

THE CORPORATION TOWN OF MATTAWA

COMMITTEE: BY-LAW DEPARTMENT

CHAIRPERSON: COUNCILLOR L. MICK

DEPT. HEAD: WAYNE P. BELTER

TITLE: HAWKERS & PEDDLERS BY-LAW

 X Draft By-Law Item Policy Recommendation

Mayor D. Backer and Members of Council:

The existing Hawkers and Peddlers By-law Number 93-17 has been in use for sixteen years. As a housekeeping exercise the By-law has been updated reflecting the powers of the municipality to pass By-laws to provide for licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards.

The general intent of the original Hawkers and Peddlers By-law has been kept intact and the annual fees have been kept the same. The former By-law exempted farmers selling their own produce but with today's fruit and vegetable vendors selling produce from various origins it is difficult to determine the exact origin of produce and in order to have a fairer playing field any fruit and vegetable vendor will be required to acquire a Hawkers and Peddlers licence and they will not be permitted to locate along a highway within the Town of Mattawa.

Recommendation:

That the Town of Mattawa approves By-law 09-26, attached, which is an updated Hawkers and Peddlers By-law passed under this Municipal Act S. O. 2001 Section 150 and 151 as amended.

Respectfully recommended

Councillor L. Mick

THE CORPORATION TOWN OF MATTAWA

BY-LAW NO. 09-26

BEING A BY-LAW to license, govern and regulate hawkers and peddlers.

WHEREAS the Municipal Act, S.O. 2001, Section 150 and 151, as amended, permits councils of municipalities to pass By-laws for regulating, licensing and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards;

WHEREAS the Corporation of the Town of Mattawa deems it expedient to regulate, license and govern persons who hawks and peddle within the municipality and to charge a fee for such persons;

NOW THEREFORE, the Corporation of the Town of Mattawa enacts as follows:

PART 1 DEFINITIONS/EXEMPTIONS

1.1 Definitions

- a) "Council shall mean the Municipal Council of the Corporation of the Town of Mattawa which is responsible for the issuance of the licences;
- b) "Town" shall mean the jurisdictional boundaries of the Corporation of the Town of Mattawa;
- c) "Municipal By-Law Enforcement Officer" shall mean the officer in charge of the By-Law Enforcement of the Corporation of the Town of Mattawa or his authorized assistants and by virtue of Section 15 of the Police Services Act, Chapter P-15, S.O. such officers shall be Peace Officers;
- d) "Owner/Person" shall mean any person owning who is a hawker and a peddler which is subject to this By-Law and shall include an individual partnership or corporation;
- e) "Peace Officer" shall mean a police officer and constable or other people employed for the preservation and maintenance of the public peace and by virtue of section 15 of the Police Services Act, Chapter P-15, 1990 and shall include a Municipal By-Law Enforcement Officer;
- f) "Licence" means the licence issued by the municipality signifying permission to sell goods and establishing the conditions under which the permit is granted;
- g) "Licence Holder" shall mean the person, organization, company or group that has been granted a licence for selling goods within the municipality;
- h) "Hawker or Peddler" shall mean any person and his/her employees who:

- i) goes from door to door with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise, fruits, garden products or any meat and fish products for which immediate sales are made and for which orders are taken with delivery to follow;
- ii) Sell from a permanent structure on a temporary basis, goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise, fruits, garden products or any meat and fish products for which immediate sales are made and for which orders are taken with delivery to follow;
- iii) Has no permanent place of business;
- iv) Is engaged in retail sales but does not have a commercial store front; or
- v) Is not entered on the Town of Mattawa assessment roll in respect of commercial assessment;

1.2 **Exemptions**

Municipal Special Events – exempt

Special events initiated and/or administered by the Town of Mattawa as authorized by Council shall be exempt from the provisions of this By-Law for the duration of the event.

Consumer/Trade Show – exempt

Consumer shows open to the public or a trade show open by open invitation or registration only, the primary purposes are which the display of goods and products and not the direct sales of said goods are exempt.

Registered Charitable Organization – defined – exempt

“Registered Charitable Organization” shall mean any charity that is registered with the Federal or Provincial Government and such charity is exempt.

Commercial tax Payer – employee – agent – exempt

No licence is required if the goods, wares or merchandise are sold by a person who is or will be assessed to pay commercial/business tax in the municipality or whose employee or agent is or will be assessed to pay commercial tax in the municipality.

**PART 2
GENERAL PROVISIONS**

2.1 Farmer – products

A licence is required if the goods, wares or merchandise are sold by a farmer or non farmer who offers for sale or sells produce of his/her own farm or sells produce originating elsewhere.

2.2 Hawkers and Peddlers – Requirement of licence

Hawkers and peddlers and other persons whose names are not entered on the assessment roll of the Town of Mattawa in respect of commercial/business assessment, and who offers goods, services, wares and merchandise for sale to consumers from a temporary location or door to door shall obtain a licence, and shall pay a licence fee therefore, before commencing to hawk or peddle within the municipality.

2.3 Licence – compliance – Zoning By-Law

No licence shall be issued where the use is not permitted under the provisions of the Town of Mattawa Zoning By-Law.

2.4 Licence – display

Any person acting as a hawker or peddler who has been issued a licence shall ensure that the licence is prominently displayed in or at his/her place of business during the full term in which he/she is carrying on business as a hawker or peddler.

2.5 Licence – produced upon demand

Upon demand being made by a police officer, peace officer or by-law enforcement officer, a person operating as a hawker or peddler shall produce his/her licence immediately.

2.6 Obstruction – hinder inspection – prohibited

No person shall obstruct, withhold, destroy, conceal or refuse to furnish any information required by a person inspecting for the purposes of this by-law.

