



Temporary Vending Bylaw

Title

1. This bylaw is entitled the “Temporary Vending Bylaw”

Purpose

2. This bylaw is intended to establish regulations on vending in the Town of Mahone Bay as permitted in the *Municipal Government Act*, Section 173.

Definitions

3. For the purposes of this bylaw, the following definitions shall apply:
 - a. “Busking” means providing entertainment in a public place, not for a set fee, but with the expectations that members of the public may choose to make a donation for the entertainment
 - b. “Community Group” means a group or organization that works to carry out activities that will benefit a particular group and/or the town as a whole
 - c. “Council” means the Mayor and Councillors of the Town of Mahone Bay
 - d. “Crosswalk” means a portion of a street that is designated for pedestrians to cross, marked by painted lines or other surface markings, location at an intersection or areas where sidewalks meet on opposite sides of the street
 - e. “Expressed Permission” means a written statement to the Town giving permission to a specific vendor or set of vendors to vend on their property.
 - f. “Market” means a regular outdoor vending location, operated for a maximum of one day per week, with multiple vendors, coordinated under a single organizing group
 - g. “Mobile Canteen” means a vehicle used for the display, preparation or sale of food or beverages by a mobile vendor
 - h. “Not for Profit” means an organization operated on a cost-recovery basis and not seeking profit
 - i. “Premises” means any place of business or place which the public has access
 - j. “Public Place” means roadways, sidewalks, parks and trails, cemeteries and to not restrict the generality hereof, all lands, structures and facilities owned by or leased to the Town, including the grounds, parking lot and any adjacent sidewalk to such lands, structures or facilities
 - k. “Private Property” means any real property within the Town of Mahone Bay not owned by the Town.

- l. “Roadway” means that portion of a public right of way between the regularly established curb lines or that part improved and intended to be used for vehicular traffic;
- m. “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.
- n. “Sidewalk” means that portion of a public right of way between the curb line and adjacent property line or any part of the roadway especially set aside for pedestrian travel and separated from the roadway;
- o. “Stand or Mobile Stand” means an outdoor table, showcase, bench, rack, without the assistance of a motor, and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a vendor;
- p. “Town” means the Town of Mahone Bay;
- q. “Vehicle” means any vehicle required to be licensed and registered pursuant to the Motor Vehicle Act of Nova Scotia as well as any vehicle propelled by human power, whether required to be licensed or not;
- r. “Vending” means the sale and offering for sale of food, beverages or other merchandise or services from outside of an enclosed building, in a public place or on private property in the Town of Mahone Bay but, for greater clarity, does not include busking, door-to-door sales or yard sales;
- s. “Vendor” means an owner, agent, operator or employee of a vending business, including mobile vendors;
- t. “Yard Sale” means an occasional sale of personal property held at the home of the seller in a residential area. May also be referred to as a garage sale.

Terms

- 4. All temporary vending in the Town of Mahone Bay requires a Temporary Vending Permit unless otherwise exempt in this bylaw.
- 5. Temporary Vending Permit applications must be submitted as prescribed on the Town website.
- 6. For regulations on Seasonal Sales Areas, please see the *Seasonal Sales Area Bylaw*.

Vending Categories

- 7. Mobile Canteens
 - a. Permitted on private property with a Temporary Vending Permit and expressed permission of the property owner.
 - b. Permitted on public property with a Temporary Vending Permit when part of a Special Event – see *Special Event Bylaw*
 - c. Mobile Canteens must present their Provincial Health certification
 - d. Mobile canteens must present their current Motor Vehicle Registration

