

BY-LAW NO. 42

STREET VENDORS BY-LAW

Street Vendors By-law:

Abstract:

The proposed Street Vendors By-law will enable the Town to regulate street vendors in a more effective and practical manner. The following outlines the proposed changes:

- 1) Any vending within a street right-of-way will be regulated by the Street Vendors By-law. Any vending activities not located within the street right-of-way will be regulated by the License By-law.
- 2) Ratepayers will no longer be exempted from the requirement of a license fee pursuant to the Street Vendors By-law or the License By-law.
- 3) Vendors, except lunch trucks, ice cream wagons, door to door vendors and auxiliary vendors shall tender for a designated site.
- 4) Businesses assessed for business occupancy tax may be able to use portions of the sidewalk in front of their location for the purpose of vending. Such locations will also be strictly regulated to ensure that there is no interference with the normal pedestrian traffic flow.
- 5) An approved vending operation should be exempted from the one hour parking limitation pursuant to the Parking Regulations. The Traffic Authority and the Parking Commission should review this possibility and make recommendations respecting this exemption.
- 6) The Street Vendors By-law will no longer exempt those products directly from the farm, forest or sea.

Revisions October 9, 1998, 2.1(c), 2.1(f), 3.5, 5.2, 5.5, 8.2 & 11.1(c)

Revisions November 12, 1998, 5.6

Revisions November 18, 1998, 5.4

Revisions Dec. 10/98 passed by Council with amendments to Part 5.4 & Schedule "D"

Revisions January 14 amendment to Part 3.6 of the Licenses By-law

Revisions July 14, 2005 amendments to Schedule "C" and Schedule "D"

Revisions March 14, 2007 amendments to Section 5 and Schedule "C"

STREET VENDORS BY-LAW

Part 1 - Interpretation

- 1.1 In this By-law, unless clearly indicated otherwise, words used in the present tense include future, words in the singular number include the plural, words in the plural include the singular number, words in the masculine include the feminine, and the word "used" includes "arranged", "designed or intended to be used", and the word "shall" is mandatory and not permissive.

Part 2 - Definitions

- 2.1 For the purpose of this By-law, all words shall carry their customary meaning except for those defined hereafter:
- (a) **Auxiliary Vending Operation** means a vending operation subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building.
 - (b) **Door to Door Vending** means peddling, hawking, or trading goods, wares, services, or merchandise of any kind door to door.
 - (c) **Ice Cream Wagon** means a mobile canteen which sells ice cream on a schedule and/or route and is not normally situated at one location.
 - (d) **Inspector** means a By-law Enforcement Officer or other person duly appointed to enforce and administer this By-law.
 - (e) **License** means a vendor's permit issued pursuant to this By-law.
 - (f) **Lunch Truck** means a mobile canteen which is designed to travel lot to lot vending its wares on a schedule and/or route and is not normally situated at any one location.
 - (g) **Mobile Canteen** means any vehicle used by a vendor which is required to be licensed and registered pursuant to the Motor Vehicle Act or propelled by human power whether required to be licensed or not, and may include a stand for food, beverages and/or merchandise.
 - (h) **Sidewalk Vendor** means a vendor vending along a sidewalk whose vending operation does not qualify as an auxiliary vending operation pursuant to Part 7 of this By-law.
 - (i) **Stand** means any table, showcase, bench, rack, pushcart, wagon or

wheeled 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, used for the display, storage, transportation or sale of food, beverages or other merchandise by a vendor.

- (j) **Town Administrator** means the Chief Administrative Officer or the Town Clerk of the Town of Yarmouth.
- (k) **Vending** means the sale and offering for sale of food, beverages or other merchandise and/or product from other than, or from outside of, an established business.
- (l) **Vendor** means an owner, agent, operator or employee of a firm or business which sells or offers for sale food, beverages or other merchandise in a public street or on private or public lands from other than, or from outside of, an established business and includes the owners of stands or mobile canteens from which vending takes place.

Part 3 - General Provisions

- 3.1 No vendor shall vend within any street right-of-way without first having obtained a license to do so pursuant to Schedules A and B as may be amended from time to time by resolution.
- 3.2 No vendor shall vend within any street right-of-way other than those located within the Downtown Commercial (C-1) or the Secondary Commercial (C-3) zone as described in the Land Use By-law except for the following:
 - * Lunch Trucks;
 - * Ice Cream Wagons;
 - * Door to Door Vending.
- 3.3 No vendor shall vend on a lot unless all relevant provisions of the Land Use By-law are satisfied.
- 3.4 No vendor shall vend unless in an orderly manner so as to ensure that neither their operation nor their clientele obstruct or interfere with the use of any street or sidewalk.
- 3.5 No vendor shall use or permit the use of any loud speaker, public address system, radio, sound amplifier or similar device.

