

MUNICIPALITY OF THE DISTRICT OF ARGYLE

BY-LAW #13A

TRANSIENT VENDORS AND BUSINESSES

Short Title

1. This by-law shall be known and may be cited as the “Transient Vendors By-Law”.

Interpretation

2. In this by-law:

“Chief Administrative Officer” means the Chief Administrative Officer of the Municipality of the District of Argyle.

“Council” means the Council of the Municipality of the District of Argyle.

“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.

“Merchandise” means any consumable item other than those specifically excluded in this bylaw.

“Motor vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway and which is propelled or driven otherwise than by muscular power, but does not include motorized wheelchairs, or vehicles used exclusively upon stationary rails or tracks.

“Municipality” means the Municipality of the District of Argyle.

“Person” means an individual, guild, agency, or body corporate.

“Peddler” means a person who peddles or hawks goods, wares or services from door to door generally within the Municipality.

“Sell” includes selling, trading, or otherwise transferring for a valuable consideration, whether present or executory.

“Temporarily” means less than 60 consecutive days in one calendar year.

“Transient business” means any business conducted for the sale of merchandise or services that is temporarily carried on.

“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.

“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

The transient trader shall not include:

- A person who peddles or sells fruits, vegetables, meats or other products harvested from his farm or garden.
- A person peddling, transporting or selling fish, shellfish, oysters or any product harvested from the sea.
- A person who provides wholesale sales to retail merchants by commercial travelers, or agents selling in the usual course of business.
- 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.
- A barrister, physician, certified accountant, civil engineer or anybody legally entitled to practice a profession within the Province of Nova Scotia
- A service club, not for profit, school, or religious organization conducting fund raising projects.
- 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.
- 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).
- A multipurpose center or festival conducting activities for amusement or entertainment.

Sale of merchandise

3. (a) 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
(b) Council may designate persons to be responsible for enforcement of this by-law, and any peace officer shall have enforcement authority.

Licensing

4. (a) 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.
(b) Every application for a license shall be made in writing to the licensing authority, and shall contain:
 - i. The name, mailing address, telephone number and, if available, facsimile number and e-mail address of the applicant;
 - ii. The corporate or partnership name, if applicable;
 - iii. A description of items the applicant proposes to sell; in the case of a transient vehicles vendor, a list the motor vehicles the applicant proposes to sell;
 - iv. 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;
 - v. If the applicant is proposing to sell at a site of which the applicant is not the owner, written permission from the owner;
 - vi. The Applicable license fee as established by policy of Council;
5. After receipt of a completed application, the licensing authority shall 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;
6. 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 that period of sale, and must be reissued at each subsequent period of sale of merchandise by a transient trader or transient vehicle vendor.
7. A license issued under this By-law shall not be transferable by the holder thereof to any other person.

Records

8. (a) 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.
8. (b) The records maintained under this section shall be disclosed to the licensing authority upon request. The licensing authority 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.

Revocation

9. A license may be revoked where:
 - a. The licensee has provided incorrect information in the application for a license;
 - b. The licensee is selling merchandise or vehicles not stipulated in the license application;
 - c. The Transient vehicles vendor's provincial Dealer's Permit has been revoked or is no longer in force;
 - d. The licensee is in violation of any provision of this by-law or of any other by-law of the Municipality;
 - e. The licensee does not have insurance in force as stipulated in the license application.
 - f. The licensee fails to adhere to any statute, law or regulation of the Federal or Provincial Government.

License Fees

10. (a) 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.
- (b) A certified copy of the said policy shall be affixed to this by-law as Schedule A". In the event that the fee so fixed is changed, a certified copy of the new policy shall be affixed in place of the previous.

Penalties Enforcement

11. 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 vehicles vendor and/or a transient trader commits an offence and is liable on conviction to a penalty of not less than \$500 and not more than \$10,000 or, in default of payment, to imprisonment for a period of not less than 30 days.
12. 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.
13. The Municipality may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order where:
 - a. Land is being used in contravention of this by-law
 - b. A person is selling merchandise without having paid the license fee required; or
 - c. A breach of this by-law is anticipated or is of a continuing nature.

Schedule “A”

MUNICIPALITY OF THE DISTRICT OF ARGYLE

Policy

Transient Vehicles Vendor License Fee

The fee for the issuance of a license under the Transient Vendors By-Law shall be \$100 a day to a maximum of fifteen hundred dollars (\$1,500.00). This policy shall take effect on the coming into force of the Transient Vendor By-Law.

I CERTIFY this to be a true copy of a policy adopted by Council of the Municipality of the District of Argyle, pursuant to subparagraph 49(1)(c)(i) of the Municipal Government Act on

_____, 20 .

Alain D. Muise CA, Chief Administrative Officer

Schedule “A”

MUNICIPALITY OF THE DISTRICT OF ARGYLE

Policy

Transient Trader License Fee

The fee for the issuance of a license under the Transient Vendors By-Law shall be \$25 a day to a maximum of Four Hundred Dollars (\$400). This policy shall take effect on the coming into force of the Transient Vendor By-Law.

I CERTIFY this to be a true copy of a policy adopted by Council of the Municipality of the District of Argyle, pursuant to subparagraph 49(1)(c)(i) of the Municipal Government Act on

_____, 20 .

Alain D. Muise CA, Chief Administrative Officer

Chief Administrative Officer's Annotation for Official By-Law Book	
Date of First Reading	February 10, 2009
Date of Advertisement of Notice of Intent to Consider	March 17, 2009
Date of Second Reading	April 14, 2009
Date of Advertisement of Passage of By-Law	April 21, 2009
Date of Mailing to Minister a Certified Copy of By-Law	
Effective Date of By-Law	April 21, 2009
I certify that this Transient Vendor By-Law #13A was adopted by Council and published as indicated above.	
_____	_____
Warden	Date
_____	_____
Chief Administrative Officer	Date