

**THE CORPORATION OF THE  
MUNICIPALITY OF POWASSAN**

**BY-LAW NO. 2001-31**

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**BEING A BY-LAW TO LICENSE MOBILE FOOD VENDORS AND HAWKERS  
AND PEDLARS**

WHEREAS the Municipal Act, Section 236 (11) Chapter M. 45, R.S.O. 1990 empowers municipalities to enact by-laws for licensing, regulating and governing vehicles from which refreshments are sold for consumption by the public, and for revoking any such license,

AND WHEREAS the Municipal Act, Section 234 (1), Chapter M. 45, R.S.O. 1990 empowers municipalities to enact by-laws for licensing, regulating 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,

AND WHEREAS the Corporation of the Municipality of Powassan does hereby deem it advisable to license Mobile Food Vendors and Hawkers and Pedlars,

NOW THEREFORE the Council of the Corporation of the Municipality of Powassan enacts as follows:

**DEFINITIONS**

“Clerk-Treasurer” means the Clerk-Treasurer as appointed by by-law by the Corporation of the Municipality of Powassan or his/her designate.

“Council” means the Council of the Corporation of the Municipality of Powassan.

“Hawk” means to offer for sale by calling out in the street.

“Hawker” means one who hawks ware.

“License” means the license issued by the Clerk-Treasurer which permits the sale of wares, goods and merchandise and includes the License Number, date of issue, date of expiry, signature of Clerk-Treasurer and the seal of the municipality.

“Licensee” means the person to whom the license was issued.

“Local Law Enforcement Agency” means the Ontario Provincial Police.

“Municipal Law Enforcement Officer” means all employees of the Corporation of the Municipality of Powassan appointed by by-law whose duties include the enforcement of by-laws for the purposes of all by-law offenses.

“Municipality” means the Corporation of the Municipality of Powassan.

“Non-Resident” means a person who has not continuously resided in the municipality for a period of one year prior to the date of application for a license.

“Pedlar” means one who offers merchandise (as fresh produce) for sale along the street or from door to door; one who deals in or promotes something intangible (as a personal asset or an idea).

“Resident” means a person who has continuously resided in the municipality for a period of one year prior to the date of application for a license.

“Ware” means manufactured articles; products of art and craft or farm produce; an intangible item (i.e. as a service).

### **MOBILE FOOD VENDORS**

1. No person shall operate a refreshment vehicle within the municipality without first having obtained a license to commence such an operation as approved by Council and issued by the Clerk-Treasurer of the municipality.
2. No person shall operate a refreshment vehicle or obtain a municipal license without first having obtained a compliance letter from the North Bay and District Health Unit for each vehicle for the specific kind of food to be served.
3. No person shall operate a refreshment vehicle without having first obtained an inspection report from a licensed propane service depot, if applicable.
4. No person shall operate a refreshment vehicle unless the license is displayed in a prominent position inside the refreshment vehicle.
5. The Council may at any time after a hearing is held on notice to the licensee revoke any license held by the licensee for cause. Without limiting the generality of the foregoing, Council may suspend a license for any violation of the provisions of this by-law.
6. No person shall operate a refreshment vehicle at a location other than that approved by Council and for which a license has been issued.
7. Every person selling refreshments from such vehicle shall keep the area where the vehicle is parked, free from litter.
8. The sale of refreshments or confections includes but is not limited to the following: french fries, pogos, candy, peanuts, popcorn, ice cream, ice cream cones, ice milk and iced confectionery, hot dogs from a basket or wagon, cart or other vehicle.
9. The license granted hereunder shall permit the operator of the refreshment vehicle for the calendar year in which it was issued and shall not be valid thereafter unless renewed or re-issued.
10. The fee payable upon the issue of each license and on any renewal or re-issue shall be the sum as set out in Schedule “A” of this by-law.

### **HAWKERS AND PEDLARS**

11. No person shall go from place to place or to a particular place with goods, wares or merchandise for sale within the municipality or shall carry and expose samples, patterns or specimens of goods, wares or merchandise which is to be delivered in the municipality afterwards without first establishing the need for a license and obtaining a license for so doing as necessary under the provisions of this by-law from the Clerk-Treasurer after authorization by Council.

