

## TOWN OF NIVERVILLE

### BY-LAW No. 854-23

Being a by-law of the Town of Niverville for the purpose of licensing Mobile Food Service Units within the Town.

**WHEREAS** Subsection 232(1) of The Municipal Act, C.C.S.M., Cap. M225 (the "Act") states in part that:

"A council may pass by-laws for municipal purposes respecting the following matters...

(b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;

(n) businesses, business activities and persons engaged in business"

**AND WHEREAS** it is deemed expedient and in the best interests of the Town of Niverville (Town) to provide for the issuance of Licenses and regulation of persons and firms operating a Mobile Food Service Unit in the Town.

#### 1) DEFINITIONS

- a. **"Administrator"** means the Chief Administrative Officer for the Town;
- b. **"Applicant"** means any person or firm intending to operate a Mobile Food Service Unit in the Town;
- c. **"Bylaw Enforcement Officer"** means a person duly appointed to enforce this Bylaw.
- d. **"Consumable goods"** includes any kind of food, refreshment, non-alcoholic beverage and any other commodity intended for human consumption. Notwithstanding the use of the word 'and', the defined term includes either or both food and drink;
- e. **"Council"** means the Council of the Town;
- f. **"Designated Site" (Location or Locations)** means a site which has been approved and assigned by the Town to a Vendor issued a License for vending;
- g. **"License"** means a License to operate a Mobile Food Service Unit issued under this Bylaw;
- h. **"Licensee"** means the holder of a current License issued under this Bylaw;
- i. **"Location(s)"** means the location(s) approved by the Town;
- j. **"Mobile Food Service Unit" (Vending Unit)** means a self-contained mobile unit, such as a vehicle or cart, irrespective of the type of power required to move the vehicle or device from one point to another, from

which consumable goods intended for public consumption is prepared/processed and/or served to the public with or without charge;

- k. **"Season"** means the period of May 1 to October 31 annually;
- l. **"Self-contained"** means that all equipment and surfaces required for the processing, storage, and display of food products for a Vending Unit are either contained within or physically attached and are part of the whole unit;
- m. **"Town"** means the Town of Niverville;
- n. **"Vendor"** means any person who has received a License from the Town to offer consumable goods for sale from a Mobile Food Service Unit at an approved designated site.

## 2) LICENSES

- a. No person or firm shall carry on any mobile food service business within the limits of the Town unless and until such time as the person or firm has procured a License to do so from the Town and has paid the applicable License fee to the Town as set out in attached Schedule "A"; which may be duly amended by resolution of Council. Every person and firm so Licensed shall be subject to the provisions of this Bylaw.
- b. A separate License is required for each Mobile Food Service Unit and the particulars of each License applied for shall be included on a separate application form for each License and the corresponding License fee shall be provided to the Town.
- c. Any License issued under this Bylaw shall cover the period from May 1 to October 31 of each year and shall terminate on October 31 of each year, with the fees as noted in Schedule "A" of this Bylaw.
- d. No person or firm to whom a License has been issued shall carry on business before a license has been issued, or after the License has lapsed or been cancelled by the Town unless a new License is issued by the Town.
- e. A License shall not be transferrable to any other person or business and shall be valid only for the date(s), operating time(s) and location(s) as approved by the Town.
- f. If after an investigation the Town concludes that a Licensee is carrying on business in an improper manner, the Bylaw Enforcement Officer shall be entitled to suspend such License immediately. Licensee will be notified by registered mail of their right to appeal within fourteen (14) days of service. The decision of Council on appeal shall be final and binding.
- g. Upon revocation of a License, there will be no refund of any portion of the License fee paid by the Licensee.
- h. Every License issued hereunder shall be produced by the Licensee at any time or times upon demand by the Bylaw Enforcement Officer,



administrator, any member of Council, or any other person duly authorized by Council to demand production of the License.

