

**CORPORATION OF THE TOWNSHIP OF HAVELOCK-BELMONT-METHUEN**

**BY-LAW NO. 2008 - 42**

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BEING A BY-LAW RESPECTING THE LICENSING AND REGULATION  
OF **MOBILE CANTEENS** BY THE TOWNSHIP OF HAVELOCK-BELMONT-  
METHUEN

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**WHEREAS** Section 150(1) of the Municipal Act, S.O. 2001, as amended, authorizes Councils of local municipalities to pass by-law for the licensing, regulating and governing of any business carried on within the municipalities;

**AND WHEREAS** pursuant to Section 150(3) of the Municipal Act, S.O. 2001, as amended, Council deems it expedient to pass a by-law to license, regulate and govern vehicles or tents/air supported structures from which refreshments are sold for consumption by the public and for revoking any such license in order to provide for the health and safety of the public;

**NOW THEREFORE** the Municipal Council of the Corporation of the Township of Havelock-Belmont-Methuen enacts as follows:

1. **INTERPRETATION**

1.1 In this By-Law:

- (a) **APPLICANT**: includes an association, organization or corporation making an application for a license;
- (b) **TOWNSHIP**: means the Corporation of the Township of Havelock-Belmont-Methuen;
- (c) **COUNCIL**: means the Council for the Corporation of the Township of Havelock-Belmont-Methuen;
- (d) **CLERK**: means the Clerk of the Corporation of the Township of Havelock-Belmont-Methuen;
- (e) **GRANT OF LICENSE**: means the exercise of power of Council to confer the privilege of the license upon the applicant;
- (f) **ISSUE OF LICENSE**: means the physical act whereby the proper officer for the Corporation of the Township of Havelock-Belmont-Methuen

completes all necessary administrative functions to perfect the grant of the license;

- (g) HOLDER OF A LICENSE: means the person who is granted the license by Council;
- (h) MOBILE CANTEENS: means any vehicle, whether mechanically propelled or otherwise, or a tent/air supported structure, from which refreshments are sold for consumption by the public. If the Mobile Canteen has a compartment for a motor, the vehicle must be operable;
- (i) PERSON: includes a Corporation and a partnership and the heirs, executors, administrators or other legal representatives of a person whom the context can apply according to law; and, where the context permits, words importing the singular number or the masculine gender also include more persons, parties of things of the same kind, females as well as males;
- (j) SPECIAL EVENTS: shall mean an event, the duration of which is temporary in nature, and shall include Jamboree, Heritage Day celebrations, auctions and Cottage Association events;
- (k) EATING ESTABLISHMENT: shall mean a commercial establishment where food is prepared and served therein and is offered for sale but shall not include a mobile canteen;
- (l) OPERATE: shall mean the selling or offering for sale of refreshments from Such vehicle but shall not preclude the delivery of refreshments;
- (m) BUILT UP AREA: shall mean an area with buildings on one or both sides of the road with 75 feet or less between them with a minimum of five buildings. Building means school, church, single family dwelling, commercial and industrial structure;

## 2. GENERAL PROVISIONS

- 2.1 The Council may, where it deems it expedient in the best interests of the inhabitants of the Corporation of the Township of Havelock-Belmont-Methuen, grant a license to an applicant in accordance with the provisions of this by-law. Such grant of license shall only be made by resolution of Council.
- 2.2 All licenses granted by Council under this by-law shall be issued by the Clerk, and such licenses shall be valid for the calendar year in which it is issued and may not be transferred or assigned.
- 2.3 Council may revoke or cancel any license issued pursuant to the provisions of this by-law, or if such action is considered in the best interest of the municipality.

- 2.4 Every application for license hereunder shall be made in writing upon a form provided by the Clerk.
- 2.5 Every application for license must be submitted to the Clerk at least four (4) days prior to its consideration by Council.
- 2.6 The license as granted and issued may not be transferred, assigned, conveyed or sold to another applicant or person.
- 2.7 The license as granted and issued is for one Mobile Canteen only. If the owner/operator has more than one mobile canteen operating on the same property/event, the owner/operator shall apply for additional licenses for each such mobile canteen.
- 2.8 Fees for license as granted under this by-law shall be in accordance with Schedule "A" attached to and forming part of this by-law. A licensee shall pay the prescribed fee prior to the issuance of the license.
- 2.9 The recipient or holder of a license shall not transfer or divest himself of the rights and obligations of the said license.
- 2.10 Compliance with applicable statutes, regulations and by-laws whether municipal or Provincial shall be deemed to be a condition of all licenses issued pursuant to this by-law.
- 2.11 Failure to comply with the terms and conditions of the license may constitute grounds for revocation of the license by Council.

### **3. LICENSING REGULATIONS AND REQUIREMENTS**

- 3.1 A license shall be taken out by every person who engages in the business of conducting a mobile canteen.
- 3.2 Any person obtaining a mobile canteen license shall be subject to the following regulations and conditions:
  - (a) The licensee shall keep his vehicle and equipment in the place where food is prepared in a clean, sanitary and satisfactory condition and shall comply with the regulations of the Public Health Act and regulations made thereunder respecting eating establishments and should at all times permit the Medical Officer of Health to inspect the vehicle. An annual inspection from the Peterborough County-City Health Unit, or responsible Health Unit confirming that the mobile canteen meets the requirements of the Health Protection and Promotion Act, that there are appropriate waste disposal facilities, and that any other pertinent laws and Regulations have been met.

