

## **By-law No. PD-004: PEDDLERS AND TRANSIENT TRADERS**

The Council of the Municipality of Grand Bay-Westfield under authority vested in it by Sections 10 and 11 of the *Local Governance Act*, SNB 2017, c.18 and amendments thereto enacts as follows:

### **SHORT TITLE**

1. This By-law may be cited as the Peddlers and Transient Trader By-law.

### **DEFINITIONS**

2. In this By-law,
  - (a) "business" means any marketing activity conducted for the sale of goods, merchandise, or services for a profit;
  - (b) "Chief Administrative Officer" means the Chief Administrative Officer of the Municipality;
  - (c) "Council" means the mayor and councillors of the Municipality;
  - (d) "licence" shall apply to both a peddler's licence and a transient trader's licence;
  - (e) "Municipality" means the Town of Grand Bay-Westfield;
  - (f) "peddler" means any person who peddles or hawks or carries from place to place for the purpose of peddling or hawking, goods or merchandise;
  - (g) "peddler's licence" means a peddler's licence and any renewal thereof issued pursuant to this By-law that has not expired or been revoked;
  - (h) "permanent building" means an enclosed or partially enclosed structure on a permanent foundation;
  - (i) "person" includes a corporation, partnership, association, club, or firm;
  - (j) "temporary business" means the sale of goods, merchandise, or services sold by a business being operated in the Municipality for less than six weeks,

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or the sale of goods, merchandise, or services operating out of a vehicle, truck, trailer, or other than a permanent building;

- (k) "transient trader" means a person who carries on a temporary business; and
- (l) "transient trader's licence" means a transient trader's licence and any renewal thereof issued pursuant to this By-law that has not expired or been revoked.

### **PEDDLER'S LICENCES**

- 3(1). No person shall within, or partly within, the Municipality, peddle or hawk or carry from place to place for peddling or hawking any goods or merchandise unless the person has been issued a peddler's licence therefor by the Chief Administrative Officer.
- 3(2). A peddler's licence is valid only for peddling or hawking or from carrying from place to place for peddling or hawking the class or type of goods and merchandise expressly described or referred to on the face of the peddler's licence.
- 3(3). This By-law does not apply to:
  - (a) persons employed by a temperance, benevolent or religious society in the Province of New Brunswick to peddle or sell temperance tracts or other moral or religious publications under the direction of such society to the exclusion of other goods and merchandise;
  - (b) resident merchants operating an establishment fronting in the proper zoned area having sidewalk display sales not interfering with pedestrian or vehicular traffic;
  - (c) municipally based service clubs, boy scouts, girl guides, and other like non-profit organizations.
- 3(4). A peddler's licence shall expire on the 31<sup>st</sup> day of December in the year in which it is issued.
- 3(5). Every holder of a peddler's licence issued under this By-law shall comply with the conditions of the peddler's licence.

- 3(6). A person who violates or fails to comply with subsection 3(5) by an act which is not itself punishable commits an offence punishable under Part 2 of the *Provincial Offences Procedure Act*, SNB 1987, c.P-22.1 as a Category B offence.

### **TRANSIENT TRADER'S LICENCES**

- 4(1). No person shall operate a temporary business within, or partly within, the Municipality unless the person has been issued a transient trader's licence by the Chief Administrative Officer.
- 4(2). Subject to subsection 4(3), the issuance of a transient trader's licence allows a temporary business to operate at one location within, or partly within, the Municipality for a maximum of 6 weeks.
- 4(3). At the Chief Administrative Officer's direction, the issuance of a transient trader's licence may allow a temporary business to operate at one location within, or partly within, the Municipality for more than 6-weeks and may waive Licence fees for special events or pilot projects to determine viability of a business.
- 4(4). Every holder of a transient trader's licence issued under this By-law shall comply with the conditions of the transient trader's licence.
- 4(5). A person who violates or fails to comply with subsection 4(4) of an act which is not itself punishable commits an offence punishable under Part 2 of the *Provincial Offences Procedure Act*, SNB 1987, c.P-22.1 as a Category B offence.

### **APPLICATIONS**

- 5(1). An application form provided by the Municipality for a licence shall be sworn by the peddler or transient trader and submitted to the Chief Administrative Officer at least 24 hours before the licence shall become effective.
- 5(2). The application referred to in subsection 5(1) shall contain the following information:
- (a) the name and address or headquarters of the person applying for the licence;
  - (b) if the applicant is not an individual, the names and addresses of the applicant's principal officers and managers;

