

THE CORPORATION OF THE TOWN OF IROQUOIS FALLS

BY-LAW NO. 2249/84

"Being a By-Law to license, regulate and govern
Hawkers and Peddlars."

WHEREAS The Municipal Act. R.S.O. 1980 Chapter 302, Section 230 (1) provides that Municipal Councils may pass By-Laws for licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the Municipality afterwards.

AND WHEREAS The Council of the Corporation of the Town of Iroquois Falls deems it expedient to pass a By-Law for the licensing, regulating and governing or Hawkens and Peddlars.

NOW THEREFORE The Municipal Council of the Corporation of the Town of Iroquois Falls enacts as follows:-

1. That every person who goes from place to place or to a particular place with goods, wares or merchandise for sale within the Town of Iroquois Falls, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that is to be delivered in the municipality afterwards, shall obtain a license for so doing from the By-Law Enforcement Officer.
2. That no license shall be required for hawking, peddling or selling goods, wares or merchandise:-
 - (a) to wholesale or retail dealers in similar goods, wares or merchandise, or
 - (b) 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 or his agent or employee having written authority so to do, in the municipality in which the grower, producer or manufacturer resides, or
 - (c) 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 own farm, or
 - (d) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or
 - (e) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or

(f) by persons who sell milk or cream or fluid milk to the consumer or to any person for resale.

3. That a license issued under this by-law shall be valid only from the date of its issue until December 31st. of the year of its issue and shall not be transferable.
4. That in a prosecution for a breach of this by-law the onus of proving that he does not for any of the reasons mentioned in paragraph 2 above, require to be licensed, is upon the person charged.
5. That the licensee shall at all times while carrying on his business have his license with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and on conviction is liable to a fine of not less than ONE DOLLAR (\$1.00) and not more than FIVE DOLLARS (\$5.00).
6. That if a peace officer demands the production of a license by any persons to whom this by-law applies and the demand is not complied with, it is the duty of the peace officer and he has the power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law.
7. That the license fee for a Hawker or Peddler who has resided continuously within the Municipality for at least one year prior to the application therefore shall be ONE HUNDRED DOLLARS (\$100.00).
8. That the license fee for a Hawker or Peddler who has not resided continuously within the Municipality for one year prior to the application therefore shall be FIVE HUNDRED DOLLARS (\$500.00).
9. That any person who contravenes any provisions of this By-Law except as provided in Section 5 hereof, shall be liable for a fine of not more than TWO THOUSAND DOLLARS (\$2,000.00), exclusive of costs which shall be recoverable under the provisions of the Provincial Offences Act, R.S.O. 1980 Chapter 400.

10. That By-Law Number 855/57 be and is hereby repealed.

Read a FIRST and SECOND time this 17th day of December, 1984

Read a THIRD time and passed this 17th. day of December, 1984.

LAWRENCE H. CUTTEN



SIGNED


MAYOR

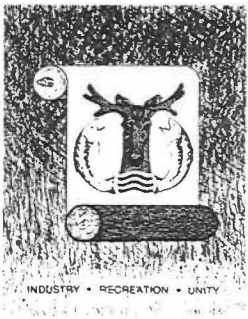
JOHN J. BUCHAN

SIGNED


CLERK ADMINISTRATOR

Certified True Copy of
By-Law No. 2249/84

CLERK



Town of Iroquois Falls

BOX 230, IROQUOIS FALLS "A", ONTARIO

P0K 1G0

RECORD

2249184
✓ By Law No. 1

G-95-92

FAX (705) 232-4241
TELEPHONE (705) 232-5700

Please refer to our

File No. _____

July 3, 1992

SELECT FOODS
c/o Gary Bennett
3068 Bancroft Drive
SUDBURY, Ontario
P3B 1V3

Dear Sir:

In regards to your letter dated May 4, 1992, requesting a reduction in the fee for our Hawkers & Peddlers licence, I regret to inform you that Council has decided to leave the fee of \$500.00 stand. This is an annual fee and it was introduced to keep non-taxed businesses out of our municipality.

If you decide to continue doing business in our municipality you will have to purchase a licence. If you are caught operating without a licence you will have to face charges.

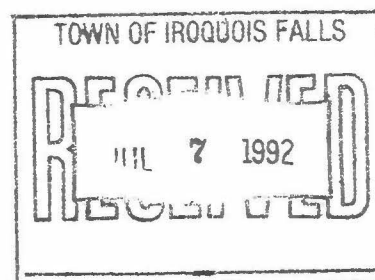
Should you have any questions please feel free to call.

