gatherings.

**“Temporary”** means [not affixed to the ground; serviced by sewer or water; or requiring a building permit pursuant to the Ontario Building Code, and such vehicle, trailer, bicycle, cart, wagon, portable barbeque or tent can be easily removed from a property by means of either its own power; hooking up behind a vehicle by a built in hitch or packed up into a vehicle as in the case of a tent, cart, wagon or barbeque.](#)

**“Vehicle”** means every motorized and non-motorized vehicle from which food, refreshments, merchandise, goods and services intended for immediate consumption or purchase by the public, including, but not limited to, carts, wagons, trailers, trucks and bicycles, irrespective of the type of motive power employed to move the vehicle from one point to another.

**“Vendor”** means a person, corporation, or other business entity who sells merchandise, goods, food, or provides services.

“Zoning By-law” means a By-law enacted under section 34 of *the Planning Act* that restricts the use of land within the geographical boundaries of the Township of Clearview;

## **PART 2 – ADMINISTRATION**

- 2.0 The Clerk is responsible for the administration and enforcement of this By-law.;
- 2.1 The following administrative and legislative responsibilities are delegated and assigned to the Clerk as follows, but not limited to:
- (a) Preparing necessary documentation and form;
  - (b) Receiving and processing all application for Licenses and for renewals of Licenses;
  - (c) Issuing Licenses when an application is made in accordance with and in compliance with the provisions of this By-law;
- Maintaining records showing all applications received and licenses issued.

2.2 A license can only be issued where vending is temporary. All other vending shall be at a regular place of business, as defined by this By-law.

2.3 Every application for a new license or a renewal or extension of an existing license shall be submitted to the Clerk in the form provided.;

2.4 An applicant that requests permission to operate from a stationary position shall include a drawing showing the proposed location of all facilities associated with vending and of adjacent structures, and setbacks to property lines.

2.5 Every application for a new license or a renewal or extension of a license shall be accompanied by the full license fee, as set out in the applicable schedules.

2.6 –A licensee is not eligible for the renewal or extension of an existing license unless the licensee has provided an application form annually/per event where required by the Clerk;

2.7 If a food/refreshment/merchandise vendor is required to be set up on private property, written permission from the property owner to operate such vending is required;  
2-2

Applications for a license must be received by the Clerk’s Office 45 days prior to event.

2-32.8 Despite sections to the contrary, the full license fee shall be paid, regardless of the date of application, if a person begins to carry on the business before submitting an application for a new license;

2.9 Every application for a license will be reviewed to determine whether it meets all of the general regulations set out in Part 3 General Regulations, and any special conditions set out in the applicable schedule for that business;

2-42.10 Adjustments in the rate structure will reviewed on a yearly basis.

~~As part of this review, an application will be circulated to the departments and boards set out in the schedule.~~

~~2.12 Prior to issuance of a permit or license, the following departments and Board shall be circulated for comments, inspection (if required) and approval:~~

- ~~1) Building Department~~
- ~~2) Clearview Fire Department~~
- ~~3) Public Works Department~~
- ~~4) Community Planning and Development Department~~
- ~~5) Creemore Business Improvement Area; location only for area identified in Schedule B of this By-law.~~

~~2-52.13 A permit or license shall not be issued without the concurrence of each of these Departments with respect to the applicant meeting the standards and requirements which those Departments administer.~~

~~2-62.14 Where an application is circulated to a department or board in accordance with the applicable schedule for that business, the department or board may require an inspection of the proposed place of business;~~

~~2.15 -Reason for Licensing/Conditions:~~

~~When reviewing an application, the following matters are considered:~~

~~2.15.1 Health and Safety – to ensure that proper food handling procedures are met, that all combustible materials are safely stored; to ensure that equipment is operating safely and is inspected annually with the applicable governing agency and that the operation is situated so as to ensure the safety of pedestrians.~~

