



By-Law No. 51:

VENDING BY-LAW

ARTICLE 1: TITLE

1.1 This By-Law shall be known and may be cited as the “**Vending By-Law**”.

ARTICLE 2: PURPOSE

2.1 The purpose of this By-Law is to regulate the sale, or offering for sale, of food, beverages, goods or merchandise not in an enclosed permanent structure, whether on Municipal Property or Private Property within the Municipality.

ARTICLE 3: AUTHORITY

3.1 This By-Law is made pursuant to Sections 172(1)(c) and (f), 172(2)(e), and 173 of the *Municipal Government Act*, SNS 1998, c 18, as amended.

ARTICLE 4: DEFINITIONS

4.1 In this By-Law, the following words shall have the following meanings:

- (a) “**Applicant**” means a Person who makes application for a Permit under the provisions of this By-law;
- (b) “**Busking**” means providing entertainment in a public place for donation;
- (c) “**By-Law**” means this Vending By-Law, as amended from time to time;
- (d) “**By-Law Enforcement Officer**” means any person authorized by the Municipality of the County of Inverness to enforce this by-law and all its provisions, and approved to enforce this By-Law under the *Police Act* and to issue Summary Offence Tickets pursuant to this By-Law and the *Summary Proceedings Act*;

- (e) “**CAO**” means the Chief Administrative Officer of the Municipality or an employee of the Municipality delegated any responsibilities or powers of the CAO pursuant to Section 29(b) of the *Municipal Government Act*, as amended;
- (f) “**Council**” means the Council of the Municipality of the County of Inverness;
- (g) “**Councillor**” means a Councillor of the Municipality of the County of Inverness;
- (h) “**Mobile Unit**” means any vehicle, including a trailer, as defined in the *Nova Scotia Motor Vehicle Act*, used for the display, storage, transportation or sale of food, beverages, goods or merchandise by a Vendor, which is required to be licensed and registered pursuant to the *Nova Scotia Motor Vehicle Act*;
- (i) “**Municipal Fire Inspector**” means any person authorized by the Municipality of the County of Inverness to enforce compliance with the *Nova Scotia Fire Safety Act* and its regulations, as amended from time to time;
- (j) “**Municipality**” means the Municipality of the County of Inverness;
- (k) “**Municipal Property**” means real property owned by the Municipality but does not include Streets;
- (l) “**Non-Mobile Unit**” means any table, showcase, bench, rack, pushcart, wagon or wheeled vehicle or device used for the display, storage, transportation or sale of food, beverages, goods or merchandise by a Vendor, which is not required to be licensed and registered pursuant to the *Nova Scotia Motor Vehicle Act*. For greater certainty, a “Non-Mobile Unit” does not include an enclosed permanent structure;
- (m) “**Non-Profit Organization**” means an organization operated on a cost-recovery basis and not seeking profit;
- (n) “**Owner**” of land means a part owner, joint owner, tenant-in-common, or joint tenant of the whole or any part of the land and, in the absence of proof to the contrary, means the Person to whom the land is assessed by the Municipality;
- (o) “**Permit**” means a permit to Vend issued to a Permit Holder for a particular Mobile Unit or Non-Mobile Unit at a particular location(s) within the Municipality, pursuant to this By-Law;
- (p) “**Permit Administrator**” means the member of Staff appointed as the Permit Administrator by the CAO, and includes a person acting under the supervision of the Permit Administrator;

- (q) **“Permit Holder(s)”** means the Person(s) to whom a Permit has been issued pursuant to this By-Law, after having made an application for a Permit;
- (r) **“Person”** means a natural person, corporation, partnership, an association, society, firm, agent or trustee, and includes the heirs, executors or other legal representatives of a Person;
- (s) **“Private Property”** means real property within the Municipality of the County of Inverness not owned by the Municipality;
- (t) **“School”** means a public or private school as defined in the Nova Scotia *Education Act* and does not include a university;
- (u) **“Staff”** means the employees of the Municipality, including the CAO and the Permit Administrator;
- (v) **“Street”** means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith located within the Municipality of the County of Inverness;
- (w) **“Traffic Authority”** means the traffic authority appointed pursuant to the *Municipal Government Act* and/or the *Nova Scotia Motor Vehicle Act*, from time to time;
- (x) **“Vend”** or **“Vending”** means the sale, or offering for sale of food, beverages, goods or merchandise not in an enclosed permanent structure, whether on Municipal Property or Private Property;
- (y) **“Vendor”** means any Person engaged in Vending and/or any owner, agent, operator, or employee of a business engaged in Vending; and
- (z) **“Yard Sale”** means a sale of surplus household goods by the Owner, legal occupant or neighbour of the residential property at which the sale is carried on.

