

Town of Yarmouth
VENDING BYLAW

Effective: November 16th, 2023 – Amended: May 16th, 2024
TOY83



1.0 This Bylaw shall be known as and may be cited as the “Vending Bylaw”.

2.0 Definitions

In this Bylaw:

- a. **Abutter** means the owner, lessee or occupier of any building or lot in the Town that abuts a Town street and is within one hundred (100) meters of a vending location;
- b. **Auxiliary Vending Operation** means a vending operation subordinate and naturally customarily and normally to and exclusively devoted to a main use of land or building;
- c. **Busking** means providing entertainment in a public place not for a set fee but with the expectation that members of the public will pay for the entertainment;
- d. **Competition** means selling goods or provided services that are, in the opinion of the Bylaw Enforcement Officer, the same or similar at the time of the initial application for a Vending Permit;
- e. **Council** means the Town of Yarmouth;
- f. **Craft Market** means an outdoor gathering of five (5) or more vendors at which the goods for sale are craft goods produced by the vendors;
- g. **Crosswalk** means a portion of a roadway ordinarily included within the prolongation or connection of curb lines or the edge of a roadway and property lines at the intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines or other markings on the road surface;
- h. **Farmers’ Market** means an outdoor gathering of five (5) or more vendors at which the majority of goods for sale are products of the farm, forest, and the sea (including, without limiting the foregoing, flowers, plants, vegetables, fruit, jams, jellies, baked goods and honey), and at which any other goods for sale are craft goods produced by the vendor;
- i. **Goods** means goods, wares, merchandise, substances, articles or things;
- j. **Mobile Canteen** means a motorized vehicle used for the display, preparation or, sale of food or beverages by a mobile vendor;
- k. **Not for Profit** means an organization operated on a cost-recovery basis and not seeking profit registered provincially with the Nova Scotia Joint Registry of Stocks or Nationally

with the Canadian Revenue Agency;

- l. **Owner of Land** means a part owner, joint owner, tenant in common, or joint tenant of the whole or part of the land and, in the absence of proof to the contrary, means the person assessed for the land;
- m. **Inspector** means a Bylaw Enforcement Officer or other person duly appointed to enforce and administer this Bylaw;
- n. **Permit** means a Vendor's Permit issued pursuant to this Bylaw;
- o. **Public Place** means:
 - i. roadway;
 - ii. sidewalks;
 - iii. public parks and trails; and
 - iv. property owned by the Town of Yarmouth.
- p. **Roadway** means that portion of a public right of way between the regularly established curb lines or that part improved and intended to be used for vehicular travel;
- q. **Sidewalk** means that portion of a public right of way between the curb line and adjacent property line or any part of the roadway especially set aside for pedestrian travel and separated from the roadway;
- r. **Stand** includes an outdoor table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device that can be moved without the assistance of a motor, and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a vendor;
- s. **Town Administrator** means the Chief Administrative Officer or Town Clerk of the Town of Yarmouth;
- t. **Umbrella Vendor** means a festival or large event that will allow one (1) or more vendors to operate at the event;
- u. **Vehicle** means any vehicle required to be licensed and registered pursuant to the Motor Vehicle Act of Nova Scotia as well as any vehicle propelled by human power, whether required to be licensed or not;
- v. **Vending** means the sale and offering for sale of food, beverages, or other merchandise or services from outside of and enclosed building, in a public place in the Town of Yarmouth, but for greater clarity, does not include busking or permitted sales of goods and services on private property;
- w. **Vendor** means an owner, agent, operator or employee of a vending business.

3.0 General Provisions

3.1 No person shall vend in the Town except in accordance with the terms and conditions of a Vending Permit.

3.2 In accordance with, and subject to, the provisions of this Bylaw, Vending Permits may be obtained for vending in the following categories:

- a. Outdoor sales of prepared food;
- b. Outdoor sales of art or handcrafted goods;
- c. Outdoor sales of unprepared food;
- d. Mobile Canteens;
- e. Recreation and physical activity classes where business is transacted;
- f. Sale of other goods and services not mentioned above, with the approval of the Bylaw Enforcement Officer.