- e. Mobile Canteens must be able to demonstrate that their vehicle is able to be moved
 - f. Mobile Canteens must present proof of one-million dollars (\$1,000,000) of liability insurance
 - g. Mobile Canteens must adhere to the following safety precautions:
 - i. Combustible media must not be used in an enclosed space
 - ii. Cooking equipment must not be left unattended while it is still hot
 - iii. Adhere to all fire and life safety regulations
 - iv. Ensure that all safety precautions are followed for cooking equipment
 - v. Subject to all terms and conditions of this bylaw.
8. Stands or Mobile Stands
- a. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner
 - b. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the *Special Events Bylaw*.
 - c. Subject to all terms and conditions of this bylaw.
9. Fundraising Events for not-for-profit community groups
- a. Permitted on private property subject to expressed permission of the property owner
 - b. Permitted on public property per the *Facilities Booking Policy*.
 - c. Subject to all terms and conditions of this bylaw
 - d. The use of a market as a fundraising event follow the regulations set out in the "Market" section of this bylaw.
10. Mobile vending of alcohol and alcoholic products
- a. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner
 - b. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the *Special Events Bylaw*
 - c. Mobile vendors offering alcohol or alcoholic products must present a provincial liquor license
 - d. Mobile vendors offering alcohol or alcoholic products for consumption on premises must present proof of five million (\$5,000,000) of liability insurance
 - e. Mobile vending of alcohol and alcoholic products are subjects to the terms and conditions of this bylaw.
11. Mobile Vendor Space
- a. A business operating a permanent location in the Town of Mahone Bay may obtain an annual permit for a Mobile Vendor Space located on the same property, which they may make available to temporary vendors.
 - b. Vendors located in the Mobile Vendor Space are exempt from the requirement to obtain a permit under this bylaw (other terms and conditions of this bylaw still apply)
 - c. A Mobile Vendor Space located on a sidewalk is considered a seasonal sales area and must meet the requirements set forth in the *Seasonal Sales Area Bylaw*

- d. It is the responsibility of the Mobile Vendor Space permit holder to ensure that vendors using the space adhere to the terms and conditions of this bylaw. Any contraventions of this bylaw will be the responsibility of the Mobile Vendor Space permit holder.
- e. No more than one Mobile Vendor Space permit shall be issued to a single business at a time.
- f. No Mobile Vendor Space permit will be issued for a location outside of a commercial zone except for a property outside of a commercial zone permitted to operate a business in accordance with a Development Agreement.

12. Market

- a. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner
- b. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined in the *Special Events Bylaw*
- c. No more than one market may be permitted per property per calendar year
- d. Application may be made to Council for more than one market per property per calendar year
- e. It is the responsibility of the Temporary Vending permit for a Market holder to ensure that vendors using the space adhere to the terms and conditions of this bylaw. Any contraventions of this bylaw will be the responsibility of the Mobile Vendor Space permit holder.
- f. A market must be located in compliance with any existing development agreements or development permits and *Land-Use Bylaw*.

General

13. No person, with or without a Temporary Vending Permit or occupying a Mobile Vendor Space, shall:

- a. Vend between 10:00pm and 10:00am of the following day
- b. Occupy a vending location before 9:30am or after 10:30 pm
- c. Leave any stand or mobile canteen unattended on public property
- d. Vend to persons in motor vehicles
- e. Vend within 3 metres of a fire hydrant or fire exit
- f. Vend on public property within 10 metres of any driveway entrance to a police or fire station, or within 3 metres of any driveway entrance
- g. Vend within 3 metres of any crosswalk
- h. Be in contravention of the Town of Mahone Bay *Noise Bylaw*
- i. Vend with any type of lighting that is directed toward, or in any way negatively impacting neighbouring properties
- j. Sell anything other than what is included in the Temporary Vending Permit
- k. Sell anything that is threatening, obscene, racist, and/or otherwise discriminatory

14. No vender shall vend in an obstructive manner, which may include but not be limited to:

- i. Restrict the access to or from an adjacent property
 - ii. Obstruct pedestrian traffic
 - iii. Increase traffic congestion
 - iv. Create traffic hazards
 - v. Obstruct a roadway
 - vi. Create a line of pedestrians waiting to become customers in an unsafe area
15. Temporary vendors are permitted to install a maximum of one (1) portable sign under the following conditions
 - a. The sign shall be placed within 3.5 metres of the vending location
 - b. Shall be not more than one (1) metre in height and not more than 0.6 metres wide
 - c. Must be of a stable design so that it can reasonably be expected to withstand regular weather conditions
 - d. Must be removed if weather conditions prevent it from remaining in place
 - e. Surfaces and finish must be well maintained

Waste Disposal

16. Vendors are responsible to ensure that appropriate solid waste receptacles are provided immediately adjacent to the vending operation. The receptacles shall be emptied on a regular basis to prevent overflow and spillage.
17. Vendors shall dispose solid waste in accordance with the *Solid Waste Management By-law*
18. Vendors shall pick up, remove, and properly dispose of all recyclables, litter, and trash associated in any way with the vending activity, including emptying litter and recycling receptacles before leaving any vendor location
19. Vendors shall ensure that no waste products are dumped in Town sewers or storm sewers.

