

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

BY-LAW NUMBER 2005 -26

Being A By-law to Regulate and License Exhibitions, Festivals, and Public Entertainment Including Outdoor Weekend Festivals.

WHEREAS Section 150 of the Municipal Act, 2001, S.O.2001, as amended authorizes Municipalities to pass by-laws to license and regulate exhibitions held for hire, places of amusement, and any trade, business or occupation carried on in the Municipality.

AND WHEREAS the Corporation of the Municipality of Brockton deems it expedient that such larger scale happenings held in the Municipality of Brockton should be licensed and regulated.

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

1. DEFINITIONS: in this By-law

- (a) EXHIBITIONS FOR HIRE OR GAIN shall mean concerts, musical exhibitions, festivals or other gatherings which supply entertainment and/or instructions to the persons who attend and anticipated attendance is in excess of 200 persons and the event will last 6 hours or more.
- (b) PERSON shall include the singular and plural, and shall include a corporation, organization or association including a partnership;
- (c) MUNICIPALITY shall be the Corporation of the Municipality of Brockton.
- (d) COUNCIL shall mean the Council for the Corporation of the Municipality of Brockton
- (e) POLICE shall mean Detachment Commander or designee O.P.P. South Bruce Detachment
- (f) AGENT shall mean anyone designated by the Municipal Council

- 2. No person, shall hold or conduct an exhibition for hire or gain, unless the person, shall at least sixty days prior to the scheduled date or dates of the event have first obtained a license therefore from the Municipality.
- 3. No person shall permit any land owned by them, or leased, occupied, or covered by any rental agreement or other arrangement to be used for an exhibition for hire or gain unless a license therefore has been issued for said event by the Municipality in accordance with the terms of this by-law.
- 4. Notwithstanding anything contained in this By-law locally based not for profit organizations are exempt from this by-law and may conduct exhibitions for hire or gain and do not require the license pursuant to this by-law.

The organizations referred to in this clause are the Walkerton Chamber of Commerce, Walkerton Lions & Lioness Club, Walkerton Rotary Club, Walkerton Agricultural Society, Chepstow Lions Club, Optimist Club, Elmwood Chamber of Commerce, Victoria Jubilee Hall, Walkerton Kinsmen, Kinettes, Legion, Boards and Committees established by Brockton Council and similar organizations as may be identified as exempt by Resolution of Council.

5. Application for a license under this by-law shall be made to the Clerk of the Municipality and such Application shall be accompanied by the following:
 - (a) Certified cheque paid to the Municipality in the amount of FIVE THOUSAND DOLLARS (\$5,000.00), or such greater amount estimated by the Treasurer of the Municipality as being sufficient to provide adequate police and fire protection for citizens and property during the period of the event, and for a period of at least six hours after the termination of the event;
 - (b) Insurance in the form of a liability policy to insure against all damages or claims for damages, indemnity for damage to private property, injury to persons, and public liability; with an Insurance Company satisfactory to the Municipality. Such policy or policies shall be issued in the joint names of the applicant and the Municipality and the form and contents shall be subject to the approval of the Municipality. The policy shall remain in the custody of the Municipality and shall be in effect from the date of application for a license to sixty days after the event has taken place. The minimum limits of such policy or policies shall be Ten Million Dollars (\$10,000,000.00), all inclusive;
 - (c) A certified cheque payable to the Municipality in an amount estimated by the Treasurer of the Municipality as being sufficient to insure payment for all minor damage and incidental necessary clean up of the site and property surrounding the area on which the event is to be held in case the Licensee fails to carry out said cleanup and repairs to the satisfaction of the Municipality;
 - (d) A Certificate of the Medical Officer of Health for the Bruce Grey Owen Sound Health Unit certifying as to the medical, sanitary, and lavatory facilities including water which would be required for the number of persons estimated to be attending the event, and as shown on the Application for License;
 - (e) A written Contract with a recognized supplier of lavatory and wash-room facilities certifying such facilities will be available on the date of the event, and the payment due under any agreement made with such supplier has been paid in full;
 - (f) A written undertaking by the Applicant not to use the name of the Municipality in any way or form whatsoever as part of the name of the event without the prior written approval of the Municipality;
6. An application fee of FIVE HUNDRED DOLLARS (\$500.00) cash or certified cheque shall be submitted with each Application for a special events license under this by-law. And no part thereof is refundable.
7. No person shall operate an exhibition for hire or gain including an out-door week-end festival in the Municipality except in accordance with the license issued pursuant to this by-law, and except in accordance with the hours of operation which are set out on the said license.
8. Every Licensee shall provide an adequate supply of washroom facilities and water for both drinking and cleaning purposes as prescribed in a Certificate from the Director of the Bruce Grey Owen Sound Health Unit and provide the contact number of the supplier.
9. Every Licensee shall supply and have installed on the site of the licensed event adequate hydro facilities (lights and outlets) to accommodate roadway lighting, pathway lighting, pond lighting, a vending area lighting and hydro facilities, parking