~~2.15.2 Community Planning – to ensure that activities are compatible with adjacent uses; to not interfere with the enjoyment of private property; to not create traffic congestion or interference with pedestrians, bicyclists and motorists; to meet community aesthetic and compatibility standards; to not interfere with other businesses; and to govern appropriate use of public lands.~~

### **PART 3 – GENERAL REGULATIONS**

~~3.1 All vendors on either private or public lands shall require a license for the current year or event unless exempt under Part 6 by this By-law. No person shall hold, own, operate, sell, carry on or engage in any of the business, trade or occupations as listed on Schedule "A" to this by-law within the Township of Clearview without first having obtained a License for the current year/or event/business license.~~

~~3.2 A license shall be required for each separate place of business on private or public lands unless exempt under SectionPart 6 of this by-law;~~

~~3.3 A person is not eligible for a license unless his or her application is accompanied by the full license fee for that business, as set out in the applicable schedule or as determined under section 2.~~

**Commented [MB1]:** By-law says only vehicles which isn't the case so that is being clarified

**Commented [MB2]:** Already in Admin Part 2 and 3.5 - three times

3.3 Except as otherwise provided in the applicable schedule, a license is valid for the specified period as outlined on the application.

~~3.5 A licensee is not eligible for the renewal or extension of an existing license unless the licensee has paid the full license fee for that business, as set out in the applicable schedule;~~

**Commented [MB3]:** TriPLICATION - one sentence will do

~~3.4 A licensee is not eligible for the renewal or extension of an existing license unless the licensee has provided an application form annually/per event where required by the Clerk;~~

3.5 No person shall hold himself or herself out to be licensed if the person is not, and a license is not transferable;

3.6 A person shall carry on business only in the name in which the business is licensed;

3.7 For the purpose of this by-law, a business shall be deemed to be carried on within the Township of Clearview if any part of the business is carried on in the Township of Clearview, even if the business is being conducted from a location outside the Township of Clearview;

3.8 No person shall publish or cause to be published any representation that the person is licensed under this by-law if the person is not licensed;

3.9 No person shall carry on any trade, business or occupation for which a license is required under this by-law: (i) if the license has expired or been revoked; or (ii) while the license is under suspension;

3.10 ~~Certificate of Insurance naming the Township of Clearview as a -third party insured in the amount of \$2 million.~~

**Commented [MB4]:** Applies to all, not just vehicles, so needed to be moved to General Regulations

3.11 If work that requires a building permit under the *Building Code Act* is to be undertaken on the property to be used for carrying on a business, a person shall not submit an application for a license until the work has been completed in accordance with the requirements of the *Building Code Act*;

~~3.1 A person is not eligible to hold a license if the proposed use of the land, building or structure is not permitted by the Zoning By-law that applies to the property, unless the land, building or structure was lawfully used for this purpose on the day of the passing of the Zoning By-law;~~

**Commented [MB5]:** Removed as this is duplication from the item below

3.12 ~~Food/refreshment/merchandise vendor shall only be permitted on private/public lands where all of the following requirements are complied with:~~

**Commented [MB6]:** Applies to all so moved to General Regulations

~~a) The subject lands are zoned for the proposed use in the Zoning By-law commercial or industrial zoning is in effect and current uses are both in compliance and conformity;~~

**Commented [MB7]:** Clarified this section to be consistent with the other provision formerly above

b) the use and location will meet all applicable provisions of the Comprehensive Zoning By-law with respect to yards, setbacks, coverage, and parking;

- c) The food/refreshment/merchandise vendor will not interfere with the proper implementation and maintenance of an approved site plan;
- d) The food/refreshment/merchandise vendor will not block or otherwise interfere with a required ingress/egress, parking- space, loading space, truck turning area, aisle, pedestrian -walkway, trail, drainage or storm water management feature, municipal service, or fire route;
- e) The food/refreshment/merchandise vendor shall not be located in a required landscaping or open space area; and,
- f) The food/refreshment/merchandise vendor will not occupy more than two parking spaces and will not reduce the number of available parking spaces to less than the required number for all uses on the lot (for clarity, the food/refreshment/merchandise vehicle shall only occupy parking spaces surplus to the requirements for all other uses on the lot).

