

**TOWN OF SHELBURNE**  
**Transient Automobile Vendors By-Law**

Pursuant to Section 171 of the Municipal Government Act, BE IT ENACTED by the Council of the Town of Shelburne as follows.

1. (1) This By-Law shall be known as the “Transient Automobile Vendors By-Law”  
  
(2) Where a provision of this By-Law conflicts with the provision of another By-Law in force within the Town, the provision that establishes the higher standards to protect the health, safety, and welfare of the general public shall prevail.
2. This By-Law does not hereby authorize the sale of vehicles by persons otherwise prohibited by the *Motor Vehicle Act, R.S.N.S. 1989, c. 293*.

DEFINITIONS

3. In this By-Law
  - (a) “Clerk” means the Clerk of the Town of Shelburne.
  - (b) “Council” means the Council for the Town of Shelburne.
  - (c) “Dealer” means a person who carries on or conducts, either for the whole or part of his time, the business of buying, selling or dealing in motor vehicles, trailers, or semi-trailers who is a licensed dealer pursuant to the *Motor Vehicle Act, R.S.N.S. 1989, c. 293 and Dealers’ Licenses Regulations, N.S. Reg. 11/95*.
  - (d) “Land Use By-Law” means the Land Use By-Law as adopted by the Town of Shelburne including amendments as may be made from time to time.
  - (e) “License” means a Transient Automobile Vendors License provided for in this By-Law.
  - (f) “Licensing Authority” means the Police Committee, or such employee or agent of the Town as the Police Committee may designate to receive applications for Licenses under this By-Law.
  - (g) “Motor Vehicle” means every device in, upon or by which a 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.

- (h) "Operation" means the sale of Motor Vehicles to which a License pertains.
- (i) "Owner" includes any one or combination of the following as defined in the *Municipal Government Act*, S.N.S. 1998, c.18 s. 3(ay):
  - i. a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or building, or
  - ii. in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building, in the absence of proof to the contrary, the person assessed for the property.
- (j) "Principle Place of Business" means owned or leased premises which contains:
  - i. a building or buildings with adequate facilities to service and repair a minimum of two vehicles;
  - ii. outside parking for a minimum of ten vehicles;
  - iii. two qualified mechanics during the Dealer's normal business hours;

as set out in the *Dealer's Licenses Regulations* under section 32 and 60 of the *Motor Vehicle Act*, R.S.N.S. 1989,c.293, N.S. Reg. 11/95, s.6.
- (k) "Sell" means selling, trading, or otherwise transferring for a valuable consideration, whether present or executory.
- (l) "Town" means the Town of Shelburne.
- (m) "Transient Automobile Vendor" means a Dealer selling Motorized Vehicles within the Town of Shelburne who does not have a Principle Place of Business in the Town.
- (n) "Vend or Vending" means the sale, or offering for sale, of goods, food, beverages or services to the general public.
- (o) "Vendor" means a Transient Automobile Vendor.

**TRANSIENT AUTOMOBILE VENDORS LICENSE REQUIRED**

- 4. (1) All Transient Automobile Vendors shall obtain a License prior to setting up their Operation within the Town of Shelburne. Any sale of a Motor Vehicle by a said Vendor without a License shall constitute a violation of this By-Law.

(2) Any peace officer or Special Constable for the Town of Shelburne shall have enforcement authority under this By-Law.

(3) A License shall not be issued unless the activity is permitted on the subject property by the Land Use By-Law, and occurs in a manner permitted within the Land Use By-Law. Application for a License shall also constitute an application for a Development Permit as required by the Land Use By-Law.

(4) An application for a License shall be made to the Clerk by the Vendor, on the application form, which is contained in Schedule "A" of this By-Law. All information requested on Schedule "A" shall be required to be submitted prior to the issuance of a License.

(5) A separate License is required for each Transient Automobile Vendor which occupies the same piece of property during any given time period.

(6) A Transient Automobile Vendor shall make the application for the License and only he or she shall be held accountable under the provisions of this By-Law for failure to obtain the said License.

#### **LICENSE REQUIREMENTS**

5. (1) A License shall be valid for the days as specified on the said license.
- (2) A License is renewable upon application and payment of the required fee.
- (3) An application is not considered complete until all relevant information is provided and payment is made.
- (4) The application shall include a site plan showing location of the Operation on the property, access to and egress from the site, the location of all buildings on the property and the area being utilized for the Operation.

