

BE IT ENACTED by the Council of the Town of Wolfville, under the authority of Sections 172 and 173 of the *Municipal Government Act, 1998, c. 18, s. 1.*, as amended.

1.0 TITLE

This Bylaw shall be known as Bylaw 99 and may be cited as the 'Vending Bylaw'.

2.0 BACKGROUND

Whereas Section 173 of the *Municipal Government Act* enables a municipality to regulate vending by enacting a bylaw; and

Whereas Council for the Town of Wolfville is enacting this by-law to ensure a fair and transparent process to permit vending within the Town of Wolfville.

3.0 DEFINITIONS

In this Bylaw:

- 1) **Busking** means providing entertainment in a public place, not for a set fee, but with the expectation that members of the public will make a donation for the entertainment.
- 2) **Community Group** means a group or organisation that works to carry out activities that will benefit a particular group and/or the Town as a whole.
- 3) **Council** means the elected Municipal Council for the Town of Wolfville.
- 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) **Development Officer** means the Development Officer(s) as appointed by the Town of Wolfville.
- 6) **Marketing Area** shall be as defined in the Town of Wolfville Streets By-law.
- 7) **Mobile Canteen** means a motorized vehicle used for the display, preparation or sale of food or beverages by a mobile vendor.
- 8) **Not-for-Profit** means an organization operated on a cost-recovery basis and not seeking profit.
- 9) **Peddling** means to travel about selling wares door-to-door.
- 10) **Permit** means a Vending Permit issued pursuant to this By-Law.

- 11) **Public Place** means roadways, sidewalks, parks and trails, cemeteries and to not restrict the generality hereof, all lands, structures and facilities own by or leased to the Town, including the grounds, parking lot and any adjacent sidewalk to such lands, structures or facilities.
- 12) **Private Property** means any real property within the Town of Wolfville not owned by the Town, Province of Nova Scotia, or Government of Canada.
- 13) **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 travel.
- 14) **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;
- 15) **Special Event** means a time specific event defined in Appendix 1 to this by-law and may be amended by Council resolution from time-to-time.
- 16) **Stand or Mobile Stand** means any 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. This includes pedal stands and outdoor sales of art or handcrafted goods and prepared or unprepared food.
- 17) **Town** means the Town of Wolfville.
- 18) **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.
- 19) **Vend or 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 Wolfville but, for greater clarity, does not include busking, peddling, yard sales or other permitted sales of goods and services in accordance with other applicable Legislation and Town By-laws.
- 20) **Vendor** means an owner, agent, operator or employee of a vending business, including mobile vendors.
- 21) **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.

4.0 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 and Limitations

In accordance with, and subject to, the provisions of this bylaw, Vending Permits may be obtained for Vending in the following categories:

Category	Limitations
a) Mobile Canteens	<ul style="list-style-type: none"> Permitted in a Public Place during Special Events subject to a Vending Permit; or Permitted on Private Property subject to a Vending Permit.
b) Stands or Mobile Stands	<ul style="list-style-type: none"> Permitted in a Public Place during Special Events subject to a Vending Permit; or Permitted on Private Property subject to a Vending Permit.
c) Fundraising events for not-for-profit and community groups	<ul style="list-style-type: none"> May be permitted anytime in a Public Place or on Private Property subject to a Vending Permit.

4.3 Conditions Applicable to Vending Generally

No Vendor shall:

- a) Vend in an obstructive manner which could include, but not be limited to:
 - i. the restricting of the ingress or egress of the abutting property owner or tenant;
 - ii. increasing traffic congestion or delay;
 - iii. constituting a hazard to traffic, life or property; or
 - iv. obstructing adequate access to fire, police, or sanitation vehicles;
- b) install more than one (1) portable sign. The portable sign shall be placed within 3.5 metres of the vendor location and shall be no more than 1 metre in height and not more than 0.6 metres in width; must be of stable design; and surfaces and finishes must be well maintained;
- c) allow any item relating to the operation of the vending business to lean against or hang from any building or other structure without the owner's permission;
- d) vend between 11:00 p.m. and 8:00 a.m. in any location;
- e) leave the vending location unattended in a public place or on private property;
- f) vend unless solid waste, including recycling facilities are provided immediately adjacent to the vending operation. The facilities shall be emptied on a regular basis to prevent overflow and spillage. No vendor shall dispose of solid waste contrary to methods prescribed in the Town's Valley Region Solid Waste Resource Management By-law;
- g) dump any trash, refuse, fat or any other food substance into the municipal sewer system;
- h) sound or permit the sounding of any device which produces a loud 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/her wares to the disturbance of the public;

- i) vend with any type of lighting that is directed toward, or in any way negatively impacting, neighbouring property owners; and
- j) sell anything other than which he/she is licensed to vend as established in a Vending Permit.

4.4 Vending on Private Property

When Vending on Private Property the Vendor shall:

- a) Only be eligible to vend on appropriately zoned commercial properties in the Land Use By-law;
- b) be subject to a Vending Permit and relevant provisions of the Land Use By-law, Streets By-law and other applicable legislation and Town By-laws; and
- c) the property owner shall provide in writing their consent to the Vending Permit application.