3.134 A person is not eligible to hold a license if the property to be used for carrying on the trade, business or occupation does not conform with all applicable law, including but not limited to the *Fire Protection and Prevention Act, 1997*, the *Ontario Fire Code*, and the *Health Protection and Promotion Act*;

3.14 It is the applicant's responsibility to obtain the required permit- from the Simcoe Muskoka Health Unit (if required under this by law)

3.15 Where any food is prepared or served, the following regulations apply:

- a) The operation and maintenance of any off-site food premises shall conform with the requirements of the *Health Protection and Promotion Act* and the *Food Premises Regulation*;
- b) If the Health Unit finds that the operation and maintenance of a refreshment vehicle do not comply with the requirements of the *Health Protection and Promotion Act* and the *Food Premises Regulation*, the Clerk may suspend the license until the situation has been rectified;

3.16 Despite Section 3.944 a conditional license may be issued to the applicant if it is determined that there are deficiencies found by the relevant inspectors that can be remedied within a specified time frame in order to come into compliance, and if the deficiencies are not likely to be a danger to the public;

3.17 -Any conditional licenses shall clearly state the duration of the temporary license, and if the applicant fails to come into compliance with any Act or Code within the time specified then the license shall become null and void;

3.18 A person is not eligible to hold or continue to hold a license if the operation of his or her business does not conform with the applicable standards and requirements of: (1) every By-law of the Township of Clearview; (2) every Provincial or Federal Act and regulation made under such an Act; and (3) every instrument of a legislative nature made or issued under a Provincial or Federal Act or Regulation, including standards and requirements with respect to the qualifications of the persons carrying on or engaged in the business and with respect to the vehicles and equipment used for the purposes of the business;

- 3.19 Food/refreshment/merchandise vending shall not carry on business on any highway except:
- a) at a construction site where the highway has been closed to traffic or on private property which has private property- permission to enter onto a property for their sales; or
  - b) where the Clerk's Office has issued a permit for a sidewalk location.

**Commented [MB8]:** Applies to all so moved to General Regulations

Orders:

- 3.20 Where any order issued by the Clerk has been appealed or where there has been no appeal requested, the Clerk may suspend or revoke the license;
- 3.21 The Clerk may modify, uphold or quash an order issued by the Clerk;
- 3.22 A licensee shall display the license permanently in a prominent place in his or her place of business or as outlined in the applicable schedules;

Display of License:

- 3.23 Every vendor shall display the license permanently in a prominent place in his or her business and shall include the types of food /refreshments/merchandise to be sold and the address of any off-site premises at which food is to be prepared and cooked. In the case of vehicles and other equipment used for the purposes of the business, a licensee shall display the license or evidence of the license prominently on each vehicle and other equipment ~~or as outlined in the applicable Schedules;~~
- 3.24 A licensee who does not have a place of business shall carry the license on his or her person at all times while carrying on the business;
- 3.25 Every licensee shall produce the license for inspection on the request of an Officer;
- ~~3.24 Every person carrying on a trade, business or occupation for which a license may be required under this by law shall allow, at any reasonable time, an Officer of the Township of Clearview to inspect their place of business and any other premises, equipment, vehicles or property used for purposes related to the trade, business or occupation, other than a room or place actually being used as a dwelling, to determine compliance with the requirements of this bylaw;~~
- ~~3.25 No person shall obstruct, hinder or otherwise interfere with an Officer of the Township of Clearview while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law;~~
- ~~3.26 No licensee shall construct or equip a place of business or other premises used for the business so as to hinder the enforcement of the by-law;~~
- 3.267 Every licensee shall maintain his or her place of business in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the premises;
- 3.278 No licensee or employee of a licensee shall discriminate in the carrying on of the trade, business or occupation against any member of the public on the basis of race, ancestry,

**Commented [MB9]:** Already in Part 4 - this wording is better so moved there.

place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;

3.289 No licensee or employee of a licensee shall refuse to permit a person to enter and remain in a place of business or other premises used for the business to which the public are customarily admitted for the reason that he or she is a disabled person accompanied by a service animal.