3.3 No person shall busk in the Town except in accordance with the provisions of this By-law.

4.0 Vending Provisions

4.1 No person, with or without a Vending Permit, shall:

- a. Vend between 11:00pm and 8:00am of the following day;
- b. Occupy a vending location before 7:30am or after 11:30pm;
- c. Leave any stand or mobile canteen unattended in a public place;
- d. Set-up, maintain or permit the use of any table, crate, rack or any other device to increase the selling or displaying capacity, where such items have not been described in the vendor's application;
- e. vend anything other than that which the vendor is permitted to vend;
- f. Sell food or beverages for immediate consumption unless there are suitable litter and recycling receptables available for public use;
- g. Leave any vending location without first picking up, removing and properly disposing of all recyclables, litter, or trash associated in any way with the vending activity, including emptying the litter and recycling receptacles;
- h. Vend to persons in motor vehicles;
- i. Vend within five (5) meters of a fire hydrant or a fire exit;
- j. Vend in public spaces within ten (10) meters of any driveway entrance to a police or fire station, or within three (3) meters of any driveway entrance;

- k. Vend within five (5) meters of any crosswalk;
- l. Vend in competition with the abutter;
- m. Sound or permit 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 attention of the public or cry their wares to the disturbance of the public;
- n. When vending from a mobile canteen:
 - i. vend when the mobile canteen is situated in a no parking area, or in an area in which parking is prohibited at that time;
 - ii. vend when the mobile canteen obstructs a roadway;
 - iii. vend when customers or people apparently waiting to become customers are standing in a roadway;
 - iv. advertising or signage for a permitted vending use is limited to the space available on the mobile unit and one temporary sandwich board sign;
 - v. vending unit shall not exceed twenty-four (24) feet or seven point thirty-one (7.31) meters in length excluding any towing apparatuses.
- o. When vending from a stand:
 - i. vend from a stand situation in a roadway, unless the stand is a pedal stand;
 - ii. vend so as to not obstruct the traffic of pedestrians. To avoid obstruction, a minimum width of one point six (1.6) meters of sidewalk must be left unobstructed between the curb and a stand situated on a sidewalk, or between the stand and the nearest building or other obstruction to the interior of the sidewalk, or between the stand and the entrance to a building;
 - iii. vend when customers or persons apparently waiting to become customers are standing in a roadway;
 - 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 without the owner's permission;
 - v. advertising or signage for a permitted vending use is limited to the space available on the stand, rack, push-cart and one temporary sandwich board sign.
- p. Dump any trash or refuse or any fat or other food substances into the Town's sewer system.

4.2 When vending from a mobile canteen, vendors are exempt from parking requirements and time limitations associated with public parking.

4.3 Any stand or mobile canteen that uses a fuel fired appliance for the preparation or warming of food or drinks shall be inspected by the Fire Inspector prior to the issuance of a Vending

Permit.

- 4.4** Any stand or mobile canteen equipped with a fuel fired appliance shall be equipped with a minimum of a 2A10BC rated fire extinguisher, and any hooded deep fat frying system shall be equipped with a Class K fire extinguisher or suitable alternatives as directed by the Office of the Fire Inspector.

- 4.5** All vendors shall vend from a location within any of the Open Vending Zones (see Appendix A) described hereunder, unless vending application identifies a private property location:

Open Water Street Zone

- a. Along Water Street within permitted parking zone on the west side of the street between Glebe Street and Public Street;
- b. Along Water Street within permitted parking zone on the east side of the street between Brown Street and Forest Street;
- c. Along Water Street within permitted parking zone on the east side of the street between Forest Street and Horton Street;

Open Recreational Field Zones:

- d. Gateway Baseball Field & St. Ambrose Field (William Street);
- e. Broad Brook Recreational Park (Forest Street & Southeast Street): Veterans Field, Mariners Field, & Travelers Field;
- f. St. Ambrose Tennis Courts (Albert Street);
- g. Coronation Park (Milton Ballfield) (Main Street);
- h. Lake Milo Boat Club (700 Main Street).

5.0 Auxiliary Vending

Auxiliary vending shall:

- a. Apply to a vendor who vends in conjunction with an existing business which is located on a commercially assessed property;
- b. Remove all vending apparatus from the sidewalk or lot no later than thirty (30) minutes after the time when the main business on the same lot is closing or required to close, and shall not set up earlier than thirty (30) minutes prior to the time when the main business on the same lot is opening or permitted to open;
- c. a person who vends shall not:
 - i. erect any signage that does not comply with the provisions of the Land Use Bylaw;
 - ii. erect lights of any kind except those that are subordinate and naturally,

customarily normally incidental to and exclusively devoted to the main use.

