

THE CORPORATION OF THE TOWN OF TILLSONBURG

BY-LAW NUMBER 3666

BEING A BY-LAW to govern the licensing of businesses within the Corporation of the Town of Tillsonburg;

WHEREAS Section 150 & 151 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, 25 without limiting the broad powers granted to municipalities through sections 9, 10 and 11 of the *Municipal Act, 2001*, c. 25 provides that a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality for one or more of the following purposes: health and safety, nuisance control or consumer protection;

AND WHEREAS Sections 150 to 159 of the Municipal Act, apply to municipalities in the exercise of a power to pass by-laws licensing businesses under any section of this Act or any other Act. 2006, c. 32, Sched. A, s. 82.

AND WHEREAS it is necessary and expedient that there shall be rules governing the licensing of businesses within the Corporation of the Town of Tillsonburg.

AND WHEREAS the Council of the Corporation of the Town of Tillsonburg deems it expedient and necessary to repeal By-Laws 996, 1866, 1867, 2100, 2315, & 2761;

THEREFORE THE COUNCIL OF THE TOWN OF TILLSONBURG ENACT AS FOLLOWS:

1.0 SHORT TITLE

This By-Law shall be known as and referred to as the “Town of Tillsonburg Business Licensing By-Law”.

2.0 DEFINITIONS

In this by-law

“antique/collectible show/flea market” shall include the exhibiting or offering for sale on a temporary basis at one location, antique or collectible goods, wares or merchandise where such is permitted under the Town’s Zoning By-law.

"applicant" means a person who is required to be Licenced pursuant to this by-law or who has made an application for a Licence to the Clerk and shall include a Licensee.

"attendant" means any person other than a Licenced owner or operator who provides

services.

"auctioneer" means any person selling or putting up for sale goods, wares, merchandise or effects by public auction.

"business" means a trade, business or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of the sale or hire of samples, patterns or specimens of any goods and any activity or thing.

“charitable organization” means an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or minor sports group.

"chief building official" means the person who may, from time to time, be appointed by Council to the position of Chief Building Official in conformity with the provisions of the Building Code Act, S.O., 1992, By-Law 23 or his designate.

"chief fire official" means the person who may, from time to time, be appointed by Council to the position of Chief of the Fire Department of the Town or his designate.

“clerk” means the Clerk of The Corporation of the Town of Tillsonburg.

“council” means the Council of The Corporation of the Town of Tillsonburg.

“door to door sales” shall include any business, person or organization which engages in the solicitation, sale, purchase or rental of goods, wares, merchandise or services, or has aforementioned actions conducted on their behalf, on a door to door basis.

“door to door salesperson” shall include any person who engages in the solicitation, sale, purchase, or rental of goods, wares merchandise, or services on a door to door basis including salespersons or agents.

“keeper” shall mean the proprietor or manager of a business.

"Licensee" means a person who has been issued a Licence pursuant to this By-Law either in the current calendar year or in a previous calendar year and shall include an Applicant.

“Licensing Officer” means the Clerk of the Town of Tillsonburg or his/her designate.

“local producer” means any person who grows local produce, including those who reside in abutting townships.

“local produce” means products grown on lands in the Town of Tillsonburg or surrounding Townships and Counties.

"mobile vending vehicle" means a motorized vehicle as defined by the Highway Traffic Act designed for the purpose of preparing, selling or dispensing food or drinks from the actual vehicle, intended for the consumption by the general public.

"Municipal Law Enforcement Officer" means a person appointed under authority of the Police Services Act for the purpose of enforcing Town by-laws.

"non-profit charitable organizations" means whether incorporated or not, which have objects and purposes that are exclusively and wholly charitable. The organization is recognized by Revenue Canada as being "charitable" and it is complying with the reporting requirements under the Charities Accounting Act or is completing a Public Information Return under the Income Tax Act.

"non-profit non-charitable organizations" means whether incorporated or not, which have objects and purposes that are both charitable and non-charitable and that raise money for the relief of poverty, the advancement of education, the advancement of religion, culture and the arts, health and welfare and for athletic clubs and associations.

