

# TOWN OF LOCKEPORT

## Vending By-Law #105

### 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 of Lockeport which abuts a Town of Lockeport street;
- (2) “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;
- (3) “craft/farmers market” means an outdoor market at which persons are rented or provided space for a fee or rent for the purpose of selling new or used merchandise to the public;
- (4) “linear meters” means the length of the longest dimension of a fixed stand;
- (5) “mobile Canteen” means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;
- (6) “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;
- (7) “not-for-profit organization” means an association, charity, cooperative and other voluntary organizations formed to further cultural, educational, religious, professional or public service objectives.
- (8) “non-mobile stand” means a stand that is not a mobile stand;
- (9) “public places” means:
  - (a) Streets;
  - (b) Property owned by the Town of Lockeport;
  - (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;
- (10) “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;
- (11) “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;
- (12) “Special Event” means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.
- (13) “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;
- (14) “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith;
- (15) “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;
- (16) “vending machine” means a mechanical or electronic device that:
- (a) is operated by the introduction of a coin, counter or slug; and
  - (b) dispenses food, beverages, goods, wares or services, including newspapers and other publications; and
- (17) “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 Machines**

3. The Council may by written instrument lease space for a term not to exceed one year for vending machines on streets or other public places owned by the Town of Lockeport and vending machines operated in compliance with the terms of such leases do not contravene this By-Law.
4. Vending machines placed and operated in compliance with the terms of any valid and subsisting written lease, license or permission from the property owner upon which they are situate do not contravene this By-Law.
5. Subject to sections 3 and 4, vending machines shall not be placed or used outdoors.

### **Vending on Abutting Streets or Land**

6. On the streets, or portions of streets 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 (21) of this By-Law.

### **Craft/Farmers Markets**

7. It is the responsibility of the craft/farmers market organizer to acquire a special event vendor's permit on behalf of all vendors participating in the craft/farmers market with the exception of participating mobile canteens.

### **Special Event**

8. Any person vending or trading at a special event in the Town shall:
  - (a) have a vending permit in compliance with this By-Law; and
  - (b) acquire written approval from the special event organizer;

### **Prohibition**

9. Except as expressly authorized by sections (3 to 8) of this By-Law, no person
  - (1) Shall vend at craft/farmers markets in the Town of Lockeport except in accordance with the terms and conditions of a Vending Permit;
  - (2) Shall otherwise vend in, on or near a public place in the Town of Lockeport except in accordance with the terms and conditions of a Vending Permit.

10. In accordance with, and subject to, the provisions of this By-Law, Vending Permits may be obtained for the vending:

- (1) Of food and beverages at mobile canteens on streets and at specifically identified other locations;
- (2) Of food and beverages and other merchandise or services at stands at specifically identified locations;
- (3) Of merchandise at flea markets at specifically identified locations situated on private property during any 6 months of the year; and
- (4) Of garden products at garden centres at specifically identified locations situated on private property during any 6 months of the year.

11. All Vending Permits shall be obtained by application to the By-Law Enforcement Officer or the Town Clerk/Treasurer. 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 By-Law Enforcement Officer or the Town Clerk/Treasurer from time to time, and signed by the person applying therefore. Every application for 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 meters of non-mobile stands;
  - (d) Square meters of garden centre space or flea market spaceFor which a Vending Permit is sought;
- (3) Whether the application is for a permit:
  - (a) For a full year;
  - (b) For a season of 6 months or less, and, if so, the dates of the season for which the permit is sought; or
  - (c) For one or more occasions on less than 10 days in any year, 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
    - i) Maintain throughout the period for which the permit is sought, insurance for third party liability on each mobile canteen in an amount of not less than one million per occurrence;
    - ii) Only allow the mobile canteen to be driven by operators with valid operators' permits of the requisite class for that type of vehicle, and
    - iii) 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) a description of the foods and beverages to be sold at each mobile canteen;
  - (d) A description of the areas in the Town of Lockeport 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 Regulations and other applicable enactments;
  - (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 of Lockeport 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 garden centres or flea markets:
- (a) The precise location, described by civic address and a plan diagram showing the dimensions and layout of the garden centre or flea market; and
  - (b) The maximum dimensions of the product display space;

(7) The permit fee pursuant to section 12; and

(8) 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 property for the vending to occur there;

12. The fee for a Vending Permit shall be as indicated in the following Table:

	<b>One Year Permits</b>	<b>Seasonal Permits (less than 6 mths)</b>	<b>Special Event Permits (3 or more consecutive days)</b>	<b>Per Day</b>	<b>Damage Deposit Required</b>
<b>Mobile Canteen (fee per canteen)</b>	\$1,500	\$1,000	\$450	\$200	\$200
<b>Craft/Farmers Market</b>	Not Applicable	Not Applicable	Not Applicable	\$50	\$50
<b>Mobile Stand (fee per stand)</b>	\$150	\$100	\$50	\$20	\$20
<b>Non-Mobile Stand (fee per stand)</b>	\$150	\$100	\$50	\$20	\$20

\*\* Note \*\* Not-for-profit organizations are exempt from permit fees; however, they must obtain a permit as outlined in this By-Law.