Location

20. A vendor may only engage in temporary vending at the location specified on the Temporary Vending Permit, provided they are in compliance with the terms and conditions of this bylaw.
21. Temporary Vending Permits for locations outside of a Commercial Zone (or a property outside of a commercial zone permitted to operate a business under a Development Agreement) are restricted to a one-week maximum duration.
22. Only one Temporary Vending Permit a month may be issued to an individual vendor for a location outside a Commercial Zone (or a property outside a commercial zone permitted to operate a business under a Development Agreement)
23. Temporary Vending Permits will not be issued for vending in a Residential Zone

Exemptions

24. The following activities shall be exempt from the requirement to obtain a Temporary Vending Permit per this bylaw (other terms and conditions still apply)
 - a. Vending undertaken as a fundraiser for not-for-profit groups engaged in sporting, educational, or volunteer activities.
 - b. Businesses operating a permanent location within the Town of Mahone Bay when setting up a temporary vending location elsewhere.
25. The following activities shall be exempt from the terms and conditions of this bylaw:
 - a. Busking in public places provided that the activities do not interfere with the use of public space
 - b. Door to door sales
 - c. Home based sales involving private residence, invitation-only events and activities
 - d. Yard sales provided that
 - i. Articles for sale only include the tangible personal property of the residents conducting the sale
 - ii. There shall be no more than four (4) yard sales on any property per calendar year
 - iii. Yard sales shall not last longer than four (4) consecutive days
 - iv. Yard sales shall be conducted during daylight hours
 - e. Sale of homemade products on private property with the expressed permission of the property owner and subject to the terms of the *Land-Use Bylaw*

Issuing a Permit

26. Authorized Town of Mahone Bay staff will issue permits under this bylaw under compliance with all requirements and payments of prescribed fees contained in the *Fees Policy*.
27. A Temporary Vending Permit issued under this bylaw shall be specific to that person, business, or organization to which it is issued and shall not be transferrable.
28. A Temporary Vending Permit issued under this bylaw shall be conspicuously displayed to always be clearly visible from the roadway during which goods or services are being offered for sale.
29. A Temporary Vending Permit issued under this bylaw shall specify the food, beverages, merchandise, and/or services to be sold under the permit.
30. A sponsoring individual, group or organization may obtain a permit or permits for multiple vendors to be located at a specific location.
31. A Temporary Vending Permit shall remain in effect for the period stated thereon. Temporary Vending Permits may be issued for varying lengths of time with corresponding fees as contained in the *Fees Policy*.
32. In addition to the requirements contained in this bylaw, a vendor shall have in effect all permits required by any other applicable Municipal, Provincial, and Federal statute, regulation, or licensing.

33. It shall be an offense for any person to make a false statement in their application for a permit under this bylaw.

Cancellation of a Permit

34. Where it is found that a vendor is in violation of the Temporary Vending Permit, the Town may cancel the permit or suspend the permit until conditions are met.
35. Where it appears to the Council that it is in the public interest to do so, Council may, by motion, instruct Town staff to cancel any permit issued under this bylaw.
36. Town of Mahone Bay staff will notify the holder of the Temporary Vending Permit of any cancellation or revocation via letter (mail or email) to the address provided on the application.

Penalties

37. Any person found to be in violation of the terms and conditions of this bylaw may be held liable, and, on the discretion of Town staff may
 - a. have their permits revoked with no refund of associated fees
 - b. Not be issued subsequent permits from the Town of Mahone Bay or be barred from applying for Town permits for a fixed period of time
 - c. Be required to cease vending activities
 - d. Be reported to the RCMP if necessary
38. Any person who contravenes any provision of this bylaw is punishable on summary conviction by a fine of not less than two hundred (\$200) dollars and not more than one thousand (\$1,000) dollars.

Severability

39. A decision by a court that any part of this bylaw is illegal, void, or unenforceable severs that part, and does not affect the enforceability of the remainder of the bylaw.

Repeal

40. On the effective date of this bylaw, the *Temporary Vending By-Law* dated September 2020 is hereby repealed.

Clerk's Annotation for Official Policy Book

Date of notice to Council Members of Intent to Consider
[minimum 7 days notice] _____

Date of Passage of Policy _____

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:	