

TRANSIENT TRADERS AND PEDDLERS BY-LAW

BY-LAW # 1056-09

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The Council of the Town of Sussex under authority vested in it by Section 11(1) (f) and Section 168 (1) of the New Brunswick Municipalities Act, R.S.N.B., 1973 and all amendments thereto hereby enacts as follows:

1. Title

- (i) This by-law may be cited as “Transient Traders and License Peddlers By-Law”
- (ii) The provisions of this by-law apply to the entire area within the boundaries of the Town of Sussex.

2. Purpose

The purpose of this by-law is to license and to regulate transient traders and peddlers that operate within this municipality.

3. Definitions

In this By-Law

- (i) “By-Law Enforcement Officer” means a person appointed by Council to enforce the regulation of this By-Law.
- (ii) “License” means a license and any renewal thereof issued pursuant to this By-Law.

Definitions *(cont'd)*

- (iii) “Municipality” means the Town of Sussex.
- (iv) “Peddler” means a person who peddles or hawks goods, services or wares from door to door with the intention of selling them at specified dates and times as designated on a license issued under this by-law.
- (v) “Person” includes a body corporate and politic, and the heirs, executors, administrators or other legal representatives of a person.
- (vi) “Police Officer” means:
 - (a) a member of the Royal Canadian Mounted Police;
 - (b) a police officer appointed under Section 10, 11 or 17.3 of the Police Act; or
 - (c) an auxiliary police officer or an auxiliary police constable appointed under Section 13 of the Police Act, when accompanied by or under the supervision of a member of the Royal Canadian Mounted Police.
- (vii) “Town” means the Town of Sussex.
- (viii) “Town Clerk” means the Town Clerk of the Town of Sussex.
- (ix) “Town Council” means the Mayor and Council of the Town of Sussex.

Definitions *(cont'd)*

- (x) “Transient Trader” means any person, firm or corporation, partnership or society, not having a permanent place of business within this municipality, who offers goods and merchandise for sale by auction or private sale or who otherwise carries on a trade or business or offers goods or merchandise for sale within this municipality from a specified location and for specified dates and times as designated on a license issued under this by-law within this municipality but does not include any persons selling goods or merchandise from door to door.

4. This By-Law does not apply to:

- (i) a person peddling or hawking fruits, vegetables, meats, or other products harvested by him from his farm or garden;
- (ii) a fisherman peddling or hawking fish, oysters, or any product harvested by him from the sea;
- (iii) persons employed by any temperance, benevolent or religious society in the Province for the peddling or selling of temperance tracts or other moral or religious publications under the direction of such society to the exclusion of other goods and merchandise;
- (iv) commercial travelers or other persons selling by sample, specimen or price list directly to dealers who are ratepayers or licensees of the Town and doing business therein;
- (v) barrister, physicians, civil engineers or anybody legally entitled to practice a profession within the Province of New Brunswick;

4. *(cont'd)*
 - (vi) service clubs, religious organizations, registered non-profit organizations and schools when conducting fund raising projects; and
 - (vii) handicraft people who live within a forty (40) kilometre radius of the Town Hall of the Town.
5. No transient trader or peddler shall engage in a business within the boundaries of the Town without obtaining a license in the manner hereafter set out.
6. No peddlers shall engage in peddling any goods or merchandise in any Town park.
7. No peddler or transient trader, nor any person in or on his behalf, shall blow a horn, ring a bell or use any sound device, including any loud speaker; radio or sound amplifying system, during such time as the said peddler or transient trader is engaged in peddling or any business.
8. License
 - (i) A transient trader's licensee shall be issued by the Town Clerk upon application and upon payment of a license fee in the sum of three hundred dollars (\$300.00) per day, unless a smaller sum is fixed by the Town Council.
 - (ii) A peddler's license shall be issued by the Town Clerk upon application and upon payment of a license fee of ten dollars (\$10.00) per day, unless a smaller sum is fixed by the Town Council.
 - (iii) The expiry date for the annual peddler's license shall be December 31st of the current year.

License (*cont'd*)

- (iv) A license issued under this By-Law shall not be transferable by the holder thereof to any other person.
- 9. This by-law does not apply to persons operating a temporary business who have been approved by resolution of Town Council for an exemption.
- 10. Any transient trader or peddler shall, upon request by the By-Law Enforcement Officer or Police Officer, present for inspection all or any of the goods or wares being intended to be sold.
- 11. No person shall peddle:
 - (i) on Sundays or holidays; or
 - (ii) between the hours of eight o'clock in the afternoon and eight o'clock in the forenoon on Monday through Saturday.
- 12. A license issued under this By-Law does not provide permission to a transient trader or peddler to sell his products on private property without the landowner's permission.
- 13. No transient trader conducting business from a truck or other vehicle shall display goods or merchandise outside such truck or vehicle and, in any such case, shall not carry on business from public parking areas, parks or recreational land(s) or within a radius of one hundred and fifty (150) metres of an established retail outlet engaged in selling goods and merchandise of a similar nature.
- 14. Any license issued under this By-Law shall be subject to inspection upon the request of any Police Officer or By-Law Enforcement Officer appointed by Council.