Part 4 - Vending Regulations

4.1 A vendor shall not:

- (a) vend at any location other than the one for which the vendor is licensed;
- (b) vend on any street or sidewalk between the hours of 11 p.m. and 8 a.m.;
- (c) leave any vending apparatus unattended;
- (d) store, park or leave any vending apparatus on any street while not in operation;
- (e) leave any location without first picking up, removing and disposing of any trash or refuse remaining from the sales made by the vendor and shall keep the area clear of all trash and refuse at all times;
- (f) set up, maintain or permit the use of any table, crate, rack or any other device to increase the selling or displaying capacity, where such items have not been described in the vendor's application.
- (g) vend anything other than that which the vendor is licensed to vend;

Part 5 - Designated Sites

5.1 All street vendors shall vend from a designated site in which the vendor is licensed except for the following:

- (a) Lunch Trucks;
- (b) Ice Cream Wagon businesses;
- (c) Door to Door Vendors; and,
- (d) Auxiliary Vendors.

5.2 Designated sites shall be those as shown on Schedule "C", Site Plan, more particularly described in Schedule "D", Designated Site Locations, of this By-law. These schedules may be amended from time to time by Council resolution.

5.3 All applications for designated vending sites shall include the application form, Schedule "A" and an application fee of \$300.00.

5.4 The C.A.O. or designate will publicly invite sealed applications that will remain sealed until a certain date. Applications would then be opened and in a case where two or more vendors have applied for the same site, the applicants will be asked to bid on the site. The site shall be released to the highest bidder provided all other requirements are satisfied. Any

remaining designated site(s) after the certain date as described herein shall be released on a first come, first served basis.

- 5.5** In the event that an applicant does not acquire their desired designated vending site, they may choose another available site that remains available after opening all applications or otherwise shall be entitled to a full refund of their application fee.
- 5.6** All vendors from a designated site shall not:
- (a) vend within twenty five (25) feet of a street intersection;
 - (b) vend within twenty five (25) feet of a marked crosswalk or intersection;
 - (c) vend within twenty five (25) feet of any transit stop;
 - (d) vend any merchandise other than:
 - (i) food;
 - (ii) beverages;
 - (iii) flowers;
 - (iv) souvenirs; and,
 - (v) arts and crafts
 - (e) allow any item related to the operation to lean against, touch, or hang from any building or structure;
- 5.7** A stand shall not exceed eight (8) feet in width and twenty four (24) feet in length.
- 5.8** A stand shall not be equipped with an umbrella or similar device which overhangs a sidewalk unless the lowest portion of the umbrella or other such device is at least six and one half (6 1/2) feet or more above the level of the sidewalk.
- 5.9** Vendors shall provide an approved garbage storage facility adequate to receive the trash or refuse generated by the vending operation on a daily basis and shall remove the trash and refuse on a daily basis.
- 5.10** A vendor shall not dump any trash or refuse or any fat or other food substances into the Town's sewer system.

**Part 6 - Lunch Trucks
and Ice Cream Wagons**

- 6.1** Lunch truck vendors and ice cream wagon vendors shall not:
- (a) vend at any location unless a minimum of four (4) feet of open space for the use of pedestrians is maintained along the width of the sidewalk;
 - (b) vend within one hundred and twenty-five (125) feet of any doorway of a permanent business establishment selling similar items or products;
 - (c) vend on any street during the hours when stopping, standing or parking has been prohibited by signs or curb markings or is prohibited by statute or ordinance;
 - (d) stop, stand, park or vend within forty (40) feet of any intersection;
 - (e) vend toward the center of the street;
 - (f) vend within eight (8) feet of any driveway;
 - (g) vend within fifteen (15) feet of a marked crosswalk or any intersection;
 - (h) vend within twenty (20) feet of any bus stop or taxi stand;
- 6.2** A lunch truck shall not exceed twenty four (24) feet in length excluding any towing apparatuses.
- 6.3** Lunch truck vendors and ice cream wagon vendors shall provide an approved garbage storage facility adequate to receive the trash or refuse generated by the vending operation on a daily basis and shall remove the trash and refuse on a daily basis.
- 6.4** Lunch truck vendors and ice cream wagon vendors shall not dump any trash or refuse or any fat or other food substances into the Town's sewer system.
- 6.5** Lunch truck vendors and ice cream wagon vendors shall only vend along a route and at stops as approved on their license and shall not vend at any one location for a period longer than five (5) minutes unless on private property.

