
Town of Lunenburg By-law #61

Vending By-Law

Title

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

Definitions

2. In this By-law:
 - A. “abutter” means the owner, lessee or occupier of any premises or lot in the Town which abuts a Town street;
 - B. “busking” means the provision of entertainment, not in an enclosed building, not for a set fee but with the expectation that members of the public will pay for such entertainment;
 - C. “Council” means Town of Lunenburg Council;
 - D. “craft market” means an outdoor gathering of five (5) or more vendors at which the goods for sale are craft goods produced by the vendors;
 - E. “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;
 - F. “door to door pedlar” means someone who engages in door to door peddling;
 - G. “door to door peddling” means transient vending activities where the vendor or the vendor’s agent goes door to door for the purposes of soliciting the sale of goods or services, whether by appointment or otherwise, but does not

include:

- i. persons selling goods or services by appointment where they do not go door to door;
- ii. persons selling goods or services outside a building from a stand or otherwise where they do not go door to door.

For greater certainty, door to door peddling shall not include street-side sales from a mobile stand.

- H. “farmers’ market” means an outdoor gathering of five (5) or more vendors at which the majority of goods for sale are products of the farm, forest and the sea (including, without limiting the foregoing, flowers, plants, vegetables, fruit, jams, jellies, baked goods and honey), and at which any other goods for sale are craft goods produced by the vendors;
- I. “flea market” means an outdoor gathering of vendors for the purpose of selling new or used goods to the public and which is not a farmers’ market or a craft market;
- J. “goods” means goods, wares, merchandise, substances, articles or things;
- K. “going door to door” means moving or travelling from building to building, whether or not the buildings are adjacent;
- L. “linear meters” means the length of the longest dimension of a fixed stand;
- M. “mobile canteen” means a vehicle or mobile stand used for the display, storage, transportation or sale of food or beverages to the public by a vendor;
- N. “non-mobile stand” means a stand that is not a mobile stand;
- O. “permit” means a permit issued under this By-law;
- P. “public places” means:
 - iii. streets;
 - ii. property owned by the Town;
 - iii. property owned by the Province of Nova Scotia or Government

of Canada that is open to the public; and

iv. public parks and trails;

and “in, on or near a public place” includes locations that are

v. driveways, parking lots, and vacant or undeveloped lots any portion of which is within 25 metres of a public place;

vi. within 25 metres of a public place; or

vii. visible from a public place;

- Q. “retail store” means a building or part thereof in which goods are offered or kept for sale directly to the public, [and which may include outdoor display and offering for sale of goods which are also displayed and offered for sale in the retail store], on the same lot as the retail store, or on a Town sidewalk directly in front thereof and by the same retailer. A retail store shall not include a service station, automobile sales establishment or a restaurant;
- R. “restaurant” means a building or part thereof where food and drink are served to the public for consumption within the building or on an attached patio or deck by the operator of the restaurant;
- S. “roadway” means that portion of a street between the curb lines, or the travelled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- T. “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;
- U. “stand” includes an outdoor 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 vendor;
- V. “street” means a public street, highway, road, lane, sidewalk, thoroughfare,

bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith;

- W. “vend” or “vending” means the sale, or offering for sale, **not in an enclosed building**, whether on public property or private property, of
- i. food, beverages or other goods; and
 - ii. services provided outside a building but shall not include construction on or maintenance of real property.

For greater certainty, this definition shall be deemed to include the activities of buskers and door to door peddlars, whether the sale or offering for sale occurs inside or outside a building, except insofar as the activities of door to door peddlars relate to construction on or maintenance of real property.

- X. “vehicle” includes 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 and also includes stands.
- Y. “Vendor” means any person who engages in vending as defined under this By-Law.
- Z. “walking tour” means an outdoor, guided tour within the Town of Lunenburg where a person, for compensation, acts as a guide or provides information on aspects of the Town observed by persons in the tour.
- AA. “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; provided that surplus household goods shall not include household goods acquired for resale.

