

CORPORATION OF THE MUNICIPALITY OF TWEED

BY-LAW NO. 2017-10

Being a By-Law to regulate and license exhibitions held for hire or gain within the Municipality of Tweed, and to repeal By-Law No. 2007-54.

WHEREAS Section 11(2) of the Municipal Act, 2001 authorizes a municipality to pass by-laws with respect to the health, safety and well-being of persons and the protection of persons and property including consumer protection;

AND WHEREAS Section 11(3) of the Municipal Act, 2001 provides a municipality may pass by-laws respecting business licensing;

AND WHEREAS Section 151 of the Municipal Act, 2001 authorizes a municipality to provide for a system of licenses with respect to a business including the prohibition of businesses, the imposition of conditions as a requirement of obtaining and continuing to hold or renew a licence;

AND WHEREAS Section 128(1) of the Municipal Act, 2001 permits a municipality to prohibit and regulate with respect to public nuisances including matters that in the opinion of council are or could become or cause public nuisances;

AND WHEREAS the Council of the Corporation of the Municipality of Tweed considers it to be in the public interest for the purposes of Health and Safety, Nuisance Control and Consumer Protection to provide for the regulation and licensing of exhibitions, festivals and other organized public amusements held for profit in the municipality;

WHEREAS the Council of the Corporation of the Municipality of Tweed considers it to be in the public interest to provide for the regulation and licensing of exhibitions held for hire or gain in the municipality;

NOW THEREFORE the Council of the Corporation of the Municipality of Tweed enacts as follows:

1. INTRODUCTION

This is a by-law to license exhibitions or events held for hire or gain and shall be known as the Special Events By-law.

2. DEFINITIONS

In this By-law:

- (a) "Agricultural Fair" shall mean an agricultural or horticultural exhibition hosted by a local agricultural society or similar organization;
- (b) "Applicant" shall mean a person who has signed an application for license submitted pursuant to this By-Law;
- (c) "Council" shall mean the Council of the Corporation of the Municipality of Tweed;
- (d) "Exhibition" shall mean an exhibition, a special event, concert, festival or other organized public amusement held for profit and without limiting the meaning of the term, an exhibition includes a gathering at which:
 - i. entertainment is provided to persons who attend;
 - ii. persons who attend are required to pay a fee for admission; and
 - iii. the entertainment or the persons to whom the entertainment is being provided, or both, are located outdoors or in a location which is not entirely within a hall, arena, theatre or other enclosed building.
- (e) "Fair Ground" shall mean land used in the operation of an agricultural society incorporated and in good standing under the provisions of the Agricultural and

Horticultural Organizations Act, R.S.O. 1990, c.A.9;

- (f) “Fee for admission” shall mean any charge, whether direct or indirect, which entitles a person to the entertainment provided and includes a fee for admission to the location at which the exhibition is being held, a membership fee, and any other charge which entitles a person to the entertainment as an incidental right or privilege;
- (g) “Municipality” shall mean the Municipality of Tweed;
- (h) “Owner or Occupant” shall mean the registered owner of the property on which a proposed exhibition is to be held or the person who is in possession of the property through a leasehold interest.
- (i) “Person” shall include a corporation.

3. REQUIREMENT FOR LICENSE

No person shall hold or cause or permit the holding of an exhibition unless an exhibition licence has been issued by the Clerk of the Municipality pursuant to this By-law at least thirty (30) calendar days prior to the proposed date for commencement of the exhibition.

