



Seasonal Sales Area Bylaw

Title

1. This bylaw is entitled the “Seasonal Sales Area Bylaw.”

Purpose

2. This bylaw is intended to establish regulations for the installation and operation of seasonal sales areas on Town property in the town of Mahone Bay.
3. For other types of temporary/seasonal vending, refer to the *Temporary Vending Bylaw*.

Definitions

4. For the purposes of this bylaw, the following definitions will apply:
 - a. “Applicant” means a business owner or designate seeking or holding permits from the Town to open a seasonal sales area. This person is also signatory of all applications.
 - b. “Manager” means the Manager of Public Works and Transportation or person holding an equivalent position or a designate of the Manager to carry out the duties of the Manager as outlined in this bylaw.
 - c. “Owner” see “Applicant”
 - d. “Pedestrian Traffic” means any traffic that would normally be travelling along the sidewalk including people walking and using assistive mobility devices including walkers, motor scooters, strollers and prams, and children on bicycles with adult accompaniment. Pedestrian traffic does not include cyclists.
 - e. “Seasonal Sales Area” means an area located on Town property including on the sidewalk and/or within one or more designated on-street parking spaces in the public street right-of-way abutting the sidewalk directly in front of the retail business that is being used to display and sell items they regularly sell in their business. Food and beverage businesses may use seasonal sales areas for seating and/or eating and drinking.
 - f. “Sidewalk” means the paved or concrete path for pedestrians along the roadways of the town.

Locations and Hours of Operation

Permitted Areas

5. This bylaw covers retail or food and beverage businesses that have sidewalks and/or parking spaces directly in front of their business.

6. The seasonal sales area must be an extension of an existing business and conducted by the same business owner.

Times of Operation

7. Seasonal sales areas shall not be setup before May 1st in any calendar year.
8. Seasonal sales areas shall be removed by October 31st in any calendar year.
9. Seasonal sales areas shall be operated only during the regular operating hours of the primary business.

Dimensions and Design

10. Seasonal sales areas shall not encroach on the free flow of pedestrian traffic, requiring a 1600mm (5'3") unobstructed walkway be maintained on the regularly used sidewalk.
11. Seasonal sales areas shall not extend onto the frontage of an abutting property.
12. Seasonal sales areas shall not be built upon an accessible parking space.
13. Seasonal sales area must conform to applicable building codes and accessibility standards and to the following:
 - a. The base of the sales area must provide a smooth, level transition between the existing sidewalk and the temporary structure
 - b. Have a stable, firm, and slip resistant surface
 - c. Street traffic shall be blocked at each edge of the sales area by triangular shaped planters or other appropriate barrier, as approved by the Manager, with a minimum weight of 1000kg and minimum height 60cm. The planters shall be maintained with healthy plant materials at all times through the duration of the temporary sidewalk.
 - d. A fence or barrier must be installed along the street side of the sales area to delineate the edge of the structure and prevent pedestrians from entering the street
 - i. The fence or barrier shall be between 107cm (3ft) and 120cm (4ft) in height
 - ii. The fence/barrier may provide partial visual screen but shall not be opaque
 - iii. The fence/barrier shall not have any openings that permit the passage of a sphere over 13mm in diameter
 - iv. Minimum edge protection of 100mm
14. A public barrier separating the seasonal sales area from pedestrian traffic is required of the business has a license to serve alcohol that includes:
 - a. minimum height of 1.0m
 - b. minimum edge protection of 100mm
15. All parts of the seasonal sales areas (tables, chairs, umbrellas, awnings, etc.) shall be contained in the approved area.
16. Any lighting of the seasonal sales area shall be of a temporary nature and shall not project light onto adjacent properties, not conflict with traffic control indicators or cause potential negative impacts to drivers using the street.

17. Landscaping of the area is encouraged but must be temporary in nature.
18. All elements of the seasonal sales area shall be designed and finished to a standard that is consistent with the general appearance of the surrounding area.
19. All elements of the seasonal sales area shall be maintained in good repair and free from hazards.

