

## 1. Title

This By-law shall be known as the Temporary Vending By-law.

## 2. Purpose

Whereas Section 173 of the Municipal Government Act enables a municipality to regulate temporary vending by enacting a by-law, the Town of Mahone Bay is enacting this by-law to ensure a fair and transparent process to permit vending within the town of Mahone Bay.

## 3. Definitions

In this By-law:

- a. **Busking** means providing entertainment in a public place, not for a set fee, but with the expectation 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 that portion of a roadway ordinarily included within the prolongation or connection of curb lines or the edge of a roadway and property lines at intersections or any portion of a roadway and property lines at intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines or other markings on the road surface;
- e. **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;
- f. **Mobile Canteen** means a motorized vehicle used for the display, preparation or sale of food or beverages by a mobile vendor;
- g. **Not for Profit** means an organization operated on a cost-recovery basis and not seeking profit;
- h. **Permit** means a Temporary Vending Permit issued pursuant to this By-law;
- i. **Premises** means any place of business, or place to 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. **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;
- n. **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;
- o. **Town** means the Town of Mahone Bay;
- p. **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;
- q. **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;
- r. **Vendor** means an owner, agent, operator or employee of a vending business, including mobile vendors;
- s. **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.

#### 4. General Requirements

##### 4.1 Permit Required to Vend

No person shall vend in the Town without a permit, except as where specifically exempted by this by-law.

##### 4.2 Vending Categories

###### a. Mobile Canteens

- i. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner

- ii. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the Town of Mahone Bay Special Event By-law
- iii. Mobile Canteens must present their current Provincial Health certification
- iv. Mobile Canteens must present their current Motor Vehicle Registration
- v. Mobile Canteens must be able to demonstrate that their vehicle is able to be moved
- vi. Mobile Canteens must present proof of one million dollars (\$1,000,000) of liability insurance
- vii. Mobile Canteens must adhere to the following safety precautions:
  - a. Combustible media must not be used in an enclosed space
  - b. Cooking equipment must not be left unattended while it is still hot
  - c. Adhere to all fire and life safety regulations
  - d. Ensure that all safety precautions are followed for cooking equipment
  - e. Subject to all terms and conditions of this By-law.

b. Stands or Mobile Stands

- i. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner.
- ii. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the Town of Mahone Bay Special Event By-law.
- iii. Subject to all terms and conditions of this By-law.

c. Fundraising Events for not-for-profit community groups

- i. Permitted on private property subject to express permission of property owner;
- ii. Permitted on public property subject to approval of Mahone Bay Town Council;
- iii. Subject to all terms and conditions of this By-law.

d. Mobile Vending of alcohol and alcoholic products

- i. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner
- ii. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the Town of Mahone Bay Special Event By-law
- iii. Mobile vendors offering alcohol and alcoholic products must present provincial liquor license

- iv. Mobile vendors offering alcohol and alcoholic products for consumption on premises must present proof of five million dollars (\$5,000,000) of liability insurance.
  - v. Mobile vending of alcohol and alcoholic products are subject to the terms and conditions of this by-law.
- e. Mobile Vendor Space
- i. A business operating at 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
  - ii. Vendors located in the Mobile Vendor Space are exempt from the requirement to obtain a permit under this By-law (other terms and conditions of the By-law still apply)
  - iii. 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 By-law
  - iv. No more than one Mobile Vendor Space permit shall be issued to a single business at a time and no permit will be issued for a location outside of a commercial zone (or a property outside of a commercial zone where a business has been permitted to operate in accordance with a Development Agreement)
- f. Market
- i. Permitted on private property subject to a Temporary Vending Permit and expressed permission of the property owner
  - ii. Permitted on public property subject to a Temporary Vending Permit when part of a Special Event as defined by the Town of Mahone Bay Special Event By-law
  - iii. Permitted on public property subject to a Temporary Vending Permit and expressed permission of Council
  - iv. No more than one market may be permitted per property per calendar year
  - v. The holder of the market permit must ensure that vendors using the space adhere to the terms and conditions of this by-law
  - vi. A market must be located in compliance with any existing development agreements or development permits
  - vii. Application may be made to Council for more than one market per property per calendar year.

#### 4.3 Conditions Applicable to Vending Generally

- a. No person shall vend in the town except in accordance with the terms and conditions of a Temporary Vending Permit and/or the terms and conditions of this by-law.
- b. No person, with or without a Temporary Vending Permit, shall:
  - i. Vend between 10:00pm and 10:00am of the following day;
  - ii. Occupy a vending location before 9:30am or after 10:30pm;
  - iii. Leave any stand or mobile canteen unattended on public property;
  - iv. Vend to persons in motor vehicles;
  - v. Vend within 3 metres of a fire hydrant or a fire exit;
  - vi. 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;
  - vii. Vend within 3 meters of any crosswalk;
  - viii. Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public or cry their wares to the disturbance of the public;
  - ix. Vend in an obstructive manner which would include but not be limited by:
    - a. The restricting of the ingress or egress of the abutting property owner or tenant;
    - b. Obstructing pedestrian traffic
    - c. Increasing traffic congestion or delay;
    - d. Constituting a hazard to traffic;
    - e. Obstruct a roadway;
    - f. Vend when customers or people apparently waiting to become customers are standing in a roadway
  - x. Install more than one (1) portable sign.
    - a. The portable sign shall be placed within 3.5 metres of the vendor location; and
    - b. shall be no more than one (1) metre in height and not more than 0.6 metres in width; and
    - c. must be of 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
  - xi. Vend with any type of lighting that is directed toward, or in any way negatively impacting neighbouring property owners;
  - xii. Sell anything other than that which is included in the Temporary Vending Permit

- xiii. Sell anything that is threatening, obscene, racist and/or otherwise discriminatory.

