



**MUNICIPALITY OF MIDDLESEX CENTRE
BY-LAW 2022-044**

Being a by-law to license, regulate and govern Mobile Food Outlets and Produce Stands within the Municipality of Middlesex Centre

Mobile Food Outlets and Produce Stands By-law

WHEREAS Section 5 (3) of the *Municipal Act, 2001* S.O. 2001, c.25 (the "*Municipal Act, 2001*") as amended, states that a municipal power, including a municipality's capacity, rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS the provisions of Part IV of the *Municipal Act, 2001*, authorizes Council to license, regulate and govern businesses and events and that this authority includes but is not limited to: the power to issue licenses, to impose conditions on a license, to revoke a license, to suspend a license, 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 license;

AND WHEREAS Section 425 of *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law of the municipality is being complied with;

AND WHEREAS council deems it necessary to pass a by-law to regulate and license mobile food outlets and produce stands;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Municipality of Middlesex Centre enacts as follows:

1. SHORT TITLE

This By-law shall be known as the "Mobile Food Outlets and Produce Stands By-law".

2. DEFINITIONS

In this By-law:

- 2.1 “Applicant” means any individual, person or entity that applies for a license for a Mobile Food Outlet or Produce Stand.
- 2.2 “Approved Special Event” means any event approved as a special event by the licensing officer a minimum of fourteen days prior to the event date or any event held on property owned by the municipality in which a facility rental agreement is in place.
- 2.3 “Clerk” means the Clerk of The Corporation of the Municipality of Middlesex Centre.
- 2.4 “Council” means the Council of the Municipality of Middlesex Centre.
- 2.5 “Director” means the Director of Public Works & Engineering, Director of Community Services, or authorized representative.
- 2.6 “Fire Chief” means Fire Chief for the Municipality.
- 2.7 “Ice Cream Bicycle” means an insulated container for storing and transporting frozen ice cream, propelled solely by muscular power without any motorized assistance and from which ice cream and other frozen confections may be sold.
- 2.8 “License” means a license issued under the provisions of this By-law, which may be subject to conditions imposed by the Municipality.
- 2.9 “Licensee” means any person who is licensed as required by this By-law.
- 2.10 “Licensing Officer” means the By-law Enforcement Officer for the Municipality, or his/her designates.
- 2.11 “Mobile Food Outlet License” means a license to permit the operation of a Mobile Food Outlet in the Municipality of Middlesex Centre.
- 2.12 “Mobile Food Outlet” shall mean a vehicle, trailer or other food preparation device which is transported from site to site, from which food is prepared therein and made available to the general public, but excludes ice cream bicycles and produce stands.
- 2.13 “Municipality” means The Corporation of the Municipality of Middlesex Centre.
- 2.14 “Officer” means a Fire Prevention Officer and a By-law Enforcement Officer appointed by Council.

- 2.15 “Private Event” means an event for a temporary period of time on private property, not within a road allowance and at no time is the private event accessible to the general public.
- 2.16 “Produce Stands” means an area or mobile trailer that sells, gives, or trades produce from a permitted location on a temporary basis only.
- 2.17 “Waste” includes food, disposable eating utensils, paper, wooden, cardboard, plastic, glass, metal products or any other materials or refuse used in or generated by the preparation, serving or consumption of the food or beverages offered for sale from a Mobile Food Outlet.

3. REQUIREMENTS FOR LICENSE

- 3.1 No person shall operate a Mobile Food Outlet within the limits of the Municipality unless the Operator has obtained a license under the provisions of this By-law.
- 3.2 No person shall operate a Mobile Food Outlet within any road allowance.
- 3.3 No license issued under the provisions of this By-law shall be transferred, assigned or sold.
- 3.4 Any person who operates a Mobile Food Outlet shall comply with the regulations set out in this by-law. Failure to comply with the regulations is guilty of an offence.
- 3.5 Every person shall display a license issued pursuant to this By-law in a manner that can easily be viewed by the public.
- 3.6 Every person licensed under this By-law shall comply with all municipal, provincial and federal applicable laws, polices, guidelines and by-laws.
- 3.7 A Mobile Food Outlet established prior to December 31, 2021, is exempt from section 5.10 of this by-law, provided the general type of food served does not change.
- 3.8 Mobile food trucks attending private events are exempt from the requirements of this by-law provided that these are located on private property.
- 3.9 No person shall operate a mobile food outlet on any municipally owned, operated or controlled property, without obtaining the prior written permission of the Municipality.
- 3.10 Where permission has been granted to operate a mobile food outlet on municipal property through a separate agreement, the provisions of this by-law do not apply

- 3.11 Mobile food trucks attending approved special events are exempt from the requirements of this by-law where the owner of the property or organizer of the approved special event enters into an indemnity agreement with the municipality. This indemnity agreement shall be in a form provided by the municipality and will include the owner/operator assuming responsibility for the operation of food trucks at the event.
- 3.12 All applications for a Mobile Food Outlet license shall comply with the insurance provisions outlined in Section 8 of this by-law.