6.0 Exemptions

- 6.1** Vending undertaken as a fundraiser for not-for-profit engaged in sporting, educational or volunteer activities is not subject to this Bylaw.
- 6.2** Charitable or non-profit organizations from the Town who utilize the proceeds from the sale of goods and services to support projects within the community may be exempted from permit fees but must meet the other requirements of this Bylaw.
- 6.3** Buskers are welcome to perform in public places in the Town providing they register with the By-law Enforcement Officer and comply with the following “Guidelines for Busking in Yarmouth”.
- a. Open to kids of all ages. Kids 14 and under must be accompanied by an adult.
 - b. Use of sharp or dangerous objects are prohibited including but not limited to: juggling knives, chainsaws, hatchets, and flaming object.
 - c. Be respectful of pedestrian flow and safety by keeping sidewalks and business entries clear.
 - d. Dogs must be on a leash and all provisions of the Dog By-law followed.
 - e. No selling of products other than your own CDs
 - f. Busk only from a pre-approved busking location indicated on the map in Appendix B. If another busking location is desired the Busker may submit a request to the By-law Enforcement Officer.
 - g. Be respectful of nearby businesses and residents in terms of noise levels. Plugged-in instruments and sound systems are permitted only in two designated areas as indicated on the map in Appendix B.
 - i. Frost Park (410 Main Street, PID 90196106)
 - ii. Clock Tower Park (230 Water Street, PID 90193749)
- 6.4** In the case of vending in association with a special exhibition, festival or event as permitted by the Town Land Use Bylaw, the provisions of the Town Land Use Bylaw take priority over the provisions of the Vending Bylaw.
- 6.5** Outdoor display and offering for sale of goods and services (other than food and beverages) which are also displayed and offered for sale in the retail store, on the same lot as the retail store or on a Town sidewalk directly in front thereof, and by the same retailer.
- 6.6** Outdoor display and offering for sale of food and beverages on any outside patio and deck forming part of a restaurant by the operator of the restaurant.
- 6.7** Outdoor offering for recreational and physical activity classes where it is an extension of a retail

business located in the town.

7.0 Administration

7.1 A Vending Permit issued under this Bylaw is not transferrable or assignable.

7.2 A Vending Permit issued under this Bylaw shall be conspicuously displayed so as to be clearly visible from the street at all times during which goods and services are being offered for sale pursuant to this Bylaw.

7.3 All Vending Permits shall be obtained by application to the Bylaw Enforcement Officer.

7.4 The application for a Vending Permit or for an amendment to a Vending Permit shall be made in writing on such a form as may be specified by the Bylaw Enforcement Officer and signed by the applicant.

7.5 Every application for a Vending Permit or an amendment to a Vending Permit shall contain the following information:

a. In the case of permits for mobile canteens (on public property):

- i. the provincial motor vehicle registration number and description by make, model, and year of any vehicles to be used by the applicant as a mobile canteen;
- ii. confirmation that the applicant will operate or allow the operation of the mobile canteen in accordance with all requirements pursuant to the *Health Protection Act, Motor Vehicle Act* and other applicable legislation;
- iii. a description of the foods and beverages to be sold at each mobile canteen;
- iv. proof of successful fire inspection required under Section 4.3 of this Bylaw, if applicable;
- v. photograph of fire extinguisher required under Section 4.5 of this Bylaw, if applicable;
- vi. proof of general liability and property damage insurance required under Section 8.2;
- vii. a description of any planned signage and its location; and
- viii. a photograph of each mobile canteen.

b. In the case of permits for mobile canteens (on private property):

- i. all requirements as identified in section 7.5 a;
- ii. required to obtain both a Development Permit as well as a Vendor's Permit;
- iii. written permission from the property owner, signed and submitted to the Town's Development Officer.

c. In the case of permits for stands:

- i. Where the stand is to be used for the sale of foods and beverages, confirmation that the applicant will only operate or allow the operation of the stand in accordance with all requirements pursuant to the *Health Act* and other applicable legislation;
- ii. proof of general liability and property damage insurance required under Section 8.2;
- iii. a description of any planned signage and its location;
- iv. proof of successful fire inspection required under Section 4.3 of this Bylaw, if applicable;
- v. photograph of fire extinguisher required under Section 4.5 of this Bylaw, if applicable;
- vi. a description of the foods and beverages or other merchandise or services to be sold at each stand; and
- vii. a photograph of each stand.

d. In the case of permits for umbrella vending:

- i. Adhere to the Town's Vendor Terms and Conditions and the Vending Bylaw.

