

THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

BY-LAW NUMBER 51 OF 2019

BEING A BY-LAW TO PROVIDE FOR THE LICENSING, REGULATING

AND GOVERNING MOBILE FOOD AND REFRESHMENT

SERVICE EQUIPMENT

WHEREAS Subsection 5(3) of the *Municipal Act, 2001, S.O. 2001, C.25* provides that a municipal power shall be exercised by by-law; and

WHEREAS Section 9 of the *Municipal Act, 2001, S.O. 2001, C.25* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001* or any other Act; and

WHEREAS subsection 10(1) of the *Municipal Act, 2001, S.O. 2001, C.25* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public; and

WHEREAS pursuant to the provisions of Part IV of the *Municipal Act, 2001, S.O. 2001, C.25* as amended, a municipality may pass by-laws for licensing, regulating and governing businesses; and

WHEREAS Sections 150 through 153 of the *Municipal Act, 2001, S.O. 2001, C.25* authorizes Council to licence, 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 the Council of the Corporation of the Municipality of Lambton Shores chooses to exercise its discretion to licence the operation of mobile food and refreshment service equipment within the Municipality of Lambton Shores;

THEREFORE the Council of the Municipality of Lambton Shores enacts as follows:

1. DEFINITIONS:

In this by-law:

“By-Law Enforcement Officer” shall mean a person duly appointed by the Corporation of the Municipality of Lambton Shores for the purpose of enforcing or carrying out the provisions of Municipal by-laws or his designate;

“Corner Visibility Triangle” means the portion of a corner lot within the triangular area formed by measuring 7.5 metres (25 feet) in each direction from the point where two property lines intersect at the street lot line corner;

“Driveway” means a vehicle access provided between a street and a parking area/space or a loading space;

“Driveway Visibility Triangle” means the triangular area formed by measuring 4.5 metres (15 feet) down the driveway and 4.5 metres down the side lot line abutting a street.

“Highway” or “Street” shall include a common and public highway, street, avenue, boulevard, crescent, cul-de-sac, court, parkway, driveway, square, place, shoulder, bridge, viaduct, or trestle, or the like, 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.

“Licence” means a licence issued pursuant to this by-law;

“Licencee” means the holder of a licence;

“Mobile Food and Refreshment Service Equipment” means any vehicle or device from which food or refreshment is prepared and sold, or consumption by the public, that is capable of being moved, including Chip Trucks, Mobile Canteen, and Food Truck;

“Municipality” shall mean the Corporation of the Municipality of Lambton Shores

“Owner” shall mean the owner or operator of the mobile food and refreshment service equipment.

“Person” shall include a corporation, partnership or organization;

“Road Allowance” shall mean all allowances for roads, except insofar as they have been stopped up according to law, made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them or on which statute labour has been usually performed, all roads dedicated by the owner of the land to the public use and all alternations and deviations of all bridges over any such allowances for highway or road.

“Roadway” means that part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadway collectively.

“Shoulder” means the un-travelled portion running along either side of a highway.

“Site Plan” means a drawing of a site which includes all the applicable measurements of the mobile food and refreshment service equipment and the surrounding area within 100 metres of the site and on which all buildings and structures, streets, and services are indicated.

2. LICENCE REQUIRED

2.1 Every person carrying on a business using mobile food and refreshment service equipment shall obtain a licence from the Municipality authorizing them to carry on that business. This section is subject to any exemption provided for within this by-law. No person shall, either directly or indirectly, carry on or continue to carry on a business, either for profit or not for profit, without first having obtained the required licence. Failure to comply is an offence.

2.2 A person who operates mobile food and refreshment service equipment shall comply with the regulations set out in this by-law. Failure to comply with the regulations is an offence.

2.3 No person shall operate mobile food and refreshment service equipment on municipal property for a special or private event without the written authorization from the Municipality or a rental agreement with the appropriate department and an inspection report from the Municipality’s Fire and Emergency Services Department indicating that the mobile food and refreshment service equipment complies with the requirements of Schedule “A”.

3. LIMITATIONS AND RESTRICTIONS

3.1 Mobile food and refreshment service equipment will not be permitted within the former Village of Grand Bend.

3.2 The annual number of licences issued to permit the operation of mobile food and refreshment service equipment shall be limited to a maximum of six (6) with a maximum of 1 in each of the following areas: (See Schedule “D”i)

- i) Forest
- ii) Arkona
- iii) Thedford
- iv) Port Franks/Northville
- v) Ravenswood/Ippeewash
- vi) North of the Cut Bridge

Previous licencees will be given the first opportunity to re-apply for licences, but must reapply before April 15 of each year, otherwise licences will be issued on a

first come, first serve basis, commencing March 1 of each year. If more than 1 permit application for an area is received simultaneously, the permit will be issued based on drawing of lots from the completed applications submitted.

