

The Corporation of the District of Peachland Policy

OUTDOOR AND FOOD VENDING ENCROACHMENT POLICY

Effective Date: November 25, 2020	Authorized By: Council – Regular Meeting	Replaces: February 23, 2016
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PURPOSE:

To establish guidelines for the use of public sidewalks, parking spaces, property and rights-of-way for vendors.

AUTHORITY TO ACT

The issuance of Licensing and Encroachment Agreements has been delegated to the Director of Planning and Development Services under *Sidewalk Café, Merchant Displays and Mobile Vending Bylaw No. 1983*.

PROCEDURES FOR IMPLEMENTATION

The use of public sidewalks, parking spaces and road rights-of-way in Peachland may be permitted for outdoor and food vending at the discretion of the District.

A. DEFINITIONS

Mobile Cart Vendor:

Any mobile unit such as a hand cart or bicycle that is used to sell retail products, food, or beverages to passers-by as it actively moves through a designated area.

Public Space:

In the context of this policy, any portion of a highway, including sidewalks and parking spaces, or other public place under the jurisdiction of the District of Peachland is defined as public space.

Retail Vendor:

An independently operated vehicle, structure, or mobile apparatus occupying *public space*, typically for the purpose of providing retail products or services for commercial sale or rental by a business entity, in an outdoor setting to passers-by.

Food Truck Vendor:

Any vehicle, trailer, or mobile apparatus with four walls and a permanent roof occupying *public space*, for the purpose of providing food and/or beverages for commercial sale by a business entity, in an outdoor setting to passers-by.

B. LICENCE AREA GENERAL PROVISIONS

The following policies apply to all applications:

1. Licensing and Encroachment Agreement

All *Retail* or *Food Truck Vendors* located on public sidewalks or road rights-of-way, including parking stalls, are required to enter into a Licensing and Encroachment Agreement with the District. One of the following Licensing and Encroachment Agreements may be offered to the applicant:

- i. *New Retail Vendors* – The District may enter into a one-season Licensing and Encroachment Agreement with first-time *Retail Vendors*.
- ii. *Returning Retail Vendors* – The District may enter into a three-season Licensing and Encroachment Agreement with the option for a two-season renewal with returning *Retail Vendors*. The option for renewal may be offered to the *Retail Vendor* at the discretion of the District.
- iii. *Food Truck Vendors* – The District may enter into a one-season Licensing and Encroachment Agreement with *Food Truck Vendors*.

2. Seasonal Operation

Licensing and Encroachment Agreements granted are effective between the following dates:

- Summer Season - April 1st to October 31st
- Winter Season – November 1st to March 31st

3. Obligations, Performance and Enforcement

- i. The District retains the right to limit the number of Licence and Encroachment Agreements issued per location and the number of parking stalls used for a licence area. No licence area may interfere with District of Peachland utilities, infrastructure or services.
- ii. The District retains the right to revoke any permission granted to use *public space* for such purposes at any time where it is found that the use and operation taking place is deemed unacceptable to the District.
- iii. Every licence area shall be temporary in nature and designed so that any and all, structures or appurtenances including but not limited to tables, fencing, bollards and planters can be easily removed during periods of non-use. Seating for dining purposes within the licence area is strictly prohibited.
- iv. The District reserves the right to require the user to remove and clear all structures and appurtenances when it is determined necessary within 48 hours, for regular scheduled utility or service installation, maintenance or repair, or immediately in the event of an emergency.
- v. All Licensees are required to pay an established fee for the use of *public space* as identified in Schedule 4 of Development Application and Licence Fees Bylaw No. 2277.
- vi. All Licensees are required to provide a site plan.
- vii. Licensees are required to obtain the necessary permits and licences from the District, Regional Health Authority, Province, Technical Safety BC, and/or any other relevant or applicable licensing or regulatory agencies.
- viii. Licensees are required to provide their own electric power source if electricity is necessary for the operations of the vending business. The District will not be responsible for providing electricity to vendors. The use of renewable energy power sources is highly encouraged.

- ix. Licensees are required to ensure that their operations adhere to the regulations outlined in *Good Neighbour Bylaw No. 2178* at all times.
- x. The District reserves the right as granted under the *Community Charter* to refuse the sale of any potentially noxious or offensive products by Licensees.
- xi. *Food Truck Vendor* Licensees may sell food and beverage products and services only.
- xii. *Food Truck Vendors*, or *Mobile Cart Vendors* that sell food or beverages, must provide proof of municipal fire inspection to the District at the time of application for an Outdoor and Food Vending Licence. The municipal fire inspection must have been conducted within the six (6) months prior to the date of application submission.
- xiii. *Food Truck Vendors*, or *Mobile Cart Vendors* that sell food or beverages, must have visible at all times one of the following: a Technical Safety BC Record of Installation Permit; Technical Safety BC gas approval decal issued under section 10 of the *Safety Standards Act*; certification mark from a certification body accredited by the Standards Council of Canada (SCC); or an approval label from an inspection body accredited by the SCC.