7.6 A Vending Permit shall not be issued in respect of vending goods and services that are not permitted to be vended, or the vending of which is regulated by Federal, Provincial statutes or regulations or Bylaws of the Town, except in accordance with such regulatory requirements, and compliance with such regulatory requirements shall be deemed to be a term and condition of every Vending Permit.

7.7 Subject to the provisions of this Bylaw, the Bylaw Enforcement Officer shall issue a separate, numbered Vending Permit containing terms and conditions consistent with this Bylaw and the permit application for each stand, mobile canteen, and umbrella vendor.

7.8 A Vending Permit shall remain in effect for the period stated thereon. Permits may be issued for intervals of a week, one (1) month or one (1) year, with corresponding fees set by policy.

7.9 The Bylaw Enforcement Officer may refuse to issue, may amend, or may revoke or suspend a Vending Permit for breach of this or any other Bylaw upon written notice to an applicant or permit holder.

7.10 The Bylaw Enforcement Officer may restrict the number of vendors permits to be granted by category or location.

8.0 Vendor Responsibility

8.1 The Vendor shall indemnify and save harmless the Town of Yarmouth, its employees and agents, from and against all claims, expenses, actions, losses, costs and suits caused by or arising out of,

directly or indirectly, the performance of the Vending Permit, or by reason of any matter or thing done by or not done by the Vendor, its employees or agents.

8.2 The Vendor shall, at its sole cost and expense, place and at all times maintain during the currency of the permit, general liability and property damage insurance. The Vendor shall provide the Town with the confirmation of the insurance, including the insurance provider and the policy number, and such policy shall be written on a comprehensive basis with coverage for any one (1) occurrence or claim and not less than two million dollars ((\$2,000,000.00)).

8.3 The Vendor shall have received all necessary permits, licenses and letters of permission required by various Federal, Provincial or Municipal agencies.

9.0 Enforcement

9.1 This Bylaw shall be referred to as the Vending Bylaw and be administered by the Inspector.

9.2 Any vendor found guilty of having contravened or failed to comply with any of the terms of this Bylaw or of any license issued under this By-law shall, on conviction, be liable to a penalty of not less than three hundred dollars (\$300.00), and not more than one thousand dollars (\$1000.00), and in default of payment, to imprisonment for a period not exceeding sixty (60) days.

10.0 Scope of Application

10.1 Every application for a permit pursuant to this Bylaw shall be completed and submitted on the form provided by the Town and shall include the appropriate fee payable pursuant to section 12.1 of this Bylaw.

10.2 The Inspector shall receive and review every application and issue of such permit as are in compliance with this Bylaw.

11.0 Issuance and Terms of Permit

11.1 Within fifteen (15) days of receiving an application, the Inspector shall inform the applicant whether the application is complete.

11.2 Within thirty (30) days of receiving a completed application, the Inspector shall either grant or refuse the vendor permit.

11.3 Every permit shall specify the permit holder's name and address, the type of food, beverage, or other merchandise or product permitted to be sold, the registration number of any permitted motor vehicle.

11.4 The permit shall be prominently displayed during the hours of operation.

11.5 A Vendor Permit shall not be transferrable by the permit holder.

11.6 Every yearly permit to vend shall expire at the end of the calendar year.

11.7 Every monthly permit to vend shall expire at the end of thirty (30) days from the date it was issued.

11.8 Every weekly permit to vend shall expire at the end of the seven (7) days from the date it was issued.

12.0 Permit Fees

12.1 Permit fees (HST Exempt) pursuant to this Bylaw shall be:

Type of Vending	Per Week	Per Month	Per Year	Per Event
Mobile Canteen	-	\$200	\$500	\$100
Stand	\$25	\$50	-	-
Umbrella Event	-	-	-	\$100
Outdoor Farmers' or Outdoor Craft Market	-	\$200	\$500	\$100
Outdoor Fruit/Vegetable/Fish Stand or Vehicle	\$25	\$100	\$500	-
All Other Vendors	\$25	\$200	\$500	-
Non-profit Event	-	-	-	-
Busking	--	-	-	-

13.0 Revocation and Appeals

13.1 Any permit issued under this Bylaw may be suspended for a period of up to fourteen (14) consecutive days by the Inspector.