"owner" means a person who has in respect of premises, an estate for life or a greater estate, legal or equitable or leasehold estate.

"pawnbroker" means a person who carries on the business of taking by way of pawn or pledge any article or second hand goods for the repayment of money lent thereon.

"pawn shop" means a place where the business of a pawnbroker is carried on and includes any area where any such goods are stored or the business is carried on and all relevant documents pertaining to the conduct of operating a pawn shop.

"person" includes a corporation or a partnership.

"reasonable grounds" a set of facts or circumstances which would cause a person of ordinary and prudent judgment to believe beyond a mere suspicion.

"refreshment vehicle" means a vehicle as defined by the Highway Traffic Act, or portable unit designed for the purpose of preparing, selling or dispensing food or drinks intended for consumption by the general public.

"refreshment stand" means any facility (other than a restaurant or similar permanent establishment) from which food and refreshments are for sale or sold for consumption by the public on a seasonal basis, but does not include a refreshment vehicle.

"salesperson" means a person who, within the Town of Tillsonburg, 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 municipality afterwards. Shall include a Door to Door Salesperson or any person who engages in the solicitation, sale, purchase, or rental of goods, wares merchandise, or services on a door to door basis including salespersons or agents. Shall not include a business to business salesperson.

"second-hand goods" shall include but not limited to clothes, books, bottles, bicycles, automobiles, furniture and electronics.

“second hand goods dealer” means a person who carries on the business of selling second hand goods.

“second hand goods shop” means a place in which a second hand goods dealer exercises the trade of receiving or taking on consignment any second hand goods for resale and includes any area where any such goods are stored or the business is carried on and all relevant documents pertaining to the conduct of operating a second hand goods shop.

"services" includes activities, facilities, performances, exhibitions, viewings and encounters, but does not include the exhibition of film approved under the Theatres Act.

"to provide" when used in relation to services, includes to furnish, perform, solicit or give such services and "providing" and "provision" have corresponding meanings.

“Town” shall mean The Corporation of the Town of Tillsonburg.

3.0 GENERAL PROVISIONS

3.1 Application - in writing

Every application for a Licence shall be made in writing on a form provided by the Clerks' Office and may be obtained at the Tillsonburg Customer Service Centre or the Town's web site and the required fee shall be deposited upon approval of the application.

3.2 Fee - set out

The Licence fee for each Licence required shall be set out in the current Town of Tillsonburg Rates & Fees By-Law.

3.3 Licence - term

Licence issued pursuant to this By-Law shall be for a period from January 1 to December 31 each year, except as set out in Section 4.

3.4 Licence - issue subject to requirements

Subject to the applicant meeting the requirements of this By-Law, Each licence shall be issued in the name of the Town and shall be granted and signed by the Clerk and the Director of Finance and/or their designates.

3.5 Licence - displayed - clearly visible

Every Licence issued in accordance with this By-Law shall be displayed in a prominent place and be clearly visible to the public at all times.

3.6 Every Salesperson Licence, licenced in accordance with this By-Law shall at all times, while carrying on business, carry the licence with him/her and shall upon demand exhibit it to any Municipal By-law Enforcement Officer, Citizen of the Town of Tillsonburg or Ontario Provincial Police Officer.

3.7 Every Licence applied for pursuant to this By-Law shall be subject to the following inspections/approvals where required:

All applications subject to:

- i) Zoning approval
- ii) Building Department approval
- iii) Fire Department approval

The following approvals required based on the type of business

- iv) Health Unit approval where required
- v) boards, commissions, authorities or agencies as the Clerk considers may have an interest or potential interest in the application, and who may submit comments or recommendations to the Clerk in respect of the application

