

#### **CORPORATION OF THE TOWN OF GANANOQUE**

BY-LAW NO. 2015 - 012

## CONSOLIDATED – AS AMENDED

A BY-LAW OF THE CORPORATION OF THE TOWN OF GANANOQUE TO REGULATE TRAFFIC AND PARKING ON ROADWAYS.

THIS BYLAW IS PRINTED UNDER AND BY AUTHORITY OF THE COUNCIL OF THE TOWN OF GANANOQUE.

AMENDING BYLAWS: 2015-075 (SECTION 1.4.3 AND 6.12.3) 2016-080 (SECTION 1.5, 1.21, 2.3.4, 6.12.1, 6.13.4, 7.2)

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# THE CORPORATION OF THE TOWN OF GANANOQUE BY-LAW NO. 2015 - 012

#### BEING A BY-LAW TO LICENSE, REGULATE AND GOVERN MOBILE CANTEENS

The Council of the Town of Gananoque considers it desirable and necessary to licence, regulate and govern mobile canteens for the purposes of Consumer Protection, to enhance and encourage equal, fair and courteous treatment of clients in providing services, promote accountability, support proper and good business practices;

NOW THEREFORE the Council of the Corporation of the Town of Gananoque enacts as follows:

#### 1. DEFINITIONS:

- 1.1. **Additional Fee** means a fee, in addition to the Licence Fee, imposed by the Town on a License Holder during the term of the Licence for costs incurred by the Town that are attributable to the activities of the operation of a mobile canteen.
- 1.2. **By-law Enforcement Officer** or his or her designate shall mean a person appointed by Council for the purposes of enforcing the by-laws of the Municipality.
- 1.3. **Chief of Police** shall mean the Chief of Police of the Gananoque Police Department or his/her designate as appointed by the Town;
- 1.4. Council means the Council of the Corporation of the Town of Gananoque
- 1.5. **Development Permit Bylaw or Designation** shall mean a bylaw enacted under the Planning Act that designates and restricts the use of the land. (**As Amended by Bylaw 2016-080**).
- 1.6. **Grocery Store** shall mean a store, in which various kinds of food products are offered or kept for retail sale, including fresh, frozen, prepared and preserved groceries, meats, poultry, fish, fruit, vegetables, beverages, garden produce, dairy produce, bakery products and flowers.
- 1.7. Hot Food means foods such as hot dogs, sausages, hamburgers and/or similar hand-held sandwiches prepared on a grill or a barbecue on site and does not include any foods prepared using quantities of cooking oils in fryers and/or other cooking devices.
- 1.8. **License Fee** means the fee set out in the General Fees and Rates Bylaw that is required to be paid to the Town for a new license or a licence renewal.
- 1.9. **License Holder** shall mean the person to whom the license as been issued to under this Bylaw.
- 1.10. Licensed Premises shall mean the premises referred to in a license.

- 1.11. **Locally Grown** is defined as home-grown or home-produced within 100 km of the municipal boundaries of the Town of Gananoque. Preference is given to vendors within 40 km of the municipal boundaries.
- 1.12. Manager of Community Development shall mean a person managing the licensing of mobile canteens as appointed by the Town or his/her designate as appointed by the Town.
- 1.13. **Medical Officer of Health** shall mean the Medical Officer of Health for Leeds, Grenville and Lanark District Health Unit or his or her designate.
- 1.14. **Mobile Canteen** shall mean any one of the following:
  - 1.14.1. Type A) a motorized or towable vehicle selling food which has been prepared on the vehicle or at a place approved by the Leeds, Grenville and Lanark District Health Unit and is designed to sell food from a fixed location;
  - 1.14.2. Type B) a motorized vehicle selling food which has been prepared on the vehicle or at a place approved by the Leeds, Grenville and Lanark District Health Unit and is designed to be a transient food selling location;
  - 1.14.3. Type C) a vehicle designed to be operated from the interior or exterior and no greater than 100" in length which is towed to its location designed to sell cold products which has been prepared on the vehicle, pre-packed or at a place approved by the Leeds, Grenville and Lanark;
  - 1.14.4. Type D) a vehicle designed to be operated from the exterior and no greater than 100" in length which is towed to its location designed to sell hot food which has been prepared on the vehicle or at a place approved by the Leeds, Grenville and Lanark District Health Unit; (As Amended by Bylaw 2015-075)
  - 1.14.5. Type E) a vehicle designed to be operated from the exterior and no greater than 100" in length which is towed to its location designed to sell frozen ice cream products which has been prepared on the vehicle or at a place approved by the Leeds, Grenville and Lanark
  - 1.14.6. Type F) a stand or motorized vehicle selling fruits, vegetables and/or flowers only and is designed to sell from a fixed location. Only locally grown produce shall be permitted;
- 1.15. Next-in-Line List shall mean a list of individuals' written interest in obtaining a mobile canteen license which is dated by the Manager of Community Development upon receipt.
- 1.16. **Person** shall mean a person, firm or corporation.
- 1.17. **Producer-defined** shall mean home-grown or home-produced products being sold by another locally grown vendor whereby the producer is identified by name, address and phone number.
- 1.18. Restaurant shall mean and include any premise where food is prepared