4. APPLICATION FOR LICENSE

- (a) Every person who proposes to hold an exhibition requiring a licence shall make written application to the Clerk of the municipality at least sixty (60) calendar days prior to the proposed date for the commencement of the exhibition.
- (b) The application for license shall name and be signed by each person who proposes to hold or put on or conduct the exhibition and by each person who is an owner of the property where the exhibition is proposed to be held. A current address and telephone number for each applicant shall be included.
- (c) The application for license shall include:
 - i. the location at which it is proposed to hold the exhibition, including both the municipal civic address and the description of the property as contained in the last registered deed or lease of the lands;
 - ii. confirmation from the owner or occupant of the property, if the applicant is not the owner or occupant, that the applicant has been granted permission to hold the proposed exhibition on the property;
 - iii. the dates and times proposed for the exhibition;
 - iv. a brief description of the particulars of the facilities and arrangements to be implemented for:
 - the handling of food;
 - medical, toilet and sanitary requirements;
 - garbage disposal;
 - policing and security, including crowd and traffic control; and
 - fire services.
 - v. a sketch of the lands and premises to be used for the exhibition, showing the location of the proposed entertainment, areas and facilities for spectators, motor vehicle parking, areas and facilities for preparation, sale and consumption of food or refreshments and for the exhibition or sale of other goods or services, areas for camping, tenting, toilets and other sanitary services, and any other uses and facilities incidental to, or required for, the exhibition.
 - vi. a description of the entertainment intended to be provided, including the type of entertainment, the location where it is to be staged or provided, the names of any band, group, troupe or other entity providing the entertainment and the dates and times at which each entertainment is to occur;
 - vii. a statement as to the maximum number of persons who will be permitted to be in attendance at the exhibition at any time, together with a description of the means by which attendance will be limited to such number of persons; and
 - viii. the sworn statement of each applicant attesting to the truth of the information contained in the application.

(d) The applicant(s) shall submit to the Clerk of the municipality within twenty-one (21) calendar days following submission of the initial application the following:

i. An Emergency and Operations Plan for the proposed exhibition which addresses the following:

Zoning By-Laws	The means by which the applicant proposes to ensure compliance with applicable zoning by-laws in effect in the municipality.
Noise By-Law	The means by which the applicant proposes to ensure compliance with applicable noise by-laws in effect in the municipality.
Health/Sanitary Provisions	Details by which food will be handled and distributed. Details of washroom facilities, including number of portable toilets; ratio to number of attendees; frequency of pumping.
Waste Removal Disposal	Means by which waste will be removed and disposed of, including provisions for recycling; method of disposal of non recyclables; timeframe for site cleanup.
Emergency/Medical Provisions	Means by which medical situations will be addressed, including location and number of first aid stations; on-site ambulances; emergency vehicle route.
Fire Services	Details of fire protection plan, including provisions for providing fire services; proximity of available Fire Dept.
Protection of Properties	Means by which properties in vicinity of exhibition location will be protected and / or secured from exhibition activities, including trespass by participants; vehicle parking.
Crowd/Traffic Control	Methods of ensuring crowd and traffic control including safety of participants; parking provisions; emergency access; ratio of numbers of participants to applicable exhibition location.
Security	Provisions for on ground security, including particulars of private security hires; numbers / schedules / availability of security personnel.
Police Protection	Provisions for police protection, including on grounds police arrangements; off duty / paid police presence.

ii. an agreement executed by the applicant(s) / owner(s) covenanting to indemnify and save harmless the Corporation of the Municipality of Tweed and its officials, agents and employees from all costs, expenses, damages, claims and actions caused by or resulting from the exhibition or as a result of issuing a license to the applicant(s) / owner(s) for the exhibition.

iii. a certified copy of a policy of comprehensive general liability insurance issued by an insurance company licensed to issue such policy in the

Province of Ontario providing for coverage in the amount of at least two million dollars (\$2,000,000.00) for injuries, damages, torts, claims and actions caused by or resulting from the exhibition, and naming the applicant(s) and the Corporation of the Municipality of Tweed as the insured parties; such coverage to be in effect for the period of the exhibition including set up and take down periods.

- iv. an application fee payable to the Corporation of the Municipality of Tweed in the amount of one hundred dollars (\$100.00).

