



**OFFICE CONSOLIDATION
HAWKER AND PEDDLERS BY-LAW
BY-LAW NUMBER 6305/04**

Passed by Council on March 8, 2004

Amendments: None

THE CORPORATION OF THE CITY OF PICKERING

BY-LAW NO. 6305/04

Being a by-law to licence and regulate Hawkers and Peddlers within the geographic limits of the City of Pickering.

WHEREAS pursuant to Section 150(1) of the *Municipal Act, S.O. 2001, c.25*, a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality; and

WHEREAS it is the intent of the Council of the Corporation of the City of Pickering to regulate Hawkers and Peddlers within the municipality to protect and promote the health and safety of its residents and the Hawkers and Peddlers by regulating the goods and merchandise sold, the manner in which those items are sold and the locations from which they are sold;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PICKERING HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-law;
 - (a) "Charitable Organization" and "Non-profit Organization" shall include an organization if no part of its income is paid to or otherwise made available for the personal benefit of any of its proprietors, members or shareholders, and if one of the main aims and normal activities includes projects and undertakings that have a charitable object or purpose including:
 - i) the relief of poverty,

- ii) the advancement of education,
 - iii) the advancement of religion,
 - iv) other charitable purposes beneficial to the community not included in subsections (i), (ii) or (iii) above.
- (b) “City” shall mean the Corporation of the City of Pickering.
 - (c) “City Clerk” shall mean the Clerk of the Corporation of the City of Pickering or his or her designate.
 - (d) “Council” shall mean the Council of the Corporation of the City of Pickering.
 - (e) “Door-To-Door Salesperson” shall include a person who goes door-to-door within the City with goods, wares or merchandise for sale or carries or exposes for sale samples, patterns, or specimens of any goods, wares or merchandise that are to be delivered in the City afterwards.
 - (f) “Flea Market” shall include an area, whether enclosed by a building or not, in which individual stalls are rented to one hundred (100) or more vendors, other than the owner, for the purpose of individually exposing or offering new or used articles, foodstuffs, fruits and vegetables or services for sale.
 - (g) “Foodstuffs” shall include, but not be limited to, hotdogs, hamburgers, french fries, seafood, frozen foods and beverages.
 - (h) “Goods, wares and merchandise” shall include, but not be limited to, flowers, produce, Christmas trees, or any other article or merchandise.
 - (i) “Hawker” and “Peddler” shall include any person who goes from place to place, or to a particular place, with goods, wares, merchandise or foodstuffs for sale, or who carries or displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the City afterwards.
 - (j) “Licence” shall mean a licence issued by the Corporation of the City of Pickering pursuant to the provisions of this by-law.
 - (k) “Licence holder” shall mean a person named as licensee in a licence issued by the Corporation of the City of Pickering pursuant to the provisions of this by-law.
 - (l) “Person” shall include an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, and a natural person.
 - (m) “Refreshment Vehicle” shall include premises in which foodstuff is sold from vehicles or temporary structures or places where food is prepared within a structure capable of being moved but within which no patrons or consumers of the foodstuffs can enter for the purpose of consuming the foodstuffs or premises which do not meet the definition of a restaurant as set out in the City’s zoning by-laws.
 - (n) “Sell” shall include to offer, keep, expose, transmit, send, convey or deliver for sale or have in possession for sale goods, wares or merchandise. “Sells” and “selling” have corresponding meanings.

LICENCE APPLICATION

- 2. (a) A licence issued pursuant to the provisions of this by-law shall be valid for the period of time specified in the licence.

- (b) A licence issued pursuant to the provisions of this by-law shall not be transferable.
- (c) A licence for a continual period of time and/or for a stationary use, and its accompanying application, shall take the form as prescribed by the City Clerk.
- (d) "Continual period of time and/or for a stationary use" shall include vending that takes place at a certain location for extended periods of time, such as hot dog carts and refreshment vehicles.
- (e) A licence for a temporary use and/or location, and its accompanying application, shall take the form as prescribed by the City Clerk.
- (f) "Temporary use and/or location" shall include vending that takes place on a single day or for a limited period of time at a location, such as special occasion sales of goods.
- (g) Notwithstanding subsections 2(c) and 2(e), no licence shall be issued unless the applicant complies with Section 3 and 4 of this By-law.