#### **LICENSE FEE**

6. (1) The fee for the License shall be an annual one of Ten Thousand Dollars (\$10,000.00) Canadian.
- (2) A License is not transferable.

#### **CONDITIONS OF LICENSE**

7. (1) Any sign to be erected on the site shall be included in the site plan submitted at the time of application and shall meet the requirements of the Land Use By-Law. A separate Development Permit is not required for the said sign(s).

- (2) Receptacles sufficient to satisfy the Town of Shelburne Solid Waste By-Law shall be situated on the site, particularly where food is for sale intended for immediate consumption.
- (3) The Vendor or property owner shall provide proof of a minimum public liability insurance of Two Million Dollars (\$2,000,000.).
- (4) All facilities associated with the sale of Motor Vehicles pursuant to the License shall be removed from the site once the Operation ceases, or the permit expires, whichever comes first. Failure to remove all facilities and any associated solid waste constitutes a violation of this By-Law.
- (5) A License can be revoked where:
- (a) The licensee has provided incorrect information in the application for a License;
  - (b) The licensee is selling Motor Vehicles not stipulated in the License application;
  - (c) The licensee's provincial Dealer's License under the *Motor Vehicle Act, R.S.N.S. 1998, c.293 and the Dealers' Licenses Regulations, N.S. Reg., 11/95* has been revoked or is no longer in force;
  - (d) The licensee is in violation of any provision of this By-Law or any other By-Law of the Town of Shelburne;
  - (e) The licensee does not have insurance in force as required under this By-Law or any condition of the Licensing agreement.
- (6) A License issued under this By-Law must be conspicuously displayed at all times at the location where the Transient Automobile Vendor conducts the sale of Motor Vehicles.

## **PENALTY**

8. (1) Every person who violates or fails to comply with any of the provisions of this By-law shall be liable, upon summary conviction, to a penalty of Ten Thousand Dollars (\$10,000.)
- (2) Every day during which an offence pursuant to this By-Law continues is a separate offence.
- (3) The Town 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 Motor Vehicles 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"

TOWN OF SHELBURNE

**Transient Automobile Vendors By-Law Application**

Location of Sale: \_\_\_\_\_ (please enter civic address here)

Date of Sale: \_\_\_\_\_ to \_\_\_\_\_, 200\_\_

Applicant Information:

Information for the Owner of the Property  
at the location of proposed Operation:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Phone #: \_\_\_\_\_

Phone #: \_\_\_\_\_

License Information:

Site Plan Attached \_\_\_\_\_ (must show location of sale on property, access to and egress from site and the locations of all buildings on the property)

Owners Permission \_\_\_\_\_ (applicant must submit a letter from the owner, outlining permission to use the property for the sale)

Vehicle Description \_\_\_\_\_ (applicant must submit a description of the type(s) of Motor Vehicles it will be offering for sale)

Sign Schedule \_\_\_\_\_ (all signs must conform to the Land Use By-Law and be submitted in the form of a schedule showing where on the property they will be located and what size each sign is)

Proof of Insurance \_\_\_\_\_ (proof of insurance must be attached to the application)

License Fee \_\_\_\_\_ (license fee must accompany the application, amount payable is \$10,000. Canadian)

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

By signing the above you are hereby verifying that all information submitted for this application is factual and complete.

*For Office Use Only*

Location of Sale is in conformance with LUB \_\_\_\_\_

Proposed Signs are in conformance with LUB \_\_\_\_\_

Application is complete including fees \_\_\_\_\_

Approved by: \_\_\_\_\_

Date Approved: \_\_\_\_\_

Clerk's Annotation for Official By-Law Book

Date of first reading May 2<sup>nd</sup>, 2007  
Date of advertisement of Notice of Intent to Consider May 15<sup>th</sup>, 2007  
Date of second reading June 6<sup>th</sup>, 2007  
\*Date of advertisement of Passage of By-Law June 12<sup>th</sup>, 2007  
Date of mailing to Minister a certified copy of the By-Law June 12<sup>th</sup>, 2007

I certified that this Transient Automobile Vendors By-Law was adopted by Council and published as indicated above.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

\*Effective Date of the By-Law unless otherwise specified in the text of the By-Law\*