13.2 Any permit may be revoked by the Town Administrator.

13.3 Any refusal, suspension or revocation of a permit shall be made in writing to the applicant.

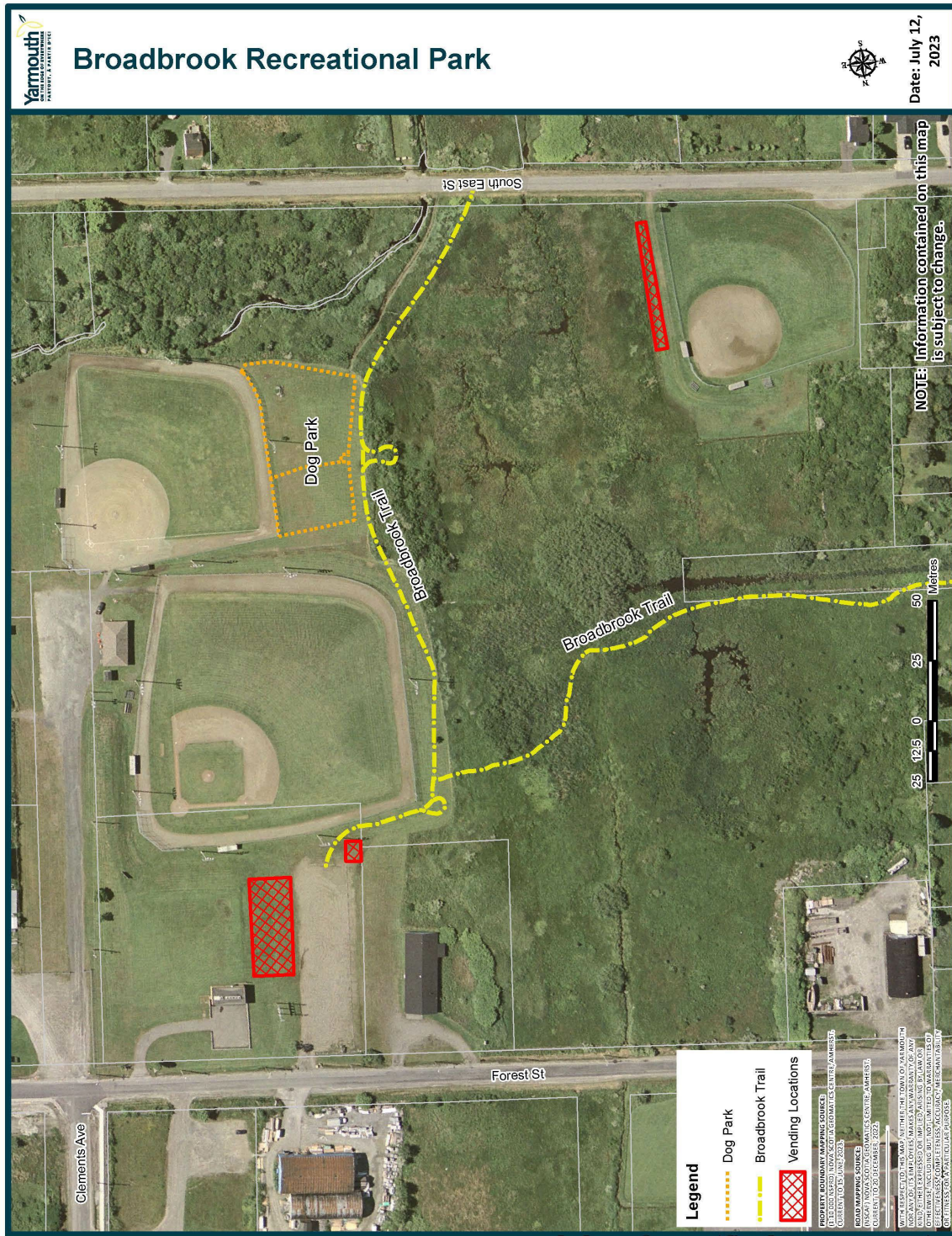
13.4 Any person whose permit is revoked or whose application for a permit has been refused may appeal to the Council, whose decision shall be final.

