

WHEREAS the Municipal Government Act, S.N.S 1998, c18 enables the Municipality of Digby to regulate and license vendors and traders of goods; and

WHEREAS the Municipality of the District of Digby intends to regulate vending and trading of goods:

- to ensure such facilities and their surroundings are adequately maintained;
- to ensure their customers receive a high degree of service; and
- in lieu of the fact such businesses are not obliged to pay property taxes or business occupancy fees
- to ensure the taxpayer is compensated for the municipal services such businesses are the beneficiaries of; and
- to compensate for the fact businesses who are in direct competition with such vendors and traders of goods which are obliged to pay property taxes and business occupancy fees are burdened with a tax not imposed on vendors and traders of goods
- the Council of the Municipality of the District of Digby hereby adopts this By-law

### **Title**

1. This Bylaw is entitled the “Vending Bylaw”.

### **Definitions**

2. In this Bylaw:

**Council** means the Council of the Municipality of the District of Digby.

**Craft Fair Organizer** means the person leasing the facility used to host the craft fair.

**Flea 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;

**Manufactured Products** means products to be retailed, which were produced by means of a large scale assembly line operation using sophisticated technology and machinery.

**Motor Vehicle** means a self-propelled vehicle, as defined in the Motor Vehicle Act, driven otherwise than by muscular power.

**Municipality** means the Municipality of the District of Digby.

**Person** means an individual, guild, agency or a corporation.

**By-law Review Committee** means the Bylaw Review Committee of the Council of the Municipality of the District of Digby.

**Special Event** means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.

**Stand** means any table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered pursuant to the Motor Vehicle Act as a motor vehicle or a trailer, used for the display, storage, transportation, or sale of food, beverages, or other merchandise by a trader.

**Street** means within the entire right-of-way of a public street owned and maintained by the Municipality of the district of Digby or the Department of Transportation & Public Works on behalf of the Municipality.

**Trade** means the sale, or offering for sale of food, beverages or other merchandise from locations other than:  
within a street;  
in a dedicated area (other than transient traders retailing manufactured products) within a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the Assessment Act of Nova Scotia.  
except for the following:  
farmers retailing produce harvested from a farm located in the Municipality;  
foresters whose wood lot is located in the Municipality;  
fishermen licensed by the Province of Nova Scotia.

**Traffic Authority** means the position of responsibility delegated by Regional Council by recorded resolution to be responsible for the powers of a traffic authority pursuant to the Motor Vehicle Act.

**Trailer** means a vehicle without motive power designed to carry property or passengers to be drawn by a motor vehicle.

**Transient Vendor or Trader** means a person temporarily vending or trading manufactured products at a particular location for a specified period of

time (e.g. retailing clothing from a hotel location) that is not operating such a business elsewhere in the Municipality from a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the Assessment Act of Nova Scotia.

**Unprocessed products** means produce in its natural state which has not been manufactured beyond harvesting.

**Vend** means the sale, or offering for sale of food, beverages or other merchandise within the confines of a street except for the following:  
farmers retailing produce harvested from a farm located in the Municipality;  
foresters whose wood lot is located in the Municipality;  
fishermen licensed by the Province of Nova Scotia.

**Vending vehicle** means a vehicle used for the displaying, storing, transportation or sale of food and beverages by a vendor which is:  
required to be licensed and registered pursuant to the Motor Vehicle Act as a motor vehicle or a trailer; or  
propelled by human power whether required to be licensed or not.

**Unightly** means a vending vehicle or stand which does not have a well maintained facade and site including but not limited to:  
clean and painted and rust free;  
tires with the right air pressure for traveling on public streets;  
vending or trading site free of rubbish

**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.

### **Administration and Enforcement Responsibilities**

3. No person shall vend or trade goods in the Municipality except in accordance with the provisions of these regulations.
4. Council shall appoint a person as the licensing authority to grant or refuse any application for a license under this By-law
5. The By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any Peace Officer shall have authority to enforce any and all provisions of this By-law.
6. Estate Auctions held to dispose of property and or personnel items belonging to properties listed on the Municipality of the district of Digby Tax Role have an exception from the requirements of this by-law

## License Requirements

7. No person shall vend or trade goods in the Municipality without having obtained a license to do so pursuant to these regulations.