Requirement of a Permit

3. A. Any person engaged in vending in the Town is required to have a Permit as

prescribed by this By-law unless specifically exempted under this By-law.

- B. No permit shall be issued for vending unless the vending activity occurs at a location or locations, and under circumstances, where the use is allowed under the Land Use By-law.
- C. Council may by policy restrict the number of permits to be granted for vendors by category (i.e. pedlars, buskers, vending at community events and festivals, community or religious not for profit flea markets, vending at fund raising events by community or religious not for profit groups, outdoor sales of prepared food, craft markets, farmers' markets, walking tours, outdoor sales of fresh fruit and vegetables, fresh, salted or smoked fish, mobile canteens, other).
- D. For greater certainty, outdoor vending activities shall be prohibited except where the use is specifically permitted as an outdoor use in a list of permitted uses in any given zone under the Land Use By-Law and, except for those activities authorized by the following Land Use By-Law sections as amended from time to time:
 - i. section 4.34 yard sales
 - ii. section 4.35 community or religious not for profit flea markets
 - iii. section 4.36 door to door peddling
 - iv. section 4.37 busking
 - v. section 4.38 vending at community events and festivals
 - vi. section 4.39 vending at fund raising events by community or religious not for profit groups
 - vii. section 4.40 dockside fish sales
 - viii. section 4.41 outdoor sales of prepared food
 - ix. section 4.43 craft markets and farmers' markets
 - x. section 4.44 walking tours

- xi. section 9.4 outdoor sales of fresh fruit and vegetables and fresh, salted or smoked fish
- xii. section 10.7 existing mobile canteen
- xiii. section 12.4 mobile canteen in highway commercial zone unless contained within an exemption under section 24 or 25 of this By-Law.

Clerk of Licenses

- 4. Council shall appoint a person to be the Clerk of Licenses and such Clerk of Licenses is authorized and empowered to grant or refuse any application for a Vending Permit under this By-law. The Clerk of Licenses shall keep a copy of all Permits granted under this By-law.

Application for Permit

- 5. An Applicant for a Permit shall make written application to the Clerk of Licenses in the form prescribed from time to time by Council by policy.

False Statement and Offence

- 6. It shall be an offence for any person to make a false statement in his or her application for a Permit under this By-law.

Fees

- 7. In addition to any other relevant Permit requirements, the Applicant shall pay the appropriate fee for his or her Vending Permit in accordance with the fee schedule established by Council by policy.

When payable

- 8. The fees provided for in this By-law shall be payable when the Application for the

Permit is made and shall be refunded to the Applicant if the Permit is not issued.

Issuance of Permit

9. A. Provided that the conditions and terms of this By-law and the Land Use By-law have been met, the Clerk of Licenses shall issue the Permit to the Applicant.
- B. The Clerk of Licenses may refuse to issue, renew, or amend a Vending Permit or may 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.
- C. If the conditions of this By-law have not been met and a Permit cannot be issued, then the Clerk of Licenses shall notify the Applicant in writing, stating the reason(s) therefor, which notification may be personally delivered to the Applicant or sent via ordinary mail to the Applicant's last known address.

Permit Shall State

10. A. Every Permit issued under this By-law shall specify the food, beverages, or other goods or services (including products of the farm, forest and sea) permitted to be sold by that vendor, the location and description of the premises and any other terms or conditions imposed by this By-law.
- B. Every Permit issued under this By-law shall bear a number, and the number of the Permit shall be included in the records of the Clerk of Licenses.
- C. Every Permit shall be signed by the Clerk of Licenses and shall bear the date of issuance and the date of expiry of the Permit.

Expiry Date

11. A Permit issued under this By-law shall expire on the 31st day of March next following the date of issuance unless an earlier date is otherwise specified on the Permit.

Not Assignable

12. A Permit issued under this By-law shall not be transferrable or assignable.

Display

13.
 - A. Every person, when engaged in the business or trade for which a Permit was issued, shall visibly display said Permit.
 - B. Failure to visibly display a Permit in accordance with this By-law shall constitute an offence.

