

**CORPORATION OF THE MUNICIPALITY OF CENTRE HASTINGS
BY-LAW NO. 2019-16**

Being a By-law to Adopt and Maintain a Refreshment Vehicle Policy

WHEREAS Section 151 (1) of the Municipal Act, 2001, as amended, empowers the council of a local municipality to pass By-laws for licensing, regulating, and governing any business carried on within the municipality.

AND WHEREAS the Corporation of the Municipality of Centre Hastings deems it in the public interest to license and regulate mobile canteens and refreshment vehicles within the Municipality of Centre Hastings.

THEREFORE Council of the Corporation of the Municipality of Centre Hastings hereby enacts as follows:

THAT this By-law does hereby repeal and replace By-laws not consistent with this By-law;

AND FURTHER that this By-law shall come into force and take effect upon the Enactment thereof;

AND THAT the Refreshment Vehicle Policy (ADM-009) be attached to this By-law as Schedule A.

Read a first and second time this 18th day of March 2019.

Read a third time and finally passed this 18th day of March 2019.



Tom Deline, Mayor



Jennifer Nielsen, Deputy Clerk



TITLE:	Refreshment Vehicle Policy
NUMBER:	ADM-009
CATEGORY:	Administration
DATE:	March 18, 2019
REFERENCES:	By-Law 2019-16, Section 151 (1) of the Municipal Act, 2001 S.O.

PURPOSE

Section 151(1) of the Municipal Act, 2001, as amended, empowers the council of a local municipality to pass by-laws for licensing, regulating and governing any business carried on within the municipality;

The Municipality of Centre Hastings has developed the Refreshment Vehicle Policy in the interest of public health and safety, nuisance control and consumer protection with respect to the residents and business owners of the municipality.

1. INTERPRETATION

In this policy:

- (a) **APPLICANT:** includes an association, organization or corporation making an application for a licence;
- (b) **COUNCIL:** means the Council of the Corporation of the Municipality of Centre Hastings;
- (c) **CLERK:** means the Clerk of the Corporation of the Municipality of Centre Hastings or assignee;
- (d) **EATING ESTABLISHMENT:** shall mean a commercial establishment where food is prepared therein and is offered for sale but shall not include a mobile canteen or mobile refreshment vehicle;
- (e) **GRANT OF LICENCE:** means the exercise of power of the Clerk to confer the privilege of the licence;
- (f) **HOLDER OF A LICENCE:** means the person who is granted the licence by Council;
- (g) **ISSUE OF LICENCE:** means the physical act whereby the proper officer for the municipality completes all necessary administrative functions to perfect the grant of the licence;
- (h) **MOBILE CANTEEN:** means any vehicle whether mechanically propelled or otherwise, which changes location for the purpose of preparing, storing, selling or offering for sale food or refreshments for consumption by the public;
- (i) **OPERATE:** shall mean the selling or offering for sale of refreshments from such vehicle but shall not preclude the delivery of refreshments;
- (j) **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;
- (k) **MOBILE REFRESHMENT VEHICLE:** means any vehicle whether mechanically propelled or otherwise, that remains in one place for the purpose of preparing, storing, selling or offering for sale food or refreshments for consumption by the public;

(l) **SPECIAL EVENT:** shall mean an event, the duration of which is temporary in nature (maximum duration of 4 days), and shall include, but not be restricted to a Jamboree, Heritage Day celebrations, Canada Day celebrations, auctions and Cottage Association events;

(m) **MUNICIPALITY:** means the Corporation of the Municipality of Centre Hastings