5.0 EXEMPTIONS

5.1 Vending Permit Not Required

A Vending Permit is not required for the following activities subject to other relevant legislation or Town By-laws:

- a) Busking in Public Places subject to the guidelines listed in Appendix 2 to this By-law;
- b) Peddling; and
- c) Yard Sales.

5.2 Wolfville Farmer's Market Vending

This by-law does not apply to the Vendors of the Wolfville Farmer's Market when operating at official Wolfville Farmer's Market Events in and around the Wolfville Farmer's Market building at 26 Elm Avenue (PID #55279327).

5.2 Vending by Abutting Business

Nothing in this by-law shall prohibit the sale of goods, including food and beverages, regulated by this by-law on the sidewalk or other area in front of his/her place of business by any person who operates a commercial business from a permanent location in accordance with other applicable legislation and Town By-laws including but not limited to the Sidewalk Café By-law, Streets By-law, and Land Use By-law.

6.0 ADMINISTRATION

6.1 Not Transferable or Assignable

A Vending Permit issued under this By-law is not transferable or assignable.

6.2 Display of Vending Permit

A Vending Permit issued under this By-law shall be conspicuously displayed 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.

6.3 Use of Application Form

All Vending Permits or amendments to Vending Permits shall be made by application to the Development Officer on the application form included as Appendix 3 to this by-law.

6.4 Required Application Information

Every application for a Vending Permit or amendment to a Vending Permit shall contain the following information:

- a) The specific location (site plan may be required) and timeframe where vending will occur;
- b) the owner's name and contact information and 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;
- c) confirmation that the applicant will only operate or allow the operation of a mobile canteen in accordance with all requirements of NS Agriculture and Fisheries (Food Safety) requirements, the Health Protection Act, Motor Vehicle Act and other applicable legislation;
- d) a description of the foods and beverages or other merchandise to be sold;
- e) proof of insurance (Automobile liability and General Liability inclusive of bodily injury and property damage);
- f) description of how power will be provided and any relevant inspections;
- g) a description of any planned signage and its location;
- h) photographs of the stand, mobile canteen or other vending operation;
- i) description of commissary location, restrooms, and sanitary facilities (if applicable);
- j) any stand or mobile canteen that uses a fuel fired appliance for the preparation or warming of food or drinks shall provide proof of inspection by the Fire Inspector prior to issuance of a Vending Permit; and
- k) any stand or mobile canteen equipped with a fuel fired appliance shall be equipped with a minimum of a 2A10BC rated fire extinguisher or suitable alternative as directed by the Office of

the Fire Marshal. A photograph of fire extinguisher shall be provided prior to the issuance of a Vending Permit.

6.5 Vending of Certain Goods or Services Not Permitted

A Vending Permit shall not be issued for any food, beverages or other merchandise or services that are regulated by federal or provincial statutes or regulations, unless the Vendor can establish to the satisfaction of the Development Officer that the Vendor is in compliance with applicable federal or provincial statutes or regulations. Continued compliance with the applicable federal or provincial statutes or regulations shall be a condition of every Vending Permit issued by the Development Officer.

6.6 Separate, Numbered Vending Permit

Subject to the provisions of this By-Law, the Development Officer shall issue a separate, numbered Vending Permit containing terms and conditions consistent with this By-Law and the permit application for each category listed in this By-law.

6.7 Record of Vending Applications

The Development Officer shall keep a record of Vending applications and permits issued.

6.8 Vending Permit Effect and Length

A Vending Permit shall remain in effect for the period stated thereon. Permits may be issued for varying lengths with corresponding fees as outlined in this By-law. All Vending Permits shall expire within 1 year of issuance.

6.9 Vending Permit Fees

The fees payable for a Vending Permit shall be those listed in Policy 140-015 (Municipal Fees Policy), as amended by resolution of Council from time-to-time.

6.10 Refusal, Amendments, Suspension and Appeals

- a) The Development Officer may refuse to issue, amend, revoke or suspend a Vending Permit for breach of this or any other By-Law upon written notice to an applicant or permit holder.
- b) Any person who has been refused a Vending Permit or whose Permit has been revoked, amended or suspended by the Development Officer shall receive notification in writing stating the reasons and may appeal such decision to Council:
 - i. Such appeal shall be in writing and be filed with the Town Clerk within fifteen (15) calendar days of such refusal, amendment, suspension or revocation and shall clearly state the grounds for appeal.

- ii. The Council shall hear such appeal at such time and place as it determines and may confirm such refusal, amendment, suspension or revocation by the Development Officer or may direct the Development Officer to issue or reinstate the Vending Permit. The Council in hearing such appeal shall make its decision in accordance with this By-law and other applicable legislation and Town Bylaws.
- iii. If Council directs the Development Officer to issue or reinstate a Vending Permit, the Development Officer shall do so forthwith.

7.0 PENALTY

Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$200 and not more than \$1,000.

8.0 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 Bylaw.