area lighting, and such other hydro facilities as are deemed necessary by the Municipal Council.

10. Every Licensee is required during all events pertaining to the licensed event, if ponds or water in them are used for swimming, bathing, or other activities, to have the water therein tested twice daily to ensure that it is not contaminated, and every Licensee shall report the results of the said testing in writing to the Municipality within 24 hours of each test being conducted.
11. Every Licensee will provide adequate disposal facilities for recyclable materials and garbage as required by the Municipality and every Licensee shall be responsible for all costs associated with disposal of such material in a licensed disposal facility.
12. Every Licensee shall have the site of the licensed event, and any Municipal property affected thereby, cleaned up within three days after any event, and shall ensure that the same are free and clear of any waste materials.
13. Every Licensee shall obtain Clearance from any emergency agencies having jurisdiction in the area prior to the said event to ensure proper access and egress to the site are provided for emergency situations, and shall at least 48 hours prior to the licensed event occurring provide written proof to the Municipality relating to the same.
14. Every Licensee shall at least thirty days prior to any special event to be licensed including an outdoor musical festival provide a written notice to be delivered to all property owners or the tenants thereof residing within 400 feet of the boundaries of the site of the licensed event, the said notice to state an event will be taking place, and include therein a notice of the type of event, and the dates of the event and the hours of operation, and every Licensee shall provide to the Municipality not later than fifteen days before the event the names and addresses of the persons and tenants residing or owning property within 400 feet of the site, and proof of delivery or service to them of the said notice.
15. Every Licensee will ensure that all temporary structures placed on the site of the festival or other event will remain there for only one week prior to the event and will be removed within one week after the event, and any and all permits required therefore shall be obtained prior to their location on the site. Building permits are required for tents.
16. Every Licensee shall ensure that public camping and the placement of public recreational vehicles or trailers on the site where the special event including any outdoor musical festival is to occur will be limited to three days prior to the event, the duration of the event, and one day after the event, and the Licensee shall take all steps necessary to ensure that said vehicles are removed within that time frame.
17. Every Licensee will limit any serving of alcoholic beverages on the site to the controlled area provided for the same which said area shall meet the requirements of the Liquor Control Board of Ontario.
18. As part of the Application for a License under this by-law, every proposed Licensee will provide to the Municipality a site plan, showing complete details, said details to be on a drawing prepared to scale, which details will include the following:
 - (a) any parking areas for the parking of vehicles, including staff and the public;
 - (b) any camping area for the placement of tent facilities;
 - (c) any camping areas for the parking of trailers or recreational vehicles;
 - (d) a security building or area;
 - (e) an area for the serving of alcoholic beverages and/or food or other refreshments;

