

Municipality of *Bluewater*

REGULATE AND GOVERN HAWKERS, PEDDLERS AND BUSKERS BY-LAW CONSOLIDATION

This document is a consolidation of the Regulating and Governing of Hawkers, Peddlers and Buskers By-law 53-2020 and subsequent amendments to that By-law. This compilation is for convenience for administrative purposes and does not represent true copies of the by-laws it contains. Any legal interpretation of this document should be verified with the Municipal Clerk.

This Consolidated Hawkers, Peddlers and Buskers By-law contains the following amendments:

By-law 71-2020 – June 8, 2020

Disclaimer: The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. The format may be different, and plans, pictures, other graphics or text may be missing or altered. The Municipality of Bluewater does not warrant the accuracy of this electronic version. This consolidation cannot be distributed or used for commercial purposes. It may be used for other purposes only if you repeat this disclaimer and the notice of copyright. Official versions of all by-laws can be obtained from the Clerk's Department by calling 519-236-4351.

THE CORPORATION OF THE MUNICIPALITY OF BLUEWATER

BY-LAW 53-2020

Being a By-law to regulate and govern Hawkers, Peddlers and Buskers

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;

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;

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;

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;

AND WHEREAS it is the desire of the Council of the Municipality of Bluewater to protect and conserve historical property and the visual aesthetics of the Heritage Conservation District as a natural consideration of development, and to foster a community recognition of the value and historical significance of each community and its origins;

NOW THEREFORE The Council of the Corporation of the Municipality of Bluewater enacts as follows:

1. DEFINITIONS

For the purpose of this By-law:

“Busking” or “Busker” means the activity of playing music, acting or performing in the street or another public place for voluntary donations.

"Chief Building Official" means the person appointed by the Municipality of Bluewater Council to such position pursuant to the Building Code Act;

“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;

"Commercial Patio or Cafe" shall mean any area on Municipally-owned property where

seating is provided for the serving or consumption of food or beverage and does not include as a component, food preparation;

“Confections” shall mean food items rich in sugar and carbohydrates, and includes sweet pastries, cakes, and similar baked goods;

“Confectionery” shall mean the art of making confections;

“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;

“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 basket, mobile canteen, motorized vehicle, push cart, refreshment stand, 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:

- a) the preparation, delivery and sale of goods, and/or
- b) the display for the purpose of sale of any goods.

It shall be deemed to be carried on within the municipality if any part of the peddling or hawking is carried on within the municipality even if the parent trade, business or occupation is being carried out or originates from a location outside the municipality;

“Heritage Conservation District” shall mean a geographically defined area within a municipality that is noted for its distinct and integrated character, and identified through a Heritage Conservation District Plan, and designated by By-law under Part V of the *Ontario Heritage Act*;

“Mobile Canteen” shall mean a mobile vehicle with or without a trailer from which food is sold, or prepared for sale and consumption to the public;

"Municipality" shall mean the Corporation of the Municipality of Bluewater;

"Municipally-owned property" shall mean property owned by the Municipality of Bluewater;

“Nuisance” shall mean something or someone that is harmful, offensive, annoying or disagreeable;

“Owner” shall mean a lessee, tenant, and a person occupying or in charge of any property;

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

Provincial Offences Officer (POO), By-law Enforcement Officer (BLEO), Municipal Law Enforcement Officer (MLEO) shall mean the person appointed, by By-law, by the Municipality of Bluewater for the purposes of administering and enforcing the provisions of this By-law;

“Public Place” shall mean the following:

- a) 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;
- b) School grounds;
- c) 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,
- d) Yards appurtenant to a building or dwelling or vacant lands but does not include a building or dwelling.

“Refreshment Stand” shall mean a food stand, booth or temporary set-up that is not a restaurant or mobile canteen from which food is sold or prepared for sale and offered for consumption to the public.

2. SCOPE AND EFFECT

- 2.1 No person shall park a mobile canteen, push cart, refreshment stand or wagon upon any public place, or part thereof, within the geographic limits of the Municipality of Bluewater, unless otherwise exempted by this By-law.
- 2.2 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 Bluewater, unless otherwise exempted by this By-law.
- 2.3 This By-law shall be administered and enforced by the Chief Building Official/Manager of Development Services or Provincial Offences Officer (POO), By-law Enforcement Officer (BLEO), Municipal Law Enforcement Officer (MLEO) appointed by the Corporation of the Municipality of Bluewater.

3. EXEMPTIONS

- 3.1 Notwithstanding clause 2.1 and 2.2, 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 or flea market, or community or charitable fundraiser, event or celebration held in any municipally-owned public park, beach or other place following permission from Council. Every

person shall produce proof of association with a farmer's or flea market, or community or charitable fundraiser, event or celebration, or Council's approval upon request or demand being made by a Municipal Law Enforcement Officer.

3.2 Notwithstanding clause 2.1 and 2.2, this By-law does not apply to property located on public property that has received the required approvals as regulated by the Municipality of Bluewater's By-law 126-2019, Encroachment Policy and Procedure, as amended from time to time.

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. OFFENCES AND PENALTIES

5.1 Any person who contravenes any provision of this By-law is guilty of an offence and liable upon conviction to a penalty under the Provincial Offences Act, in accordance with Schedule "A" attached hereto.

5.2 Upon conviction, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

6. SCHEDULES

6.1 That Schedule "A" (Set Fine Schedule) is attached hereto and forms part of this By-law.

7. EFFECTIVE DATE

7.1 That By-law 175-1982 Village of Bayfield is hereby repealed.

7.2 This By-law shall come into force on the date of passing thereof.

By-law read a first and second time this 4th day of May, 2020.

By-law read a third time and finally passed this 4th day of May, 2020.

Paul Klopp, Mayor

Chandra Alexander, Clerk

THE CORPORATION OF THE MUNICIPALITY OF BLUEWATER

SCHEDULE 'A' TO BY-LAW NUMBER 53-2020: Hawkers, Peddlers and Buskers

PART 1 – Provincial Offences Act
Set Fine Schedule

ITEM	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Park a mobile canteen, push cart, refreshment stand or wagon upon a public place, or part thereof, in the Municipality of Bluewater.	Sec. 2.1	\$250.00
2.	Operating as a hawker or peddler upon a public place, or part thereof, in the Municipality of Bluewater.	Sec. 2.2	\$500.00
3.	Operating as a busker upon a public place, or part thereof, in the Municipality of Bluewater.	Sec. 2.2	\$100.00
4.	Failure to produce proof of association with a farmer's or flea market, or community or charitable fundraiser, event or celebration, or Council's Approval.	Sec. 3.1	\$250.00

NOTE: The general penalty provision for the offences listed about is Section 5 of By-law 53-2020, a certified copy of which has been filed.