3.2930 Only non-alcoholic refreshments are permitted.

~~3.31 Vending without a permit on private land shall be prohibited.~~

Commented [MB10]: Already addressed earlier.

~~3.32 Vending without a permit shall be prohibited on Township lands and shall be considered trespassing, unless otherwise exempt under Part 6 of this by-law.~~

Commented [MB11]: Already required earlier

4) 3.30 No vendor shall sound a horn, utilize a loudspeaker, or other signaling device in connection with the conduct of business on weekdays between the hours of 7:00 p.m. of one day to 7:00 a.m. of the next day; and on weekends and holidays between the hours of 7:00 p.m. of one day to 11:00 a.m. of the next day. At no time shall the use of a horn, loudspeaker or signaling device create a disturbance to adjacent uses. Such uses, including lighting, shall also not create a hazard to traffic.

3.31 A limitation to the number of licenses issued under the provisions of this ~~By-law~~ may be established by resolution of council at any time.

~~3.32 Where combustible materials are used, an application shall include a certificate of inspection from a licensed gas fitter annually and a TSSA form is required to be submitted.~~

3.33 No vendor shall be permitted within the area defined in ~~Appendix 1 to~~ Schedule B of this by-law surrounding the Creemore Business Improvement Area (BIA) jurisdiction, as established by Council by-law without a recommendation approving the location by the Creemore BIA.

~~3.34 No vendor shall stop, park or otherwise carry on business from a motorized or non-motorized vendor vehicle for the purpose of selling or offering for sale any food, refreshments, products or services, at a distance of less than one hundred metres (100 m) from any intersection or less than two hundred meters (200 m) from any school grounds, any business establishment or any other area or building in which similar products are sold, unless specifically authorized by the municipality to do so in the condition of the permit.~~

Commented [MB12]: We are applying this to everyone, not just vehicles so moved to Part 3 General

Vehicles:

3.35 Where an application is to operate out of a vehicle, the following additional regulations apply:

a) An application for a refreshment/food/merchandise vehicle license shall include a copy of the vehicle registration and of a current inspection certificate indicating that the vehicle meets the requirements of the Highway Traffic Act;

- b) The dimensions of the food/refreshment/merchandise vehicle shall not be greater than 6.7 meters in length and 2.6 meters in width;

#### **PART 4 – INSPECTION – POWERS OF ENTRY**

- 4.1 In order to assess and determine compliance with the provisions of this bylaw, including the determination of an unlicensed business, an Officer may at any time of day or night enter the premises licensed under this by-law and is entitled to access, and may at any reasonable time inspect any premises used for the business, and the equipment, motor vehicles, records, documents and other personal property used or kept for hire in the carrying of the business, and may remove documents or things that are relevant to the licensed business for the purpose of making copies or extracts. An Officer shall return such documents within twenty-four hours of removal. Under this section an Officer must provide five (5) days written notice to the business of entry onto premises;

~~3.24~~ 4.2 Every person carrying on a trade, business or occupation for which a license may be required under this By-law shall allow, at any reasonable time, an Officer of the Township of Clearview to inspect their place of business and any other premises, equipment, vehicles or property used for purposes related to the trade, business or occupation, other than a room or place actually being used as a dwelling, to determine compliance with the requirements of this bylaw;

4.3 No person shall obstruct, hinder or otherwise interfere with an Officer of the Township of Clearview while carrying out an investigation, making inquiries, or performing an inspection for the purposes of performing is duty under this By-law or enforcing this By-law; No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or Person exercising a power or performing a duty under this By-law.