## 5. Waste Disposal

- 5.1 Vendors are responsible to ensure that appropriate solid waste receptacles are provided immediately adjacent to the vending operation. The facilities shall be emptied on a regular basis to prevent overflow and spillage.
- 5.2 Vendors shall dispose of solid waste in accordance with methods prescribed in the Town of Mahone Bay Solid Waste Management By-law.
- 5.3 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.
- 5.4 Vendors shall ensure that no waste products are dumped in Town sewers or storm sewers.

## 6. Location

- 6.1 A vendor may engage in temporary vending only at the location specified on the Temporary Vending Permit, and provided that the vendor is in compliance with the other terms and conditions of this By-law.
- 6.2 Temporary Vending Permits for locations outside of a Commercial Zone (or a property outside of a commercial zone where a business has been permitted to operate in accordance with a Development Agreement) are restricted to a one-week maximum duration.
- 6.3 Only one Temporary Vending Permit a month may be issued to an individual vendor for a location outside of a Commercial Zone (or a property outside of a commercial zone where a business has been permitted to operate in accordance with a Development Agreement).
- 6.4 Only one Temporary Vending Permit a month may be issued for an individual property outside of a Commercial Zone (or a property outside of a

commercial zone where a business has been permitted to operate in accordance with a Development Agreement).

- 6.5 Temporary Vending Permits will not be issued for vending in a Residential Zone.

## 7. Exemptions

- 7.1 The following activities shall be exempt from the requirement to obtain a permit under this By-law (other terms and conditions of the By-law 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.
- 7.2 The following activities shall be exempt from the terms and conditions of this By-law:
- a) Busking in public places provided that
    - i. Busking 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 shall include only the tangible personal property of the residents conducting the sale;
    - ii. There shall be no more than four yard sales on any property during each calendar year;
    - iii. Yard sales shall not last longer than four consecutive days; and
    - iv. Yard sales shall be conducted only during daylight hours between sunrise and sunset.
  - e) Sales of homemade products (e.g. lemonade stands) on private property with the expressed permission of the property owner and subject to the terms of the Land Use By-law that refer to Yard Sales. This includes previously prepared food products that are not required to be permitted under Provincial Food Safety Regulations.

## 8. Issuing a Permit

- 8.1 A Temporary Vending Permit issued under this By-law shall be specific to that person, business, or organization to which it is issued and shall not be transferrable.
- 8.2 A Temporary Vending Permit issued under this By-law shall be conspicuously displayed so as to be clearly visible from the roadway at all times during which goods or services are being offered for sale pursuant to this by-law.
- 8.3 To obtain a Temporary Vending Permit to provide for sale goods or services within the Town of Mahone Bay vendors are required to obtain a Temporary Vending Permit in accordance with this By-law by making application to the Town of Mahone Bay. Authorized Town of Mahone Bay staff will issue permits under this By-law upon compliance with all requirements and payment of prescribed permit fees, contained in Appendix A: Schedule of Fees.
- 8.4 A Temporary Vending Permit issued under this By-law shall specify the food, beverages, merchandise, and/or services to be sold under the permit.
- 8.5 A sponsoring individual, group or organization may obtain a permit or permits for multiple vendors to be located at a specific location.
- 8.6 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 outlined in this By-law.
- 8.7 In addition to the requirements contained in this By-law, a vendor shall have in effect all permits required by any other applicable Municipal, Provincial, and Federal statute, regulation, or licensing.
- 8.8 It shall be an offense for any person to make a false statement in their application for a permit under this By-law.

## 9. Cancellation of a Permit



- 9.1 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.
- 9.2 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 By-law.
- 9.3 Town of Mahone Bay staff will notify the holder of the Temporary Vending Permit of any cancellation or revocation via mail to the address provided on the application.

## 10. Penalty

- 10.1 Applicants who are found to be in violation of the terms and conditions of this by-law may be held liable, and, on the discretion of Town staff, may:
- a. have their permit(s) revoked by the Town of Mahone Bay;
  - b. be served with a Summary Offense Ticket;
  - c. not be refunded their permit fee;
  - d. not be issued subsequent permits within the Town of Mahone Bay;
  - e. be barred from applying for a permit within the Town of Mahone Bay for a fixed period of time;
  - f. be interrupted in their activity and be required to cease trade; and
  - g. be reported to the RCMP for activities which are in violation of the Criminal Code of Canada
- 10.2 Any person who contravenes any provision of this By-law 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.

## 11. Severability

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

## 12. Force and Effect

This By-law is to come into effect and take effect on January 1, 2021.

**This by-law shall repeal and supersede any and all previous regulations and/or by-laws held by the Town of Mahone Bay regarding the vending of goods and services.**

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David W. Devenne, Mayor

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Maureen Hughes, Town Clerk

This is to certify that the foregoing is a true copy of the by-law passed at a duly convened meeting of the Council of the Town of Mahone Bay, held the 8th day of September 2020.

Given under the hand of the Mayor and the Town Clerk and the seal of the Town of Mahone Bay this 17th day of September 2020.



## CLERK'S NOTATION

|                                 |                    |
|---------------------------------|--------------------|
| First Reading:                  | July 14, 2020      |
| "Notice of Intent" Publication: | July 22, 2020      |
| Second Reading:                 | September 8, 2020  |
| Ministerial Approval:           | N/A                |
| Date of Publishing:             | September 11, 2020 |
| Forwarded to the Minister:      | September 17, 2020 |
| Forwarded to Town Website:      | September 18, 2020 |

