

CORPORATION OF HALDIMAND COUNTY

BY-LAW NO.1339/13

Being a by-law respecting the issuance of business licences for Mobile Food Premises and repealing of By-law 318/02

WHEREAS Section 151 of the *Municipal Act*, 2001 S.O. 2001, c. 25, as amended, provides that a local municipality may provide for a system of licences with respect to a business, wholly or partly carried on within the municipality;

AND WHEREAS the Council of the Corporation of Haldimand County deems it appropriate to licence and regulate Mobile Food Premises;

NOW THEREFORE the Council of the Corporation of Haldimand County enacts as follows:

PART I – DEFINITIONS

1. In this By-law,

(a) “*Applicant*” means a person who is required to be licenced pursuant to this by-law, who has made an application for a licence to the Issuer;

(d) “*Chief Building Official*” means the person who may, from time to time, be appointed by Council of Haldimand County to the position of Chief Building Official in accordance with the provisions of the *Building Code Act*, R.S.O. 1990, as amended;

(e) “*Chief Fire Official*” means the person who, from time to time, may be appointed by Council of Haldimand County to the position of Fire Chief;

(f) “*Clerk*” means the Clerk of the Corporation of Haldimand County;

(g) “*Council*” means the Council of the Corporation of Haldimand County;

(h) “*Issuer*” means the Issuer of Licences appointed by Haldimand County;

(i) “*Licence*” means a licence issued pursuant to the provisions of this by-law;

(j) “*Licencee*” means a person issued a licence pursuant to the provisions of this by-law;

(k) “*Mobile Food Premises*” shall mean a vehicle or other itinerant food preparation premise from which food prepared therein is offered for sale to the public;

(l) “*Municipal Law Enforcement Officer*” means a by-law enforcement officer appointed by Council;

(m) "*Municipality*" means the Corporation of the Haldimand County;

(n) "*Person*" shall include an individual, association, charter association, firm partnership, corporation or other entity;

(o) "*Premises*" means any land including all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of the business.

PART II – LICENCES

2. Every Person who wishes to carry on or engage in the operation of a Mobile Food Premises, shall procure and maintain in good standing a licence from Council in accordance with the provisions of this by-law authorizing him or her to operate the Mobile Food Premises within the boundaries of the County.
3. No Person shall operate or maintain a Mobile Food Premises unless he or she first obtains a Licence from Council.
5. The requirement of obtaining a Licence under this by-law is in addition to and not in substitution for any of the requirements to obtain a Licence or Licences or other regulatory approval under any other federal, provincial or municipal regulation.
6. Notwithstanding any other provision of this by-law, a Mobile Food Premises licence shall not be required for sales that take place at an approved Community Special Event.

PART III – APPLICATION FOR LICENCE

7. Any Person wishing to make application for a Licence or renewal thereof pursuant to the provisions of this by-law shall attend at the office of the Issuer and file:
 - (a) a completed application in the form provided by Haldimand County;
 - (b) letters of approval from
 - (i) Haldimand County Fire Services;
 - (ii) Haldimand-Norfolk Health Unit;
 - (iii) Haldimand County Building & By-law Enforcement Division;
 - (iv) a certified combustible fuel authority where the Mobile Food Premises is equipped with combustible fuelled appliances;
 - (v) a certified electrical safety authority where the Mobile Food Premises is equipped with electrical food preparation appliances.
 - (c) the fee prescribed by the Haldimand County User Fees and Service Charges By-law.
 - (d) in the event that the Applicant is not the owner of the proposed location of the business use, a written letter of approval from the Owner of the Property.

8. An Applicant shall complete a separate application and pay the required fee for each Premises from which a business is to be operated.
9. Every applicant shall ensure that the requirements of the applicable zoning by-law are complied with prior to making application for a Licence.

PART IV - ISSUANCE OF LICENCE

10. When an application for a licence meets the following requirements, a licence will be issued:
 - (a) The provisions of Sections 7 through 9 have been complied with; and
 - (b) Any outstanding fines that have been imposed against the applicant pursuant to any provision of this by-law have been paid.

