

TOWN OF PICTOU VENDORS BYLAW

BE IT RESOLVED that this By-Law, known as the Vendors By-Law for the Town of Pictou be enacted effective this 15th day of April 2019.

TITLE

1. This By-Law may be cited as the "Vendors By-Law".

DEFINITIONS AND INTERPRETATION

2. In this By-Law:
 - a. **"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;
 - b. **"CAO"** has the same meaning as in the *Municipal Government Act*, S.N.S. 1998 c. 18, of the Province of Nova Scotia or successor legislation as may be enacted from time to time;
 - c. **"Council"** means Pictou Town Council;
 - d. **"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;
 - e. **"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;
 - f. **"Licensing Authority"** means the CAO or such other person as may be appointed by the CAO to act on behalf of the Town in such a capacity;
 - g. **"Peace Officer"** means a member of the Provincial Police as defined in the *Police Act*, SNS 2004, c. 31;
 - h. **"Permit"** means a temporary vending Permit issued pursuant to the By-Law;
 - i. **"Policy Officer"** means any employee of the Town or other employee in connection with the Town charged with enforcement of the policies and/or By-Laws of the Town, including, without limitation, a By-Law enforcement officer;

- j. **“Public Places”** 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;
- k. **“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;
- l. **“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;
- j. **“Traffic Authority”** means the local authority appointed by Council pursuant to section 311 of the *Municipal Government Act*, SNS 1998, c.18;
- m. **“Temporary Vending”** means the offering to the public by sale or otherwise of any food, non-alcoholic beverages, goods, wares, produce, merchandise or services (including products of the farm, forest or sea);
- n. **“Town”** means the Town of Pictou;
- o. **“Vending Unit”** 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;
- p. **“Vendor”** means any person who engages in Temporary Vending as defined under this By-Law; and
- q. **“Yard Sale”** means an occasional sale of personal property held at the home of the seller in a residential area and may also be referred to as a garage sale.

APPLICATION

- 3. This By-Law is enacted pursuant to Section 172 and 173 of the *Municipal Government Act*, S.N.S. 1998, c. 18.
- 4. This By-Law is intended to add to, and not to conflict with or subtract from, the requirements contained in valid provincial or federal legislation and regulations in force from time to time and shall be interpreted accordingly.

ADMINISTRATION

6. The CAO shall be the Licensing Authority unless the CAO appoints another person(s) to act as the Licensing Authority, and such Licensing Authority is authorized and empowered to grant or refuse any application for a Permit pursuant to this By-Law.
7. The Licensing Authority shall keep a copy of all Permits granted under this By-Law.
8. Any person engaged in Temporary Vending in the Town is required to have a Permit as prescribed by this By-Law.
9. An applicant for a Permit shall make written application to the Licensing Authority in the form as prescribed by this By-Law.

GENERAL

10. No person shall vend in the Town without a Permit, except as where specifically exempted by this By-law.
11. No Vender 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 or sidewalk;
 - 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:
 - i. placed within 3.5 metres of the Vendor location;
 - ii. no more than 1.5 square metres in sign area;
 - iii. stable design and must be well maintained; and
 - iv. placed so as not to restrict the ingress or egress of the abutting property owner or tenant or sidewalk;
 - 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 10:00 pm and 7:00 am in any location, unless permission is granted under special circumstances;
 - 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, and shall be emptied at the end of the day. No vender shall dispose of solid waste contrary to methods prescribed in the Town's 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, neighboring property owners;
- j. Sell anything other than which he/she is permitted to vend as established in a Permit; or
- k. Vend on Sidewalks except as authorized by Council by Policy pursuant to this By-Law.

12. 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, with the exception of c2 zones;
- b. Be subject to a Permit and relevant provisions of other applicable legislation and Town By-Laws including but not limited to the Land Use By-Law; and
- c. The property owner shall provide in writing their consent to the Permit application.

13. A Vendor may engage in Temporary Vending only at the location and in the Vending Unit specified on the Permit, and provided that the Vendor is in compliance with the other provisions of this By-Law.

14. A sponsoring individual, group or organization may obtain a Permit or Permits for multiple Vendors to be located at a specific location.

GENERAL EXEMPTIONS

15. This By-Law does not apply to the following subject to other relevant legislation or Town By-Laws:

- a. any person offering to sell the products of the farm, the forest, or the sea;
- b. any sheriff, bailiff, or other officer selling under legal process;

- c. church groups, service clubs, students or any other persons or groups who engage in auctioneering, Temporary Vending, or peddling for school or charitable purposes; or
 - d. Busking in Public Places subject to the guidelines listed in Appendix "A" of this By-Law.
16. Yard Sales on private property between 9:00 am and 5:00 pm on Saturdays and Sundays do not contravene this By-Law provided that:
- a. the owner of the property upon which the Yard Sale Temporary Vending is occurring expressly authorizes such Yard Sale Temporary Vending;
 - b. 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 Temporary Vending merchandise, stands or equipment before 12 hours in advance of the time that the Yard Sale Temporary Vending is permitted to begin pursuant to this By-Law; and
 - c. 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 Temporary Vending merchandise, stands or equipment more than 12 hours after the time that the Yard Sale Temporary Vending is required to cease pursuant to this By-Law.
17. 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.
18. Vending at specific Farmer's Markets and Flea Markets designated by resolution of Council does not contravene this By-Law.
19. Vending during Pictou Lobster Carnival, the Pictou-North Colchester Exhibition and other special events as established by Council by resolution is managed by said committees and does not form part of this By-Law.
20. 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 Land Use By-Law.