4. PRODUCE STANDS

- 4.1 Produce Stands shall only be located on properties zoned commercial or agricultural in the zoning by-law.
- 4.2 A Produce Stand shall not be permitted to operate in the Municipality without first obtaining a license.
- 4.3 Produce Stand license applications must be accompanied by the required supporting documentation as set out in this section
- 4.4 No license shall be granted until the application has been approved by the Municipality. The application for a Produce Stand shall include:
 - 4.4.1 proposed location of on the property, including set back from property line and the road allowance;
 - 4.4.2 confirmation that all required setbacks specified in the Zoning By-law are being complied with;
 - 4.4.3 the location of a minimum of two parking spaces on the property where the produce stand is located;
 - 4.4.4 proposed access/egress to the property from a public right-of-way;
 - 4.4.5 location of signage advertising the produce stand;
 - 4.4.6 the maximum size of a produce stand shall not exceed 10 square metres;
 - 4.4.7 written authorization from the property owner;
- 4.5 No person shall operate a Produce Stand on any municipally owned, operated or controlled property, without obtaining the prior written permission of the Municipality. Where permission has been granted on municipal property, the provisions of this by-law do not apply;
- 4.6 Every applicant for a Produce Stand license, shall pay the approved fee set

forth in the Fees & Charges By-law, as amended;

- 4.7 Every person shall display a Produce Stand license in an area that is easily visible by the general public;
- 4.8 No person shall operate a Produce Stand other than on the approved location as set out on the license; and
- 4.9 No person shall install signs on municipal property advertising Produce Stands without obtaining the prior written permission of the municipality.
- 4.10 This by-law shall not apply to a produce stand located on a property which is zoned Agricultural, under the municipality's Zoning By-law, so long as the produce sold at that produce stand was a crop grown on that same property.

5. GENERAL REQUIREMENTS

- 5.1 Every licensee shall ensure that, at all times of its operation, the Mobile Food Outlet is accessible for an inspection by an Officer or Fire Chief. A Mobile Food Outlet shall ensure;
 - 5.1.1 that all cooking equipment exhaust and fire protection systems are installed and maintained in accordance with NFPA 96 "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations";
 - 5.1.2 maintenance reports relating to fire protection equipment, including exhaust system cleaning is maintained for the Mobile Food Outlet and shall be made available upon request;
 - 5.1.3 a minimum 2A:10BC dry chemical fire extinguisher is provided unobstructed, maintained and readily available. For those Mobile Food Outlets that are cooking food that releases grease-laden vapors, a "K" class fire extinguisher is also required;
 - 5.1.4 that general fire safety practices are observed at all times including but not limited to; exits being kept clear and accessible, combustible materials are minimized, and clutter is kept to a reasonable and safe level;
 - 5.1.5 the installation, use and storage of propane or gas-fired systems shall have an inspection certificate provide by a Technical Standards & Safety Authority (TSSA) inspector or approved contractor and be valid for the year in which the permit is issued.
- 5.2 No person shall offer for sale or sell from a Mobile Food Outlet, any goods, wares, merchandise or any other item other than refreshments, foods and confections from a Mobile Food Outlet.