- 3.8 Approvals must be received from each department/agency as set out in Section 3.7 before a Licence is issued.
- 3.9 The Licensing Officer may refuse a licence if any applicant who, have past breaches of this By-Law or because of failure to comply with the requirements of this By-Law or other applicable By-laws of the Town or of any local board thereof, or of any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, or Board or Commission thereof, in, upon or in connection with the applied for licenced activity of the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the Licenced activity.
The Licensing Officer or designate shall give the applicant notice of the refusal to issue the licence applied for, in writing, said notice to be served personally or by mail to the applicant at the address shown on the application.
- 3.10 If the Licensing Officer deems that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, the Licensing Officer may, for the time and on such conditions as considered appropriate, without a hearing, suspend a licence subject to providing the licensee with the reasons for the suspension, either orally or in writing and providing an opportunity to respond to them. If the Licensing Officer deems it necessary to suspend a licence for any other reason other than those listed above, then the licensee shall receive a sixty (60) day notice to comply with the requirements of the licence. If at the end of the sixty (60) day period the requirements have not been complied with then the licence shall be suspended at that time.
- 3.11 While any licence granted under this By-Law is suspended or cancelled, the licensee shall not exercise any right or privilege conferred by such licence and any such licensee attempting to exercise any right or privilege under such licence during such suspension or cancellation shall be liable to the same penalties and may be prosecuted in the same way as though such person had procured no such licence.
- 3.12 Notice of revocation of any Licence may be given by registered letter mailed to the address on the Licence and upon such mailing the Licence shall terminate.
- 3.13 Where the Licensing Officer refuses to issue a Licence, suspend or revokes a Licence under this By-Law, the applicant or Licensee may appeal this decision by filing with the Clerk or Designate, an appeal in writing, of the said decision within fifteen days of being notified of the decision. The Clerk or Designate shall provide the Licensing Appeal Committee with a report as to the status of the licence.

- 3.14 Upon determination of the review hearing date, the Clerk or designate shall give notice in writing to the applicant or licensee, said notice to:
- (a) include a statement:
 - (i) as to the time, date, place and purpose of the review hearing; and
 - (ii) that, if the applicant does not attend the review hearing, the Licensing Appeal Committee shall proceed in the absence of the applicant or licensee and the applicant or licensee will not be entitled to any further notice.
- 3.15 The Licensing Appeal Committee shall be comprised of the Chief Building Official, CAO or designate, one member of the BIA and one member of the Chamber of Commerce. Upon receipt of an appeal from an applicant, the Committee shall hold a hearing in accordance with the Statutory Powers Procedure Act and may, after the appropriate hearing is conducted, issue a Licence, refuse to issue a Licence, revoke a Licence or suspend a Licence and may make any suspension of a Licence subject to such terms or conditions as the Licensing Appeal Committee may prescribe and a decision made pursuant to the exercise of these powers is final and binding upon the applicant or any Licensee.
- 3.16 The Licensing Appeal Committee, in considering whether or not to issue a Licence, refuse to issue a Licence, or to revoke or suspend a Licence may have regard to the following:
- (a) whether or not the applicant or Licensee and the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of a business which is Licenced or which is required to be Licenced, pursuant to this By-Law, complies with all requirements of this By-Law.
 - (b) whether or not the applicant or Licensee has failed to promptly remedy any reasonable concern with regard to those matters set out in this By-Law or has committed past breaches of this By-Law.
 - (c) whether or not the applicant or Licensee has failed to comply with any requirements of any other applicable By-Law of the Town or any local board thereof or of any statute, order-in-council or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, Board or Commission thereof, in, upon or in connection with the Licenced activity or the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the Licenced activity.
 - (d) whether the conduct of the licence holder or other related circumstance afford reasonable grounds for belief that the carrying on of the business of the licence holder in respect of the premises for which the licence is sought would infringe on the rights or endanger the health or safety of any other members of the public.
 - (e) the fee payable in respect of the licence has not been paid.
 - (f) the applicant is in default with respect to any financial or other obligation to the Town.