8. A license to vend or trade is required for each vending stand or vending vehicle to be operated in the Municipality.

9. Every application for a license to vend or trade in the Municipality shall be made in writing to the person (s) appointed by Council to grant or refuse any application for a license under this By-law. An application for a license shall contain:

- the name, mailing address and telephone number of the applicant;
- company name if applicable;
- description of the merchandise to be sold;
- photograph of the stand or vending vehicle;
- if the applicant is proposing to vend or trade on property owned by the Municipality, the period of time during the year the applicant proposes to be in operation and the hours of operation;
- if the applicant is proposing to vend or trade food prepared on-site, a copy of the license issued by the Nova Scotia Department of Agriculture in compliance with their Regulations;
- if the applicant is proposing to cook food to be prepared for consumption by the general public, a statement from the Fire Marshall's office of the Province of Nova Scotia, or a person licensed to supply or install propane equipment by the Fire Marshall's office, that the equipment used by the vendor to cook the food is in compliance with the minimum requirements of the "Liquified Petroleum Gas Installation and Equipment Regulation" made pursuant to the Fire Prevention Act of Nova Scotia;
- if the applicant is proposing to trade at a particular site other than a street, adequate property information to identify the specific parcel of land including a site plan;
- if the applicant is proposing to trade at a particular site and the applicant is not the owner of the parcel of land, written permission from the property owner;
- if the applicant is proposing to vend on a street, written permission from the Traffic Authority;
- confirmation of insurance in the amount of \$1,000,000 including the Municipality as an additional named insured, and if it is a vendor, with a cross liability clause in connection with the presence and operation of the vendor within the street, and that the Municipality of the district of Digby will be notified by the insurance company if and when the insurance policy on the vehicle or stand in effect with respect to the vehicle or stand to be used has expired;

10. After receiving a completed application, the licensing authority shall issue a license unless the application is to vend or trade at a site, which is not in compliance with the zoning provisions of the land use by-law in effect.

11. Any person who has been refused a license may appeal such license to the By-law Review Committee by writing to the Clerk of the Municipality within 15 days of the revocation. The By-law Review Committee may confirm the decision of the licensing authority or order that a license is issued subject to compliance with the provisions of this By-law.

#### Reasons for Revoking a License

12. A license shall be revoked by the licensing authority for the following reasons:

(1) the license issued by the Nova Scotia Department of Agriculture is revoked;

(2) the vendor or trader is vending or trading merchandise not stipulated on the application for a license;

(3) the vending or trading business is in violation of any specific provision of this By-law;

(4) the vending or trading business is in violation of any other By-law of the Municipality;

(5) the vending or trading business is in violation of provisions of the Motor Vehicle Act or any regulations made thereunder;

(6) the vending or trading business is not insured as stipulated in Part 3 and as confirmed on the license application.

13. Any person whose license has been revoked by the licensing authority may appeal to the By-law Review Committee in writing to the Clerk of the Municipality within 15 days of the revocation. The By-law Review Committee may confirm the decision of the licensing authority or order that a license not be revoked subject to compliance with the provisions of this By-law.

14. A license in respect of any site may be revoked by the By-law Review Committee if, in the opinion of the Committee, the site is required for the purposes of the Municipality and the Municipality shall refund to the applicant a portion of the license fee paid by the applicant prorated in proportion to the amount of time that the license is revoked.

## General Provisions

15. No vendor or trader of goods shall:

(1) leave any vending vehicle or stand unattended on a street;

(2) leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor or trader of goods;

(3) place any items relating to the operation of the vending or trading of goods anywhere other than in, on or under the stand or vending vehicle with the exception of a litter receptacle (both vendors and traders of goods) or a table (if trading goods on a particular site other than a street);

(4) solicit business orally or by means of any sound emitted by a device to pedestrians or persons in motor vehicles;

(5) vend goods within 100 feet of a doorway of a permanent business establishment located within a building subject to property and business occupancy tax and selling similar products as the vendor, unless the vendor is a pedestrian powered vehicle or stand selling food in front of an eating establishment in which the restaurant is closed (For purposes of clarity, "selling similar products" shall mean for example food vendors and restaurants, craft vendors and jewelry stores etc.);

(6) allow the stand or vending vehicle or any item relating to the operation of the vending or trading of goods business to lean against or hang from any building on private property or any structure lawfully placed on public property without the owner's permission;

(7) operate such a business from a stand or vending vehicle which is unsightly because the facade has not been maintained or a particularly obnoxious part of the stand or vending vehicle is not effectively screened from outside of the stand or vending vehicle;

(8) locate the stand or vending vehicle in such a way as would restrict or interfere with vehicles entering or exiting a driveway accessing a street or pedestrians attempting to enter the premises of a building;

(9) leave a vending vehicle or stand at any location which is not being used for vending or trading purposes for a period of time exceeding one (1) week;

(10) place the vending vehicle or stand so as to obstruct the view of approved signage or displays in storefront windows.

## **Sidewalk Vending**

16. No motor vehicle shall be used for vending purposes while on a sidewalk, and no pedestrian powered vending vehicle or stand shall be permitted on a sidewalk unless:

(1) the width of the sidewalk is a minimum of 10 feet between the hours of 9:00 a.m. and 5:00 p.m.;

(2) the sidewalk is located within a zone of the Land Use By-law in effect which permits retailing the type of commodity to be vended; and

(3) provided the pertinent provision of Section 5.e. is met.