4. Security Deposit

As security for the due and proper performance by the Licensee of all of its obligations under the Licence and Encroachment Agreement and for the removal of the structures or appurtenances, the Licensee must deposit with the District a bank draft or certified cheque in the amount of \$500. The agreement allows the District to use the Deposit to pay any costs incurred by the District in making repairs, removing the structures or appurtenances, or remedying any default of the Licensee pursuant to the agreement. If the need arises for the District to use any portion of the Deposit, any remaining balance in the Deposit will be returned to the Licensee, and the Licensee may not be eligible to renew their licence in the next calendar year, as stipulated in the agreement. Upon expiry of the agreement, it is the responsibility of the Licensee to request the return of the security deposit from the District.

5. Liability Insurance

Licensees must provide proof of insurance to the satisfaction of the District of Peachland in the amount of \$2,000,000. Licensees must indemnify, save harmless, release and forever discharge the District from any and all damages, injuries or claims arising from the use of *public space*.

6. Maintenance

- i. The licence area and any space within 30.0 m (98.4 ft) of the licence area must be kept clean at all times and any waste, discarded debris, food debris and refuse containers that belong to the business shall be removed.
- ii. The Licensee shall be responsible for providing their own garbage receptacles and these receptacles shall be removed and emptied by the Licensee each day after closure of the business, or more frequently as necessary or as directed by the District. Licensee waste receptacles must not be emptied into District waste receptacles.

7. Safety

A licence will not be permitted where it may interfere with safe vehicle and pedestrian movement including within 6.0 m (20 ft) of a stop sign or a location where visibility or safety is a deciding issue unless appropriate traffic control measurements and applicable provincial approvals are in place.

C. VENDORS

In addition to the License Area General Provisions, the following apply to all *Vendor* Licensees:

1. Maximum Number of Licences

- i. The number of vending licences to be permitted at a given location shall be determined at the discretion of the District during the application review process outlined in Section C.5 of this policy, with a maximum of three (3) vending licences (*Retail Vendor* and *Food Truck Vendor* combined) permitted per location.
- ii. A maximum of four (4) licences for a *Food Truck Vendor* will be issued throughout the District for operation at any of the permitted locations for Outdoor and Food Vending Licences as per section C.2.

2. Location

Site locations open for Outdoor and Food Vending Licences are shown on attached Schedule 'A' of this policy.

3. Application Submission

- i. The District will receive applications for Outdoor and Food Vending Licences from January 1st to February 28th annually. Licences will be granted to the winning applicant(s) by April 1st annually.
- ii. Applications will be considered during the remainder of the season based on site availability and on a first come, first serve basis.

4. Application Details

Applications for Outdoor or Food Vending Licences must include:

- i. Letter of intent that includes a description of the business, details on the types of products sold, the hours of operation, the desired licence period (e.g. June to September) and indication of the vending location outlined on Schedule 'A' of this policy that they wish to occupy;
- ii. A photograph of any physical structures, equipment, materials, or vehicles associated with the proposed vending business;
- iii. A site plan outlining dimensions of the site and proposed structures or appurtenances, the location of all garbage receptacles, pedestrian access, and where applicable, the location of any queue lines, and condiment tables. Any vendor tents proposed for shelter or weather protection must be contained within the boundaries of the vending site, as delineated on the submitted site plan.
- iv. Proof of a power source and its associated level of sound impact (in decibels), where applicable
- v. A description of any nuisances anticipated to be generated from the business, including noise, odour, dust, fumes, or any other items that may be deemed as nuisances.

5. Application Review Process

Applications for Outdoor and Food Vending Licences shall be evaluated according to the scoring matrix outlined in Schedule 'B'. Applications with the highest percentage out of the total potential score may be awarded a licence at the discretion of the District. In the event that more than four (4) *Food Truck Vendor* applications are received and two (2) applications have a tied score, these two (2) applications will be brought to Council for decision on which one of the applications shall be awarded a licence.

6. Agreement Term

All *Retail Vendors* and *Food Truck Vendors* are required to sign an Outdoor and Food Vending Licence and Encroachment Agreement, the term for which is outlined in Section B.1 of this policy.

