



# VENDING BY-LAW

## CHAPTER 71

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### Title

1. This By-Law is entitled the “Vending By-Law”.

### Definitions

2. In this By-Law:
  - (1) “abutter” means the owner, lessee or occupier of any premises or lot in the Town which abuts a Town street;
  - (2) "DO" means the Development Officer for the Town or their delegate;
  - (3) "CAC" means the Council Advisory Committee for the Town;
  - (4) “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 clearly indicated for pedestrian crossings by lines or other markings on the road surface;
  - (5) “flea market” means an outdoor market at which persons sell new or used merchandise to the public, and such persons may be rented or provided space at the market for a fee or rent, but does not include a yard sale;
  - (6) “linear metres” means the length of the longest dimension of a fixed stand;
  - (7) "mobile canteen" means a motorized vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;
  - (8) “mobile stand” means a stand having any wheels with a diameter in excess of 10 cm or having or designed to have removable wheels of such diameter, and each such stand capable of being moved as a separate unit shall be counted as a separate mobile stand, and includes a "pedal stand" propelled by the driver using pedals;

- (9) “non-mobile stand” means a stand that is not a mobile stand;
- (10) “owner” of land means a part owner, joint owner, tenant in common, or joint tenant of the whole or any part of the land and, in the absence of proof to the contrary, means the person assessed for the land;
- (11) “peddle” means to travel about selling wares;
- (12) “public places” means:
- (a) streets;
  - (b) property owned by the Town;
  - (c) property owned by the Province of Nova Scotia that is open to the public; and
  - (d) public parks and trails; and
- “in, on or near a public place” includes locations that are
- (e) driveways, parking lots, and vacant or undeveloped lots any portion of which is within 25 metres of a public place;
  - (f) within 25 metres of a public place; or
  - (g) visible from a public place;
- (13) “roadway” means that portion of a street between the curb lines or the traveled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- (14) “sidewalk” means that portion of a street between the curb line and adjacent property line or any part of the street especially set aside for pedestrian travel and separated from the roadway;
- (15) "sidewalk café" has the meaning attributed to it in Policy Statement G-29;
- (16) "stand" includes a table, showcase, bench, rack, pushcart, wagon or wheeled vehicle or device that can be moved without the assistance of a motor and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a mobile vendor;

- (17) "street" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith;
- (18) "Town" means Town of Kentville, a body corporate pursuant to the Municipal Government Act;
- (19) "vend" or "vending" means the sale, or offering for sale, outside an enclosed building of
  - (a) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them;
  - (b) services, unless they are provided in a building;
 and includes busking, but does not include permitted activities associated with a sidewalk café;
 

and
- (20) "yard sale" means a sale of surplus household goods by the occupants or neighbours of the residential property at which the sale is carried on.

**Vending on Abutting Streets or Land**

- 3. On the sidewalks on the streets identified in Schedule "A" to this By-Law, and on properties abutting them, vending carried out at non-mobile stands by abutters who operate a retail commercial enterprise in the abutting property, during the hours that the abutting retail commercial enterprise is open for business does not contravene this By-Law if it is carried out in compliance with section 15 of this By-Law, and the onus of proving this is upon the vendor.
- 3.1 Vending at a yard sale does not contravene this By-Law if it is carried out in compliance with section 15 of this By-Law, and the onus of proving this is upon the vendor.

