

**THE CORPORATION OF THE VILLAGE OF BURK'S FALLS
BY-LAW 11-2017**

**BEING A BY-LAW TO REGULATE AND LICENSE MOBILE FOOD VENDORS,
MARKETS AND HAWKERS & PEDDLERS**

WHEREAS Sections 150 and 151 of the Municipal Act, allows a municipality to license, regulate, provide standards and govern any business wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality, and

WHEREAS the Corporation of the Village of Burk's Falls does hereby deem it advisable to license Mobile Food Vendors, Hawkers and Peddlers; and

WHEREAS pursuant to Section 113 of the Municipal Act 2001, S.O. 2001, c 25, Council may pass by-laws for establishing, maintaining and operating markets and for regulating such markets and any other markets located within the municipality.

NOW THEREFORE the Municipal Council of the Corporation of the Village of Burk's Falls hereby enacts as follows:

1. ADMINISTRATION AND INTERPRETATION

1.1 Short Title: This By-law may be referred to as "Mobile Vender By-law"

1.2 Definitions:

- a) **"BUSINESS"** shall mean any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality
- b) **"BUSKER"** shall mean any person soliciting for a donation while not offering an item for sale or service, this shall include, entertainers, panhandlers, street performers and any other individual
- c) **"CHARITABLE ORGANIZATION"** shall mean an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or minor sports group.
- d) **"CLERK"** shall mean the Village of Burk's Fall Municipal Clerk
- e) **"COMMUNITY EVENT"** shall mean an event facilitated by a non-profit or charitable organization in the interest of community engagement.
- f) **"FARMERS MARKET"** shall mean a designated place in which vendors collectively gather to sell produce, products and wares crafted or produced by the vendor or locally within Ontario
- g) **"FLEA MARKET"** shall mean a gathering of vendors selling second hand wares
- h) **"HAWKER AND PEDDLER"** shall mean any person who is not operating out of a store front location, and on a temporary, occasional or seasonal basis
- i) **"MARKET"** shall mean any form of Market in which vendors gathering to offer for sale services and wares
- j) **"MARKET COMMITTEE"** shall mean vendors and interested parties established to oversee the operations of the Market
- k) **"MARKET DAY"** shall mean the days and hours of operation of the Farmers Market
- l) **"MARKET MANAGER"** shall mean the person appointed by the Market Committee
- m) **"MARKET MEMBER"** shall mean vendors who are in good standing and current with Market Fees
- n) **"REFRESHMENT VEHICLE"** shall mean any means of transportation including muscular powered propelled vehicles, in which food and or drink can be prepared from for public consumption.
- o) **"SHORT TERM"** shall mean an event which lasts no more than 48 hours

2. GENERAL STANDARDS:

- a) No person shall operate a refreshment vehicle, Farmers Market, Market, Flea Market or Hawk and/or Peddle within the Municipality without first obtaining a licence for such an operation from the Clerk of the Municipality as per Schedule "A".
- b) Every applicant shall furnish the Municipal Clerk with proof of coverage to the extent of two million-dollar (\$2,000,000) liability insurance and shall identify the Village of Burk's Falls as an additional insured party. Such policy shall contain an endorsement specifically stating the Municipality shall be given a minimum of thirty (30) days written notice of any changes, expiration or cancellation of such policy.

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- c) Council for the Village of Burk's Falls reserves the right to deny, withhold, void or place restrictions on license applications in the interest of the community.
- d) Council for the Village of Burk's Falls reserves the right to waive license applications and fees to applicants which are not-for profit or charitable organizations or for applicants seeking to establish a short-term event.
- e) Applicants seeking to establish services on a private property must provide written consent from the property owner identifying consent.
- f) Any building erected onsite for the purpose of Hawking, Peddling or for any form of a Market is required to comply and show proof of a valid building permit.
- g) Vendors which will operate less than 2 (two) days in a 7 (seven) consecutive day period are required to take down and remove each vendor stall and any affiliated apparatus daily.
- h) Vendors which will operate more than 3 (three) days in a 7 (seven) consecutive day period are permitted to remain in place for duration of the license.
- i) Permits are valid for a period no longer than 365 (three hundred sixty-five) days unless otherwise specified.
- j) Council for the Village of Burk's Falls reserves the right to deny, withhold and/or place restrictions on Hawker and Peddler licensees.