- (b) Where applicable, the mobile canteen shall comply with the fire code under the Fire Marshals Act, the propane storage, handling and utilization code under the Energy Act or any regulations passed affecting such vehicles. A Semi Annual Inspection/Report for Gas and/or Propane Installation by a Licensed Contractor is required where applicable.
- (c) The Licensee shall ensure that no modifications are made to the mobile canteen, or equipment placed therein, without the prior approval of the Building Inspector and the By-Law Enforcement Officer.
- (d) A license shall be issued with respect to one vehicle and shall be at all times affixed to the vehicle operated in a prominent position. One license does not cover more than one (1) mobile canteen, as per Section 2.7 of this by-law.
- (e) Prior to beginning operation of a mobile canteen, a licensee shall file with the licensing officer, proof of insurance for public liability in the amount of not less than \$1,000,000 (One Million Dollars) 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 license is obtained;
- (f) The proof of insurance shall include a provision therein or an endorsement thereof that the licensing officer will be given at least ten (10) days notice in writing of any cancellation, expiration or variation in the policy;
- (g) A mobile canteen operator, prior to the issuance of a mobile canteen license, shall provide an indemnification to the Corporation of the Township of Havelock-Belmont-Methuen whereby the mobile canteen operator agrees to indemnify and hold harmless the Corporation of the Township of Havelock-Belmont-Methuen, its agents, servants, employees and officials from any claims, actions or suits which might be brought against the said mobile canteen operator and the Corporation of the Township of Havelock-Belmont-Methuen arising out of the said operation of the mobile canteen in any manner whatsoever or any error, negligence or omission of the mobile canteen operator, their agents, servants or employees;
- (h) A licensee shall not operate, or permit to be operated, a mobile canteen on any prohibited area designated by the Corporation of the Township of Havelock-Belmont-Methuen;
- (i) No mobile canteen shall be parked in any park or on Township property unless prior permission is received by the Corporation of the Township of Havelock-Belmont-Methuen;

- (j) No mobile canteen shall be parked for the purpose of vending goods, food or refreshments within a distance of 100 metres of any eating establishment within the Municipality and/or another mobile canteen;
- (k) Every owner of a mobile canteen shall ensure that the garbage or litter resulting from his or her vending activity is collected for recycling and disposal, and shall provide receptacles for such purpose. In addition, any owner of a mobile canteen shall ensure that such garbage and litter is removed from the area of operation;
- (l) Any advertising shall not be placed on any Municipal, County or Provincial highway without receiving prior approval from the appropriate governing body;
- (m) No mobile canteen shall be operated between the hours of 11:00 P.M. and 7:00 A.M. with the exception of special events;
- (n) Mobile canteens shall only be operated on private property with the consent of the owner and occupant of the property and, except for special event licenses, upon a site which is zoned in a commercial zoning category by the Township's Zoning by-law;
- (o) Upon the expiry of the license, the mobile canteens shall be removed from the site;
- (p) Only hot dog carts shall be permitted in a built up area to a maximum of two (2) carts;
- (q) No license shall be transferable to another zoned property without the written consent of the Corporation of the Township of Havelock-Belmont-Methuen.
- (r) An Annual Inspection Report from the Township Fire Chief that establishes conformity with the Fire and Prevention Act and the Ontario Fire Code. All mobile canteens containing commercial cooking equipment such as deep fryers shall be designed, constructed, installed and inspected in conformity with the current standards of the National Fire Protection Association 96 (NFPA) and shall have an automatic fire suppression system, where applicable, in accordance with current NFPA standards and the Ontario Fire Code.
- (s) All tents/air supported structures shall comply with the Ontario Fire Code and the Ontario Building Code, and all material will pass the NFPA 705 or 701 "Recommended Practice for a Field Flame Test for Textiles and Films".

4. **NUMBER AND CLASSES OF LICENSE**

- 4.1 Licensees will be issued on a first come, first served basis. Applications will not be accepted before the beginning of the calendar year.
- 4.2 Notwithstanding Section (1) above, the Council may authorize the issuance of additional Mobile Canteen licenses for special events subject to any regulations or rules Council deems appropriate.

5. **PENALTIES**

- 5.1 Except as otherwise provided herein or by statute, any person convicted of a breach of any provision of this by-law shall forfeit and pay, at the discretion of the convicting Judge or Justice of the Peace, a penalty not exceeding \$5,000.00 for each event, exclusive of costs.

6. **LEGALITY**

- 6.1 If any section or sections of this by-law, or parts thereof, that be found by any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.
7. By-Law No. 2002-34 is hereby repealed.

Read a FIRST, SECOND and THIRD time and finally passed in open Council this 15<sup>th</sup> day of April, 2008.

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Reeve

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Clerk

**SCHEDULE "A"**

**By-Law No. 2008 - 42**

**FEES FOR LICENSES – MOBILE CANTEENS**

Chip Truck and Fast Food Vehicle	\$500.00/season
Hot Dog Carts	375.00/season
Ice Cream Carts	200.00/season
Special Event	10.00/day