ARTICLE 5: VENDING RESTRICTED

- 5.1 No Person shall Vend in the Municipality without having been issued a Permit to do so pursuant to this By-Law.

ARTICLE 6: EXCEPTIONS

Yard Sales

- 6.1 This By-Law does not apply to a Person or Persons conducting a Yard Sale held at a residential property, when conducted by the Owner, legal occupant, or neighbour of the property as long as no merchandise or equipment is set up or placed for sale:
- (a) more than 12 hours before the Yard Sale begins; and
 - (b) more than 12 hours after the Yard Sale has ended.
- 6.2 Council may, by resolution, designate properties upon which Yard Sales are not permitted to occur, upon recommendation or advice from the relevant Traffic Authority that Yard Sales at such properties are or may cause a safety hazard or an obstruction to traffic.
- 6.3 Where Council has designated a property upon which Yard Sales are not permitted pursuant to Section 6.2 of this By-Law, no Person shall hold a Yard Sale at such designated property.

Farmers' Markets

- 6.4 This By-Law does not apply to Persons Vending at the Mabou Farmers' Market, or at any other farmers' market designated by resolution of Council.

Other Exceptions

- 6.5 This By-Law does not apply to:
- (a) a Person Vending from a Non-Mobile Unit on the sidewalk in front of that Person's commercial retail business which operates in an enclosed permanent structure, during the regular business hours of that Person's commercial retail business, although approval may be required from the relevant Traffic Authority to so operate on the sidewalk;
 - (b) a Person or Persons Vending fruits, vegetables and other products harvested from a farm located within the Municipality;
 - (c) a Person or Persons Vending forestry products from a woodlot located within the Municipality;
 - (d) a Person or Persons Vending lobster, fish, oysters or any other seafood harvested from the sea;
 - (e) Vending undertaken as a fundraiser for a Not-For-Profit Organization, including but not limited to bake sales;

- (f) a Person or Persons engaged in estate auctions held to dispose of property and/or personal items belonging to properties within the Municipality;
- (g) a Person or Persons aged 18 years or younger operating their own lemonade stand or their own hotdog stand within the Municipality;
- (h) a Person or Persons Busking in the Municipality;
- (i) flea markets; or
- (j) door to door sales.

ARTICLE 7: PROVINCIAL PERMIT REQUIRED

- 7.1 No Person shall Vend in the Municipality unless in compliance with the requirements of the Nova Scotia *Health Protection Act* and/or *Food Safety Regulations*, as amended from time to time.
- 7.2 A Permit Holder must immediately advise the Municipality in the event its permit(s) issued pursuant to the Nova Scotia *Health Protection Act* and/or *Food Safety Regulations* has/have been revoked or has/have expired.

ARTICLE 8: LOCATION AND PLANNING REQUIREMENTS

- 8.1 In an application for a Permit, the Applicant must identify the proposed Vending location(s) for the Mobile Unit or Non-Mobile Unit.
- 8.2 In reviewing an application for a Permit, the Permit Administrator will provide a copy of the application to the Eastern District Planning Commission. If an Applicant has already applied for and/or obtained a development permit for a particular location through Eastern District Planning Commission, then Eastern District Planning Commission will advise the Permit Administrator.
- 8.3 Eastern District Planning Commission will determine all planning and zoning requirements of the applicable Land Use By-Law and Municipal Planning Strategy for the proposed Vending location(s) identified in the application. Eastern District Planning Commission will advise the Applicant of such requirements, which may include obtaining a development permit from Eastern District Planning Commission. A fee for a development permit may apply.
- 8.4 The Applicant must meet all planning and zoning requirements for a proposed Vending location as determined by Eastern District Planning Commission pursuant to Section 8.3 of this By-Law, before the Permit Administrator may issue a Permit to the Applicant.