- and/or offered for sale or sold to the public for immediate human consumption either on or off the premises, but does not include a grocery store or a Mobile Canteen as defined herein.
- 1.19. Special Event shall mean an event which is sponsored, authorized or conducted by the Town, or on behalf of the Town, or on behalf of a registered not-for-profit organizations or registered charity or other community group with the approval of Council or the Manager of Community Development.
- **1.20. Successor** shall mean the person to whom the license holder has transferred his/her license to.
- 1.21. **Criminal Background Check** is a screening process by the local police department and is usually required for bylaw licences, employment or immigration purposes. (**As Amended by Bylaw 2016-080**)

## 2. LICENSING

- 2.1. No person shall operate any Mobile Canteen within the Town from which refreshments are sold, for consumption by the public without obtaining a license annually from the Corporation of the Town of Gananoque.
- 2.2. Applications for any type of License to be issued pursuant to this By-law thereof shall be upon such form(s) as shall be provided by the Town and other such material and information as is required by this By-law.
- 2.3. All applications submitted for a Mobile Canteen License shall include the application along with the following information:
  - 2.3.1. Proof that the vehicle being used is properly licensed by the Government of Ontario, if applicable.
  - 2.3.2. Permission of the landowner
  - 2.3.3. Proof of insurance as per Section 4.
  - 2.3.4. A Criminal Background Check for all employees dated within one month of the approved application. (As Amended by Bylaw 2016-080).
  - 2.3.5. Application fee as set out in the General Fees and Rates Bylaw and referred to in Section 2.7
- 2.4. Prior to being issued a mobile canteen license, the type and number of licenses issued annually shall be as per Schedule "A" hereto attached.
- 2.5. All license applications shall be reviewed and approved annually by Council.
- 2.6. Preference will be given in any given year to the holder of the same license from the previous year to the Mobile Canteen for which the license is applied, provided such holder to the Mobile Canteen for which the licence is applied meets all of the requirements to obtain a licence as described herein.
- 2.7. The owner of the Mobile Canteen shall submit a complete Mobile Canteen application and necessary approvals and shall include a deposit of 25% of the fee payable for the said licence no later than the close of the first business day in March of the year for which the licence is being applied. The remaining fees shall be payable no later than the first business day in June of

- the year for which the licence is being applied.
- 2.8. Notwithstanding Section 2.7 the owner of the mobile canteen is responsible to make payment for any or all applicable fees. It is not the responsibility of the Town to seek payment of any applicable fees.
- 2.9. Fees are not applicable for any non-profit organizations participating in special events not exceeding ten (10) consecutive days. Exemption from fees may be granted for special events by way of Council or by approval of the Manger of Community Development.
- 2.10. The mobile canteen owner shall have at all times on display the license granted by the Town and shall present this license on demand for inspection by any Bylaw Enforcement Officer and/or Chief of Police.
- 2.11. A license shall not be assigned or transferred.
- 2.12. All licenses shall be for the calendar year in which it is issued and shall expire on the 31<sup>st</sup> day of December of that year.

