

# THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS

## BYLAW No. 2023-14

### *Being a Bylaw to Regulate and Govern Mobile Food Premises in North Dundas*

**WHEREAS** the *Municipal Act 2001*, c.25 S 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

**AND WHEREAS** the *Municipal Act 2001*, c. 25 S 5 (3) provides that the powers of every council are to be exercised by bylaw;

**AND WHEREAS** Pursuant to the provisions of Part IV of the *Municipal Act*, a municipality may pass bylaws for licensing, regulating and governing businesses;

**AND WHEREAS** Sections 150 through 153 of the *Municipal Act*, authorizes Council to license, regulate and govern businesses and events and that this authority includes but is not limited to: the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, to regulate or govern the place used in the carrying on of such businesses, and to prevent the carrying on of such businesses without a licence;

**AND WHEREAS** pursuant to Section 425 of the *Municipal Act*, a municipality may pass bylaws providing that a person who contravenes a bylaw of the municipality passed under this Act is guilty of an offence;

**AND WHEREAS** pursuant to Section 426 of the *Municipal Act*, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a bylaw passed under this Act;

**AND WHEREAS** pursuant to Section 446(1) of the *Municipal Act*, a municipality may direct or require a person to do a matter or thing and that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

**NOW THEREFORE the Council of the Corporation of the Township of North Dundas enacts as follows:**

#### **SHORT TITLE**

This bylaw may be referred to as the "Mobile Food Premise Bylaw".

#### **PART 1 – DEFINITIONS**

1.1 In this bylaw:

- a) **"Commercial Zones"**: means all commercial zones as defined by the Township's Comprehensive Zoning Bylaw passed under Section 34 of the *Planning Act*.
- b) **"Council"**: means the Council of the Corporation of the Township of North Dundas.
- c) **"Eating establishment"**: means a permanent building, or part of a building, where food is offered for sale and/or sold to the public for immediate consumption and includes such uses as a restaurant, dining room, cafe, ice cream parlour, dairy bar, and/or coffee shop.
- d) **"Fire Department Chief"**: means the applicable Township Fire Chief and his or her designate or successor.
- e) **"Highway"**: means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, any part of which is intended for or used by

the general public for the passage of vehicles and includes the area between the lateral property lines thereof

- f) **“Industrial Zones”**: means all industrial zones as defined by the Township’s Comprehensive Zoning Bylaw passed under Section 34 of the *Planning Act*.
- g) **“Manager”**: means the Township’s Chief Building Official and his or her designate or successor.
- h) **“Mobile Food Premise”**: means a motorized vehicle or a unit so constructed that it may be towed or drawn by a motor vehicle equipped for the cartage, storage and preparation of food stuffs, beverages, confections and from which the aforesaid items are offered for sale directly to the public.
- i) **“Officer”**: means an officer of the Township responsible for enforcement of bylaws.
- j) **“Owner”**: means the registered owner of land, the owner in trust, a mortgagee in possession and includes a person, firm, partnership, corporation, company, association or organization of any kind and its principal(s).
- k) **“Open Space Zone”**: means all areas as defined by the Township’s Comprehensive Zoning Bylaw passed under Section 34 of the *Planning Act*.
- l) **“Private Property”**: means any land within the Township of North Dundas including yards and vacant lots that do not belong to the operator.
- m) **“Sidewalk”**: means a path for pedestrians at the side of a road.
- n) **“Sight Triangle”**: means a triangular space, free of buildings, structures, and obstructions, formed by the street lines abutting a corner lot and a third line drawn from a point on a street line to another point on a street line, each such point being the required sight distance from the point of intersection of the street lines as specified in this bylaw.
- o) **“Special Event”**: means a one-time or infrequently occurring event outside normal programs or activities of the sponsoring or organizing body.
- p) **“Special Event of Municipal Significance”** means an event declared through a resolution of Council as being municipally significant.
- q) **“Township”**: means The Corporation of the Township of North Dundas.