5. PROCESSING OF APPLICATION.

- (a) Upon receipt of the Emergency and Operations Plan from the applicant, the Clerk shall distribute a copy to the following: the Council of the Municipality; the O.P.P. Detachment Commander; the Fire Chief of the Municipality; the Public Works Supervisor of the Municipality; and, any other persons or agencies relevant to the provisions outlined in the plan.
- (b) The parties named in 5 (a) shall, within seven (7) days of receipt of the plan, provide to the Clerk the following:
 - i. comments on the applicable sections of the Emergency and Operations Plan, including comments on the suitability and thoroughness of the provisions put forth for addressing the plan requirements.
 - ii. an estimate of proposed costs for relevant services based on proposals put forth in the plan, including proposed policing costs, fire services costs, by-law enforcement costs, or site cleanup; or alternately, proposed costs based on the requirements for services as determined by the parties.

6. FINANCIAL REQUIREMENTS.

- (a) In addition, and prior to approving a licence, Council may, where there is reason to believe that the event may require municipal services, require the following:
 - i. a performance bond or letter of credit from the applicant and / or owner in an amount sufficient to cover the municipality's costs of providing the services outlined in the Emergency and Operations plan for the exhibition and sufficient to cover the Municipality's anticipated costs of providing other services, at the exhibition including the costs of enforcing the Municipality's by-laws.
 - ii. a performance bond or letter of credit payable on demand from the applicant or the owner in the amount of ten thousand dollars (\$10,000.00) to compensate the Municipality in the event there are additional or unanticipated emergency services costs or other costs that may be assessed against the Municipality.
- (b) The applicant shall be entitled to a refund of any unused portions of any funds deposited with the Municipality if, following the exhibition and upon recovery of all associated costs, such unused funds exist. Or alternately, the letter of credit provided by the applicant to cover costs associated with the exhibition shall be cancelled upon receipt of funds from the applicant sufficient to cover the costs associated with the exhibition.

7. ISSUANCE OF LICENSE / REFUSAL OF LICENSE

- (a) Upon verification that all conditions of this by-law have been met and all pertinent documentation is on file, the Clerk of the Municipality may approve the issuance of a licence.
- (b) The Council of the Municipality may refuse to issue a licence where, based on the zoning of the property, the history of prior exhibitions, the history of the applicant or the history of the proposed exhibition location is not in the best interest of the community for such an exhibition to take place.

- (c) The Council of the Municipality may impose a two (2) year suspension for the issuance of licensing for an exhibition to a particular applicant and/or owner, or at a particular location where the conditions of this by-law have not been met or have been breached at a previous similar exhibition.

8. REVOCATION OF LICENSE

At any time prior to the completion of an exhibition for which a license has been issued pursuant to this By-Law, the license may be revoked by the Council of the Municipality or by the Clerk of the Municipality under the direction of the Council, by written notice delivered to any applicant or any owner named on the permit and to the address of any applicant / owner as set out in the application for license:

- (a) If the Clerk or Council is satisfied that incorrect or false information of a material nature was submitted in support of the application for license; or
- (b) If the licence holder does not comply with the conditions included in the licence; or
- (c) If the Clerk or Council determines that a provision of this by-law, of another applicable by-law, or of a provincial or federal statute is being contravened; or
- (d) If the Medical Officer of Health advises the Clerk in writing that he or she is no longer of the opinion that the health and sanitation arrangements for the exhibition are satisfactory, or that the health and sanitation requirements are not being maintained; or
- (e) If the Detachment Commander or Chief of Police or his/her delegate of the detachment responsible for policing of the area where the exhibition is being held advises the Clerk in writing that, notwithstanding any letter provided pursuant to Section 5 (b)(i) of this By-Law, he or she is of the opinion that the arrangements for security and police protection for the exhibition will not be adequate or that the arrangements have not been carried out; or
- (f) If the Chief Fire Official of the municipality advises the Clerk in writing that he or she is no longer of the opinion that the approved Fire Safety Plan for the exhibition is satisfactory; or
- (g) If the Council is satisfied that any other arrangements or facilities proposed by the applicant(s) for the exhibition have not been put into place or carried out and the Council considers it to be a cause for serious concern.