## 3. REFUSAL TO RENEW/ISSUE A LICENSE

- 3.1. An applicant whose application meets all the requirements of this by-law is entitled to the issuance or renewal of a licence except where the license issuer is of the opinion that one or more of the following has or may occur:
  - 3.1.1. Past conduct of the applicant affords reasonable grounds for belief that the issuance of a licence would be adverse to the public interest in respect of the health and safety of any person, a nuisance affecting any land or person in the Town or Canada, or the protection of any consumer;
  - 3.1.2. Any application or other document provided to the License Issue by or on behalf of the Applicant or Licensee contains a false statement or provides false information.
  - 3.1.3. The applicant is carrying on activities that are, or would be, if licenced, in contravention of this bylaw, any other by-law, or federal or provincial statute;
  - 3.1.4. The conduct of the applicant affords reasonable grounds for belief that the applicant has not carried on, or will not carry on, his or her mobile canteen in accordance with law and with integrity and honesty;
  - 3.1.5. The application is not a complete application as per Section 2.3.
  - 3.1.6. The fee payable for the license has not been paid.

## 4. INSURANCE

- 4.1. The operator shall at their own expense prior to the commencement of work, obtain and maintain until the termination of the contract or otherwise stated, provide the Town with evidence of:
  - 4.1.1. 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

- 4.1.1.1. Such insurance shall add the Corporation of the Town of Gananoque as Additional Insured. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Town.
- 4.1.2. 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.
- 4.2. The Policies shown above shall not be cancelled unless the Insurer notifies the Town 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 Town.

## 5. INDEMNIFICATION

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

## 6. GENERAL REGULATIONS:

- 6.1. All Mobile Canteens shall be located on private property, unless otherwise noted in this by-law.
- 6.2. Mobile Canteens are permitted in Progressive Commercial, Gateway Commercial or Employment lands as per the Development Permit Bylaw, as amended or its successor with exception to the Employment Lands identified as 400 Nalon Road or 290 Fourth Street or as otherwise identified in this bylaw.
- 6.3. No Mobile Canteen shall be parked or located at any time for the purpose of selling food in a location other than a location approved by the Town of Gananoque at the time of issuance of the license with the exception of a Type B and Type C Mobile Canteen.
- 6.4. Existing license holders located on publicly owned property may not operate during the months of November to March inclusive and shall be removed

- from the site no later than 10:00 PM on a nightly basis.
- 6.5. No Mobile Canteen shall have affixed to it any ornaments, decoration, or any other fixture that gives it the appearance that it is a permanent structure. Such items include, but are not limited to lattice, plywood or any other skirts, etc.
- 6.6. No mobile canteen shall be parked for the purpose of selling food or other refreshments within 30 metres (98 feet) of a building containing a restaurant or another mobile canteen as defined in this by-law.
- 6.7. The issuance of a license does not act to exempt license holders from the provisions of the Highway Traffic Act and all traffic and parking bylaws of the Town, or of the necessity for licensing and assuring that vehicles are road worthy as provided by the provisions of the Highway Traffic Act and other applicable legislation.
- 6.8. Every mobile canteen shall at all times be roadworthy and shall be licensed by the Ministry of Transportation under the provisions of the Highway Traffic Act.
- 6.9. Mobile Canteen Type A:
  - 6.9.1. No Type A Mobile Canteen shall be located on publicly owned property.
  - 6.9.2. Notwithstanding Section 6.6 of this By-law, Type A mobile canteens may be located within 30 metres (98 feet) feet of a building containing a restaurant provided written acknowledgement is obtained from the owners of the affected restaurant as defined in this by-law.
  - 6.9.3. Notwithstanding Section 6.9.1 two Type A Mobile Canteens are permitted on publicly owned property; one located in the Town Park at 30 King Street East and the second at the corner of Charles Street N and Stone Street N provided:
    - 6.9.3.1. The license holder shall be required to meet all conditions of the By-law and shall not be permitted to sell to any other person. The conditions of this amendment will apply only to the existing vehicle and will not be transferable to another (second) purchaser or vehicle.
    - 6.9.3.2. Should the Town require the public property to meet its' obligations, the use of the location may be terminated at the end of a year without penalty to the Town or the need to provide the owner with an alternate location.
    - 6.9.3.3. Notwithstanding Section 6.6 of this by-law, if a restaurant moves to within 30 metres (98 feet) of an existing Type A Mobile Canteen located on public property, the licensee having rights to that location shall be allowed to remain at that location until such time as the licensee chooses not to renew his/her license. Alternate locations on public property will not be permitted.