15. The Town Council may for cause at any time revoke, without any rebate of fee, any license and, from the date of such revocation, such license shall be null and void. Any failure to adhere to any statute, regulation or By-Law of the Federal Government, the Province of New Brunswick or the Town shall constitute cause for revocation.

16. Plural or Feminine Terms

Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this by-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

17. Penalties

(i) Every person who violates or fails to comply with any provision of this By-Law is guilty of an offence punishable under Part II of the Provincial Offences Procedure Act as a category C offence.

(ii) The Council hereby designates the Town Treasurer or his/her designate to accept from the person alleged to have been guilty of such violation the payment of a sum equal to the minimum prescribed for such violation as outlined under Part II of the Provincial Offences Procedure Act as a category C offence for the first such offence.

18. Validity

The invalidity of any section, clause, sentence or provision of this By-Law shall not affect the validity of any other section, clause, sentence or provision of this By-Law which can be given effect without such parts.

19. Repeal

- (i) The repeal of “A By-Law to Regulate and License Peddlers and Transient Traders”, By-Law 1056-01-1 enacted on the 27th day of August, 2001, and amendments thereto shall not affect any penalty, forfeiture or liability incurred before such repeal or any proceeding for enforcing same, completed or pending, at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any manner or thing whatsoever completed, existing or pending, at the time of repeal.
- (ii) The By-Law entitled “A By-Law to Regulate and License Peddlers and Transient Traders, By-Law #1056-01-1, enacted on the 27th day of August 2001, and all amendments thereto are hereby repealed.

READ FIRST TIME BY TITLE: September 28, 2009

READ SECOND TIME BY TITLE: September 28, 2009

READ IN ENTIRETY: October 26, 2009

READ THIRD TIME BY TITLE
AND ENACTED: October 26, 2009

PAUL I. MAGUIRE
TOWN CLERK

RALPH A. CARR
MAYOR

SCHEDULE "A"
TOWN OF SUSSEX
APPLICATION FOR TRANSIENT TRADER'S LICENCE

"TO BE COMPLETED BY APPLICANT"

- 1.0 TYPE OF MERCHANDISE BEING OFFERED FOR SALE.
.....
.....

- 2.0 THE IDENTIFICATION OF ANY HAZARDOUS MATERIAL OR
SUBSTANCE WHICH MIGHT BE PLACED ON THE PREMISES BY
THE TRADER OR ITS' AGENTS.
.....
.....

- 3.0 DISCLOSE THE MANNER OF DISPLAY OF THE MERCHANDISE TO
BE SOLD
.....
.....

- 4.0 PROVIDE WRITTEN CONSENT BY THE OWNER TO THE USE OF
LAND AND PREMISES FROM WHICH THE SALE IS CONDUCTED.

- 5.0 PROVIDE A COPY OF ALL APPROPRIATE AND APPLICABLE
PROVINCIAL LICENCES TO THE SALE OF MERCHANDISE TO THE
PUBLIC INCLUDING, AND WITHOUT LIMITING THE GENERALITY
OF THE FOREGOING, AN HST/PST NUMBER.

SIGNATURE OF APPLICANT.....

"TO BE COMPLETED BY TOWN CLERK"

DATE OF ISSUE.....FEE COLLECTED \$.....

TERM OF LICENCE – FROM.....TO.....

SIGNATURE OF TOWN CLERK.....

SCHEDULE "B"
TOWN OF SUSSEX
APPLICATION FOR PEDDLERS LICENCE

"TO BE COMPLETED BY APPLICANT"

- 1.0 TYPE OF MERCHANDISE BEING PEDDLED
.....
.....
- 2.0 TYPE OF VEHICLE.....
LICENSE PLATE NUMBER.....
- 3.0 IDENTIFICATION OF ASSISTANT.....
- 4.0 AREAS OF TOWN IN WHICH THEY WILL PEDDLE GOODS
- 5.0 PROVIDE A COPY OF ALL APPROPRIATE AND APPLICABLE
PROVINCIAL LICENCES TO THE SALE OF MERCHANDISE TO THE
PUBLIC INCLUDING, AND WITHOUT LIMITING THE GENERALITY
OF THE FOREGOING, AN HST/PST NUMBER.

- SIGNATURE OF APPLICANT.....

"TO BE COMPLETED BY TOWN CLERK"

DATE OF ISSUE.....FEE COLLECTED \$.....

TERM OF LICENCE – FROM.....TO.....

SIGNATURE OF TOWN CLERK.....

SCHEDULE "C"

TOWN OF SUSSEX

SCHEDULE OF FEES

THE FOLLOWING FEES SHALL BE PAID TO THE TOWN TREASURER UPON APPLICATION AND PRIOR TO ISSUING A LICENCE UNDER THIS BY-LAW.

A. TRANSIENT TRADERS LICENCE FEE

A SUM OF THREE HUNDRED (\$300.00) DOLLARS PER DAY.

B. PEDDLERS LICENCE FEE

A SUM OF TEN (\$10.00) DOLLARS PER DAY.