

OFFICE CONSOLIDATION

FOR INFORMATION PURPOSES ONLY

Last amended by By-law No. 4534-1, August 29, 2017

For copies of amending By-laws, please contact the Clerk at 613-267-3311

THE CORPORATION OF THE TOWN OF PERTH

BY-LAW NO. 4534

A By-law to establish a Permit system to regulate Busking

Recitals: (Amended by By-law No. 4534-1 – 29Aug2017)

1. The Committee of the Whole reviewed Report 2017-COW-8.5, and concurs with the staff recommendations to:
 - a. Remove the Table of Permit Fees contained in Schedule 'C', and all references to the Table of Permit Fees from By-law No. 4534;
 - b. Insert a reference to the Protective and Fire Services, Schedule 'E', as contained in the Fees and Charges By-law No. 3675, and;
 - c. Amend Schedule 'D', Busking Application to include reference to the Fees and Charges By-law No. 3675, Protective and Fire Services, Schedule 'E'.
2. Council for The Corporation of the Town of Perth, therefore, deems it advisable to pass this By-law.

Recitals: (Originating-23Jun2015)

1. Council received a request from the Business Improvement Area (BIA) requesting a waiver in perpetuity for local musicians to perform downtown on designated spots to promote and encourage pedestrian traffic and to encourage tourism in Perth.
2. Representatives of the Business Improvement Area (BIA) have consulted with staff and advised that promoting and encouraging busking activities in the downtown would be supportive of the commercial and tourism environment in the downtown.
3. One objective of the Town's Strategic Plan is to partner with the BIA to create activities that support tourism and commerce.
4. *The Municipal Act* S.O. 2001, as amended, (Section 11) provides that a lower tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4). 2006, c. 32, Sched. A, s. 8.
5. The Committee of the Whole reviewed Report 2015-COW-7.AI.6 with regard to the regulation of busking activities and concurs with the staff recommendation.
6. Council for The Corporation of the Town of Perth, therefore, deems it advisable to pass this By-law.

Accordingly, the Council of The Corporation of the Town of Perth enacts as follows:

1. INTERPRETATION

1.1. Definitions:

Wherever a word is used in this **By-law** with its first letter capitalized and bolded, the term is being used as it is defined in this Section 1.1. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

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- 1.1.1. “**Act**” means the *Municipal Act, 2001*, S.O. 2001 c.25.
- 1.1.2. “**Applicant**” means the person making application for issuance of a Permit under this **By-law** to perform as a **Busker** on streets and public lands in the **Town of Perth**.
- 1.1.3. “**Busking**” for the purpose of this **By-law** means a musical performance, storytelling, poetry, street theatre, comedy and slight-of-hand magic or juggling which involves one (1) to a maximum of four (4) performers for gratuities or for non-profit charitable fund raising but does not include Street Vending or solicitation for payments.
- 1.1.4. “**By-law**” means this **By-law**, as it may be amended from time-to-time. The Recitals to, and the Schedules attached to this **By-law** are considered integral parts of it.
- 1.1.5. “**Clerk**” means the person within the administration of the **Corporation**, which fulfils the function of Town **Clerk** as required by the **Act**.
- 1.1.6. “**Corporation**” means The **Corporation** of the **Town of Perth**.
- 1.1.7. “**Council**” means the elected municipal **Council** of the **Town**.
- 1.1.8. “**Director**” means the **Director** of Development and Protective Services and the **Director** of Community services.
- 1.1.9. “**Downtown**” means the Central Area District of the **Town of Perth** as established by the Official Plan.
- 1.1.10. “**Festival or Special Event**” means a community oriented, **Council** endorsed event and includes the Festival of the Maples, Stewart Park Festival, Perth Kilt Run, Festival of Good Cheer, Santa Clause Parade and any similar event that generally occurs on an annual or semi-annual basis and for which **Council** has authorized the temporary closing of streets or the dedication of one (1) or more public **Parks** or **Town-owned** lands for exclusive use by the event and may include the authorization of event organizers to control, limit or charge a fee for access and use of event venues. Such **Festivals or Special Events** shall be posted in an Events Calendar annually and attached to the **Busking** Permit Application.
- 1.1.11. “**Gratuity**” means an unsolicited, free-will donation made by a member of an audience or the public to a Busker generally in appreciation for the performance or in support of a charity or non-profit organization the Busker is performing to raise funds for.
- 1.1.12. “**Half Season Permit**” means a Permit for **Busking** during the six (6) week period preceding July 31 or the six (6) week period after July 31.
- 1.1.13. “**Municipal Law Enforcement Officer**” means any member of a Police force with jurisdiction to enforce laws in the **Town of Perth**, and any person appointed by **Council** to enforce the provisions of its by-laws.