- 5.3 No person operating a Mobile Food Outlet shall be under the influence, or consume, or have in his/her possession, any alcohol or drugs which impair the ability to operate the vehicle/stand.
- 5.4 No person shall sell any food from a Mobile Food Outlet unless the food is wrapped or contained and sold in individual, single-serving packages or disposable containers.
- 5.5 No person shall operate a Mobile Food Outlet between the hours of 11:00 p.m. and 7:00 a.m. on any day.
- 5.6 Any person operating a Mobile Food Outlet shall:
 - 5.6.1 provide a waste receptacle of an adequate size to contain all waste generated from the operation of the Mobile Food Outlet;
 - 5.6.2 ensure that all litter is removed 30 meters from exterior of the Mobile Food Outlet;
 - 5.6.3 ensure that all waste generated by the Mobile Food Outlet is placed in such receptacle before leaving the area;
 - 5.6.4 remove such receptacle and its contents before leaving the area at the end of any day of operation;
 - 5.6.5 ensure that no waste generated by Mobile Food Outlet or contained in its waste receptacle is deposited in any Municipality-owned waste containers;
 - 5.6.6 ensure that the license to operate is clearly displayed on the Mobile Food Outlet; and
 - 5.6.7 ensure that prices for all products are clearly displayed in an area that is easily visible for the customer.
- 5.7 Mobile Food Outlets shall only be permitted to operate only in the Village Commercial (C1) or Highway Commercial (C2) Zone, as defined in the Municipality's Zoning By-law unless at an approved special event.
- 5.8 No person shall operate a Mobile Food Outlet on any municipal property, which shall, for the purposes of this By-law, include road allowances, municipal parks, municipal parking lots and municipal recreation facilities except for a temporary period as permitted by the Director.
- 5.9 No person shall operate a Mobile Food Outlet within 8 metres of any vehicular entrance to the property or in any location which would obstruct the flow of vehicles.

- 5.10 No person shall operate a Mobile Food Outlet within 150 metres of any dine-in or take-out restaurant, unless at an approved special event.
- 5.11 No person shall operate a Mobile Food Outlet within 150 metres of any other Mobile Food Outlet except at an approved special event.
- 5.12 Every person applying for a license for a Mobile Food Outlet who intends to operate from a property other than property that person is the registered owner of, shall submit with his/her application authorization from the property owner.
- 5.13 The water supply shall be supplied by the licensee and the licensee shall be responsible for the cost of the water.
- 5.14 No Mobile Food Outlet shall interfere with the normal movement of pedestrian and vehicular traffic and the maintenance of the sidewalks and streets in the Municipality.
- 5.15 No sign or advertising device may be displayed, except in accordance with the Municipality of Middlesex Centre Sign By- law as amended.
- 5.16 Mobile food outlets shall not exceed 3 metres wide, 7 metres long and 3.5 metres in height.
- 5.17 No person shall operate a Mobile Food Outlet other than at the approved location on license.

6. APPLICATION AND LICENSE FEE

- 6.1 Every owner of a Mobile Food Outlet shall apply for a license, as required by this By-law, and shall file a completed application in the form prescribed and any other information or documentation requested by the Licensing Officer, and shall pay the approved fee set forth in Fees & Charges By-law, as amended.
- 6.2 Acceptance of the license fee does not constitute approval of the application or oblige the Municipality to issue a license.
- 6.3 No fee pursuant to Section 6.1 shall be pro-rated for a portion of the year and the fee is non- refundable.
- 6.4 Every Application for a License shall include the following:
 - 6.4.1 Proof of Middlesex-London Health Unit approval and was inspected within the last three months;
 - 6.4.2 Proof of Technical Standards & Safety Authority Field Approval for all equipment and appliances that are not approved by the Canadian

Standard Association or the Underwriter Laboratories of Canada;

- 6.4.3 Proof of propane inspection by a certified gas fitter (if applicable);
- 6.4.4 Copy of the approval from the Fire Chief;
- 6.4.5 Copy of the ownership for the Mobile Food Outlet;
- 6.4.6 Copy of a menu for food, refreshments, and confections served;
- 6.4.7 Photo of the Mobile Food Outlet;
- 6.4.8 Must comply with section 8.1 to 8.2 of this by-law and provide the required documents for Insurance;
- 6.4.9 Plan for the containment and disposal of grey water, grease and garbage in a sanitary manner in accordance with all applicable law;
- 6.4.10 Written permission from the owner of private property, acknowledging that the Mobile Food Outlet is permitted to park on the property;
- 6.4.11 Approval from the Ministry of Transportation where the site is located adjacent to a provincial highway; and
- 6.4.12 A drawing showing the proposed location of the Mobile Food Outlet on the property identifying:
 - 6.4.12.1 set back from property line and the road allowance;
 - 6.4.12.2 the number of proposed parking spaces; and
 - 6.4.12.3 the public access/egress to the property from a public right-of-way;
- 6.5 Before a license under this by-law is issued by the Municipality, the applicant shall meet with the Licensing Officer and/or Planner to review the intended site.
- 6.6 Every application and subsequent renewal application for a license under this By-law shall provide the particulars as to the location of the Mobile Food Outlet, together with such other information as may be required to determine whether the proposed use will be in compliance with all applicable by-laws and regulations.
- 6.7 Upon receipt of each application completed in accordance with the requirements of this By-law, the Licensing Officer shall request comments or reports or make such other inquiries and obtain and review such other information and documents relevant to the application as the Licensing

Officer considers necessary for the proper processing of the application.