LICENCE REQUIREMENTS

- 3. (a) No person shall operate or carry on or allow to operate or carry on as a Hawker and Peddler without holding a current valid licence issued under the provisions of this by-law.
- (b) No person who is licenced to sell from one location shall sell from place to place under the auspices of that licence.
- (c) No person who is licenced to sell from place to place shall establish a display in one location and/or sell from that location for a period longer than fifteen (15) minutes under the auspices of that licence.
- (d) No person shall sell any goods, wares, merchandise or foodstuffs other than those indicated on the licence.
- (e) Any person required to be licenced pursuant to this by-law shall, at all times while carrying on the business of a Hawker and Peddler, have the licence displayed in a conspicuous place and shall, upon demand, exhibit it to any Municipal Law Enforcement Officer, Peace Officer, or to any person to whom the Hawker and Peddler is offering goods for sale.
- (f) Any employee, assistant, agent or helper of a person licenced pursuant to the provisions of this by-law shall have the said licence in their possession for the purpose of displaying it or producing it upon demand as required in subsection 3(e).
- (g) Any person who fails to produce a licence as required by subsection 3(e) is guilty of an offence.

FEES

- 4. All fees payable under this by-law are required to be paid in full prior to the issuance of a licence.
 - (a) The fee for a licence issued under Section 2(c) is \$250.00 per calendar year.
 - (b) The fee for a licence issued under Section 2(e) is \$20.00 per day per location.

GENERAL

5. Hawker and Peddler licences shall not be issued for a particular location unless:
- (a) i) with respect to refreshment vehicles, the City's zoning by-laws permit the sale of foodstuffs at that location;
 - ii) with respect to all other vendors other than refreshment vehicles, the City's zoning by-laws permit the sale of goods, wares, merchandise or foodstuffs from that location;
 - (b) the applicant has provided a copy of the current deed to the property or other written proof, satisfactory to the City Clerk, that they are the owner of the property where the selling will take place or, alternatively, that they have the authority from the owner and/or manager of the property to sell from the site;
 - (c) the applicant shall clearly indicate in the application whether they intend to sell from place to place or from one location only. The licence issued shall clearly specify whether the licensee is entitled to sell from place to place or from a specified location;
 - (d) the applicant shall, as part of the application for such licence, furnish a statement in writing containing a full description of the goods, wares, merchandise or foodstuffs that they intend to sell or offer for sale under such licence.
 - (e) the applicant has complied in all respects with any standards or regulations under the jurisdiction of the Pickering Fire Department, Region of Durham Health Unit, the Durham Region Police Services and any other applicable laws or regulations.
 - (f) Failure to comply with applicable laws or regulations may result in the revocation of a licence issued under this By-law.

EXEMPTIONS

6. A Hawker and Peddler's licence is not required to be obtained by the following individuals:
- (a) door-to-door salespersons or vendors in a flea market;
 - (b) persons who are agents or employees of non-profit or charitable organizations, who are selling for the benefit of the charitable organization;
 - (c) if the goods for sale are grown by a farmer, resident in Ontario, who offers for sale or sells only the produce of his own farm, from his own farm; or,
 - (d) established businesses within properly zoned premises if the goods are sold from such premises
 - (e) vendors of fireworks.

APPEAL

7. (a) Where the City Clerk believes that the applicant applying for the Hawker and Peddler licence would be disentitled to a licence or renewal thereof for any of the reasons set out in this by-law, the City Clerk shall not issue the licence. Any applicant so disentitled may appeal in writing for a hearing before Council. The applicant shall have the right to make submissions in support of an application or renewal of said licence.

- (b) At the conclusion of the hearing, the City Clerk shall, as soon as practicable, prepare a written report on the hearing, which shall summarize the evidence and the arguments presented by the parties at the hearing, set out the findings of fact and the decisions made by the Council and set out the reason for the decision.
- (c) If the applicant sets out in writing that he is prepared to accept conditions upon the licence and to make no objection to such conditions, Council may grant a licence or the renewal of a licence on such conditions as Council consider appropriate.

PENALTIES

- 8. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs, as prescribed by the Provincial Offences Act, R.S.O. 1990, as amended.

VALIDITY

- 9. If a court of competent jurisdiction declares any provision, or any part of a provision of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every other provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

SHORT TITLE

- 10. This by-law may be referred to as the Hawker and Peddler By-law.

REPEAL OF EXISTING BY-LAWS

- 11. By-law 4437/94 is hereby repealed.

BY-LAW read a first, second and third time and finally passed this 8th day of March, 2004.

(signed) David Ryan

David Ryan, Mayor

(signed) Anne Greentree

C. Anne Greentree, Deputy Clerk