

# CORPORATION OF THE TOWN OF PLYMPTON-WYOMING

## BY-LAW Number 6 of 2024

### Being a By-law to provide for the licensing, regulation and governing of Mobile Food and Refreshment Vending in the Town of Plympton-Wyoming.

**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 Town of Plympton-Wyoming chooses to exercise its discretion to Licences the operation of mobile food and refreshment service equipment within the Town of Plympton-Wyoming

**THEREFORE** the Council of the Corporation of the Town of Plympton-Wyoming enacts as follows:

#### 1. TITLE

- a. This By-law may be referred to as the "Mobile Food and Refreshment By-law"

#### 2. DEFINITIONS

**Applicant** shall mean the owner or agent that is applying for a Licence;

**Clerk** shall mean the Clerk for the Town of Plympton-Wyoming or their designate who shall be the issuer of Licences; **Licensors** shall have a corresponding meaning;

**Council** shall mean the Council of the Town of Plympton-Wyoming;

**Director of Public Works** shall mean the Director of Public Works for the Town of Plympton-Wyoming or their designate;

**Licence** shall mean a Licence or permit issued pursuant to this By-law;

**Mobile Food & Refreshment Vehicle** shall mean a basket, wagon, cart, unit, service equipment or other vehicle from which refreshments or confections are prepared, sold and/ or consumed by the public, that is capable of being moved; excludes bicycles;

**Officer** shall mean Municipal By-law enforcement appointed to enforce or carry out the provisions of Municipal by-laws;

**Owner** shall mean the legal owner of the Mobile Food and Refreshment Vehicle;

**Private Property** shall mean lands which are owned privately;

**Public Property** shall mean any land owned by the Town or other lands under the jurisdiction of the Town;

**Request for Proposal (RFP)** shall mean the application to which vendors make a bid submission in regards to vending on public lands;

**Multiple Vendor Licence (MVL)** shall mean a Licence provided for one location that is hosting multiple vendors on different dates. MVL are only available to property owners on Agricultural – 1 (A1) zoned lands where a commercial or value-added business is in operation.

**Site Map** shall mean a drawing of a site that includes all the applicable measurements of the mobile food and refreshment service equipment and surrounding area within 100 metres of the site and on which all buildings and structures, streets, and services are indicated;

**Shall** may be construed as imperative;

**Special Event** shall mean an organized event of limited duration that attracts members of the public, whether free or for a fee, for any cultural, educational, or recreational entertainment;

**Trash** shall mean rejected materials, thrown away, disposed of; also referred to as garbage or waste;

**Town** meaning the Corporation of Town of Plympton-Wyoming.

## 1 LIMITATIONS AND RESTRICTIONS

- 1.1 No person shall, within the limits of the Town of Plympton-Wyoming, sell food, refreshments, or confections for consumption by the public from any vehicle without first having obtained a Licence for that purpose as set out hereafter;
- 1.2 Such Licences will be issued for areas zoned Commercial or Open Space as designated in the Town of Plympton-Wyoming Zoning By-law, provided all other aspects of this by-law have been met;
- 1.3 Lands in Agricultural – 1 (A1) zones may be eligible for a Multiple Vendor Licence to host mobile food and refreshment vehicles on lands where a commercial or value-added business is in operation. Multiple vendor licensees will be required to provide:
  - a) A schedule noting the proposed dates they are hosting vendors and which food vendors will be on-site.
  - b) A Site Map shall be provided of the proposed location of the truck(s).
  - c) Any changes to the proposed schedule and/or vendors locations must be communicated with the Town prior to the event taking place.
  - d) Each mobile food and refreshment vehicle that is scheduled to attend the property will be required once per year to provide adequate information that the requirements outlined in section 2.1) a – d have been met.
- 1.4 Available Public Property shall be subject to a Request for Proposal process as outlined in section three (3);
- 1.5 The Owner of the mobile food and refreshment vehicle shall be in compliance with all zoning By-law requirements and approved Site Map;
- 1.6 A mobile food and refreshment vehicle may only be located on Private Property if the Owner of the mobile food and refreshment vehicle has obtained the property owner's written permission;
- 1.7 The Town of Plympton-Wyoming may exempt any units from such licensing for single day Special Events only. Applicants must provide adequate information that the requirements as outlined in section 2.1) a – d, have been met;
- 1.8 Where a person is Licenced hereunder and desires to have their Licence transferred to another vehicle, an application may be made in writing to the Licensor. No such transfer of a Licence shall be issued until the transferee has complied with the provisions of this by-law;
- 1.9 With the exception of section 1.3, only one (1) vending unit will be allowed per Licence. No sub-contracting of additional vending units will be permitted by the successful vendor at any specified locations;

- 1.10 The holder of said Licence shall be subject to any other by-laws of the Town of Plympton-Wyoming which may be affected by the operation of the unit;
- 1.11 The power source must be approved by the Director of Public Works. Approved power sources must be able to be readily and safely disconnected on short notice and must not cause the mobile food and refreshment vehicle to be recognized as a permanent structure.

