

THE CORPORATION OF THE TOWN OF PETAWAWA

BY-LAW NUMBER 559/09

BEING A BY-LAW TO REQUIRE TRANSIENT TRADERS TO PAY LICENCE FEES BEFORE COMMENCING TO TRADE

WHEREAS Section 11(2) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended authorizes the Councils of local municipalities to pass by-laws respecting the economic, social and environmental well-being of the municipality and for the protection of persons and property, including consumer protection;

AND WHEREAS Section 151(1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended authorizes the Councils of local municipalities to provide for a system of licences with respect to businesses within the municipality;

NOW THEREFORE, the Municipal Council of the Corporation of the Town of Petawawa enacts the following:

**SHORT TITLE
TRANSIENT TRADERS BY-LAW**

**PART 1
DEFINITIONS/EXEMPTIONS**

1.1 Definitions

In this by-law:

By-law Officer - defined

“By-law Officer” shall mean a person appointed by the Council of the Town of Petawawa as a Municipal Law Enforcement Officer to enforce the provisions the by-law;

Council – defined

“Council” shall mean the mayor and councilors of the Town of Petawawa;

Licence - defined

“Licence” means the licence issued by the municipality signifying permission to sell goods and establishing the conditions under which the permit is granted;

Licence Holder – defined

“licence holder” shall mean the person, organization, company or group that has been granted a licence for selling goods within the municipality;

Municipality – defined

“Municipality” means the Corporation of the Town of Petawawa.

Person – defined

“Person” means any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representatives of a Person to whom the context can apply according to law;

Town – defined

“Town” shall mean the Corporation of the Town of Petawawa.

Transient Trader – defined

“Transient Trader” shall mean any person and his/her employees who:

- a. Goes from door to door with goods, wares or merchandise for sale, or who carried and displays samples, patterns or specimens of any goods, wares or merchandise for which immediate sales are made and for which orders are taken with delivery to follow;
- b. Sell from a permanent structure on a temporary basis, goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which immediate sales are made and for which orders are taken with delivery to follow;
- c. Has no permanent place of business;
- d. Is engaged in retail sales but does not have a commercial store front; or
- e. Is not entered on the Town of Petawawa assessment roll in respect of business assessment;

1.2 Exemptions:

Municipal Special Events – Exempt

Special events initiated and/or administered by the Town of Petawawa as authorized by Council shall be exempt from the provisions of this by-law for the duration of the specified event.

Consumer/Trade Show – Exempt

Consumer shows open to the public or a trade show open by invitation or registration only, the primary purposes of which are the display of goods and products and not the direct sales of said good are exempt.

Registered Charitable Organization – defined – exempt

“Registered charitable organization” shall mean any charity that is registered with the Federal or Provincial Government and such charity is exempt.

Farmer – products – exempt

No licence is required 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/her own farm.

Commercial tax payer – employee – agent – exempt

No licence is required if the goods, wares or merchandise are sold by a person who is or will be assessed to pay commercial/business tax in the municipality or whose employee or agent is or will be assessed to pay commercial tax in the municipality.

**PART 2
GENERAL PROVISIONS**

2.1 Transient Traders – requirement of licence

Transient traders and other persons whose names are not entered on the assessment roll of the Town in respect of commercial/business assessment, and who offer goods, services, wares or merchandise for sale to consumers from a temporary location or door to door shall obtain a licence, and shall pay a licence fee therefore, before commencing to trade within the municipality.

2.2 Licence – compliance – Zoning By-law

No licence shall be issued where the use is not permitted under the provisions of the Town of Petawawa Zoning By-law.

2.3 Licence - display

Any person acting as a transient trader who has been issued a licence shall ensure that the licence is prominently displayed in or at his/her place of business during the full term in which he/she is carrying on business as a transient trader.

2.4 Licence – display – multiple locations

Where a transient trader is operating multiple locations within the municipality, individual licences are required to be obtained and displayed for each location.

2.5 Licence – produced upon demand

Upon demand being made by a police officer, peace officer or by-law enforcement officer, a person operating as a transient trader shall produce his/her licence immediately.

2.6 Obstruction – hinder inspection – prohibited

No person shall obstruct, withhold, destroy, conceal or refuse to furnish any information required by a person inspecting for the purposes of this by-law.

2.7 Public property – permission

No person licenced or required to be licenced as a transient trader shall carry on the business of a transient trader in or on any municipal property except under explicit written permission of the municipality.

2.8 Private property – permission

No person licenced or required to be licenced as a transient trader shall carry on the business of a transient trader in or on any private property except under explicit permission of the owner of said property.

2.9 Sale – on highways – prohibited

No person licenced or required to be licenced as a transient trader shall be allowed to operate from a location upon any highway within the municipality.