## **PART 2- GENERAL PROVISIONS**

- 2.1 No person shall operate a *mobile food premise* in the Township of North Dundas without first obtaining a valid licence from the Manager.
- 2.2 No person shall operate a *mobile food premises* in any zone except for a *commercial zone, industrial zone, or open space zone*.
- 2.3 Notwithstanding section 2.2, a *mobile food premises* may be located on *private property* that is occupied by a legally permitted agri-tourism operation, or on private property that has a legally permitted commercial use that is commercially assessed (either fully or partially).
- 2.4 No person shall operate a *mobile food premise* on *private property*, except if the following provisions are met:
  - a) The *private property* is zoned in accordance with section 2.2 of this bylaw; and,
  - b) The *owner* of the *private property* has provided written consent permitting the operation of the *mobile food premise* on their property.
- 2.5 No person shall operate a *mobile food premise* within 50 m of any *eating*

*establishment* without written permission from the operator of the *eating establishment*. Such written permission shall be provided to the Manager.

- 2.6 No person shall operate a *mobile food premise* on any *highway*.
- 2.7 No person shall operate a *mobile food premise* within 1 m of a *sidewalk*.
- 2.8 No person shall operate a *mobile food premise* on a *sidewalk*.
- 2.9 No person shall operate a *mobile food premise* on a shoulder of any *highway*.
- 2.10 No person shall locate any portion of the *mobile food premise* within 3.5 m of an entrance or exit from a building.
- 2.11 No person shall operate a *mobile food premise* on any *Township* owned land without the written consent from the *Manager*.
- 2.12 No person shall operate a *mobile food premise* within 1.2 m of all *property lines* abutting any non-residential use.
- 2.13 No person operating a *mobile food premise* shall store anything deriving from the *mobile food premise* operation within 1.2 m of the property lines abutting any non-residential use.
- 2.14 No person shall operate a *mobile food premise* within 3 m of all *property lines* abutting any residential use.
- 2.15 No person operating a *mobile food premise* shall store anything deriving from the *mobile food premise* operation within 3 m of the property lines abutting any residential use.
- 2.16 No person shall operate a *mobile food premise* within a *sight triangle*.
- 2.17 No person shall operate a *mobile food premise* within 3m of a driveway.
- 2.18 No person shall operate a *mobile food premise* in any location, other than the one permitted by the *mobile food premise* licence.
- 2.19 No person shall operate a *mobile food premise* outside of the following hours;
  - a) Monday to Saturday: 7:00 am to 11:00 pm
  - b) Sunday: 8:00 am to 11:00 pm

### **Exceptions**

- 2.20 Notwithstanding section 2.1 and 2.2 of this bylaw, any *mobile food premise* that is to be erected for a period of less than 5 days, not on municipal property, and used in conjunction with a *special event*, is not subject to obtain a *mobile food premise* licence.
- 2.21 Notwithstanding subsection 3.1 k) the *Council* may authorize the issuance of a *mobile food premise* licence to non-profit or volunteer organizations subject to any regulations or rules *Council* deems appropriate; and the *mobile food premise* applicant shall be exempt from paying the *mobile food premise* licence fee.
- 2.22 Any *mobile food premise* that is to be erected for a period of less than 3 days on municipal property, and used in conjunction with a *special event of municipal significance*, is not subject to obtain a *mobile food premise* licence or the provisions of section 2.

### **PART 3 - APPLICATION FOR LICENCE**

- 3.1 Every person who applies for a *mobile food premise* licence shall include the

following in the application;

- a) Proof of Public Health Unit approval;
- b) Proof of compliance with TSSA regulations (where applicable);
- c) Certificate from a provincially certified propane contractor attesting to the fact that the equipment used in relation to the consumption of propane or natural gas, conforms to the Ontario Propane Storage, Handling and Utilization Code (where applicable);
- d) A copy of the applicants' valid driver's licence (where applicable);
- e) A copy of the mobile food premise ownership (where applicable);
- f) A copy of automobile insurance (where applicable);
- g) A photo of the *mobile food premise*;
- h) Proof of liability insurance (see Section 3.2);
- i) A plan for the containment and disposal of grey water, grease, and garbage;
- j) Written permission from the *owner* of the private property on which the *Mobile food premise* will be situated;
- k) The fee for a *mobile food premise* Licence as per Schedule "A".
- l) A site plan depicting the location of the following from the *mobile food premise*;
  - i any buildings on the property;
  - ii distance to neighbouring properties;
  - iii roadways abutting the property;
  - iv all access to property from roadway;
  - v available parking areas; and
  - vi garbage receptacles.