- 8.5 Sections 8.2, 8.3, and 8.4 of this By-Law do not apply to an application for a Permit where the proposed Vending location(s) is on a Street.
- 8.6 Where an application for a Permit proposes a Vending location(s) on a Street, then the Applicant must obtain written authorization and approval from the relevant Traffic Authority permitting the Applicant to Vend from the Mobile Unit or Non-Mobile Unit at the proposed Vending location(s) before the Permit Administrator may issue a Permit to the Applicant. The relevant Traffic Authority may impose terms and conditions on the Applicant in addition to those required in this By-Law.
- 8.7 Each Permit issued pursuant to this By-Law shall identify the location(s) in the Municipality where the Permit Holder is permitted to Vend.
- 8.8 The issuance of a Permit pursuant to this By-Law does not provide or otherwise authorize the Permit Holder to have exclusive use of the location(s) identified in the Permit.
- 8.9 No Person shall Vend in the Municipality except at a location for which the Vendor holds a Permit.
- 8.10 In the event a Permit Holder wishes to add another Vending location to their Permit, that Permit Holder must apply to the Permit Administrator and Article 8 of this By-Law shall govern that application.
- 8.11 No Person shall Vend from a Mobile Unit or Non-Mobile Unit in a location that:
- (a) obstructs or interferes with vehicle, bicycle or pedestrian traffic or safety;
 - (b) obstructs or interferes with doorways, entrances and exits, fire doors or emergency exits adjacent to the Street;
 - (c) obstructs or interferes with any utility, postal or similar installation;
 - (d) obstructs or interferes with Municipality works, structures, projects or operations, on or adjacent to the Street;
 - (e) interferes with, restricts or otherwise affects streetscape improvement projects and/or construction;
 - (f) is within twenty-five (25) feet of any driveway entrance to a police or fire station, or within fifteen (15) feet of any other driveway other than a driveway for Private Property on which the Permit Holder is permitted to Vend in accordance with this By-Law;
 - (g) is within fifty (50) meters of another Mobile Unit or Non-Mobile Unit validly operating in accordance with the terms of a Permit issued pursuant to this By-Law;

- (h) is within fifty (50) meters of the door way of a business operating in an enclosed permanent structure which is offering for sale the same and/or similar food, beverages, goods and/or merchandise;
 - (i) is within one hundred (100) meters of the property line of a School between the half hour prior to the start of the school day and the half hour after dismissal at the end of the school day;
 - (j) is within an area designated as “No Stopping”, “No Parking”, or “Loading Zone”;
 - (k) is not zoned for Vending in accordance with the applicable Land Use By-Law and Municipal Planning Strategy; or
 - (l) contravenes any provision of this By-Law.
- 8.12 After a Permit has been issued pursuant to this By-Law, Council may, by resolution, change the Vending location where the Permit Holder is permitted to Vend if, in the opinion of Council, the location meets any of the characteristics identified in Section 8.11 of this By-Law.
- 8.13 Where Council has changed the Vending location where the Permit Holder is permitted to Vend pursuant to Section 8.12 of this By-Law, the Permit Administrator must provide such notice to the Permit Holder as Council determines appropriate, by resolution. Such notice must include the reason(s) for Council’s decision to change the Vending location where the Permit Holder is permitted to Vend.
- 8.14 The Municipality does not assume responsibility for any loss of revenue arising out of or resulting from a decision of Council to change the Vending location where a Permit Holder is permitted to Vend pursuant to Article 8 of this By-Law.

ARTICLE 9: FIRE INSPECTION

- 9.1 In reviewing an application for a Permit, the Permit Administrator will provide a copy of the application to the Municipal Fire Inspector.
- 9.2 The Municipal Fire Inspector will determine whether a Mobile Unit or Non-Mobile Unit identified in the application needs to be inspected for compliance with the Nova Scotia *Fire Safety Act* and its regulations, as amended from time to time.
- 9.3 Where the Municipal Fire Inspector has determined that a Mobile Unit or Non-Mobile Unit identified in the application needs to be inspected as set out in Section 9.2 of this By-Law, then the Permit Administrator may not issue a Permit to the Applicant unless the Municipal Fire Inspector has completed an inspection and any and all deficiencies identified by the Municipal Fire Inspector have been corrected and completed by the

Applicant. It is the responsibility of the Applicant to provide the Permit Administrator with a report completed by the Municipal Fire Inspector recommending that a Permit be issued for the Mobile Unit or Non-Mobile Unit so inspected.

- 9.4 Once a Permit has been issued by the Permit Administrator for a Mobile Unit or Non-Mobile Unit, the Municipal Fire Inspector may inspect the Mobile Unit or Non-Mobile Unit at any time for compliance with the Nova Scotia *Fire Safety Act* and its regulations, as amended from time to time.
- 9.5 A Permit Holder must comply with an order issued by the Municipal Fire Inspector pursuant to the Nova Scotia *Fire Safety Act* and its regulations, as amended from time to time.
- 9.6 No Person shall interfere with the Municipal Fire Inspector in the performance of the Municipal Fire Inspector's duties.