2.10 Sale – public hazard

No person shall stop, park or otherwise carry on business as a Transient Trader for the purpose of selling or offering for sale any refreshment or product in a location which creates a public hazard.

**PART 3
ISSUANCE OF LICENCE**

3.1 Licence – requirement

No person shall carry on business as a Transient Trader without a valid licence.

3.2 Licence – application

Applications for a Transient Trader licence shall be filed in writing on the prescribed form with payment of the applicable application fee. The applicant shall provide any documentation that the Clerk deems appropriate.

- a. Schedule “A” – Fees; and
- b. Schedule “B” – Application Form.

3.3 Licence – submission

No licence shall be issued to a Transient Trader unless the applicant files with his application:

- a. A criminal record search for each person engaged as a Transient Trader which shall be obtained by the individual at their own expense from any local police department within thirty days of applying for the licence;
- b. A signed “Release and Discharge Relating to Consent to Disclosure and Criminal Record Information” form;
- c. A description of the structure or vehicle from which sales will be conducted;
- d. A description of the location from which sales will be conducted;

- e. Written permission from the property owner on whose property the business is to be operated;
- f. Payment in full for the specified duration of the licence.

3.4 Licence – granted – signed

Each licence shall be issued in the name of the municipality and shall be granted and signed by the Clerk or his/her designate.

3.5 Contravention – other laws – prohibited

The issuance or renewal of a licence is not intended and shall not be construed as permission or consent by the municipality for the holder of the licence to contravene or to fail to observe or comply with any law of Canada, Ontario or any chapter of this or any other by-law of the municipality.

3.6 Issuance – rejected – conditions

The Clerk shall issue a transient traders licence to an applicant except where:

- a. The past conduct of the applicant or an individual employed by the applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law;
- b. The applicant is carrying on activities that are, or will be in contravention of this or any other by-law;
- c. The applicant is in default with respect to any financial or other obligation to the Municipality;
- d. The applicant or any individual employed by the applicant has been convicted of any offence included in Sections 150 to 174 inclusive of the *Criminal Code of Canada R.S.C 1985, as amended*, (Sexual Offences), for which a pardon has not been granted;
- e. The applicant or any individual employed by the applicant has been convicted of any offence under the *Controlled Drugs and Substances Act S.C 1996, c. 19, as amended*, or its predecessor or successor legislation, for which a pardon has not been granted;
- f. The applicant has any unpaid fines outstanding arising from a conviction for an offence under this by-law;

and immediately upon such refusal shall notify the applicant of the refusal.

3.7 Issuance – rejected – dispute to Council

Where a licence holder or applicant disputes in writing the non issuance of a licence or the revoking of a licence, the disputed matter shall be referred by the Clerk to the Council which shall hear representations from the applicant and determine the matter.

3.8 Permit – false information

In applying for a licence, no person shall supply false or misleading information.

3.9 Transfer – prohibited

Every licence is the property of the Town of Petawawa and is valid only in respect of the person, location premises and duration named therein and for the nature of the business stated in the licence. No licence may be transferred for any reason or to any person.

3.10 Licence – expiry

A Transient Traders licence is valid only for the dates specified in the licence.

**PART 4
ENFORCEMENT AND ENACTMENT**

4.1 Regulations – offence

No person shall fail to comply with regulations as set out in this by-law.

4.2 Separate offence – daily

Each day a violation of the by-law continues shall constitute a separate and distinct offence under this by-law.

4.3 Enforcement

This by-law shall be administered and enforced by the local police and/or the Municipal Law Enforcement Officer of the Town;

4.4 Contravention – penalties

Any person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*;

4.5 Continuation – repetition – prohibition by order

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted;

4.6 Separation

If any Court of competent jurisdiction finds that any of the provisions of this By-law is ultra vires of the jurisdiction of the Council to pass or is invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this By-law;

4.7 Schedules – attached

Schedules “A” and “B” attached hereto, hereby forms part of this By-law.

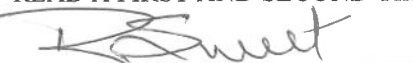
4.8 Repeal


The by-laws of the former corporation of the Village of Petawawa pertaining to Transient Traders enacted prior to the passing of this By-law and including the by-laws listed below are hereby repealed:

By-law 95-12


4.9 Effective date


This by-law comes into force on the day it is passed by Council.