Part 7 - Auxiliary Vending

- 7.1** The provisions of this Part shall apply to a vendor who vends in conjunction with an existing business which is assessed for business occupancy tax.
- 7.2** An auxiliary vending operation may be located on a sidewalk directly in front of the main use provided:
- (a)** That such sidewalk is located within the Downtown Commercial (C-1) or the Secondary Commercial (C-3) zone pursuant to the Town's Land Use By-law; and,
 - (b)** A minimum of four (4) feet of open space is provided on the sidewalk between the vending operation and the edge of the roadway solely for pedestrian use.
- 7.3** A person who vends pursuant to this Part shall not:
- (a)** vend within three (3) feet of any doorway;
 - (b)** vend within eight (8) feet of any driveway;
 - (c)** vend within twenty (20) feet of a marked crosswalk or any intersection;
 - (d)** vend within twenty (20) feet of any bus stop or taxi stand;
 - (e)** erect any signage that does not comply with the provisions of the Land Use By-law;
 - (f)** erect lights of any kind except those that are subordinate and naturally, customarily and normally incidental to and exclusively devoted to the main use.
- 7.4** A person who vends pursuant to this Part shall:
- (a)** remove all vending apparatus from the sidewalk or lot no later than thirty (30) minutes after the time when the main business on the same lot is closing or required to close, and shall not set up earlier than thirty (30) minutes prior to the time when the main business on the same lot is opening or is permitted to open;
 - (b)** keep the area clear of all trash and refuse.

Part 8 - Enforcement

- 8.1** This By-law shall be referred to as the Street Vendors By-law and be

administered by the Inspector.

- 8.2** Any vendor found guilty of having contravened or failed to comply with any of the terms of this By-law or of any license issued under this By-law shall, on conviction, be liable to a penalty of not less than three hundred dollars (\$300.00), and not more than one thousand dollars (\$1000.00), and in default of payment, to imprisonment for a period not exceeding sixty (60) days.

Part 9 - Scope of Application

- 9.1** Every application for a license pursuant to this By-law shall be completed and submitted on the form provided by the Town and shall include the appropriate fee payable pursuant to Part 11 of this By-law and an additional twenty five (25) dollar non-refundable processing fee.
- 9.2** The Inspector shall receive and review every application and issue such license as are in compliance with this By-law.

Part 10 - Issuance and Terms of License

- 10.1** Within fifteen (15) days of receiving an application, the Inspector shall inform the applicant whether the application is complete.
- 10.2** Within thirty (30) days of receiving a completed application, the Inspector shall either grant or refuse the street vendor license.
- 10.3** Every license shall specify the license holder's name and address, the type of food, beverage or other merchandise or product permitted to be sold, the registration number of any licensed motor vehicle, the designated site or in the case of a mobile canteen, lunch truck, or ice cream wagon, the schedule and/or route.
- 10.4** The license shall be prominently displayed during the hours of operation.
- 10.5** A street vendor license shall not be transferable by the license holder.
- 10.6** Every yearly license to vend shall expire at the end of the calendar year.
- 10.7** Every monthly license to vend shall expire at the end of thirty (30) days from the date it was issued.

Part 11 - License Fees

11.1 License fees pursuant to this By-law shall be:

type of vending		per year	per month
(a) Mobile Canteen	-----	\$ 500.00	\$ 200.00
(b) Lunch Trucks	-----	\$ 500.00	\$ 200.00
(c) Ice Cream Wagon Businesses	-----	\$50.00 per wagon unit	
(d) Door to Door Vending	-----	\$ 200.00	\$ 50.00
(e) Auxiliary Vending	-----	\$ 0.00	\$ 0.00
(f) Designated Site	-----	Determined by Tender	

11.2 Notwithstanding anything contained in this by-law, Council may, by resolution, upon written request, waive the provision of this By-law for a non-profit organization for a festival or special event.

Part 12 - Revocation and Appeals

12.1 Any license issued under this By-law may be suspended for a period of up to fourteen (14) consecutive days by the Inspector.

12.2 Any person whose application for a license under this By-law is refused or suspended by the Inspector may appeal such refusal or suspension to the Town Administrator.