ARTICLE 10: INSURANCE

- 10.1 When applying for a Permit, an Applicant must provide the Permit Administrator with proof that the Applicant holds general commercial liability insurance in the amount not less than \$1,000,000.00 per claim with respect to the Applicant's Vending business, naming the Municipality of the County of Inverness as an additional named insured on the insurance policy, during the term of the Permit.
- 10.2 In addition to the insurance requirements at Section 10.1 of this By-Law, an Applicant applying for a permit for a Mobile Unit(s) must also provide the Permit Administrator with proof that the Applicant holds automobile liability insurance for each Mobile Unit to be used in the operation of the Vending business (including transportation).
- 10.3 During the term of a Permit, a Permit Holder must:
- (a) maintain the insurance coverage identified in Sections 10.1 and 10.2 of this By-Law;
 - (b) provide proof of the insurance coverage required in Sections 10.1 and 10.2 of this By-Law to the Municipality upon request; and
 - (c) provide the Municipality with at least five (5) business days' notice in writing if the Permit Holder's insurance coverage identified in Sections 10.1 and 10.2 of this By-Law is going to expire or if it is to be cancelled or altered.
- 10.4 For greater certainty, the automobile liability insurance coverage identified in Section 10.2 of this By-Law is not required for a Non-Mobile Unit.

ARTICLE 11: INDEMNIFICATION

- 11.1 A Permit Holder must indemnify and hold harmless the Municipality of the County of Inverness, its Warden, Deputy Warden, Councillors, Council, and Staff against all loss, claims, actions, damages, costs (including solicitor costs), liability and expense in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from their operations and/or the issuance of a Permit pursuant to this By-Law.
- 11.2 The Municipality is not liable for, nor responsible for any injury, loss or damage to any Person arising from a Permit Holder's operation or to any property belonging to any Person engaged in Vending.

ARTICLE 12: LITTER AND WASTE CONTROL

- 12.1 No Person shall Vend unless solid waste storage facilities are provided immediately adjacent to the Mobile Unit or Non-Mobile Unit adequate to receive the trash, refuse and recyclables generated by sales from the Mobile Unit or Non-Mobile Unit.
- 12.2 No Person shall dump any trash, refuse, fat, or any other food substance, generated by the Mobile Unit or Non-Mobile Unit into the Municipality's sewer system and/or sewer infrastructure.
- 12.3 No Permit Holder shall leave a location from which they have been Vending without first picking up, removing and disposing of all trash, refuse and recyclables generated by sales from the Mobile Unit or Non-Mobile Unit.

ARTICLE 13: PERMITS

- 13.1 No Person shall acquire a Permit except in accordance with the provisions of this By-Law.
- 13.2 A Permit issued pursuant to this By-Law is not transferrable.
- 13.3 A Permit Holder must comply with the terms and conditions prescribed by the Permit.
- 13.4 In addition to the provisions of this By-Law, it is the responsibility of the Permit Holder to comply with all other applicable municipal, provincial and federal legislation.
- 13.5 In addition to the requirements of Section 13.4 of this By-Law, a Permit Holder of a Mobile Unit must also comply with all provincial traffic restrictions and regulations, including but not limited to the Nova Scotia *Motor Vehicle Act* and its regulations, as amended from time to time.

- 13.6 No Permit Holder shall Vend anything other than that which the Permit authorizes the Permit Holder to Vend.
- 13.7 A Permit issued pursuant to this By-Law shall be issued in the name(s) of the Applicant(s) for the Permit.
- 13.8 Where one Permit is issued in the name of two or more Persons, each such Person shall be a Permit Holder.
- 13.9 Where one Permit is held by two or more Permit Holders, each Permit Holder shall be jointly and severally liable for compliance with this By-law and with the terms of the Permit.
- 13.10 A Permit Holder must be the owner/operator of the Mobile Unit or Non-Mobile Unit for which the Permit has been issued.
- 13.11 A Permit issued pursuant to this By-Law applies only to the Mobile Unit or Non-Mobile Unit for which it has been issued.
- 13.12 No Permit Holder shall allow a Person to drive the Mobile Unit for which the Permit has been issued if that Person does not hold a valid driver's license of the class required for the type of Mobile Unit.

