

The Corporation of the City of Pembroke

By-law Number 2020-16

A By-law to licence and govern certain businesses in the City of Pembroke

Whereas Section 150 of the *Municipal Act, 2001, S.O. 2001, c. 25* (the “Act”), as amended, defines “business” as any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality and includes the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader and the display of samples, patterns or specimens of goods for the purpose of sale or hire;

And Whereas Section 151 of the Act permits a municipality to provide for a system of licences with respect to a business and the specific powers available to the municipality to regulate a business and to issue, suspend, and revoke business licences;

And Whereas Section 153(2) of the Act states that a by-law providing for a system of licences for a business may require as a condition of obtaining, continuing to hold or renewing a licence that the business comply with land use control by-laws or requirements under the *Planning Act* or any other Act.

And Whereas Section 425(1) of the Act states that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence.

And Whereas Section 426(1) of the Act states that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the Act or under a by-law passed under the Act.

And Whereas Section 429 of the Act states that, a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act and designate an offence as a continuing offence.

And Whereas Section 436 of the Act states that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with: a by-law of the municipality passed under the Act, a direction or order of the municipality made under the Act or made under a by-law of the municipality passed under the Act, a condition of a licence issued under a by-law of the municipality passed under the Act or an order made under Section 431 of the Act.

And Whereas the Council of Corporation of the City of Pembroke deems it expedient to establish regulations for certain prospective businesses conducting business operations within the boundaries of the City of Pembroke.

Now Therefore the Municipal Council of the Corporation of the City of Pembroke enacts as follows:

1. Short Title

This by-law shall be known and may be cited as the “Business Licensing Bylaw”. In the text of the by-law, it is referred to as “this by-law”.

2. Definitions

“**Applicant**” shall mean an individual that has submitted an application to be licenced as a business in the City.

“**CAO/Clerk**” shall mean the Chief Administrative Officer/Clerk of the City of Pembroke

“Council” shall mean the municipal Council of the Corporation of the City of Pembroke, as established by the statute and comprising as its Members the Mayor, the Deputy Mayor and the Councillors.

“Door-to-Door Sales Person” shall mean going from premises to premises in the capacity of a transient trader but shall not include the distribution of religious literature or the solicitation of donations on behalf of a charitable organization.

“Licence” shall mean a business licence issued to an applicant by the City of Pembroke to carry on certain business within the Municipality under the authority of this by-law.

“Licensee” shall mean a person, company or organization that has been issued a business licence by the City.

“Licencing Officer” shall mean the CAO/Clerk or his/her designate.

“Mobile Food Unit” shall mean any mobile unit from which either pre-packaged or freshly prepared food items are sold such as:

- a. A mobile food unit, which does not occupy a regular location but instead moves throughout the municipality, for example an ice cream vending bicycle.
- b. A mobile food unit that is compact and is capable of occupying several locations on a regular basis, for example a hot dog cart.
- c. A mobile food unit that occupies the same area on regular basis, for example a fry truck.

“Municipality” shall mean the City of Pembroke

“Not-for-Profit Organization” Shall mean an organization that is formed to carry out a charitable, educational, religious, or scientific purpose.

“Officer” shall mean an individual appointed by the Council of the City of Pembroke to enforce the provisions of this by-law which includes a Municipal Law Enforcement Officer and a Provincial Constable with the Ontario Provincial Police.

“Operator” shall mean any person who is in care and control of a mobile food unit or other transient trader business

“Owner” shall mean the registered owner of the land on which the business is being, or is to be conducted, or the person or company appearing on the business licence issued by the Licencing Officer or otherwise noted as an owner on an application for a business licence.

“PBIA” shall mean the Pembroke Business Improvement Area

“Premises” shall mean and include any land or any building, public or private, within the City where a licensee is carrying on business or seeking to conduct business.