3. MARKET ESTABLISHMENT:

- a) Any individual, organization or board seeking to establish a Market within the Village of Burk's Falls is required to establish a Market Committee. The Committee shall be comprised of vendors and persons interested in the development of a Market.
- b) The Market Committee shall be overseen by a Market Manager, whom shall be appointed by vote by members of the Market Committee.
- c) At the Annual Meeting of the Market Committee, Market fees, Market Day(s) and Market location shall be determined.
- d) The Market Committee shall establish the operating procedures and vendor criteria in a constitution that shall be submitted to the Village office annually prior to the first day of the Market.
- e) The Market Committee shall submit an application to the Village as detailed in Schedule "A".

4. MARKET RULES AND REGULATIONS:

- a) The Market Manager shall have the authority to implement the Market's Constitution including:
 - i. Authorize who may be a Vendor and what products may be sold;
 - ii. Designate where vehicles may be parked if not being utilized in the Vendor space;
 - iii. Deny access to any Vendor who does not meet requirements or regulations, including those imposed by the Municipality.
- b) The Market Manager is responsible to the Municipality for the Village of Burk's Falls.
- c) The Market Manager is responsible for the overall management of the Market, including the collection of Market fees, assignment of vendor space and the enforcement of Market Rules and Regulations which are determined by the Market Committee at the Annual meeting.
- d) Establish additional rules and regulations as needed at the Annual Market Committee meeting.

5. MARKET MEMBERSHIP:

- a) Membership shall be restricted to vendors who are growers, crafters or prepared food producers.
- b) Any person, firm or organization may become a member of the Market provided that:
 - i. They are engaged in, associated with, or related to the Market industry, and
 - ii. Their membership application is accepted and approved by the Market Committee, and

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- iii. The appropriate membership fees are supplied
- c) Membership fees shall be determined by the Market Committee and subject to approval during the Annual Market Committee meeting.
- d) Membership is non-transferable.
- e) Membership entitles a vendor to one, 10 feet by 10 feet Market space. Additional Market space shall be rented at an additional fee as set out in Schedule "B", to a maximum of two Market spaces per vendor.
- f) Membership does not permit sub-leasing of Market space.

6. HAWKERS AND PEDDLERS:

- a) Licensees allow for a total of 10 feet by 10 feet vendor space, additional space requires the purchase of an additional permit.
- b) As per the Zoning By-law any additional or accessory building which shall be utilized for the purpose of Hawking and or Peddling, shall conform to the prescribed standards in the Zoning By-law #01-2012 and Property Standards By-law #6-2001.
- c) Applicants seeking to establish a vendor stand on private property must provide documentation from the property owner in support of their application.
- d) No person shall go from place to place or to a particular place with goods, wares or merchandise for sale or carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the Village afterwards without being licensed to do so under the provisions of this by-law.
- e) Any person seeking to exhibit as a Busker is required to apply for a license as per Schedule "A".
- f) The applicant at the time of making application for license shall furnish the Municipal Clerk with true copies of all forms of contract, promissory notes or other documents intended to be used by the applicant in connection with the sale of goods, wares or merchandise as aforesaid.
- g) Municipal Clerk shall make all proper investigations pertaining to the applicant for a license.
- h) A license issued pursuant to the provisions of this by-law shall not be transferable.
- i) Every person licensed under this By-law upon changing his/her address, shall give written notice to the Municipal Clerk within ten (10) days after such change, setting forth his new address.
- j) Every person who applies for a license under this By-law shall apply in writing on forms to be provided by the Village as set out in Schedule "A" and shall be fully completed. Exemptions will be granted to those operators or groups whose wares or merchandise will be sold at community events.
- k) No license under this By-law shall be required for hawking, peddling or selling goods, wares or merchandise;
 - i. to wholesale or retail dealers in similar goods, wares, or merchandise, or
 - ii. if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer of his agent or employee having written authority to do so, in the municipality in which the grower, producer or manufacturer resides, or
 - iii. if the goods wares or merchandise are hawked, peddled or sold by a person who operates a business within the Village of Burk's Falls or by his employee, or by his agent, at their existing business location, or
 - iv. by those persons or groups whose wares or merchandise is being sold by not-for-profit or charitable organization within the Village of Burk's Falls.

