

THE CORPORATION OF THE CITY OF NELSON

POLICY TITLE:	Mobile Vending & Sales Policy	POLICY NO:	4500.00.010
EFFECTIVE DATE:	February 10, 2021	SUPERSEDES:	July 9, 2012
APPROVAL:	Council	PAGE:	1 of 5

POLICY:

The use of City streets and City-owned parking areas may be permitted for operation of a mobile vending vehicle as per this policy, from April 1st to December 31st of each year. Licences are issued at the discretion of the City Manager or Corporate Officer. Any decisions made under this policy by staff may be appealed as outlined in the Administrative Fairness Policy.

- “Licence” means the agreement between the mobile vendor and the City of Nelson permitting the vendor to operate a business on City-owned property.
- “Mobile vendor” or “operator” means the applicant and the person(s) to whom a licence is issued.
- “Vending/sales area” means the total area used by the mobile vendor.
- “Vending vehicle” or “vehicle” refers to a vehicle that is designed to be used to sell products, food, or beverage and licensed as per this policy.

Mobile vendors seeking to operate as part of a special event or applying for a business licence to operate on private property are advised that sections 2a, 3, 4, 24, 28, 31, 33, 35, 37, and 38 apply. Fees required by the Fees & Charges Bylaw may be applicable.

PURPOSE:

To establish guidelines and give direction for orderly establishment and use of City streets and property for vending and sales.

PROCEDURE:

1. Fees will be levied as per the Fees & Charges Bylaw. This includes an annual application fee, an annual business licence fee, location-specific rates, and electricity charges.
 - a) Two or more vending vehicles may jointly rent and operate from one parking space (only one vendor may be present at any given time). In this case, they will be permitted to pay only one location fee and combined electrical service fees.
2. Annual applications are to be made at the Development Services Department and must include:
 - a) confirmation of annual Fire Department inspection;
 - b) a letter of intent that includes the operating hours and days of the week, and any other relevant details;
 - c) a drawing that indicates the exact location of the requested parking

- area and the location of the vehicle and its dimensions (applicants should consider indicating a second and third choice of location);
 - d) a photograph of the vending vehicle and plans for the area;
 - e) Interior Health approval (if food or beverages are being served);
 - f) a sign plan in accordance with this policy;
 - g) a discharge management plan that includes a description of how and where fats, oils, grease, and grey water will be disposed (if food or beverages are being served);
 - h) a waste diversion plan in accordance with this policy; and
 - i) a description of electrical requirements and servicing.
- 3. Upon approval of the licence, but prior to operating, the operator shall provide proof of a valid City of Nelson business licence.
- 4. It is the responsibility of all operators to obtain and maintain any necessary licensing from the City, Interior Health, or other applicable licensing/regulatory agencies for the specific activities in which they are proposing to engage.
- 5. Operators using City streets or property must be adequately insured to satisfy the Corporate Officer that the City is indemnified and saved harmless against any and all damages, injuries or claims arising from their use of the public property. Upon approval of the licence, the operator shall provide proof of liability insurance coverage for \$5 million, which names the "City of Nelson" as an "additional insured". The insurance shall include a cancellation clause making explicit that it is understood and agreed that the coverage provided by the policy will not be changed or amended in any way or cancelled until thirty days after written notice of such change or cancellation shall have been given or sent by registered mail to all Named Insured.
- 6. The City retains the right to revoke any permission granted to use the street for such purposes at any time where it is found that the use is creating difficulties deemed unacceptable to the City or where any conditions of this policy or the licence have not been met. In the latter case, no money will be refunded to the applicant, the City may refuse to issue licences in the future, and bylaw tickets may be issued.
- 7. The City retains the right to refuse access to, and/or require a vending vehicle to be removed from, a pre-approved location at any time without notice, due to foreseen or unforeseen circumstances such as a special event, construction, infrastructure repairs, or other circumstances requiring the closure of a portion of the right-of-way or land. In the event that a vendor's location is unusable, the City may be able to assist in finding a temporary alternate location, but the City is not responsible to find alternate vending locations nor will the City compensate the applicant during this time.
- 8. The City retains the right to conduct periodic inspections of the vending vehicle to ensure compliance with City bylaws, this policy, and the operator's licence.
- 9. The operator has the option to connect to the Nelson Hydro grid, if feasible at the approved location and upon payment of the prescribed fees. Generators are not permitted to be used in the "Downtown Core" unless special permission is obtained from the City or if there is a power outage. City staff will refer the application to Nelson Hydro to confirm electrical servicing options. It is highly recommended that the applicant contact Nelson Hydro prior to making an

application to discuss hydro servicing options at their desired locations.

- a) It is the operator's responsibility to ensure that the circuit is properly loaded and used appropriately, as per the Canadian Electrical Code and Technical Safety BC.
10. Licences will be issued for a minimum of four months per licence. An operator must operate at least 12 days, for at least 4 hours per day, during each month.

DOWNTOWN CAP GUIDELINES:

11. No more than three mobile vendors will be approved to operate in the "Downtown Core" at any given time (if two or more share one parking space, collectively they will count as one for the purpose of this quota).
12. If more than three eligible applications are received by the end of the day on March 1st of any given year, staff will contact all eligible applicants to inform them that they may submit additional information, within one week, to assist staff in scoring applications on the basis of the following:
 - a) Eco-initiatives (e.g. waste, vehicle fuel requirements);
 - b) Availability of seating, amenities, and/or access to nearby washrooms for customers (if food or beverages are being served);
 - c) Support of adjacent businesses and/or property owners;
 - d) Intention to remain operating in the community;
 - e) Past compliance with City policies and bylaws (if applicable); and
 - f) Diversity of menu/merchandise options in the vicinity.
13. Staff will issue licences to the top scoring applicants. Staff may instead opt to hold a lottery.
14. Previous-year licensees will not be grandfathered.
15. If the quota is not filled by March 1st, applications will be approved on a first-come, first-serve basis.
16. In the case of a special event, the City, at its sole discretion, may approve additional mobile vendors for the duration of the special event.