7. COMMENCEMENT, EXPIRY AND RENEWAL

- 7.1 A license issued under the provisions of this By-law shall be for the current year and shall expire on the 31st day of December of the year of issue, or until said license is revoked or suspended.
- 7.1 Every person applying for a license under this By-law shall make application for the renewal of such license prior to the expiration of the said license and in any event no later than two weeks prior to the expiry date.
- 7.2 No renewal application shall result in the issuance of a license until the renewal has been approved.

8. INSURANCE

8.1 Commercial General Liability

- 8.1.1 The Applicant and Licensee for a Mobile Food Outlet shall, at their expense obtain and keep in force during the term of the license, Commercial General Liability Insurance satisfactory to the Municipality and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for Bodily Injury, Property Damage and Personal Injury and shall include but not be limited to:
 - 8.1.2 A limit of liability of not less than \$ 5,000,000 /occurrence with an aggregate of not less than \$ 5,000,000.
 - 8.1.3 Add the Municipality as an additional insured with respect to the operations of the Named Insured.
 - 8.1.4 The policy shall contain a provision for cross liability and severability of interest in respect of the Named Insured.
 - 8.1.5 Non-owned automobile coverage with a limit not less than \$5,000,000 and shall include contractual non-owned coverage (SEF 96); Coverage to include damage caused by operating or moving vehicles.
 - 8.1.6 Products and completed operations coverage.
 - 8.1.7 Broad Form Property Damage.
 - 8.1.8 Contractual Liability.
 - 8.1.9 The policy shall provide 30 day's prior notice of cancellation to the

Municipality.

8.2 Automobile Insurance

8.2.1 Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$5,000,000 per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Contractor.

8.3 Proof of Insurance

8.3.1 No person shall fail to have the proof of insurance that can be produced upon request while operating a Mobile Food Outlet

9. Indemnification

9.1 The Applicant and Licensee shall indemnify and save harmless the Municipality its elected officials, officers, employees and agents from and against any and all claims, actions, causes of action, applications, suits, regulatory prosecutions, losses, costs demands, expenses, taxes, penalties, fines, administrative penalties, liabilities, judgments, damages (including, without limitation court costs and reasonable legal fees) which may arise either directly or indirectly by reason of the operation of the Mobile Food Outlet, or taking any other action or obligation that may be associated with the Mobile Food Outlet of every nature and kind whatsoever and/or directly or indirectly related to the Mobile Food Outlet including but not limited to bodily injury, sickness, disease, death, property damage, destruction of property, loss of revenue, business losses, and/or Licensee's not complying with all applicable laws . This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Licensee in accordance with the terms and conditions of the License. This clause shall survive any termination of the License.

10. INSPECTION & ENFORCEMENT

10.1 Any person to whom a license has been issued pursuant to this By-law shall permit any Officer, acting reasonably, at any reasonable time, to inspect the Mobile Food Outlet for which the license was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

10.2 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law

- 10.3 No person shall provide false information or give a false statement to an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this by-law.
- 10.4 No person shall fail to comply with any Order issued under this bylaw.

11. ORDER OF REFUSAL, REVOCATION AND SUSPENSION

- 11.1 Any person who is licensed as required by this By-law shall at all times comply with the by-laws of the Municipality and any contravention of any by-law or any other law may be grounds for the refusal, suspension or revocation of the license.
- 11.2 A license may be refused, suspended or revoked by the Licensing Officer if any of the provisions of this By-law are contravened, or such refusal, suspension or revocation may be in the public interest or required for health and safety purposes.
- 11.3 Upon suspension or revocation of a license issued under this By-law, the licensee shall return to the Licensing Officer all licenses issued by the Municipality, and an Officer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the license, and no person shall refuse to deliver the license to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking same.
- 11.4 An Order shall be final and binding, if not appealed within 15 days of being sent to the last known address of the Licensee; and
- 11.5 A request to appeal the order shall be made in writing, be accompanied by the applicable fee as specified in the current Fees & Charges By-law and be delivered by registered mail to the Clerk, within 15 days of the Order being sent.