13.5 Such a notice of appeal shall be served to the Town Administrator within fifteen (15) days of the date that the written decision is served to the applicant.

13.6 Any such appeal served on Council shall be heard by Council and Council may:

- a. Confirm the decision of the Town Administrator, or
- b. Order that the permit be granted or reinstated with or without conditions.

Appendix A: Open Vending Zones



Gateway Baseball Field



Date: July 12,
 2023



NOTE: Information contained on this map is subject to change.

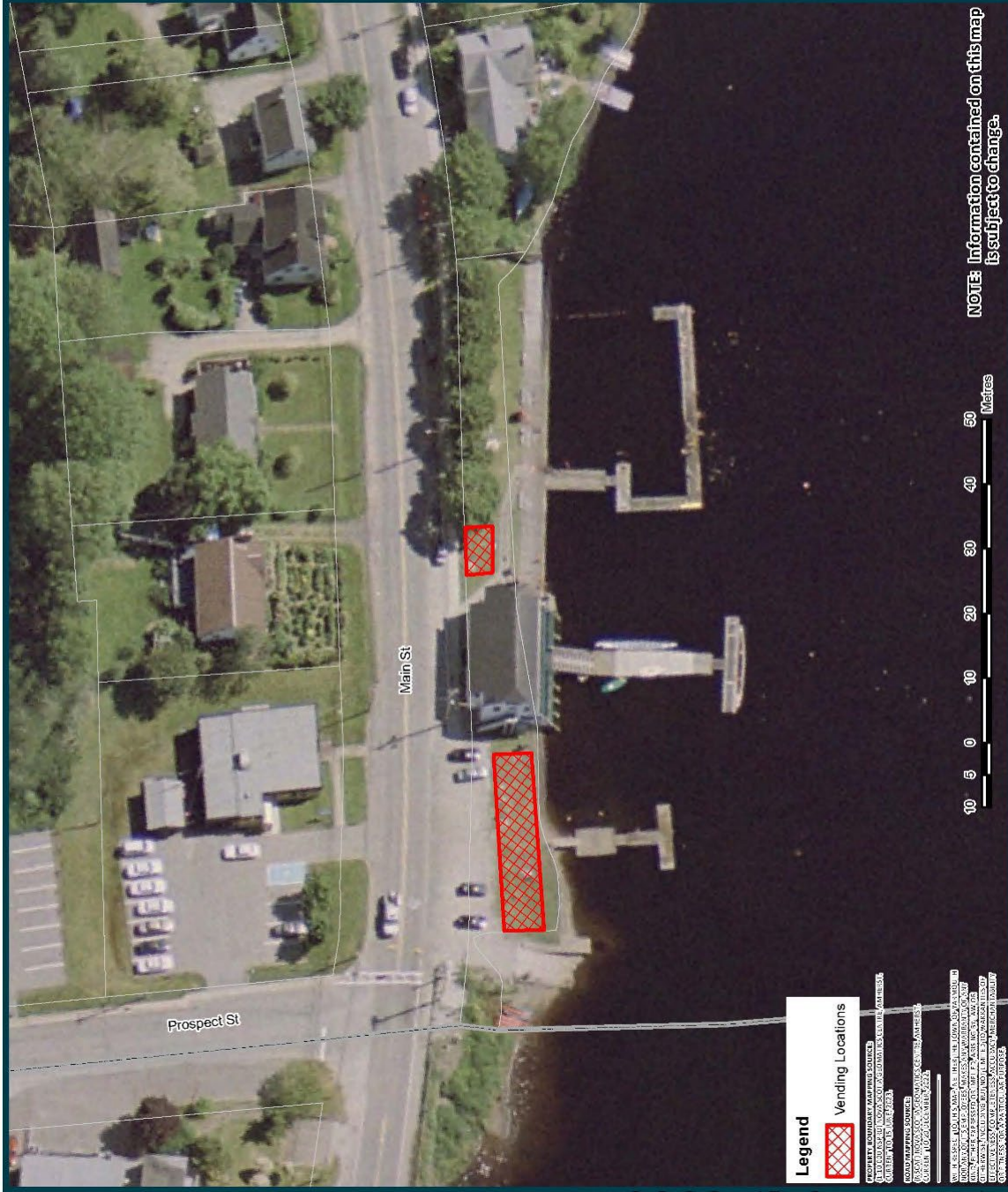
Legend

 Vending Locations

PROPERTY BOUNDARIES AND PUBLIC COURSE:
 1. TO CORRESPONDING SCHEMATIC DRAWINGS CENTER OF ADJACENT COURSE TO BE USED FOR PLACEMENT.