PERMITTED LOCATIONS:

17. Mobile vendors should locate at a legal parking space at one of the following locations:
 - a) "Downtown Core"
 - Victoria Street (Falls to Hall) and Lake Street
 - Stanley, Ward, Josephine, and Hall Streets (adjacent to non-residentially zoned property only)
 - 500 block of Falls Street
 - The 100 and 700 blocks of Baker Street
 - b) Outside of the Downtown
 - Railtown (public streets)
 - Cottonwood Falls market location (when the farmers' market is closed)
 - Lakeside Drive, including the parking lot portion adjacent to the soccer fields at Lakeside Park
 - Lower Hall Street parking lot
18. Vendors in the Downtown Core will be provided with a meter hood to reserve

- the parking stall assigned by the licence in accordance with this policy.
19. Other locations may be considered. Prior to approving an alternative location, the City may request the written consent of the owners of at least half of the properties within 60 metres of the proposed vending/sales area.
 20. Vending vehicles will preferably be sited to minimize negative impacts on nearby businesses.
 21. Mobile vendors selling food or beverages may not locate within 45 metres from any other business serving food or beverage, unless the mobile vendor is not operating at the same time as the existing business. Other mobile vendors may not sell similar merchandise, during the same hours, as other businesses located within 45 metres. Distances are measured from the vending/sales area to the principal entrance of the existing business in question.
 - a) This requirement may be waived if written consent is provided from that business.
 22. The City may refuse a location for any reason, such as for upcoming public works/infrastructure projects.
 23. The City may, at its sole discretion, approve mid-season location changes, subject to a licence amendment fee.

FURTHER SITE REQUIREMENTS:

24. The vending vehicle shall be restricted to operate at the precise location prescribed by the City and Fire & Rescue Services. In general, except when parking on the street in a legal parking space, a vending vehicle equipped with cooking facilities may not be closer than 3 metres from a building or another mobile vending vehicle.
25. A vending vehicle shall be situated so that patrons access the vending/sales area safely (e.g. not from the travelled portion of the street).
26. The vending/sales area must not exceed the width of the designated parking space and must permit the free flow of road and pedestrian traffic. In the Downtown Core, no more than one stall shall be used per vendor.
27. The vending/sales area must not extend onto the sidewalk in front of an adjacent business without the agreement of the adjacent business provided to the City in writing. With their permission and with City permission, the mobile vendor may set up chairs and signage within 5 metres of the vehicle, on the condition that a sidewalk clearance of at least 1.5 metres is left for passing pedestrians.

OPERATING REQUIREMENTS & RESTRICTIONS:

28. The vendor must comply with all requirements of Fire & Rescue Services, including requirements of the BC Fire Code, the Fire Regulation & Prevention Bylaw, and any other requirements of Fire & Rescue Services.
29. Despite the provisions of the City of Nelson Traffic Bylaw, a trailer for which a licence has been issued under this policy may be parked unhitched to a motor vehicle.
30. A waste diversion plan must be submitted and approved by the City. Compliance with the plan will be a condition of the licence. If only merchandise is being sold, the plan shall address packaging waste and other

sustainability initiatives. If food or beverages are being served, the minimum requirements are:

- a) Private disposal of waste;
 - b) Use of recyclable and/or compostable service items;
 - c) Arrangements to properly recycle and/or compost said service items, rather than landfill; and
 - d) Plan to divert organic waste from the landfill.
31. In no event shall the mobile vendor impede the free movement of automobiles or pedestrians or pose safety risks to the public (e.g. cords across the sidewalk).
32. Except as permitted in subsections (b) and (c) below, the vending vehicle may not be stored on public streets and must vacate the assigned space when not in operation unless special permission is granted by the City.
- a) Downtown Core: If the vending vehicle will be absent and/or nonoperational for more than 20 hours, the operator must remove the meter hood in order to make the space available as public parking. It is the vendor's responsibility to return the meter hood no sooner than four meterable hours before recommencing vending (for example, the meter hood may be placed the evening prior if the vending vehicle is returning by 1 p.m. the following day).
 - b) Railtown (public streets): The mobile vendor may use a City-approved barrier to reserve the assigned parking stall up to 18 hours prior to returning the vending vehicle. When not operating, the vending vehicle may be parked on the street for up to 24 hours at a time.
 - c) Other areas: A specific stall will not be reserved for the vendor. If the vendor is operating the next day, the vehicle may be left on-street.
33. A sign permit application must be submitted and approved by the City, in accordance with the Sign Bylaw. No signage shall be left on public property when the vendor is not operating.
34. The vending vehicle must be clean and aesthetically pleasing in appearance.
35. Mobile vendors shall not create any disturbance or nuisance in terms of noise, vibration, smoke, dust, odour, air pollution, heat, glare, bright light, hazardous or unacceptable waste. Lights, sounds, or actions which may be a distraction for motorists and/or pedestrians are not permitted.
36. Mobile vendors shall make arrangements to provide adequate access to washroom facilities for on-site staff.
37. Mobile vendors shall attend to the vending vehicle at all times while operating.
38. Mobile vendors must comply with all City of Nelson bylaws, including the Traffic Bylaw, at all times.
39. The licence shall be displayed on the vending vehicle.
40. Mobile vendors shall open no earlier than 7:00 a.m. and close no later than 10:00 p.m. Sunday to Thursday and midnight Friday and Saturday, subject to this closing time not causing noise or nuisance hardship for area residents and/or increased enforcement of the area by the Police.