12. NOTICE AND APPEAL

- 12.1 Appeal of a decision of a license being refused, suspended or revoked by the Licensing Officer may be made to Council within ten (10) business days of the written decision provided by municipal staff. The appeal must be made in writing and shall include the appeal fee specified in the Fees & Charges By-law. The appeal shall be addressed to the Licensing Officer of the Municipality. Council shall consider the appeal, which will be accompanied by a report from the Licensing Officer at a regular scheduled meeting of Council.
- 12.2 When an appeal date has been fixed and the applicant or licensee has been given notice and does not attend at the place and at the time appointed for the hearing, the license is deemed to be refused, suspended or revoked as

of the date of the hearing, and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.

- 12.3 Any notice or order required to be given by the Licensing Officer to an applicant or a licensee shall be sufficiently served if delivered sent by registered mail, addressed to the person to whom service is required to be made, according to the application for the license or license records.
- 12.4 Any notice required to be given by an applicant for a license, or by a licensee to the Municipality, shall be sufficiently served if delivered personally to the Licensing Officer by email or sent by registered mail, addressed to the Municipality.
- 12.5 When service is made through registered mail, the service shall be deemed to have been made on the fourteenth (14) day after the day of mailing.
- 12.6 When service is made by personal delivery, it shall be deemed to have been received on the business day that it was delivered if received after regular office hours the notice shall be deemed to have been received the following business day.

13. PENALTY

- 13.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence and liable upon conviction to a penalty as prescribed under the Provincial Offences Act or as set out in Schedule A “Set Fines” to this By-law.
- 13.2 Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the Provincial Offences Act, R.S.O 1990, c P.33, as amended, and is liable on conviction to a maximum penalty for an offence of \$5,000, exclusive of costs, subject to the provisions of the Act.
- 13.3 Every Person who contravenes any of the provisions of this By-law is guilty of an offence and, pursuant to Section 429 of the Municipal Act, 2001.

14. WORD USAGE

- 14.1 As used in this By-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neutral; and the singular number includes the plural and the plural the singular.

15. SEVERABILITY

- 15.1 The headings and subheadings used in this By-law shall not form part of the By-law, but shall be deemed to be inserted for convenience of reference only.
- 15.2 In the event that any provision or part of this By-Law is found to be invalid

or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-Law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

16. CONFLICT WITH OTHER LEGISLATION

- 16.1 In the event of any conflict between any provisions of this By-law and any other by-law heretofore passed, the provisions of this By-law shall prevail.
- 16.2 Nothing in this By-law shall serve to relieve any person from the obligation to comply with the requirements of any applicable law including but not limited to the *Health Protection and Promotion Act, Environmental Protection Act, Occupational Health and Safety Act* as may be amended and replaced from time to time, and any regulation thereto in force from time to time or the obligation to obtain any license, permit, authority or approval required by any public authority or body.

17. EFFECTIVE DATE

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

PASSED AND ENACTED this 4th day of May, 2022.

Original Signed

Aina DeViet, Mayor

Original Signed

James Hutson, Municipal Clerk

**SCHEDULE “A”
TO BY-LAW NO. 2022-xxx
MUNICIPALITY OF MIDDLESEX CENTRE
SET FINE SCHEDULE
PART 1 – PROVINCIAL OFFENCES ACT**
By-law No. 2022-xxx (Mobile Food Outlets and Produce Stands By-law)

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Operate mobile food outlet without license	Section 3.1	\$500.00
2	Operate mobile food outlet within road allowance	Section 3.2	\$500.00
3	Fail to display license	Section 3.4	\$150.00
4	Operate produce stand without license	Section 4.2	\$500.00
5	Operate produce stand on municipal property without permission	Section 4.5	\$300.00
6	Fail to display produce stand license	Section 4.7	\$150.00
7	Operate produce stand other than approved location on license	Section 4.8	\$300.00
8	Sell/offer for sale prohibited items from Mobile Food Outlet	Section 5.2	\$150.00
9	Operate mobile food outlet between 11 p.m. and 7 a.m.	Section 5.5	\$300.00
10	Fail to provide waste receptacle	Section 5.6.2	\$150.00
11	Fail to remove waste receptacle at end of day	Section 5.6.4	\$150.00
12	Operate mobile food outlet other than approved location on license	Section 5.17	\$300.00
13	Fail to have proof of insurance	Section 8.3.1	\$150.00
14	Obstruct/ hinder officer	Section 10.2	\$750.00
15	Provide false information/statement	Section 10.3	\$750.00
16	Fail to comply with an order	Section 10.4	\$750.00

Note: The general penalty provision for the offences listed above is section 13 of bylaw _____, a certified copy of which has been filed.as