

The Corporation of the Township of Douro-Dummer

By-law Number 2016-45 Mobile Canteen By-law

Being a By-Law respecting the licencing and regulation of Mobile Canteens by the Township of Douro-Dummer and to repeal By-law 1999-17.

Whereas Section 151 (1) of the Municipal Act S.O., 2001, c.25, as amended, provides that a Municipality may provide for a system of licences with respect to a business;

And Whereas The Corporation of the Township of Douro-Dummer deems it in the public interest to licence and regulate Mobile Canteens for the purpose of Health and Safety to ensure that any Mobile Canteen business operates in a safe, sanitary manner and reflects federal, provincial and municipal regulations;

Now Therefore the Municipal Council of the Township of Douro-Dummer enacts as follows:

1. Interpretation

1.1 In this by-law:

- (a) Applicant: includes an association, organization or corporation making an application for licence;
- (b) Building Department: means the Township of Douro-Dummer Building Inspector;
- (c) Council: means the Council of The Corporation of the Township of Douro-Dummer;
- (d) Clerk: means the Clerk of The Corporation of the Township of Douro-Dummer or designate;
- (e) Eating Establishment: shall mean a commercial establishment where food is prepared therein and is offered for sale, but shall not include a Mobile Canteen;
- (f) Fire Department: means the Township of Douro-Dummer Fire Department, Fire Prevention Division;
- (g) Grant of Licence: means the exercise of the power of the Clerk to confer the privilege of the licence upon the applicant under the Township of Douro-Dummer's Delegation of Powers By-law;
- (h) Holder of a Licence: means the person who is granted the licence by the Clerk;
- (i) Issue of Licence: means the physical act whereby the proper officer for the Township complete all necessary administrative functions to perfect the grant of the licence;
- (j) Mobile Canteens: means any vehicle, whether mechanically propelled or otherwise, from which refreshments are sold for consumption by the public;
- (k) Operate: shall mean the selling or offering for sale of refreshments from such vehicle but shall not preclude the delivery of refreshments.
- (l) 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;

(m) Special Events: shall mean an event, the duration of which is temporary in nature, and shall include, but not be restricted to, Jamboree, Heritage Day celebrations, Canada Day celebrations, auctions and Cottage Association events;

(n) Township: means The Corporation of the Township of Douro-Dummer;

2. General Provisions

- 2.1. The Clerk, as authorized in the Delegation of Powers By-law, may where it is deemed to be expedient and in the best interests of the inhabitants of the Township, grant a licence to an applicant in accordance with the provisions of this by-law.
- 2.2. All licences granted under this by-law shall be issued by the Clerk, and such licence 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 by-law.
- 2.4. Every application for a licence hereunder shall be made in writing upon the application form provided by the Clerk and attached hereto as Schedule "C".
- 2.5. Every application for a licence must be submitted to the Clerk for processing at least seven (7) days prior to commencement of operation and in the case of a special event, at least 21 days prior to the event.
- 2.6. The licence as granted and issued may not be transferred, assigned, conveyed or sold to another applicant or person.
- 2.7. Fees for licences granted under this by-law shall be in accordance with Schedule "A" attached hereto and forming part of this by-law. A licensee shall pay the prescribed fee prior to the issuance of the licence.
- 2.8. The recipient or holder of a licence shall not divest himself or herself of the rights and obligations of said licence.
- 2.9. Compliance with applicable statutes, regulations and by-laws whether provincial or municipal (See Schedule "B" Zoning - attached hereto) shall be deemed to be a condition of all licences issued pursuant to this by-law.
- 2.10. Failure to comply with the terms and conditions of the licence may constitute grounds for revocation of the licence by the Clerk.
- 2.11. All members of council and senior management of the Township shall be provided with a listing of all licences issued or revoked within one (1) week of the issuance/revocation of the licence.

3. Licencing Regulation

- 3.1. A Licence shall be taken out by every person who engages in the business of conducting a Mobile Canteen save and except for:
 - 3.1.1. 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 the Township, in respect of public property, from which such sales are proposed to take place.

3.2. Any person obtaining a Mobile Canteen licence shall be subject to the following regulations and conditions:

3.2.1 The licensee shall keep his/her vehicle and equipment, in the place where the 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.

3.2.2. An inspection is required by the Fire Department. The items that will be inspected and checked are listed on Schedule "D". This inspection and all of its requirements are to be conducted each time a licence is required. If any changes to cooking devices, suppression system, ventilation system or other life safety items are done, a new inspection shall be requested by owner/operator as soon as possible, but not to exceed 10 days.

If items that have been changed affect other agencies listed on Schedule "D", a new inspection report from that agency will be required as requested by the Fire Department.

3.2.3. If the mobile canteen at any time wishes to become non-mobile, an inspection by the Building Department is required and will be subject to a building permit as deemed necessary. The Building Department may assist the Fire Department in material make up or structural integrity, if requested by the Fire Department.