Revocation Upon Violation or Conviction

14.
 - A. A Vending Permit issued under this By-law may be revoked by the Clerk of Licenses for any violation of the terms of this By-law or any other Town By-laws, or for conviction under any provincial or federal statute or regulations.
 - B. The Clerk of Licenses shall notify the holder of a Vending Permit of any revocation of the Vending Permit pursuant to this section of the By-law as a result of such a violation or conviction by personally delivering or mailing written notice thereof to the holder's last known address.

Revocation by Council

15.
 - A. When it appears to Council that it is in the public interest to do so, Council may revoke any Vending Permit issued under the provisions of this By-law.

- B. Council shall provide the holder of any Vending Permit which it may propose to revoke pursuant to this section of the By-law with advance written notice in writing of Council's intention, by personally delivering or mailing said notice to the holder's last known address a minimum of two (2) weeks before the matter comes before Council, in order to allow the holder an opportunity to appear before Council.
- C. The Clerk of Licenses shall notify the holder of such Vending Permit that it has been revoked pursuant to this section of the By-law by personally delivering or mailing written notification thereof to the holder's last known address.
- D. A Vending Permit revoked pursuant to this section of the By-law shall cease to be in force after sufficient time has elapsed for the notice of cancellation to have reached its destination in the normal course of the mail, which is deemed to be three (3) business days after the date of posting.

Appeals

- 16. A. Any person who has been refused a Vending Permit, or whose Vending Permit has been revoked or suspended by the Clerk of Licenses, may appeal such refusal or suspension or revocation to Council.
- B. Such appeal shall be in writing in the form of a notice, and shall be filed with the Town Manager/Clerk, within fifteen (15) days of such refusal or revocation, and shall clearly state the grounds for such appeal. A copy of such notice shall be served within such time upon the Clerk of Licenses.
- C. The Council shall hear such appeal at such time and place as it determines and may confirm such refusal or suspension or revocation by the Clerk of Licenses or may direct the Clerk to issue or reinstate the Permit. In making its decision, Council will do so in accordance with the provisions of this By-law.
- D. If Council directs the Clerk of Licenses to issue or reinstate such Vending

Permit, the Clerk of Licenses shall immediately do so.

Location and Terms

17. A vendor may engage in vending, only at the location, and with such stand or other vehicle, as are specified on the Vending Permit, and provided that the vendor is in compliance with the other provisions of this By-law and any terms and conditions of the Vending Permit.

Sponsoring Organizations

18. A.
All farmers' markets and craft markets not authorized and designated by Resolution of Council shall be prohibited.
- B.
A sponsoring individual, group or organization may obtain a Vending Permit or Permits for a craft market or farmers' market.
- C.
An individual Vendor at a craft market or farmers' market, which is authorized and designated by Resolution of Council, shall not require an individual Vendor's Permit under this By-law. Without restricting the generality of the foregoing, vending by a person without a Vendor's Permit at any farmers' market or craft market authorized and designated by Resolution of Council does not contravene this By-law.

Conditions

19. Council may establish policies from time to time which shall be applicable as conditions to Vending Permits.
20. All vendors shall be subject to and shall abide by the conditions of their Vending Permits as established by Council by Policy.

License Inspector

21. The Town is hereby authorized and empowered to appoint a license inspector (or inspectors) who are authorized and empowered to enforce the terms of this By-Law.

Additional Requirements

22. In addition to all of 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, By-law, or licensing provision.
23. A Vending Permit shall not be issued in respect of vending goods or services that are not permitted to be vended, or the vending of which is regulated by valid 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. For greater certainty, a Vending Permit shall not be issued in respect of types of vending not permitted pursuant to this By-Law or any policy passed pursuant hereto.

