



The Municipal Corporation of the Town of Fort Erie

By-law No. 63-2016

Being a By-law to Amend By-law No. 217-05, as amended, (Business Licencing By-law – Schedule “6” Hawkers and Pedlars)

Whereas Report No. COS-05-2016 was considered at the Council-in-Committee meeting held on May 16, 2016, and subsequently approved by Council to amend Schedule “6” of Business Licence By-law No. 217-05, as amended, to include licensing for multi-vendor sales and privately operated farmers’ markets; and

Whereas it is deemed desirable to further amend By-law No. 217-05 accordingly;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** Schedule “6” to By-law No. 217-05, as amended, “Hawkers and Pedlars” is repealed and replaced with Schedule “6” attached as Schedule “A” to this by-law.
2. **That** the Clerk of the Town is authorized to effect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 24th day of May, 2016.

Mayor

Clerk

I, Laura Bubanko, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 63-2016 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20



SCHEDULE "6" - By-law No. 217-05

HAWKERS AND PEDLARS

1. DEFINITIONS

In this Part:

- (a) "Community Event" means a community event with the proceeds to be donated to a bonafide local charitable or not-for-profit organization;
- (b) "Hawker" or "Pedlar" includes:
 - (i) any person who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards, and
 - (ii) any retailer which has an employee or agent who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards;
- (c) "Local retailer" shall mean any individual or business which provides for the selling or offering for sale of goods or services at a building or structure located within the Town of Fort Erie which is subject to property tax in the Town.

2. PURPOSE OF BY-LAW

The purpose of the licensing of Hawkers and Pedlars relates to matters of Health and Safety, and Consumer Protection and Nuisance Control.

3. LICENCE FEE

The annual licensing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

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4. **CONDITIONS**

- 4.1 The following classes of "Hawker" or "Pedlar" are hereby established:

Class 1 – "Door to Door Sales" and "Sales Person"

- (a) Shall include any business, person or organization that has sales conducted on his/her or its behalf by door to door solicitation.
- (b) Shall include any person involved with the sale of goods on a door to door basis including sales persons or agents and any person supervising or managing the sale or sales persons.

Class 2 – "Temporary Sales"

- (a) Shall include temporary sales or businesses for a period of up to three (3) months in any one year from one specific location where the use is permitted under the Zoning By-law and may include the use of a temporary structure where the use is permitted in the Zoning By-law.
- (b) Shall include the sale of fireworks for a one to seven day period from one specific location where the use is permitted under the Zoning By-law and may include the use of a temporary structure or a vacant commercial lot where the use is permitted in the Zoning By-law. Such applicant shall comply with any Fireworks By-law of the Town.

Class 3 – "Multi-Vendor Sales"

The operator is required to obtain one licence to cover all vendors at the following events:

- (a) **Antique/Collectible Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location, antique or collectible goods, wares or merchandise.
- (b) **Craft Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location by craftspeople, goods, wares or merchandise which they themselves have produced.
- (c) **Trade Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location by several

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manufacturers or distributors, goods, wares or merchandise which they themselves have produced or manufactured or are distributing on behalf of the producer or manufacturer; but, excludes a consumer show open to the public or a trade show open by invitation or registration only, the primary purpose of which is the display of goods and products and not the direct sale of them, and also excludes a consumer show or trade show operating as an integral part of a convention or conference.

- (d) **Farmers' Market:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location, produce, baked goods and other goods, wares or merchandise. The operator shall provide proof of permission to operate from the property owner, obtain zoning clearance and ensure that all relevant inspections and approvals have been obtained including fire and health.

Class 4 – General

Shall include any "hawker" or "pedlar" excluding Classes 1 to 3 as defined in Section 4.

4.2 Operation without valid licence – prohibited

No person shall, in the Town:

- (a) Carry on the business of hawker or pedlar; or
- (b) Be engaged in services to the public in connection with the business of a hawker or pedlar; or
- (c) Operate a multi-vendor sales event or operate a place where others may offer for sale and sell goods, wares or merchandise to the public contrary to this part of this by-law;

without holding a current valid licence for such business issued under the provisions of this By-law and Schedule.

4.3 Licence – of employee – transferable

Notwithstanding Part 3 of this by-law, the licence of an employee of a hawker or pedlar requiring their own licence shall be transferable to another employee upon the return of the original licence issued by the Town and upon the completion of an application form by the new employee.

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4.4 Exemption – from licence – other circumstances

Notwithstanding Section 4.2 of this Schedule, no Hawkers and Pedlars Licence or fee shall be required for hawking, peddling or selling goods, wares or merchandise:

- (a) For wholesale or retail dealers in similar goods, wares or merchandise; or
- (b) 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 property tax in the Town in respect of premises used for the sale of such goods, wares or merchandise; or
- (c) For local farmers who are carrying out "temporary sales" if the produce they are selling is being sold from their own property and has been grown and harvested by them; or
- (d) If the goods, wares or merchandise are hawked, peddled or sold at a community event or by a bonafide charitable or not-for-profit organization for fundraising purposes or events operated and managed by a Business Improvement Area Board of Management. However, the applicant shall obtain all relevant inspections and approvals including fire and health. A licence shall be issued and posted by the said organization for the sale of fireworks; or
- (e) If the goods, wares or merchandise are hawked, peddled or sold at a Farmers' Market operated and managed by a Business Improvement Area Board of Management. However, the applicant shall obtain all relevant inspections and approvals including fire and health; or
- (f) If the local licenced retailer is operating at an alternate temporary location provided that the goods, wares or merchandise offered for sale at the temporary location are the same goods, wares or merchandise offered for sale continuously when the local retailer is open for business at their permanent location for at least three (3) months prior to their application for the hawkers and pedlars licence.

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4.5 Public parks and beaches

No person licenced, or required to be licenced, as a "hawker" or "pedlar" shall carry on the business of a hawker or pedlar in any public park or Town-owned beach park in the Town except as follows;

- (a) At the discretion of the Coordinator, Community Liaison and Business Licencing and the Director, Infrastructure Services or designate, a hawkers and pedlars licence may be issued for the selling of goods, wares or merchandise in any public park.
- (b) At the discretion of the Coordinator, Community Liaison and Business Licencing and the Director, Infrastructure Services or designate, a hawkers and pedlars licence may be issued for the selling of goods, wares or merchandise on Bay Beach to a maximum of four (4) licenses issued on a first come, first served basis, subject to any reasonable requirements imposed thereon including the variety of items, safety and accommodation.

4.6 Restricted Licenses

Licenses for the selling of goods, wares or merchandise by hawkers and pedlars shall be restricted to two (2) licenses for commercial properties. These licenses shall be on a first come, first served basis, renewable annually.