7. Size

- i. Outdoor and Food vending sites must not exceed 9.5 m (31.2 ft) in length and 5.5 m (18.0 ft) in width.
- ii. The Outdoor and Food vending site must provide a minimum of 2.0 m (6.6 ft) on at least one side of the associated structures or appurtenances to allow for sufficient pedestrian access.
- iii. Any awnings must be supported by the vending structure or appurtenance and shall have a minimum canopy height of 2.0 m (6.6 ft) and a maximum length, width or diameter of 3.1 m (10.2 ft).

8. Signage

- i. No third-party signage will be permitted, except upon pre-printed awnings or umbrellas.
- ii. All signs advertising the sale of goods or services must be an integral part of the vending physical structures and appurtenances, with the exception of a portable sandwich board sign for which a maximum of one (1) will be permitted and must remain within the boundaries of the vending site, as delineated on the submitted site plan.

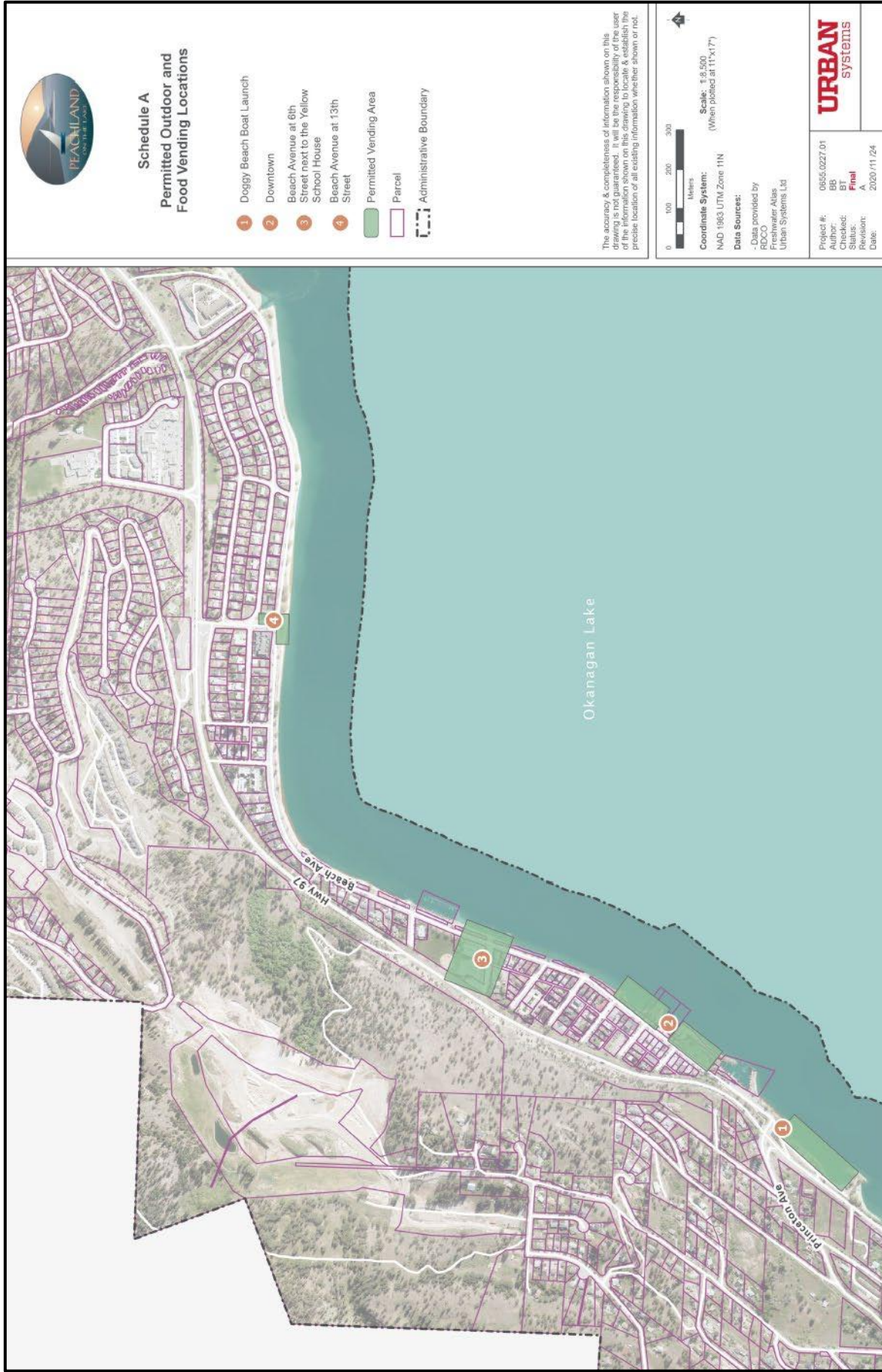
9. Off-Shore Recreation

- i. Vending for the purposes of providing non-motorized off-shore recreational activities and/or rentals shall be restricted to the 13th Street / Beach Avenue and the Doggy Beach Boat Launch locations outlined in Schedule 'A'. An offshore recreational water structure may be installed adjacent to this location with an on-shore area designated for the retail function of the *vendor*.
- ii. Vending for the purposes of providing motorized off-shore recreational activities and/or rentals shall be restricted to the Doggy Beach Boat Launch location.

10. Mobile Cart Vendor

- i. A maximum of one (1) mobile cart vendors may operate on Beach Avenue between Princeton Avenue and 13th Street.
- ii. Mobile cart vendors cannot have any lights, sounds, or other nuisances that may be considered as a distraction for motorists or pedestrians.
- iii. Mobile cart vendors cannot interfere with the entrance or exit of properties or obstruct access for emergency vehicles.
- iv. Mobile cart vendors are subject to all other regulations outlined in this policy.

SCHEDULE 'A' - PERMITTED OUTDOOR AND FOOD VENDING LOCATIONS



SCHEDULE 'B' – APPLICATION SCORING MATRIX

Criteria	Scoring System	Maximum Number of Possible Points
1. Aesthetic of the proposed structure, equipment, materials, or vehicle	0: Unacceptable design 1: Very poor design 2: Poor design 3: Average design 4: Good design 5: Excellent design	5
2. Proximity to public washrooms	0 : Vendor is > 1 km away from public washroom 3: Vendor is 500 m – 1 km away from public washroom 5: Vendor is < 500 m away from public washroom	5
3. Potential to generate nuisance (i.e. odour, noise)	0: Vendor could generate multiple potential nuisances that may have significant impacts 3: Vendor could generate some nuisances with potential moderate impacts 5: Vendor is unlikely to generate any nuisances	5