3.2.4. 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.

3.2.5. Prior to beginning operation of a Mobile Canteen, a licensee shall file with the Clerk proof of insurance for public liability in the amount of not less than two million dollars (\$2,000,000.00) with the Township as a named insured. Public Liability shall be inclusive of bodily injuries, property damage and accident benefits, occasioned by any accident out of the operation of the Mobile Canteen in respect of a licence is obtained.

3.2.6. The proof of insurance shall include a provision therein or an endorsement thereof that the Clerk will be given at least ten (10) days notice in writing of any cancellation or expiration in the policy and the Township shall be named as additional insured.

3.2.7. A Mobile Canteen operator, prior to the issuance of a Mobile Canteen licence shall provide an indemnification to the Township whereby the Mobile Canteen operator agrees to indemnify and hold harmless the Township, its agents, servants, employees and officials from any claims, actions or suits which might be brought against said Mobile Canteen operator and the Township arising out of the said operation of the Mobile Canteen in any manner whatsoever or any error, negligence or omission of the Mobile Canteen operation, their agents, servants or employees.

3.2.8. A licensee shall not operate or permit to be operated, a Mobile Canteen on any prohibited area designated by the Township.

3.2.9. No Mobile Canteen shall be parked in any part or on Township property unless prior permission is received from the Township.

- 3.2.10. 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 Township.
- 3.2.11. Every owner of a Mobile Canteen shall ensure that garbage or litter resulting from his or her vending activities 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 and disposed of at an approved waste disposal site.
- 3.2.12. Any advertising shall not be placed on any Municipal, County or Provincial highway without receiving prior approval from the appropriate governing body.
- 3.2.13. Written approval is required to be obtained by the owner of a Mobile Canteen from the road authority having jurisdiction over the roadway (i.e. Ministry of Transportation, County of Peterborough, Township, etc.).
- 3.2.14. Mobile Canteen shall only be operated on private property with the consent of the owners and occupant of the property and, except for special event licences, upon a site zoned in a Commercial zoning category by the Township's zoning by-law.
- 3.2.15. Upon expiry of the licence, Mobile Canteens shall be removed from the site.

4. **Number and Classes of Licence**

- 4.1. Licences will be issued on a first come, first serve basis. Application will not be accepted before the beginning of the calendar year.
- 4.2. Notwithstanding Section. 4.1. above, the Council may authorize the issuance of additional Mobile Canteen licences for special events subject to any rules or regulations Council deems appropriate.
- 4.3. The maximum total number of Mobile Canteens operating in the Township at any one time shall be, as set out in Section 3.25 j) of By-law 1996-10, as amended and attached hereto as Schedule "B".

5. **Penalties**

- 5.1. Except as otherwise provided therein 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 conviction Judge or Justice of the Peace, a penalty not exceeding \$5000.00 for each event exclusive of costs.

6. **Legality**

- 6.1. If any section or sections of this by-law, 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 by-law shall be deemed to be separate and independent therefrom and to be enacted as such.

7. **Repeals**

- 7.1. By-law No. 1999-17 of the Township of Douro-Dummer shall be repealed immediately subsequent to this by-law coming into full force and effect.

8. **Effective Date**

- 8.1 That this by-law shall come into full force and effect immediately upon the passing thereof.

Passed in Open Council this 6th day of September, 2016.

Original Signed
Mayor, J. Murray Jones

Original Signed
Clerk, Crystal McMillan

Schedule “A”
By-law No. 2016-45

1. Chip Truck and Fast Food Vehicle	\$350.00 annual
2. Hot Dog Cart	\$200.00 annual
3. Ice Cream Carts	\$200.00 annual
4. Special Events	\$50.00 per day

Schedule 'B' - Zoning Provisions

3.25 Mobile Vendors and Mobile Canteens

- a) Any person wishing to operate a Mobile Canteen within the Township of Douro-Dummer shall acquire an appropriate licence from the Township and shall be subject to the regulations applicable thereto.
- b) Any mobile vendor who has received a licence to operate a Mobile Canteen within the Township shall ensure that any employee, agent or servant complies with the terms of this By-law.
- c) The mobile vendor shall keep his/her vehicle and equipment, and the place where food is prepared in a clean and sanitary condition in accordance with all applicable Provincial regulations respecting the preparation of such food and the sale thereof.
- d) No Mobile Canteen shall be operated within any portion of a street or road allowance.
- e) A Mobile Canteen may only be operated for the length of time and on property zoned for commercial uses as specified by the licence obtained from Township.

A Mobile Canteen may only be operated on Township property or in park areas with the prior written permission of the Township.