- i. The License is not applicable for usage during major events and festivals or private events. The Mobile Food Service Unit may not operate during major events and festivals without being issued a special event License from the event organizer. Organizers select Vendors and grant them permission to operate within the event site for the hours and day(s) during which the event will be held. Fees for major events, festivals or private events are determined by each event organizer. A Vendor may operate at a private event, on private property where the setback doesn't conform to the setback limits set out in Schedule "B", subject to the permission given in writing by the property owner and are limited to operating at a maximum of 2 private events per hosting property per season, with a maximum limit of 2 days on site per event.
- j. The Vendor shall indemnify and save the Town harmless from and against all costs, losses, claims, actions or causes of action arising from the Vendor's activities under the License.
- k. The Town reserves the right to impose blackout dates at its sole discretion, and blackout dates may be changed on an annual basis. Application forms will include blackout dates for the current season.

### 3) APPLICATION

- a. Applicants must complete and submit an application form during regular business hours to the Niverville Town Office to request a License. Applications will be processed on a first come, first served basis.
- b. Applications must be complete in order to be considered, including:
  - i. A completed and signed application form;
  - ii. Identifying the type of Mobile Food Service Unit that the applicant is applying for permission to use within the Town;
  - iii. Specify the proposed days and hours of operation;
  - iv. Identify the proposed location(s) for the operation of the Mobile Food Service Unit; and
  - v. Any other information which may be deemed necessary and requested by the Town and shall be accompanied by the appropriate fee listed on Schedule "A" of this Bylaw.
- c. An applicant may only submit a maximum of 2 applications per season.
- d. License fees paid hereunder shall not be refundable.
- e. Any person proposing to obtain a transfer of a License with respect to a change of location(s) shall make application to the Town, and the powers, conditions, requirements and procedures relating to the initial License application shall apply, except as to fees.
- f. Any person proposing to obtain a transfer of a License shall pay for a License transfer fee at the time of application, as listed on Schedule "A" of this Bylaw.

- g. A License authorizes only the person or business named in the License to carry on only the business described in the License, and only at the location or locations described, and date(s) and operating times described and approved by the License.
- h. No Licensee shall change any condition upon which the License fee is based without first making an application for a change, paying the change fee and additional License fee payable under this bylaw as a result of the changes, and obtaining a revised License.

#### 4) LOCATION(S)

- a. Approved location(s) will be as outlined in Schedule "B", which may be amended from time to time by Resolution of Council.

#### 5) ACKNOWLEDGEMENT

- a. All applicants must sign an acknowledgement outlining that they understand the terms and conditions of their License.
- b. The Town has the right to revoke a License in the event that the Vendor has not complied with the terms and conditions outlined in their License.

#### 6) SITE OPERATIONS

- a. The Licensee must strictly adhere to the approved prescribed Location(s). The Town reserves the right to limit amount of space that the mobile food service unit occupies in its approved location(s).
- b. It is the responsibility of the Vendor to:
  - i. Maintain the Location(s) and equipment in a clean and orderly condition;
  - ii. Provide waste receptacles outside the Vending Units for public use;
  - iii. Ensure waste receptacles are removed from Town property during non-operating hours and that the site is properly cleaned (free of food, debris and paper, wraps, etc.) prior to closing hours;
  - iv. Where applicable, place traffic cones to restrict customer parking in non-designed areas;
  - v. Place mats underneath Vending Units that do not have catchers, to protect the area from grease and other pollutants;
  - vi. Remove Vending Units from the site after closing hours; and
  - vii. Comply with all rules, bylaws and policies of the Town.
- c. All power and energy associated with street vending must be provided by the Licensees. Utilization of municipal energy sources, outlets, standards, etc. at any of the Location(s) is prohibited unless prior permission has been granted in writing by the Town.
- d. The License must be located on the site of the Vending Unit, prominently displayed at all times and must be viewable by the public during hours of operation.

