

OFFICE CONSOLIDATION

BYLAW NUMBER 3M97

**BEING A BYLAW OF THE CITY OF CALGARY
TO LICENSE AND REGULATE THE BUSINESS
OF DOWNTOWN PUSH CART VENDORS**

(Amended by 34M97, 1M2000, 33M2000, 40M2005, 50M2005, 60M2005, 61M2005, 57M2008, 58M2008, 59M2008, 50M2011, 70M2011, 71M2011, 38M2012, 72M2011, 56M2014, 43M2016, 51M2018, 36M2019, 72M2021, 40M2022, 45M2023)

WHEREAS under the provisions of the Municipal Government Act, S.A. 1994, c.M-26.1, the Council of The City of Calgary may pass bylaws respecting businesses and provide for a system of licences.

AND WHEREAS it is deemed expedient to provide for the licensing of pushcart vendors operating in downtown Calgary.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

TITLE

1. This Bylaw may be cited as the "Downtown Pushcart Vendor Licence Bylaw".

INTERPRETATION

2. In this Bylaw:

- (a) "*Business*", "Licence and Community Standards Appeal Board Bylaw", "*Director*", "Licence Inspector" and "Person" have the meanings assigned to them in the Licence Bylaw;

(50M2011, 2011 September 19)
(72M2021, 2022 January 01)

- (b) "*Authorized Pushcart Location*" means a rectangular area marked on a sidewalk in Downtown - South and designated by the Traffic Engineer, following the Pushcart location requirements in section 8(1), as an Authorized Pushcart Location;

(72M2021, 2022 January 01)

- (c) "*City*" means The City of Calgary, a municipal corporation in the Province of Alberta and includes the area contained within boundaries of The City of Calgary where the context requires;

- (c.1) "*Chief Administrative Officer*" means the Chief Administrative Officer of The City of Calgary or the employee of The City of Calgary who has been delegated the Authority to exercise the powers, duties, and functions of the Chief Administrative Officer under this Bylaw;

BYLAW NUMBER 3M97

(72M2021, 2022 January 01)
(45M2023, 2023 October 17)

- (c.2) *"Director, Development, Business & Building Services"* or *"Director"* means the Chief Administrative Officer;
- (72M2021, 2022 January 01)
(45M2023, 2023 October 17)
- (d) *"Downtown"* means that area in the City bounded in the north by the Bow River, in the west by 14th Street West, in the south by 14th Avenue South and in the east by the Elbow River;
- (e) *"Downtown - North"* means that area within the Downtown bounded in the north by the Bow River, in the west by 14th Street West, in the south by the Canadian Pacific Railway Line, and in the east by the Elbow River;
- (f) *"Downtown - South"* means that area within the Downtown bounded in the north by the Canadian Pacific Railway Line, in the west by 14th Street West, in the south by 14th Avenue South, and in the east by the Elbow River;
- (g) *"Licence"* means a Pushcart Vendor licence issued by the *Director* under this Bylaw;
- (72M2021, 2022 January 01)
- (h) *"Licence Bylaw"* means the Business Licence Bylaw 32M98;
- (72M2021, 2022 January 01)
- (i) *"Mall"* means:
- (i) the Olympic Plaza, containing that area described in the Mall Between Second Street S.E. and First Street S.E. on "8th Avenue Bylaw Number 26M85";
 - (ii) the Barclay Mall, containing that area described in the "Barclay Mall Bylaw Number 17M84";
 - (iii) the Stephen Avenue Mall, containing that area described in the "Stephen Avenue Mall Bylaw Number 52M87"; and
 - (iv) the Municipal Complex, containing that area described as the *Complex* in the "Municipal Complex Bylaw Number 38M2012".
- (38M2012, 2012 July 30)
- (i.1) *"Officer"* means a Bylaw Enforcement Officer appointed under the Bylaw Enforcement Officers Appointment Bylaw 60M86, or an officer appointed under the *Peace Officers Act*, S.A. 2006, c. P-3.5 or under the *Police Act*, R.S.A. 2000, c. P-17;
- (72M2021, 2022 January 01)
- (j) *"Pushcart"* means a hand operated or portable cart, wagon or other similar vehicle used for carrying goods or merchandise;

- (k) "*Pushcart Vendor*" means any Person who, as principal or agent, sells or offers for sale goods or merchandise from a Pushcart in Downtown;
- (l) "*Residential Building*" means a structure that contains one or more dwelling units including a house, multi-family dwelling, housing project, apartment building, lodging house, senior citizen complex or hospital;
- (m) "*Residential Development*" means any land which is the site of a Residential Building and is designated as one of the following Land Use Districts under the Land Use Bylaw:
 - (i) RM-1, RM-2, RM-3, RM-4, RM-5, RM-6, RM-7; or
 - (ii) Direct Control, where the applicable land use guidelines are primarily for residential uses.
- (n) "*Sidewalk*" means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a highway between the curb line (or the edge of the roadway, where there is no curb line) and the adjacent property line, whether or not paved or improved.