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 - (f) the stage, or stages, and each area for the viewing public;
 - (g) the ingress and egress points for the property;
 - (h) driveways for vehicular traffic and walkways for pedestrian traffic;
 - (i) any temporary buildings or structures;
 - (j) any permanent buildings or structures;
 - (k) any area for the storage of garbage and other waste material;
 - (l) any drainage facilities;
 - (m) any area for lavatory and washroom facilities;
 - (n) any area for the loading or unloading of public transportation including buses;
 - (o) any area for the retail sale of goods or crafts;
 - (p) any ponds of water on the site to which members of the public are to be allowed access;
 - (q) a medical or first aid area.
- 19. Upon receipt of the application forms prescribed from time to time by the Municipality, and any supporting material required by this By-law from the Applicant for the license, the Municipality shall make or cause to be made all investigations required by law or by the Municipal Council regarding the Application, including but not limited to circulating the Application to various other agencies or bodies.
- 20. If the investigations by the Municipality do not disclose any reason to believe:
 - (a) the Applicant's character may not be good, or
 - (b) that the carrying on of the Special Event relating to which the license is applied for may result in a breach or breaches of the law, or
 - (c) that the carrying on of the Special Event is in anyway adverse to the public interest, or
 - (d) that there are any realty or business taxes, penalties, or interest outstanding by the owner/operator of the site; or
 - (e) that the conduct of the person, or in the case of a corporation, the conduct of its officers, directors, employees or agents demonstrate reasonable grounds for belief that the person will not carry on or engage in the business for which the license is sought in accordance with the law or with honesty and integrity, then

Council may instruct the Clerk or other authorized Official to issue the license.

21. The Clerk or his/her designate shall on behalf of the Council sign all licenses issued under this by-law, and the signature of the issuing Official may be printed or mechanically reproduced thereon.
22. Every Licensee shall post his/her license in some conspicuous place on the place or premises to which it applies, and any Police or person authorized by the Municipal Council shall be allowed to inspect the license upon request.
23. Where people form a partnership or corporation to carry on the special event for which the license is taken out, the Application may be taken out by one of the partners but the name, address, and business and residence telephone number of each member of the partnership shall be set out on the Application, and in the case of a Corporation, the Corporation's Officers shall have all their names, addresses, and business and residence telephone numbers set out on the Application.
24. Every Application shall include the name of an authorized person having responsibility for the event including that person's home and business telephone number where that person may be reached at any time by the Municipal Council. Council shall be informed immediately of any change in this information.
25. All licenses issued under this by-law will expire on the 31st day of December next following the date of issue unless stated otherwise thereon.
26. No license issued under this by-law may be transferred except with the prior written consent of the Municipal Council.
27. If an event for which a license under this by-law is required is being carried out on property which is not owned by or controlled by lease or otherwise by the Applicant, the Application shall include a written consent form signed by each and every registered and beneficial owner of the property involved, together with the name and address of said person set out clearly on the said Consent form. If the site is leased or otherwise provided by an agreement with the Owner, the Licensee or Applicant shall upon request of the Municipality produce a legible copy thereof.
28. No Licensee will promote or carry on his trade, calling, business, or occupation relating to the special event under any name or style other than the name or style endorsed upon the license.
29. Every Licensee in addition to any other requirement in this by-law shall:
 - (a) maintain and keep clean, safe, and in good condition and promptly repair any object, amusement, vehicle, place or premises for which a license is issued under this by-law;
 - (b) not cause or permit any nuisance to arise in or on or in connection with the object, amusement, vehicle, place or premises for which the license is issued;
 - (c) not cause or permit any obstruction of any highway, lane, or public place in front of or adjoining the place or premises for which the license is issued;
 - (d) not cause or permit any breach of any Municipality By-law, Provincial or Federal Law, Regulation or Order in Council in, on, or in connection with any object, amusement, vehicle, place or premises for which the license is issued;