2. GENERAL PROVISIONS

- 2.1 The Clerk may, where the aforementioned deems it expedient and in the best interests of the inhabitants of the municipality, grant a licence to an applicant in accordance with the provisions of this policy.
- 2.2 All licences granted under this policy shall be issued by the Clerk, and such licences shall be valid for the calendar year in which it is issued and may not be transferred or assigned.
- 2.3 The Clerk may revoke or cancel any licence issued pursuant to the provisions of this policy.
- 2.4 Every application for a licence hereunder shall be made in writing upon Schedule "A" as attached and submitted to the Clerk.
- 2.6 In the case of a regular scheduled event (ie. weekly auction), a licence may be applied for to a maximum of a 12 month period.
- 2.7 The licence as granted and issued may not be transferred, assigned, conveyed or sold to another applicant or person.
- 2.8 Fees for licence as granted under this policy shall be in accordance with The Municipality of Centre Hastings Fees and Charges By-law 2019-17. A licensee shall pay the prescribed fee prior to the issuance of the licence.
- 2.9 The recipient or holder of a licence shall not divest himself or herself of the rights and obligations of the said licence.
- 2.10 Compliance with applicable statutes, regulations and by-laws whether provincial or municipal shall be deemed to be a condition of all licences issued pursuant to this policy.
- 2.11 Failure to comply with the terms and conditions of the licence may constitute grounds for revocation of the licence by the Clerk.
- 2.12 The owners of eating establishment businesses located within the Municipality of Centre Hastings must comply with the regulations contained in this policy with the exception of section 4.2.10 and 5.2 in order to conduct the sale of food and refreshments from a refreshment vehicle, including a barbeque-style stand where such operation is located externally to enclosed eating establishment premises on the same property.
- 2.13 A mobile canteen or mobile refreshment vehicle shall not be operated nor utilized to dispense or sell food or refreshments within 100 metres of a property line of schools and homes for the elderly.
- 2.14 No mobile canteens shall be operated on the travelled portion of a highway, except in a parking lane, and only within a parking lane at those places and at those times as specifically designated by the Clerk.
- 2.15 No mobile canteen shall operate in a parking lane for more than fifteen (15) consecutive minutes. A mobile canteen operator shall move the mobile canteen at least seventy five (75) metres to the next location. There will be no mobile canteens operated on provincial highway #7.
- 2.16 Mobile canteen or mobile refreshment vehicles shall not operate between the hours of eleven (11) p.m. and nine (9) a.m. of the following day.
- 2.17 Mobile canteen and mobile refreshment vehicle locations shall conform to all parking requirements and regulations now in force or to be construed in the future.

3. EXCEPTIONS TO GENERAL PROVISIONS FOR SPECIAL EVENT LICENSES

- 3.1 A licence may be issued for a 'Special Event' within 100 metres of a property line of schools and homes for the elderly.
- 3.2 A licence may be issued for a 'Special Event' which would allow the operating hours of the mobile canteen/mobile refreshment vehicle licence to coincide with the hours of operation of the special event.

4. LICENSING REGULATIONS

- 4.1 A licence shall be taken out by every person who engages in the business of conducting a mobile canteen or mobile refreshment vehicle save and except for:

4.1.1 Charitable non-profit groups, associations or corporations who sell food and refreshments outdoors, to the general public, from barbeque-style cooking equipment, for the purpose of fund-raising; provided they have permission of the property owner, or of the municipality in respect of public property, from which such sales are proposed to take place.

- 4.2 Any person obtaining a mobile canteen or mobile refreshment vehicle licence shall be subject to the following regulations and conditions:

4.2.1 The licensee shall keep his/her 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 respecting eating establishments, and shall at all times permit the Medical Officer of Health to inspect the vehicles.

4.2.2 Where applicable, the mobile canteen or mobile refreshment vehicle 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.

4.2.3 The licensee shall ensure that no modifications are made to the mobile canteen, mobile refreshment vehicle, or equipment placed therein, without the prior approval of the Chief Building Official and/or the By-law Enforcement Officer.

4.2.4 A licence shall be issued with respect to one vehicle only and shall be at all times affixed to the vehicle operated, in a prominent position. One licence does not cover more than one (1) mobile canteen or mobile refreshment vehicle.

4.2.5 Prior to beginning operation of a mobile canteen or mobile refreshment vehicle, a licensee shall file with the licensing officer proof of insurance for public liability in the amount of not less than TWO MILLION DOLLARS (\$2,000,000.00). Public liability shall be inclusive of bodily injuries, property damage and accidental benefits, occasioned by any accident arising out of the operation of the mobile canteen operation, their agents, servants or employees.

4.2.6 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 or expiration in the policy.

4.2.7 A mobile canteen operator or mobile refreshment vehicle operator, prior to the issuance of a mobile canteen/mobile refreshment vehicle licence, shall provide an indemnification to the municipality whereby the mobile canteen or mobile refreshment vehicle operator agrees to indemnify and hold harmless the municipality, its agents, servants, employees and officials from any claims, actions or suits which might be brought against the said mobile canteen/mobile refreshment vehicle in any manner whatsoever or any error, negligence or omission of the mobile canteen operation, their agents, servants or employees.

