

**LICENSING BY-LAW
BY-LAW NUMBER 2002-151**

SCHEDULE 12

HAWKERS AND PEDLARS

BY-LAW NUMBER 2002-151

SCHEDULE 12

TO LICENSE AND REGULATE HAWKERS AND PEDLARS.

DEFINITIONS

12.1 In this By-law – Schedule 12

- a) **"goods, wares and merchandise"** shall include any article, merchandise, service or privilege obtained for consideration or anything that has economic utility or want, or an intangible item (as a service or membership) that is a marketable commodity.

- b) **"Hawker and Pedlar"** shall mean any person who goes from place to place or to a particular place with goods, wares or merchandise for sale or carry or expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the Town of Newmarket afterward and shall include any person or company who assembles groups of vendors to participate in a sale in a particular place, but shall not include any person who is hawking, peddling or selling goods, wares or merchandise:
 - (i) to wholesale or retail dealers in similar goods, wares or merchandise;
 - (ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or an agent or employee of them having written authority so to do, in the municipality in which the grower, producer or manufacturer resides;
 - (iii) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of the farmer's own farm;
 - (iv) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by that person's agent or employee;
 - (v) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or;
 - (vi) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.

- c) **"Highway"** shall mean a common and public highway and includes a street and a bridge forming part of a Highway or on, over or across which a highway passes and includes both the travelled and untravelled portions of the roadway and all property between the property lines.
- d) **"Shopping Mall"** shall mean an enclosed complex of shops with associated internal covered passageways or concourses but not the individual shops of the complexes aforesaid.
- e) **"Show Sale"** shall mean an event organized by an individual or company and consisting of several participating vendors.
- f) **"Special Mall Sale"** shall mean an event or series of events at which a person who is a hawker or pedlar as defined by this By-law offers goods, wares or services for sale at a shopping mall.
- g) **"Special Sale"** shall mean any event at which goods, wares or merchandise are offered for sale at a particular place other than a shopping mall for a specified period of time of not more than seven consecutive days conducted by a person who is a hawker or pedlar as defined by this By-law.
- h) **"Town Clerk"** means the Clerk of the Town of Newmarket or his/her designate.
- i) **"Town"** means the Town of Newmarket in the Regional Municipality of York.

PART A

HAWKER AND PEDDLER LICENSE REQUIREMENTS

- 12.2 No hawker or pedlar shall go from place to place to sell or offer for sale any goods wares or merchandise to any person in the Town unless he/she has obtained a Class "A" license in accordance with requirements of this By-law.
- 12.3 No hawker or pedlar shall go to a particular place to sell or offer for sale any goods wares or merchandise to any person in the Town as a special sale unless they have obtained a Class "B" license in accordance with the requirements of this By-law.
- 12.4 No hawker or pedlar shall go to a shopping mall to sell or offer for sale any goods, wares or merchandise to any person in the Town as a special mall sale, unless they have obtained a Special Mall Sale Class "C" or Class "D" or Class "E" License in accordance with the requirements of this By-law.
- 12.5 No person or company shall assemble a group of vendors to participate in a Show Sale in a particular place to offer for sale, goods, wares or merchandise in the Town unless he/she has obtained a Show Sale Class "E" License in accordance with the requirements of this By-law and the vendors he/she has assembled to participate in the show have been listed on his application.

- 12.6 Notwithstanding sections 12.3 and 12.4 of this By-law, any person hawking or peddling goods wares or merchandise at a particular place who is participating in an event for which a show sale license has been issued pursuant to section 12.5 herein, shall not be required to obtain individual licenses to hawk and peddle goods, wares or merchandise while participating in the event and during the period for which the show sale license was issued.
- 12.7 No person shall hire, engage or commission any other person to hawk or peddle goods, wares or merchandise to any person in the Town unless he/she has obtained a license as required by this By-law and the person he/she has hired, engaged or commissioned has obtained a license as required by this By-law.
- 12.8 Every person applying for a license as required by By-law shall file with the Town Clerk a completed application on the prescribed form and shall pay the required license fee as set out in Schedule 'A'.
- 12.9 Every person applying for a Class "B" license as required by this By-law who intends to sell goods, wares or merchandise from a particular location within the Town shall submit with his application a letter of permission with respect to the proposed use from the registered owner of the property or his authorized agent.
- 12.10 No person shall hawk or peddle goods, wares or merchandise at any of the following locations:
- a) within 25 feet of a driveway entrance as delineated by pavement parkings, driveway islands or driveway curbs or any combination thereof;
 - b) within 25 feet of an intersection as delineated by pavement parkings, driveway islands or curbs or any combination thereof;
 - c) any location which impairs or obstructs the movement of vehicular or pedestrian traffic or the visibility of warning devices, railway, traffic and municipal street signs.
- 12.11 Every person applying for a Class "A" license as required by this By-law shall submit with his application a letter of clearance from the York Regional Police Force.
- 12.12 Every person applying for a license as required by this By-law who is an employee, agent or representative and hawking peddling or selling goods wares or merchandise on behalf of another person or corporation must submit a letter of authorization with their application from that person or corporation.
- 12.13 Every person applying for a license as required by this By-law must state on the application a list of the goods, wares or merchandise which are to be hawked, peddled or sold.
- 12.14 Any Class "A" license issued under the provisions of this By-law shall be for the current year and shall expire on the 1st day of February of the year following the date of issue and the license fee shall not be prorated for any part of the year.
- 12.15 Any Class "B" license issued under the provisions of this By-law shall be valid only for the period stated on the license.

