

TOWN OF MAHONE BAY

Chapter #43

A BY-LAW RESPECTING THE LOCATION AND OPERATION OF TEMPORARY VENDORS IN THE TOWN OF MAHONE BAY

SHORT TITLE

1. This by-law may be known as and may be cited as the “Temporary Vendors By-Law”.

DEFINATIONS

2. In this By-Law:
 - a. “Clerk of Licenses” means the CAO or such other person as may be appointed by the CAO to act on behalf of the Town of Mahone Bay in such a capacity;
 - b. “Council” means Mahone Bay Town Council;
 - c. “Farmer’s Market” means the selling of products of the farm, forest, or sea including arts and crafts provided the products are grown, harvested, or created by the seller at the Farmer’s Market.
 - d. “Flea Market” means the sale of surplus household goods owned by the seller at the Flea Market including any art and crafts created by the seller at the Flea Market.
 - e. “Festival” means any organized event operated by a non-profit organization in the Town with the intention of attracting visitors to the Town and an event recognized by Town Council as a Festival.
 - f. “License Inspector” means any sworn police officer for the Town of Mahone Bay as appointed by Mahone Bay Town Council, and includes any By-Law Enforcement Officer. The CAO shall be designated as a By-Law Enforcement Officer for the Town.
 - g. “Premises” includes any kind of construction or motor vehicle used by a vendor on private property for the purposes of temporary vending as defined by this By-Law;
 - h. “Public Street” means
 - i. a public highway, street, lane, road, alley, park, beach or place including the bridges thereon, and
 - ii. private property that is designed to be and is accessible to the general public for the operation of a motor vehicle.

- i. "Roadway" means that portion of a public street between the regularly established curb lines or that part improved and intended to be used for vehicular traffic;
- j. "Sidewalk" means that portion of a street between the curb line and adjacent property line or any part of a street especially set aside for pedestrian travel and separated from the roadway;
- k. "Temporary Vending" means the offering to the public by sale or otherwise of any food, beverages, goods, wares, produce, merchandise or services (including products of the farm, forest or sea), on private property, without the benefit of a development permit under the Town's Land Use By;
- l. "Town" means the Town of Mahone Bay
- m. "Vendor" means any person who engages in temporary vending as defined under this By-Law.

REQUIREMENT OF A LICENSE

- 3. Any person engaged in temporary vending in the Town is required to have a license as prescribed by this By-Law.

CLERK OF LICENSES

- 4. The CAO shall be the Clerk of Licenses unless the CAO appoints another person(s) to act as the Clerk of Licenses, and such Clerk of Licenses is authorized and empowered to grant or refuse any application for a license pursuant to this By-Law.
- 5. The Clerk of Licenses shall keep a copy of all licenses granted under this By-Law.

APPLICATION FOR A LICENSE

- 6. An applicant for a license shall make written application to the Clerk of Licenses in the form as prescribed by this By-Law.

FALSE STATEMENT AND OFFENCE

- 7. It shall be an offence for any person to make a false statement in his or her application for a license under this By-Law.

FEES

8. In addition to any other relevant licensing requirements, the applicant shall pay the appropriate fee for his or her temporary vending license in accordance with fee schedule established by Council by Policy.

WHEN PAYABLE

9. The fees provided for in this By-Law shall be payable when the application for the license is made and shall be refunded to the applicant if the license is not issued.

ISSUANCE OF LICENSE

10. (a) Provided that the conditions and terms of this By-Law have been met the Clerk of Licenses shall issue the license to the applicant.
(b) If the conditions of this By-Law have not been met and a license cannot be issued, then the Clerk of Licenses shall notify the applicant in writing stating the reasons therefore, which notification may be personally delivered to the applicant or sent via ordinary mail to the applicant's last known address.

LICENSE SHALL STATE

11. Every license issued under this By-Law shall specify the food, beverages, goods, wares, produce, merchandise or services (including products of the farm, forest and sea goods) 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.
12. (a) Council may establish policies from time to time which shall be applicable as conditions to Vending Permits.
(b) All vendors shall be subject to and shall abide by the conditions of their Vending Permits as established by Council by Policy.
13. Every license issued under this By-Law shall bear a number and the number of the license shall be included in the records of the Clerk of Licenses.
14. Every license shall be signed by the Clerk of Licenses, and shall bear the date of issuance and the date of expiry of the license.

