

The Corporation of the Municipality of Brighton

By-law 028-2021

Being a By-Law to Licence, regulate and govern Mobile Canteens within the Municipality of Brighton

Whereas, Section 5 of the Municipal Act 2001, as amended, specifies that a Municipal Council shall exercise its powers by By-Law;

And Whereas, Section 8 and 9 of the Municipal Act 2001, as amended, provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under the Municipal Act or any other Act;

And Whereas, Section 11 (2) of the Municipal Act 2001, as amended, specifies the Spheres of Jurisdiction the Municipality may pass By-Laws respecting matters in those Spheres of Jurisdiction;

And Whereas, Section 150 of the Municipal Act 2001, as amended, permits the Municipality to Licence and regulate any business wholly or partly carried out within the Municipality;

And Whereas, Schedule “D” of this By-Law outlines the fees for Mobile Canteens and may be amended from time to time by Council Resolution;

And Whereas, Section 434.1 (1) of the Municipal Act, without limiting Sections 9, 10 and 11, a Municipality may require a person, subject to such conditions as the Municipality considers appropriate, to pay an administrative penalty if the Municipality is satisfied that the person has failed to comply with a By-Law of the Municipality passed under this Act;

Now, therefore, the Council of the Corporation of the Municipality of Brighton enacts as follows:

Section 1.0 Statement of Intent

- 1.1 It is Council’s intention to use licencing of Mobile Canteens as a means to ensure:
- i) the health of the public in relation to food preparation and food service by stipulating conditions of operation of refreshment vehicles;
 - ii) the safety of the public in relation to fire prevention and property damage by requiring adherence to aspects of fire safety and protection and through the requirement of liability insurance;
 - iii) the control of noise and nuisance through the limiting of permitted areas of operation and requirements for litter control.

Section 2.0 Definitions

2.1 For the purpose of this By-Law:

“**Applicant**” shall mean any individual, firm, society, association, partnership or corporation who is applying for a Mobile Canteen permit;

“By-Law Enforcement Officer” shall mean the person appointed by the Municipality of Brighton for the purpose of enforcing By-Laws;

“Clerk” shall mean the Clerk of the Municipality of Brighton;

“Council” shall mean the Council of the Corporation of the Municipality of Brighton;

“Fire Chief” shall mean the Fire Chief or their designate;

“Food Tent” shall mean a tent that is temporarily erected during a special event for the sole purpose of protecting food from dirt, dust or insects;

“Health Unit” shall mean the Haliburton, Kawartha, Pine Ridge District Health Unit;

“Licensee” shall mean the applicant who is granted the Licence;

“Mobile Canteen” shall mean any trailer, food tent or vehicle which sells refreshments which includes but not limited to French fries, (chips), ice cream products, hot dogs, sausages, confections for consumption by the public, but does not include a catering vehicle;

“Municipality” shall mean the Corporation of the Municipality of Brighton;

“Person” shall mean any individual, firm, society, association, partnership or corporation;

“Special Events” shall mean an event authorized by council, the duration of which is temporary in nature and shall include but not be limited to: Concert in the Park, Art on Main, Applefest, Street Dance, Movie in the Park, CP Holiday Train, and Santa Claus Parade;

“Special Events Committee” shall mean the person in charge of the Special Event that has been authorized by the Municipality;

“T.S.S.A.” shall mean the Technical Standards and Safety Act;

“Waste” includes food, disposable eating utensils, paper, wooden cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a Mobile Canteen.

Section 3.0 Operating Location Requirements

3.1 No person shall operate a Mobile Canteen on private property within the Municipality without first having obtained a Licence to do so.

3.2 No person shall operate a Mobile Canteen on any Municipal owned property without first obtaining a Licence to do so.

3.3 A Mobile Canteen Licence is not required for a Special Event that is approved by Council. The Special Events Committee is responsible for collecting the required application documentation under Section 4.1.

- 3.4** Section 3.1 does not apply to temporary private functions on private property for fundraising or customer appreciation where only a barbeque is used. Health Unit approval may be a requirement.
- 3.5** No person shall operate a Mobile Canteen except on land zoned Highway Commercial (HC), Recreational Commercial (RC), and General Industrial (MI) as defined in the Municipality of Brighton Comprehensive Zoning By-Law Number 140-2002, as amended.
- 3.6** No person shall operate a Mobile Canteen in a location within the Municipality other than the location approved by the Municipality and recorded on the Licence.
- 3.7** No Mobile Canteen shall operate within the boundaries of the Downtown Business Improvement Area unless authorized by Council or the Special Events Committee for a Special Event.
- 3.8** No more than one (1) Mobile Canteen can operate at an approved Municipal Location unless approved by Council. The following are the approved Municipal locations for operation of a Mobile Canteen:
- i) King Edward Park
 - ii) Codrington Community Centre
 - iii) Ontario Street Boat Launch