READ A FIRST AND SECOND TIME THIS 19th DAY OF May, 2009


Mayor


Clerk

READ A THIRD TIME AND PASSED THIS 19th DAY OF May, 2009


Mayor


Clerk

Schedule "A" to By-Law # 559/09

Transient Trader Fee Schedule

1.	Single day of operation	-	\$ 25.00
2.	Per Week (Monday through Sunday inclusive)	-	\$ 100.00
3.	Per Month	-	\$ 300.00



TRANSIENT TRADERS LICENCE APPLICATION FORM AND LICENCE

Date of Operation: From: _____ To: _____

Business Name: _____

Name of Business Owner: _____

Contact Name: _____ Position: _____

Business Number: _____

Business Address: _____

City/Town: _____ Postal Code: _____

Phone Number: ()

Fax Number: ()

Cellular Number: ()

Type of Goods/Services to be Sold: _____

Number of Employees that will be working in Petawawa:

Employee Name

Position

Company vehicles that will be working in Petawawa:

Vehicle make/Model/Year

Colour

Licence Plate No.

I/We hereby acknowledge that I/we have been provided with a copy of and have read and understood the regulations as set out in Town of Petawawa Transient Traders Licence By-Law # /2009, as amended. I understand that any non-compliance will result in the revoking of my licence without refund.

Signature of Applicant

Date

Clerk

Date Approved

Fee

All personal information of this application is collected pursuant to Section 151(1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and will be used to assess eligibility for a business licence. If you have any questions regarding the collection and use of this information please contact the Clerk, Town of Petawawa, 1111 Victoria Street, Petawawa, On K8H 2E6, (613)687-5536.

THE ISSUANCE OF THIS LICENCE BY TOWN OF PETAWAWA IN NO WAY GUARANTEES OR ENDORSES THE GOODS, WARES OR MERCHADISE OR SERVICES BEING PROVIDED BY THE LICENCE HOLDER

THE HONOURABLE JUDITH C. BEAMAN
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
EAST REGION

161 ELGIN STREET, 6TH FLOOR
OTTAWA, ONTARIO K2P 2L1



L'HONORABLE JUDITH C. BEAMAN
JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'EST

161, RUE ELGIN, 6^{ÈME} ÉTAGE
OTTAWA (ONTARIO) K2P 2L1

TELEPHONE/TÉLÉPHONE (613) 239-1372
FAX/TÉLÉCOPIEUR (613) 239-1572

June 24, 2009

Mr. David Newton
Municipal Law Enforcement Officer
Protective Services, Town of Petawawa
1111 Victoria Street
Petawawa, Ontario
K8H 2E6

Dear Mr. Newton,

Re: *Set Fines – Provincial Offences Act – Part I*
By law No. 559/09 as amended

Enclosed herewith is a copy of an Order and a copy of the schedule of set fines for By-law No. 559/09 as amended, the by-law indicated in the schedule.

You will note that I have amended the proposed set fine amounts for item numbers 1, 4, 5, 6 and 9 from \$500.⁰⁰ to \$425.⁰⁰. I have done so because the maximum penalty on a Part I offence is \$500.⁰⁰, and the set fine amount should reflect mitigation for a plea of guilty.

The setting of the fines does not constitute my approval of the validity of the By-law or of the short form of wording used to describe the offences.

I have forwarded the original of the Order and the schedule of the set fines to Helen Mick, the P.O.A. Manager in Pembroke, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to be 'J.C. Beaman', with a long horizontal flourish extending to the right.

Judith C. Beaman
Regional Senior Justice

/ds

Enclosures

TOWN OF PETAWAWA

JUN 29 2009

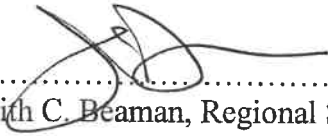
RECEIVED

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 559/09 as amended, of the **Town of Petawawa**, attached hereto is the set fine for that offence. This Order is to take effect June 24, 2009.

Dated at Ottawa this 24th day of June 2009.


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Judith C. Beaman, Regional Senior Justice
Ontario Court of Justice
East Region

SET FINE SCHEDULE
TOWN OF PETAWAWA – BY-LAW 559/09

PART 1 PROVINCIAL OFFENCES ACT
TITLE: TRANSIENT TRADERS BY-LAW

ITEM	COLUMN 1 SHORT FORM WORDINGS	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1	Fail to obtain traders licence	2.1	\$500.00 *425 Jea
2	Fail to display traders licence	2.3	\$150.00
3	Fail to produce traders licence upon demand	2.5	\$150.00
4	Obstruct/hinder inspection	2.6	\$500.00 *425 Jea
5	Trader - Public Property – No permission	2.7	\$500.00 *425 Jea
6	Trader – Private Property – No permission	2.8	\$500.00 *425 Jea
7	Trader – On highway	2.9	\$150.00
8	Trader – Public hazard	2.10	\$250.00
9	Licence application – provide false information	3.8	\$500.00 *425 Jea

NOTE: The penalty provision for the offences indicated above is section 4.4 of by-law no. 559/09, a certified copy of which has been filed.