7. REFRESHMENT VEHICLE

- a) No person shall operate a refreshment vehicle within the Municipality without having first obtained a license to commence such an operation from the Clerk of the Municipality.
- b) Every owner shall take out a separate license for each refreshment vehicle owned or operated by them. Temporary licenses must be obtained by those persons who are operating for a specific time period, or, at a community event on a short-term basis.
- c) Sales of refreshments shall be made on properties which are in conformity with the Official Plan.

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- d) No person shall operate a refreshment vehicle or obtain a municipal license without first having obtained and maintaining Certificate from the Medical Officer of Health.
 - e) No Person shall operate a refreshment vehicle without having first obtained and maintain an inspection report from a licensed propane service provider and provided a copy to the Village of Burk's Fall Clerk, if required.
 - f) No person shall operate a refreshment vehicle that has a cooking operation producing smoke or grease vapors without having first obtained and maintaining an inspection report from the Burk's Falls & District Fire Department.
 - g) No person shall operate a refreshment vehicle unless the license is displayed in a prominent position inside the refreshment vehicle.
 - h) No person shall operate a refreshment vehicle within a distance of 150 feet from any restaurant or any other eating establishment unless operated by the same owner/operator. Such distance shall be measured from the Building where the eating establishment is located.
 - i) No person shall sell confections or refreshments or any other food items unless the application form is approved and the fees are paid in full.
 - j) Every person shall renew their license for the refreshment vehicle for the calendar year or day or weekend for which the license was issued and shall not be valid thereafter unless reviewed or re-issued as per Schedule "B" of this by-law. The fee payable upon the issue of each license and on any renewal or re-issue shall be the sum as set out in Schedule "B" of this by-law.
- 8. PENALTIES**
- a) Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.
 - b) Any persons convicted of a breach of any of the provisions of this by-law by a Provincial Court Judge or competent jurisdiction thereafter any, in addition to any other penalty imposed on the person convicted, issued an order prohibiting the continuation or repetition of the offence or the doing of any act by the person convicted directed towards the continuation of the repetition of the offence.

9. ENFORCEMENT

- a) The provisions of this By-law shall be enforced by the By-Law Enforcement Officer or other appointed Municipal Officer for the Village of Burk's Falls.

10. ENACTMENT

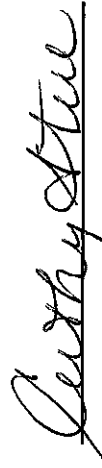
- a) This by-law shall take effect on the date the Order for the set fines is approved by the Ontario Court of Justice

9. REPEALS:

- a) By-law 20-2005 is hereby repealed.

**AS READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL
THIS DAY OF 27th DAY OF JUNE 2017.**

SEAL


REEVE, CATHY STILL


CLERK, NICKY KUNKEL

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Schedule "A"
By-law 2017-11
THE CORPORATION OF THE VILLAGE OF BURK'S FALLS
APPLICATION FOR A MARKET, MOBILE FOOD VENDOR, HAWKER
AND/OR PEDDLER LICENSE

Licenses are valid for 365 (three hundred sixty-five) days unless otherwise specified.

1. APPLICANT INFORMATION

Name of Applicant/Market Manager: _____

Name of Business: _____

Address: _____

Phone: _____ Cell: _____

Email: _____

2. LICENSE INFORMATION

Request to License : Market Mobile Food Vendor Door to Door Sales

Hawker/Peddler

Other

Hours/Days of Operation: _____

3. VENDOR INFORMATION

Provide a description of the wares in which will be sold under this license.

Please note items of a hazardous nature are not permitted to be sold within the Municipality of the Village of Burk's Falls. Any items not indicated will not be permitted for sale under this Application.

List all persons who will be associated with the License, including occasional vendor staff.

If a structure is to be established for the purpose of this license, please provide a description of the structure. Any structure that exceeds 10 feet x 10 feet square meters will require a building permit as per The Building Code.

If the applicant is not seeking a Door to Door Hawker/Peddler License, please indicate the location where the structure/market/busker will be established.

