

Automatic Vending Machines By-law

of the

Cape Breton Regional Municipality

Pursuant to Section 120 and Section 128 of the Cape Breton Regional Municipality Act, S.N.S. 1994, c.3

WHEREAS the Cape Breton Regional Municipality Act gives the Cape Breton Regional Municipality the authority to "...**regulate and licence automatic vending machines...**"; and

WHEREAS the Cape Breton Regional Municipality believes it should be compensated for providing services protecting automatic vending machines (e.g. Police, Fire) and to enable customers of automatic vending machines to access such machines (e.g. sidewalks, public streets); and

WHEREAS automatic vending machines are in competition with business establishments obliged to pay commercial property taxes and business occupancy tax:

The Council of the Cape Breton Regional Municipality hereby adopts this Automatic Vending Machines By-law, pursuant to the Cape Breton Regional Municipality Act.

1. Definitions

Automatic Food Vending Machine means an automatic vending machine which pours beverages or dispenses packaged foods.

Automatic Vending Machine means any mechanical device which is operated by the introduction of coins, counters, or slugs, that dispenses food, beverages, goods, wares or services, including newspapers and other publications.

Automatic Vending Machine Game means an automatic vending machine which does not dispense food, wares or services, but is used as a game. (*vending machine game is exempt from the licencing provision by Motion of Council.*)

Automatic Vending Machine Owner means the person or agency which owns the automatic vending machine and/or is responsible for distributing, replenishing and maintaining the automatic vending machine.

Building means any permanent structure used or built for the shelter, accommodation or enclosure of persons.

Licence means a Licence to operate an automatic vending machine.

Licencing Authority means:

- a Special Constable of the Cape Breton Regional Municipality; and
- the Assistant By-law Manager

under the direction of the Manager of the Development Division and By-laws.

Mechanical Ride means an automatic vending machine which is designed to entertain children by physically moving them.

Municipality means the Cape Breton Regional Municipality.

Premises means either:

- within a building; or
- on the property on which the building is located.

Property means a separate and distinct parcel of land described in an executed deed or as shown on a registered plan of subdivision.

Service Dispensing Automatic Vending Machine means an automatic vending machine which does not dispense a product but provides a service (e.g. clothes washer, dryer).

2. Licences

- a. A Licence to operate an automatic vending machine is required in compliance with this By-law unless:
 1. the automatic vending machine is clearly an integral part of the service provided by the business located at the premises (e.g. *coin operated laundromats, arcades*); or
 2. automatic food vending machines in convenience stores and other similar types of retail establishment; or
 3. automatic food vending machines as an ancillary service in commercial establishments in receipt of an eating establishment licence from the Province; and provided
 4. the business is subject to Business Occupancy Assessment pursuant to the Assessment Act of Nova Scotia.
- b. Every application for a Licence shall be completed on a prescribed form obtained at the office of the Manager of the Development Division and By-laws and shall contain the following information:
 1. Name, mailing address and telephone of automatic vending machine(s) owner;
 2. Address where each automatic vending machine is to be located;
 3. Name of building each automatic vending machine is to be located, and location within building;
 4. Type of automatic vending machine(s); and
 5. The signature of the applicant.
- c. An application for a Licence may be for one automatic vending machine, or more than one automatic vending machine provided:
 - each machine is identified by a serial number; and
 - the address where each automatic vending machine is to be located is identified.
- d. Every Licence shall be completed on a prescribed form prepared under the direction of the Manager of the Development Division and By-laws and shall contain the following information:
 1. the licencing year;
 2. to whom the Licence is being issued;

3. the number of automatic vending machines to which the Licence applies;
4. a description (*or descriptions*) of the automatic vending machine(s) to which the Licence applies;
5. the location of the premises the automatic vending machines are to be placed;
6. a Licence number; and
7. the signature of the Licencing Authority.

- e. One Licence may be issued in compliance with this By-law for all of the automatic vending machines on the same application, but each automatic vending machine shall be issued an adhesive label bearing:
 - the words "**Licenced automatic vending machine**";
 - the year in which the Licence was issued; and
 - a unique number; and

the automatic vending machine owner shall affix or cause to be affixed such adhesive label in a conspicuous place on the automatic vending machine.
- f. A Licence issued in compliance with this By-law may be used for any automatic vending machine of the type to which the Licence applies provided the number of automatic vending machines in operation does not exceed the number identified on the Licence.
- g. The fees for Licence issued in compliance with this By-law shall be as described in Schedule "A" of this By-law.
- h. A Licence issued in compliance with this By-law shall expire on the 31st day of December following the date of issuance.
- i. The office of the Manager of the Development Division and By-laws shall keep a record of all Licences issued in compliance with this By-law.

3. Appeals

- a. Any automatic vending machine owner:
 - who has been refused a licence;
 - who's licence has been suspended or cancelledmay appeal to the General Committee of Regional Council.
- b. Such appeal shall be in writing filed with the Clerk's Department.
- c. The General Committee may confirm the decision of the licencing authority or order that a licence be issued subject to compliance with the provisions of this By-law.

4. Penalties

- a. Every automatic vending machine owner who violates or fails to comply with any of the provisions of this By-law shall be guilty of an offence against this By-law and liable to a penalty not exceeding \$500.00 and, in default of payment, to imprisonment for a period not exceeding sixty (60) days.

- b. Every day during which any such contravention or failure to comply continues shall be deemed a fresh offence.
- c. Where an automatic vending machine owner locates, permits, or causes or permits to be operated, any automatic vending machine on any premises in the Municipality without obtaining a Licence in compliance with this By-law, the Municipality may, after notice by Registered Mail, remove any automatic vending machine to a place selected by the Municipality and all costs and charges incurred by the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner of the automatic vending machine the cost of removal and storage thereof.

5. **Repeal of Previous By-laws**

All Automatic Vending Machines By-laws or similar by-laws adopted by the former Municipalities of Cape Breton County to regulate automatic vending machines are hereby repealed and the provisions of this By-law substituted thereof.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on January 26th, 1999, including amendments adopted on September 21st, 1999 and May 17, 2016.

MAYOR CECIL P. CLARKE

DEBORAH CAMPBELL, CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Automatic Vending Machines By-law of the Cape Breton Regional Municipality with amendments to May 17, 2016

DEBORAH CAMPBELL, CLERK

Schedule “A”
of the
Automatic Vending Machines By-law
of the
Cape Breton Regional Municipality

Licence Fee Schedule
(per automatic vending machine)

TYPE OF AUTOMATIC VENDING MACHINE	LICENCE FEE <i>1ST 6 MONTHS OF CALENDAR YEAR</i>	LICENCE FEE <i>7TH UP TO & INCLUDING THE 10TH MONTH OF CALENDAR YEAR</i>	LICENCE FEE <i>LAST 2 MONTHS OF CALENDAR YEAR</i>
Automatic Vending Machine Game	Exempt	Exempt	Exempt
Automatic Food Vending Machine	\$40.00	\$20.00	\$40.00 and licence is issued for next calendar year
Mechanical Rides	\$40.00	\$20.00	\$40.00 and licence is issued for next calendar year
Service Dispensing Automatic Vending Machine	\$10.00	\$5.00	\$10.00 and licence is issued for next calendar year
Other Automatic Vending Machines	\$10.00	\$5.00	\$10.00 and licence is issued for next calendar year