## **Yard Sales**

17. Yard sales on private property do not contravene this By-law provided that:

(1) the owner of the property upon which the yard sale vending is occurring expressly authorizes such yard sale vending;

(2) the property owner and the yard sale vendor do not set up or place, or allow to be set up or placed, outside in a location visible from a public place any yard sale vending merchandise, stands or equipment before 12 hours in advance of the time that the yard sale vending is permitted to begin pursuant to this By-law; and

(3) the property owner and the yard sale vendor do not leave or allow to be left

outside in a location visible from a public place any yard sale vending merchandise, stands or equipment more than 12 hours after the time that the yard sale vending is required to cease pursuant to this By-law.

18. Council may by resolution designate properties upon which yard sales are not permitted to occur, upon recommendation or advice from the Traffic Authority; that yard sales at such properties are or may cause a safety hazard or an obstruction to traffic.

## **Farmers Markets**

19. Vending at specific farmers market[s] designated by resolution of Council does not contravene this By-law.

## **Special Events**

20. Any person vending or trading at a special event in the Municipality shall:  
have a vending license in compliance with this By-law; and acquire written approval from the special event organizer; unless the beneficiary of the proceeds from the vending or trading is a religious denomination or a nonprofit corporation or a society incorporated under the Societies Act.

21. A person intending to vend or trade at a special event in the Municipality may acquire a per event license from the Regional Municipality or acquire an annual license from the Regional Municipality.

### **Craft Fairs**

22. It is the responsibility of the craft fair organizer to acquire a special event vendor's license on behalf of all vendors participating in the craft fair. Each vendor is not required to be licensed individually.

### **Christmas Tree and Lobster Retail**

23. The seasonal retailing of Christmas trees during the weeks leading up to Christmas day shall be subject to a license fee as per the fee schedule unless:  
the retailing is being conducted by the wood lot owner who harvested the trees as described in the definition to trade or vend; or  
the retailing is being conducted by, or for the benefit of, a nonprofit organization registered under the Societies Act of Nova Scotia.

24. The retailing of lobsters during the normal lobster season in the Municipality shall be subject to a license fee as per the fee schedule unless:  
the retailing is being conducted by the licensed fishermen who caught the lobster; or the lobster is being sold by , or for the benefit of, a nonprofit organization registered under the Societies Act of Nova Scotia.

### **Zoning**

25. The parking or placement of a vending vehicle or stand for purposes of vending or trading at any location for a period of time exceeding 30 minutes shall only be permitted subject to compliance with the Land Use By-law zoning provisions in effect for the vending or trading site regulating a similar type of land use (e.g. food vendor/restaurant, craft vendor/retail store), either as a main use or an accessory use.

### **Transfer of License**

26. A license to vend or trade may be transferred to a new licensee upon receipt of a written request from both parties.

### **Period of Time in Effect**

27. A license to vend or trade shall be an annual license (12 months), which shall expire on the 31st day of March of each calendar year.

### **License Identification and Display**

28. Every license shall bear a number and shall be conspicuously displayed at all times during the operation of the vending and/or trading business.

### **Records**

29. The person appointed to grant or refuse any application shall keep a record of every license issued and every application accepted.

### **Penalties**

30. Every person who contravenes or fails to comply with any provisions of this By-law, or any proprietor who allows unlicensed vendors the use of their premises or property, shall, for each offense, be liable on summary conviction to a penalty of not less than \$100.00 and not more than \$200.00; and, in default of payment, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may cancel or suspend the license of such person. In the case of a continuing offense, a further penalty, not exceeding \$100 for each day during which the offense continues, may be imposed.

31. Where a person is vending or trading goods without a license required by this By-law; or from a space other than the space allocated to that person and specified in a License issued pursuant to this By-law; in addition to any other remedy or penalty imposed by this By-law, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may, immediately and without notice of any kind, remove any vehicle or stand used as an integral part of the vending or trading business to a place selected by the Municipality and all costs and charges incurred by the Municipality for the removal and storage shall be a lien thereon and the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner, the cost of removal and storage thereof.

This is to certify that the foregoing is a true copy of the Bylaw passed at a duly convened meeting of the Council of the Municipality of the District of Digby, held the 15th day of July, 2002.

Given under the hands of the Warden and Chief Administrative Officer and the seal of the Municipality of the District of Digby this 13th day of August, 2002.

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James R. Thurber, WARDEN

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Brian Cullen, Chief Administrative  
Officer

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**2. FIRST READING**  
**“NOTICE OF INTENT” PUBLICATION**  
**SECOND READING**  
**MINISTERIAL APPROVAL**  
**DATE OF PUBLISHING**  
**FORWARDED TO THE MINISTER**

**JUNE 24, 2002**  
**JUNE 29, 2002**  
**JULY 15, 2002**  
**NOT REQUIRED**  
**AUGUST 21, 2002**  
**AUGUST 21, 2002**