

## **MUNICIPALITY OF THE COUNTY OF ANTIGONISH**

### **A By-Law Respecting the Sale of Motor Vehicles by Transient Vendors**

#### Short Title

1. This by-law shall be known and may be cited as the ‘Motor Vehicle Transient Vendors By-Law’.

#### Interpretation

2. In this by-law:

‘Clerk’ means the Clerk of the Municipality of the County of Antigonish.

‘Council’ means the Council of the Municipality of the County of Antigonish.

‘Licencing authority’ means the Clerk, or such employee or agent of the Municipality as the Clerk may designate to receive applications for licences under this by-law.

‘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 County of Antigonish.

‘Person’ means an individual, guild, agency, or body corporate.

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

‘Transient vendor’ means a person temporarily selling motor vehicles at a particular location for a specified period of time, that is not operating such a business elsewhere in the Municipality from a building or other structure which is subject to the business occupancy assessment pursuant to the *Assessment Act*.

### Sale of Motor Vehicles

3.(1) No person shall sell motor vehicles in the Municipality as a transient vendor except in accordance with this by-law.

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

### Licensing

4.(1) A transient vendor shall obtain a licence to sell motor vehicles in the Municipality, and any sale by such a vendor without a current and valid licence shall be an offence.

(2) Every application for a licence shall be made in writing to the licencing authority, and shall contain:

a. The name, mailing address, telephone number and, if available, facsimile number and e-mail address of the applicant;

b. The corporate or partnership name, if applicable;

c. A list of the motor vehicles the applicant proposes to sell;

d. A certified copy of a valid and current Motor Vehicle Dealer's Licence issued by the Province under the applicable regulations promulgated pursuant to the *Motor Vehicle Act*;

e. If the applicant is proposing to sell at a site of which the applicant is not the owner, written permission from the owner;

f. Written conformation that the vendor either owns or has authority to sell the motor vehicles;

g. Confirmation of liability insurance in a minimum amount of \$1,000,000 in respect of operations at the proposed site of sale;

h. Confirmation that the site of the proposed sale of motor vehicles is not less than 200 feet from any lot on which a permanent business establishment subject to property and business occupancy tax, and selling motor vehicles, is located;

5. After receipt of a completed application, the licencing authority shall issue a licence:

a. Upon confirming that the proposed site of the sale is zoned for such use under any applicable Land Use By-Law;

b. Upon receipt of the licence fee.

6. A licence issued under this by-law shall :

a. Include the list of motor vehicles and the proposed site of sale referred to in subsection 4(2);  
and

b. Be conspicuously displayed at all times at the site of the vendor's business.

7. A licence issued under this by-law shall be in force for the specified period during which a transient vendor offers motor vehicles for sale, shall expire at the conclusion of that period, and must be reissued for each subsequent sale of motor vehicle by a transient vendor.

### Records

8. (1) A transient vendor shall maintain records of all sales made pursuant to a licence 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.

(2) The records maintained under this section shall be disclosed to the licencing authority upon request. The licencing 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.

### Revocation

9. A licence may be revoked where:

a. The licensee has provided incorrect information in the application for a licence;

b. The licensee is selling vehicles not stipulated in the licence application;

c. The licensee'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 licence application;

f. The licensee has failed to remit the tax imposed under section 10, or has remitted an insufficient amount of such tax;

### Tax

10. (1) Every transient vendor shall pay a tax of two per cent of the total consideration for the sale of every motor vehicle sold pursuant to a licence.

(2) The tax shall be remitted to the Municipality at the conclusion of the period during which the vendor has sold motor vehicles under a licence.

### 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 motor vehicles by a transient vendor 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 person is selling motor vehicles contrary to this by-law, or the terms and conditions of a licence, the Municipality may, in addition to any other remedy or penalty herein, and without notice of any kind, impound and remove any vehicles and all costs or charges for removal and storage shall be paid before the vehicles are 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 motor vehicles without having paid the licence fee required; or
- c. A breach of this by-law is anticipated or is of a continuing nature.

### Licence fees

14. (1) The fee for the issuance of licence under this by-law shall be as fixed by policy made by Council pursuant to section 49 of the *Municipal Government Act*.

(2) 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.

**Schedule 'A'**

**MUNICIPALITY OF THE COUNTY OF ANTIGONISH**

Policy

Motor Vehicle Transient Vendors By-Law Licence Fee

The fee for the issuance of a licence under the Motor Vehicle Transient Vendors By-Law is fixed at Twenty Thousand Dollars (\$20,000.00). This policy shall take effect on the coming into force of *Transient Motor Vehicle Vendor By-Law*.

**I CERTIFY** this to be a true copy of a policy adopted by Council of the Municipality of the County of Antigonish, pursuant to subparagraph 49(1)(c)(i) of the *Municipal Government Act* on October 18, 2005.

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Clerk