

## TOWN OF BERWICK

### VENDING BYLAW

#### **TITLE:**

1. This By-law shall be known and may be cited as the “Vending By-law”.

#### **DEFINITIONS:**

2. In this By-law:
  - a) “**CAO**” means the Chief Administrative Officer for the Town of Berwick;
  - b) “**Council**” means the Council of the Town of Berwick;
  - c) “**mobile canteen**” means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;
  - d) “**mobile vendor**” means a person who vends from a mobile canteen or a stand;
  - e) “**public place**” includes streets, parks and entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks and alleys of a shopping centre, shopping mall or other shopping complex, recreation center, restaurant and retail store;
  - f) “**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;
  - g) “**street**” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in the *Municipal Government Act*;
  - h) “**Town**” means the Town of Berwick;
  - i) “**vending**” means the sale, or offering for sale, of:
    - i) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them,
    - ii) services, unless they are provided in a building;

#### **PROHIBITION:**

3. No person shall, within the Town of Berwick, engage in the activity of vending from a mobile canteen or stand (i.e., be a mobile vendor):
  - a) in any public place;
  - b) on private property without a Vending Permit – for each such mobile canteen or stand - issued pursuant to this Bylaw;

**EXCEPTIONS:**

4. A Vending Permit is not required in the case of the following however, such Vendors are required to adhere to the General Regulations outlined in this Bylaw and are not allowed to vend in or on any part of a street as defined in this Bylaw:
  - a) vending by non-profit groups;
  - b) vending by a student where it is shown – on the application – that all profits accrue to that student;
  - c) vending by the operator of a commercial business on the sidewalk in front of that commercial business;
  - d) vending during the Gala Days Celebrations (GDC) pursuant to a permit issued by the GDC Organizing Committee.

**APPLICATION:**

5. To obtain a Vending Permit a person shall complete an application including the following information:
  - a) the name, home address and business address (if any) of the applicant;
  - b) both home and business, if any, phone numbers and fax numbers of the applicant;
  - c) name, address and phone number of the owner of the private property, if other than the applicant;
  - d) a description of the type of food, beverages, goods or services to be sold;
  - e) a description of any stand or mobile canteen to be used and, in the case of a mobile canteen, the motor vehicle registration number and description by make, model and year of production of the vehicle,

**PERMITS:**

6. Each Vending Permit shall be a separately numbered Permit which will also reference such terms and conditions as are provided for in this Bylaw.
7. A Vending Permit shall remain in effect for a period of not more than one year from the date of issuance, which shall expire annually on March 31<sup>st</sup>.
8. A Vending Permit issued under this Bylaw shall be conspicuously displayed on the stand, or mobile canteen, to which it relates so as to be clearly visible from the street.
9. In the event of a change in ownership of a mobile canteen or a stand for which a permit has been issued, the new owner shall notify the CAO in writing and the said Vending Permit shall be amended accordingly without further fee.
10. In the event of a substitution of a new mobile canteen, or stand for one for which a Vending Permit has been issued the owner shall notify the CAO in writing and the said Vending Permit shall be amended accordingly without further fee.

11. The CAO, upon payment of a Ten Dollars (\$10.00) additional fee by the vendor, shall replace any Vending Permit when the fee is accompanied by a Statutory Declaration filed by the vendor swearing that the original valid Vending Permit has been lost or destroyed.

**REVOKE OR SUSPEND:**

12. The CAO may refuse to renew or amend, or may revoke or suspend, a Vending Permit for breach of this or any other Town bylaw or of the terms or conditions of a Vending Permit after seven (7) business days written notice to the Vendor.
13. A Vendor aggrieved by a decision of the CAO may appeal, by written notice of appeal, to Council within fifteen (15) days of the mailing of the written notice to the Vendor by the CAO.
14. After the hearing of an appeal, Council may confirm, rescind or vary the decision of the CAO being appealed from.

**GALA DAYS:**

15. All Vending Permits issued pursuant to this Bylaw are suspended during the Gala Days Celebrations each year and any person wishing to vend during that time is to make application to the GDC organizing committee.

**GENERAL REGULATIONS:**

16. No Vendor, with or without a Vending Permit, shall:
  - a) vend within 200 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;
  - b) sell food or beverages for immediate consumption unless there is available for public use a suitable litter/recycling receptacle for the use of customers;
  - c) 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;
  - d) vend when customers or persons apparently waiting to become customers are standing in a roadway or are obstructing the traffic of pedestrians on a sidewalk;
  - e) vend within 25 feet of any driveway entrance to a police or fire station, or with fifteen feet of any other driveway other than a driveway for property on which the vending is lawfully occurring;
  - f) vend within 25 feet of the crosswalk at any intersection;

**PENALTIES:**

17. Any person who violates any provision of this bylaw is guilty of an offence and is liable, on summary conviction, to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) and in default of payment thereof to a term of imprisonment not to exceed thirty (30) days.
18. Each day that a person commits an offence under this By-law constitutes a separate offence.

19. A person who is alleged to have violated this By-law and where the notice so provides, may pay a penalty in the amount of \$75.00 to the office of the CAO provided that said payment is made within a period of twenty-one (21) days following the day on which the activity alleged to constitute a violation took place and where the said notice so provides for a voluntary payment, said payment shall be in full satisfaction, releasing and discharging all penalties incurred by the person for said violation.

**EFFECTIVE DATE:**

20. This Bylaw will come into effect on June 15, 2001.

**REPEAL:**

21. Any and all Bylaws dealing with hawking or peddling and the licenses required for these activities, specifically the Licenses Bylaw, sections 111 to 130, including all amendments thereto, adopted by the Town of Berwick are hereby repealed.