

**Town of Annapolis Royal**  
**Vending By-Law 2019**

**Title**

1. This By-Law is entitled the "Vending By-Law 2019".

**Definitions**

2. In this By-Law:
  - (1) "abutter" means the owner, lessee or occupier of any premises or lot in the Town of Annapolis Royal which abuts a Town of Annapolis Royal street;
  - (2) "Boardwalk" means the scenic wooden walkway from the Town wharf on St George Street leading to Petite Park;
  - (3) "busker" means a person performing music and/or one or more acts or plays;
  - (4) "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;
  - (5) "Farmers' Market" means the Farmers' Market under an existing lease arrangement with the Town;
  - (6) "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;
  - (7) "garden centre" means an outdoor area used for the sale for profit of household lawn and garden products;
  - (8) "Linear meters" means the length of the longest dimension of a non-mobile stand;

- (9) "mobile canteen" means a motor vehicle used for the vending of food or beverages by a mobile vendor;
- (10) "mobile stand" means a stand having any wheels with a diameter in excess of 4 inches (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;
- (11) "National Historic District" encloses both sides of St George Street from its beginning at the northeastern town boundary to its termination in the northwest corner of the townsite. Included are the southernmost properties on Prince Albert Road and the grounds of Fort Anne National Historic Site and the old cemetery. The boundary continues southeast along the axis of Chapel Street to include the south side of the street, then extends southwest on St Anthony streetscape. From the St Anthony-Church Street intersection, it extends southeast, parallel to the St George Street axis, roughly following the rear property lines of the houses aligning the north side of St George Street. All of the secondary streets in the downtown area — Church, St James, lower St Anthony, Victoria, Bohaker, Prince William, Drury Lane, Grange and Ritchie streets are included;
- (12) "non-mobile stand" means a stand that is not a mobile stand;
- (13) "public places" means:
- a) streets;
  - b) property owned by the Town of Annapolis Royal;
  - c) property owned by the Province of Nova Scotia that is open to the public; and
  - d) public parks and trails; and
- (14) "in, on or near a public place" includes locations that are
- a) driveways, parking lots, and vacant or undeveloped lots any portion of which is within 25 metres of a public place;
  - b) within 25 metres of a public place; or
  - c) visible from a public place;
- (15) "retail commercial enterprise" means any retail business situated in a commercial zone (see Schedule "A");

- (16) "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;
- (17) "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;
- (18) "stand" includes a table, showcase, bench, rack, pushcart, wagon or wheeled non-motorized vehicle or device that can be moved without the assistance of a motor and is used for vending by a mobile vendor;
- (19) "street" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith;
- (20) "Town" means the Town of Annapolis Royal;
- (21) "Town Playground and Park area" means the Town playground and park area on St George Street;
- (22) "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;
- (23) "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
- (24) "yard sale" means a sale of surplus household goods and materials by the occupants of the residential property at which the sale is carried on. As defined by section 4.35.1 of the Town's Land Use By-law, there is a limit of two yard sales per calendar year not to exceed a two-day duration.

### **Vending Machines**

3. The CAO 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 Annapolis Royal 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.
6. Commercial Properties are exempt if machines are abutting their building on their own property.
7. To maintain the integrity of the National Historic District, vending machines placed and operated within the National Historic District should not be visible from any street within the National Historic District.

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

8. On the streets, or portions of streets, identified in Schedule "A" to this By-Law, 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 27 of this By-Law.

### Exceptions

9. This By-Law does not apply to busking.
10. This By-Law does not apply to door to door sales, and lemonade stands operated by children. For the purposes of this By-Law, a child shall be considered any person aged 12 or less.
11. Exceptions may also be made by Council for special events and conferences including book launches held off the premises of an existing Town business.
12. This By-Law does not apply to canvassers or fundraisers for not for profit groups and registered charities.