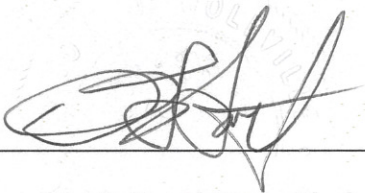
9.0 FORCE AND EFFECT

This By-law is to come into force and take effect on the date of its enactment, replacing the May 23, 2016 version of the Bylaw.

Clerk's Annotation for Official Bylaw Book

Date of first reading: 2017-09-19
Date of advertisement of Notice of Intent to Consider: 2017-09-26
Date of second reading: 2017-10-17
Date of advertisement of Passage of Bylaw: 2017-10-24
Date of mailing to Minister a certified copy of Bylaw: 2017-10-25

I certify that this **VENDING BYLAW # 99** was adopted by Council and published as indicated above.

A handwritten signature in black ink, appearing to read 'Dan S. Stovel', written over a horizontal line.

Dan S. Stovel, Town Clerk

October 25, 2017

Date

APPENDIX 1 – Town of Wolfville Vending Bylaw “Special Events”

The following are considered “Special Events” pursuant to this by-law:

- 1) All Town-Organized Events
- 2) Events in partnership with the Town, as approved by CAO (or Designate), to a maximum of (3) per calendar year, per applicant

APPENDIX 2 – Town of Wolfville Busking Guidelines

The Town of Wolfville believes busking adds to the vibrancy of the town. When busking in a Public Place, please keep in mind:

- Our Public Places are open for family-friendly entertainment.
- Spaces are available in Public Places on a first come, first serve basis.
- Be respectful of nearby businesses and residents in terms of your noise levels.
- Be respectful of pedestrian flow and safety by keeping corridors clear.
- Donations can be accepted but should not be expected from audience members.
- Certain Public Places may not be available for busking from time-to-time. At the discretion of a Town By-Law Officer, you may be directed to another area.



APPENDIX 3 – Vending Permit Application Form

Vending Permit Application

Please complete in FULL and return to:

Town of Wolfville - Community Development
 200 Dykeland Street | Wolfville [NS] B4P 1A2 |
 t: 902-542-3718 f: 902-542-5066

Vending Permit
 Temporary Special Event Permit
 Special Event

Vending From Private Property
 Vending From Public Property

Start Date _____ End Date _____

THIS SECTION IS FOR OFFICE USE ONLY

Application No: _____

PERMIT FEE: _____ ISSUED: _____

ZONING: _____

PID: _____ SITE: _____

Approved Declined

Development Officer

VENDING TYPE

Mobile Canteen
 Stand or Mobile Stand
 Fundraising, Not-for-Profit, or Community Group

CONTACT INFORMATION

Applicant:	_____		
Home Address:	_____		
Business Address:	_____		
Telephone Number:	_____	Mobile Number:	_____
Fax Number:	_____	Email:	_____
Vehicle Registration #	_____	Make:	_____
		Model:	_____
		Year:	_____

PRIVATE PROPERTY OWNER, if Applicable, requires the owner's signature as consent to use proposed vending location

Property Owner: _____	Mobile Number: _____
Address: _____	
Telephone Number: _____	
Email: _____	

Signature _____

REQUIREMENTS (Please complete the checklist below and submit information with this application)

<input type="checkbox"/> Site Plan	<input type="checkbox"/> Letter of Permission (if not property owner)
<input type="checkbox"/> Copy of Valid Food Safety Permit	<input type="checkbox"/> Proof of Valid Driver's License
<input type="checkbox"/> Proof of Insurance	<input type="checkbox"/> Photograph of Vehicle or Stand
<input type="checkbox"/> Proof of Fire Inspection	<input type="checkbox"/> Installed Minimum Rated 2A10BC Fire Extinguisher

Description of Commissary Location, Restrooms, and Sanitary Facilities	_____
Description of How Power will be Provided to the Location	_____
Description of Food & Beverage or Merchandise sold	_____
Description of any Planned Signage and its location	_____



ADDITIONAL CONDITIONS

A large, empty rectangular box with a thin black border, intended for the applicant to list any additional conditions for the permit.

DECLARATION

I DO SOLEMNLY DECLARE:

1. THAT I AM THE AUTHORIZED AGENT OF THE OWNER/ THE OWNER NAMED IN THE APPLICATION FOR A PERMIT, HERETO ATTACHED.
2. THAT ANY INFORMATION SUBMITTED AND/OR STATEMENTS HEREIN CONTAINED IN THIS APPLICATION ARE TRUE AND MADE WITH A FULL KNOWLEDGE OF THE CIRCUMSTANCES CONNECTED WITH THE SAME.
3. THE APPLICANT/LICENSE HOLDER SHALL BE FAMILIAR WITH AND ABIDE BY ALL VENDING REGULATIONS IN ACCORDANCE WITH BYLAW 99 AND ANY OTHER BYLAW(S) THAT ARE ASSOCIATED WITH BYLAW 99.
4. THAT I KNOW OF NO REASON WHY THIS PERMIT SHOULD NOT BE GRANTED TO ME IN THE PURSUANCE OF THIS APPLICATION, AND MAKING THIS DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE, AND **I HEREBY MAKE APPLICATION FOR THIS PERMIT.**

Signature of Applicant: _____ Date: _____