

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

BY-LAW NO. 15-110

BEING a by-law respecting the licensing, regulating and governing of vehicles carts and seasonal stands from which refreshments and/or prepared food are sold for consumption by the public.

WHEREAS pursuant to The Municipal Act 2001(S.O. 2001, c.25), Section 150, a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality for health and safety and consumer protection purposes;

AND WHEREAS the Council of the Corporation of the Municipality of Mississippi Mills deems it desirable to license and regulate vehicles and seasonal stands from which refreshments and / or prepared food are sold for consumption by the public for safety and consumer protection purposes;

NOW THEREFORE the Council of the Corporation of the Municipality of Mississippi Mills **ENACTS AS FOLLOWS:**

1. **DEFINITIONS:**

Mobile Canteen means any vehicle of any kind that is equipped for the preparation, storage, heating, cooling or sale of foodstuffs or beverages with or from the vehicle. Such vehicle shall be mobile at all times, meet all applicable requirements of the Highway Traffic Act of Ontario R.S.O. 1990, Chapter H. 8 and can be moved from place to place;

Chief Building Official means the person so appointed by the council of the Corporation of the Municipality of Mississippi Mills;

Clerk means the person so appointed by the council of the Corporation of the Municipality of Mississippi Mills;

Municipality means the Corporation of the Municipality of Mississippi Mills;

Refreshment shall mean all food stuff or beverages either prepared on site or pre-packaged and intended for consumption by the public. Refreshments shall include, but not be limited to, French fries, hamburgers, onion rings, pogos, hotdogs, sausages, sandwiches, popcorn, ice cream, candy, confections and fresh produce.

Refreshment Cart shall mean a mobile vehicle propelled by human muscle power from which refreshments are sold for consumption by the general public. A main body of the refreshment cart shall not exceed the following dimensions: 3 metres in length, 1.5 metres in width and 2.5 metres in height, measured from the ground upward.

Seasonal Stand means any building or part thereof, stand or shed of any kind that is equipped for the preparation, storage, heating, cooling or sale of foodstuffs or beverages on a seasonal basis;

Site Plan means a plan (drawing) to scale showing details and items relevant to this by-law.

LICENSE REQUIREMENTS

2. No person shall operate a mobile canteen, refreshment cart or seasonal stand within the Municipality without having a valid license issued by the Municipality and having paid a license fee for the same, where applicable.
3. Any licensed mobile canteen, refreshment cart or seasonal stand shall be operated within any general and specific conditions of the license.
4. All licenses shall be issued subject to the following conditions, which shall apply whether or not they are physically endorsed on the license, itself.
 - a. The license shall be valid only for the owner/operator or the mobile canteen, refreshment cart or seasonal stand for which it is issued;
 - b. The license may be transferred to a new owner providing the new owner applies to the municipality for a transfer license and pays a transfer license fee;
 - c. Any individual owner may be issued more than one license;
 - d. The license shall be valid for the calendar year of issue;
 - e. The license shall be on display in or on the mobile canteen, refreshment cart or seasonal stand and shall be made available for inspection at any time.
5. Before a license is issued under this by-law, the applicant shall:
 - a) New applicants and renewal applicants, where changes to an approved site plan are made, must present a Site Plan showing details of the proposed site which shall include exact location, closest neighbours, roads, sign locations, approved electrical or other utility hook-ups and other specific details, as required;
 - b) indicate what provision will be made for:

- i. garbage receptacles,
 - ii. garbage removal,
 - iii. washroom facilities for the public and staff;
 - iv. parking – note: must have three (3) parking spaces or demonstrate that on-street parking in close proximity is available
 - v. recycling, and
 - vi. general cleanliness and tidiness of the site and surrounding area;
- c) present written approval of the Medical Officer of the Lanark, Leeds and Grenville District Health Unit that the mobile canteen or seasonal stand has been inspected and has met all health requirements;
- d) present a letter of compliance from the Fire Chief of the local Fire Department;
- i. present a letter from a qualified propane fitter (where propane is to be used) showing evidence of an inspection for compliance under the Ontario Propane Code;
 - ii. seasonal stands will present a letter from the Chief Building Official of the Municipality showing compliance to the Building Code, and
- e) The operator shall at their own expense, obtain and maintain until the termination of the permit or otherwise stated, and provide the Municipality with evidence of:

i. Commercial General Liability Insurance

Commercial General Liability Insurance issued on an occurrence basis for an amount of not less than \$2,000,000. per occurrence / \$2,000,000. annual aggregate for any negligent acts or omissions by the operator relating to their obligations under this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property & operations; non-owned automobile; broad form property damage; products & completed operations; owners & contractors protective; occurrence property damage; employees as Additional Insured(s); contingent employers liability; tenants legal liability; cross liability and severability of interest clause

Such insurance shall add the Corporation of the Municipality of Mississippi Mills as Additional Insured. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Municipality.

ii. Automobile Liability Insurance

Automobile liability insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than \$2,000,000. inclusive for each and every loss.