### Yard Sales

13. Subject to section 4.35.1 of the Town of Annapolis Royal's Land Use By-law, Yard Sales, Community Organization Sales, Flea Markets:

*4.35.1 Notwithstanding anything else in this By-law, frequent or ongoing yard sales are not permitted within the Town. Residents may hold a yard sale of their own excess household goods and materials up to two times in any calendar year in any residential zone, as long as:*

- *the yard sale is of a maximum two-day duration, and*
- *no merchandise is left outside after the two days.*

*The re-sale of general commercial merchandise or second hand goods acquired for resale is not considered to be the sale of excess household goods and materials for the purposes of this By-law and is not allowed.*

*4.35.2 Community groups, service clubs and other non-profit organizations may hold sales and flea markets, with landowner consent, up to two times in any calendar year in any non-residential zone.*

- 1) Signs must be removed within two (2) hours of the end of the yard sale;
- 2) Under special circumstances, Council may by policy prohibit yard sales for specific days or periods of the year in the interests of public safety and/or movement of traffic within the Town.

14. 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**

15. Vending at specific farmers markets designated by resolution of Council does not contravene this By-Law, mobile canteens and mobile stands must comply with Section 17 of this By-law.

### **Prohibition**

16. Except as expressly authorized by sections 3 to 14 of this By-Law, no person:

( 1 ) shall vend at flea markets or garden centres in the Town of Annapolis Royal 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 Annapolis Royal except in accordance with the terms and conditions of a Vending Permit.

17. 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; and

(4) of garden products at garden centres at specifically identified locations situated on private property.

(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 Annapolis Royal in which each mobile canteen will sell food and beverages to the public with the location to be approved by the CAO or designated administration staff;

(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 Annapolis Royal 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;

18. All Vending Permits shall be obtained by application to the CAO. 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 CAO 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 space for 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 (May 1-October 31); or
  - (c) for one or more occasions or less than 3 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 \$1,000,000 (1 million dollars) per occurrence and hold the Town harmless from any liabilities that may result from such vending and add the Town as an additional Insured on their policy and present the document to administration;



(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 18; 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.

19. The fee for Vending Permits shall be set and approved by Town Policy.

20. 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 Annapolis Royal, 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.

21. Subject to the other provisions of this By-Law, the CAO shall issue a separate numbered Vending Permit, containing terms and conditions consistent with this By-Law and the permit application for each mobile stand, garden centre, flea market or mobile canteen and for each non-mobile stand location which complies with the requirements of this By-Law.

22. In the event of a change in ownership of the person owning a mobile canteen, garden centre or a stand for which a permit has been issued, or a substitution of a new mobile canteen, garden centre, flea 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 CAO in writing of the applicable new information and the Permit shall be amended accordingly without a fee.

23. A Vending Permit shall remain in effect for a period of not more than one year from the date of issuance.

24. The CAO 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.

25. A person aggrieved by a decision of the CAO pursuant to section 23 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 CAO.

26. After the hearing of an appeal, Council may confirm, rescind or vary the decision of the CAO.

27. A Vending Permit issued under this By-Law shall be conspicuously displayed on the mobile stand, garden centre, flea 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.

28. Subject to Section 10 above, no person, with or without a Vending Permit, shall:

(1) vend in any area of the Town of Annapolis listed in Schedule "B" to this By-Law;

(2) vend within 328 feet (100 meters) of the grounds of any school between 1/2 hour prior to the start of the school day and 1/2 hour after dismissal at the end of the school day;

(3) vend between 11:00 p.m. and 8:00 a.m. of the following day;

(4) leave any stand or mobile canteen unattended on a street;

(5) sell food or beverages for immediate consumption unless there is available for public use a suitable litter receptacle for the use of customers within 10 feet (3 meters) of the vending location;

(6) 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;