ROAD MARKINGS COURSE:
 1. TO CORRESPONDING SCHEMATIC DRAWINGS CENTER OF ADJACENT COURSE TO BE USED FOR PLACEMENT.

IN THE EVENT THIS BY-LAW IS APPLIED TO THE TOWN OF YARMOUTH, THE TOWN OF YARMOUTH MAKES NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, IN CONNECTION WITH THE BY-LAW OR THE INFORMATION CONTAINED HEREIN, AND THE TOWN OF YARMOUTH SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE BY-LAW OR THE INFORMATION CONTAINED HEREIN.



NOTE: Information contained on this map is subject to change.

Legend

 Vending Locations

FOR THE PURPOSES OF THIS MAP, THE YARMOUTH BOAT CLUB HAS BEEN IDENTIFIED AS A VENDING LOCATION. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE AN OFFICIAL ZONING BY-LAW. THE YARMOUTH BOAT CLUB IS A REGISTERED VENDING LOCATION UNDER THE YARMOUTH BOAT CLUB ACT. THE YARMOUTH BOAT CLUB IS A REGISTERED VENDING LOCATION UNDER THE YARMOUTH BOAT CLUB ACT. THE YARMOUTH BOAT CLUB IS A REGISTERED VENDING LOCATION UNDER THE YARMOUTH BOAT CLUB ACT.

St Ambrose Tennis Courts



Date: July 12, 2023



NOTE: Information contained on this map is subject to change.