4.4 No licensee shall construct or equip a place of business or other premises used for the business so as to hinder the enforcement of the by-law;

#### **PART 5 – POWER TO REFUSE/RENEW/REVOKE OR SUSPEND A LICENSE**

- 5.1 The Clerk or his or her designate may refuse to issue a License, refuse to renew a License or may revoke or suspend a License or impose terms and conditions on a License;
- 5.2 If it is determined that an application meets the requirements of this By-law and all circulated agencies, the Clerk will issue the license if the license fee has been paid;
- 5.3 If it is determined that an application does not meet the requirement of this Bylaw or is objected to by a circulated agency, the Clerk will refuse in writing to issue the license and will refund the license fee;
- 5.4 If, at any time the Clerk determines, as a result of evidence that is provided that the operation of a licensed business does not conform to the requirements of this By-law, they may suspend or revoke the license. A written request must be filed with the Clerk to appeal this decision.

- 5.5 A person whose application for a new license or a renewal of license has been refused or a person whose license has been suspended or revoked may, within fourteen days (14) of being notified of the Clerk's decision, may apply to Clearview Township Council for a review of the decision. The Clerk shall notify all commenting departments and boards, as required;
- 5.6 If no appeal is registered by the owner/operator or licensee holder within fourteen days (14) of the notice from the Clearview Township Council, the recommendation of the Clerk is final;
- 5.7 The Clerk, upon receipt of a written request from the Applicant or Licensee within the time limit specified in section 5.5, shall schedule a hearing before the Clearview Township Council and send written notice of the hearing to the parties, which notice may be personally delivered, sent via facsimile, by email or sent by regular or registered mail, to the address in the application unless the request for a hearing specifies a different address. The Clerk shall notify all commenting departments and boards, as required;

#### **PART 6 – EXEMPTIONS**

- 6.1 The requirement to obtain a license under this By-law does not apply to those persons or classes of business that are exempted in a schedule to this By-law;
- 6.2 The Township of Clearview is exempt from the provisions of this By-law;
- 6.3 [A vendor operating out of a regular place of business as defined herein;](#)
- 6.4 Notwithstanding any other provisions of this By-law, any vendor selling products or merchandise at a Township approved event only and not at any other location within the Township of Clearview and subject to section 3.33 (Creemore BIA location approval) the following shall be exempt from the requirement to obtain a License under the provisions of this By-law:
  - i) those operating ~~in accordance with~~ under the "Township of Clearview [Special Events By-law and Policy](#)" ~~or as approved by the Clerk.~~
  - ii) vending in association with a permit issued in accordance with the Township of Clearview By-Law 05-30, the "Sidewalk" by-law
  - iii) vending in permanent fixed facilities in municipal buildings under separate contract with the municipality;
  - iv) vending in a farmer's market on municipal lands under separate contract with the municipality;
  - v) vending on municipal road right-of-way where the municipality has temporarily closed the street for the purpose of a Township approved event, or vending in a park or on other municipal lands, each in accordance with a permit issued by the municipality.

- vi) properties under the zoning by-law which are permitted to have an accessory farm produce roadside retail stand
- vii) not for profit sales; sale of food or merchandise, or the provision of services where: a majority of the proceeds are provided to the Municipality; the proceeds support a recreational, cultural or other community organization benefitting residents of Clearview Township, or a registered not for profit or charitable organization as defined in the *Income Tax Act*, or a public education institution.
- viii) The Event Organizer provides approval in writing detailing permission to sell products or merchandise at the Township approved event and provides such documentation to the Township of Clearview Clerk's Office.

**PART 7 – SCHEDULES: ADDITIONAL CONDITIONS FOR INDIVIDUAL BUSINESSES**

7.1 [Schedule A and Schedule B attached hereto, form part of this By-law.](#)

[The Following schedules are attached hereto and form part of this By-law:](#)

**SCHEDULE "A"**  
**BUSINESSES REQUIRING A LICENCE**

\_\_\_\_\_ 1. [Food / Refreshment / Merchandise](#)  
[Vendors](#)

SCHEDULE "B"