PERMIT AND FEES

21. A Permit issued under this By-Law is not transferable or assignable.

22. A 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.
23. All Permits or amendments to Permits shall be made by application to the Licensing Authority on the application form included as Appendix "B" to this By-Law.
24. Every application for a Permit or amendment to a 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 provincial requirements including but not limited to food safety, 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 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 Marshall. A photograph of fire extinguisher shall be provided prior to the issuance of a Permit.

25. In addition to any other relevant licensing requirements, the applicant shall pay the appropriate fee for his or her Temporary Vending Permit in accordance with the following:
 - i. \$45 per day
 - ii. \$200 for five days in one calendar year
26. 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.
27. Subject to the provisions of this By-Law, the Licensing Authority shall issue a separate, numbered Permit containing terms and conditions consistent with this By-Law and the Permit application.
28. Provided that the conditions and terms of this By-Law have been met the Licensing Authority shall issue the Permit to the applicant.
29. If the conditions of this By-Law have not been met and a Permit cannot be issued, then the Licensing Authority 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.
30. Every Permit 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 Vending Unit and any other terms or conditions imposed by this By-Law.
31. Council may establish policies from time to time which shall be applicable as conditions to Permits.
32. All Vendors shall be subject to and shall abide by the conditions of their Permits.
33. 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 Licensing Authority.
34. 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.
35. 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.

POLICY OFFICER

36. The Policy Officer and/or Peace Officer is hereby authorized and empowered to enforce the terms of this By-Law.

REVOCACTION BY COUNCIL

37. When it appears to Council that it is in the public interest to do so, Council may revoke any Permit issued under the provisions of this By-Law.
38. Council shall provide the holder of any 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.
40. The Licensing Authority shall notify the holder of such 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.
41. A 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.

REVOCACTION UPON VIOLATION OR CONVICTION

42. A Permit granted under this By-Law may be revoked by the Licensing Authority for any violation of the terms of this By-Law.
43. A Permit issued under this By-Law may be revoked by the Licensing Authority 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.
44. The Licensing Authority shall notify the holder of a Permit of any revocation of the 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.

APPEALS

45. Any person who has been refused a Permit, or whose Permit has been revoked by the Licensing Authority may appeal such refusal or revocation to Council.
46. Such appeal shall be in writing in the form of a notice and shall be filed with the Licensing Authority within (15) days of such refusal or revocation and shall clearly state the grounds for such appeal.
47. The Council shall hear such appeal at such time and place as it determines, but not later than the next regularly scheduled Council meeting.

48. Council may confirm the refusal or revocation by the Licensing Authority or may direct the Licensing Authority to issue or reinstate the Permit. In making its decision, Council will do so in accordance with the provisions of this By-Law.

49. If Council directs the Licensing Authority to issue or reinstate such Permit, the Licensing Authority shall immediately do so.

OFFENCE ENFORCEMENT AND PENALTY

50. No Person shall contravene or fail to comply with any provision of this By-Law.

51. This By-Law may be enforced, at the discretion of the Town, by any Peace Officer or Policy Officer, in accordance with the procedures set out in the Municipal Government Act or by means of a Summary Offence Ticket under the Municipal Government Act or Summary Proceedings Act.

52. The Summary Proceedings Act, where applicable, shall apply to proceedings under this By-Law.

53. Except as otherwise provided in this By-Law, any Person who violates any of the provisions of the By-Law or who suffers or permits any act or thing to be done in contravention of this By-Law, or who refuses, omits, fails to comply with or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this By-Law, shall be liable upon summary conviction:

54. for the first offence to a penalty of not less than One Hundred Dollars (\$100.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;

55. for the second offence to a penalty of not less than Three Hundred Dollars (\$300.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both;

56. for the third or subsequent offence to a penalty of not less than Five Hundred Dollars (\$500.00) and of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment for a period of not more than six (6) months or both.

REPEAL

57. The Auctioneers, Pedlars, Hawkers and Traders of Goods By-Law and any previously related By-laws of the Town, and any amendments thereto, are hereby repealed.

EFFECTIVE DATE

58. This By-law is effective upon publication.

Appendix "A"
Guidelines for Busking in Public Places

The Town 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 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 Policy Officer and/or Peace Officer, Buskers may be directed to another area.

Appendix "B"
Application Form



APPLICATION
 LICENSE OF AUCTIONEERS, PEDLARS, HAWKERS TRADERS OF GOODS
 INCLUDING FOOD VENDORS

LICENSE # _____

DATE OF APPLICATION: _____

OWNERS NAME: _____

ADDRESS: _____

PHONE # _____ (Office) _____ (Cell)

APPLICANT NAME: _____
 (IF DIFFERENT THAN OWNER)

ADDRESS: _____

PHONE # _____ (Home) _____ (Business)

BUSINESS: AUCTIONEER () PEDLAR () TRADER OF GOODS ()

NAME OF BUSINESS: _____

PRODUCT TO BE SOLD: _____

SIZE OF STAND/CART: _____
 (please attach a photo or sketch of the stand/cart)

REQUESTED LOCATION: _____

REQUESTED DATES: _____

 APPLICANT'S SIGNATURE

CAO ANNOTATION

Date of First Reading: February 25, 2019

Date of advertisement of Notice of Intent to Consider: March 22, 2019

Date of Second Reading: April 15, 2019

Date of advertisement of Passage of By-Law: May 1, 2019

I certify that the above VENDORS BY-LAW was duly adopted by Pictou Town Council at duly called meetings and was published as indicated above.

N. MacDonald

Deputy Clerk