Legend



Vending Locations

PROPERTY BOUNDARY MAPPING SOURCE:
MUNICIPALITY OF YARMOUTH, 2022
CONSULT FOR MORE INFO

ROAD MAPPING SOURCE:
MUNICIPALITY OF YARMOUTH, 2022
CONSULT FOR MORE INFO

PHOTO SOURCE:
AERIAL PHOTOGRAPHY BY GUYER PHOTOGRAPHY, 2022

MAP DATA SOURCE:
MAP DATA PROVIDED BY ESRI, 2022

MAP DESIGN:
MUNICIPALITY OF YARMOUTH, 2022

MAP PRINTING:
MUNICIPALITY OF YARMOUTH, 2022

MAP DISTRIBUTION:
MUNICIPALITY OF YARMOUTH, 2022

MAP REVISIONS:
MUNICIPALITY OF YARMOUTH, 2022

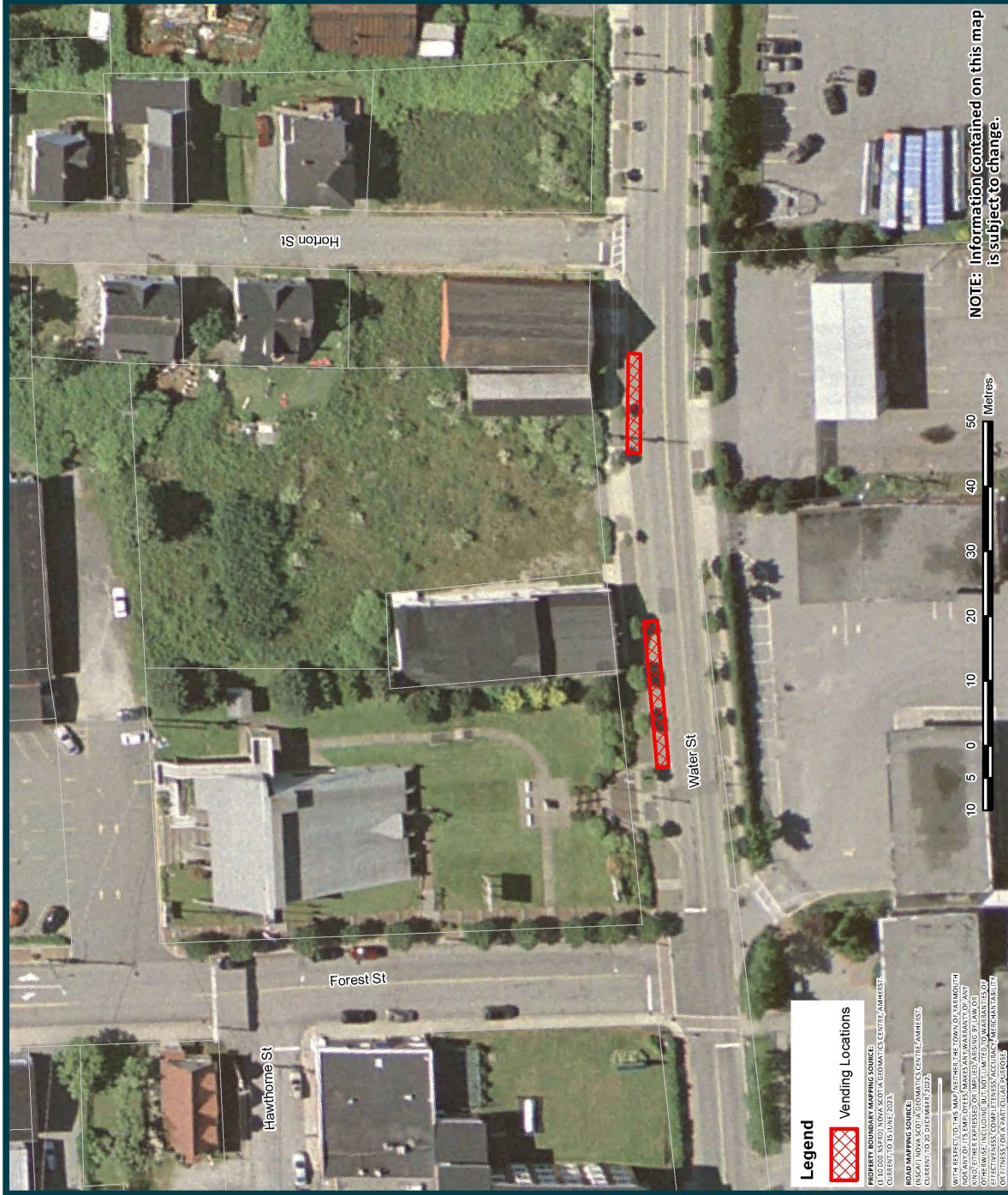
MAP CONTACT:
MUNICIPALITY OF YARMOUTH, 2022

MAP COPYRIGHT:
MUNICIPALITY OF YARMOUTH, 2022

Water Street Between Forest Street & Horton Street



Date: July 13, 2023



NOTE: Information contained on this map is subject to change.

Legend
 Vending Locations

PROPERTY BOUNDARY / MAPPING SOURCE:
 (1:10,000 NSP20) / NOAA / SCD / PANGOMATICS / GEVANTRE / AMHERST,
 CURRENT TO 15.04.2022

ROAD MAPPING SOURCE:
 (1:10,000 NSP20) / NOAA / SCD / PANGOMATICS / GEVANTRE / AMHERST,
 CURRENT TO 15.04.2022

**WITH RESPECT TO THIS MAP, NEITHER THE TOWN OF YARMOUTH,
 NOR ANY OF ITS EMPLOYEES, MAKES ANY WARRANTY OF ANY
 KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT
 LIMITED TO THE ACCURACY, COMPLETENESS, TIMELINESS, OR
 EFFECTIVE DATE OF THE DATA, OR THE FITNESS OF THE DATA FOR
 ANY PARTICULAR PURPOSE.**

Appendix B: Busking Brochure and Approved Locations

Busking Locations



Clock Tower Park

Legend

- Plugged in Busking Location
- Unplugged Busking Location



Clerk's Annotation for Official Bylaw Book

Date of Adoption: November 29th, 2023

Date of Approval of Amended Bylaw: May 16th, 2024

I certify that this 'Vending Bylaw' was adopted by Council as indicated above.

Town Clerk:

Date:

Adoption

Date of First Reading	October 12 th , 2023
Date of Intent	November 1 st & 8 th , 2023
Date of Second Reading	November 16 th , 2023
Date of Publication	November 29 th , 2024

Amended

Date of First Reading	April 11 th , 2024
Date of Intent	May 1 st & May 8 th , 204
Date of Second Reading	May 16 th , 2024
Date of Publication	May 29 th , 2024