

**THE CORPORATION OF THE TOWNSHIP OF CRAMAHE**  
**BY-LAW NUMBER 05-39**

**BEING A BY-LAW TO LICENCE AND REGULATE HAWKERS AND PEDDLERS, AND TO SET FEES FOR THOSE LICENCES.**

**WHEREAS** section 150 of the *Municipal Act, 2001 S.O. 2001, c. 25* permits municipalities to licence, regulate and govern any business wholly or partly carried on within the municipality, and;

**WHEREAS** except as otherwise provided, a municipality may only exercise its licensing powers under this section including imposing conditions for one or more of the following purposes – health and safety, nuisance control or consumer protection, and;

**WHEREAS** a by-law licencing or imposing any condition shall include an explanation as to the reason the municipality is licensing it or imposing the conditions as it relates to the purposes under the *Municipal Act, 2001 S.O. 2001, c. 25* Section 150(2), and;

**WHEREAS** a public meeting was held on May 3<sup>rd</sup>, 2005 at which time a report relating to the licencing of the businesses was presented;

**NOW THEREFORE** the Council for the Corporation of the Township of Cramahe HEREBY ENACTS as follows:

**1.     Definitions**

In this by-law,

- a) **By-law Enforcement Officer** means the By-Law Enforcement Officer appointed by the Township of Cramahe, or their designate
- b) **Council** means the Council for the Corporation of the Township of Cramahe
- c) **Charitable Organization and Non-Profit Organization** shall include an organization if no part of its income is paid to or otherwise made available for the personal benefit of any of its proprietors, members or shareholders and if one of the main aims and normal activities includes projects and undertakings that have a charitable object or purpose including the relief of poverty, the advancement of education, the advancement of religion or other charitable purposes beneficial to the community not included in this definition
- d) **Clerk** means the Clerk appointed by the Township of Cramahe
- e) **Hawkers and Peddlers** shall include any person who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries or displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Municipality afterwards
- f) **Municipality** means the Township of Cramahe

**2.     Licence required - offence**

No person shall conduct the business of hawking or peddling in or upon any premises or part thereof in the Municipality unless they hold a licence issued therefore by the municipality and has paid the licence fee required by Schedule “A” of this by-law, and unless they have the express written consent of the owner of the property to set up any type of display to offer goods for sale.

**3.     Application**

Requests for the issuance or renewal of a licence must be received by the Clerk in the form prescribed on or before the 31<sup>st</sup> day of December for the next ensuing licencing and calendar year.

4.

Licence – Entitlement

No person shall be entitled to obtain a licence where:

- a) The past conduct of the applicant or licensee affords reasonable ground for the belief that the applicant or licensee will not carry on the activity for which the applicant is licenced or to be licenced in accordance with the law;
- b) The issuance of the licence or renewal of the licence would be contrary to public interest;
- c) The applicant or licensee is carrying on activities that are, or will be, if the applicant is licenced, in contravention of this by-law;
- d) There are reasonable grounds for belief that the premises, accommodation, equipment or facilities in respect of which the license is required do not comply with the provisions of this by-law or other applicable law;
- e) If the applicant or licensee is a corporation, the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which the applicant is to be licenced in accordance with the law;

5.

Licence Revocation

A license granted pursuant to this by-law may be revoked where the licensee does not comply with the provisions of this or any other by-law of the municipality, provincial statute or where such licence has been issued through error. Council also reserves the right to revoke a business licence based on excessive or serious complaints from users of the service, where the continuation of the licence would be contrary to public interest.

6.

Licence Suspension

Where any licensee is convicted of an offence under this by-law, the licence shall be suspended forthwith and shall not be reinstated until the clerk or his/her designate or a Provincial Offences Officer certifies in writing that the conditions resulting in the conviction have been remedied and that the premises and its proposed operation comply with this by-law.

7.

Licence Expiration

Licences issued under the provisions of this by-law, unless otherwise expressed to be granted for a shorter period, shall expire on December 31<sup>st</sup> of the year for which they have been issued.

8.

Licence – Non-transferable

No licence issued pursuant to the provisions of this by-law is assignable or transferable.

9.