- 3.17 The decision of the Licensing Appeal Committee to refuse to issue a Licence, revoke a Licence or suspend a Licence may be subject to such terms as the Licensing Appeal Committee shall impose and shall be final.
- 3.18 Despite any of the provisions of this By-law, any proceedings may be disposed of by a decision of the Appeal Committee given:
- (a) without a hearing; or
 - (b) without compliance with any other requirements of the Statutory Powers Procedure Act or of this By-Law, where the licensee has waived such hearing or compliance.
- 3.19 No Licence issued under the provisions of this By-Law shall be transferable and is only valid in respect of the person or of the premises named therein, except that where two or more persons carry on business in partnership in one location only one licence is required, unless such transfer is approved by the Clerk.
- 3.20 Every Licensee shall re-apply as set out in this By-Law one month prior to the expiry of the said Licence by filling out the appropriate application form.

4.0 NEW OR EXISTING BUSINESS (located within a commercial zone) and/or HOME OCCUPATION BUSINESS

- 4.1 Operation – without licence – prohibited
No person shall carry on business within the Town of Tillsonburg without first having obtained a licence to do so. Such licence shall only be required when first operating on the specific location and no renewals shall be required. Change of location will require a new licence. The licence is a requirement of the business owner and not the landlord of the premises.
- 4.2 No person shall, by virtue of one licence, carry on business in more than one location without first obtaining a licence for that location.
- 4.3 No person shall change the location of their business without obtaining a licence for the new location.
- 4.3 No person shall transfer such licence to another person with whom they have sold or transferred ownership of their business. Each new business owner shall be required to obtain a new licence.

5.0 AUCTIONEER

- 5.1 Operation - without Licence prohibited
No auctioneer or person shall operate, maintain or engage in the business, trade or occupation of an auctioneer within the Town without first having obtained an Auctioneer's Licence to do so.
- 5.2 No auctioneer or person shall sell or put up for sale goods, wares, merchandise or effects by auction within the Town without first having obtained an Auctioneer's Licence.

- 5.3 No Auctioneer shall offer for sale or cause to be sold, goods, wares or merchandise brought into the Town of Tillsonburg for the purpose of disposing of them by auction sale, save and except:
- (a) livestock and/or agricultural implements or used household articles, furniture or effects, and
 - (b) goods or chattels seized under an execution or detained for rent, being offered for sale by a sheriff or bailiff, and
 - (c) goods or wares sold for a charitable purpose.
- 5.4 No Auctioneer shall dispose of by public auction, the stock in trade of a merchant except for the purpose of closing out the business in which the owner has been engaged and, such sale may be conducted for one day for every year that the owner has carried on the same business continuously but in no case shall such sale exceed five (5) days and it is specifically provided that no goods, wares or merchandise shall be added to the stock of such owner for the purpose of sale by auction.
- 5.5 Every person who exercises the business, trade or occupation of an auctioneer shall, at the place of each auction, prominently display his or her Auctioneer's Licence, his or her name and business address and shall, on all public business, include such name and business address in the advertisement.
- 5.6 No auctioneer shall permit any disorder in his or her auction room or offices.
- 5.7 No auctioneer shall conduct or permit to be conducted any mock auction.
- 5.8 No auctioneer shall knowingly make or permit to be made any misrepresentation as to the nature, content, quantity or value of any goods, wares, merchandise or effects that may be offered for sale.
- 5.9 No auctioneer shall do anything that is calculated to, or which may reasonably have the effect of confusing a purchaser as to the amount paid for any article or articles.
- 5.10 No auctioneer shall avail himself or herself of the services of or act in concert with, persons known in the trade as "beaters", "boosters" or "shills" for the purpose of raising or stimulating bids.
- 5.11 No auctioneer shall sell or put up for sale by auction any goods, wares, merchandise or effects on a reserved bid basis without first advertising the fact of such a reserve bid prior to the auction and as well as announcing clearly to those in attendance at the auction the fact of such reserve bid.
- 5.12 Every person who exercises the business, trade or occupation of an auctioneer shall keep proper books of account of the business transacted by him or her as an auctioneer. The books shall give the names and addresses of the owner of the goods, wares, or merchandise to be sold, the description of the same, the price for which the same may be sold, the names and addresses of the persons purchasing such goods, wares or merchandise or any portion thereof, and the sale price, and the auctioneer shall, after the

sale of the same, or any portion thereof, account for the proceeds and pay the same to the person or persons entitled to such proceeds, less the auctioneer's proper and legal commission and charges. The auctioneer shall, in case no sale is made of such goods, on payment of his or her proper costs and charges, return such goods to the person or persons entitled to receive the same on proper demand being made thereof.