EXPIRY DATE

15. A license 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 license.

NOT ASSIGNABLE

16. A license issued under this By-Law shall not be transferable or assignable.

DISPLAY

17. (1) Every licensee under this By-Law when engaged in the business or trade for which the license was issued shall display said license upon demand of any peace officer, Mayor, Councillor, or official of the Town in his or her capacity as such an official, and to any person with whom the licensee is dealing or attempting to deal on a demand of such person.
- (2) Failure to display a license upon demand in accordance with this By-Law shall constitute an offence thereunder.

LICENSE INSPECTOR

18. The License Inspector and/or any police officer is hereby authorized and empowered to enforce the terms of this By-Law.

REVOCACTION BY COUNCIL

19. (1) When it appears to Council that it is in the public interest to do so, Council may revoke any license issued under the provisions of this By-Law.
- (2) Council shall provide the holder of any license 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.
- (3) The Clerk of Licenses shall notify the holder of such license 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.
- (4) A license 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.

REVOCACTION UPON VIOLATION OR CONVICTION

20. (1) A license granted under this By-Law may be revoked by the Clerk of Licenses for any violation of the terms of this By-Law.
- (2) A license issued under this By-Law may be revoked by the Clerk of Licenses if the holder thereof is convicted of any offense under this By-Law or any other Town By-Laws, or any provincial or federal statute or regulations.

- (3) The Clerk of Licenses shall notify the holder of a license of any revocation of the license 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.

APPEALS

21. (1) Any person who has been refused a license, or whose license has been revoked by the Clerk of Licenses may appeal such refusal or revocation to Council.
- (2) Such appeal shall be in writing in the form of a notice, and shall be filed with the Clerk of Licenses within (15) days of such refusal or revocation and shall clearly state the grounds for such appeal.
- (3) The Council shall hear such appeal at such time and place as it determines, but not later than the next regularly scheduled Council meeting.
- (4) Council may confirm the refusal or revocation by the Clerk of Licenses, or may direct the Clerk of Licenses to issue or reinstate the license. In making its decision, Council will do so in accordance with the provisions of this By-Law.
- (5) If Council directs the Clerk of Licenses to issue or reinstate such license, the Clerk of Licenses shall immediately do so.

LOCATION

22. A vendor may engage in temporary vending only at the location and in the premises specified on the license, and provided that the vendor is in compliance with the other provisions of this By-Law.

VENDING ON SIDEWALKS

23. Vending is not permitted on sidewalks except as authorized by Council by Policy pursuant to this By-Law.

SPONSORING ORGANIZATIONS

24. A sponsoring individual, group or organization may obtain a license or licenses for multiple vendors to be located at a specific location.

ADDITIONAL REQUIREMENTS

25. 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 or licensing.

PENALTY

26. Anyone 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 fine of not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) and, in default of payment, to imprisonment for a period not exceeding ninety (90) days.
27. Any person who violates any provision of this By-law and who is given notice of the violation may pay to the Town, at the place specified on the notice, the sum of \$200.00 as stated in the notice, within 14 days of the date of the notice and shall thereby avoid prosecution for that violation.

REPEAL

28. All previous Temporary Vendors By-laws of the Town, and any amendments thereto, are hereby repealed.

EFFECTIVE DATE

29. This By-law is effective upon publication

C. Joe Feeney, Mayor

James A Wentzell, CAO

This is to certify that the foregoing is a true copy of a bylaw passed at a duly convened meeting of the Council of the Town of MAHONE BAY, held the 8th day of May, 2012.

Given under the hand of the Mayor and Chief Administrative Officer and the seal of the Town of MAHONE BAY this 11th day of May, 2012.

Clerk's Notation

FIRST READING:	April 10, 2012
"NOTICE OF INTENT" PUBLICATION:	April 18, 2012
SECOND READING:	May 8, 2012
MINISTERIAL APPROVAL:	N/A
DATE OF PUBLISHING:	May 16, 2012
FORWARDED TO THE MINISTER:	May 17, 2012
FORWARDED TO TOWN WEBSITE	May 18, 2012