Yours very truly,

RAY MOUSSEAU,
By-Law Enforcement Officer

RM:sw

c.c. - JOHN J. BUCHAN,
Clerk-Administrator ✓
- PHIL TESSIER,
Councillor



MILLS & MILLS

BARRISTERS & SOLICITORS

RALPH S. MILLS, Q.C.
RONALD N. RUDAN, Q.C.
J. PAUL MILLS, Q.C.
GARY R. REID
DOUGLAS A. QUIRT
STEPHEN J. D. CHRISTIE
NANCY E. MILLS

DONALD S. MILLS, Q.C.
ROBERT A. COBHAM, Q.C.
JAMES B. KUTCY
PAUL J. WESTLAKE
DEBRA L. STEPHENS
MARY ANNE CUMMINGS

PAUL H. MILLS, Q.C. (1921-1984)

PLEASE REPLY TO: J. Paul Mills

RECORD

20TH FLOOR, THE SIMPSON TOWER
CABLE ADDRESS: MILLSLAW TORONTO

TELEPHONE (416) 863-0125
TELEX 06-23084
TELECOPIER (416) 863-3997

BOX 20
401 BAY STREET
TORONTO, ONTARIO
M5H 2Y4

April 3, 1987

The Town of Iroquois Falls
P.O. Box 230
Iroquois Falls, Ontario
P0K 1G0

Attention: Mr. Bruce Renwick,
By-Law Enforcement Officer

Dear Sirs:

RE: Interprovincial Circulation Limited and
Your Hawkers and Pedlars By-Law

We are General Counsel to Interprovincial Circulation Limited.

We confirm Mr. Shannon's conversation with your Mr. Renwick concerning the representatives of Interprovincial who have been soliciting magazine subscriptions in your Town without obtaining a licence under the By-law passed by the Town pursuant to Section 230 of the Municipal Act. In our opinion, the representatives are not required to obtain a licence for the following reasons:

1. Magazine subscriptions do not constitute "goods, wares or merchandise"; and
2. The representatives of Interprovincial who solicit magazine subscriptions do not carry with them any goods, wares or merchandise for sale nor do they "carry and expose samples ...of any goods, wares or merchandise".

This matter has come up in many municipalities across Ontario over the years and on every occasion when we have brought the foregoing matters to the attention of the municipality, the municipality has ultimately agreed with our interpretation of the Municipal Act.

.... /2

✓ By-Law No 2249/84.

Bruce

Nautilus file



Some recent examples of such municipalities are the Town of Collingwood, the Town of Orangeville, the City of Stratford, the City of London, and the City of St. Catharines.

I am pleased to enclose a copy of a Decision of Magistrate R.B. Baxter dated September 28, 1965 and I direct you, in particular, to lines 21 to 29 on page 2 and to the Conclusion on page 3 which reads, in part: "I therefore feel that the Legislature had no intention of dealing with this problem and that the By-law does not cover the sale of magazine subscriptions...".

If you require any further or other information, please do not hesitate to contact me.

Yours truly,



J. Paul Mills

JP:ms

Enclosure

1 IN THE MAGISTRATE'S COURT OF THE PROVINCE OF ONTARIO.

2
3 BOWMANVILLE, ONTARIO.

4
5 28th September 1965.

6
7 THE hearing of this matter before Magistrate R. B.
8 Baxter.

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10 In the matter of:- ROY JAMES McLEAN.

11
12 HIS WORSHIP: This is a matter against
13 Roy James McLean in which the accused was charged
14 with selling magazines without authority to do so
15 contrary to Section 399 (1).

16 A plea of not guilty was entered by his
17 Counsel and judgment was reserved.

18 On March 25th, 1965, Mr. Roy James McLean
19 solicited for magazine subscriptions in the town of
20 Bowmanville. His method was to go from door to door
21 soliciting and issuing subscription receipts for the
22 magazines after they were sold. The accused did not
23 show any magazines or patterns, and he had not
24 obtained a license pursuant to By-Law 1909. I put in
25 as an Exhibit Bowmanville By-Law 1909, which is a
26 By-Law to license regulate and govern Hawkers and
27 Pedlars, pursuant to the revised Statutes of Ontario
28 1960, Chapter 249, Section 399 (1). The Accused is
29 charged under Section one:

30 "That every person who goes from place to
31 place or to a particular place with goods,

"wares, or merchandise for sale within the
Town of Bowmanville, or who carries and
exposes samples, patterns or specimens of
goods, wares, or merchandise which is to
be delivered in the Municipality afterwards,
shall obtain a license for so doing from the
Treasurer of the Municipality."