FOOD / REFRESHMENT / MERCHANDISE VENDOR & APPLICATION

**PART 8 – OFFENCE AND PENALTY PROVISIONS**

- 8.1 Every Person who contravenes this by-law is guilty of an offence and on conviction is liable to a fine not exceeding one hundred thousand dollars (\$100,000) as provided for in the *Municipal Act, 2001*, as amended;
- 8.2 Notwithstanding Subsection 8.1, every person who is guilty of a continuing offence, on conviction is liable to a fine or no less than five hundred dollars (\$500.00), and no more than ten thousand dollars (\$10,000) for each day or part of a day that each offence continues, and the total of all fine of each offence is not limited to one hundred thousand dollars (\$100,000) as provided in the *Municipal Act, 2001*, as amended;
- 8.3 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

**PART 9 – CONFLICT WITH ANY OTHER BY-LAW**

- 9.1 In the event of any conflict between any provisions of this by-law and any other by-law hereto are passed; the provisions of this by-law shall prevail.

**PART 10 – SHORT TITLE**

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

**PART 11 – EFFECTIVE DATE**

- 11.1 This by-law shall come into force and take effect on August 11, 2014.

By-Law 14-42, read a first, second and third time and finally passed this 11<sup>th</sup> day of August, 2014.

\_\_\_\_\_  
, Mayor

\_\_\_\_\_  
, Clerk

**SCHEDULE "A"**  
**BUSINESSES REQUIRING A LICENSE**

1.	FOOD / REFRESHMENT / MERCHANDISE VENDORS
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Commented [MB13]: Duplication

<b>Applicable to:</b>	Every vehicle from which food/refreshment and/or merchandise is sold.
<b>Classification of License</b>	<p><b>Class A – For Profit or Commercial, Motorized Sales:</b> means sale of food or merchandise, or the provision of services, which are primarily based from a motorized mobile unit which includes any motor vehicle” as defined by the <i>Highway Traffic Act</i>, and includes Ministry of Transportation licensed/plated trailers or any other trailer hauled by a motor vehicle.</p> <p><b>Class B – For Profit, or Commercial, Non-motorized Sales:</b> means sale of food or merchandise, or the provision of services, which primarily based from a non-motorized, muscular powered, or stationary equipment or <del>tent/beeth</del> and shall include but not be limited to bicycle carts, <u>wagons</u>, portable barbeques <del>or grills</del>, tables and <u>coolers</u>.</p>
<b>Definitions</b>	<p><del>“Food/Refreshment Vendor” means a person, corporation, or other business entity, who sells food or drink for human consumption by the public and includes, but not limited to, carts, wagons, trailers, trucks and bicycles, irrespective of the type of motive power employed to move the Food/Refreshment Vehicle for one point to another;</del></p> <p><del>“Food/Refreshment Vehicle” means any motor vehicles, trailer, as defined under the Highway Traffic Act, or any other portable structure that is used for the preparation and sale of food and or refreshments.</del></p> <p><del>“Merchandise Vendor” means a person, corporation, or other business entity, who sells merchandise, goods or provides services.</del></p> <p><del>“Merchandise Vehicle” means any motor vehicles, trailer, as defined under the Highway Traffic Act, or any other portable structure that is used for the purpose of selling merchandise, goods or provides services.</del></p>

Commented [MB14]: This should be in the definitions section ?

<p><b>Exemptions</b></p>	<p>1. <del>Vending is prohibited on all municipal lands with the following exemptions, subject to section 3.35 (Creemore BIA location approval):</del></p> <ul style="list-style-type: none"> <li><del>a) Vending on municipal parkland at a Township approved event;</del></li> <li><del>b) Vending on municipal road right-of-way where the municipality has temporarily closed the street for the purpose of a Township approved event;</del></li> <li><del>c) Vending in association with a permit issued in accordance with the Township of Clearview By-Law 05-30, "Sidewalk By-Law" is exempt from this by-law;</del></li> <li><del>d) Vending in permanent fixed facilities in municipal buildings under separate contract with the municipality is exempt from this policy;</del></li> <li><del>e) Vending in a farmer's market on municipal lands under separate contract with the municipality is exempt from this policy;</del></li> <li><del>f) Properties under the zoning by-law which are permitted to have an accessory farm produce roadside retail stand;</del></li> <li><del>g) Not for Profit Sales: sale of food or merchandise, or the provision of services where: a majority of the proceeds are provided to the Municipality; the proceeds support a recreational, cultural, or other community organization benefitting residents of Clearview Township; or a registered not for profit or charitable organization as defined in the Income Tax Act; or a public education institution.</del></li> </ul>
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**Commented [MB15]:** This whole section is a complete duplicate of Section 6.3