- 5.13 Every person/organization conducting an auction on behalf of a non-profit charitable organization or non-profit non-charitable organization must obtain a Daily Auction Licence.

6.0 VENDING/SALESPERSON

- 6.1 Operation - without Licence prohibited – for unprepared foods only
No salesperson shall go from place to place or to a particular place within the Town of Tillsonburg, with goods, wares or merchandise for sale, or carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards without having first obtained a Licence from the Town of Tillsonburg.
- 6.2 Every owner/operator of a fruit and vegetable stand shall obtain a Licence for each location to sell local produce only. A fruit and vegetable stand may be permitted only in the Service Commercial (SC), Neighbourhood Commercial (NC) and Major Institutional (IN2) Zones, as defined in the Towns current Zoning By-Law. .
- 6.3 The applicant shall take out a separate Licence for each location where goods, wares, merchandise or local produce are sold from and the applicant shall operate only in the location set out in the Licence.
- 6.4 No vending/salesperson shall operate from a specific location without the written permission of the private property owner.
- 6.5 All mobile vending, fruit/vegetable owner/operators shall be prohibited to operate on any municipal owned lands except for where a special event permit has been issued by the Town.
- 6.6 No person/organization shall be required to obtain a Licence in accordance with section 6 if the goods, wares or merchandise are being sold on behalf of a non-profit charitable organization or a non-profit non-charitable organization.
- 6.7 No owner of a business, operating in the Town of Tillsonburg shall be required to obtain a Licence in accordance with Section 6; if the goods, wares, merchandise, and/or fruit and vegetables being sold are such that are offered for sale in the aforementioned business premise and if such items are sold on the property owned/occupied by the said business.
- 6.8 In addition to the exemption set out in Section 6.10, every owner of a business must comply with the Town of Tillsonburg's Zoning By-law.

- 6.9 The provisions of this Section shall not apply to a salesperson who are operating in conjunction with any Council approved special event.
- 6.10 Every Mobile Vending Owner Operator shall provide the required parking as per the Town of Tillsonburg's Zoning By-Law.

7.0 FOOD VENDING

- 7.0 Operation - without Licence – prohibited – prepared food sales
No person shall operate or maintain a mobile vending vehicle within the municipality without first obtaining a Licence to do so. Venders operating under a Special Occasion Permit shall be exempt from this By-Law.
- 7.1 Refreshment vehicles or refreshment stands may be permitted to operate only in the Service Commercial (SC), Neighbourhood Commercial (NC), Restricted Industrial (MR) and General Industrial (MG) Zones, as defined in the Town's Zoning By-law.
- 7.2 Notwithstanding Section 7.1, at the discretion of the Licensing Officer, refreshment vehicles or refreshment stands may be permitted to operate in an Institutional (IN1, IN2) Zone with a licence provided that the funds from the sale of the food are used for charitable purposes.
- 7.3 No person shall operate any refreshment vehicle or refreshment stand from any property except from a location or locations approved by the Licensing Officer and as listed on the licence for such refreshment vehicle or refreshment stand.
- 7.4 No person shall operate a refreshment vehicle or refreshment stand on any municipal property, which shall, for the purposes of this by-law, include, but not limited to, road allowances, municipal parks, parking lots, Community Centre and recreation facilities, except as described in Sections 7.5 and 7.6.
- 7.5 The operation of a refreshment vehicle or refreshment stand may be permitted without obtaining a licence in a municipal park or facility under the control of the Parks and Recreation Department during a special event/tournament for which a Parks & Recreation Services Rental Agreement or Special Events Planner has been obtained by a non-profit community association or charitable organization.
- 7.6 Licenced vendors who wish to operate at a Council sanctioned community event at a location outside the Central Commercial zone must obtain the express written permission of the event organizers, and provide a copy of such letter of permission to the Licensing Officer at least one (1) week in advance of the event.
- 7.7 No person shall operate a competing refreshment vehicle or refreshment stand within 8 metres (26 feet) of any other refreshment vehicle or refreshment stand or within 8 metres (26 feet) of the vehicular entrance to the property or in any location which will obstruct the flow of vehicles.