PART VI – SUSPENSION AND REVOCATION OF LICENCES

11. If, during the term of a licence,
 - a. a licensee is convicted for contravening any two (2) provisions of this by-law within a twelve (12) month period,
 - b. the Issuer becomes aware of any fact or facts which, if known at the time of the application, may have resulted in the Licence not being issued to the Licenseethe Issuer may revoke the licence and notice of this recommendation shall be given to the licensee.
12. Where the Issuer refuses to issue or revokes a license, the Issuer shall notify the Applicant or Licensee that they may request that the Issuer's decision be reviewed by Council.
 - a. The Issuer's notice shall set out the grounds upon which the issue of the said license is refused or revoked and shall state that the applicant or licensee may appeal such decision to Council.
 - b. If the Applicant/Licensee wishes to request an opportunity to be heard before Council they must provide notice in writing to the Issuer within 15 days from the date of the Issuer's notice.
 - c. Where the Issuer does not receive notice from the Applicant/Licensee requesting an opportunity to be heard in accordance with subsection 12 b, the Issuer need not process the application further and no further notice is required to be served upon the Applicant/Licensee.

- d. Where the Issuer has revoked a license and where the applicant or licensee has appealed such decision to the Committee, the license shall remain revoked until such time as a determination on the issue has been made by Council.
- e. Where the Issuer receives notice from the Applicant/Licencee in accordance with subsection 12b, the Issuer shall refer the matter to Council and give the Applicant /Licencee notice of the date and time when they will have the opportunity to be heard on the matter.
- f. At the meeting, Council can hear not only from the Applicant/Licencee, but also from the Issuer, other County staff, any governmental or public agency, or the general public.
- g. Council, after consideration of all evidence and all submissions made at the meeting, shall have the authority to:
 - i. order a licence be granted; or
 - ii. refuse to issue a licence; or
 - iii. revoke a licence; or
 - iv. impose conditions on a licence;
- h. The decision of Council shall be final.
- i. Where a Licence has been revoked upon an unsuccessful appeal by the applicant, no refund of any payment of fees paid by the applicant shall be made.

PART VII – GENERAL PROVISIONS

13. Every Licence issued under this by-law shall expire on the 31st of December in the year it is issued.
14. No Licence issued under this by-law may be transferred to any other Person.
15. Every licence for a Mobile Food Premises shall be prominently displayed at the location of the licenced business at all times when the licensee is engaged in the activity for which the licence has been issued.
16. Every licensee shall ensure that there is provided on site and accessible to patrons, a non-combustible garbage container complete with a litter and recycling container, both sides to accommodate at least one day's waste. All waste is to be removed from the site upon the close of business on a daily basis.
17.
 - (a) No licencees shall conduct sales on any municipal property.
 - (b) No licensee shall conduct sales on any municipal road allowance, boulevard or sidewalk.
 - (c) The provision in section 17(b) does not apply with respect to non-motorized pedal driven ice cream vehicles.

18. Every Licencee shall, at all times, maintain and keep in a safe, clean and good condition, any object, vehicle, place or premises for which the Licence has been issued. Failure to do so shall be a breach of the Licence by the Licencee and deemed to be an offence.
19. Every Licencee shall not cause, suffer, or permit any obstruction on a highway lane or public place including a sidewalk and boulevard or adjoining the place or premises for which his or her Licence was issued unless specifically authorized to do so by Council.
20. Every Licencee shall be responsible for the performance and observance of all provisions of this by-law.
21. The Issuer and any Municipal By-law Enforcement Officer or a Police Officer, at all reasonable times, may inspect, or cause to be inspected, the premises, facilities, equipment, vehicles and any other personal property used or kept for hire in connection with the carrying on of a business which is licenced, or which is required to be licenced pursuant to this by-law.
22. Every Licencee, employee or agent thereof, shall keep a Licence with him or her at all times while carrying out the licenced business and shall produce the Licence to any person who so requests, and failure to do so shall be deemed to be a contravention of this by-law.
23. Every Licencee who changes his or her address shall, within two (2) days after such change, notify the Issuer of such change of address and produce his or her Licence for the change to be entered thereon.

PART VIII – OFFENCES AND PENALTY

24. Every Person who contravenes any provision of this by-law is guilty of an offence and subject to a fine of not more than \$5,000.00 pursuant to the provisions of the *Provincial Offences Act*, as amended, or any other applicable legislation or successor thereto

PART IX – PARTIAL INVALIDITY

25. If any term of this by-law or the application thereof shall to any extent be invalid or unenforceable, the remainder of this by-law and/or the application of such term to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of this by-law shall be separately valid and enforceable to the fullest extent permitted by law.

PART X – REPEAL OF PREDECESSOR BY-LAWS

26. By-Law No. 318-02 and any other by-law or provision of any by-law of the Corporation of Haldimand County inconsistent with this by-law is hereby repealed.

PART XI - ENACTMENT

27. This by-law comes into force on the day it is passed.

28. The short title of this by-law is the Mobile Food Premises Licensing By-law.

READ a first and second time this 25th day of March, 2013.

READ a third time and finally passed this 25th day of March, 2013.

MAYOR

CLERK