

Nova Scotia



**Department of
Municipal Affairs**

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Our file no: **07-89-0028**

June 14, 1989

Mr. A.A. Pearson
Town Clerk
Town of Stellarton
P.O. Box 2200
STELLARTON, Nova Scotia
B0K 1S0

Dear Mr. Pearson:

RE: Town of Stellarton - Food Vendor By-law

The above mentioned by-law which was adopted at a meeting of Stellarton Town Council held on September 9, 1987, has been approved by the Minister of Municipal Affairs. I return to you one copy bearing his approval dated June 13, 1989.

This by-law is very similar to that for the Town of Truro. The by-law for the Town of Truro was approved for such validity as it may have and the Minister of Municipal Affairs has accordingly approved this by-law for such validity as it may have. It is my understanding that the Province will be considering enacting enabling legislation for the regulation of street vendors, particularly food vendors. If that occurs there will be no doubt as to the general validity of the by-law.

Section 8(j)(v) would not be authorized under clause (59) of Section 221 of the Towns Act. The City of Halifax has a similar provision in their street vendors by-law, but the Halifax City Charter specifically enables this type of regulation.

Earlier I had indicated to you that the license fee was not contained within the by-law, I was mistaken as Section 7 sets the license fee. Therefore, it was not necessary to amend Section 2 as I had indicated would be appropriate.

Mr. A. A. Pearson
Town Clerk - Stellarton
June 14, 1989

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If you require more information or clarification concerning this
by-law, please feel free to contact me.

Yours very truly,

Fran Robertson

Fran Robertson (Mrs.)
Departmental Solicitor

FR/kbb
Enclosure

BY-LAW REQUIRING LICENCING OF STREET FOOD VENDORS

TOWN OF STELLARTON

BE IT RESOLVED that the following be adopted as a By-law of the Town of STELLARTON, when it has received the approval of the Minister of Municipal Affairs and that the Town Clerk forward it to the Minister and request his approval.

A BY-LAW REQUIRING LICENCING OF STREET FOOD VENDORS - TOWN OF STELLARTON

The Council of the Town of Stellarton enacts as follows:

1. This By-law shall be known as and may be cited as the "Street Food Vendor's By-law".
2.
 - (a) "Stand" means any table, showcase, bench, rack, pushcart, wagon or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licenced and registered pursuant to the Motor Vehicle Act, used for the displaying, storing, transportation or sale of food and beverages by a vendor;
 - (b) "Vend" means the sale or offering for sale of food or beverages on public streets, from a stand, unless the same are immediately delivered to a house or other residential premises or to a shop by the person selling the same or unless it is the sale or offering of ice cream or other frozen confectionaries from a stand designed for and used exclusively for the sale of such ice cream or other frozen confectionaries.
 - (c) "Chief of Police" includes the Deputy Chief of Police.
3. A person who vends in the Town of Stellarton without having obtained a licence to do so shall be guilty of an offence against this By-law.

4. The Chief of Police shall be responsible for the administration and enforcement of this by-law and is authorized and empowered to grant or refuse any application for a licence under this by-law.

5. 1 The Applicant for a licence shall make written application to the Chief of Police.
- 2 The application shall be accompanied by the appropriate fee.
- 3 The Application for a licence shall include:
 - (a) The name, home and business address of the Applicant and the name and address of the owner if other than the applicant, of the stand;
 - (b) A description of the type of food and beverage to be sold;
 - (c) A description of any stand to be used; and
 - (d) All health permits as required by Section 11.

- 4 When the conditions of this by-law have been complied with, the Chief of Police shall issue the licence to the Applicant.

- 5 Every licence issued under this by-law shall specify the type of food and beverage permitted to be sold.

- 6 A licence issued under this by-law shall be issued to a particular person and shall not be transferable.

- 7 A licence issued under this by-law shall expire on the 31st day of March next following the date of issue.

- 8 A licence issued under this by-law shall be conspicuously displayed at all times during the operation of the stand.

- 9 Every licence issued under this by-law shall bear a number and the number of the licence shall be included in the records of the Chief of Police.
 - 10 The Chief of Police shall keep a record of all licences granted under this by-law, setting out the name of the person to whom the licence is issued, the particular business or trade authorized by the licence and the expiry date of the licence.
 - 11 A licence granted under this by-law may be revoked by the Chief of Police for violation of the terms of this by-law.
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- 1 Any person who has been refused a licence or whose licence has been revoked by the Chief of Police, shall receive notification in writing stating the reason for the refusal or revocation and may appeal such refusal or revocation to Council.
 - 2 Such appeal shall be in writing in the form of a notice, and shall be filed with the Town Clerk within fifteen (15) days of such refusal or revocation and shall clearly state the grounds for such appeal. A copy of such notice shall be served within such time upon the Chief of Police.
 - 3 The Council shall hear such appeal at such time and place as it determines and may confirm such refusal or revocation by the Chief of Police or may direct the Chief of Police to issue or reinstate the licence . The Council in hearing such appeal shall make its decision in accordance with the by-law.
 - 4 If the Council directs the Chief of Police to issue or reinstate such licence he shall immediately do so.
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- The annual licence fee under this by-law shall be Twenty-five Dollars (\$ 25.00) for each stand.

No Vendor shall:

- (a) Vend on any street or sidewalk where vending is otherwise prohibited;
- (b) Leave any stand unattended;
- (c) Store, park or leave any stand overnight on any street or sidewalk;
- (d) Sell food or beverage for immediate consumption unless he has available for public use his own or public litter receptacle which is available for his patron's use;
- (e) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by him;
- (f) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand;
- (g) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand where such items have not been described in his application;
- (h) Sell anything other than that which he is licensed to vend;
- (i) 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;
- (j) When vending from a stand on the sidewalk:
 - (i) Vend within five (5') feet of an entranceway to any building;
 - (ii) Vend within twenty-five (25') feet of any driveway entrance to a police or fire station, or within fifteen (15') feet of any other driveway;
 - (iii) Vend within twenty-five (25') feet of the crosswalk at any intersection;
 - (iv) 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.
 - (v) Vend within seventy-five (75') feet of an entranceway to a permanent eating establishment.

- 9 Vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale, as close as possible to a pedestrian crosswalk.
- 10 No stand shall exceed four (4') feet in width and eight (8') feet in length.
- 11 In addition to the requirements contained in this by-law, a stand shall have in effect all permits required by the Board of Health of the Town of Stellarton.
- 12 Nothing in this by-law shall prohibit the sale of goods on the sidewalk in front of his place of business by any person who operates a commercial business from a permanent location with the permission of the Town Council.
- 13 A person who violates any provision of this by-law shall be liable on summary conviction to a penalty as provided by the By-law for the breach of Stellarton By-laws.

THIS IS TO CERTIFY that this by-law is a true copy of a by-law which was duly passed at a duly called meeting of the Town Council of the Town of Stellarton, duly held on the 9th day of September A.D., 1987.

GIVEN under the hand of the Town Clerk and under the corporation seal of the Town of STELLARTON, this 25th day of September A.D., 1987.

A Pearson
 TOWN CLERK: ADRIAN A. PEARSON

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| DEPARTMENT OF MUNICIPAL AFFAIRS | |
| Recommended for approval of the Minister. | |
| <i>F Roberts</i> | Director and Solicitor |
| APPROVED this <i>13th</i> day | |
| of <i>June</i> 198 <i>9</i> | |
| <i>[Signature]</i> Minister of Municipal Affairs | |