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- 1.1.14. “**Park**” for the purpose of this **By-law** means any and all real property owned by, or under the control of the **Town** other than a highway or street as defined per the *Highway Traffic Act R.S.O. 1990, c. H.8*.
- 1.1.15. “**Performance Space**” means the immediate space occupied by a person or group for performing and the adjacent audience space to a maximum distance of 4.5 m from the space used for performing.
- 1.1.16. “**Perth**” means the geographic area under the jurisdiction of the **Town**.
- 1.1.17. **Specific Performance Event** means a community oriented, **Council** endorsed one-time, or irregularly occurring event for which **Council** has authorized the temporary closing of streets or the dedication of one or more public **Parks** or **Town**-owned lands within the municipality.
- 1.1.18. “**Town**” means The **Corporation** of the **Town** of **Perth**.
- 1.2. **Legislation, By-laws:** Each reference to Provincial legislation in this **By-law**, is printed in *Italic* Font and, unless otherwise specified, is a reference to the revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to another by-law in this **By-law**, unless otherwise specified, is a reference to a **By-law** of the **Corporation**, and, in every case, includes all applicable amendments to this **By-law**, including successor by-laws.
- 1.3. **Construing this By-law:** The Caption, Article and Section names and numbers appearing in this **By-law** are for convenience of reference only and have no effect on its interpretation. This **By-law** is to be read with all changes of gender or number required by the context. The words “**include**”, “**includes**”, “**including**” and “**included**” are not to be interpreted as restricting or modifying the words or phrases which precede them.
- 1.4. **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this **By-law** to be illegal or unenforceable, that portion of this **By-law** will be considered to be severed from the balance of the **By-law**, which will continue to operate in full force.

2. ADMINISTRATION OF THIS BY-LAW

- 2.1. **Administration:** Unless otherwise indicated, the administration of this **By-law** is assigned to the **Director**, who may delegate the performance of his or her functions under this **By-law** from time to time; specifically, but not exclusively, to the Chief Building Official and the Heritage Tourism Manager/Curator. The signature of each authorized **Director** is required to validate a Permit.
- 2.2. **Application:** Application for a **Busking** Permit under the provisions of this **By-law**.
- 2.3. **Nature of a Permit:** A Permit under this **By-law** authorizes **Busking** by an individual or by a group of persons, performing as a group in one (1) location, such that each individual who is participating need not have an individual permit.

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3. SCOPE:

- 3.1. This **By-law** shall apply to all public highways, streets, lanes and public lands owned by, and within the **Town of Perth**.
- 3.2. Except as otherwise authorized by **Council**, a **Busking** Permit will only be issued to enable **Busking** within the downtown core, or in the **Parks** known as Conlon Farm **Park** or Last Duel **Park**.
- 3.3. An amendment to this **By-law** will be required to permit **Busking** in any area zoned for Residential Use under Zoning By-law No. 3358 or any by-law that may amend or replace By-law No. 3358.