- 3.3 No mobile food and refreshment service equipment will be permitted to locate within 100 metres of an existing restaurant that meets the definition of a “Restaurant”, “Restaurant, Drive Through Service Facility” and “Restaurant, Fast Food” in the zoning by-law, unless a letter of permission is provided from the abutting restaurant facility owner, stating that he/she has no objection to the mobile food and refreshment service equipment.
- 3.4 Prior to beginning operation of the mobile food and refreshment service equipment on land which abuts a highway under the jurisdiction of the Province of Ontario, or is within the distance of a highway which is regulated by the Province of Ontario through the Ministry of Transportation, the licensee shall provide written confirmation of acceptance of the intended location from the Ministry.
- 3.5 Notwithstanding Section 2 and 3.2 of this by-law, mobile food and refreshment service equipment that is to be erected for a period of less than 4 days, not on municipal property, and used in conjunction with a special event is not subject to the requirements of this by-law.

4 GENERAL REQUIREMENTS

- 4.1 Mobile food and refreshment service equipment may only operate from a commercially zoned property, and must comply with the setback requirements for the zone.
- 4.2 The owner of the mobile food and refreshment service equipment shall provide on-site parking spaces in accordance with the zoning by-law requirements.
- 4.3 No mobile food and refreshment service equipment shall be located:
- i) on any highway or street, road allowance, roadway or shoulder;
 - ii) within a “corner visibility triangle” or a “driveway visibility triangle”
- 4.4 The owner of the mobile food and service equipment must provide adequate trash receptacles at the site on which the mobile food and refreshment service equipment is located and shall maintain the site in a clean and sanitary condition at all times
- 4.5 The owner of the mobile food and refreshment service equipment shall ensure that washroom facilities are available for patrons and staff.

5 APPLICATION FOR A LICENCE

5.1 Every application for a licence to operate mobile food and refreshment service equipment shall be made on the standard application form, attached as Schedule “B” to this by-law, and shall include the required fee, as listed on Schedule “C” to this by-law. Both Schedules being attached to and forming part of this by-law.

5.2 Acceptance of the licence fee does not constitute approval of the application or obliges the Municipality to issue a licence.

5.3 Every fee paid under 5.1 is refundable if the licence applied for is not granted.

5.4 Every application submitted must be accompanied by a site plan drawing. No licence shall be granted until the site plan has been approved by the Municipality. The site plan is to be drawn to scale, and shall include:

- i) proposed location of unit on the property, including set back from property line and road allowance;
- ii) the location and number of proposed parking spaces;
- iii) proposed access to the property from the highway;
- iv) location of trash receptacles;
- v) washroom facilities

Depending on the specifics with respect to location, additional information may be required on the site plan.

5.5 Before a licence under this by-law is issued by the Municipality of Lambton Shores, the owner shall meet with the By-law Enforcement Office and/or Planner to review the intended site.

5.6 The application is to include information on:

- i) fuel source;
- ii) water supply and disposal, including grey water;
- iii) grease disposal methods, and;
- iv) water disposal arrangements.

5.7 The applicant shall include with his/her application:

- a) A certificate from the Lambton County Community Health Services confirming that the mobile food and refreshment service equipment has passed a sanitary inspection under the “Ontario Regulation 562 – Food Premises R.R.O. 1990”, or *its successor*, valid for the year in which the permit is to be issued.

- b) A propane or gas fired system is to be used, an inspection certificate by a Technical Standards & Safety Authority certified gas technician as required under the “*Technical Standards and Safety Act*” or its successor, valid for the year in which the permit is to be issued.
- c) If an inspection report from the Fire Chief or his designate, stating that the unit complies with the requirements of Schedule “A”, valid for the year in which the permit is to be issued.
- d) Proof that the owner has obtained a minimum of two million dollars (\$2,000,000.00) liability insurance for the operation of the mobile food and refreshment service equipment, valid for the year in which the permit is to be issued.
- e) If the mobile food and refreshment service equipment is located on land not owned by the mobile food and refreshment service equipment owner, a letter from the owner of the property on which the mobile food and refreshment service equipment will be situated, authorizing the applicant to conduct such business from the property, valid for the year in which the permit is to be issued.