- (7) allow any items relating to the operation of a stand, garden centre, flea market or mobile canteen to be placed anywhere other than in, on or under the stand, garden centre, flea market or mobile canteen;
- (8) vend to persons in motor vehicles;
- (9) 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;
- (10) when vending from a mobile canteen in front of or beside an existing Town business:
- (a) vend when the mobile canteen is situated in a no parking area, or in an 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 (7.6 meters) of any driveway entrance to a police or fire station, or within fifteen feet (4.6 meters) 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;
- (11) when vending from a stand:
- (a) situate a stand or vend from a stand situated in a roadway;
  - (b) vend when there is snow or ice on the sidewalk;
  - (c) vend so as to obstruct the traffic of pedestrians, or wheelchairs, and without limiting the generality of the foregoing, a minimum width of 3.3 feet (1 meter) of sidewalk shall be left unobstructed between the curb and a stand situated on a sidewalk, or between the stand and the nearest building or other obstruction to the interior of the sidewalk;
  - (d) vend when customers or persons apparently waiting to become customers are standing in a roadway; (e) vend within five feet (1.5 meters) of an entrance way to any building, except a building owned, rented or leased by the permit holder;

(f) vend within twenty-five feet (7.6 meters) of any driveway entrance to a police or fire station, or within fifteen feet (4.6 meters) of any other driveway, other than a driveway for the property on which the vending is lawfully occurring;

(g) 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;

(12) vend from a non-mobile stand with a width in excess of 4.1 feet (1.25 meters).

(13) sell products, memorabilia or paraphernalia in support of organized crime, or sell products, memorabilia or paraphernalia for individuals or organizations of organized crime.

**Requirement for Insurance**

29. Any person who vends on Town property as permitted under this By-Law shall carry public liability insurance in a minimum amount of \$1,000,000 (1 million dollars) and hold the Town harmless from any liabilities that may result from such vending and add the Town as an additional insured on their policy and present the document to administration.

30. Any person wishing to vend as permitted under this By-Law shall supply the Town with a certificate of insurance to confirm compliance with the requirements of section 28. The person shall notify the Town 30 days prior to the cancellation of the insurance required under this By-Law.

**Non Competition**

31. Every attempt shall be made to create a level playing field for businesses.

Penalty

32. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5000.00) and to imprisonment of not more than thirty (30) days in default of payment thereof. Each day that a person commits an offence under this By-Law constitutes a separate offence.

**Rescind Previous Vending By-Law**

33. That Vending By-law 2014 be rescinded upon second reading of Vending By-Law 2019.

Mayor

CAO

Date

Date

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 Annapolis Royal, held the 16 day of December 2019.

Given under the hand of the Mayor and Chief Administrative Officer and the seal of the Town of Annapolis Royal this 18 day of December 2019.

FIRST READING	July 15, 2019
NOTICE OF INTENT PUBLICATION	November 28, 2019
SECOND READING	December 16, 2019
MINISTERIAL APPROVAL	N/A
DATE OF PUBLISHING	December 26, 2019
FORWARDED TO MINISTER	N/A
POSTED TO TOWN WEBSITE	December 20, 2019

**SCHEDULE A to the Town of Annapolis Royal Vending By-law 2019**

All retail commercial properties operating from properties zoned Commercial. This includes parts of:

St. George Street

Victoria Street

Church Street

Drury Lane

St. Anthony Street

which are zoned Commercial.

**SCHEDULE B to Town of Annapolis Royal Vending By-law 2019**

Includes:

Public parking lots

The main parking lot by the Farmers' Market

Town Hall parking lot

Petite Park parking lot

The Skateboard parking lot

The Sinclair Inn parking lot

The parking lot behind Leo's.

**Vending By-law 2019 Fees**

**To be included in Town of Annapolis Royal Fee Policy upon Second Reading of the By-law**

	One Year Permit	Seasonal Permit	Occasional Permit
Mobile Canteen	\$500.00	\$250.00	\$125.00
Mobile Stand	\$200.00	\$100.00	\$50.00
Non-Mobile Stand	\$50.00	\$30.00	\$20.00
Garden Centres	\$25.00	\$15.00	\$10.00
Flea Markets	\$25.00	\$15.00	\$10.00

Definitions — as per Section 17(3)(a)(b) and (c) of the Vending By-law 2019 Full Year Permit:

Full Year Permit: January 1 to December 31 in any year

Seasonal Permit: May 1 to October 31 in any year

Occasional Permit: For one or more occasions or less than 3 days in any year