4. Returning vendor with no complaints	0: Multiple complaints and incidents requiring visits from Bylaw enforcement 1 - 3: Multiple complaints with some incidents requiring visits from Bylaw enforcement 4 – 6: Some complaints with incidents requiring visits from Bylaw enforcement 7 – 9: Very few complaints with no incidents requiring visits from Bylaw enforcement 10: No complaints or incidents requiring visits from Bylaw enforcement N/A	10 or N/A

<p>5. The application provides evidence that a power source will be provided</p>	<p>0: The power source uses diesel or similar fuels and generates significant noise (> 85 decibels) 3: The power source uses gasoline or similar fuels and generates moderate noise (70 – 84 decibels) 5: The power source uses gasoline or similar fuels and generates little to no noise (60 – 69 decibels) 10: The power source uses renewable processes (i.e. solar, wind) and does not generate noise (<60 decibels) N/A</p>	<p>10 or N/A</p>
<p>6. The site plan includes all required elements</p>	<p>0: Was not provided 3: Was provided but requires revisions (is missing information) 5: Was provided and no revisions are required (information is complete)</p>	<p>5</p>
<p>7. A description of the business has been provided <i>(Retail Vendors only)</i></p>	<p>0: A description of the business was not provided 1: A description of the business was provided but does not clearly outline the intent of the business. The District has reached out to the applicant with no further clarity provided. 3: A good description of the business was provided but raises some questions. The District has reached out to the applicant and clarity has been provided. 5: A description of the business was submitted and raises no questions.</p>	<p>5</p>
<p>8. A description of the business outlining the types of food items proposed for sale has been provided <i>(Food Truck Vendors only)</i></p>	<p>0: A description of the business was not provided 1: A description of the business was provided but does not clearly outline the items proposed for sale. The District has reached out to the applicant with no further clarity provided. 3: A description of the business was provided but the food items proposed for sale are similar to those of another <i>Food Truck Vendor</i> applying for a licence. 5: A description of the business was submitted and the food items proposed for sale are unique from that of other <i>Food Truck Vendors</i> applying for a licence.</p>	<p>5</p>

Retail Vendors - Maximum Possible Points		
	Requiring a power source	Not requiring a power source
New vendor	35	25
Returning vendor	45	35

Food Truck Vendors – Maximum Possible Points	
New vendor	35
Returning vendor	45

Note: As per section C.5 of the policy, applications with the highest percentage out of the total potential score may be awarded a licence at the discretion of the District.