#### 7) SAFETY AND TRAFFIC IMPLICATIONS

- a. The Town reserves the right to relocate or remove a site:
  - i. Should there be safety concerns and other logistical problems with a site from a safety and traffic perspective; and



- ii. In order to accommodate repairs or maintenance of any pavement, parking lot, walk, streetlight, signal light or underground facility.
- b. The Vendor shall not conduct business in such a way as to impede pedestrian or vehicular traffic flow.
- c. Street Vending Units shall serve customers from the sidewalk side of the unit.
- d. No Vending Unit shall be left unattended during operation.
- e. No Vending Unit shall be parked in an approved location(s) in excess of 14 hours.
- f. All advertising must be attached to the Vending Unit and shall advertise only consumable products being sold from the unit. Advertising signs shall not extend beyond the overall width or height of the Vending Unit.

#### 8) RESTRICTIONS

- a. No Licensee shall carry on a business during the hours of quiet as stipulated in Town Bylaw No. 655-07 or any amendments thereto, or outside of approved operating hours as noted on the License.
- b. No Licensee shall operate or permit the operation of a Mobile Food Service Unit in an unapproved location(s), during unapproved days or unapproved operating hours.

#### 9) EXEMPTION

- a. Any exemption to this Bylaw shall only be made by resolution of Council from time to time conducted during a duly called open Council business meeting.
- b. Any business against which a commercial mill rate tax levy is assessed on the property within Niverville primarily from which the business operates shall be exempt from the License fee but must still obtain a License and operate in an approved location(s) and according to the terms and conditions in the License.
- c. That no License shall be required to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual.

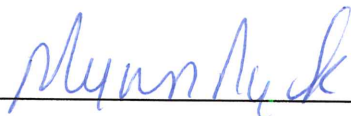
#### 10) REVOCATION, SUSPENSION


- a. The Town may revoke or suspend any vending License if the Vendor has:
  - i. Knowingly made any false, misleading or fraudulent statement of the material fact in its application for a vending permit;
  - ii. Violated any of the terms and conditions set forth in the By-law;
  - iii. Failed to comply with any order to cease and desist from any violation; and
  - iv. In any other way endangers the public health, safety and welfare in the conduct of vending activities.

#### 11) ENFORCEMENT AND PENALTY

- a. This Bylaw shall be administered by a Bylaw Enforcement Officer, or other individual duly appointed by Council, and such person shall act under the general supervision of the Administrator.
- b. The Town is authorized to enforce this bylaw as per Bylaw 778-17; including charging penalties, and revoking Licenses as required.
- c. Every person who contravenes or refuses, neglects, omits or fails to obey or observe any provision of the Bylaw is guilty of an offence and is liable, upon summary conviction, to a fine as per Bylaw 778-17, for each offence so convicted.
- d. Each offense is to be considered as separate and apart from any previous subsequent offense.

**DONE AND PASSED** by Council of the Town of Niverville duly assembled on the 6<sup>th</sup> day of June, 2023.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Chief Administrative Officer

Read a first time this 16<sup>th</sup> day of May, 2023  
Read a second time this 6<sup>th</sup> day of June, 2023  
Read a third time this 6<sup>th</sup> day of June, 2023

**SCHEDULE "A"**  
Town of Niverville  
By-law No. 854-23

The following fees\* shall be paid to the Town to obtain a Mobile Food Service Unit License:

1. Resident Fee\* (must live and/or own property within the Town of Niverville)
  - a. Weekly Rate - \$250.00 for 7 consecutive days
  - b. Monthly Rate - \$500.00 for 30 consecutive days
  - c. Seasonal Rate - \$1,250.00 for 184 consecutive days
  - d. License Transfer Fee - \$50.00
  - e. Condition Change Fee - \$50.00
2. Non-resident Fee\*
  - a. Weekly Rate - \$350.00 for 7 consecutive days
  - b. Monthly Rate - \$600.00 for 30 consecutive days
  - c. Seasonal Rate - \$1,500 for 184 consecutive days
  - d. License Transfer Fee - \$50.00
  - e. Condition Change Fee - \$50.00

\*Minimum fee for license is the weekly rate.