30. Every Licensee shall be responsible for the observance and performance of all provisions of the By-law by himself, directors, officers, employees, servants and agents of the Licensee in respect of the object, amusement, vehicle, place or premises for which the license is issued.
31. Every person in applying for and owning a license or carrying on a special event as described therein shall himself comply with and also ensure that their employees, agents, or canvassers also comply with and be governed by the respective provisions of the By-law.
32. When any person licensed under this Bylaw changes his or her personal or business address or telephone number, he shall notify the Municipality Clerk in writing of the change within seven days after the said change.
33. When there is a change in Partners or Officers of a Corporation having a license under this Bylaw, the licensed business shall notify the Municipality of the change within seven days thereof.
34. Any Official or Person authorized by the Municipal Council may during the normal hours of operation of any business licensed under this By-law inspect any vehicle or as much of any place or premises as is used for the carrying on of the licensed event for the purposes of ensuring compliance with the relevant provisions of this By-law.
35. Where a Licensee or person required to be licensed contravenes any provisions of this By-law, or any other Municipality By-law relevant to the license issued under this By-law, the Municipality by its authorized representative shall:
 - (a) serve a written notice to the Licensee advising of the contravention and directing compliance; or
 - (b) where a matter is required to be done, direct in a written Order that in default of the Licensee doing such matter it will be done at the option of the Municipality by the Municipality and the Municipality may recover the expenses incurred in so doing by legal action or by collecting the same in like manner as municipal taxes; or
 - (c) lay an Information with respect to the violation; or
 - (d) issue a Certificate of Offense; or
 - (e) prohibit the carrying on or the engaging in of the special event without a license; or
 - (f) either immediately if required in the discretion of the Municipality, or on notice, as hereafter described, revoke or suspend any license issued under this By-law pursuant to the provisions of the By-law and the Municipal Act or other relevant legislation.
36. Other than in an emergency or in circumstances requiring in the discretion of the Municipality immediate suspension or revocation of a license issued hereunder, before revoking, suspending, or refusing any license hereunder, the holder or Applicant shall be given notice of the same, and shall be permitted to attend either personally or by a representative before the Municipal Council to show cause why he believes the license should not be revoked, the suspension made or continued, or the license refused.
37. Subject to the right of Council at its discretion in an emergency or other situation to revoke or suspend a license immediately without notice, any notice given relating to refusal, revocation, or otherwise shall be given at least seven days before the meeting of the Municipal Council and shall be sent to the last known address of the applicant, licensee, or representative of either.
38. Upon suspension or revocation of a license issued under this By-law, the Licensee

shall return to the Municipality all licenses issued by the Municipality, and any person authorized by the Municipality shall have access to any premises, vehicle or other property of the Licensee for the purpose of receiving or taking these documents during normal business hours.

39. The Licensee will not permit any refreshment vehicle, mobile canteen, or retail sales of any kind to locate upon, or operate from, any Municipal roadway, lane, parking lot or Municipal property of any kind unless prior written permission of the Municipal Council by Resolution or By-law has been first obtained.
40. The Licensee will not permit any gambling or disorderly practices on the site.
41. The Licensee will not permit any sound equipment, loud speaker, or similar device to be located so as to emit sound directly on to, or towards a highway or other lands owned by any person or the Municipality adjacent to the site.
42. The Licensee will not permit any campfires or other open fires on the site except under the supervision of a person over the age of sixteen years, in an area designated for the same by the Licensee on the site, and shown as such on the site plan required to be filed pursuant to the provisions of this By-law, and except in accordance with any other By-law, or Provincial or Federal regulation.
43. The Licensee will not permit the discharge onto or into the ground of waste water, or any toxic substance.
44. In addition to any Bond required hereunder, the Licensee shall provide to the Municipality prior to any special event required to be licensed hereunder, a written indemnity agreement in terms satisfactory to the Municipality and its Solicitor, whereby the Licensee shall indemnify and keep indemnified and save harmless the Municipality against all actions, suits, claims, damages, costs and liabilities of all kinds arising out of or as a result of the special event and related activities on or near the site of the Licensee.
45. The Licensee will not permit litter to accumulate or remain on the site, at anytime, and shall keep a sufficient number of suitable containers available on the site in appropriate locations for the collection of litter, and shall regularly empty the same of litter, and shall not allow litter to escape to any highway or any other Municipal property, or any other adjacent or nearby lands.
46. "Litter" shall include any waste paper, plastic, wood, metal or cloth in waste form.
47. As part of an Application for a license under this By-law, the Municipality may require the Applicant to submit, prior to being issued a license, a letter from the Ontario Provincial Police Officer, or other Police Officer having jurisdiction in the area, setting out the maximum number of persons estimated by him to be able to attend safely the event covered by this By-law and for which a license is sought, having regard to all factors including the area of land to be used for the event, the site plan, access and egress by road or otherwise, the nature and history of the event, and the ability to ensure protection of all persons and property during the period of the event, and for a period of six hours after the termination of the event. Such letter shall also set out a formula by which the amount of the certified cheque estimated by the Municipality as being sufficient to provide adequate Police protection for citizens and property may be calculated.
48. After considering such letter, and any other relevant information, the Council of the Municipality may limit the maximum number of persons permitted to attend the scheduled event, which numbers shall be set out on the License, or otherwise.