**Prohibition**

- 4. Except as expressly authorized by sections 3 and 3.1 of this By-Law, no person shall
  - (a) vend at flea markets in the Town except in accordance with the terms and conditions of a Vending Permit;
  - (b) vend in, on or near a public place in the Town except in accordance with the terms and conditions of a Vending Permit;

- (c) peddle in the Town except in accordance with the terms and conditions of a Vending Permit.
5. In accordance with, and subject to, the provisions of this By-Law, Vending Permits may be obtained for:
- (1) the vending of food and beverages at mobile canteens and pedal stands on streets and at specifically identified other locations;
  - (2) the vending of food and beverages and other merchandise or services at stands at specifically identified locations;
  - (3) the vending of merchandise at flea markets;
  - (4) busking; and
  - (5) peddling.
6. All Vending Permits shall be obtained by application to the DO. The application for a Vending Permit, or an amendment to a Vending Permit, shall be made in writing, in duplicate, on such form as may be specified by the DO from time to time, and signed by the person applying therefore. Every application for a Vending Permit or an amendment to a Vending Permit shall contain the following information:
- (1) the name, postal and civic address and phone number of the applicant;
  - (2) the maximum number of
    - (a) mobile canteens;
    - (b) mobile stands;
    - (c) linear metres of non-mobile stands;
    - (d) square metres of flea market space for which a Vending Permit is sought;
    - (e) buskers; and
    - (f) peddlers.
  - (3) whether the application is for a permit:

- (a) for a period of 3 months or less, and, if so, the dates of the period for which the permit is sought; or
  - (b) for one occasion on less than 10 days in any year, and if so, the dates for which the permit is sought; or
  - (c) for a flea market, and if so, the dates for which the permit is sought.
- (4) in the case of permits for mobile canteens:
- (a) the provincial motor vehicle registration number and description by make, model, and year of any vehicles to be used by the applicant as a mobile canteen;
  - (b) confirmation that the applicant will only operate or allow the operation of the mobile canteen in accordance with all requirements pursuant to the *Health Act*, *Motor Vehicle Act* and other applicable legislation;
  - (c) a description of the foods and beverages to be sold at each mobile canteen;
  - (d) a description of the areas in the Town in which each mobile canteen will sell food and beverages to the public;
  - (e) a photograph of each mobile canteen;
- (5) in the case of permits for stands:
- (a) where the stand is to be used for the sale of foods and beverages, confirmation that the applicant will only operate or allow the operation of the stand in accordance with all requirements pursuant to the *Health Act* and other applicable legislation;
  - (b) a description of the foods and beverages or other merchandise or services to be sold at each stand;
  - (c) where the stand is a mobile stand:
    - (i) a description of the areas in the Town in which each mobile stand will sell food and beverages to the public; and
    - (ii) a photograph of each mobile stand or, where several stands have the same appearance, of each type of mobile stand;

- (d) where the stand is a non-mobile stand:
    - (i) the precise location, described by civic address and a plan diagram showing the sidewalk dimensions and all other dimensions relevant to the provisions of this By-Law, at which the stand will be operated; and
    - (ii) the maximum dimensions of the stand and a description of whether it is a table, bench, showcase, or rack;
  - (6) in the case of permits for flea markets:
    - (a) the precise location, described by civic address; and
    - (b) the maximum dimensions of the product display space;
  - (7) in the case of permits for busking:
    - (a) a description of the entertainment to be provided;
    - (b) the precise location described by a civic address and a plan diagram showing the sidewalk dimensions and all other dimensions relevant to the provisions of this By-Law, at which the busking will be performed;
  - (8) in the case of permits for peddling, a description of the wares being sold;
  - (9) the permit fee pursuant to section 7; and
  - (10) where applicable, the civic address of any public places other than streets at which the applicant seeks permission to vend, along with written authorization from the owner of such land for the vending to occur there.
7. The fee for a Vending Permit shall be as shown in Schedule "B" to this By-Law.
  8. A Vending Permit shall not be issued in respect of vending goods or services or peddling wares that are not permitted to be vended or peddled, or the vending or peddling of which is regulated by Federal, Provincial statutes or regulations or by-laws of the Town, except in accordance with such regulatory requirements, and compliance with such regulatory requirements shall be deemed to be a term and condition of every Vending Permit.
  9. Subject to the other provisions of this By-Law, the DO shall issue a separate numbered Vending Permit, containing terms and conditions consistent with this By-Law and the permit application, for each peddler, mobile stand, flea market, or