3. Except where inconsistent with this Bylaw, the provisions of the,

- (a) Licence Bylaw; and
- (b) Licence and Community Standards Appeal Board Bylaw,

apply with all necessary modifications.

(50M2011, 2011 September 19)

LICENCE

- 4. (1) A Pushcart Vendor shall obtain and maintain a valid Licence for each Pushcart.
- (2) Licences shall be designated as applying to either Downtown - North or Downtown - South and Pushcart Vendors are restricted to carrying on Business within the Downtown area described on the Licence.
- (3) (a) Applicants for Licences are entitled to apply for both a Downtown - North and a Downtown - South Licence.
- (b) A Pushcart Vendor who wishes to operate in both Downtown - North and Downtown - South shall obtain a separate Licence for each Downtown area.
- (4) A Pushcart Vendor, while carrying on Business, shall display the Licence on the applicable Pushcart in a place and manner satisfactory to the Director.
(72M2021, 2022 January 01)
- (5) A Pushcart Vendor, who carries on Business both Downtown and outside of Downtown, shall obtain any additional licence, required under the Licence Bylaw, for the Business carried on outside of Downtown.

LICENCE REQUIREMENTS

5. An applicant for a Licence shall obtain the prior approval of,
- (a) the approving authority under Land Use Bylaw 2P80 for the size and design of the Pushcart; and
 - (b) the Medical Officer of Health for the City appointed by the Calgary Regional Health Authority, if food products are to be sold or offered for sale from the Pushcart;

and shall have, and maintain during the currency of the Licence, public liability insurance as specified in the Licence Bylaw.

(1M2000, 2000 January 24)

LICENCE FEE

6. (1) A Licence shall not be issued by the Director until the applicant has paid to the City the fee set out in Schedule "A".
- (2) Licence fees are non-refundable.

(72M2021, 2022 January 01)

- 6.1 (1) Where the *Director* has suspended, revoked, or cancelled an existing *licence* under this Bylaw, then, unless such suspension, revocation or cancellation is overturned in whole by the *Licence and Community Standards Appeal Board*, the *licencee* shall, as a condition of any reinstatement or renewal of the *licence*, including any reinstatement on the conclusion of a suspension for a fixed term, and before receiving a *licence* if the *Licencee* applies for a new *licence*, pay a reinstatement fee as follows:

<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
\$1,363	\$1,363	\$1,363	\$1,363

(40M2005, 2005 July, 25)
 (70M2011, 2012 January 01)
 (71M2011, 2013 January 01)
 (72M2011, 2014 January 01)
 (56M2014, 2015 January 01)
 (43M2016, 2017 January 01)
 (51M2018, 2019 January 01)
 (72M2021, 2022 January 01)
 (40M2022, 2023 January 01)

- (2) Notwithstanding subsection (1), where the *licence* was suspended or revoked by the *Director* pursuant to subsection 12(2) of the Licence Bylaw, the reinstatement fee shall be as follows:

<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
\$409	\$409	\$409	\$409

(40M2005, 2005 July, 25)
 (70M2011, 2012 January 01)
 (71M2011, 2013 January 01)
 (72M2011, 2014 January 01)
 (56M2014, 2015 January 01)
 (43M2016, 2017 January 01)
 (51M2018, 2019 January 01)
 (72M2021, 2022 January 01)
 (40M2022, 2023 January 01)

- (3) A reinstatement fee is not refundable.