3.2 Every person applying for a *mobile food premise* licence shall be required to obtain liability insurance of not less than \$2,000,000.00.

3.3 Every person applying for a *mobile food premise* licence shall be required to provide proof of approval from the applicable *Fire Department Chief*.

#### **PART 4 - GARBAGE**

4.1 Every person operating a *mobile food premise* shall ensure there is sufficient garbage receptacles to maintain a clean and clear environment.

4.2 Every person operating a *mobile food premise* shall ensure the garbage receptacles are emptied at the end of every day of operation.

4.3 Every person operating a *mobile food premise* shall maintain the area surrounding the mobile food premise in a clean and clear condition of all garbage deriving from the operation of the *mobile food premise*.

#### **PART 5- RENEWAL, REVOCATION, AND TRANSFERS**

##### **Renewal**

5.1 Every *mobile food premise* licence shall be valid for one calendar year.

5.2 Every person operating a *mobile food premise* shall ensure that their licence is renewed prior to May 1<sup>st</sup> every year.

5.3 Every person renewing a *mobile food premise* Licence shall pay the Mobile Food Premise Licence Fee, as per Schedule "A".

## Revocation

- 5.4 A *mobile food premise* licence is considered automatically revoked if a complete licence renewal application is not submitted to the *Township* prior to March 1<sup>st</sup> of that calendar year.
- 5.5 The *Township's Manager* may, at any point, revoke a person's *mobile food premise* licence where:
- a) a contravention of any section of this Bylaw occurs; or
  - b) the licence was issued in error; or
  - c) continuation of the operation poses an immediate danger to the health or safety of any person or property.

## Transfers

- 5.6 Every person who operates a *mobile food premise* shall only transfer a *mobile food premise* licence following written approval from the *Manager*.

## PART 6 - ADMINISTRATION AND ENFORCEMENT

- 6.1 This bylaw shall be enforced on a basis of written complaints, unless the *Manager* is aware of an obvious unsafe condition warranting correction or if the *Mobile Food Premise* is operating in an unpermitted zone.
- 6.2 The *Manager* may assign *Officers* to enforce this Bylaw and *Officers* so assigned or appointed by *Council* to enforce this Bylaw shall have the authority to:
- a) carry out inspections;
  - b) make orders or other requirements as authorized under this Bylaw; and
  - c) give immediate effect to any orders or other requirements made under this Bylaw.
- 6.3 The *Manager* may assign duties or delegate tasks under this Bylaw to be carried out in the *Manager's* absence or otherwise.

## Entry and Inspections

- 6.4 An *Officer* may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act*, 2001 for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) this Bylaw;
  - b) a direction or order made under this Bylaw;
  - c) an order made under s. 431 of the *Municipal Act*, 2001.
- 6.5 An *Officer* may, for the purposes of the inspection under Section 6.4 and in accordance with the conditions set out in section 436 of the *Municipal Act*, 2001:
- a) require the production for inspection of documents or things relevant to the inspection;
  - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - c) require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
  - d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

- 6.6** An *Officer* may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under Section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where he or she has been prevented or is likely to be prevented from carrying out an inspection under Sections 6.4 and 6.5.
- 6.7** No Person shall interfere with or obstruct an *Officer* while performing their duties under this bylaw.