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- (c) the name and address of the person or persons who will be in direct charge of conducting the temporary business or peddling or hawking;
  - (d) the time within which the temporary business or peddling or hawking will be operated and the location of the business or peddling or hawking in the Municipality;
  - (e) where the application is for a transient trader's licence, the party's signature on whose property the temporary business shall be located.
- 5(3). The Chief Administrative Officer shall examine such application filed under this By-law for a licence and shall make, or cause to be made, such further investigation of the application and the applicant as the Chief Administrative Officer shall deem necessary and the licence shall not be issued unless:
- (a) the Chief Administrative Officer determines, to the satisfaction of the Chief Administrative Officer, the following facts:
    - (i) the statements made in the application are true;
    - (ii) the applicant has not engaged in any fraudulent transaction or enterprise; and
    - (iii) nothing in the proposal shall violate any provision of the Zoning By-law or Municipal Plan By-law of the Town or any other law or By-law; or subject to an appeal by the applicant to Council per subsection 5(7); or
  - (b) the Chief Administrative Officer has been instructed by Council to issue or to cause to be issued such licence to the peddler or transient trader.
- 5(4). Upon being satisfied concerning the facts required in subsection 5(2) and 5(3), the Chief Administrative Officer shall issue such licence to the peddler or transient trader upon payment by the peddler or transient trader of the applicable fee listed in "Schedule A – Licence Fees"
- 5(5). A licence issued under this By-law shall not be transferred or assigned.
- 5(6). The Council may require additional information from an applicant for a licence from time to time as it deems necessary.

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- 5(7). Any applicant who has been refused a licence by the Chief Administrative Officer will have the right of appeal to Council within thirty (30) days after the applicant is notified of the decision to refuse the licence.

### **RENEWALS**

6. A licence may be renewed and the provisions of subsections 5(1), 5(2), and 5(3) with necessary changes apply to such a renewal.

### **OFFENCES**

- 7(1). No person carrying on a temporary business or peddling or hawking within, or partly within, the Municipality on the day this By-law comes into effect shall be prosecuted for a violation of or failure to comply with section 3 or 4 until:
- (a) the person fails to submit their application for a licence to the Chief Administrative Officer in accordance with subsection 5(1); or
  - (b) the person submits their application for a licence to the Chief Administrative Officer in accordance with subsection 5(1) and that application is rejected by the Chief Administrative Officer and any appeal to Council is denied or the period to appeal such rejection has expired.
- 7(2). A person who violates or fails to comply with any provision of this By-law other than in respect of a condition under which a licence is issued commits an offence and is liable upon summary conviction to a fine of not less than seventy dollars (\$70.00) and a maximum of two hundred and fifty dollars (\$250.00).
- 7(3). Where, in the opinion of the Chief Administrative Officer, a peddler or transient trader has violated or failed to comply with this By-law or any provision of this By-law, the Chief Administrative Officer shall, upon direction of the Council, in addition to any other fine, remedy or penalty prescribed herein, by notice served upon the peddler or transient trader, revoke the licence issued to that peddler or transient trader.
- 7(4). The notice referred to in subsection 7(3) shall be sufficiently served upon the peddler or transient trader if it is delivered personally to the peddler or transient trader or if it is mailed prepaid registered postage to the last known residence or place of business of the peddler or transient trader.

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7(5). Service of the notice referred to in subsection 7(3) by registered post shall be deemed to have been effected 5 days after the notice was deposited in the mail.

**ADMINISTRATIVE PENALTIES**

8(1) The Municipality may require an administrative penalty to be paid with respect to a contravention of a provision of this By-law as set out in subsection 8(2).

8(2) A person who contravenes a provision of this by-law may pay to the Municipality an administrative penalty in the amount of:

(a) where the person has not previously contravened this By-law, \$100.00, and

(b) where the person has previously contravened this By-law, the sum of the amount paid or to be paid by the person in respect of the most recent contravention and \$100.00, provided that in no event shall a person be required to pay an administrative penalty in an amount exceeding \$1,500.00,

and, upon such payment, the person who committed the contravention is not liable to be prosecuted therefor.

8(3) A person who may pay to the Municipality an administrative penalty in accordance with this By-law may pay the administrative penalty in accordance with the Administrative Penalty By-law.

**REPEAL**

9.. By-law No. 9, a By-law of the Town of Grand Bay-Westfield Respecting the Regulation and Licensing of Transient Traders and Peddlers, enacted on 23 February 1998, and amendments thereto, are hereby repealed.

**READ A FIRST TIME** by summary this 13<sup>th</sup> day of March, 2023.

**READ A SECOND TIME** by title this 13<sup>th</sup> day of March, 2023.

**READ A THIRD TIME** in its entirety and ENACTED on this \_\_\_\_ day of \_\_\_\_\_, 2023.

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This By-law comes into force on the date of final passing thereof.

**SIGNED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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John Enns-Wind  
CAO / Clerk

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Brittany Merrifield  
Mayor

Seal

**SCHEDULE "A" – LICENCE FEES**

<b>Fee</b>	<b>Amount</b>
The fee for a licence, and for any renewal thereof	\$150.00