4. REGULATIONS:

- 4.1. **Requirements for Busking Location:** A person or group issued a **Busking** Permit shall adhere to the location requirements attached hereto as Schedule 'B' and failure to adhere to the requirements will be grounds for immediate suspension of a **Busking** Permit.
- 4.2. **Parental or Guardian Consent:** is required for any busker or each busker in a group that is sixteen (16) years old and under and will be provided by signature of the parent or guardian on the applicable portion of the Permit Application attached hereto as Schedule 'D'.
- 4.3. **Risk and Liability:** is totally and fully assumed by the Busker and a Permit will only be issued if the waiver clause on the Application form indemnifying the **Town of Perth** is signed.
- 4.4. **Maximum Permits issued:** No more than four (4) busking permits shall be issued for any given day and no more than two (2) **Half Season Permits** will be issued in any season.
- 4.5. **Issuance of a Permit:** is not a right; the **Town of Perth** reserve the right, and authorizes the implementing Directors, to deny a **Busking** Permit for the purpose of ensuring the proper management of public streets and lands, for avoiding conflict with other authorized activities, events or the repair and maintenance of public infrastructure.

Busking Permits will not be issued on days coinciding with Festivals or Special Events without the written consent or request of the Festival or Event Coordinator.

A person or persons with a record of non-compliance with this **By-Law** or any other municipal by-law governing the use of public highways and streets and public spaces in the **Town of Perth** may be denied a Permit.

- 4.6. **Peddling, Vending or Solicitation to Provide a Service:** are activities that require a Peddler's Licence pursuant to By-law No. 4196, or any by-law that may amend or replace By-law No. 4196 and a Busker is not permitted to offer or display for sale any good, material or service nor solicit or advertise for the provision of any good, material or service by the Busker or to promote any other company or product save and except a small display of standard business cards providing information about the Busker may be presented within the music case or such other container as the Busker is using to receive gratuities.

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- 4.7. **Damage to or Colouring of Streets or Public Spaces:** No damage, alteration or installation shall be made to pavement, public signage, utility pole or other service installation, a sidewalk or public walkway on a street or public lands, in any way that renders them unsafe or potentially harmful to a pedestrian and no such public facilities shall be marked, coloured, or altered by a Busker by use or application of paints, ink or other colouring methods or solvents. This does not exclude the use of chalk by a Busker on pavement or a sidewalk for artistic purposes to identify or outline a **Performing Space**, as per Section 4.1, above.
- 4.8. **Equipment and Performance Accessories:** A Busker shall be limited to the use of equipment and accessories that can be carried by the Busker at one time and shall not require multiple trips to remove. Generators and multi-component sound systems are not permitted. Electrically powered amplifiers or any sound projection system shall not project sound at a level that is noticeably audible beyond a distance of 20 m. No props used shall include or involve the use of flame or burning substances/objects, the use of metal knives, swords, other sharp objects or use of medieval or martial-arts weapons. Use of rubber or plastic weapon props require pre-approval by a **Director** in consultation with Police Services.
- 4.9. **Daytime Performance Only: Busking** shall be limited to daytime hours only and specifically from 9:00 AM to 8:00 PM, Monday to Saturday and 10:00 AM to 5:00 PM, on Sundays and Statutory Holidays.
- 4.10. **Use of Crystal Palace Grounds and Associated Parking Area:** has been assigned to the Perth and District Farmers Market on Saturdays and Wednesdays throughout the summer months and a **Busking** Permit shall only be issued and include use of this area when the market is operating if the Permit Application includes written confirmation from the Farmers Market organizers that the **Busking** activity is acceptable.
- 4.11. **Display Busking Permit:** shall be displayed and provided upon request to any **Municipal Law Enforcement Officer**, a **Director**, or to any municipal manager or superintendent providing identifying credentials.
- 4.12. **Compliance with Applicable Statutes:** comply with, or immediately come into compliance with all statutory requirements, rules, regulations and by-laws of the **Town** and/or any other authority which in any manner affects or relates to the use of a sidewalk, boulevard or any portion of a public highway.
- 4.13. **Responsible to Clean and Restore:** the Busker will ensure the space used for performing or occupied by an audience is clean and is restored to a safe and useable condition upon the completion of a performance and any waste or litter is removed before leaving the **Performance Space**.
- 4.14. **Cease Performance and Relocate:** a Busker shall immediately upon the request of a **Municipal Law Enforcement Officer**, a member of the **Perth** Fire Service, a paramedic, or any person designated by the **Town** to ensure public safety, cease performance and relocate.