(40M2005, 2005 July 25)

PUSHCART OPERATIONS

7. A Pushcart must be operated by a person of at least 18 years of age after 9:00 p.m.

PUSHCART LOCATIONS - DOWNTOWN - SOUTH

8. (1) In Downtown - South, a Pushcart Vendor shall only carry on Business on a Sidewalk from an Authorized Pushcart Location.
- (2) Authorized Pushcart Locations shall be allocated to eligible Pushcart Vendors through the following allocation process:
- (a) A draw shall be held annually on the 1st business day in April;
 - (b) To be eligible for an annual draw, a Pushcart Vendor must;
 - (i) hold a valid Licence on or before March 31st;
 - (ii) advise the Director in writing of the intention to participate in the annual draw; and
 - (iii) be present or have a representative present at the draw.
 - (c) The process of the annual draw shall be as follows:
 - (i) A Person is entitled to one entry for every Licence they hold.
 - (ii) A Person holding a Downtown - North and a Downtown - South Licence is entitled to two entries.
 - (iii) From the eligible entries, the 1st name drawn will have 1st choice of the Authorized Pushcart Locations, the 2nd name drawn will have 2nd choice of the Authorized Pushcart Locations, with the draw

continuing in that manner until all Authorized Pushcart Locations have been allocated;

- (iv) Once all available Authorized Pushcart Locations have been allocated, a minimum of 2 and maximum of 5 additional names will be drawn and placed on a vendor reserve list, the exact number to be at the sole discretion of the Director;
- (v) At the sole discretion of the Director, if a Licence for Downtown - South is surrendered or revoked, the first Person on the vendor reserve list may be offered the opportunity to occupy the Authorized Pushcart Location vacated by the holder of the surrendered or revoked Licence;
- (vi) If a Person's name is drawn at the annual draw and the Person does not accept any of the available Authorized Pushcart Locations, that name shall not be placed on the vendor reserve list described in subparagraph (iv) and another name shall be drawn;
- (vii) If a Person on the reserve vendor list described in subparagraph (iv) refuses the offer of the Director to occupy the Authorized Pushcart Location vacated by the holder of a surrendered or revoked Licence, that Person's name shall be removed from the vendor reserve list and, in the sole discretion of the Director, the next Person on the list may be offered the vacated Authorized Pushcart Location.

(72M2021, 2022 January 01)

- (3) A Pushcart Vendor shall ensure that both the Pushcart and its operator are located within the marked boundaries of the assigned Authorized Pushcart Location when carrying on Business.

PUSHCART LOCATIONS - DOWNTOWN - NORTH

- 9. (1) In Downtown - North, a Pushcart Vendor may carry on Business on a Sidewalk at any location except the following:
 - (a) Within 3 metres of a building entrance or exit;
 - (b) Within 6 metres of an intersection as defined in the *Highway Traffic Act*;
 - (c) Within 3 metres of a back alley or lane;
 - (d) Within 3 metres of another Pushcart or a food service location including a Pushcart located on private property or a food take-out window;
 - (e) Where the location of the Pushcart and its operator does not leave a minimum pedestrian passageway of 2.5 metres between the closest of the Pushcart or its operator and the curb or building;
 - (f) Where the sidewalk is less than 3.5 metres wide;

- (g) Where the Pushcart or its operator obstruct a transit zone, fire hydrant, driveway, loading zone, emergency access or stand pipes; and
 - (h) Within 25 metres of the property line of any Residential Development.
- (2) A Pushcart Vendor shall only carry on Business within a Mall in compliance with the rules and regulations of the applicable Mall.

PUSHCART LOCATIONS - PRIVATE PROPERTY

10. (1) A Pushcart Vendor may carry on business on private property at any location, where the Pushcart Vendor has obtained all necessary municipal approval and the consent of the property owner, except the following:
- (a) Within 3 metres of a building entrance or exit;
 - (b) Within 6 metres of an intersection as defined in the *Highway Traffic Act*;
 - (c) Within 3 metres of a back alley or lane;
 - (d) Within 3 metres of another pushcart or food service location;
 - (e) Where the location of the pushcart and its operator does not leave a minimum pedestrian passageway of 2.5 metres between the closest of the pushcart or its operator and the curb or building;
 - (f) Where the pushcart or its operator obstruct a transit zone, fire hydrant, driveway, loading zone, emergency access or stand pipes; and
 - (g) Within 25 metres of the property line of any Residential Development.
- (2) A Pushcart Vendor shall only carry on business on private property within a Mall in compliance with the rules and regulations of the applicable Mall.

HOURS OF OPERATION

11. (1) A Pushcart Vendor may only carry on Business daily from 7:00 a.m. to 3:00 a.m.
- (2) If, in the sole discretion of an Officer, the safety of the Pushcart operator or the general public is at risk, an Officer may request that the Pushcart Vendor either relocate or cease carrying on Business from that location.