- mobile canteen and for each non-mobile stand location, and for each busking group performing together, which complies with the requirements of this By-Law.
10. A Vending Permit shall remain in effect for the period stated thereon but, in any event, shall terminate not later than three months from the date of issuance.
  11. The DO may refuse to issue, or amend, or may revoke or suspend a Vending Permit for breach of this or any other By-Law or of the terms or conditions of a Permit upon notice to an applicant or permit holder.
  12. A person aggrieved by a decision of the DO pursuant to section 11 may appeal that decision to CAC within 10 days of its mailing to the applicant or permit holder, by written notice of appeal to the DO.
  13. After the hearing of an appeal, CAC may confirm, rescind or vary the decision of the DO.
  14. A Vending Permit issued under this By-Law shall be conspicuously displayed on the mobile stand, flea market or mobile canteen or on or next to a non-mobile stand to which it relates so as to be clearly visible from the street at all times during which goods or services are being offered for sale pursuant to this By-Law. A peddler shall carry the Vending Permit with him or her at all times while peddling and shall produce it upon request.
  15. No person, with or without a Vending Permit, shall:
    - (1) vend or peddle in any area of the Town listed in Schedule "C" to this By-Law;
    - (2) vend within 100 metres of the grounds of any school between 1/2 hour prior to the start of the school day and 1/2 hour after dismissal at the end of the school day;
    - (3) vend or peddle between 10:00 p.m. and 8:00 a.m. of the following day, except in those areas listed in Schedule "D" to this By-Law;
    - (4) leave any stand or mobile canteen unattended on a street;
    - (5) sell food or beverages for immediate consumption unless there is available for public use suitable litter and recycling receptacles for the use of customers;
    - (6) leave any vending location without first picking up, removing and properly disposing of all recyclables, litter, trash or refuse associated in any way with the vending activity, including emptying the litter and recycling receptacles;

- (7) allow any items relating to the operation of a stand, flea market, yard sale or mobile canteen to be placed anywhere other than in, on or under the stand, flea market stand, yard sale stand or mobile canteen;
- (8) vend to persons in motor vehicles;
- (9) 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 his or her wares to the disturbance of the public;
- (10) when vending from a mobile canteen or pedal stand:
  - (a) vend when the mobile canteen or pedal stand is situated in a no parking area, or in an area in which parking is prohibited at that time;
  - (b) vend when the mobile canteen or pedal stand obstructs a roadway;
  - (c) vend when customers or persons apparently waiting to become customers are standing in a roadway;
  - (d) vend in public places within 30 feet of any driveway entrance to a police or fire station, or within 15 feet of any driveway entrance;
  - (e) vend when customers or persons apparently waiting to become customers are obstructing the traffic of pedestrians on a sidewalk;
  - (f) vend within the street in competition with the abutter;
- (11) when vending from a stand:
  - (a) situate a stand or vend from a stand situated in a roadway, unless the stand is a pedal stand;
  - (b) vend when there is snow or ice on the sidewalk;
  - (c) vend so as to obstruct the traffic of pedestrians, or wheelchairs, and without limiting the generality of the foregoing, a minimum width of 1 metre of sidewalk shall be left unobstructed between the curb and a stand situated on a sidewalk, or between the stand and the nearest building or other obstruction to the interior of the sidewalk;
  - (d) vend when customers or persons apparently waiting to become customers are standing in a roadway;