Expiration

- 13.13 A Permit shall expire on the 31st day of March of each year, unless suspended or revoked earlier pursuant to this By-Law.
- 13.14 Despite Section 13.13 of this By-Law, where a Permit is issued for a special event pursuant to Section 13.20 of this By-Law, such Permit shall expire on the date identified on such Permit.

Renewal

- 13.15 A Permit Holder who wishes to obtain a Permit in a subsequent year must submit an application for a Permit in accordance with this By-Law and shall be required to pay the applicable fees pursuant to the Municipality of the County of Inverness "Vending Permit Fees Policy", as amended from time to time.

Display of Permit

- 13.16 Every Permit issued pursuant to this By-Law shall bear a unique number and may contain terms and conditions consistent with this By-Law.
- 13.17 Every Permit issued pursuant to this By-Law must be clearly displayed either on or next to the Mobile Unit or Non-Mobile Unit for which it has been issued at all times when the Permit Holder is Vending.

- 13.18 No Permit Holder shall fail to clearly display the Permit on or next to the Mobile Unit or Non-Mobile Unit for which the Permit has been issued while the Permit Holder is Vending.
- 13.19 No Permit Holder shall fail to produce for inspection the Permit issued to the Permit Holder upon demand of the By-Law Enforcement Officer.

Special Event

- 13.20 An Applicant intending to Vend at a special event such as a festival, private occasion, or wedding in the Municipality must hold a Permit issued pursuant to this By-Law. Such a Permit may allow the Permit Holder to Vend later than 10:00pm as long as the Permit states the time when the Vendor must stop Vending on the date(s) of the special event. The Applicant must meet all other requirements of the Vending By-Law in order to be eligible for a Permit.
- 13.21 The Permit Administrator is authorized to determine the time when the Vendor must stop Vending during a special event.
- 13.22 If the Applicant does not already hold a Permit for the location of the special event, then the Applicant must pay the Municipality the special event fee set out in the “Vending Permit Fees Policy”, as amended from time to time.
- 13.23 If the Applicant does not already hold a Permit for the location of the special event, any Permit issued for such a special event must include:
- (a) the date(s) for which it is valid;
 - (b) the date of expiry; and
 - (c) the time when the Permit Holder must stop Vending.
- 13.24 If a Permit Holder already holds a Permit for the location of the special event, then the Permit Holder does not need to pay the additional special event fee set out in the “Vending Permit Fees Policy”, as amended from time to time.
- 13.25 If a Permit Holder already holds a Permit for the location of the special event and wishes to Vend later than 10:00pm during the special event, then the Permit Holder must submit a written request to the Permit Administrator in advance of the special event, asking to Vend later than 10:00pm on the particular date(s) of the special event. In this circumstance, the Permit Administrator may issue an additional Permit to the Vendor for the special event, stating:
- (a) the date(s) for which it is valid;
 - (b) the date of expiry; and
 - (c) the time when the Permit Holder must stop Vending.

ARTICLE 14: PERMIT FEES

- 14.1 The fees to be paid to the Municipality for a Permit issued pursuant to this By-Law shall be in accordance with the Municipality of the County of Inverness “Vending Permit Fees Policy”, as amended from time to time.

ARTICLE 15: PERMIT ADMINISTRATOR

- 15.1 The Permit Administrator is authorized and empowered to:

- (a) grant a Permit;
- (b) refuse to grant a Permit;
- (c) suspend a Permit; or
- (d) revoke a Permit

in accordance with the provisions of this By-Law.

- 15.2 The Permit Administrator shall grant a Permit where the Applicant has submitted an application which complies with the requirements of this By-Law.

- 15.3 The Permit Administrator shall refuse to grant a Permit where the Applicant:

- (a) has submitted an application which does not comply with the requirements of this By-law;
- (b) has failed to comply with a provision of this By-law or of any other By-Law of the Municipality; or
- (c) has failed to comply with the conditions of a Permit issued pursuant to this By-law.