(33M2000, 2000 July 24)
(72M2021, 2022 January 01)

OFFENCES AND PENALTIES

12. (1) Any person who contravenes any provision of this Bylaw by:
- (i) doing any act or thing which the person is prohibited from doing; or
 - (ii) failing to do any act or thing the person is required to do

is guilty of an offence and liable on summary conviction to a fine not less than THREE HUNDRED (\$300.00) DOLLARS but not more than TEN THOUSAND (\$10,000.00) DOLLARS and in default of payment to imprisonment for a term not exceeding one (1) year or both.

(40M2005, 2005 July, 25)

(2) REPEALED BY 40M2005, 2005 JULY 25;

(3) Where a Business is being carried on in contravention of this Bylaw, or where the breach of this Bylaw is of a continuing nature or where any person is carrying on Business or is doing any act, matter or thing without having paid the Licence fee required to be paid by this Bylaw, then in addition to any other remedy or any penalty imposed by this Bylaw, the City may, in any of those cases, apply to the Court of Queen's Bench by way of action or originating notice for an injunction or other order, prohibiting the person contravening the Bylaw from continuing to carry on the Business without obtaining a Licence, or from continuing to carry on the Business without complying with the provisions of this Bylaw.

13. (1) Where a Licence Inspector reasonably believes that a person has contravened any provision of this Bylaw, the Licence Inspector may serve upon the person a violation ticket, in the form provided under the *Provincial Offences Procedure Act* of the Province of Alberta, allowing payment of the specified penalty set out in Schedule "B" for the offence, and the recording of such payment by the Court shall constitute acceptance of a guilty plea and the imposition of a fine in the amount of the specified penalty.

(40M2005, 2005 July, 25)

(2) This section shall not prevent any Licence Inspector or Officer from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedure Act*, or from laying an information in lieu of issuing a violation ticket.

(40M2005, 2005 July 25)
(72M2021, 2022 January 01)

CONSEQUENTIAL AMENDMENT

14. (1) Subsections 42(4) and (5) of the Traffic Bylaw Number 26M96 are repealed.

(2) Subsection 5(4) of the Street Bylaw Number 20M88 is amended by striking out "Vendors" and substituting "Vendor Licence".

REPEAL

15. The Downtown Pushcart Vendors Bylaw Number 13M84 is repealed.

EFFECTIVE DATE

16. This Bylaw comes into force on the date it is passed and signed.

READ A FIRST TIME THIS 24TH DAY OF FEBRUARY, A.D. 1997.

READ A SECOND TIME, AS AMENDED, THIS 24TH DAY OF FEBRUARY, A.D. 1997.

READ A THIRD TIME, AS AMENDED, THIS 24TH DAY OF FEBRUARY, A.D. 1997.

(Sgd.) A. Duerr
MAYOR

(Sgd.) D. Garner
CITY CLERK

SCHEDULE "A"

Licence Fee

<u>New Application Fee</u>				<u>Renewal Fee</u>			
<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
\$172	\$172	\$172	\$172	\$131	\$131	\$131	\$131

(50M2005, 2006 January 01)
 (60M2005, 2007 January 01)
 (61M2005, 2008 January 01)
 (57M2008, 2009 January 01)
 (58M2008, 2010 January 01)
 (59M2008, 2011 January 01)
 (70M2011, 2012 January 01)
 (71M2011, 2013 January 01)
 (72M2011, 2014 January 01)
 (56M2014, 2015 January 01)
 (43M2016, 2017 January 01)
 (51M2018, 2019 January 01)
 (36M2019, 2020 January 01)
 (40M2022, 2023 January 01)

SCHEDULE "B"

Fines

The voluntary payment which may be accepted in lieu of prosecution for a contravention of any of the provisions set out below shall be that sum set out opposite the section number.

Section	Specified Penalty – First Offence	Specified Penalty – Second Offence within 24 months	Specified Penalty – Third and subsequent offences within 24 months
4(1)	\$1000	\$2000	\$3000
4(4)	\$ 300	\$ 600	\$ 900
7(1)	\$1000	\$2000	\$3000
10	\$1000	\$2000	\$3000
11(1)	\$1000	\$2000	\$3000
11(12)	\$1000	\$2000	\$3000
All other sections	\$ 300	\$ 600	\$ 900

(40M2005, 2005 July 25)