## **2 GENERAL LICENCE APPLICATION**

- 2.1 The Owner of the mobile food and refreshment vehicle, before a Licence can be issued under this by-law, shall present the Licensor of the Town of Plympton-Wyoming with the prescribed Licence fees, the standard application form attached in Schedule "A" forming part of this by-law, and the following:
  - a) A certificate from the Lambton Health Unit confirming that the mobile food and refreshment vehicle has passed a sanitary inspection and such certificate must be obtained and presented to the Town of Plympton-Wyoming each calendar year;
  - b) Proof that the Owner has obtained a minimum of two million dollars (\$2,000,000.00) liability insurance with the Town listed as additionally insured for the mobile food and refreshment vehicle;
  - c) Proof that any propane system used for the mobile food and refreshment vehicle has been inspected by a person holding a certification acceptable to the TSSA and that this inspection occurs a minimum of once a year;
  - d) Proof that the Owner has equipped the unit with a fire protection system acceptable to the Town of Plympton-Wyoming. A final inspection is required by the Plympton-Wyoming Fire Department;
- 2.2 Every Licence issued pursuant to this by-law shall expire on the 2<sup>nd</sup> day of January in the year subsequent to the Licence being issued;
- 2.3 Every Licence holder shall display their Licence in a conspicuous place in the vehicle for which the Licence is issued and shall permit the Licence and vehicle to be inspected on demand;
- 2.4 The Licence holder and/or property owner shall and does hereby release, discharge and covenant and agree at all times to indemnify and save harmless the Municipality from and against all claims, including:
  - a) all claims for property damage or injuries, including injuries resulting in death, to any property or person or persons and any consequential damages arising from such damage or injuries, and;
  - b) all demands, liability, loss, costs, damages, expenses, compensation, awards or payments of every kind or nature whatsoever and all actions, suits or proceedings of every kind or nature whatsoever by whomsoever incurred, sustained, suffered, made, paid, brought, or taken, in any manner connected with, caused by or attributable to the entry of this Licence, the performance or failure to perform the terms and conditions hereof;
- 2.5 Any Licence granted hereunder may be revoked at the discretion of the Licensor of the Town of Plympton-Wyoming if the provisions and policies contained herein are not adhered to by the holder of said Licence;
- 2.6 Acceptance of the Licence fee does not constitute approval of the application or oblige the Town to issue a Licence;
- 2.7 All Owners of mobile food and refreshment vehicles must provide adequate Trash receptacles at the site on which the mobile food and refreshment vehicle is located and must maintain the site in a clean and sanitary condition and be subject to inspection by the By-law Enforcement Officer at any reasonable hour. Waste must not be stored onsite and must be disposed of independently and not through regular garbage pick-up;

- 2.8 The Town shall be allowed to enter into any such agreement with outside food vendors to ensure the provisions of additional food services are provided for Special Events and or festivals organized for the public;
- 2.9 The Town reserves the right to terminate the contract for sufficient cause, including but not limited to, poor performance, late deliveries, inferior quality, and health and safety concerns. If the vendor should neglect to perform the work properly or fail to perform any provision of the Request for Proposal, the Town may terminate the contract after fifteen (15) business days with written notice to the vendor;
- 2.10 The By-law Enforcement Officer is hereby authorized to enter at all reasonable hours, any unit or mobile food and refreshment vehicle for the purpose of enforcing the provisions of this by-law.

### **3 REQUEST FOR PROPOSAL (RFP)**

- 3.1 The objective of the Request for Proposal is to solicit Proposals from qualified and experienced concession operators to operate a mobile food and refreshment vehicle within designated parks within the Town of Plympton-Wyoming;
- 3.2 The following Parks shall follow a Request for Proposal process with specific locations subject to approval by the Director of Public Works:
  - Highland Glen Conservation Area
  - McEwen Park
  - Lakeshore Park
  - McKay Park
  - Lamrecton Park
- 3.3 The Town reserves the right to reject any or all submissions, as a whole or in parts, and waive formalities as the interests of the Corporation may require, without stating reasons. Submissions that are incomplete, conditional, obscure, or contain erasures, alterations, or irregularities of any kind may be rejected;
- 3.4 The Request for Proposal is not intended to, nor shall be construed as creating an exclusive arrangement between the vendor and Town. The vendor shall not restrict the Town from acquiring similar or equal goods and services from other sources;
- 3.5 The successful vendor shall not operate the unit outside the specified location as mentioned in the Request for Proposal;
- 3.6 The selection of the awarded Proposal will be based on:
  - a) Scrutiny of the bid submissions relative to compliance with the requirements of the Request for Proposal, such as signed forms, schedules, and meeting technical specifications;
  - b) Elimination of bids not meeting the fundamental requirements stated above, as well as elimination of bids not received on time;
  - c) Elimination of bids from vendors where that contract, vendor, or its principals have been, or currently are, involved in litigation with the Town of Plympton-Wyoming, other than a claim for property damage or personal injury, where that litigation impacts upon the ability of the parties to further engage in reasonable business relations;
  - d) Evaluation of the merits of all compliant bids. The evaluation will consider financial and technical merits, vendor reputation based on past performance with the Town of Plympton-Wyoming and with other municipalities, initial costs, ongoing maintenance costs and overall cost effectiveness over the long term;
- 3.7 Vendors must study the entire Request for Proposal document to satisfy themselves with the conditions and requirements of the Proposal. There will be no consideration of any claim after submission of Proposals that there is a misunderstanding with respect to the conditions imposed by the request for Proposal.