Application and Permitting Requirements

20. All seasonal sales areas require a permit. The applicant for a Seasonal Sales Permit shall complete and application in a form prescribed on the Town website.
21. The application shall be accompanied by a site plan (drawn to scale) showing the delineated area of the proposed seasonal sales area including the placement and number of items and accessories to be located within the area. The plan should include the placement of utility poles, hydrants, traffic signs or any other element that is located within 2 metres of the edge of the seasonal sales area
22. The owner must pay the applicable permit fee with the submission of the application
23. The review and permit initial decision will be completed within 30 days of receipt of a complete application (all elements received and application fee paid)
24. Any other permits required are the responsibility of the applicant prior to installation.
25. When a permit application is approved, the Manager will advise the adjacent property owners of the seasonal sales area.
26. The permit must be displayed at the site of the seasonal sales area.

Access and Maintenance

27. The seasonal sales area owner shall maintain the seasonal sales area and the immediately adjacent area in a clean and safe condition, free of hazards of all times.
28. The owner shall ensure any refuse originating in the seasonal sales area is removed from the street right-of-way.
29. The owner shall maintain an unobstructed pathway or a minimum of 1600mm to the entrance of the main retail outlet.
30. The Town and the public utility agencies retain the right of entry to the seasonal sales area and associated structures for the installation, maintenance and repair of any utility related elements as may be necessary.
31. In case of emergency, entry shall be made without notice. For scheduled work, a minimum of 48 hours notice will be given.
32. The Town retains the right of entry to seasonal sales areas for emergency vehicle access.

Insurance

33. The owner of a seasonal sales area must carry a minimum of \$2,000,000 liability insurance for the operation of the area naming the Town as insured and must indemnify the Town of Mahone Bay save it harmless from any and all claims of

injury to persons or damage to property attributable in whole or in part to the existence, location, and operation of a seasonal sales area in the public right-of-way.

34. The Town of Mahone Bay shall be notified 30 days prior to the cancellation of this insurance.

Revocation or Suspension of a Permit

35. The Manager may suspend or revoke a seasonal sales area permit if:
 - a. The owner fails to comply with any term or condition of the Seasonal Sales Area Bylaw
 - b. The permit was issued in error, or the permit was issued based on incorrect information
 - c. The continued operation of the seasonal sales area unreasonably interferes with the ability of the Town, or any utility, to have access to carry out improvement or maintenance of any municipal infrastructure
36. If an application is refused or a permit is suspended or revoked, the owner will be provided with a letter detailing the reasons for the action, the required changes and a time frame in which to comply.
37. Should the seasonal sales area permit be revoked, or otherwise expire, and the owner does not remove the area in the time prescribed, the Town may take such actions deemed necessary to have the seasonal sales area removed. In this instance, the owner will reimburse to the Town the cost of removal.
38. The fee for a Seasonal Sales Area is set in the *Fees Policy*.

Appeal

39. If the owner complies to the satisfaction of the Manager, the permit will be granted and if the owner does not comply to the satisfaction of the Manager, the permit will not be granted
40. If an owner is not satisfied with the decision of the Manager to deny or revoke a permit, the owner may provide a request to Council to be heard, Council will hear from the owner, and will deliver a written decision, through the Chief Administrative Officer or Clerk within 15 days:

Penalties

41. Any person who contravenes this bylaw shall be liable, upon summary conviction, to a penalty not less than \$250.00 and not exceeding \$5,000.00 and in default of payment, to imprisonment for a period not exceeding thirty (30) days.
42. Every day during which any such contravention or failure to comply continues shall be deemed a fresh offence.

Clerk's Annotation for Official Bylaw Book

Date of First Reading _____

Date of Second Reading _____

Effective Date of Bylaw _____

Town Clerk

Date

CLERK'S NOTATION

First Reading:	
"Notice of Intent" Publication:	
Second Reading:	
Ministerial Approval:	
Date of Publishing:	
Forwarded to the Minister:	
Forwarded to Town Website:	