

BY-LAW NO. HAM-2023-12

TRANSIENT TRADERS, PEDDLERS, VENDORS AND MOBILE TRUCKS BY-LAW

WHEREAS, pursuant to Section 11 of the Local Governance Act, council may pass by-laws for municipal purposes to establish a system of licenses, permits or approvals respecting the matter.

BE IT ENACTED by the Council of Hampton, subject to the provisions of the Local Governance Act, under Section 15.

PURPOSE

The purpose of this by-law is to ensure that Vendors, Peddlers, Mobile Trucks and Vending Units in Hampton abide by the regulations of the Department of Health and also to regulate the quantity of Mobile Trucks and Vending Units.

DEFINITION

“commercial use” means any permitted use where the primary purpose is to sell, lease, or rent a product or service directly to the public, including, but not limited to, retail sales, commercial entertainment, or personal or professional services, but does not include any residential use. For the purpose of this by-law, commercial use also includes restaurants, recreational businesses, grocery stores and micro-breweries.

“farmers market” means an establishment where local farm products, which may also include other foods, beverages, or arts and crafts, are sold to the public by a group of retailers from within a building or outside of a building.

“Town” means the municipality of Hampton.

“Mobile Food Truck and Food Vending Units” means a cart, stand or kiosk that is operated either from a fixed location or an established daily route from which food is served or provided to the public with or without charge.

“Yearly Fee” means for one complete year from commencement date.

“License” means a license issued pursuant to this by-law.

“Peddler” means any person who peddles, sells, or hawks, or carries from place to place for the purpose of peddling, selling, or hawking goods or merchandise; and shall include any door-to-door peddlers of any goods or merchandise; any business operating from a mobilized vehicle; any operator of an unmotorized mobile unit selling foodstuff.

“Transient Business” means any business conducted temporarily for the sale and delivery of foods, goods, wares, and merchandise.

“Transient Trader” means any person, firm or corporation, partnership or society not having a permanent place of business within the municipality of Hampton who transacts transient business in this municipality.

“Vendor” means any person offering for sale products from a vending unit on private property or town-owned land including parks, playing fields and beaches.

“Not-For-Profit” organization is a group, which is organized for the purpose of social, religious, charitable, educational, athletic, literary, political or other such activities.

PROCEDURES AND REGULATIONS

- 1) No person shall offer for sale on a temporary basis any goods, merchandise or food to the public without having previously obtained a license under the provisions of this by-law. Hampton shall designate the conditions and approve both the location and hours of operation for the licensee.

- 2) An application for a license shall be submitted in writing to the Department of Legislative Services Office on form prescribed (Schedule B) at least seven (7) days prior to the effective date of the permit and shall contain a list of items being offered for sale and such other information as may be required from time to time by the Town.
- 3) A license obtained under this by-law is valid only for the types and class of goods, merchandise and food specified in said application and referred to as on the face of the license.
- 4) All licenses issued hereunder, may at any time be suspended or revoked by Hampton Council, on recommendation of its appointed Officers, when there are contraventions with this by-law and/or there are contraventions to other related by-laws, or it is in the public interest to do so.
- 5) Each license issued under this by-law shall be under the Corporate seal of Hampton and shall be signed by the Director of Legislative Services (Clerk) of Hampton and shall specify the period of continuance, not in any case to exceed one year.
- 6) Every such license shall bear the date of the day on which it was issued and shall upon the face thereof show the amount of the fee paid therefore and shall be in force and valid for the period indicated on the license for which the established fee has been paid.
- 7) Every license issued hereunder must be visible at all times.
- 8) Every license issued hereunder shall be subject to inspection upon the request of the By-Law Enforcement Officer of the town.
- 9) A proof of liability insurance is required and must be provided to the Director Legislative Services.
- 10) No license shall be transferable by the holder thereof to any other person.