“Public Health Inspector” shall mean a certified public health inspector with the Renfrew County and District Health Unit or any other certified or recognized health unit within Ontario

“Public Health Unit” shall mean the Renfrew County and District Health Unit

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

- a. Goes door-to-door to sell, lease, rent or offer to sell, lease or rent any product or good to a consumer in person at a dwelling or business. This

includes persons or businesses who conduct door-to-door operations for the purpose of testing equipment or taking samples; and/or

- b. Sells from a permanent structure on a temporary basis, goods, wares, or merchandise for sale, 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; and/or
- c. Sells from a permanent structure on a temporary basis, goods, wares, or merchandise for sale, 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; and/or
- d. Has no permanent place of business; and/or
- e. Is engaged in retail sales but does not have a commercial store front or; and/or
- f. Operates an event with multiple temporary vendors. and/or
- g. Includes auctions, product appraisal vendors, and includes any other associated event where goods are brought to a venue for the purpose of appraisal, purchase or sale

“Valid” shall mean currently in effect and not expired

3. General Provisions

- 3.1 No person shall operate as a transient trader without possessing a valid licence issued by the Municipality.
- 3.2 Upon demand being made by an Officer, a person operating as a transient trader under this by-law shall produce his/her licence immediately.
- 3.3 Every person shall obtain a separate business licence for every fixed premises from which they, the licensee, are conducting business.
- 3.4 An organization operating as a transient trader, as defined, shall only be issued a business licence for a maximum time period of 14 days. A date of expiry shall be listed on the Business Licence Application Form as shown in Schedule ‘A’ of this bylaw.
- 3.5 Every licensee shall display prominently a business licence issued by the City and ensure that it is visible to the public in a fixed location from which the licensee is conducting business.
- 3.6 A door-to-door sales person, when requested to do so by an Officer, shall:
 - a. Produce a valid business licence issued by the municipality; and,
 - b. Produce a valid piece of identification, which positively identifies who that person is as well as the company in which they are conducting sales for.
- 3.7 No Transient trader shall conduct door-to-door sales between the hours of 7:00 p.m. to 9:00 a.m., Monday through Saturday and at all times on Sundays and statutory holidays.
- 3.8 A person(s) operating as a door-to-door salesperson/transient trader must leave the private property immediately when requested to do so by

- a person who has a vested interest at that property.
- 3.9 No person(s) operating as a door-to-door salesperson shall solicit in an aggressive, persistent or ongoing manner.
 - 3.10 No person shall obstruct, withhold, destroy, conceal, or refuse to furnish any information requested by an Officer.
 - 3.11 No licensee shall operate on private property without the explicit written consent of the property owner.
 - 3.12 The owner of the premises from which a transient trader is operating shall ensure that the property is in compliance with all City By-laws as well as the Ontario Building Code Act, Fire Protection and Prevention Act, Health Protection and Promotion Act and all other applicable provincial and federal statutes that apply to the business of a transient trader.
 - 3.13 No licensee shall operate on public property without the explicit written consent of the CAO/Clerk.
 - 3.14 No person shall have a vested right to the continuation of a licence. All licences issued, renewed, cancelled, suspended or terminated remain the sole property of the City.
 - 3.15 A mobile food unit licensee/Operator shall:
 - a. Maintain the exterior/interior of the mobile food unit in a clean and sanitary condition and in good repair at all times
 - b.
 - (i) Allow an appointed Public Health Inspector to inspect the premises and vehicles/units to determine compliance with all requirements of applicable legislation; and,
 - (ii) Comply with any Order or Direction issued by the Public Health Unit, and
 - (iii) Notify the Municipality when an Order or Direction from the Public Health Unit has been issued against the unit.
 - c. Remove the vehicle/unit off property immediately when requested by an Officer
 - d. Enter into the City of Pembroke Food Vendor Contract as indicated in Schedule "C" of this by-law.
 - 3.16 In the case of a Not-for Profit Organization conducting sales with the intention of raising funds for their cause, no licence fee will be charged; however the Organization shall register with the Municipality.
 - 3.17 Licenses issued to businesses within the geographic boundaries of the Pembroke Business Improvement Area will be subject to an additional fee.
 - 3.18 A non-residence rate licence, as listed under "Schedule B", shall be required for a business located outside of the City of Pembroke who are wishing to conduct business within the municipality. This shall apply where the principal business is not located within the municipality.
 - 3.19 Every licence holder shall notify the municipality's CAO/Clerk within 48-hours of any change of information disclosed on their licence application.
 - 3.20 Every licensee shall ensure that a licence transfer is conducted in accordance with the regulations as set out in Section 3.3 of this by-law.

