

THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

BY-LAW NUMBER 39 OF 2024

BEING A BY-LAW TO REGULATE AND GOVERN HAWKERS AND PEDDLERS

WHEREAS pursuant to the provisions of Part IV of *Municipal Act, S.O. 2001. c. 25*, as amended, provides that a local municipality may pass by-laws for licensing, regulating and governing business;

AND WHEREAS Section 11(2) of the Municipal Act, 2001, provides that a municipality may pass by-laws respecting: economic, social and environmental well-being of the municipality; health, safety and well-being of persons; and protection of persons and property;

AND WHEREAS Section 128 of the Municipal Act, 2001, provides that without limiting sections 9 and 11, a local municipality may 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 Section 425 (2) of the Municipal Act, 2001, establishes that any person who contravenes any by-law of the municipality passed under the Act, is guilty of an offence;

THEREFORE the Council of the Municipality of Lambton Shores enacts as follows:

1. Definitions

For the purpose of this by-law:

"Agriculture" means the Use of land, for gain or profit, for the growing of crops, including nursery and horticultural crops; raising of livestock and other animals for food, or fur, including poultry and fish; apiary; aquaculture; agro-forestry; maple syrup production; and associated on farm Buildings and Structures. This definition shall include a Farm Produce Outlet.

"Busking" or "Busker" means the activity of playing music, acting or performing in the street or any other public place for voluntary donations;

"By-law Enforcement Officer (BLEO) or Municipal Law Enforcement Officer (MLEO)" shall mean the person appointed, by by-law, by the Municipality of Lambton Shores for the purposes of administering and enforcing the provisions of this by-law;

"Charitable" shall mean an Ontario organization which provides service to residents and has a registered charitable status number; a registered non-profit organization with charitable purposes which has direct benefits to residents; local churches, schools and service clubs;

"Delivery" shall mean the voluntary transfer of possession from one person to another as defined by the Sale of Goods Act, R.S.O. 1990, c.S.1;

"Farm produce outlet" means a Use, Accessory to a Permitted Farm, which consists of the retail sale of Agricultural products produced on the farm where such outlet is located.

"Garage sale " means an occasional sale held by the occupants of a dwelling unit on their own premises, of household goods and not merchandise which was purchased for resale or obtained on consignment.

"Goods" shall mean all chattels personal, other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale as defined by the *Sale of Goods Act, R.S.O. 1990, c.S.1*;

"Hawker and Peddler" shall mean a person who travels from place to place, or to a particular place, for an intermittent or one-time period for the purpose of preparation and/or selling or delivering goods in the municipality afterward; and who carries and displays goods for sale or delivery using a trailer, basket, push cart, wagon, and while on foot;

"Hawking or Peddling" shall mean a trade, business or occupation which is operating for the purpose of doing the following on an intermittent or one-time period:

- the preparation, delivery and sale of goods, and/or
- the display for the purpose of sale of any goods.
- it shall be deemed to be conducted within the municipality if any part of the peddling or hawking is conducted within the municipality even if the parent trade, business or occupation is being conducted outside or originates from a location outside the municipality;

"Municipality" shall mean the Corporation of the Municipality of Lambton Shores;

"Person" shall mean, without limiting the generality thereof, any individual, body, group, organization or company, whether incorporated or not;

"Public Place" shall mean the following:

- A place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include highways, sidewalks, streets, any portion of a road allowance, parking lots, public swimming pools, conservation area, beach, parks and playgrounds;
- School grounds;
- Land, premises or buildings owned, managed or maintained by a municipal, regional, provincial or federal government, or public entity such as a Crown Corporation, Hydro, Utility, or Railway Company; and,
- Yards appurtenant to a building or dwelling or vacant lands but does not include a building or dwelling.

2. Scope and Effect

- 2.1 No person shall operate as a hawker, peddler or busker (busking) upon any public place, or part thereof, within the geographic limits of the Municipality of Lambton Shores, unless otherwise exempted by this by-law.
- 2.2 Where the municipal Zoning By-Law provides that land may be used for a dwelling, the permitted accessory uses shall include a Garage Sale provided that:
 - a) No Person shall conduct more than two Garage Sales per calendar year at one location;
 - b) No Person shall conduct a Garage Sale that exceeds two days duration.
- 2.3 This by-law shall be administered and enforced by the By-law Enforcement Officer or Municipal Law Enforcement Officer appointed by the Corporation of the Municipality of Lambton Shores

3. Exemptions

- 3.1 Notwithstanding clause 2.1, this by-law does not apply to a person selling or delivering goods or the preparation and/or sale of food or who carries and displays goods for sale or delivery, or busking, in association with a farmer's market, flea market or a Farm produce outlet.
- 3.2 Notwithstanding clause 2.1, this by-law does not apply to a community or charitable fundraiser, event or celebration held in any municipally-owned park, beach or other place in conjunction with an event permit issued by the municipality.

4. Severability

- 4.1 If any provision or part of a provision of this by-law is for any reason held to be invalid, it does not affect the validity, effectiveness or enforceability of the other provisions or parts of provisions, as contained in this By-law.

5. Enforcement, Offences and Penalties

- 5.1 Enforcement: Municipal Law Enforcement Officers, Police, the Licensing Officer or any person appointed by council may enforce this by-law.
- 5.2 Obstruction: No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.
- 5.3 Offence and Penalty: Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 5.4 Offence and Penalty: Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of not more than \$100,000.00, as provided for by Section 429 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended.

5.5 Corporation: A director or officer of a corporation who knowingly concurs in the violation or contravention by the corporation of any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of not more than \$100,000.00, as provided for by Section 429 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended.

6. Effective Date

6.1 THAT By-Law 56-1981, By-Law 18A-1975, By-Law 1-1999 and all other by-laws and resolutions inconsistent with this by-law are hereby repealed.

6.2 THAT this by-law shall come into force on the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED this 14th day of April, 2024.

Mayor

Clerk