- (e) vend within five feet of an entrance way to any building, except a building owned by the vendor;
  - (f) vend in public places within 30 feet of any driveway entrance to a police or fire station, or within 15 feet of any other driveway entrance;
  - (g) vend in public places within 10 metres of the crosswalk at any intersection but, where motor vehicle traffic flows in only one direction, this limitation only applies to the side of the crosswalk being approached by such traffic;
  - (h) allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission;
  - (i) vend within the street in competition with the abutter;
- (12) vend from a fixed stand with a width in excess of 1.25 metres;
- (13) vend on any sidewalk that is less than 2 metres in width;
- (14) peddle on any premises where a sign prohibiting peddling has been clearly posted;
- (15) when vending at flea markets or yard sales:
- (a) vend without the express authorization of the owner of the property upon which the flea market or yard sale vending is occurring;
  - (b) set up or place, or allow to be set up or placed, outside in a location visible from a public place any vending merchandise, stands or equipment before 12 hours in advance of the time that the flea market or yard sale vending is permitted to begin pursuant to this By-Law; and
  - (c) leave or allow to be left outside in a location visible from a public place any vending merchandise, stands or equipment more than 12 hours after the time that the flea market or yard sale vending is required to cease pursuant to this By-Law;
- (16) cause a nuisance while vending or peddling.

### **Penalty**

16. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$150 and not more than \$10,000 and to imprisonment of not more than one year in default of payment thereof.
17. Any person who contravenes section 4 or section 15 of this By-Law and who is given notice of the contravention may pay to the Town, at the place specified in the notice, the sum of \$150 within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.
18. Nothing contained in this By-Law derogates in any way from a person's obligation to comply with the *Municipal Government Act* and Land Use By-Law requirements for a development permit.
19. Town Staff shall apply to the Governor in Council pursuant to the Summary Proceedings Act, R.S.N.S. 1989, c.450, as amended, to have the offences under this By-law designated by the Summary Office Ticket Regulations to permit the use of summary offence tickets for prosecuting such offences in appropriate circumstances.

### **Repeal**

20. Sections 5 to 10, inclusive, and Sections 32 to 48, inclusive, of Chapter 13 of the Town By-Laws are hereby repealed.

### **Effective Date**

21. This By-Law is effective upon publication.

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**Clerk's Annotation For Official By-Law Book**

Date of first reading: March 8, 2006  
Dated of advertisement of Notice of Intent to Consider: March 14, 21, 28, 20, April 4, 11, 2006  
Date of second reading: April 12, 2006  
\*Date of advertisement of Passage of By-Law: April 25<sup>th</sup>, 2006  
Date of mailing to Minister a certified copy of By-Law: April 25, 2006

I certify that this VENDING BY-LAW was adopted by Council and published as indicated above.

TOWN OF KENTVILLE

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William E. Boyd  
Town Clerk



## **SCHEDULE "A"**

Aberdeen Street

Cornwallis Street from the south end to the intersection of Oakdene Vale.

Main Street from Civic #252 to the intersection of Park Street and West Main Street.

Oakdene Vale from the south end to Civic #15.

Park Street from Civic #11 to the intersection of West Main Street and Main Street.

River Street

Webster Court

Webster Street

Webster Street Extension



## SCHEDULE "B"

	Permits for a period less than 3 mos.	Occasional Permits (per event less than 10 days)
<u>Mobile Canteen</u> (fee per canteen)	\$75.00	\$15.00
<u>Mobile Stand</u> (fee per stand)	\$75.00	\$15.00
<u>Non-Mobile Stand</u> (fee per linear meter or portion thereof)	\$30.00	\$10.00
<u>Busking</u> (fee per performance group)	\$75.00	\$15.00
<u>Peddler</u> (fee per peddler)	\$75.00	\$15.00



## **SCHEDULE "C"**

All public parklands including, but not limited to:

Burgher Hill

East End Park

Memorial Park

Oakdene Park

Sherry Park

Participark

Kentville Trail System



## **SCHEDULE "D"**

Main Street from the intersection with Aberdeen Street east to the intersection with Cornwallis Street.

Cornwallis Street from the intersection with Main Street north to the intersection with Webster Street and Webster Court.

Webster Street from the intersection with Cornwallis Street west to the intersection with Aberdeen Street.

Aberdeen Street from the intersection with Webster Street and Webster Street Extension south to the intersection with Main Street.