6.9.4. Where a Type A Mobile Canteen is located on private property, it is required to have a Class I under the Development Permit Bylaw approved meeting all of the setback requirements of the designation in which it is located. It shall not occupy any parking spot required by the principle use of the property, and shall provide in addition to the parking requirements for the principle use on the property, 3 additional parking spaces.

## 6.10. Mobile Canteen - Type B:

- 6.10.1. Type B Mobile Canteens may be permitted at all construction sites in any designation provided it is not stopped in any location for longer than is necessary to complete a sale or sales and at no time be longer than 15 minutes.
- 6.10.2. Notwithstanding Section 6.6 of this By-law, Type B mobile canteens may be located within 30 metres (98 feet) feet of a building containing a restaurant provided written acknowledgement is obtained from the owners of the affected restaurant as defined in this by-law or it is a construction site.

## 6.11. Mobile Canteen - Type C:

6.11.1. Type C Mobile Canteens may be permitted in any designation provided the canteen is not stopped in any location for longer than is necessary to complete a sale or sales and at no time be longer than 15 minutes.

## 6.12. Mobile Canteen - Type D and Type E:

- 6.12.1. Type D and Type E Mobile Canteen:
  - 6.12.1.1. Type D Mobile Canteens may additionally be located within the Lowertown Mixed Use Designation specifically to the areas on the south side of Bay Road (known as the Marina), Water Street from Kate Street to the Swing Bridge (north and south side). (As amended by Bylaw 201-080)
  - 6.12.1.2. Type E Mobile Canteens may additionally be located as follows:
    - 6.12.1.2.1. Lowertown Mixed Use Designation specific to the areas on the south side of Bay Road (known as the Marina), Water Street from Kate Street to the Swing Bridge (north and south side) and the immediate intersection of King Street East/King Street West/Main Street. (As amended by Bylaw 2016-080)
    - 6.12.1.2.2. Open Space Designation specifically property fronting along the King Street East corridor. (As amended by Bylaw 2016-080)
- 6.12.2. Council may deem it appropriate to issue Type D and Type E licenses on public property within the areas referred to in section 6.12.1 on a

case by case basis.

6.12.3. Notwithstanding Section 1.14.3 the Type D Mobile Canteen License, namely McCalpin will be permitted to operate a cart 120" in length. (As amended by Bylaw 2015-075).

## 6.13. Mobile Canteen - Type F:

- 6.13.1.No Type F mobile canteen may be located within 30 metres (98 feet) of a building containing a grocery store, supermarket or any other business selling fruits, vegetables and/or flowers.
- 6.13.2. Notwithstanding Section 6.13.1 of this By-law, Type F mobile canteens may be located within 30 metres (98 feet) of a building containing a grocery store, supermarket or any other business selling fruits, vegetables and/or flowers provided written acknowledgement is obtained from the owners of the affected restaurant as defined in this by-law.
- 6.13.3. Where a Type F Mobile Canteen (Annual License) is located, it is required to have a Class I under the Development Permit Bylaw approved meeting all of the setback requirements of the designation in which it is located. It shall not occupy any parking spot required by the principle use of the property, and shall provide in addition to the parking requirements for the principle use on the property, 3 additional parking spaces.
- 6.13.4. The number of permitted licenses for a Type F Mobile Canteen License under Schedule A shall mean the maximum number of canteens open at one given time and may be a combination of annual and 30 days licenses. (As amended by Bylaw 2016-080)
  - 6.13.4.1. Preference is given to applicants seeking an annual license. (As amended by Bylaw 2016-080)
  - 6.13.4.2. Notwithstanding Section 13.4.1 existing 30 day license holders, namely Corn Acre Farms and Tincap Berry Farm, shall be given preference provided the holder remains in good standing with the Town. (As amended by Bylaw 2016-080)