49. Council may require an Applicant for a license hereunder to hire, at his own expense, independent security personnel approved by the Municipality to monitor the number of attendees, to ensure compliance with this By-law, and to report to Council.
50. Should the number of persons attending any event exceed the maximum allowable as established by the Municipality, such occurrence shall be a violation of this By-law.
51. Every Licensee shall comply with the noise By-law of the Municipality, and shall ensure compliance by attendees at the special event as well.
52. The Municipality may require an Applicant for a license under this By-law to provide to the Municipality a certified cheque payable to the Municipality in an amount determined by Municipal Council to be adequate to provide for noise monitoring services at the event, if in the opinion of the Municipality, such services are required to ensure compliance with any and all By-laws of the Municipality. In the event that noise monitoring services are required and used, the Municipality may pay for such services from the amount of the certified cheque.
53. For the purpose of this By-law, any noise emitted from the site of the licensed event, which is in contravention of the noise By-law of the Municipality, shall constitute a nuisance, and every Licensee shall take all reasonable steps to prevent such noise from occurring or recurring, and failure by the Licensee to do so shall constitute a violation of this By-Law.
54. Failure to conduct any special event licensed under this By-law in accordance with the site plan or layout plan required to be submitted with the Application shall be a violation of this By-law.
55. No person shall be entitled to be issued a license under this By-law unless and until any fines payable to the Municipality as the result of any convictions entered for a violation of this By-law, or any other Municipal By-law, have been paid in full to the Municipality.
56. Notwithstanding any other provision of this By-law, no license shall be issued under this By-law if the scheduled event will operate in contravention of the applicable provisions of the Zoning By-law of the Municipality then in force.
57. Any license issued under this By-law may be revoked if:
 - (a) in the opinion of the Municipal Council, the information upon which the license has been issued is found to be false or misleading;
 - (b) in the opinion of the Municipal Council an Applicant no longer meets the requirements of the By-law.
58. Should any section, subsection, clause, paragraph or provision of this By-law be declared by a Court of Competent Jurisdiction to be invalid, the same shall not affect the validity of this Bylaw as a whole or any part thereof, other than the provisions so declared to be invalid.
59. Every person who contravenes any provision of this By-law, and every director or officer of a Corporation who concurs in such contravention by the Corporation, is guilty of an offence, and on conviction is liable to a fine not exceeding TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00).
60. Where a Corporation is convicted of an offence under this By-law, the said Corporation is liable to a fine not exceeding FIFTY THOUSAND DOLLARS (\$50,000.00).
61. Where an Owner is convicted of knowingly carrying on or engaging in a trade, calling, business or occupation on, in or in respect of any premises or part of any premises without a license required by this By-law, the Court shall order that the

premises or part of the premises be closed to any use for any period not exceeding two years.

62. Where a person is convicted of a contravention of this By-law, other than the carrying on or engaging in a trade, calling, business or occupation without a license so to do, and the Court decides that the Owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject matter of the conviction, or of any pattern of similar conduct, the Court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

READ A FIRST AND SECOND TIME THIS DAY OF , 2005.

MAYOR – Charlie Bagnato

CAO/CLERK – Richard Radford

READ A THIRD AND FINAL TIME THIS DAY OF , 2005.

MAYOR – Charlie Bagnato

CAO/CLERK – Richard Radford