## 4 FEES

- 4.1 All fees associated with the Licence Application shall be paid in full at the time of application submission:
- a) Licence Application Fee - \$250.00
    - i) Fire Inspection - \$100.00
  - b) Multiple Vendor Licence Application Fee - \$500.00
    - i) Fire Inspection - \$100.00
  - c) Licence Transfer Fee - \$100.00
- 4.2 No Licence shall be voluntarily surrendered for a refund, or any part, or all of the fees paid therefor;
- 4.3 A Mobile food and refreshment vehicle on Public Property may be subject to additional fees associated with the Request for Proposal process.

## 5 INTERPRETATIONS

- 5.1 If a provision of this by-law conflicts with a provision of any applicable Act, regulation or By-law, the provision that establishes the higher or more restrictive standard to protect the health safety and welfare of the public shall prevail;
- 5.2 Where a form or words or expressions are prescribed in any schedules to this By-law, deviations therefrom not affecting the substance or calculated to mislead shall not invalidate such forms, words or expressions or any infraction notice in which they appear;
- 5.3 If any section of this By-law is for any reason held to be invalid, the remaining sections shall remain in effect until repealed;
- 5.4 Reference to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario;

**6 THAT** by-law 79 of 2012 is hereby repealed and any other by-law or parts of by-law inconsistent with this by-law are hereby repealed;

**7 THAT** this by-law shall come into force and take effect on and from the date it is finally passed by Council.

**READ** a first, and taken as having been read a second and third time and finally passed this 10th day of January, 2024

---

Mayor – Gary L. Atkinson

---

Clerk – Erin Kwarciak



**MOBILE FOOD AND REFRESHMENT TRUCK LICENCE – APPLICATION FORM**

**Applicant Information**

Name of Individual (Owner or Applicant)	
Contact Person	
Address	
Phone Number	
Email	
Which of the following best describes you: (check one)	<input type="checkbox"/> Mobile Food and Refreshment Truck Owner & Operator <input type="checkbox"/> Business Owner Applying for Multiple Vendor Licence (MVL) <input type="checkbox"/> Other (please specify): _____
Address of Proposed Truck Location  *If on private property, please attach property owners signed permission.	
Zoning of the Location  *Site map showing the truck location on the property must also be attached.	<input type="checkbox"/> Commercial <input type="checkbox"/> Open Space <input type="checkbox"/> Agriculture – 1
Proposed Power Source	
*Before a licence is issued the fee must be received and requirements 2.1) a-d must be met.	





## **MOBILE FOOD & REFRESHMENT TRUCK LICENCE – SUBMISSION CHECKLIST**

In accordance with section 2.1 a)-d) of By-law 6 of 2024, being a By-law to provide for the licensing, regulation and governing of Mobile Food and Refreshment Vending in the Town of Plympton-Wyoming, the following items must be submitted for a complete application:

- [ ] Certificate from Lambton Public Health Unit confirming the vehicle has passed a sanitary inspection.
- [ ] Proof the owner has obtained a minimum two million dollar (\$2,000,000.00) liability insurance with the Town listed as additionally insured.
- [ ] Proof that any propane system used has been inspected by a person holding a certification acceptable to the TSSA and that this inspection occurs a minimum of once a year.
- [ ] Proof the vehicle is equipped with a fire protection system acceptable to the Town of Plympton-Wyoming. A final inspection is required by the Plympton-Wyoming Fire Department.

### **Additional requirements:**

- [ ] Completed application form.
- [ ] Prescribed licence fee (\$250.00 + \$100.00 inspection fee / per year).

Any questions regarding the above requirements should be directed to the Town of Plympton-Wyoming Clerk's Department via email or phone at [info@plympton-wyoming.ca](mailto:info@plympton-wyoming.ca) or 519-845-3939.