4. Issuance of Licence

- 4.1 Application ("Schedule A") for a business licence must be completed in full and submitted directly to the Licencing Officer along with:
- a. A description of the structure or vehicle from which sales will be conducted
 - b. A site plan of the property from which business will be conducted, ensuring that structures adhere to the City's Zoning By-law and Official Plan as well as meet the requirements of the Ontario Building Code;
 - c. A description of the location from which sales will be conducted;
 - d. Written permission from the property owner on whose property the business is to be operated;
 - e. Payment in full for the type of licence being purchased as established in "Schedule B";
 - f. In the case of mobile food units selling prepared food, approval from the Renfrew County and District Health Unit must accompany the licence application.
 - g. Proof of insurance confirming insurance coverage for liability limits not less than \$2,000,000.00 covering all business premises and operations, if located on City property.
 - h. All businesses for which a license application has been submitted may be required to meet such additional requirements as may be established by the Licensing Officer.
- 4.2 The Licencing Officer is able to reject a business licence application if:
- a. The applicant submits an incomplete business licence application form;
 - b. The application contains false or misleading information;
 - c. The past conduct of the applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law;
 - d. The applicant is carrying on activities that are, or will be in contravention of this or any other by-law;
 - e. The applicant is in default with respect to any financial or other obligation to the City.
- 4.3 A Licensee is only able to transfer his/her licence if:
- a. The business that is being conducted is the same;
 - b. The transferee is deemed to be in good standing based on the requirements in subsection 3.1;
 - c. The transferee is not in violation of any part of subsection 3.3;
 - d. The Licencing Officer has given his/her written permission allowing for the transfer of the licence; and
 - e. Payment of fees for transfer of a license as set out in Schedule "B" is provided.

5. Suspension/Revocation of Licence

- 5.1 The Licencing Officer may suspend or revoke a licence if a licensee is found to be in contravention of this or any other by-law.
- 5.2 The Licencing Officer may suspend or revoke a conditional licence if the conditions set out by the Licencing Officer have not been met in the prescribed time period
- 5.3 Suspended licences are subject to any conditions imposed on them by the Licencing Officer

6. Fees

- 6.1 Fees are set out in Schedule "B", with annual increases as of January 1, 2021 to be equal to the Consumer Price Index (CPI) as published annually by Statistics Canada, and are due and payable upon submission of a license application.
- 6.2 The new fees which include CPI shall be posted on the City of Pembroke's website

7. General Exemptions

- 7.1 Any City organized/run event shall be exempt from this by-law.

8. Administration and Enforcement

8.1 Entry and Inspection

An Officer may, when an offence is believed to have been committed through reasonable probable grounds, enter upon land for the purpose of carrying out an inspection to determine compliance with this by-law.

8.2 Obstruction

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this by-law.

- 8.3 This by-law shall be enforced by a Municipal Law Enforcement Officer or by any Provincial Constable with the Ontario Provincial Police.

9. Penalties

- 9.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provides for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended
- 9.2 Any person convicted of an offence under this by-law is liable;
 - a. For a first offence, to a fine as set out under Schedule 'D' of set fines as imposed under this by-law; or
 - b. For every subsequent offence, to a fine no more than \$1,000.00 as imposed by the Justice of the Peace following a court proceeding.

10. Severability and Enactment

- 10.1 If any court of competent jurisdiction declares any section or part of this By-law to be invalid, such section or part of a section thereof shall be deemed to be severable and all other sections or parts of the By-law shall be deemed

10.2 That By-law 2020-06 and any other By-law inconsistent with the provision contained in this By-law are hereby repealed.