4. REQUIRED ATTACHEMINTS OF DOCUMENTATION (where applicable)

- i. Proof of valid insurance, with \$2,000,000.00 (two million) liability coverage, listing the Village as an additional insured party.
- ii. Building permit if required.
- iii. Rental Agreement with Private Property Owner
- iv. Public Health Certificate of Approval (all regulations and requirements must be met)
- v. Fire Department written approval

5. ACKNOWLEDGEMENT

I/WE hereby agree to and understand the terms and conditions set out in By-law 2017-11 and I/WE understand any non-compliance will result in the revoking of my license without a refund.

The applicant certifies that the statements contained herein are true and made with a full knowledge of the circumstances connected with the same.

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The applicant also agrees that the issuance of a license will be subject to approvals from such municipal and/or provincial departments or agencies as the Municipality deems necessary. The issuance of a license is not intended and shall not be construed as permission or consent by the

Village or the holder of the license to contravene or fail to observe or comply with any law of Canada or Ontario, or any by-law of the Village of Burk's Falls.

Any license applications which have not included all the required approvals from all municipal or provincial departments or agencies as the Village of Burk's Falls deems necessary within ninety (90) days shall constitute the applicant's failure to comply with the requirements to become licensed, and therefore shall be deemed to be a refused application.

Information collected during the license application process is collected under the Municipal Act, 2001 c. 25, as amended and will be used, maintained and disclosed in accordance with the Municipal Freedom of Information and Protection of Privacy Act, 1990, c.27. Information collected will be used by the Village of Burk's Falls in determining the suitability for licensing.

Information submitted by the applicant will be shared with municipal officials, agencies and other departments of the Village of Burk's Falls in an effort to assist with determining suitability for licensing.

AUTHORIZATION

I/WE acknowledge that employees of the Municipality of the Village of Burk's Falls may enter any licensed premises during regular hours of operation to conduct inspections and monitor facility operations to verify compliance with by-laws and regulations.

I/WE also acknowledge that **I/we** have read and understand By-law 2017-11 Section(s) 1,2 and 6, along with the license application in its entirety.

Date: _____ Date: _____

Applicants Name _____ Municipal Clerk Name _____

Applicant Signature _____ Municipal Clerk Signature _____

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SCHEDULE 'B' OF
BY-LAW NO. 11-2017
BEING A BY-LAW TO LICENSE MOBILE FOOD VENDORS, MARKETS
AND HAWKERS AND PEDDLARS

1. REFRESHMENT VEHICLE (PER VEHICLE)
(PER CALENDAR YEAR) \$500.00
2. REFRESHMENT VEHICLES THAT ARE
PULLED OR PUSHED BY HUMAN, MUSCULAR
POWER THAT SERVES ANY HOT
FOODS; (PER VEHICLE PER CALENDAR YEAR) \$ 250.00
3. REFRESHMENT VEHICLES THAT ARE PULLED OR
PUSHED BY HUMAN, MUSCULAR POWER THAT
SERVES COLD FOOD OR NON-COOKED FOOD
IN THE UNIT (PER VEHICLE PER CALENDAR YEAR) \$ 75.00
4. MOBILE FOOD VENDORS- DAILY PERMIT FEE
(PER VEHICLE) To a maximum of three days \$ 25.00 PER DAY

HAWKERS AND PEDDLARS

1. RESIDENTS \$ 200.00 ANNUALLY
2. PERSONS WHO HAVE NOT CONTINUOUSLY RESIDED
IN BURK'S FALLS FOR ONE YEAR PRIOR TO THE
APPLICATION PER 10 feet X 10 feet VENDOR SPACE \$ 250.00 ANNUALLY
3. ADDITIONAL VENDOR SPACE (10 feet by 10 feet) \$ 100.00 ANNUALLY

MARKET

1. RESIDENTS \$ 200.00 ANNUALLY
2. PERSONS WHO HAVE NOT CONTINUOUSLY RESIDED
IN BURK'S FALLS FOR ONE YEAR PRIOR TO THE
APPLICATION PER 10 feet X 10 feet VENDOR SPACE \$ 250.00 ANNUALLY
2. ADDITIONAL VENDOR SPACE (10 feet by 10 feet) \$ 100.00 ANNUALLY

BUSKER

1. ANY MANNER OR FORM OF STREET PERFORMING ANNUALLY
\$200.00