- 15.4 The Permit Administrator shall revoke a Permit for the remainder of the term of the Permit where:

- (a) the Permit Holder has been convicted of an offence pursuant to this By-Law;
- (b) a permit issued to the Permit Holder pursuant to the Nova Scotia *Health Protection Act* and/or *Food Safety Regulations* has been revoked or has expired;

- (c) the Permit Holder fails to maintain the insurance coverage required in Sections 10.1 and 10.2 of this By-Law;
 - (d) the Permit Holder fails to provide proof of the insurance coverage required in Sections 10.1 and 10.2 of this By-Law to the Municipality upon request;
 - (e) the Permit Holder fails to provide the Municipality with at least five (5) business days' notice in writing if the Permit Holder's insurance coverage identified in Sections 10.1 and 10.2 of this By-Law is going to expire or if is to be cancelled or altered; or
 - (f) the Permit Holder fails to comply with an order issued by the Municipal Fire Inspector pursuant to the Nova Scotia *Fire Safety Act* and its regulations, as amended from time to time.
- 15.5 The Permit Administrator may suspend a Permit for a period of up to one year or revoke a Permit for the remainder of the term of the Permit, where the Permit Holder:
- (a) has failed to comply with a provision of this By-law or of any other By-Law of the Municipality;
 - (b) has failed to comply with the conditions of a Permit issued pursuant to this By-law;
 - (c) has been a convicted for a violation of any laws of Canada during the course of Vending;
 - (d) has been convicted for a violation of the provisions of the *Motor Vehicle Act* or any regulations made thereunder with respect to the operation of a Mobile Unit;
 - (e) is Vending goods and merchandise not stipulated on the application for a Permit; or
 - (f) operates on private property not owned by the Permit Holder and the Permit Administrator receives written notice from the Owner revoking the Owner's permission for the Permit Holder to use the property for Vending.
- 15.6 For greater certainty, if the Permit Administrator determines, in his or her sole discretion, that the Mobile Unit or Non-Mobile Unit is a safety issue, danger or hazard, the Permit Administrator may, without notice to the Permit Holder, suspend or revoke a Permit without compensation to the Permit Holder.
- 15.7 No Person shall Vend in the Municipality with a Permit that has been suspended or revoked pursuant to this By-Law.

ARTICLE 16: APPLICATION FOR PERMIT

- 16.1 A Person who intends to Vend within the Municipality must submit an application for a Permit, signed by the Applicant(s), pursuant to this By-Law.
- 16.2 The Applicant must submit the following to the Permit Administrator at least 30 days' in advance of the Applicant's anticipated Vending start date:
- (a) a completed application form; and
 - (b) all required supporting documentation.
- 16.3 The application for a Permit shall be in a form prescribed by the Permit Administrator and shall require the following information and supporting documentation:
- (a) the name, mailing address and the telephone number of the Applicant;
 - (b) the email address of the Applicant (only if the Applicant consents to receiving electronic mail from the Municipality);
 - (c) the company name and registered office of the Applicant, if applicable;
 - (d) a description of the type of food, beverages, goods or merchandise to be sold;
 - (e) a description of the Mobile Unit(s) and/or Non-Mobile Unit(s) to be used in the operation of the business (including transportation), including the make, model and year of each Mobile Unit(s), and all dimensions of the Mobile Unit(s) or Non-Mobile Unit(s);
 - (f) a photograph of the Mobile Unit(s) and/or Non-Mobile Unit(s) to be used in the operation of the business;
 - (g) a copy of the up-to-date motor vehicle inspection and motor vehicle registration for each Mobile Unit to be used in the operation of the business (including transportation);
 - (h) the license plate number for each Mobile Unit to be used in the operation of the business (including transportation);
 - (i) the period of time during the year the Applicant proposes to be in operation;
 - (j) the hours of operation requested for the business;
 - (k) if the Applicant is proposing to Vend on a Street:

- i. the specific location(s), described by civic number and a plan diagram, where the Applicant is seeking permission to Vend; and
 - ii. written authorization and approval from the relevant Traffic Authority permitting the Applicant to Vend from the Mobile Unit or Non-Mobile Unit at the proposed Vending location(s), as required pursuant to Section 8.6 of this By-law;

- (l) if the Applicant is proposing to Vend on Municipal Property:
 - i. the specific location(s), described by civic number and a plan diagram, where the Applicant is seeking permission to Vend;

- (m) if the Applicant is proposing to Vend on Private Property owned by the Applicant:
 - i. a detailed description of the Private Property identifying the civic number and specific parcel(s) of land including a diagram or sketch of the location. Each diagram or sketch of the location shall show the area to be utilized by the Applicant in the operation of the business, ingress and egress, and the location of all buildings on the property. The diagram or sketch should include measurements and be to scale;