- f) A mobile vendor shall not place any advertising on any public street or road without prior written permission of the governing body. Any advertising utilized incidental to the sale, or offering for sale of food or merchandise shall be affixed to the Mobile Canteen.
- g) Mobile Canteens shall only be operated on private property with the consent of the owner and occupant of the property and if the site is appropriately zoned for the retail sale of food and/or merchandise.
- h) No Mobile Canteen shall be operated on a sidewalk.
- i) No Mobile Canteen shall be operated on a parking lot unless specifically identified on the licence obtained by the vendor.
- j) The maximum total number of Mobile Canteens operating in the municipality at any one time shall be;
 - i) one (1) within the hamlet of Warsaw as shown on Zoning By-law Schedules "B14" and "B15".
 - ii) one (1) within the hamlet of Douro as shown on Zoning By-law Schedule "B17".
 - iii) one (1) within the hamlet of Donwood as shown on Zoning By-law Schedules "B1" and "B2"
 - iv) four (4) within that area of the Township shown on Zoning By-law Schedules "A1" and "A2" and excluding the areas illustrated on Zoning By-law Schedules "B1", "B2", "B14", "B15" and "B17" as identified above.
- k) 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.
- l) The number of mobile vendors or Mobile Canteens shall be limited to one (1) per property.

Schedule "C"
By-law 2016-45
Application for a Mobile Canteen Licence

Name & Address of Mobile Canteen Operator/Applicant: _____

_____ Phone No. _____

Email: _____

Name & Address of Property Owner: _____

_____ Phone No. _____

Email: _____

I/We hereby apply for a permit in order to allow for the operation of the said canteen at:

Location: _____

For the following date(s) or period of time:

From/on _____ to _____

Acknowledgement: I/We hereby acknowledge, if a licence is granted that:

1. The recipient of this licence does not acquire a proprietary or vested interest in the location.
2. This permit may be revoked at any time, by the Clerk, upon notice to the operator of the canteen.
3. The operator shall assume all liability arising out of the operation of the canteen at the above-noted location.

Applied for this _____ day of _____, 20_____.

Signature of Applicant(s)

Indemnification

Whereas a Mobile Canteen operator, prior to the issuance of a mobile canteen licence, shall provide an indemnification to the Township of Douro-Dummer whereby the mobile operator agrees to indemnify and hold harmless the Township of Douro-Dummer and its employees, agents, servants, and officials;

Now Therefore I/We, _____
Name & complete Address of Mobile Canteen Operator

hereby covenant and agree to indemnify and hold harmless the Township of Douro-Dummer, its employees, agents, servants and officials from any claim, actions, damages, suits, or loss (including legal costs) which might be brought against the said mobile canteen in any manner whatsoever, or any error, negligence or commission of the mobile canteen operator, their agents, servants, or employees. This indemnity is provided incidental to a grant to licence to operate such mobile canteen.

Dated at the Township of Douro-Dummer this _____ day of _____,

Signature of Mobile Canteen Operator(s)

Signature of Clerk

Schedule "D"
By-law 2016-45
List of Materials required with Mobile Canteen Application

List of Materials required with Mobile Canteen Application - Failure to supply such will result in the application being denied.

- ☐ Proof of inspection by the Peterborough County-City Health Unit.
- ☐ Proof of Liability Insurance coverage – minimum \$2,000,000.00 – including a provision that the Clerk will be given at least ten (10) days notice in writing of any cancellation and or expiration of the policy.
- ☐ Indemnification for the Township of Douro-Dummer (see application form)
- ☐ If the Mobile canteen is to be located on property other than that owned by the operator of the Mobile Canteen, written authorization from the owner allowing such unit to be placed on the property.
- ☐ Letter of approval from the appropriate road authority.
- ☐ Fire department to inspect and/or ask to provide documentation for the following:
 - Commercial cooking operations as per NFPA 96 to current standard as referenced in the current Ontario Fire Code.
 - New installation or first time mobile canteen is located in Douro-Dummer, a suppression system balloon test is required to be witnessed by fire department.
 - Posting of emergency procedures, including the 911 number for the location of the mobile canteen (or closest 911 number if one has not already been assigned to the property).
 - Fire Extinguisher
 - ABC or other specific fire extinguisher for other site specific hazards
 - Class K for suppression system support

Copy of TSSA inspection form, attached
Copy of electrical Inspection

Fire Department Approval Date: _____
Name and Title (please print):_____
Signature: _____

- ☐ Letter of approval from the Township’s Chief Building Official, or designate
- ☐ A site plan, showing the proposed location of the mobile canteen in relation to the following:
 - All adjacent buildings
 - All property Lines
 - All roads/streets/highways
 - Distance to nearest eating establishment within the Township (must be more than 100 metres)
- ☐ All other information as deemed to be necessary by any Officer of The Corporation of the Township of Douro-Dummer.

Appropriate Fee Received: _____
Date approved/denied: _____
Date of Expiry: _____
Approved by: _____ Signature:_____