	<p>Transient Vendor By-law T-088-23</p>	<p>Effective Date: September 27, 2023</p>
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Part 1 Purpose

The purpose of this By-law is to provide guidelines for all Transient Business that is temporarily carried on in the Municipality of the District of Yarmouth.

Part 2 Definitions

- 2.1 **“Chief Administrative Officer” (CAO)** means the Chief Administrative Officer of the Municipality of the District of Yarmouth.
- 2.2 **“Council”** means the Council of the Municipality of the District of Yarmouth.
- 2.3 **“Licensing authority”** means the Chief Administrative Officer, or such employee or agent of the Municipality as the Chief Administrative Officer may designate to receive applications for licenses under this By-law.
- 2.4 **“Merchandise”** means any consumable item other than those specifically excluded in this By-law.
- 2.5 **“Motor vehicle”** means every device in, upon or by which any person or property is or may be transported or drawn and which is propelled or driven otherwise than by muscular power, but does not include motorized wheelchairs, or railway equipment.
- 2.6 **“Municipality”** means the Municipality of the District of Yarmouth.
- 2.7 **“Person”** means an individual, guild, agency, or body corporate.
- 2.8 **“Peddler”** means a person who peddles or hawks goods, wares or services from door to door or by displaying same in a public area.
- 2.9 **“Sell”** includes selling, trading, or otherwise transferring for a valuable consideration, whether present or executory.
- 2.10 **“Temporarily”** means less than 60 consecutive days in one calendar year.
- 2.11 **“Transient business”** means any business conducted for the sale of merchandise or services that is temporarily carried on.
- 2.12 **“Transient vehicles vendor”** means a person temporarily selling motor vehicles in the Municipality that has been issued a dealer supplemental license within Yarmouth County issued by the Province of Nova Scotia under the Motor Vehicle Act whose permanent dealer’s license has not been issued within Yarmouth County.

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2.13 **“Transient trader”** means any person, not having a permanent place of business within the Municipality, who transacts transient business in this Municipality, other than the sale of motor vehicles.

2.13.1 The transient trader shall not include:

- 2.13.1.1 A person who peddles or sells unprocessed fruits, vegetables, meats or other products harvested from a farm or garden.
- 2.13.1.2 A person peddling, transporting or selling unprocessed fish, shellfish, oysters or any product harvested from the sea.
- 2.13.1.3 A person who provides wholesale sales to retail merchants by commercial travelers, or agents selling in the usual course of business.
- 2.13.1.4 Persons employed by any benevolent or religious society in the Province for the peddling or selling of moral or religious publications under the direction of such Society to the exclusion of other goods and merchandise.
- 2.13.1.5 A barrister, physician, certified accountant, civil engineer or anybody legally entitled to practice a profession within the Province of Nova Scotia.
- 2.13.1.6 A service club, not for profit, school, or religious organization conducting fund raising projects.
- 2.13.1.7 A garage or yard sale held at a residential home, when conducted by the owner or legal occupant, or a group including the owner or legal occupant.
- 2.13.1.8 Sales made by a seller or contractor at residential premises under an invitation issued by the owner or legal occupant of the premises (i.e., independent sales consultants representing such organizations as Avon or Pampered Chef, or contracted yard work at the request of the occupant).
- 2.13.1.9 A multipurpose center or festival conducting activities for amusement or entertainment.



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Part 3 Sale of Merchandise

3.1 No person shall sell motor vehicles in the Municipality as a transient vehicle vendor, or sell other merchandise as a transient trader except in accordance with this By-law.

Part 4 Licensing

4.1 A transient vehicles vendor and/or a transient trader shall obtain a license to sell merchandise in the Municipality, and any sale by such transient vehicles' vendor and/or transient trader without a current and valid license shall be an offence.

4.2 Every application for a license shall be made in writing to the Municipality and shall contain:

4.2.1 The name, mailing address, telephone number and e-mail address of the applicant;

4.2.2 The corporate or partnership name, if applicable;

4.2.3 A description of items the applicant proposes to sell; in the case of a transient vehicle's vendor, a list the motor vehicles the applicant proposes to sell;

4.2.4 For transient vehicles vendors, a certified copy of a valid and current Motor Vehicle Dealer's License issued by the Province of Nova Scotia under the applicable regulations promulgated pursuant to the Motor Vehicle Act;

4.2.5 Copies of all applicable federal, provincial or municipal permits that may be required;

4.2.6 If the applicant is proposing to sell at a site of which the applicant is not the owner, written permission from the owner;

4.2.7 Proof of commercial liability insurance;

4.2.8 The applicable license fee as established by Council in the Fees Policy F-044-02;

4.3 After receipt of a completed application, the Municipality may issue a license after first confirming that the proposed site of the sale is zoned for such use under any applicable Land Use By-Law;

4.4 A license issued under this by-law shall be in force for a period equal to, or less than, 30 days, (hereinafter called the period of sale). The license shall expire at the conclusion of

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that period of sale, and must be reissued at each subsequent period of sale of merchandise by a transient trader or transient vehicle vendor. Failure to renew a license is an offense.