5. FEES:

- 5.1. **Busking** Permit fees shall be set from time-to-time by **Council** and the established schedule of fees shall be attached to the Permit Application, attached at Schedule 'D'.

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- 5.2. The **Busking** Permit fees will include a one (1) day fee, a multiple-day fee, and a half season fee.
- 5.3. The **Director** of Development and Protective Services, in consultation with the **Director** of Community Services is hereby authorized to refund fees for Permits exceeding two (2) performing days where the **Applicant** demonstrates that it is not possible for the **Applicant** to perform on the balance of the days on a Permit.

6. PROHIBITION:

- 6.1. It is an offence for a person to conduct any **Busking** on public streets or public lands owned or managed by the Town of Perth without a **Busking** Permit.
- 6.2. Other than **Busking** with a Permit, and except in compliance with another By-law of the **Town**, it is an offence for a person, to conduct a performance or any form of artistic presentation for the purpose of receiving a **Gratuity**, soliciting payment or raising funds, or promoting a business, on a public street or public lands owned or managed by the **Town**.
- 6.3. **Exemption:** Sections 6.1. and 6.2 do not apply where **Council** has granted authority for a **Festival or Special Event** or for a **Specific Performance Event** or has authorized a performance by the Perth Citizen's Band or other performer by virtue of a contract, agreement, or other undertaking in writing. In such circumstances, any person undertaking a performance shall be required to have written permission or endorsement from the organizer(s) of the Festival, Special Event or **Specific Performance Event** holding the authorization of **Council**.
- 6.4. It is an offence to busk or to continue a performance or refuse to clear articles and materials associated with the act of performing upon the request or direction of a **Municipal Law Enforcement Officer**.

7. ENFORCEMENT:

- 7.1. This **By-law** may be enforced by any **Municipal Law Enforcement Officer**.
- 7.2. No person shall interfere with a **Municipal Law Enforcement Officer** engaged in the enforcement of this **By-law**.

8. PENALTY:

- 8.1. Any person who contravenes any provision of this **By-law** is guilty of an offence and, upon conviction, is liable to the penalties provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*.
- 8.2. Upon registering a conviction of any provision of this **By-law**, the Ontario Court, Provincial Division, may in addition to any penalty imposed by this **By-law** make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.3. Penalties and Set Fines for the violation of this **By-law** are as set out in Schedule "A" of this **By-law**.

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9. SCHEDULES AND APPENDICIES:

- 9.1 Schedules attached to and forming part of this **By-law**:
- Schedule 'A' – Set Fines
 - Schedule 'B' – Requirements for Busking Location
 - Schedule 'C' – Guidelines for Issuing Permits
 - Schedule 'D' – Application for Busking Permit

10. REVIEW AND REPEAL:

- 10.1 This **By-law** shall be reviewed annually and may be repealed by By-law at the discretion of **Council**.

11. SHORT TITLE:

- 11.1. This **By-law** may be cited as the "Busking Permit By-law".

12. EFFECTIVE DATE:

- 12.1. This **By-law** shall come into force and effect on the date it is passed by Council save and except for the Set Fine provisions of Section 8.3, which shall not come into force and effect until it is approved by the Ontario Court of Justice.