Inspection of Licence

Any person required to be licenced pursuant to this by-law shall at all times while carrying on the business of a Hawker and Peddler have the licence displayed in a conspicuous place and shall upon demand exhibit it to any Municipal Law Enforcement Officer, Peace Officer or to any person to whom the Hawker and Peddler is offering goods for sale.



10. Exemptions

No licence is required for the hawking and peddling of goods, wares or merchandise:

- a) to wholesale or retail dealers in similar goods, wares or merchandise
- b) if the goods, wares or merchandise is grown or produced by a farmer or resident in Ontario who offers for sale or sells only the produce of his/her own farm
- c) if the goods, wares or merchandise is hawked, peddled or sold by persons participating in a community event approved or sanctioned by the municipality and participating in the event with the approval of the sponsor or community event.
- d) Agents or employees of non-profit charitable organizations who are selling or fundraising for the benefit of the charitable organization

11. Offences and Penalty

Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is subject to a fine as provided in the *Provincial Offences Act, R.S.O. 1990 c. P3* or the *Municipal Act, 2001 S.O. 2001, c. 25*.

Where a Municipal Law Enforcement Officer or Peace Officer finds a person violating any provision of Section 2 or 9 of this by-law, the Officer may serve an Offence Notice under the *Provincial Offences Act, R.S.O. 1990 c. P3* with a set fine on such person.

For the purpose of this Section, a separate violation shall be deemed to have been committed for each and every day during which such violation continued and conviction in respect of a violation shall not operate as a bar to further prosecution if such violation continues.

12. Validity

If a court of competent jurisdiction declares any provision or any part of a provision of this by-law to be invalid, or to be of no force and effect, it is the intention of the Council that the remaining provisions of the by-law remain in full force and effect.

13. Commencement

- a) This by-law comes into force and effect on the day it is enacted.
- b) In accordance with subsection 150(13) of the *Municipal Act, 2001 S.O. 2001, c. 25*, this by-law expires five (5) years from the date it is enacted.

This by-law shall come into force and effect on the day that it received set fine approval, this 16<sup>th</sup> day of MAY 2005.

Read a First time, this 3<sup>rd</sup> day of May 2005

Read a Second time this 3<sup>rd</sup> day of May 2005.

Read a Third time and passed this 3<sup>rd</sup> day of May 2005.

A handwritten signature in cursive script, reading "Elie Dekeyser".

Mayor, Elie Dekeyser

A handwritten signature in cursive script, reading "Judy Merrill".

Clerk, Judy Merrill

**Schedule “A”**

<b>Applicable to:</b>	Every person that carries on the trade of hawking or peddling as per the definition.
<b>Exemptions:</b>	See Section 10
<b>Reason for Licencing/Conditions</b>	Nuisance control, as per the <i>Municipal Act, 2001 S.O. 2001, c. 25.</i> This business: <ul style="list-style-type: none"><li>• May not be consistent with the interests of the community</li><li>• May create controversy in the community</li></ul>
<b>Annual Licence Fee:</b>	\$ 240.00
<b>Special Conditions:</b>	None

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 attached schedule of offences under the Provincial Statutes and Regulations thereunder and the By-Law 05-39, as amended in the Corporation of the Township of Cramahé, County of Northumberland, attached hereto is the set fine for those offences. This Order is to take effect May 16<sup>th</sup>, 2005.

DATED at Newmarket

This 16<sup>th</sup> day of May, 2005.

A handwritten signature in dark ink, appearing to read 'J. A. Payne', is written over a horizontal line.

Justice J. A. Payne  
Regional Senior Justice  
Central East Region  
Ontario Court of Justice

**Schedule "B"**  
**THE CORPORATION OF THE TOWNSHIP OF CRAMAHE**

**Part I, of the Provincial Offences Act**

By-Law Number 05-39, being a by-law to regulate and licence hawkers and peddlers in the  
Township of Cramahe

Item	COLUMN 1 Short form wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine (including costs)
1.	Fail to obtain a hawker and peddler licence	Section 2	<del>-\$500.00</del> 1400.00 7400
2.	Fail to produce hawker and peddler licence	Section 9	\$300.00

NOTE: The penalty provision for the offences indicated above is Section 61 of the  
Provincial Offences Act, R.S.O. 1990 c. P.33 as amended.