### **Orders including Delivery**

- 6.8** If an *Officer* is satisfied that a contravention of this Bylaw has occurred, he or she may make an order requiring the person who contravened the Bylaw or who caused or permitted the contravention or the *owner* or occupier of the property on which the contravention occurred to do work to correct the contravention.
- 6.9** An order under Section 6.8 shall set out:
- a)** reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
  - b)** the work to be completed;
  - c)** the date or dates by which the work must be completed; and
  - d)** notice that if the order is not complied with, then the work may be done at the expense of the *owner*;
  - e)** notice that if the cost of work plus administration fees are not paid in time, they may be recovered by adding the amount to the tax roll for the Property.
- 6.10** Delivery of an order to discontinue a contravening activity made under Section 6.8 or an order to do work made under Section 6.9 may be given personally or by registered mail to the last known address of:
- a)** the *owner*; and
  - b)** such other persons affected by the order as an *Officer* determines.
- 6.11** In addition to delivery in accordance with Section 6.10, an order to discontinue contravening activity made under Section 6.8 or an order to do work made under Section 6.6 may be delivered by an *Officer* placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
- 6.12** Where a time frame is set out in an order for carrying out any action, an *Officer* may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the *Officer*.

### **Township Carrying Out Work**

- 6.13** Where a person does not comply with a direction or a requirement within an order, under this Bylaw to do a matter or thing, the *Manager*, in addition to all other remedies, may cause the Property to be brought into compliance with this bylaw. For this purpose, the *Manager* with such assistance by others as may be required, may enter onto the Property at any reasonable time without further notice to the *owner* in order to do such work necessary to achieve compliance with this bylaw at the person's expense.
- 6.14** The Township may recover the costs of doing a matter or thing under this bylaw by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an administration fee of 30 per cent (30%). The amount of the Township's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

**Offence**

**6.15** Every person who contravenes any provision of this bylaw is guilty of an offence and, upon conviction, is liable to: Every person who contravenes any provision of this bylaw is guilty of an offence and, upon conviction, is liable to a fine as provided for in section 61 of the *Provincial Offences Act, R.S.O 1990, c. P.33*.

**6.16** Where a person is convicted of an offence under this bylaw, the Ontario court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

**Validity and Severability**

**6.17** If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced *Council* to pass the remainder of the bylaw, and it is hereby declared that the remainder of the bylaw shall be valid and shall remain in force.

**6.18** Where a provision of this bylaw conflicts with the provision of another bylaw in force within the *Township*, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

**6.19** The Clerk of the Township of North Dundas is hereby authorized to make any minor modifications or corrections of an administrative, numeric, grammatical, semantic or descriptive nature or kind to the bylaw and schedule(s) as may be deemed necessary after the passage of this bylaw, where such modifications or corrections do not alter the intent of the bylaw.

**Repeal**

**6.20** On the date this bylaw comes into effect, Bylaw 21-98 as amended shall be hereby repealed.

**6.21** This Bylaw shall come into force upon the date of passing by *Council*.

**Read a first and second time in Open Council, this 7<sup>th</sup> day of February, 2023**

*Original Signed on File*

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

**Read a third and final time and passed in Open Council, signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 2023.**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

## SCHEDULE "A"

### Bylaw No.2023-14: Mobile Food Premise Licence THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS

#### Service Use and Activity Charges

Item	Service or Activity Fee	Fee
1.	<b>Mobile Food Premise Licence.</b> Where an application for a mobile food premise is submitted the fee indicated must be paid in full.	<b>Resident - \$300.00 Non-Resident - \$600.00</b>
2.	<b>1st Order.</b> Where the informal notice has not been complied with, for the first Order issued in respect to any property.	<b>\$ 50.00</b>
3.	<b>Subsequent Orders.</b> Where there has been a previous Order issued, each subsequent Order issued thereafter were issued within three hundred and sixty-five days (365) of previous Order.	<b>\$ 350.00</b>
4.	<b>Township undertakes to complete the work.</b> Where the Township undertakes to complete the work required to comply with any final order.	<b>Cost of the work performed plus an administrative fee of 30%</b>
5.	<b>Certificate of Compliance.</b> Where after inspecting a property, an Officer, may at the request of the Owner, issue the Owner a certificate of compliance.	<b>\$25.00</b>