The Policies shown above shall not be cancelled unless the Insurer notifies the Municipality in writing at least thirty (30) days prior to the effective date of the cancellation. The insurance policy will be in a form and with a company which are, in all respects, acceptable to the Municipality.

iii. Indemnification

The operator shall indemnify and hold Corporation of the Municipality of Mississippi Mills harmless from and against any liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by any negligence acts or omissions whether willful or otherwise by the operator, their officers, employees or other persons for whom the operator is legally responsible.

6. No mobile canteen, refreshment cart or seasonal stand may be set up on any Provincial or County Road Allowance except by written permission of those authorities.
- a. In Almonte Ward, mobile canteens or seasonal stands are only permitted on Commercial and Industrial Zoned properties and must meet the setback provisions of those zones. Use of the North Lanark Agricultural Society Fairgrounds or properties own by School boards may be used for special events, festivals, etc.
 - b. In Pakenham and Ramsay Wards, mobile canteens or seasonal stands are permitted on properties in all zone classifications except on public road allowances.
 - c. Refreshment carts may be permitted within the municipal right of way at a location approved by the Municipality. Refreshment carts must be removed each day from the approved location no later than 9:00 p.m.
 - d. Mobile canteens, refreshment carts or seasonal stands may be permitted in Municipality owned parks or property provided Council permission is obtained prior to applying for a license.
 - e. No person shall operate a mobile canteen, refreshment cart or seasonal stand closer than 30 metres to an eating establishment. Should the owner

of a mobile canteen, refreshment cart or seasonal stand wish to locate the said canteen or stand closer than 30 metres to an eating establishment, written acknowledgement from the affected eating establishment's owner shall be filed with the application indicating that they have no objection to the canteen, cart or stand locating within the 30 metre distance requirement.

SPECIAL OCCASIONS

7. A refreshment cart or mobile canteen licensed under the provisions of this by-law:
 - a. may appear at an auction sale or other private event, provided that the cart or canteen is on private property or on an adjacent road allowance in a location where its operation will not cause a traffic problem.
 - b. may visit construction and quarry operations and other commercial and industrial operations within the Municipality, with appropriate permissions, for periods of one hour or less at any one time.
 - c. may appear at a community event provided that the refreshment cart or mobile canteen is on the site of the event with the approval of the organizers of the event and not on any public road or road allowance.
8. All conditions in Sections 4 & 5 (with the exception of Section 5a) shall apply to Sections 7, 8, 9.
9. Sheds or portable washrooms of any kind, auxiliary to a mobile canteen are not permitted.

FEES

10. License fees are set out in the Municipality's Fee By-law which are adopted from time to time by Council. The fees shall be paid at the time of issuance or renewal of the license, where applicable.
11. Notwithstanding Section 10, those seasonal stands assessed and taxed by the Municipality shall be exempt from license fees charged under this by-law.
12. Licenses shall be issued by the Clerk of the Municipality upon satisfaction of all applicable conditions.
13. Applications may be referred to Council for further consideration before being granted.

14. The Municipality is not necessarily required to issue or renew any license, under this by-law. The Municipality may take advice from the Ontario Provincial Police, the Director of Roads and Public Works, the County of Lanark, the Ministry of Transportation and any other source in reaching decisions about any special conditions to be attached to a license.
15. The Municipality may revoke a license by resolution, if Council is satisfied that public interest would be served by such action. The resolution shall state the reasons for such revocation of license and fee to be returned, if any, to the licensee.

SEVERABILITY

16. 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 influences Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

PENALTIES

17. Any person contravening the provisions of this by-law is guilty of an offence, and the procedure with respect thereto and penalty upon conviction therefore shall be as provided for under The Provincial Offences Act, R.S.O. 1990, Chapter P. 33 as amended.

ENACTMENT

18. This By-law shall come into force and take effect on the day of its passing.

REPEAL

19. By-law 07-33, and any other by-laws inconsistent with this by-law are hereby repealed.

BY-LAW READ passed, signed and sealed in open Council this 6th day of October, 2015.

Shaun McLaughlin, Mayor

Shawna Stone, Clerk