Exemption

24. Notwithstanding anything herein contained, this By-law shall not apply to:
 - A. vending at and under the auspices of the Lunenburg Craft Festival, the Fishermen's Reunion & Picnic, Newfie Days, the annual dog show, the Annual Christmas Tree Producer's Event and the Lunenburg Folk Harbour Festival or at any other Community event designated by Council by policy;
 - B. direct sales of fish and other seafood on the Fishermen's Wharf located at the Northwest end of Bluenose Drive or at other docks in the Town of Lunenburg, by fishermen or companies engaged in the catching and sale of fish or other seafood who land their fish in the Port of Lunenburg;
 - D. yard sales;

- E. outdoor display and offering for sale of goods (other than food and beverages) which are also displayed and offered for sale in a retail store, on the same lot as the retail store or on a Town sidewalk directly in front thereof, and by the same retailer [provided that in a Highway Commercial zone, the retail store may display and offer for sale goods outdoors, which are not also displayed and offered for sale inside the retail store].
- F. outdoor display and offering for sale of food and beverages on any outside patio or deck forming part of a restaurant by the operator of the restaurant;
- G. subject to Section 25 and 26, vending activities, [including, without limiting the foregoing, flea markets] associated with fund-raising by community or religious not for profit groups from the Town of Lunenburg.
- H. Services of a Hack or Trolley or Taxi operation, which shall not include any retail sales of goods.
- I. Auctions.

Flea Markets

- 25. Flea Markets shall be prohibited in the Town of Lunenburg except for flea markets organized and operated by or sponsored by community or religious not for profit groups from the Town of Lunenburg for the purposes of fund raising, provided that Council may, by policy, limit the number of such flea markets in any calendar year.

Exempt Vending Activities

- 26. Notwithstanding Section 24, Council may, by policy, limit the number of days in a year during which vending activities associated with fundraising by a community or religious not for profit group in the Town of Lunenburg may be carried on without the requirement of a Vending Permit pursuant to this By-law.

Penalty

27. A person who violates or fails to comply with any provision of this By-law shall be guilty of an offence, and, upon summary conviction, shall be liable to a fine of not less than \$250.00 and not more than \$5,000.00 and in default of payment, to imprisonment for a term not exceeding ninety days, and every day during which a person is in violation of this By-Law shall constitute a separate and distinct offence.
28. The Mobile Canteen By-law No. 52 is repealed.
29. Sections 15.1, 15.2, 15.3, 16.1, 17.1, 18.1, 19.1 and 20.1 of the Trades and Licenses By-law are hereby repealed and where any other provision in the Trades and Licenses By-law No. 23 conflicts with a provision in the Vending By-law, the provisions of the Vending By-law shall prevail.

TOWN OF LUNENBURG
POLICIES UNDER THE VENDING BY-LAW

Definition

1. The terms used in this Policy shall have the same definitions given to them in the Town of Lunenburg's Vending By-law.

Application Form

2. All Applications for Vending Permits shall be made in the form approved by Council from time to time and attached hereto as Form # 1 "Application for Vendors Permit".

Permit

3. All Permits issued pursuant to the Vending By-law shall be in the form approved by Council from time to time and attached hereto as Form 2 "Vending Permit", including the general conditions of the Permit which shall be attached as and form Schedule "A" to the Vending Permit and the extracts from the Vending By-law shall be attached as and form Schedule "B" to the Vending Permit.

Fee Schedule

4. A. In addition to any other relevant licensing requirements and/or fees, the annual Vending Permit fee under the By-law shall be adjusted on April 1 of each year effective April 1, 2018 by the prior calendar year Nova Scotia Consumer Price Index as applied to the following base line 2003 fees (revised July 24, 2018):
 - i. Craft Market and Farmers' Market Permit - \$500.00 for one year; or \$50.00 per day;
 - ii. Mobile canteen - \$500.00 for one year;
 - iii. Door to door peddlers - \$25.00 per day, \$100.00 per month, \$350.00 for six months, \$600.00 per year;
 - iv. Fruit, vegetable and/or fish stands (including, sales thereof from a

parked motor vehicle) - \$10.00 per day, \$100.00 per month, \$350.00 for six months, \$500.00 per year;

- v. Buskers - \$10.00 per day, \$25.00 per month;
- vi. Walking Tours - \$200.00 for 3 months, \$300.00 for 6 months; \$500.00 per year;
- vii. All other vendors - \$10.00 per day, \$100.00 per month, \$350.00 for six months or \$500.00 per year.