12.16 No license shall be issued to any person who is not of good moral character or the conduct of the applicant affords reasonable grounds for belief that he/she will not carry on his trade, calling, business or operation in accordance with law and with integrity and honesty.

PART B

GENERAL PROVISIONS

12.17 No Hawker and Pedlar shall sell or offer for sale any goods, wares or merchandise on the highways or on vacant lots adjacent to them.

12.18 No Hawker and Pedlar who holds a Class "B" license shall sell or offer for sale any goods, wares or merchandise from any property unless the zoning By-laws permit the sale by retail of the particular goods, wares or merchandise and unless the location is an approved location listed on their license. No Hawker and Pedlar shall sell or offer for sale any goods, wares or merchandise from any private property without the written permission of the registered owner of the property or his authorized agent.

12.19 No Hawker and Pedlar who holds a Class "A" or Class "B" license shall sell or offer for sale any goods, wares or merchandise unless that person is wearing the proper photo identification supplied by the Town Clerk and is carrying their Hawkers and Pedlars License.

12.20 No Hawker or Pedlar who holds a Special Mall Sale license shall sell or offer for sale any goods, wares or merchandise unless the license is displayed in a prominent place at the temporary location.

12.21 All persons who have obtained a Show Sale License under this By-law shall ensure that all participating vendors display a copy of the Show Sale License at each individual location.

12.22 No Hawker and Pedlar shall sell or offer for sale any goods, wares or merchandise that is not listed on their license or from a location which is not listed on their license.

12.23 Any person who is a Hawker and Pedlar as required by this By-law shall at all times comply with the By-laws of the Town and any contravention of any By-laws may be grounds for the revocation of the license by the Town.

12.24 Any person who is a Hawker and Pedlar as required by this By-law, shall, upon the request of any Peace Officer, By-law Enforcement Officer, Provincial Offences Officer, the Town Clerk, or any other person to whom they are offering goods for sale, provide their license for inspection and provide in writing their name and address and also the name and address of their employer if applicable.

- 12.25 Any person who is a Hawker and Pedlar and is not required to obtain a license under the provisions of this By-law by virtue of the fact that they are the employee or agent of a person who pays business tax in the municipality or by virtue of the fact that they are an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise shall exhibit his authority to sell the goods, wares or merchandise when required to do so by any municipal or police officer.
- 12.26 Any person who is directed by a Peace Officer or a By-law Enforcement Officer, Provincial Offences Officer or the Town Clerk to cease the sale of goods wares and merchandise from a highway or a vacant lot adjacent to a highway shall do so immediately and shall remove said goods, wares and merchandise immediately.

PART C

ENFORCEMENT

- 12.27 A Hawkers and Pedlars license may be refused, revoked or cancelled upon seven (7) days notice in writing by the Town if any of the provisions of this By-law are contravened or in the event that in the opinion of the Council of the Town such refusal, revocation, or cancellation may be in the public interest.
- 12.28 Any person who has his Hawkers and Pedlars license refused, revoked or cancelled shall upon written request be granted a hearing before the Committee of the Whole of Council to present their arguments as to why their license should be issued or reinstated. The decision of the Committee of the Whole in this regard shall be final.
- 12.29 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine and/or penalty as provided for in the *Provincial Offences Act* for each offence and such penalty and/or fine shall be recoverable under the *Provincial Offences Act*.