2.7 Public property – permission

No person licenced or required to be licenced as a hawker or peddler shall carry on the business of a hawker or peddler in or on any municipal property except under explicit written permission of the municipality.

2.8 Private property – permission

No person licenced or required to be licenced as a hawker or peddler shall carry on the business of a hawker or peddler in or on any private property except under explicit written permission of the owner of the said property.

2.9 Sale - on highways – prohibited

No person licenced or required to be licenced as a hawker or peddler shall be allowed to operate from a location upon any highway within the municipality.

2.10 Sale – public hazard

No person shall stop, park or otherwise carry on a business as a hawker or peddler for the purpose of selling or offering for sale any refreshment or product in a location which creates a public hazard.

**PART 3
ISSUANCE OF LICENCE**

3.1 Licence – requirement

No person shall carry on business as a hawker or peddler without a valid licence.

3.2 Licence – application

Applications for a hawkers or peddlers licence shall be filed in writing on the prescribed form with payment of the applicable application fee. The applicant shall provide any documentation that the clerk deems appropriate.

- a) Schedule “A” – Fees; and
- b) Schedule “B” – Application form

3.3 Licence – submission

No licence shall be issued to a hawker or peddler unless the applicant files with his application:

- a) A description of the structure or vehicle from which the sales will be conducted;
- b) A description of the location from which sales will be conducted;
- c) Written permission from the property owner on whose property the business is to be operated;
- d) Payment in full for the specified duration of the licence.

3.4 Licence – granted – signed

Each licence shall be issued in the name of the municipality and shall be granted and signed by the clerk or his/her designate.

3.5 Contravention – other laws – prohibited

The issuance or renewal of a licence is not intended and shall not be construed as permission or consent by the municipality for the holder of the licence to contravene or to fail to observe or comply with any law of Canada, Ontario or any chapter of this or any other by-law of the municipality.

3.6 Issuance – rejected – conditions

The clerk shall issue a hawkers or peddlers licence to an applicant except where:

- a) The past conduct of the applicant or an individual employed by the applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law;

- b) The applicant is carrying on activities that are, or will be in contravention of this or any other by-law;
- c) The applicant is default with respect to any financial or other obligation to the municipality;
- d) The applicant or any individual employed by the applicant has been convicted of any offence included in Sections 150 to 174 inclusive of the Criminal Code of Canada R.S.C.1985, as amended, (Sexual Offences), for which a pardon has not been granted;
- e) The applicant or any individual employed by the applicant has been convicted of any offence under the Controlled Drugs and Substances Act S.C. 1996, c.19, as amended, or its predecessor or successor legislation, for which a pardon has not been granted;
- f) The applicant has any unpaid fines outstanding arising from a conviction for an offence under this by-law;

And immediately upon such refusal shall notify the applicant.

3.7 Issuance – rejected – dispute to council

Where the licence holder or applicant disputes in writing the non issuance of a licence or the revoking of a licence, the disputed matter shall be referred by the clerk to the Council which shall hear representations from the applicant and determine the matter.

3.8 permit – false information

In applying for a licence, no person shall supply false or misleading information.

3.9 Transfer – prohibited

Every licence is the property of the Town of Mattawa and is valid only in respect of the person, location premises and duration named therein and for the nature of the business stated in the licence. No licence may be transferred for any reason or to any person.

3.10 Licence expiry

A hawker or peddlers licence is valid only for the dates specified in the licence.

**PART 4
ENFORCEMENT AND ENACTMENT**

4.1 Regulations – offence

No person shall fail to comply with regulations as set out in this By-Law.

4.2 Separate offence – daily

Each day a violation of the By-Law continues shall constitute a separate and distinct offence under this By-Law.

4.3 **Enforcement**

This By-Law shall be administered and enforced by the Ontario Provincial Police and/or the Municipal By-Law Enforcement Officer of the Town.

4.4 **Contravention – penalties**

Any person who contravenes any provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences act.

4.5 **Continuation – repetition – prohibition by order**

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.

4.6 **Schedules – attached**

Schedules “A” and “B” attached hereto, hereby forms part of this By-Law.

4.7 **Repeal**

The former By-Laws of the Corporation of the Town of Mattawa pertaining to Hawkers and Peddlers prior to the passing of this By-Law and including the By-Laws listed below are hereby repealed:

By-Law # 93-17

4.8 **Effective date**

This By-Law shall come into force and effect on the date of its final passing by Council.

READ PASSED AND ADOPTED this 24th day of August 2009.



Mayor



Clerk

Schedule "A" to By-Law # 09-26

Hawker and Peddler Fee Schedule

1	Single day of operation	\$25.00
2	Per Week (Monday through Sunday inclusive, One Week)	\$100.00
3	Per Year	\$350.00

THE CORPORATION OF THE TOWN OF MATTAWA – SET FINES
PART 1 – PROVINCIAL OFFENCES ACT

HAWKERS AND PEDDLERS BY-LAW NO.09-26

ITEM	COLUMN 1 Short form wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set fine
1	Fail to obtain Hawkers and Peddlers Licence	2.2	\$425.00
2	Fail to display Hawkers and Peddlers Licence	2.4	\$150.00
3	Fail to produce Hawkers and Peddlers Licence Upon demand	2.4	\$150.00
4	Obstruct/Hinder inspection	2.6	\$425.00
5	Hawker and Peddler on Public Property - No Permission	2.7	\$425.00
6	Hawker and Peddler on Private Property - No Permission	2.8	\$425.00
7	Hawker and Peddler on highway	2.9	\$150.00
8	Hawker and peddler – Public hazard	2.10	\$250.00
9	Licence application – provide false information	3.8	\$425.00

Note: The penalty provisions for the offences indicated above is section 4.4 of By-Law No. 09-26, a certified copy of which has been filed.