I expressed the opinion at the time
that Section 399 of the Municipality Act is probably in
the same state as it has been for a number of years,
and at this stage I must confess that I neglected to
look that up, but I believe that I did look it up not
very long ago, and I found that the wording is almost
the precise wording as it has been for some years,
and Section one is worded in exactly the same wording
as the Section in the Municipal Act. The problem then
is does the sale of magazine subscriptions come within
the category of "goods, wares, or merchandise for sale."
I must say that there are no decided cases I can find
directly on the point, and I could not bring myself,
in the ordinary interpretation of these words, to come
to the conclusion that "goods, wares, or merchandise
for sale" could cover this situation, and I would
therefore point out that after having read the various
sections of the Act I could not find any particular
Section that covered it, and as near as I could find the
only portion of the Act that could apply is Section
395(5). It gives the authorities of towns, villages, and
townships power to legislate in relation to licenses
governing newspapers, and to a particular location upon

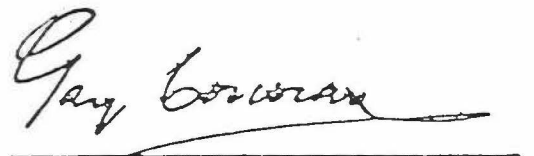
1 a Highway and for restrictions in the sale of newspapers
2 and magazines only. This section I would point out
3 follows in position Section 389, under which
4 the Hawkers and Pedlars By-Law is passed, and I would
5 therefore conclude that the Legislature in drafting
6 the Municipal Act purported to deal with this subject
7 within the municipality by placing certain restrictions
8 on Highways or Streets, which would lead one to conclude
9 they have no objection to it in other places.
10

11 I therefore feel that the Legislature
12 had no intention of dealing with this problem and that
13 the By-Law does not cover the sale of magazine subscription
14 and I dismiss the charge, and there are only two things
15 that could be done, to appeal the decision, or cover it
16 by some other Section.

17 CERTIFIED CORRECT:

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21 MAGISTRATE.

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23

24 COURT REPORTER.
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**THE CORPORATION OF THE TOWN OF
IROQUOIS FALLS BY-LAW NO. 3801/24**

*" Being a by-law to amend By-Law No 2249/84, a By-Law to license, regulate and govern
Hawkers and Peddlers. "*

- WHEREAS** The Municipal Act, 2001 S.O. 2001, c.25 (the "Act"), as amended, provides that a local municipality may license, regulate 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
- AND WHEREAS** Council deemed it expedient to pass By-Law 2249/84, for the licensing, regulating and governing of Hawkers and Peddlers.
- AND WHEREAS** Council for the Town of Iroquois Falls is desirous to amend By-Law 2249/84.

NOW THEREFORE COUNCIL FOR THE CORPORATION OF THE TOWN OF IROQUOIS FALLS ENACTS AS FOLLOWS:

1. That the following sections of By-Law 2248/84 be amended as follows:
 - Section 2. That a license shall be required for hawking, peddling or selling goods, wares or merchandise
 - a) to wholesale or retail dealers in similar goods, wares or merchandise, or
 - b) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the power, producer, manufacturer, his agent or his employee, having the written authority to do so in the municipality in which the grower, producer or manufacturer resides, or
 - c) 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 their farm, or
 - d) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or
 - e) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or
 - f) by persons who sell milk, cream, or fluid milk to the consumer or any person for resale.
 - Section 3. That a license issued under this by-law shall be valid only from the date of its issue until December 31st of the year of its issue, and renewable annually for \$35.00 and shall not be transferable.
 - Section 7. That the license fee for a Hawker, Peddler, a merchant, or anyone operating a business who has resided continuously within the municipality for at least one year prior to the application shall be \$100.00.
2. This by-law shall come into effect upon its passing.
3. That By-Law No. 2249/84 is hereby amended.
4. Read a **FIRST, SECOND** and **THIRD** time and passed this 12th day of August 2024.



TORY DELAURIER

SIGNED:

MAYOR

MAUREEN REEDER

SIGNED:

CLERK

Certified True Copy of
By-Law No. 3801/24

Clerk