### **APPLICATION**

12. Application for a license under this by-law shall be made in writing to the

municipal office on the form of application provided by the municipality as set out in Schedule "B" of this by-law. Such application must be fully completed and contain the following information:

- (i) the full name, residence address, business address and telephone numbers of the applicant and each partner, if any,
  - (ii) if the applicant is a company, corporation, club or organization the head office address, business address and telephone numbers as well as the full name, addresses and telephone numbers of the principle officers thereof,
  - (iii) the names, addresses and telephone numbers of the firms represented by the applicant,
  - (iv) a complete list of the goods, wares or merchandise intended to be sold,
  - (v) the names, addresses and telephone numbers of the manufacturers or suppliers of the goods, wares or merchandise intended to be sold,
  - (vi) the name, address and telephone number of one business reference,
  - (vii) the applicant at the time of making application for a license, shall furnish the Clerk-Treasurer with true copies of all forms of contract, promissory notes or other documents intended to be used by the applicant in connection with the sale of goods, wares or merchandise as aforesaid,
  - (viii) a license issued pursuant to the provisions of this by-law shall not be transferable,
  - (ix) every person licensed under this by-law, upon changing address shall give written notice thereof to the Clerk-Treasurer within ten days after such change, setting forth the new address.
13. The Clerk-Treasurer shall make all proper investigations pertaining to the applicant for a license as aforesaid and shall report thereon to Council.

#### **EXEMPTIONS**

14. No license shall be required for hawking, peddling or selling goods, wares or merchandise,
- (a) to wholesale or retail dealers in similar goods, wares or merchandise, or
  - (b) if the goods, wares or merchandise are grown, produced or manufactured in Ontario are hawked, peddled or sold by the grower, producer or manufacturer of his/her agent or employees having written authority so to do in the municipality in which the grower, producer or manufacturer resides, or
  - (c) 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

- (d) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays commercial tax in the municipality or by his/her agent or employee, or
  - (e) 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 commercial tax in the municipality in respect of premises for the sale of such goods, wares or merchandise, or
  - (f) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.
15. The provisions of this by-law shall not apply to any institutions, organizations, or clubs in the municipality where the proceeds from the sale of goods, wares or merchandise will be used for charitable, philanthropic, religious, community, athletic or educational purposes within the municipality or to other institutions, organizations or clubs as the Council, by resolution, may approve.

### **PROOF OF LICENSE**

16. (a) Every licensee shall have on his/her person the original license issued by the Clerk-Treasurer while transacting business in the municipality and shall upon request of any purchaser produce for such purchaser the said license.
- (b) The licensee shall at all times while carrying on his/her business have his/her license with him/her and shall upon demand exhibit it to any Municipal Law Enforcement Officer and if he/she fails to do so is guilty of an offence under this by-law.
17. If a Municipal Law Enforcement Officer demands the production of a license by any person to whom this by-law applies and the demand is not complied with, the Municipal Law Enforcement Officer shall have the power to arrest such person without a warrant and to take him/her before the nearest Justice of the Peace or Local Law Enforcement Agency, there to be dealt with according to law.

### **ENDORSEMENT**

18. Granting of such license is not in any way to be construed as an endorsement of any goods, wares or merchandise.

### **ENFORCEMENT**

19. The provisions of this by-law shall be enforced by the Municipal Law Enforcement Officer.

### **BREACH**

20. In a prosecution for a breach of this by-law the onus for proving that he/she does not, for any of the reasons mentioned in Paragraphs 12 and 13, require to be licensed shall be upon the person charged.

### **PENALTY**

21. Any person convicted of a breach of any of the provisions of this by-law shall forfeit and pay, at the discretion of the convicting Provincial Court Judge, a fine or penalty not exceeding the sum of Five Hundred Dollars

for each offence, exclusive of costs to be recoverable under the Provincial Offenses Act.

Resolution Number 2001-06 Moved by Fred Busch

Seconded by Carole Dobbs

Be it resolved that the Council of the Corporation of the Municipality of Powassan approves the first and second reading of By-Law Number 2001-26 to By-Law Number 2001-42 with the exception of By-Law Number 2001-32 and approves the third reading and final passing of said by-laws.

Carried.