12.3 Any license may be revoked by the Town Administrator.

12.4 Any refusal, suspension or revocation of a license shall be made in writing to the applicant.

12.5 Any person whose license is revoked or whose application for a license has been refused may appeal to Council, whose decision shall be final.

12.6 Such notice of appeal shall be served on the Town Administrator within fifteen (15) days of the date that the written decision is served on the applicant.

12.7 Any such appeal served on Council shall be heard by Council and Council may:

- (a) confirm the decision of the Town Administrator, or
- (b) order that the license be granted or reinstated with or without conditions.

I, JEFF GUSHUE, Clerk and Chief Administrative Officer of the Town of Yarmouth, do hereby certify that the foregoing is a true copy of a By-Law passed by the Town Council of the Town of Yarmouth as follows:

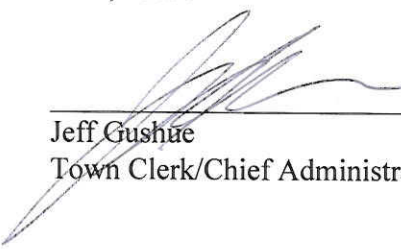
Date of First ReadingNovember 9, 2006

Dates of Publication of Notice of Intent
December 26, 2006/January 9, 2007/February 6, 2007/March 6, 2007

Date of Second Reading..... March 14, 2007

Publication on March 27, 2007

GIVEN UNTO the hand of the Town Clerk/Chief Administrative Officer and the Corporate seal of the Town this 27th day of March, A.D., 2007.



Jeff Gushue
Town Clerk/Chief Administrative Officer

Schedule "A"
Application for a Street Vendor License

Company's Name: _____
 Applicant Name: _____ (agent)
 Address: _____

 Postal Code: _____
 Home Phone No. _____ Work Phone No. _____
 Owner's Name: _____
 Address: _____

 Postal Code: _____
 Home Phone No. _____ Work Phone No. _____

Description of Vending Merchandise: _____

Accessory Requirements Submitted:	If Applicable
Description & Photos of Vending Apparatus:	_____
Registration of Vehicle:	_____
Health Permit No.	_____
Classification:	_____
Date of Inspection:	_____
Hours of Operation Requested:	_____

Site applied for or established schedule and/or route: _____

I hereby make application to the Town of Yarmouth for a Street Vendor's Permit stating the information in this application is true and complete and that I agree to comply with the provisions of the Town of Yarmouth's Street Vendor's By-law.

Signature of Applicant: _____ Date: _____

Authorized Consent of Owner: _____

Schedule "B"
Street Vendor License

Date License Issued: _____ Inspector: _____

Expiry Date: _____

Permission is hereby granted to _____ of _____, to proceed with the following vending operation:

Type of Vending Operation:	Check where Applicable
Designated Sites	_____
Auxiliary Vending	_____
Festival or Special Event	_____
Lunch Trucks	_____
Ice Cream Wagons	_____
Door to Door Vending	_____

Vending from a Designated Site or Auxiliary site:
Location:

Vending from a Non Designated Site:
Established Schedule and/or Route:

Description of vending merchandise permitted pursuant to this permit:

Registration No. of Motor Vehicle: ----- _____

Health Permit No.: ----- _____

Vending License No.: ----- _____

The License holder hereby acknowledges receipt of this License and agrees to conform and comply with the conditions of this license and all requirements of the Town's Street Vendors By-law.

License Holder _____

SCHEDULE "C"

VENDING LOCATION MAP GOES ON THIS PAGE

Schedule “D”

Designated Site Location

Only one vendor will be permitted at each location except for special occasions approved by Council’s resolution.

1. Frost Park - West side of Main Street
2. Cenotaph Park - East side of Main Street
3. Between Parade & Collins - East side of Main
4. Frost Park - East side of Water Street
5. Harbourfront Place - East side of Water Street
6. Brown Street Parking Lot - West side of Main Street
7. Between Forest Street and Cumberland Street - east side of Main Street
8. Tourist Bureau - East side of Water Street
9. Water Street - East side near Horton Street
10. Between Forest Street and Cumberland Street - west side of Main Street
11. Between Collins & Alma Street - East side of Main (excluding the area directly in front of the Art Gallery)
12. Between John Street and Alma Square - east side of Main Street
13. Between John Street and the eastern prolongation of Brown Street - east side of Main Street.
14. Between Jenkins Street and Central Street - east side of Water Street.