<p><b>Reason for Licensing/Conditions:</b></p>	<p><del><u>Health and Safety</u> — to ensure that proper food handling procedures are met, that all combustible materials are safely stored; to ensure that equipment is operating safely and is inspected annually with the applicable governing agency and that the operation is situated so as to ensure the safety of pedestrians.</del></p> <p><del><u>Community Planning</u> — to ensure that activities are compatible with adjacent uses; to not interfere with the enjoyment of private property; to not create traffic congestion or interference with pedestrians, bicyclists and motorists; to meet community aesthetic and compatibility standards; to not interfere with other businesses; and to govern appropriate use of public lands.</del></p>
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**Commented [MB16]:** This should be in the body of the By-law - not a Schedule

**License Fee**

~~Class A: — \$50/day~~

~~Class B: — \$25/day~~

~~Where a permit is issued for more than one day, the fee shall be calculated by multiplying the number of days by the daily fee to a maximum annual amount as set out below in each calendar year~~

~~Class A: — \$ 1,000.00 — Class B: — \$ 500.00~~

~~These fees apply regardless of the application date and, in the event of a disagreement, the Clerk will determine the applicable "class" of a food/refreshment vehicle.~~

**Special Conditions:**

**All vehicles:**

~~In addition to the General Regulations set out in Part 3 of this by-law, the following conditions apply to every food/refreshment/merchandise vehicle:~~

~~Every vendor shall obtain a license to operate a food/refreshment/merchandise vehicle on private and public lands unless exempt from this by law~~

~~Each vendor is required to obtain inspections annually prior to renewing a license;~~

~~Every vendor shall display the license permanently in a prominent place in his or her place of business.~~

~~An shall include the types of food /refreshments/merchandise to be sold and the address of any off-site premises at which food is to be prepared and cooked;~~

~~The operation and maintenance of any off-site food premises shall conform with the requirements of the *Health Protection and Promotion Act* and the *Food Premises Regulation*;~~

~~An applicant that requests permission to operate from a stationary position shall include a drawing showing the proposed location of the refreshment vehicle and of adjacent structures;~~

~~Where combustible materials are used, an application shall include certificate of inspection from a licensed gas fitter annually and a TSSA form is required to be submitted;~~

~~No vendor shall, sound a horn, utilize a loudspeaker, or other signaling device in connection with the conduct of business during weekdays between the hours of 7:00 p.m. of one day to 7:00 a.m. of the next and during weekends from 7:00 p.m. of one day to 11:00 a.m. of the next. At no time shall the use of a horn, loudspeaker or signaling device create a disturbance to adjacent uses. Such uses, including lighting, shall also not create a hazard to traffic.~~

~~) No vendor shall operate on a street or sidewalk within the Downtown Business Improvement Area except in accordance with a permit issued in this By-law, or in accordance with the Special Event By-law or as approval from the Clerk;~~

**Commented [MB17]:** This entire schedule is already duplicated in Part 2 and 3 and is being used to apply to all not just vehicles so this is redundant.