- (n) if the Applicant is proposing to Vend on Private Property not owned by the Applicant:
 - i. a detailed description of the Private Property identifying the civic number and specific parcel(s) of land including a diagram or sketch of the location. Each diagram or sketch of the location shall show the area to be utilized by the Applicant in the operation of the business, ingress and egress, and the location of all buildings on the property. The diagram or sketch should include measurements and be to scale; and
 - ii. written and signed permission from the Owner of the Private Property permitting the Applicant to use the property to vend from the Mobile Unit or Non-Mobile Unit for the requested period of time;

- (o) copies of all provincial permits required to comply with Section 7.1 of this By-Law;

- (p) proof that all planning and zoning requirements for the proposed Vending location, as determined by Eastern District Planning Commission pursuant to Section 8.3 of this By-Law, have been satisfied;

- (q) a report completed by the Municipal Fire Inspector recommending that a Permit be issued for the Mobile Unit or Non-Mobile Unit inspected pursuant to Section 9.3 of this By-Law (where applicable);
 - (r) a Criminal Record check and a Vulnerable Sector check (dated within 30 days of the application) for each Applicant from an appropriate police agency which, in the opinion of the Permit Administrator, does not disclose that an Applicant is unfit to hold a Permit by virtue of past misconduct;
 - (s) proof of insurance as required by Sections 10.1 and 10.2 of this By-Law;
 - (t) payment of the fee for a Permit in accordance with the Municipality of the County of Inverness "Vending Permit Fees Policy";
 - (u) dates of the special event and the proposed times of Vending (only if applying for a Permit for a special event pursuant to Section 13.20 of this By-Law); and
 - (v) Such other documentation as may be required by the Permit Administrator.
- 16.4 When two or more Persons submit a joint application for one Permit, the name, mailing address, and telephone number of each of the Applicants must be included in the application.
- 16.5 After receiving a completed application, the Permit Administrator shall review the application to determine whether the application complies with the requirements of this By-Law.
- 16.6 Where the Permit Administrator determines that the application as received complies with the requirements of this By-Law, the Permit Administrator shall issue a Permit in accordance with the provisions of this By-Law and notify the Applicant(s).
- 16.7 Where the Permit Administrator determines that the application as received does not comply with the requirements of this By-Law, the Permit Administrator shall refuse the application, stating the reasons for the refusal and notify the Applicant. This does not prevent an Applicant from submitting a subsequent application.
- 16.8 No Person shall make a false statement in an application for a Permit submitted to the Municipality.

ARTICLE 17: RECORDS

- 17.1 The Permit Administrator shall keep a record of every Permit issued and every application submitted pursuant to this By-Law, for a period of seven (7) years.

ARTICLE 18: APPEAL

Permit Refusal

18.1 Any Applicant who has been refused a Permit by the Permit Administrator may appeal such application to Council, by writing to the Office of the CAO within 15 days of being notified of the refusal, clearly stating the grounds for the appeal. An appeal may be heard at a regular Council meeting or Committee of the Whole Meeting. At such appeal, the Applicant shall have no more than ten (10) minutes to present their case before Council. After hearing from the Applicant, Council may:

(a) uphold the refusal; or

(b) overturn the refusal and may impose conditions on the issuance of a Permit

as determined by majority vote of the maximum number of Councillors that may be elected to Council.

Permit Suspension or Revocation

18.2 Any Permit Holder whose Permit has been suspended or revoked by the Permit Administrator may appeal such decision to Council, by writing to the Office of the CAO within 15 days of being notified of the suspension or revocation, clearly stating the grounds for the appeal. An appeal may be heard at a regular Council meeting or Committee of the Whole Meeting. At such appeal, the Applicant shall have no more than ten (10) minutes to present their case before Council. After hearing from the Applicant, Council may:

(a) uphold the suspension or revocation of the Permit; or

(b) overturn the suspension or revocation of the Permit and may impose additional conditions on the Permit to ensure compliance with the provisions of this By- Law

as determined by majority vote of the maximum number of Councillors that may be elected to Council.

18.3 A period of days in this Article 18 does not include the day a Person is notified of the refusal, suspension, or revocation.

ARTICLE 19: NOTICE

19.1 Where two or more Permit Holders hold one Permit, notice to one Permit Holder is deemed as notice to all Permit Holders.