## 7. DUTIES OF THE MOBILE CANTEEN LICENSE HOLDER

- 7.1. Prior to receiving a Mobile Canteen License the approved license holder shall, prior to opening the operation of the mobile canteen in the current year, provide:
  - 7.1.1. Proof that the vehicle and its equipment meets any requirements of the Lanark, Leeds and District Health Unit or its successor.
  - 7.1.2. Proof that the vehicle and its equipment has been inspected by a certified propane fitter, pursuant to the Ontario Propane Code or its successor, presently administered by the Ministry of Consumer and Commercial Relations, if the said vehicle is equipped with propane-

- fueled appliances.
- 7.1.3. Proof that the vehicle and its equipment has been inspected by the Gananoque Fire Department.
- 7.1.4. Such certificates to be dated not more than sixty days prior to the application for a license herein.
- 7.1.5. License holders are required to submit all necessary paperwork identified as Section 7.1.1, 7.1.2 and 7.1.3 within 30 days of Council approval or prior to opening for the season, whichever comes first.
- 7.2. The license holder shall ensure: (As amended by Bylaw 2016-080)
  - 7.2.1 That the mobile canteen is kept in a clean and presentable condition and is painted in a manner satisfactory to the Town including signs;
  - 7.2.2 That the property on which the mobile canteen is located shall be maintained in a neat and tidy condition;
  - 7.2.3 That proper and approved garbage bags are supplied by the license holder and used in the refuse and debris containers provided by the Town immediately or adjacent the mobile canteen on public property. All refuse and debris containers shall be disposed of properly by the Town on public property.
  - 7.2.5 That the payment of an Environmental Fee be payable to the Town for the refuse and debris containers on public property annually as set out in the General Fees and Rates Bylaw.
  - 7.2.6 That refuse and debris from mobile canteens on private property shall be disposed of properly by the license holder.
- 7.3 Every license holder shall ensure that:
  - 7.3.1 any person operating or employed shall be adequately trained in the safe operation of the mobile canteen, and
  - 7.3.2 any person operating or employed shall be familiar with the contents of this bylaw
  - 7.3.3 any person operating or employed under the license holders's control, management or supervision does not breach any of the provisions of this bylaw.
  - 7.3.4 Every license holder, person operating or employed by a licensed mobile canteen shall, in carrying on his or her operation, be properly dressed and shall be civil and well behaved to members of the public with whom he or she is dealing.

## 8. NEXT-IN-LINE LIST

- 8.1. The Town limits the number of licenses for each mobile canteen as per Schedule "A" attached.
- 8.2. The Manager of Community Development shall maintain a Next-in-Line List for all mobile canteens types.
- 8.3. Upon a revocation of a license under Section 10 or a license of the holder of the previous year not reapplying within the defined timelines as per Section 2.6, the Manager of Community Development will contact the interest party

- on the Next-in-Line List.
- 8.4. An applicant may apply for more than one mobile canteen type, however, no more than one license will be issued to one applicant or his or her spouse.
- 8.5. Notwithstanding Section 8.4 the two existing Type A Mobile Canteen Licenses namely, Jones/Roberts will be permitted to remain until such time as the licenses are not renewed, non-compliance under Section 10 or the Town requires the lands as per Section 6.9.3.2

## 9. INSPECTION

- 9.1. Compliance approvals by agencies may be conducted at any time or upon request by the Town.
- 9.2. Upon request of the Town, Bylaw Enforcement Officer, Chief of Police, Medical Officer of Health or Fire Chief and or his or her designates shall produce the license and any other requested documents herewith.
- 9.3. No license holder who has or is required to have a license under this bylaw shall obstruct, hinder the making of an inspection, or cause or permit an inspection to be obstructed or hindered by those listed under Section 9.1.