- 4.5 A license issued under this By-law shall not be transferable by the holder thereof to any other person.

Part 5 Records

- 5.1 A transient vehicles vendor and a transient trader shall maintain records of all sales made pursuant to a license issued under this By-law, which shall reveal all particulars of the sale, including all consideration paid, traded or in any way transferred to or for the benefit of the vendor in respect of each sale.
- 5.2 The records maintained under this section shall be disclosed to the Municipality upon request. The Municipality shall use the information disclosed in those records only for purposes of enforcement of this By-law, and shall not disclose that information other than for that purpose. Any transient business shall, upon request by the By-law enforcement officer, present for inspection all or any of the goods or wares being intended to be sold.

Part 6 Revocation

- 6.1 A license may be revoked where:
 - 6.1.1 The licensee has provided incorrect information in the application for a license;
 - 6.1.2 The licensee is selling merchandise or vehicles not stipulated in the license application;
 - 6.1.3 The transient vehicles vendor's provincial Dealer's Permit has been revoked or is no longer in force;
 - 6.1.4 The licensee is in violation of any provision of this by-law or of any other By-law of the Municipality;
 - 6.1.5 The licensee does not have insurance in force as stipulated in the license application.
 - 6.1.6 The licensee fails to adhere to any statute, law or regulation of the Federal or Provincial Government.

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Part 7 Appeals

- 7.1 Any person who has been refused a license, or whose license has been revoked by the CAO shall receive notification in writing stating the reasons for the refusal or revocation and may appeal such refusal or revocation to the CAO.
- 7.2 Such appeal shall be in writing and shall be filed with the CAO within fourteen (14) calendar days of such refusal or revocation and shall clearly state the grounds for such appeal.

Part 8 License Fees

- 8.1 The fee for the issuance of license under this by-law shall be as fixed by policy made by Council pursuant to Section 49 of the Municipal Government Act.

Part 9 Enforcement

- 9.1 Every person who contravenes or fails to comply with any provision of this by-law, or any person who owns or controls premises or property used for unlicensed sale of merchandise by a transient vehicle's vendor and/or a transient trader commits an offence and is liable on conviction to a penalty of not less than five-hundred dollars (\$500.00) and not more than ten-thousand dollars (\$10,000.00) or, in default of payment, to imprisonment for a period of not less than thirty (30) days.
- 9.2 A person who is alleged to have violated this bylaw and where the notice so provides may pay a penalty in the amount of one-hundred (\$100.00) to one-thousand (\$1000.00) dollars to the office of the Municipality of the District of Yarmouth provided that said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed 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 in accordance with the Payment In Lieu of Prosecution Policy P-082.02.
- 9.3 Where a transient vehicle vendor or transient trader is selling merchandise contrary to this by-law, or the terms and conditions of a license, the Municipality may, in addition to any other remedy or penalty herein, and without notice of any kind, impound and remove any merchandise and all costs or charges for removal and storage shall be paid before the merchandise is released.

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9.4 The Municipality may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order where:


9.4.1 Land is being used in contravention of this By-law;

9.4.2 A person is selling merchandise without having paid the license fee required; or

9.4.3 A breach of this by-law is anticipated or is of a continuing nature.

Part 10 Repeal

This By-law hereby repeals and replaces Transient Vendor By-law T-088-09.

Chief Administrative Officer's Annotation for Official By-Law Book	
Date of First Reading	July 19, 2023
Date of Advertisement of Notice of Intent to Consider	September 7, 2023
Date of Second Reading	September 27, 2023
Date of Advertisement of Passage of By-law	November 2, 2023
Date of Mailing to Minister a Certified Copy of By-law	November 3, 2023
I certify that this Transient Vendor By-law T-088-23 was adopted by Council and published as indicated above.	
 _____ Chief Administrative Officer	<u>November 17, 2023</u> Date

Date last reviewed by Council: September 27, 2023

Date last amended: September 27, 2023



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Appendix A

Transient Vendor Application

Application Form

Please complete the application below and check/circle all that apply.

Name/Owner: _____

Mailing Address: _____

Phone Number: _____ Mobile: _____

Email Address: _____

Business/Corporate/Partnership Name: _____

List and describe the item(s) you propose to sell:

Transient Vehicles Vendor

Are you selling vehicles? Yes or No.

If yes, please list the vehicles you are proposing to sell:

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Copy of Motor Vehicle Dealer's License attached:

Federal Permit: Provincial Permit: Municipal Permit: Other:

Copy of applicable permit(s) attached: Yes or No

Are you the property owner? Yes or No.

If no, have you obtained written permission to use the property? Yes or No.

Proof of Commercial Liability Insurance attached:

If yes, please attach a copy of the written permission.

I have read and understand the Municipality of the District of Yarmouth Transient Vendor By-law T-088-23.

Agree: (signature) _____

Applicant Signature

Date