

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 43/2008

Being a By-law to license, regulate and govern Hawkers and Peddlers in the Municipality of Port Hope and to repeal By-laws 1577, 1763, 72/81, 1929, 1930, 55/84, and 08/94,

WHEREAS Section 11(3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting business licensing;

AND WHEREAS Section 150(1) of the Municipal Act, 2001, S.O. 2001, c25, as amended, provides in part that a local municipality may license, regulate and govern business wholly or partly carried on in the municipality;

AND WHEREAS the Council of the Corporation of the Municipality of Port Hope deems it in the public interest to license hawkers and peddlers operating within the corporate limits of the Municipality of Port Hope;

NOW THEREFORE the Council of the Corporation of the Municipality of Port Hope enacts the following:

1. DEFINITIONS:

In this By-law:

- 1.1 “hawker and peddler” shall include any person who goes from place to place or to a particular place for a temporary period with goods, wares or merchandise for sale, or who carries and exposes samples, patterns or specimens or any goods, wares or merchandise that are to be delivered in the municipality afterwards and shall include persons selling goods, wares or merchandise by auction, and by liquidation sales, but shall not include a person operating a refreshment vehicle as defined in the Municipality’s Refreshment Vehicle Licensing By-law 122/2007, and as amended or superseded from time to time.
- 1.2 “Municipality” shall mean the Corporation of the Municipality of Port Hope.
- 1.3 “Clerk” shall mean the Clerk for the Corporation of the Municipality of Port Hope.
2. Every hawker and peddler operating within the Municipality of Port Hope shall obtain a license from the Clerk before selling or offering for sale any goods, wares, or merchandise within the Municipality of Port Hope.
3. The fee to be paid to the Municipality for a license pursuant to the provisions of this by-law shall be in an amount as prescribed in the Municipality’s Fees and Charges By-law.
4. All Hawkers and Peddlers Licenses issued under the provisions of this by-law shall expire no later than the 31st day of December of the year of issuance of the license, however, the Clerk may revoke the license at any time if, in the opinion of the Clerk, the provisions of this By-law are not complied with.
5. No Hawkers and Peddlers License is required for hawking, peddling or selling goods, wares or merchandise:

- 5.1 If the goods, wares or merchandise are grown, produced or manufactured in Port Hope and are hawked, peddled or sold by the grower, producer or manufacturer or his agent or employee having written authority to do so, in the Municipality of Port Hope, or
 - 5.2 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 his own farm, or
 - 5.3 If the goods, wares or merchandise are hawked, peddled or sold by a person who owns and operates a business established in a commercial zone in the Municipality, or
 - 5.4 If the goods, wares or merchandise are hawked, peddled or sold by persons participating in community events approved or sanctioned by the Municipality and participating in the event with written approval of the sponsor or organizer of the community event.
 - 5.5 If the person is acting solely on behalf of a bona-fide non-profit registered or incorporated charitable organization.
6. No hawker and peddler shall hawk, peddle or sell goods, wares or merchandise on a public highway, public park, public playground, or other public property within the municipal limits of the Municipality, unless prior written consent is obtained from Port Hope Municipal Council by the hawker and peddler.
 7. The Clerk is authorized to and may issue a Hawkers and Peddlers License when an applicant for a Hawkers and Peddlers License has complied with all of the following requirements:
 - 7.1 A statement in writing containing a full and complete description of the goods, wares and/or merchandise that the hawker and peddler proposes to sell or offer for sale in the Municipality.
 - 7.2 The fee prescribed by this By-law has been paid to the Municipality.
 - 7.3 A statement in writing from the owner of the property on which the hawker and peddler is to be located confirming that the property owner has granted permission to the hawker and peddler to sell goods, wares and merchandise from the site.
 - 7.4 A report from the Municipality's Director of Planning Services, in the case of the hawker and peddler operating from a particular place, indicating compliance with all applicable provisions of the Municipality's Zoning By-law, including, but not limited to land use, yard setbacks and sight triangle restrictions.
 - 7.5 Other such documentation as may be required by the Clerk.
 8. Where it appears to the Clerk that the applicant for a Hawkers and Peddlers License fails to comply with the requirements of this By-law, the Clerk shall refuse to issue the license.
 9. Every hawker and peddler shall, at all times while carrying on business, have a copy of the license issued by the Municipality, and in the case of a hawker and peddler operating from a particular place, a copy of a statement in writing from the property owner, and in the case of a hawker and peddler operating at a community event, a copy of the permission from the sponsor or organizer of the community event, and shall upon demand exhibit the documentation to any Municipal Official or Police Officer.
 10. Wherever the singular is used in this By-law, it shall include the plural and vice versa and wherever the masculine gender is used, it shall include the feminine gender.

11. No person shall enjoy a vested right in the continuance of a license and upon issuance, cancellation or suspension; a license shall remain the property of the Municipality.
12. No license shall be transferable.
13. If any provision or requirement of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law, or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
14. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.
15. That By-laws 1577, 1763, 72/81, 55/84, and 08/94, passed by the former Town of Port Hope and By-laws 1929 and 1930 passed by the former Township of Hope, and any other by-law or resolution inconsistent with the purposes of this By-law, are hereby repealed.
16. That this By-law shall come into force and take effect immediately upon passing.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 22nd day of April, 2008.

Mayor Linda Thompson

S.C. Dawe, Municipal Clerk

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW 43/2008

Being a By-law to license, regulate and govern Hawkers and Peddlers in the Municipality of Port Hope

Part 1 Provincial Offences Act

Set Fine Schedule

<i>Item</i>	<i>Column 1 Short Form Wording</i>	<i>Column 2 Offence Creating Provision</i>	<i>Column 3 Set Fine</i>
1.	<i>Operating as a hawker and peddler without a Municipal license</i>	<i>Section 2</i>	<i>\$110.00</i>
2.	<i>Operating as a hawker and peddler on a public highway or municipal property without written consent of Port Hope Council</i>	<i>Section 6</i>	<i>\$110.00</i>

NOTE: The penalty provisions for the offences indicated above is Section 12 of By-law 43/2008 and section 61 of the Provincial Offences Act, R.S.O. 1990, C.p.33. Certified copies of By-law 43/2008 have been filed.