#### 10. SUSPENSION OR REVOCATION OF LICENSE

10.1. Any license issued by the Town in accordance with this bylaw may be suspended by the Manager of Community Development at any time if the licensee contravenes any provision of this by-law, any other by-law within the Town or any federal or provincial statute.

10.2.

- 10.3. The Manager of Community Development shall in writing provide the license holder with the reasons for the suspension of the license and indicate the licence holder is entitled to appear before Council as outlined in Section 11
- 10.4. The Manager of Community Development may suspend the license to allow the licensee to rectify the contravention within 24 hours from the date of receipt of the notice or until such time as Council has had an opportunity to review the suspension.

10.5.

- 10.6. Any license issued by the Town may be suspended or revoked for any contravention listed in Section 3. Where a licence is suspended or revoked, the mobile canteen shall be removed immediately from public or private property.
- 10.7. Council has the right to revoke a license issued by the Town for any contravention listed in Section 3 or upon review of a suspension.

## 11. RIGHT TO APPEAL

11.1. Where a license has been suspended, the licensee may appeal the decision to Council by filing a written correspondence detailing and/or responding to the suspension, along with any applicable fees, with the Clerk within 10 days of receipt of the revocation.

- 11.2. Upon receipt of a written correspondence by the Clerk, the Clerk will schedule the hearing at the next available Council meeting.
- 11.3. Until such time as the hearing is to occur, the licensee shall not operate his/her mobile canteen.
- 11.4. Where the hearing grants the licensee to have his/her license reinstated, the mobile canteen owner shall fulfill any outstanding requirements of the license under this bylaw prior to reopening the operation.
- 11.5. Where a license has been revoked by Council, the licensee shall have the right to reapply for a new license in the next calendar year. The licensee shall follow the procedures of the waiting list as held by the Town.
- 11.6. Notwithstanding Section 11.5 where a license has been revoked by Council, Council is not required to issue a new license upon review of a new application and as per Section 3.
- 11.7. In addition to any measures that are available to the Town in this Section, the Town shall have the right to seek any additional fees.

## 12. EXEMPTIONS:

- 12.1. Notwithstanding any other section in this by-law, a license shall not be required for special events not exceeding ten (10) consecutive days.
- 12.2. Fruit, vegetable or flower stands participating in the Farmers' Market, and set up on the days of and in the location designated by the Town as the official location of the Farmers' Market shall be exempt from the provisions of this by-law.

## 13. CONTRAVENTION:

13.1. Any person who contravenes any provision of this by-law shall, upon conviction, be subject to a penalty, as outlined in the provisions of the Provincial Offences Act.

#### 14. BY-LAW REPEALED:

14.1. Any and all by-laws or portions thereof conflicting with this by-law are hereby repealed.

## 15. SHORT TITLE:

15.1. This Bylaw may be referred to as the "Mobile Canteen Bylaw".

#### 16. EFFECTIVE DATE:

16.1. This by-law shall be in force and take effect upon its passing.

**READ A FIRST TIME** this 3rd day of February, 2015.

Mayor, Erika Demchuk	Interim Clerk, Kelly Shipclark
READ A SECOND AND THIRD TIME and finally	y passed this 7 <sup>th</sup> day of April, 2015.
Mayor, Erika Demchuk	Interim Clerk, Kelly Shipclark

## Schedule "A" to By-law 2015-012

- 1. The maximum number of licenses that shall be issued in any calendar year are as follows:
  - 1.1. 3 licenses being 1 licence per Type A mobile canteen;
  - 1.2. 2 licenses being 1 licence per Type B mobile canteen;
  - 1.3. 2 licenses being 1 licence per Type C mobile canteen;
  - 1.4. 2 licenses being 1 licence per Type D mobile canteen;
  - 1.5. 2 licenses being 1 licence per Type E mobile canteen;
  - 1.6. 3 licenses being 1 license per Type F mobile canteen.