**Commented [MB18]:** Food - moved to general as this applies to all

**Commented [MB19]:** Should apply to everyone having gas

**Commented [MB20]:** Moved to 3.33

**Commented [MB21]:** Duplication (approval of Clerk moved into 6.3(i))

10) ~~If the Health Unit finds that the operation and maintenance of a refreshment vehicle do not comply with the requirements of the *Health Protection and Promotion Act* and the *Food Premises Regulation*, the Clerk may suspend the license until the situation has been rectified;~~

**Commented [MB22]:** Food

11) ~~No vendor shall stop, park or otherwise carry on business from a motorized or non-motorized vendor vehicle for the purpose of selling or offering for sale any food, refreshments, products or services, at a distance of less than one hundred metres (100 m) from any intersection or less than two hundred meters (200 m) from any school grounds, any business establishment or any other area or building in which similar products are sold, unless specifically authorized by the municipality to do so in the condition of the permit.~~

**Commented [MB23]:** We are applying this to everyone, not just vehicles so move to Part 3 general

12) ~~It is the applicant's responsibility to obtain the required permit from the Simcoe Muskoka Health Unit (if required under this by law)~~

~~In addition to the General Regulations as set out in Part 3 of this bylaw and special conditions that apply to all refreshment/food vehicles, the following special conditions also apply;~~

**Commented [MB24]:** Vehicle

a) ~~An Application for a refreshment/food/merchandise vehicle license shall include a copy of the vehicle registration and of a current inspection certificate indicating that the vehicle meets the requirements of the Highway Traffic Act;~~

**Commented [MB25]:** Vehicle only

b) ~~The dimensions of the food/refreshment/merchandise vehicle shall not be greater than 6.7 meters in length and 2.6 meters in width;~~

**Commented [MB26]:** Vehicle

c) ~~If a food/refreshment/merchandise vehicle is required to be set up on private property, written permission from the property owner to operate such vehicles is required;~~

**Commented [MB27]:** Applies to all

d) ~~Certificate of Insurance naming the Township of Clearview as a third party insured in the amount of \$2 million.~~

**Commented [MB28]:** General - applies to all, not just vehicles

e) ~~Food/refreshment/merchandise vehicle shall not carry on business on any highway except:~~

**Commented [MB29]:** Applies to all

a) ~~at a construction site where the highway has been closed to traffic or on private property which has private property permission to enter onto a property for their sales~~

b) ~~where the Clerk's Office has issued a permit for a sidewalk location~~

	<p><del>6) Food/refreshment/merchandise vehicle shall only be permitted on private/public lands where all of the following requirements are complied with:</del></p> <p><del>a) commercial or industrial zoning is in effect and current uses are both in compliance and conformity;</del></p> <p><del>b) the use and location will meet all applicable provisions of the Comprehensive Zoning By-law with respect to yards, setbacks, coverage, and parking;</del></p> <p><del>c) The food/refreshment/merchandise vehicle will not interfere with the proper implementation and maintenance of an approved site plan;</del></p> <p><del>d) The food/refreshment/merchandise vehicle will not block or otherwise interfere with a required ingress/egress, parking space, loading space, truck turning area, aisle, pedestrian walkway, trail, drainage or storm water management feature, municipal service, or fire route;</del></p> <p><del>e) The food/refreshment/merchandise vehicle shall not be located in a required landscaping or open space area; and,</del></p> <p><del>f) The food/refreshment/merchandise vehicle will not occupy more than two parking spaces and will not reduce the number of available parking spaces to less than the required number for all uses on the lot (for clarity, the food/refreshment/merchandise vehicle shall only occupy parking spaces surplus to the requirements for all other uses on the lot).</del></p>
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Commented [MB30]: Applies to all

<p><b>Application Circulated to:</b></p>	<p>Prior to issuance of a permit or licence, the following departments and Board shall be circulated for comments, inspection <i>(if required)</i> and approval:</p> <ol style="list-style-type: none"> <li><del>1) Building Department</del></li> <li><del>2) Clearview Fire Department</del></li> <li><del>3) Public Works Department</del></li> <li><del>4) Community Planning and Development Department</del></li> <li><del>5) Creemore Business Improvement Area; location only for area identified in Appendix 1 to Schedule B of this by-law.</del></li> </ol> <p>A permit or licence shall not be issued without the concurrence of each of these Departments with respect to the applicant meeting the standards and requirements which those Departments administer.</p>
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