10.3 This By-law shall come into force and effect upon being passed.

Passed and Enacted
This 18th day of February, 2020

Michael LeMay
Mayor

Terry Lapierre
Chief Administrative Officer/Clerk



Business License Application Form
Schedule "A" to By-law 2020-16

First Day of Operation:

Last Day of Operation:

Name of Business:

Name of Business Owner:

Street Address of Business:

City:

Postal Code:

Phone Number:

Email Address:

Description of Goods/Services Sold:

Employee Name(s):

Company Vehicle(s) (Make/Model/Year/Colour/License Plate):

I Do Hereby Confirm that I am aware of and accept the conditions set out with respect to the issuance of this licence and agree to the conditions of this licence and of the by-laws the City of Pembroke concerning the operation of the business. I further indemnify and save harmless the City of Pembroke, its Committees, and employees, from all claims arising out of the business activity authorized by the licence. I certify that the information provided on this application is true and correct to the best of my knowledge.

Applicant Signature:

Date:

For Office Use Only:

Conditions of Business License Issuance:

Business License Expiry Date:

Fee Schedule for Business Licences

Schedule “B” to By-law 2020-16

| Business Type – Transient Traders | Fee |
|--|----------------|
| City of Pembroke Resident | \$250.00/event |
| Non-Resident | \$500.00/event |

| Business Type – Mobile Food Units | Fee |
|--|------------|
| Special Events | \$50.00 |
| Annual | \$250.00 |
| Semi-Annual Fee – 6 months | \$125.00 |

Any licences that are operating within the geographic boundaries of the Pembroke Business Improvement Area (P.B.I.A.) are also subject to the Associate Membership fee of \$150.00 which is payable at the P.B.I.A. office.

City of Pembroke
Food Vendor Contract
Schedule “C” to By-law 2020-16

Made this day of _____, 20__ .

Between

(Hereinafter referred to as “Vendor”)

of the First Part

and

The Corporation of the City of Pembroke (Hereinafter referred to as “City”)

of the Second Part

Whereas the City is the owner of certain lands and premises in the City of Pembroke being _____, which contains an area or areas from which food and non-alcoholic beverages are sold

And Whereas the vendor has requested to locate a mobile food concession at the _____ as agreed on as per location of the attached map;

And Whereas the contract term will be from May 1, 20__ to October 31, _____ ;

And Whereas the City is agreeable to entering into an agreement with the vendor;

Now Therefore the vendor and the City undertake to agree as follows:

1. The City does not grant concession monopolies, and there may be two or more vendors selling the same or similar products.
2. The vendor agrees to follow a professional code of business conduct that ensure the public and City staff are treated fairly.
3. The vendor agrees to maintain the premises it occupies in a clean and orderly condition. Food containers and other litter on the premises occupied by the vendor shall be removed as soon as practical during the days vendor is operating his or her food booth and at the end of each day at his or her own expense.
4. The vendor agrees to pay the City the fees set out in Schedule “B” attached hereto;
5. This agreement is to be considered of any ongoing year-to-basis, which can be terminated by either party without penalty giving a minimum of sixty days written notice. Additionally, the City reserves the right to revoke this permit, without refund or any other compensation, if there has been a complaint lodged concerning the vendor. Based on the City of Pembroke’s decision, the vendor will be required to cease operating immediately on receipt of written notice by the City and must vacate City property immediately. **No refunds will be provided.**
6. The vendor shall obtain all licenses and permits necessary to conduct a food vending operation selling to the public, including but not limited to business license, vendor’s permit, health department permits. The Vendor shall remain in complete compliance with all applicable federal,

provincial and municipal regulations governing the rights, obligation and performance of a food vendor under this Agreement.