13. 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 of Lockeport, 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.

14. Subject to the other provisions of this By-Law, the By-Law Enforcement Officer or the Town Clerk/Treasurer shall issue a separate numbered Vending Permit, containing terms and conditions consistent with this By-Law and the permit application, for each mobile stand, craft/farmers market or mobile canteen and for each non-mobile stand location which complies with the requirements of this By-Law.

15. In the event of a change in ownership of the person owning a mobile canteen or a stand for which a permit has been issued, or a substitution of a new mobile canteen, craft/farmers market or mobile stand for one for which a permit has been issued, the owner, or the new owner in the case of a change in ownership, shall notify the By-Law

Enforcement Officer or the Town Clerk/Treasurer in writing of the applicable new information and the Permit shall be amended accordingly without a fee.

16. A Vending Permit shall remain in effect for a period of not more than one year from the date of issuance.
17. The By-Law Enforcement Officer or the Town Clerk/Treasurer may refuse to issue, renew 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.
18. A person aggrieved by a decision of the By-Law Enforcement Officer or the Town Clerk/Treasurer pursuant to section 13 may appeal that decision to Council within 15 days of its mailing to the applicant or permit holder, by written notice of appeal to the Clerk.
19. After the hearing of an appeal, Council may confirm, rescind or vary the decision of the By-Law Enforcement Officer or the Town Clerk/Treasurer.
20. A Vending Permit issued under this By-Law shall be conspicuously displayed on the mobile stand, craft/farmers 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.
21. No person, with or without a Vending Permit, shall:
  - (1) Vend within 50 metres of the grounds of any school between ½ hour prior to the start of the school day and ½ hour after dismissal at the end of the school day;
  - (2) Vend between 2:00 a.m. and 8:00 a.m.
  - (3) Leave any stand or mobile canteen unattended on a street;
  - (4) Sell food or beverages for immediate consumption unless there is available for public use a suitable litter receptacle for the use of customers;
  - (5) Leave any vending location without first picking up, removing and disposing of all litter, trash or refuse associated in any way with the vending activity;
  - (6) Allow any items relating to the operation of a stand, craft/farmers market or mobile canteen to be placed anywhere other than in, on or under the stand, craft/farmers market or mobile canteen;
  - (7) Vend to persons in motor vehicles;
  - (8) 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 wares to the disturbance of the public;

(9) When vending from a mobile canteen:

- (a) Vend when the mobile canteen is situated in a no parking area, or in area in which parking is prohibited at that time;
- (b) Vend when the mobile canteen obstructs a roadway;
- (c) Vend when customers or persons apparently waiting to become customers are standing in a roadway;
- (d) 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 property on which the vending is lawfully occurring;
- (e) Vend when customers or persons apparently waiting to become customers are obstructing the traffic of pedestrians on a sidewalk;

(10) When vending from a stand:

- (a) Situate a stand or vend from a stand situated in a roadway or a sidewalk;
- (b) Vend when customers or persons apparently waiting to become customers are standing in a roadway;
- (c) Vend within five feet of an entrance way to any building, except a building owned by the permit holder;
- (d) 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;
- (e) Vend within twenty-five feet of the crosswalk at any intersection;
- (f) 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.

### **Penalty**

22. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than \$100 and not more than \$500.

23. All former By-Laws respecting Transient Traders in the Town of Lockeport are hereby repealed.



Date – First Reading: May 11, 2015

Date – Notice, in paper, to Public: May 25, 2015

Date – Second Reading: June 8, 2015

Date – mailed to SNS&MR a certified copy of By-Law: June 9, 2015

\*Date – ad Re: Passage of By-Law: June 15, 2015

**Adopted by the Council of the Town of Lockeport**

the 8<sup>th</sup> day of June, 2015.

Clerk/Treasurer (Sign)\_\_\_\_\_

Clerk /Treasurer (Print)\_\_\_\_\_Date: June 9, 2015

\*Effective Date of By-Law unless otherwise specified in the text of the By-Law

**THIS IS TO CERTIFY** that the foregoing is a true copy of a by-law passed at a duly convened meeting of the Council of the Town of Lockeport, held the 8<sup>th</sup> day of June , 2015.

Given under the hand of the Town Clerk/Treasurer and under the seal of the Town of Lockeport this 9<sup>th</sup> day of June, 2015.

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Town Clerk/Treasurer