- 7.8 No person shall operate a refreshment vehicle or refreshment stand within 150 metres (492 feet) of any other restaurant.
- 7.8.1 Notwithstanding Sections 7.8, the location of special fund raising events shall be at the discretion of the Licensing Officer.
- 7.9 Every person applying for a licence to permit the operation of a refreshment vehicle or refreshment stand who intends to operate from private property shall submit with the application a letter of permission with respect to the proposed use from the registered property owner or his authorized agent.
- 7.10 Notwithstanding anything in Section 7, the owner of a mobile lunch truck, which has the sole purpose of travelling from place to place to serve a number of private locations is permitted to serve his clients in any zone and shall not be required to provide letters of permission from the property owners.

All policy or policies shall also contain a cross-liability of interest clause protecting the Town against any actions, causes of actions, claims and demands whatsoever which may arise resulting from the Town's issuance of the permit to use the designated area.

8.0 PAWNBROKER

- 8.1 Operation - without licence - prohibited
No person shall carry on the business of a pawnbroker or second hand goods dealer within the limits of the Town without having first obtained a licence for such pawnbroker or second hand goods dealer as provided for in this By-Law. A second hand goods dealer does not include flea markets, second hand bookstores, second hand clothing stores or second hand car dealers.
- 8.2 No person shall, by virtue of one licence, carry on business as a pawnbroker or second hand goods dealer in more than one shop.
- 8.3 Any licence issued pursuant to the provisions of this By-Law shall be displayed in a conspicuous place in or on the premises where a pawnbroker or second hand goods dealer is carrying on the business of a pawnbroker or second hand goods dealer.
- 8.4 Where two or more persons carry on business as pawnbrokers or second hand goods dealer in partnership in the same shop, only one licence is necessary.
- 8.5 Any person requiring a new licence for a year following the date of expiry of any previous licence shall apply for the new licence in the same manner as any new applicant.
- 8.6 Every applicant for a pawnbroker or second hand goods dealer licence shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as:
- (a) payment of the prescribed licence fee; and
 - (b) in the case of a pawnbroker's licence, security in the amount of \$2,000 to the

municipality in a form satisfactory to the Treasurer (which security shall be maintained in effect for so long as the applicant holds a pawnbroker's licence); and
(c) a current Criminal Records Check for all listed owners and managers; and
(d) any other document or information requested by the Clerk or designate.