19.2 Notices issued in accordance with this By-Law are deemed to have been received:

(a) four days after mailing, if sent by ordinary mail to the mailing address of the Permit Holder as set out in the application;

- (b) 24 hours after sending, if sent by electronic mail to the electronic mail address of the Permit Holder as set out in the application; and
- (c) immediately upon receipt, if delivered verbally or by hand, to the Permit Holder or a representative of the Permit Holder.

ARTICLE 20: ADDITIONAL PROHIBITIONS

20.1 No Person shall:

- (a) Vend between the hours of 10:00pm and 8:00am the following day, unless expressly approved in the Permit issued pursuant to this By-Law;
- (b) leave any Mobile Unit or Non-Mobile Unit unattended on a Street or on Municipal Property;
- (c) breach a term or condition of a Permit;
- (d) operate a Mobile Unit or Non-Mobile Unit that is not safe or in good repair while in transit and/or while in operation;
- (e) solicit or conduct business with Persons inside motor vehicles;
- (f) 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 which disturbs or offends the quiet of the neighbourhood;
- (g) Vend when customers or Persons apparently waiting to become customers are standing in or obstructing a Street;
- (h) Vend upon a sidewalk when there is snow or ice on the sidewalk;
- (i) Vend so as to obstruct the traffic of pedestrians, or wheelchairs, and without limiting the generality of the foregoing, a minimum width of 1 metre of sidewalk shall be left unobstructed between the curb and a Mobile Unit or Non-Mobile Unit situated on a sidewalk, or between the Mobile Unit or Non-Mobile Unit and the nearest building or other obstruction to the interior of the sidewalk;
- (j) allow any item relating to the operation of the Vending business to lean against or hang from any building or other structure lawfully placed on Municipal Property;
or

- (k) transfer, exchange, sell or otherwise convey a Permit issued pursuant to this By-Law.

20.2 The prohibitions listed in Section 20.1 of this By-Law are in addition to all other prohibitions in this By-Law.

ARTICLE 21: ENFORCEMENT AND PENALTIES

21.1 A Person who:

- (a) violates or contravenes a provision of this By-Law;
- (b) violates or contravenes a term or condition of a Permit issued pursuant to this By-Law;
- (c) fails to do anything required by this By-Law;
- (d) fails to do anything required by a Permit issued pursuant to this By-Law;
- (e) permits anything to be done in violation of this By-Law;
- (f) permits anything to be done in violation of a Permit issued pursuant to this By-Law; or
- (g) obstructs or hinders any Person in the performance of their duties under this By-Law

is guilty of an offence.

21.2 A Person who commits an offence is liable upon summary conviction to a penalty of not less than five hundred dollars (\$500.00).

21.3 Each day that an offence of this By-Law continues to exist shall constitute a separate offence.

ARTICLE 22: EVIDENCE

22.1 In any prosecution for violation of this By-Law, evidence that one Person is disturbed or offended by sound from a Mobile Unit or Non-Mobile Unit is *prima facie* evidence that the peace of the neighborhood is disturbed or offended.

ARTICLE 23: SEVERABILITY

23.1 A decision by a court of competent jurisdiction that any part of this By-Law is illegal, void, or unenforceable severs that part from this By-Law and does not affect the other provisions of this By-Law which shall remain in full force and effect.

ARTICLE 24: VALID PERMIT ISSUED PURSUANT TO BY-LAW 15 WHEN THIS BY-LAW COMES INTO FORCE

24.1 Where a Person has obtained a license pursuant to By-Law 15: Auctioneers, Pedlars, Hawkers, and Traders of Goods that is valid at the time this By-Law comes into force, (referred to as a “By-Law 15 License”), then that Person may continue to operate pursuant to the By-Law 15 License up to and including March 31, 2022. Such Person shall not Vend pursuant to the By-Law 15 License after March 31, 2022. In order to Vend after March 31, 2022, such Person must obtain a Permit pursuant to this By-Law.

ARTICLE 25: REPEAL

25.1 This By-Law repeals and replaces By-Law 15: Auctioneers, Pedlars, Hawkers, and Traders of Goods approved by Council on July 11, 1994.

THIS IS TO CERTIFY that the foregoing by-law is a true copy of a by-law duly passed at a duly called meeting of the Municipal Council of the Municipality of the County of Inverness duly held on the day of A.D., 2021.

Keith MacDonald, Chief Administrative Officer

Date of First Reading:	
Date of Advertisement of Second Reading:	
Date of Second Reading:	
Date of Advertisement of Passage of By-Law:	
Date of Mailing to Minister a Certified Copy of By-Law:	