7. The Vendor releases the City from all liability of any and all bodily injury, which may be sustained by the vendor operator and all employees or workers. The vendor must supply a certificate of insurance naming the City as being additionally insured. The Limit of Liability shall be no less than \$\$2,000,000.00
8. Provision of hydro services, where available, will be at the vendor's cost. A monthly fee will be billed to the vendor according to usage on City Meter.
9. Connection to City water services, where available, will be by permission from the City.
10. The vendor will provide his or her own signage that must be professional in appearance and conform to the City's Sign By-law.
11. The vendor must have an approved fire extinguisher and first aid kit in the truck at all times.
12. The vendor is responsible for providing tables, seating and trash receptacles.

In Witness Whereof, the parties at their hands the day, month and year first written above.

Signed, Sealed and Delivered

In the presence of

Vendor Signature

Date

Business Name:

Address:

Phone:

City of Pembroke

Date

License Fee Number

**The Corporation of the City of Pembroke
Part 1 Provincial Offences Act
By-law 2020-16: Business Licensing
Schedule “D” – Set Fines**

| Item Number | Column 1 – Short Form Wording | Column 2 – Provisions creating or defining offence | Column 3 – Set Fine |
|--------------------|--|---|----------------------------|
| 1. | Operate as a transient trader – Fail to possess valid business license | S. 3.1 | \$600.00 |
| 2. | Transient trader – Fail to produce business license issued | S. 3.2 | \$85.00 |
| 3. | Licensee/Operator – fail to possess/acquire license for additional premises | S. 3.3 | \$85.00 |
| 4. | Licensee/Operator – Fail to display business license so that it is visible to the general public | S. 3.5 | \$85.00 |
| 5. | Door to door sales person – fail to produce a valid business license | S. 3.6 (a) | \$85.00 |
| 6. | Door to door sales person – fail to produce identification to validate issued business license | S. 3.6 (b) | \$85.00 |
| 7. | Door to door sales person – operate during prohibited times | S. 3.7 | \$85.00 |
| 8. | Door to door sales person – fail to leave property when requested to do so | S. 3.8 | \$85.00 |
| 9. | Door to door sales person – solicit in an aggressive/persistent/ongoing manner | S. 3.9 | \$85.00 |
| 10. | Unlawfully obstruct, withhold, destroy, conceal or refuse to furnish any information requested | S. 3.10 | \$300.00 |
| 11. | Transient trader – operate on private property without owner’s consent | S. 3.11 | \$85.00 |
| 12. | Property owner – fail to ensure property is in compliance | S. 3.12 | \$85.00 |
| 13. | Transient trader – operate on public/municipally owned property without consent | S. 3.13 | \$300.00 |

| Item Number | Column 1 – Short Form Wording | Column 2 – Provisions creating or defining offence | Column 3 – Set Fine |
|--------------------|--|---|----------------------------|
| 14. | Mobile food unit licensee/operator – fail to maintain interior/exterior of unit in clean/sanitary condition or in good repair | S. 3.15 (a) | \$85.00 |
| 15. | Mobile food unit licensee/operator – fail to allow entry of a Public Health Inspector to conduct inspection | S. 3.15 (b) (i) | \$85.00 |
| 16. | Mobile food unit licensee/operator – fail to comply with an order or direction issued by a Public Health Inspector | S. 3.15 (b) (ii) | \$85.00 |
| 17. | Mobile food unit licensee/operator – fail to notify the municipality of an issued order or direction from the Public Health Unit | S. 3.15 (b) (iii) | \$85.00 |
| 18. | Mobile food unit licensee/operator – fail to remove the vehicle/unit immediately as requested | S. 3.15 (c) | \$85.00 |
| 19. | Not for profit organization conduction sales – fail to register with municipality | S. 3.16 | \$85.00 |
| 20. | Licensee – Fail to notify change of license information | S. 3.19 | \$85.00 |
| 21. | Licensee – fail to properly transfer license | S. 3. 20 | \$85.00 |
| 22. | Obstruct Officer in performance of duty | S. 8.2 | \$700.00 |

Note: the penalty provision for the offenses indicated above in Section 9.1 of City of Pembroke's By-law 2020-16, a certified copy of which has been filed and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.