- 8.7 Every application will be subject to approvals from such municipal or provincial departments or agencies, as the Clerk deems necessary.
- 8.8 A licence issued under the provisions of this Chapter shall not be transferable and is valid only in respect of the person and the premises named therein.
- 8.9 No licence shall be issued to any person in respect of any premises in which the carrying on or operation of the trade, calling, business or occupation for which the application is being made is in contravention of any by-law of the Town.
- 8.10 Each licence granted under this By-Law shall be for one year from January 1 in the current year and expire on the 31st of December one year after issuance or sooner if the licence so indicates.
- 8.11 Applications for a renewal of a licence must be received by the Clerk or designate on or before the 31st day of December in the year preceding the year for which the current licence is intended to be renewed.
- 8.12 Every licensee shall notify the Clerk within seven days of any change in his/her business or home address.
- 8.13 Council may revoke any licence granted under this Chapter at any time if it deems it in the public interest to do so and, in such event, the licensee shall be given a refund of the licence fee proportionate to the unexpired term of the licence.
- 8.14 The per annum licence fee payable shall be in accordance with the current Rates & Fees By-Law for the Corporation of the Town of Tillsonburg.
- 8.16 Every person operating a pawn shop or second hand goods shop shall carry a minimum of \$2,000,000 comprehensive general liability insurance and shall furnish proof of such coverage to the satisfaction of the Town prior to being licenced.
- 8.17 The Clerk may revoke any licence granted under this Chapter at any time if it deems it in the public interest to do so and, in such event, the licensee shall be given a refund of the licence fee proportionate to the unexpired term of the licence.
- 8.18 The Clerk or designate, in conjunction with the Chief of Police or designate shall not refuse to issue, suspend or revoke a pawnbrokers/second hand goods dealer licence to an applicant except where:
 - (a) the past or current conduct of the applicant or licence holder afford reasonable grounds for belief that the pawnbroker/ second hand goods dealer is not carrying on or will not carry on the business of pawnbroker/second hand goods dealer in accordance with the law and with integrity and honesty; or
 - (b) there is reasonable grounds for belief that the carrying on of the business of

- pawnbroker/second hand goods dealer in respect of the licence by the applicant or licence holder has or will result in a breach of this By-Law or any other applicable law; or
- (c) the applicant or licence holder is a corporation or partnership and its conduct or the conduct of its officers, directors, employees, agents or partners affords reasonable grounds for belief that the pawnbroker/second hand goods dealer business has or will not be carried on in accordance with the law and with integrity and honesty; or
 - (d) there are reasonable grounds for belief that the premises, accommodations, equipment or facilities in respect of which the licence is required do not comply with the provisions of this By-Law or any other applicable by-law; or
 - (e) the conduct of the licence holder or other related circumstance afford reasonable grounds for belief that the carrying on of the business of pawnbroker/second hand goods dealer in respect of the premises for which the licence is sought would infringe on the rights or endanger the health or safety of any other members of the public; or
 - (f) the fee payable in respect of the licence has not been paid; or
 - (g) the applicant is in default with respect to any financial or other obligation to the Town.
- 8.19 No person shall obstruct a person inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by a person inspecting for the purpose of this By-Law.
- 8.20 Issuance - rejected – cancelled – suspension – as per the General Provisions contained herein.
- 8.21 No licensee shall purchase, take in exchange or receive any second hand goods, article or thing from any person under the age of fourteen years of age without written authority from a parent or guardian of such person.
- 8.22 Every licensee shall ensure that a seller presents one piece of identification that is integrated with a photograph:
- (a) a valid driver's licence;
 - (b) a passport issued by the government of origin;
 - (c) a "Bring Your Identification" card issued by the Liquor Control Board of Ontario;
 - (d) a certificate of Canadian Citizenship issued by the Government of Canada;
 - (e) a Conditions Release Card issued by Correctional Services of Canada; or
 - (f) a student card.
- 8.23 Every licensee shall ensure that prior to purchasing, taking a pledge, taking in exchange or taking on consignment any second hand goods, a record is made in a recording system approved by the Chief of Police or designate of:
- (a) the day, month, year and time of the transaction;
 - (b) the full name, date of birth, and address of each seller;
 - (c) the full particulars of the seller's identification;
 - (d) a detailed description of each second hand good sufficient to identify it including, where applicable, make, model, serial numbers, markings, titles and any other identifying numbers, letters or designs;
 - (e) the purchase or consignment price of each second hand good or a description of the item exchanged for it; and