6 GENERAL PROVISIONS

- 6.1 The granting of a licence under this by-law does not constitute permission for the licensee to operate in contravention of any by-law or statutory requirements.
- 6.2 For the purpose of enforcement of the provisions of this by-law, the by-law officer may enter upon land and into buildings at any reasonable time without a warrant.
- 6.3 Any licence granted hereunder may be revoked at the discretion of the Municipality of Lambton Shores if the provisions and policies contained herein are not adhered to by the holder of the said licence at all times.
- 6.4 Every licence issued pursuant to this by-law shall be valid until the 31st day of December in the year in which the licence was issued, or until the said licence is revoked or suspended. No refund of the licence fee shall be paid if the licence is revoked or suspended.
- 6.5 A person to whom a licence is granted may apply in writing to the Municipality for permission to have his licence transferred to another mobile food and refreshment service equipment or to another owner, and such permission will not be unreasonably withheld. In order to transfer a licence, the current licence is to be surrendered to the Municipality and a transfer fee paid as listed on Schedule “C”.

7 OFFENCES

In accordance with the Municipal Act, S.O 2001, C.25, Section 429 of every person who breaches a section of this By-law is guilty of an offence and subject to a fine as provided in Schedule “E” attached to and forming part of this by-law.

8 THAT By-laws 99 of 2007 and 16 of 2013 are hereby repealed.

READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED this 18th day of June, 2019.

Mayor

Clerk

**SCHEDULE “A” to By-law 51 -
2019**

Requirements for Fire Department Approval

The following requirements must be met for Fire Department approval of mobile food and refreshment service equipment, which utilizes equipment for the cooking of food;

1. A carbon monoxide detector shall be mounted as low as possible on the inside of the mobile food and refreshment service equipment away from direct wind;
2. One ABC dry chemical extinguisher of a minimum rating per unit of 3A:10BC;
3. The fire extinguisher shall be mounted in accordance with the requirements of Ontario Fire Code Section 6.2.1.4 (1);
4. All mobile food and refreshment service equipment that produces grease laden vapours during food preparation shall be equipped with an exhaust hood / suppression system / Type “K” extinguisher that complies with NFPA 96

SCHEDULE "B" to By-Law 51-2019
MUNICIPALITY OF LAMBTON SHORES
APPLICATION TO OPERATE MOBILE FOOD AND
REFRESHMENT EQUIPMENT

New Business ____ Renewal ____

APPLICANT-BUSINESS IDENTIFICATION

Name of Applicant(s) : _____

Name of Unit Owner (if different from above)

Address of Applicant _____

Mailing Address (if different) _____

Town: _____

Postal Code: _____

Telephone Number: Home _____

Business _____

Type of vehicle to be used: _____

VIN Number: _____

Proposed location: _____

Owner of the property: _____

I/We, the registered owner(s) of the business, hereby acknowledge and certify that:

I/We have read and understand the requirements of the licensing, regulating and governing by-law, and the information pertaining to the business licence for which I/we have applied.

The information contained in this application is true and complete to the best of my/our knowledge and that failure to provide complete or accurate information may delay the licensing process;

(If required – Section 3.4)

Attached ____

SCHEDULE “C” to By-law 51-2019

Licence Fees:

The annual licence fee for Mobile Food

and Refreshment Service Equipment : \$ 500.00

Fee to transfer licence: \$100.00

SCHEDULE “D” to By-law 51 - 2019

1. Forest – The Former Town of Forest;
2. Arkona – The Former Village of Arkona, plus both sides of Rock Glen Road, and that area annexed from the Township of Warwick
3. Thedford – The Former Village of Thedford
4. Port Franks –Northville – The area comprised of the lands bounded by Outer Drive, both sides of Highway 21 (Lakeshore Road), Ausable River Cut, and Lake Huron.
5. Ravenswood/Ipperwash - The area comprised of the lands bounded by West Ipperwash Road, both sides of Highway 21 (Lakeshore Road), Army Camp Road, and Lake Huron.
6. North of the Ausable Cut Bridge – The area comprised of the lands bounded by The Ausable River cut, both sides of Highway 21 (Lakeshore Road), the limits of the former Village of Grand Bend and Lake Huron.

SCHEDULE "E" to By-law 51-2019
PART 1 PROVINCIAL OFFENCES ACT
SET FINES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE	COLUMN 3 SET FINE
1.	Carrying on a business using food and refreshment service equipment without obtaining a licence	2.1	\$500.00
2.	Operating a business using food and refreshment service equipment in contravention of by-law.	2.2	\$100.00