

BYLAW NO. 2226/09

**A BYLAW TO PROVIDE FOR THE
LICENSING AND REGULATION
OF HAWKERS AND PEDDLARS**

WHEREAS pursuant to Section 150 of the Municipal Act, 2001 allows a municipality to license, regulate and govern any business wholly or partially carried on within the Municipality even if the business is carried on from a location outside the municipality.

AND WHEREAS pursuant to Section 150 (4) proper notice of a public meeting was given and a public meeting was held at which any person who attended had an opportunity to make representation with respect to this bylaw.

AND WHEREAS pursuant to Section 150 of the Municipal Act, 2001 the Council of the Corporation of the Town of Espanola is exercising its licensing powers under this section, including imposing conditions, for the following purposes:

- i) health and safety
- ii) nuisance control
- iii) consumer protection

AND WHEREAS pursuant to Section 150 (2) the following type of business is licensed for the following purpose:

HAWKER-PEDDLAR, for the purpose of consumer protection to prevent unfair or potential unfair business practice, to ensure that the business is not a nuisance by hindering vehicles or pedestrian traffic or causing a hazard in any way, to ensure the health and safety of its residents.

THEREFORE the Municipal Council of the Corporation of the Town of Espanola enacts as follows:

**Part 1
DEFINITIONS**

Hawker-Peddler

“Hawker-Peddler” shall mean every person who goes from place to place or to a particular place with goods, for the sale or hire of goods or services on an intermittent or one time basis; and the display of samples, patterns or specimens of goods for the purpose of sale of hire shall obtain a license for so doing from the license issuer.

**Part 2
GENERAL PROVISIONS**

2.1 License – application process

Applications for all licenses issued under the provisions of this bylaw and applications for the renewal of such licenses;

- a) shall be made to the Clerk’s office on form provided
- b) when received by the Clerk’s office will be stamped with the date and time of receipt and processed

2.2 License – application – full information required

Every applicant shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as;

- a) payment of the prescribed license fee set out in Schedule “A” of this bylaw and
- b) completion of the license application attached as Schedule “B” in full, including for hawkers and peddlers a full description of the goods, wares, merchandise that they intend to sell or offer for sale under such license be provided
- c) any other document or information as may be required in any other part of this bylaw

2.3 License – application – subject to approval

2.3.1. Every application will be subject to approvals from such municipal departments or agencies or other authorities as the Clerk Treasurer/Administrator considers may have an interest or as directed by Council, including but not limited to; Police Services, Public Works Dept., Leisure Services, Fire, Regional Hydro, Sudbury & District Health Unit, Building Controls, Administration/Planning.

2.3.2 Every application will be circulated.

2.3.3 No license shall be issued to any person in respect of any premises in which the carrying on or operation of the business for which the application is being made is in contravention of any bylaw of the Corporation, or any applicable Provincial or Federal legislation. Failure to comply with applicable laws or regulations may result in the revocation of a license issued under this bylaw.

2.4 License – term of expiry

A license issued under the provisions of this bylaw shall be valid only for the period of time for which it was issued. All licenses shall expire annually on December 31, at 11:59 pm.

2.5 License – administrative fee – license refused or withdrawn

All business license fees are non-refundable if the application is refused for any reason or is withdrawn by the applicant prior to the issuance of a license.

Part 3 HAWKER-PEDDLAR

- 3.1 Any persons applying for a licence under this section, and operating from a set location, rather than hawking or peddling from door to door, shall produce written approval at time of application from the owners of the property on which they wish to stand and sell. Approval shall also be required from the municipality to sell on municipally owned land or highway right-of-way within the Town of Espanola.
- 3.2 Any person renting, leasing or allowing a hawker or peddler to sell or show merchandise on his property shall be responsible to see that the necessary licence has been purchased or shall be liable to any and all fees and fines that are applicable in this bylaw.
- 3.3 No person shall operate or carry on or allow to operate or carry on as a Hawker and Peddler without holding a current valid license issued under the provisions of this bylaw, as set out in Schedule “B”.
- 3.4 No person shall sell any goods, ware, merchandise other than those listed on the license.
- 3.5. Every person licensed under this Bylaw upon changing his address, shall give written notice thereof to the Municipal Clerk within ten (10) days after such change, setting forth his new address.
- 3.6 Any licence issued under this Bylaw is not transferable.
- 3.7 A license issued under this Section shall be valid for the term specified but shall expire on the 31st day of December.
- 3.8 No licence under this Bylaw 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 and are hawked, peddled or sold by the grower, producer or manufacturer of his agent or employee having written authority to do so, 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 operates a business within the Town of Espanola, or by his agent, 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 property taxes and or rents in the Town of Espanola in respect of premises used for sale of such goods, wares or merchandise; or
- f) a consumer show open to the public or a trade show open by invitation or registration, the primary purposes of which are the display of goods and products and not the direct sale of them.
- g) by those persons or groups invited by the Town of Espanola whose wares, and merchandise are being sold at a municipal event.
- h) persons who are agents or employees or non-profit, charitable organizations, who are selling for the benefit of the charitable organization.
- i) a craft show including the exhibiting or offering for sale, on a temporary basis at one location by Canadian crafts people, goods, wares or merchandise which they themselves have produced.

**Part 4
LICENCE APPLICATIONS**

- 4.1 Applications for licence(s) pursuant to the provisions of this by-law shall be filed with the Clerk in the form annexed as Schedule "B" to this by-law, and all persons applying shall be required to pay the fees as listed in Schedule "A" to this by-law.
- 4.2 A licensee may renew his licence upon its expiry by making an application as if he were making an original application, and the provisions respecting original applications shall apply except that the licence fee payable shall be a licence renewal fee.