Section 4.0 Required Application Documentation

- 4.1** No Person shall provide false information on an application to obtain a Licence to operate a Mobile Canteen. Every applicant shall submit the following for a Mobile Canteen Licence:
- i) Completed Application (See Schedule "B");
 - ii) Signed Indemnification (See Schedule "C");
 - iii) Proof of Approval from the Haliburton, Kawartha, Pine Ridge District Health Unit;
 - iv) Proof Of Insurance Coverage, (See Section 4.4);
 - v) Letter of Consent from Property Owner (If applicable);
 - vi) Approval Letter from the Fire Chief;
 - vii) Proof of approval of TSSA requirements from Propane inspection;
 - viii) Public Works and/or Northumberland County Approval. (See Section 4.3).
- 4.2** A Mobile Canteen Licence may be suspended or revoked if any Licensee fails to maintain any items in Section 4.1.
- 4.3** Approval from Brighton Public Works and/or Northumberland County that the proposed location of the Mobile Canteen will not interfere with normal traffic flow on roads within the municipality and that sufficient off-road parking is provided.
- 4.4** Applicants must provide proof of insurance in the amount of not less than Two Million Dollars (\$2,000,000.), for public liability inclusive of bodily injuries, property damage and accident benefits and including property damage occasioned by any accident arising out of the operation of the mobile canteen in respect of which a licence is obtained. Applicants must add the Municipality as an additional insurer, if the Mobile Canteen is on Municipal Property.

- 4.5 Food Tents will not be approved for permanent use.
- 4.6 Mobile Canteen fees are set out in Schedule “D” of this By-Law. All Mobile Canteen Licence fees are non-refundable.
- 4.7 Mobile Canteen applications may take 14 - 28 business days to process after receiving all the required documentation in Section 4.1.

Section 5.0 Mobile Canteen Licence Conditions

- 5.1 A Licence shall be issued with respect to one (1) Mobile Canteen only, and the Licensee shall ensure that it is at all times affixed in a conspicuous place on the vehicle for which it was issued.
- 5.2 Every Licence issued for private property shall expire on the 31st day of December of the year in respect to which it was issued. No person shall operate a Mobile Canteen on private property with an expired Licence.
- 5.3 Every Licence issued for Municipal property shall expire on 31st day of December of the year in respect to which it was issued. No person shall operate a Mobile Canteen on Municipal property with an expired Licence.
- 5.4 No Licensee shall transfer or assign any Licence to a Mobile Canteen other than the Mobile Canteen for which the Licence is specifically issued.
- 5.5 A Licensee may apply to the Municipality for a request to relocate their Mobile Canteen from one Municipal location to another Municipal location. If approved by Council, a fee will apply.
- 5.6 A Licence shall not be issued until the applicant has filed a formal application together with all the items detailed in Section 4.1.

Section 6.0 Mobile Canteen Operation Regulations

- 6.1 All Licenced operators shall:
 - a) Ensure that each Mobile Canteen is provided with a sufficient number of waste receptacles with self-closing lids, located in such a position so as to be easily accessible by the public making purchases, and are emptied at least once daily.
 - b) Ensure that the waste resulting from the operation of the Mobile Canteen is collected for recycling or disposal.
 - c) Ensure that the grounds in the immediate vicinity of the Mobile Canteen are kept clean of all waste.
 - d) Ensure that the vehicle and all parts and equipment for use in the dispensing of food and drink are maintained in a clean and sanitary condition and at all times in good repair.

Section 7.0 Severability

- 7.1** In the event that any section of this By-Law, including any section or part of any of the schedules hereto, is declared by a Court of competent jurisdiction to be invalid, the remaining parts shall remain valid and binding and shall be read as if the offending section had been struck out.

Section 8.0 Enforcement and Penalty

- 8.1** The Clerk or their designate is responsible for issuing the Mobile Canteen Licence.
- 8.2** No person shall provide false information or give a false statement to an officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-Law.
- 8.3** No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee/or agent of the Municipality in the lawful exercise of a power or duty under this By-Law.
- 8.4** Any person who violates any provision of this By-Law is, upon conviction, guilty of an offence and shall be liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, c.p.33.
- 8.5** Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.
- 8.6** The penalties for violating sections of this By-Law are payable as per Schedule "A" which may be amended from time to time.
- 8.7** Complaints will only be investigated upon receipt of a signed written complaint.
- 8.8** An Administrative Penalty may be issued if a person fails to comply with this By-Law or a Notice of Non-Compliance. An invoice will be issued and after 30 days of non-payment, the amount owing will be added to the property taxes of that property where the Mobile Canteen is located or to the Mobile Canteen Owners property taxes.

Section 9.0 Repeal

- 9.1** That By-Law 051-2020 is hereby repealed in its entirety.

Read a first and second time and read a third time and finally passed this 15th day of March, 2021.

Original signed by:

Brian Ostrander, Mayor

Original signed by:

Candice Doiron, Clerk