MOBILE FOOD TRUCK AND FOOD VENDING UNIT

- 11) Mobile Food Truck and Food Vending Units are permitted as a complimentary use to a permanent Hampton business on an existing lot with an existing commercial use.
- 12) In the case of Mobile Truck and Vending Units, the application is to be submitted by the business owner of the permanent Hampton Business for a yearly Food Truck/Vending Unit license for their property. If the business owner is not the land owner, the land owner must also sign the application.
- 13) As part of the application the permanent business owner will submit a site plan for review, including location of the mobile food truck/vending unit relative to property, parking area and entrance/exit locations.
- 14) With the issuance of the Mobile Food Truck and Food Vending Unit License, the permanent Hampton business owner may then operate or sub-contract the operation of mobile food trucks and food vending units for their property, provided that the owner of said mobile food truck/food vending unit have the following, if applicable:
 - a) New Brunswick Department of Health Approval
 - b) Valid New Brunswick Motor Vehicle Registration
 - c) Proof of Liability InsuranceCopies must be provided to the Town if requested.
- 15) The permanent business owner may only allow one Mobile Truck or Vending Unit at their permanent business at any one time.

- 16) The yearly license is for a maximum of 130 calendar days per year, with no more than 5 consecutive days in any given week (Monday – Sunday). The Mobile Truck or Vending Unit must be removed from the property at the end of each 5-day period. The property owner is responsible for keeping a log of each day the Mobile Truck or Vending Unit was on their site. The log must also include the name of the Mobile Truck or Vending Unit and hours of operation. The log must be submitted to the Town on annual basis and must be available for inspection by the Town at any time.
- 17) The Hampton Council reserves the right to limit the number of Mobile Trucks and Vending Unit licenses at any given time.

EVENTS ON TOWN-OWNED PROPERTIES

- 18) Transient Traders Licenses are not required for Special events, including sports tournaments, taking place on town-owned property, where the approval of the operation of Transient Traders, including Mobile Food Trucks and Food Vending Units has been included in the Rental Agreement with the Town for rental of the Town-Owned Property and the conditions of the Rental Agreement has been met.
- 19) Transient Traders Licenses are not required for Town-hosted events taking place on town-owned property, where the approval of the operation of Transient Traders, including Mobile Food Trucks and Food Vending Units has been provided by the Town and the conditions of the approval has been met.

EXEMPTIONS

- 20) The Town reserves the right to grant exemptions to the following persons:
 - i) a person employed by any temperance, benevolent and religious publications under the direction of such society, to the exclusion of other goods and merchandise.
 - ii) Commercial travellers or other persons selling by sample, specimen or price list directly to dealers of Hampton and doing business therein.
 - iii) Service clubs, trade shows, craft fairs, non-profit organizations, garage and yard sales, festivals within Hampton limits and schools conducting fund raising projects.
 - iv) Farmer’s Markets where the operators are responsible to ensure that vendors within their jurisdictions comply with the rules and regulations by their respective associations effective the date of enactment of this by-law. In the event that these rules and regulations are modified, a copy will be sent to the municipality of Hampton to ensure that there is no conflict with the present by-law. If a market wishes to allow a person to sell goods that do not meet the specifications set by the market, that particular vendor will fall under the same rules and regulations as any other person or company doing business in the Town.

LICENSE FEES

- 21) Fees are indicated on Schedule “A” of this by-law, which are adopted from time to time by Hampton Council.

MISCELLANEOUS

- 22) Hampton may grant a Special Event Transient Trader License to a permanent Hampton business on an existing lot with an existing commercial use for a maximum of two occasions per calendar year for a maximum of 4 days per occasion.

NON-COMPLIANCE – PENALTY

- 23) A person or business who violates any provision of this by-law is guilty of an offence and, on summary conviction is liable to a penalty of not less than two hundred and fifty dollars (\$250.00) and not more than one thousand dollars (\$1000.00).
- 24) Unless otherwise provided for within this by-law, a person or business who has committed a violation of the provisions of this by-law may, at the discretion of the By-law Enforcement Officer or other representative appointed by the town either before or after the institution of proceedings against a person in respect of an offence under this By-law, pay to Hampton, at the Town Office, located at 648 Main Street, Hampton, New Brunswick, the minimum penalty prescribed:
- a) For a first offence, a sum equal to the minimum penalty prescribed for such a violation, being Two Hundred and Fifty Dollars (\$250.00);
 - b) For a second offence, a sum equal to twice the minimum penalty prescribed for such a violation, being Five Hundred Dollars (\$500.00);
 - c) For a third and subsequent offences, a sum equal to the maximum penalty prescribed for such violations, being One Thousand Dollars (\$1000.00);