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Mayor

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Clerk

**SCHEDULE "A" TO BY-LAW NO. 2001-31**

**SCHEDULE OF FEES**

<u>Hawkers and Pedlars -</u>	Annual Rate - Non Resident	\$150.00
	- Resident	\$ 75.00
	Daily Rate	\$ 25.00
 <u>Mobile Food Vendor</u>		
Refreshment Vehicle	Daily Rate - Non Resident	\$ 50.00
	- Resident	\$ 25.00
Small Mobile Cart	Daily Rate	\$ 15.00

**SCHEDULE "B" TO BY-LAW NO. 2001-31**

**THE CORPORATION OF THE MUNICIPALITY OF POWASSAN**

**APPLICATION FOR LICENSE FOR THE YEAR**

1. Type of License: Hawker & Pedlar \_\_\_\_\_  
Refreshment Vehicle \_\_\_\_\_

2. Particulars of applicant and each partner, if any:

Given Name (s)		Surname	
<u>RESIDENCE</u>		<u>BUSINESS</u>	
Street Address		Street Address	
City		City	
Postal Code	Phone	Postal Code	Phone

Partners:

Name		Name	
Street Address		Street Address	
City		City	
Postal Code	Phone	Postal Code	Phone

3. If applicant is a Company, Corporation, Club or Organization:

(a) \_\_\_\_\_  
Correct Legal Name in Full  
HEAD OFFICE ADDRESS: BUSINESS ADDRESS

Street Address		Street Address	
City		City	
Postal Code	Phone	Postal Code	Phone

- (b) Correct full names, addresses and telephone number of Principal Officers, President, Secretary and other Directors:

Name		Name	
Street Address		Street Address	
City		City	
Postal Code	Phone	Postal Code	Phones

Schedule "B" Cont'd

4. Correct full name, addresses and telephone numbers of the manufacturers or suppliers of the goods, wares or merchandise intended to be sold:

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5. Particulars of any previous license granted to the applicant by the Municipality of Powassan:

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6. A complete list and description of the goods, wares or merchandise intended to be sold:

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7. There must be attached to this application, true copies of all forms of contract, promissory notes or other documents intended to be used by the applicant in connection with the sale of goods, wares or merchandise.

NOTE: Attach additional sheets where necessary.

8. I, the undersigned applicant, hereby certify:

- (a) that, to the best of my knowledge and belief, the information hereinbefore set forth and attached hereto is true and correct.
- (b) that I am familiar with the terms and provisions of the by-laws of the Corporation of the Municipality of Powassan relating to the carrying on of the type of business in respect of which this application is being made.
- (c) that I will comply with the terms and provisions of such by-laws.
- (d) I understand that I am not allowed to carry on the trader or business in the Municipality of Powassan in respect of which this application for license is being made unless and until this application has been approved by the Council of the Corporation of the Municipality of Powassan and the necessary license issued.
- (e) I will furnish to the By-law Enforcement Officer, the Clerk-Treasurer of the Council of the Municipality of Powassan, upon demand, such further and other information as may be required.
- (f) that the license fee must accompany this application.

9. To be filled out for Hawker & Pedlar License only:

Dates in which license is applied for \_\_\_\_\_  
\_\_\_\_\_



Schedule "B". Cont'd

Location requested in which merchandise will be sold: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. To be filled out for mobile food vendors only:

Dates in which license is applied for: \_\_\_\_\_  
\_\_\_\_\_

Location requested in which merchandise will be sold: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Full Signature of Applicant

Fee Paid : \$ \_\_\_\_\_

Receipt : \_\_\_\_\_

Date: \_\_\_\_\_

Fees:

<u>Hawkers and Pedlars</u>	- Annual Rate	- Non Resident	\$150.00
		- Resident	\$ 75.00
	Daily Rate		\$ 25.00

Mobile Food Vendor

Refreshment Vehicle -	Daily Rate	- Non Resident	\$ 50.00
		- Resident	\$ 25.00

Small Mobile Cart			\$ 15.00
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For Office Use Only:

\_\_\_\_\_ I hereby recommend that the within application be approved and the necessary license be issued to the applicant.

\_\_\_\_\_ I hereby recommend that the application within be not approved and that a license be not issued to the within applicant for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Clerk-Treasurer

Presented to Council

Action of Council

\_\_\_\_\_, 20

\_\_\_\_\_

Date of Issue

License

\_\_\_\_\_, 20

\_\_\_\_\_