- (f) the clearly marked name of the person conducting the transaction.
- 8.24 Every licensee shall, when requested by the Chief of Police or designate at any time during business hours, produce transaction records for inspection. If requested by the Chief of Police or a member of the Ontario Provincial Police Services every licensee shall permit the removal of any transaction record from the premises for the purpose of photocopying or for use in any court proceedings.
- 8.25 The Chief of Police or designate shall be authorized to inspect:
- (a) the portion of any premises being used for carrying on the business of a pawnbroker or second hand goods shop; and
 - (b) any goods, wares, merchandise, records or other documents of or relating to a pawn shop or a second hand goods shop.
- 8.26 Any property found during an inspection that appears to have been improperly or illegally obtained, or is known to be stolen, or found to have been obtained by the seller or any other person through the commission of an offence against this By-Law or any provincial or federal statute, may be seized by the Chief of Police or designate for investigation, for use as evidence in court proceedings, or for return of the said property to its rightful owner without remuneration by the rightful owner, the Chief of Police or designate, the Town or its agents to the licensee.
- 8.27 In circumstances where the Chief of Police or designate suspects that specified second hand goods were stolen, a peace officer shall be entitled, upon providing a receipt, to remove such second hand goods for the purpose of criminal investigation provided such second hand goods are either returned within sixty days or further retained by means of a court order.

REFUSAL - REVOCATION - SUSPENSION OF LICENCE

- 8.29 The Clerk shall notify the holder of a pawnbroker/second hand goods dealer licence by registered mail, when he/she has cause to believe on reasonable grounds that any of the information which an applicant or holder of a pawnbroker/second hand goods dealer licence is obliged to supply or has supplied is inaccurate that unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.
- 8.30 The Clerk shall notify the holder of a pawnbroker/second hand goods dealer licence by registered mail when he/she receives information that the pawnbroker/second hand goods dealer does not comply with all applicable requirements under a statute, regulation or by-law that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.
- 8.31 The Clerk shall notify the holder of a pawnbroker/second hand goods dealer licence when he/she has cause to believe that an order issued under the authority of a court with competent jurisdiction has been disobeyed by the holder of the pawnbroker/second hand goods dealer licence that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

8.32 Non-compliance - licence - revoked – notice – see General Provisions

8.33 Every person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the Provincial Offences Act.

Each day a violation of this By-Law continues shall constitute a separate and distinct offence under this By-Law.

9 FEE WAIVED

9.1 Non-profit community associations, charitable organizations, service clubs and other organizers of special fund-raising events carried on solely for the benefit of a particular charity or non-profit organization are not required to obtain a licence to operate any refreshment vehicle or refreshment stand and comply with the requirements of this by-law. The licence shall not be required and no fee charged provided that the person, organization, association or service club has completed the requirements contained in the facility contract or special events planner from the Parks & Recreation Services for the event and the applicant is directly responsible for the vending operation.

9.2 The Tillsonburg Business Improvement Area (BIA) and organizers of Town initiated events are not required to obtain a Business Licence to permit the operation of refreshment vehicles and refreshment stands from the downtown location and during outdoor events organized by the BIA or initiated by the Town. The BIA and Town initiated events are exempt from the provisions of this by-law however notification must be provided to the Clerk setting out the details and number of vendors attending the event.

9.3 The provisions of this by-law do not apply to the Tillsonburg Farmers Market held on Saturdays on Bridge Street at the Station Arts Centre.

9.4 Garage sales, second hand book sales, second hand clothing sales, fundraising events conducted by charitable or religious organizations shall be exempt from the provisions of this By-Law.

10 OFFENCE AND PENALTY

10.1 Every person who contravenes any provisions of this by-law or any director or officer of a corporation who concurs in such contravention by a corporation is guilty of an offence and, upon conviction, shall be liable to a fine as provided under the *Provincial Offences Act*, R.S.O. 1990, as amended from time to time.

11 WORD USAGE

11.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

11.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

12 SEVERABILITY

12.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

13 CONFLICT WITH ANY OTHER BY-LAW

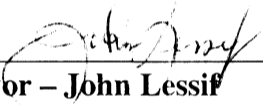
13.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed, the provisions of this by-law shall prevail.

14 EFFECTIVE DATE

14.1 This by-law shall come into force and take effect on the day it is passed.

READ A FIRST AND SECOND TIME THIS 12 DAY OF November , 2012.

READ A THIRD AND FINAL TIME AND PASSED THIS 26 DAY OF November, 2012.



Mayor – John Lessif



Clerk – Donna Wilson