and payment constitutes a full satisfaction, release and discharge of all penalties incurred by such person for such violation, and for the purposes hereof shall have the same effect as if a judge had duly convicted the person for the violation for which the amount was paid, and a certificate purporting to be signed by the Treasurer or designate to the effect that the sum has been paid in respect to a specific violation shall be prima facie evidence in all Courts of the conviction and the person committing the violation is not liable to be prosecuted or further prosecuted therefore. The person so accepting payment under this section shall forward such payment to the Treasurer together with a copy of the receipt.

- 25) In the case of an ongoing violation, a separate offence is committed for each day the person fails to comply with the provisions of this By-law.
- 26) Where in the opinion of the By-Law Enforcement Officer or Police Officer, a Transient Trader has violated this By-Law or any provision of the By-Law, the By-Law Enforcement Officer shall, upon direction of the Council in addition to any other remedy or penalty prescribed herein, by notice served upon the Transient Trader, cancel the License issued.

VALIDITY

- 27) The invalidity of any section, clause, sentence or provision of this By-law shall not affect the validity of any other section, clause or provision of this By-law which can be given effect without such parts.

FIRST READING: MAY 9, 2023

SECOND READING: MAY 9, 2023

THIRD AND FINAL READING AND ENACTMENT: JUNE 13, 2023

Robert Doucet, Mayor

Megan O'Brien Harrison, Clerk

SCHEDULE A
TRANSIENT TRADER LICENSE FEE

MOBILE FOOD TRUCK OR FOOD VENDING UNIT
<p>Means a vehicle either mounted on blocks or supported by a conventional wheel, tire and axle system from which food items and non-alcoholic beverages are offered for sale or sold to the public OR an open-air barbecue or steamer affixed to a vehicle which is on wheels or is capable of being moved from place to place by a person on which food is prepared and sold or offered for sale to open-air barbecue or steamer affixed to a vehicle which is on wheels or is capable of being moved from place to place by a person on which food is prepared and sold or offered for sale to the public</p>
<p>Annual Fee for Permanent Business Owner (max. of 130 days/year) \$750 ***Application for annual license cannot be prorated</p>
<p>Special events license (4-day period) \$200 Limited to 2 instances/year</p>
<u>Peddlers and Non-Food Vendors:</u>
<p>Any person who peddles or hawks or carries from place to place or door to door, goods, services or merchandise for the purpose of peddling, hawking or selling them; Any person involved in the transient sale of non-edibles items from portable display units or vehicle;</p>
<p>\$25.00/ day to a maximum of \$ 250.00 / month</p>

SCHEDULE B



Transient Trader/Peddler's License Application Form

TYPE OF TRANSIENT TRADER

- Mobile Food Truck/Food Vending Unit
- Peddler or Non-Food Vendor

TYPE OF TRANSIENT TRADER LICENSE

- Annual License (Food Vendor)
- Special Event Transient Trader License (Food Vendor): Dates Requested: _____
- Transient Trader License (Non-Food Vendor)

Goods to be sold : _____

Dates of Operation : _____

Hours of Operation : _____

APPLICANT

(Must be permanent Hampton Business Owner for Food Vendor License and Transient Trader Business Owner for Non-Food Vendors)

Name of Applicant/Business: _____

Address: _____

Phone Number: _____

Email Address: _____

LOCATION

Location Proposed to Operate (Civic Address): _____

Name of Landowner: _____

I, _____, am the landowner of (civic address) _____. I am grant permission for the operation of a Transient Trader business on this location.

Landowner's Signature: _____ Date: _____

I am aware of the requirements of Hampton's Transient Trader By-law and amendments hereto, and our responsibilities thereunder and agree to operate only under the conditions of the license resulting from this application.

Applicant's Signature: _____ Date: _____