

MUNICIPALITY OF THE DISTRICT OF CLARE

BY-LAW NO. 28

A BY-LAW RESPECTING MOTOR VEHICLE TRANSIENT DEALERS

Authority

Pursuant to Section 171 of the Municipal Government Act, BE IT ENACTED by the Council of the Municipality of the District of Clare as follows:

Short Title

1. This by-law shall be known as the “Transient Motor Vehicles Vendors By-Law”.

Definitions

2. In this by-law:

“**Chief Administrative Officer**” means the Chief Administrative Officer of the Municipality of the District of Clare.

“**Council**” means the Council of the Municipality of the District of Clare.

“**Licensing authority**” means the Chief Administrative Officer, or such employee or agent of the Municipality as the Chief Administrative Officer may designate to receive applications for licenses under this by-law.

“**Motor vehicle**” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway and which is propelled or driven otherwise than by muscular power, but does not include motorized wheelchairs, or vehicles used exclusively upon stationary rails or tracks.

“**Municipality**” means the Municipality of the District of Clare.

“**Person**” means an individual, guild, agency, or body corporate.

“**Sell**” includes selling, trading, or otherwise transferring for a valuable consideration, whether present or executory.

“**Temporarily**” means less than 90 consecutive days in one calendar year.

“**Transient motor vehicles vendor**” means a person temporarily selling motor vehicles at a particular location for a specified period of time, who is not licensed by the Province of Nova Scotia to operate such a business elsewhere in the Municipality of the District of Clare.

Sale of motor vehicles

3. (a) No person shall sell motor vehicles in the Municipality as a transient motor vehicles vendor except in accordance with this by-law.
- (b) Council may designate persons to be responsible for enforcement of this by-law, and any peace officer shall have enforcement authority.
- (c) An individual who is a resident within the Municipality of the District of Clare who otherwise satisfies the definition of “transient motor vehicles vendor” shall not be subject to this by-law.

Licensing

4. (a) A transient motor vehicles vendor shall obtain a license from the Municipality to sell merchandise in the Municipality, and any sale by such transient motor vehicles vendor without a current and valid license shall be an offence.
- (b) Every application for a license shall be made in writing to the licensing authority, with a minimum of 30 days advance notice of the sale, and shall contain:
 - i. The name, mailing address, telephone number and, if available, facsimile number and e-mail address of the applicant;
 - ii. The corporate or partnership name, if applicable;
 - iii. A description of items the applicant proposes to sell; in the case of a transient motor vehicles vendor, a list the motor vehicles the applicant proposes to sell;
 - iv. For transient motor vehicles vendors, a certified copy of a valid and current Motor Vehicle Dealer’s License issued by the Province of Nova Scotia under the applicable regulations promulgated pursuant to the Motor Vehicle Act;
 - v. If the applicant is proposing to sell at a site of which the applicant is not the owner, written permission from the owner,
 - vi. Confirmation of liability insurance in a minimum amount of \$1,000,000 in respect of operations at the proposed site of sale,
 - vii. The Applicable license fee as established by policy of Council;
5. An application is not considered complete until all relevant information is provided and the license fee payment has been made.
6. The application shall include a site plan showing location of the Operation on the property, access to and egress from the site, the location of all buildings on the property and the area being utilized for the Operation.

7. After receipt of a completed application, the licensing authority shall issue a license after first confirming that the proposed site of the sale is zoned for such use under any applicable Land Use By-Law;
8. A license issued under this by-law shall be in force for a period equal to, or less than, 30 days, (hereinafter called the period of sale). The license shall expire at the conclusion of that period of sale, and must be reissued at each subsequent period of sale of merchandise by a transient vehicle vendor.
9. A license issued under this By-law shall not be transferable by the holder thereof to any other person.

Records

10. (a) A transient motor vehicles vendor shall maintain records of all sales made pursuant to a license issued under this by-law, which shall reveal all particulars of the sale, including all consideration paid, traded or in any way transferred to or for the benefit of the vendor in respect of each sale.
10. (b) The records maintained under this section shall be disclosed to the licensing authority upon request. The licensing authority shall use the information disclosed in those records only for purposes of enforcement of this by-law, and shall not disclose that information other than for that purpose. Any transient business shall, upon request by the By-law enforcement officer, present for inspection all or any of the goods or wares being intended to be sold.

Revocation

11. A license may be revoked where:
 - a. The licensee has provided incorrect information in the application for a license;
 - b. The licensee is selling merchandise or vehicles not stipulated in the license application;
 - c. The Transient motor vehicles vendor's provincial Dealer's Permit has been revoked or is no longer in force;
 - d. The licensee is in violation of any provision of this by-law or of any other by-law of the Municipality;
 - e. The licensee does not have insurance in force as stipulated in the license application.
 - f. The licensee fails to adhere to any statute, law or regulation of the Federal or Provincial Government.

License Fees

12. (a) The fee for the issuance of license under this by-law shall be as fixed by policy made by Council pursuant to section 49 of the Municipal Government Act.

- (b) A certified copy of the said policy shall be affixed to this by-law as “Schedule A”. In the event that the fee so fixed is changed, a certified copy of the new policy shall be affixed in place of the previous.

Penalties Enforcement

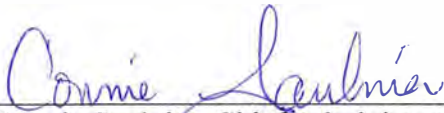
13. Every person who contravenes or fails to comply with any provision of this by-law, or any person who owns or controls premises or property used for unlicensed sale of merchandise by a transient motor vehicles vendor commits an offence and is liable on conviction to a penalty of not less than one thousand (\$1,000) and not more than ten thousand (\$10,000) or, in default of payment, to imprisonment for a period of not less than 30 days.
14. Where a transient motor vehicles vendor is selling motor vehicles and/or merchandise contrary to this by-law, or the terms and conditions of a license, the Municipality may, in addition to any other remedy or penalty herein, and without notice of any kind, impound and remove any vehicles and merchandise and all costs or charges for removal and storage shall be paid before the motor vehicles or merchandise is released.
15. The Municipality may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order where:
 - a. Land is being used in contravention of this by-law
 - b. A person is selling merchandise without having paid the license fee required; or
 - c. A breach of this by-law is anticipated or is of a continuing nature.

“Schedule A”

**MUNICIPALITY OF THE DISTRICT OF CLARE
POLICY
Transient Motor Vehicles Vendor License Fee**

The fee for the issuance of a license under the Transient Motor Vehicles Vendors By-Law shall be one thousand dollars (\$1,000) a day to a maximum of ten thousand dollars (\$10,000.00) a month. This policy shall take effect on the coming into force of the Transient Vendor By-Law.

I CERTIFY this to be a true copy of a policy adopted by Council of the Municipality of the District of Clare, pursuant to subparagraph 49(1)(c)(i) of the Municipal Government Act on May 20th, 2009.



Connie Saulnier, Chief Administrative Officer