There will be no credit given for a permit that has already been issued, should a Vendor want an extension, unless the Vendor is upgrading from a weekly permit to a seasonal permit.

For example:

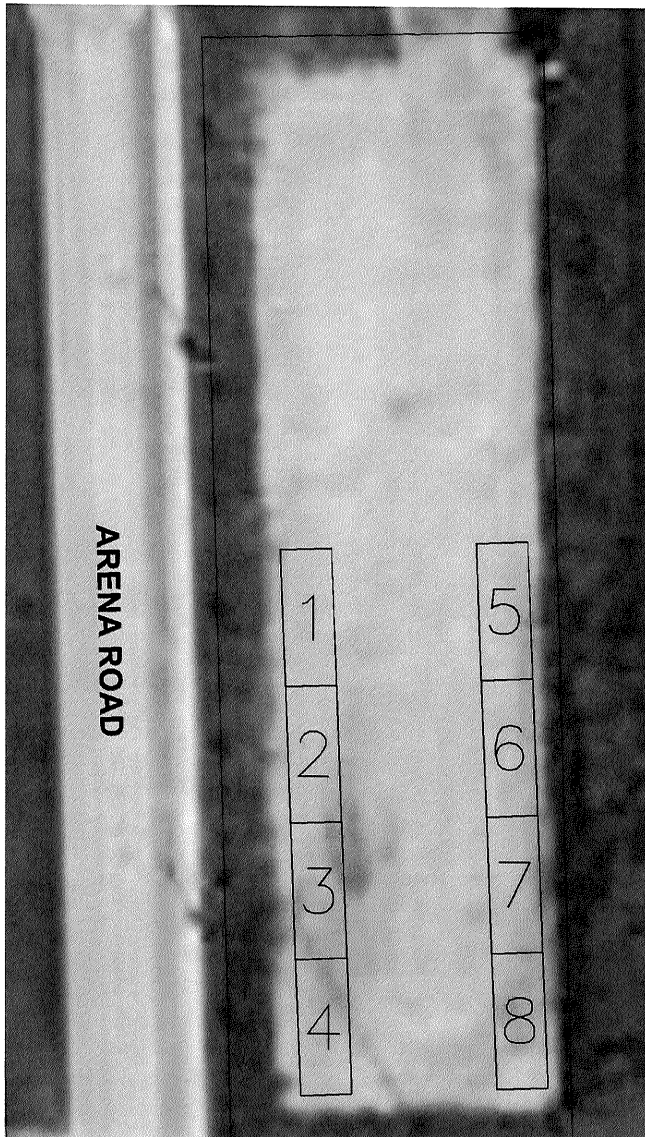
Vendor has paid for a weekly permit and now wants to extend the permit for the season – they will get credit of weekly rate against the seasonal rate.

Vendor has paid for 1 month and now wants to extend the permit for the season – they will be required to pay the seasonal rate.

**SCHEDULE “B”**  
Town of Niverville  
By-law No. 854-23

Approved locations:

- 1) Private property, subject to a 200-metre setback from businesses in the adjacent area selling consumable goods (other than a grocery store or convenience business whose primary business is the sale of products). For special events on private property see Section 2.i.
- 2) Streets in the Commercial Corridor, excluding PR311, subject to a 200-metre setback from existing businesses in the area selling consumable goods (other than a grocery or convenience store business whose primary business is the sale of products). Note that parking may be a consideration for Town approval of location(s).
- 3) Southern half of the Niverville Centennial Arena overflow parking lot (along railroad tracks) – see map below:





4) Hespeler Park north and south parking lots and on Hespeler Park Drive, in the specified areas (see map below).