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**Town of Perth
Part I Provincial Offences Act
By-law No. 4534, Busking Permits**

**SCHEDULE 'A'
SET FINES**

The sums to be paid as set fines are as follows:

Item	Column 1	Column 2	Column 3
	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Busking without a Permit.	s. 6.1	\$ 50.00
2	Performance or artistic presentation on a public street or public lands.	s. 6.2	\$ 100.00
3	Failure to comply with a request or directive to stop a performance or clear articles and materials.	s. 6.4	\$150.00

NOTE: The general penalty provision for the offences listed above is Section 8.1 of By-law No. 4534, a certified copy of which has been filed.

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**By-law No. 4534, Busking Permits
SCHEDULE 'B'**

REQUIREMENTS FOR BUSKING LOCATION

A **Busking** Permit holder shall locate their place of performance to ensure the following:

- a) The maximum area used for **Busking** does not exceed 1 m² (10.8 ft.²) for one (1) person or 0.55 m² (6 ft.²) per person for more than one (1) person and subject to the other provisions.
- b) The area used by the Busker and an audience shall not obstruct or occupy:
 - A sidewalk or boulevard in a manner that leaves less than 3 m of passable space for the safe and unhindered movement of pedestrians within 9 m of an intersection or less than 2 m of passable space in any other location.
 - The space immediately in front of or within 1.5 m of the entrance or exit to a building.
 - The space in front of or within 2 m of a driveway or loading zone.
 - The space within 2 m of a post box, a telephone booth, a fire hydrant or fire hose connection.
 - The space within 3 m of an accessible parking space.
 - The space within 9 m of an authorized street vending location or a restaurant takeout window.
- c) A minimum separation of fifty (50) meters shall be maintained between a performing Busker and any other Busker or performance venue on or adjacent to a highway or street.
- d) Performance on highways and streets shall be within the limits of the General Commercial Zone on Wilson Street, Gore Street, Foster Street, Harriot Street and Market Square.
- e) Remain in one (1) location for more than ninety (90) minutes. A **Director** may authorize an exemption on a Permit with a signed, written request of the property or business owner abutting the area of the street to be used.
- f) Perform music or use amplified sound within 9 m of an outdoor patio. A **Director** may authorize an exemption on a permit if the applicant provides a letter signed by the owner of the patio agreeing to the busker being closer.
- g) No performance in the Crystal Palace area, located at 31 Basin Lane or the associated parking area on days that the Perth Farmers Market is operating. A **Director** may authorize an exemption on a Permit if the **Applicant** provides a letter agreeing to the presence of the Busker in the market signed by a Director or Manager of the Perth Farmers' Market.

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By-law No. 4534, Busking Permits

SCHEDULE 'C'

GUIDELINES FOR THE ISSUING OF BUSKING PERMITS

A maximum of two (2) Half-Season Permits will be sold for each half season period being either the six (6) weeks before or the six (6) weeks after July 31.

A Half-Season Permit does not exempt the holder from the exclusions pertaining to Festivals and Special Events (see By-law No. 4534 – Section 4.5)

Only one (1) **Half Season Permit** will be issued to a Busker, or a group operating under a Group Permit, in any given summer season, unless there is a **Half-Season Permit** that has not been issued within one (1) week prior to July 31 in any given year.

The **Director** will ensure that **Busking** Permits are not issued in a manner that enables a limited number of performers to obtain all available busking permits, particularly on weekends. Accordingly, during the months of June, July and August the fourth **Busking** Permit for each Friday and Saturday will be issued on a first come first basis no sooner than the preceding Monday.

A Multiple-Day Permit shall be limited to a maximum of five (5) days of which only two (2) may be a Saturday and two (2) may be a Friday in any month.

Generally, only persons holding a **Half Season Permit** will be enabled to perform on each Friday and Saturday during the period of the Permit.