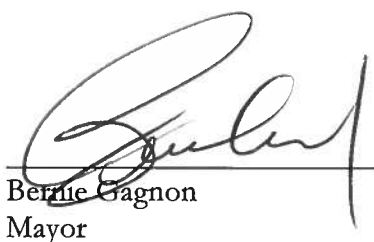
**Part 5
INVESTIGATION OF APPLICATION**

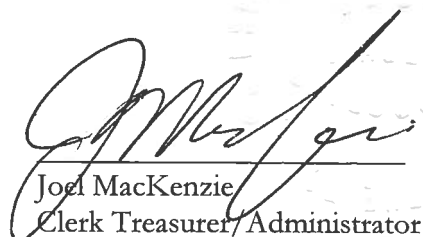
- 5.1 The By-law Enforcement Officer may inspect the equipment, vehicles and other personal property used or kept for hire, at any reasonable time.

**Part 6
PENALTIES**

- 6. Any person who contravenes any provision of this By-law is guilty of an offence and liable upon conviction for a penalty not exceeding \$5,000.00 provided for under the *Provincial Offences Act*, as amended.
- 6.1 Schedules "A" and "B", attached hereto shall form part of this By-law.
- 6.2 By-law 1808/05 is hereby repealed.
- 6.3 This by-law shall come into force and take effect on the date of passing.

That this bylaw be read a first, second and third time and finally passed in open Council on this 8th day of December, 2009.


Bernie Gagnon
Mayor


Joel MacKenzie
Clerk Treasurer/Administrator



SCHEDULE "A"
To Bylaw No. 2226/09

FEEES

All fees payable under this by-law are required to be paid in full prior to the issuance of a license.

License Category	License Fee	Renewal
Hawker/Peddler	\$500.00	\$500.00

Application for:

REGISTRATION OF HAWKERS & PEDDLARS

SCHEDULE "B"

To Bylaw No. 2226/09

The registration of a business is governed by rules, regulations and conditions as set out in Bylaw No. 2226/09 of the Corporation of the Town of Espanola.

Name of Applicant: _____

Address: _____ Town/City: _____

Postal Code: _____

Telephone No.: _____ Fax No.: _____

Email Address: _____

Driver's License: _____ Date of Birth: _____

Name of Business: _____

Location of Business: _____ Date of Operation: _____
(Door to Door) or (Indicate Address)

Is the Owner the same as the applicant: Yes () No () If different than above please indicate name and address

Type of Business:

(Wares to be Sold)

I hereby certify that all information contained on this application is correct in every respect.

_____ Date

_____ Signature of Applicant

FOR OFFICE USE ONLY:

Completed Application Received: _____ New business: _____ Renewal: _____

Change of Ownership: _____ Change of Name: _____

Change of Address: _____

Circulated to Depts./Agencies: _____ Complies to zone regulations: Yes ___ No ___

Circulated to:

Police Services	<input type="checkbox"/>	Leisure Services	<input type="checkbox"/>
Public Works Dept.	<input type="checkbox"/>	Fire Dept.	<input type="checkbox"/>
Espanola Regional Hydro	<input type="checkbox"/>	Building Controls	<input type="checkbox"/>
Health Unit	<input type="checkbox"/>	Administration/Planning	<input type="checkbox"/>
Other _____	<input type="checkbox"/>		

**NOTICE UNDER
THE MUNICIPAL FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY ACT**

Personal information and confidential third party information is being collected by the Corporation of the Town of Espanola under the authority of the *Municipal Act, 2001* and will be used, maintained and disclosed in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

Information collected on this form and indirectly will be used for the following purposes:

1. To determine the eligibility of the applicant for business registration of licencing.
2. Information submitted by applicants may be shared with officials of the Corporation of the Town of Espanola and the Espanola Police Service who are assisting the Issuer of Licences.

The Town Official who can answer questions about the collection and disclosure of information is:

Joel MacKenzie, Clerk Treasurer/Administrator
100 Tudhope Street, Suite #2, Espanola, ON P5E 1S6

Telephone: (705) 869-1540

Fax: (705) 869-0083

Email:

ACKNOWLEDGEMENT AND CONSENT

The applicant(s) signed this application on the _____ day of _____, 20____ and certifies that all information and statements made herein and supporting schedules and documentation are accurate and complete, to the best of my/our knowledge and belief, and true and is a true and complete statement in accordance with law.

I/We have read and understand the above **NOTICE UNDER THE MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT** and consent to the indirect collection of personal information by the Town of Espanola and consent to the use and disclosure of such personal information as described in the above **NOTICE**.

I/We also acknowledge that employees of the Corporation of the Town of Espanola, the Espanola Police Service or their authorized representatives may enter the subject business during hours of normal operation in order to conduct inspections and monitor facility operations to verify compliance with the Town's bylaws and regulations.

IF A CORPORATION, PRESIDENT AND ONE DULY AUTHORIZED OFFICER MUST SIGN; IF A LLP, ALL MEMBERS MUST SIGN; IF A PARTNERSHIP, ALL PARTNERS MUST SIGN; IF A SOLE PROPRIETORSHIP, THE OWNER MUST SIGN. ATTACH AN ADDITIONAL SHEET IF NECESSARY.

By: _____ Title: _____

By: _____ Title: _____

By: _____ Title: _____

By: _____ Title: _____