4.2.8 A licensee shall not operate or permit to be operated, a mobile canteen or refreshment vehicle on any prohibited area designated by the municipality.

4.2.9 No mobile canteen or mobile refreshment vehicle shall be parked in any park or on municipality property unless prior permission is received from the municipality.

4.2.10 No mobile canteen or mobile refreshment vehicle shall be parked for the purpose of preparing, storing, selling or offering for sale food or refreshments within a distance of 500 metres of any eating establishment within the municipality.

4.2.11 Every owner of a mobile canteen or mobile refreshment vehicle shall ensure that 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/mobile refreshment vehicle shall ensure that such garbage and litter is removed from the area of operation and disposed of at an approved landfill site.

4.2.12 Any advertising shall not be placed on Municipal, County or Provincial Highway without receiving prior approval from the appropriate governing body.

4.2.13 Mobile refreshment vehicles shall only be operated on private property with the consent of the owner and occupant of the property; and except for special event licences, upon a site zoned in a commercial or recreation and conservation zoning category by the municipality's zoning by-law.

4.2.14 Upon expiry of the licence, mobile refreshment vehicles shall be removed from the site.

4.2.15 A licence shall be deemed to be valid for a period of one year from the date of issue and are not transferable either "owner to owner" or "site to site".

4.2.16 The municipality shall be provided with a letter from the Hastings Prince Edward Public Health Unit confirming that the mobile canteen or mobile refreshment vehicle conforms to hereto requirements under the Food Handling Act.

4.2.17 A permit is required from the Ministry of Transportation where a refreshment vehicle is located on a property adjacent to any Provincial Highway.

Apply on line to obtain this permit at:

<https://www.hcms.mto.gov.on.ca/ApplyForPermit/BuildingAndLandUse>

If the MTO determines a permit is not required the applicant will be provided an exemption letter which must be included with the application in place of the permit.

5. NUMBER AND CLASSES OF LICENSE

- 5.1 Licences will be issued on a first come, first serve basis. Applications will not be accepted before the beginning of the calendar year.
- 5.2 The maximum total number of mobile canteens operating in the municipality at any one time shall be three (3).
- 5.3 The maximum total number of mobile refreshment vehicles operating in the municipality at any one time shall be three (3).

6. PENALTIES

- 6.1 Except as otherwise provided herein or by status, any person convicted of a breach of any provisions of this by-law shall forfeit and pay, at the convicting Judge of the Peace, a penalty not exceeding \$5000.00 for each event exclusive of costs.

7. LEGALITY

- 7.1 If any sections of this policy, or parts thereof, that are 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 the policy, shall be deemed to be separate and independent there from and to be enacted as such.

8. REPEAL OF EXISTING BY-LAW

- 8.1 By-law 1998-10 of the Municipality of Centre Hastings and any other by-law, policy or part thereof which conflicts with this policy is hereby repealed.



ADM-009 Refreshment Vehicle Policy
SCHEDULE "A"

MOBILE CANTEEN/MOBILE REFRESHMENT VEHICLE APPLICATION
(to be completed by applicant)

Canteen Operator/Owner: _____

Property Owner: _____ Location: _____

Hastings Prince Edward Public Health Approval (copy attached): ☐ yes

Ministry of Transportation Approval (copy attached): ☐ yes ☐ n/a

Municipal Road Superintendent Approval: ☐ yes ☐ n/a

Chief Building Official Approval: ☐ yes

Fire Chief Approval: ☐ yes

Liability Insurance Policy #: _____ (copy attached)

Insurance Company: _____

Type of Vehicle: _____

License #: _____

Fee Submitted: ☐ yes amount: _____

Operating Schedule: From: _____ to _____

Hours: _____ to _____

THIS AREA TO BE COMPLETED BY MUNICIPALITY

Date Received: _____

Date Approved: _____

Clerk

Personal information is collected under authority of the Municipal Act, R.S.O. 1990, c M.45 for the purpose of issuing a mobile canteen license, mobile refreshment vehicle license and/or special occasion permit.