9. APPEAL PROCEDURE

- (a) Any person who has been refused a licence or whose licence has been revoked pursuant to the exercise of any discretion by the Clerk or Council may appeal to the Council.
- (b) All appeals shall be in writing in the form of a notice and filed with the Municipal Clerk within fifteen (15) days of the refusal or revocation and shall clearly state the grounds for the appeal.
- (c) Council shall choose to:
 - i. hear the appeal at a time and place as it determines, at which time it may confirm the refusal or revocation or grant the licence; or
 - ii. direct the immediate issuance or re-issuance of the licence by the Clerk.

10. TERMS OF LICENSE

- (a) Any license issued pursuant to this By-Law shall be deemed to authorize only the exhibition for which application was made, in accordance with the information provided by the applicant(s).

- (b) Any license issued pursuant to this By-Law may specify or limit the hours during which the exhibition may be held and may contain such other provisions for regulation of the exhibition as the Council of the municipality may consider to be necessary or advisable.
- (c) Every person to whom an exhibition licence has been issued shall be responsible for ensuring that the exhibition is held in a manner that complies with all terms and conditions of the licence and all applicable municipal by-laws and provincial and federal statutes and regulations.

11. EXEMPTIONS

- (a) A licence under this by-law shall not be required for:
 - i. an exhibition held on municipally owned property in accordance with a written agreement with the Municipality.
 - ii. an Agricultural Fair or exhibition held on fair grounds.
- (b) If an application has been made for a licence prior to the passing of this by-law, Council has the sole discretion to waive some or all of the requirements of this by-law.

12. OFFENCES

- (a) Every Person who contravenes any provision of this By-law, including an order made under the By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended (the “Provincial Offences Act”) and the Municipal Act, 2001.
- (b) In addition to subsection a), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the Provincial Offences Act and is found guilty of the offence is liable, pursuant to the fine provisions of the Municipal Act, 2001, to the following fines:
 - i. The minimum fine for an offence is five hundred dollars (\$500.00) and the maximum fine for an offence is one hundred thousand dollars (\$100,000.00).
 - ii. In the case of a continuing offence, for each day or part of a day that the offence continues to minimum fine shall be five hundred dollars (\$500.00) and the maximum fine shall be ten thousand dollars (\$10,000.00), and the total of all daily fines for the offence is not limited to one hundred thousand dollars (\$100,000.00).
 - iii. In the case of a multiple offence, for each offence included in the multiple offence the minimum fine shall be five hundred dollars (\$500.00) and the maximum fine shall be ten thousand dollars (\$10,000.00), and the total of all fines for each included offence is not limited to one hundred thousand (\$100,000.00).
 - iv. In addition to the fine provisions in subsections 12. (b) (i) to (iii), if a Person is convicted of an offence under this By-law, any economic advantage or gain obtained by the Person from operating a business without a Licence may be considered an aggravating factor for sentencing purposes which may attract a special fine, which shall be equal to or greater than the economic advantage or gain obtained by the Person from operation the business without a Licence.
 - v. The maximum amount for a special fine in subsection 12. (b) (iv) may exceed one hundred thousand dollars (\$100,000.00).
- (c) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
 - i. Prohibiting the continuation or repetition of the offence by the Person convicted; and
 - ii. Requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

- (d) Where a Person fails to pay any part of a fine for a contravention of this By-Law and the fine is due and payable under section 66 of the Provincial Offences Act, including any extension of time to pay the fine provided under that section, the Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (e) If any part of a fine for a contravention of the By-law remains unpaid after the final date specified in the notice provided under subsection 12 (d), the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the Municipal Act, 2001.

13. SEVERABILITY


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

- 14. That By-Law No. 2007-54 be repealed in its entirety.
- 15. This By-Law shall come into force and take effect immediately upon the passing thereof by the Council of the Corporation of the Municipality of Tweed.

Read a first and second time this 28th day of March, 2017.

Read a third and final time, passed, signed and sealed in open Council this 28th day of March, 2017.


MAYOR


CLERK