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APPLICATION FOR BUSKING PERMIT

PART 1 – TO BE COMPLETED BY APPLICANT

Applicant's Name:	Postal Code:
Applicant's Address:	
Date of Birth of Applicant: _____ / _____ / _____ <div style="display: flex; justify-content: space-around; font-size: small;"> MONTH DAY YEAR </div>	
Please Note: Parental or guardian consent is required for any person(s) under the age of sixteen (16).	
Telephone: _____	
Residence	Business:
	Cellular No.
E-mail: _____	

I/we are requesting a Busking Permit for a:

(Reference Fees and Charges By-law No. 3675, Schedule 'E', for associated fees)

- One Day Permit Date and Time: _____ (Fee associated)
- Multiple Day Permit (3 day limit) Dates and Times: _____ (Fee associated)
- One Week Permit (5 – 7 days) Date to begin: _____ (Fee associated)
- Half Season Permit Dates and Times: _____ (Fee associated)
(six (6) week period preceding July 31,
or six (6) week period after July 31)

Type of Performance (please check all that apply):

- Musical Performance
- Storytelling
- Poetry
- Street Theatre
- Comedy
- Slight-of-Hand Magic
- Juggling

No Flammable, Sharp objects/weapons permitted
 Rubber/plastic replica's require pre-approval by Director

Busker(s) Information

Name	Address	Telephone #	Date of Birth	Parent or Guardian Consent (Required if person(s) is under the age of sixteen (16)).	
				Print Name of Parent or Guardian	Parent / Guardian Phone number

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Parental Consent
The below parental consent is required for each busker in the group ages 16 years and under. I (Parent of guardian) of (address) hereby consent to my child (name) to busk in the permitted busking the Town of Perth I understand that the Town of Perth provides no supervision for buskers and that all buskers must agree to adhere to the Town of Perth's Busking By-law and guidelines.
Signature:
Print Name:
Dated:

Insurance	Applicant Signature
The permit holder indemnifies Council against all suits, proceedings, judgements, claims, demands, costs, expenses, losses or damages for which Council becomes or may become liable in relation to the death or injury to any person or the damage to any property in connection with the busker activity as authorized by the permit whosoever arising, except to the extent that Council is negligent.	

Declaration
I/we declare that I am the Applicant; and that all information in this Application is true and correct. I hereby CERTIFY THAT I have read and accept this Application, the Busking By-law and Guidelines and the terms and conditions therein and; the Fees and Charges By-law No. 3675, Schedule 'E'. I/we agree to comply with all Permit conditions, local laws and all relevant legislation. I/we will ensure that the Permit is not transferred or assigned to another party. I acknowledge that failure to comply with these conditions will result in cancellation of the Permit. Please Note Special Condition/Objections if applicable, will form part of the Busking Permit: The Applicant must have a copy of the Busking Permit on them at all times when performing.
Signature:
Print Name:
Dated:

Contact
Please forward the completed Application, any supporting documents along with appropriate fee (if required) to: Director of Development and Protective Services, 80 Gore St. E, Perth, ON, K7H 1H9, Telephone: (613) 267-3311.

PART 2 – TO BE COMPLETED BY THE TOWN OF PERTH

<hr/> (Attach any additional comments to Application)	
<hr/> Date (Permit Approved / Denied)	<hr/> Director of Development and Protective Services (or Designate)
CERTIFY that I have reviewed the Application and have:	
<input type="checkbox"/> No Objection	<input type="checkbox"/> An Objection
<input type="checkbox"/> Approval of Perth Farmers Market is attached	<input type="checkbox"/> Not required

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Special Condition/Objections if applicable, which will form part of the Busking Permit:

Comments:

(Attach any additional comments to Application)

Date (Permit Approved / Denied)

Director of Development and Protective Services (or Designate)

Date (Permit Approved / Denied)

Director of Community Services (or Designate)

Permit No. _____

Personal information on this form is collected under the authority of the Municipal Act, R.S.O. 2001, as amended, and will be used to determine eligibility to issue a Busking Permit within the Town of Perth.