B. Notwithstanding clause 4.A. hereof, community or religious not for profit groups may be granted a Vending Permit by the Clerk of Licenses in his or sole and absolute discretion, for the nominal fee of \$1.00 for a maximum period of one (1) week. In any dispute as to whether or not an applicant for a Vending Permit qualifies as a community or religious not for profit group, or whether the permit should be granted for the nominal fee, the applicant may appeal to Council.

5. The following conditions apply to Vending Permits and vendors:

CONDITIONS

i. **Restrictions**

A vendor shall not:

- A. vend within 300 feet 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;
- B. vend within 300 feet of the Heritage Bandstand, except walking tours;
- C. vend on any street except where vending is specifically authorized by Council by Policy;
- D. vend on any sidewalk unless specifically authorized by Council by policy;
- E. vend between 11:00 p.m. and 8:00 a.m. of the following day unless specifically authorized by Council by Policy;
- F. sell food or beverages for immediate consumption unless they have available for public use their own litter receptacle or there is a public litter receptacle within 5 meters which is available for their patrons' use;
- G. leave any location without first picking up, removing and disposing of

all garbage or refuse remaining from sales made by them and properly sorting waste for disposal by themselves;

- H. set up, maintain or permit the use of any table, crate, carton, rack, or any other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described in their application and approved in their Vending Permit;
- I. sell anything other than that which they are authorized to vend under the Vending Permit; or
- J. sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio, sound amplifier or similar device to attract the public's attention or cry their wares to the public's disturbance.
- K. vend at any time on a Sunday before 12:00 o'clock noon unless specifically authorized by Council by Policy.

ii. **Restrictions - vending from Motor Vehicles**

No vendor vending from a motor vehicle shall:

- A. conduct their business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion, or delay or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles;
- B. stop, stand, or park their vehicle upon any street, or permit it to remain there except on the roadway at the curb for the purpose of vending therefrom;
- C. stop, stand or park their vehicle upon any street for the purpose of selling, or sell on any street, under any circumstances during the hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or By-law; or
- D. stop, stand or park their vehicle within thirty feet of any intersection;

iii. **Additional Restrictions on vending From a Mobile Canteen**

A vendor vending from a mobile canteen shall:

- A. maintain throughout the period for which the permit is sought, insurance for public party liability and property damage on each mobile canteen in an amount of not less than \$1 million per occurrence,
- B. only operate or allow the operation of the mobile canteen in accordance with all requirements pursuant to the *Health Act* and *Regulations* and other applicable enactments;
- C. have no more than two (2) tables at which food is consumed.

iv. **Additional Restrictions on vending From a Stand or Parked Motor Vehicle**

No vendor, vending from a stand (or parked motor vehicle as applicable) shall:

- A. situate a stand in a roadway or vend from a stand situated in a roadway;
 - B. when authorized by Policy of Council to vend on a sidewalk, vend on a sidewalk 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 meter of sidewalk shall be left unobstructed between the curb and a stand situated on a sidewalk (where vending on a sidewalk is authorized by Council by Policy), 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 permit holder;
 - F. vend within twenty-five feet of any driveway entrance to a police or fire station, or within fifteen feet of any other driveway, other than a driveway for the property on which the vending is lawfully occurring, (unless he is a door to door peddler);
 - G. vend within twenty-five feet of the crosswalk at any intersection;
 - 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 private or public property, without the owner's permission.
- v. No vendor shall vend from a stand with a width greater than 1.25 meters and a length greater than 2.5 meters.
- vi. For greater certainty, the conditions contained in paragraph ii., iii., iv. and v. do not apply to vendors at a farmers' market or craft market.

Busking

No busker shall:

- A. Busk using electronic amplification;
- B. Busk in any location other than the location specified in the permit.

