



Staff Report

Report To: Council Meeting

From: Jana Nethercott, Clerk

Date: 2021-03-25

Subject: Proposed licensing of Mobile Food Outlets or Food Trucks

Recommendation:

That West Elgin Council hereby receives the report from J. Nethercott, Clerk re: Proposed licensing of Mobile Food Outlets or Food Trucks; and

That West Elgin Council here by direct staff to _____

Purpose:

The purpose of this report is to inform about some requests received by staff regarding operating Food Trucks in West Elgin, to provide information to Council to consider with regard to Mobile Food Outlets or Food Trucks and gage Council's interest in updating the Comprehensive Zoning By-law and passing a by-law to regulate and license Mobile Food Outlets or Food Trucks

Background:

Recently West Elgin staff have received a number of inquires regarding the possibility of bringing Food Trucks to West Elgin for the upcoming summer season, most of these inquires have been from outside of the municipality.

There are a number of considerations for Council with regards to Food Trucks or Mobile Food Outlets such as where they should be permitted to be located, the fact that they are tourist attractions, they can take business away from bricks and mortar restaurants, that they don't pay taxes but can become a by-law enforcement issue.

Location

Currently the Comprehensive Zoning By-Law 2015-36 does define "Mobile Food Outlet as a structure designed as an integral part of a self-propelled motor vehicle or as a unit which is towed by a motor vehicle, from which food and refreshment is made available to the general public" and they are permitted only in the C1 Village Core Zone. There are no other regulations for Mobile Food Outlets or Food Trucks.

Staff would like to propose that Mobile Food Outlets or Food Trucks also be permitted in the C2 or Hamlet Commercial Zone, which would permit these in Clachan, Eagle, Port Glasgow and New Glasgow. In order to do this a housekeeping zoning by-law amendment would need to be done, which would trigger the public process. This allows for mobile food outlets or food trucks along a visible tourism corridor of Talbot Trail, which could be a great draw for tourism.

Another factor in the location that must be considered is the fact that in both C1 and C2 Zones, we have “bricks and mortar” restaurants, which pay taxes and have suffered greatly during the pandemic. In order to protect these restaurants and tax payers, we need to pass a licensing by-law to restrict their location within these zones. Staff are proposing that we restrict the locations as follows:

1. Not allowed on Municipal property unless in conjunction with a municipally approved event – this will allow for food trucks to be present during events at Rodney Park and Miller park during community events with no municipal license required. This also prevents Food Trucks from setting up at the Marina or Beach and taking away business from the Food Booth that traditionally operates at that location.
2. Not within 150m of a restaurant – this provides protection to bricks and mortar restaurants that a Food Truck won't be set up too close to a restaurant and take away their business, but still allows for Food Trucks to be present on the fringes of the downtowns and along Talbot Trail, where bricks and mortar restaurants are existing.
3. Not allowed to park on the roadways – this also provides protection to bricks and mortar restaurants and prevents hazardous along roadways.

Inspections

There are required inspections by Provincial Law:

- Southwestern Public Health as per O'Reg 493/17
- Mobile food Service Equipment Annual Inspection required by TSSA

It is suggest that West Elgin Fire Inspection be done to ensure the Mobile Food Outlet conforms with Fire Code.

Fees

The Municipal Act does allow for fees to be charged for licensing of business. As there will be staff time involved and the current fee for the Fire Inspections is \$50.00, staff are proposing a fee of \$100 per year, including the Fire Inspection Fee. This fee can be set annually in the Fees and Charges By-law.

Next Steps

If Council wishes to move forward with licensing of Mobile Food Outlets Set fines should be drawn up and the draft by-law be sent for review with the Ministry of Attorney General prior to passage to ensure compliance with any set fines proposed. Once approved the by-law and set fines would be presented to Council for approval.

Notice should be provided in the local newspaper, on the website and social media of any new licensing.

A zoning by-law amendment can be brought forward following the appropriate notice, to permit the expansion of zones that a mobile food outlet could be permitted.

Financial Implications:

N/A

Policies/Legislation:

Municipal Act, 2001

Ontario Regulation 493/17 of the Health Protection and Promotion Act

West Elgin Comprehensive Zoning By-law 2015-36



MUNICIPALITY OF **West Elgin**

The Corporation Of The Municipality Of West Elgin

By-Law No. 20YY-XX

A by-law for the regulation of Mobile Food Outlet and the licensing of such premises.

Whereas Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

And Whereas subsection 151(1) of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 of the Act, a municipality may provide for a system of licences with respect to a business;

And Whereas it is deemed desirable for the public to exercise its licencing powers for the purposes of Health and safety;

Now Therefore the Municipal Council of The Corporation of West Elgin enacts as follows:

1. Definitions

1.1. **“Licence”** shall mean a licence under the provisions of this by-law.

1.2. **“Medical Officer of Health”** shall mean the Medical Officer of Health for Southwestern Public Health Unit or his/her duly authorized delegate.

1.3. **“Mobile Food Outlet”** a structure designed as an integral part of a self-propelled motor vehicle or as a unit which is towed by a motor vehicle, from which food and refreshment is made available to the general public.”

1.4. **“Municipality”** means the Municipality of West Elgin or the geographic area of the Municipality of West Elgin as the context suggests.

1.5. **“Municipal Clerk”** means the Clerk or designate as defined by Section 228 of the *Municipal Act, 2001*, S.O. 2001, c.25.

- 1.6. **“Restaurant”** means a building, designed, used or intended for the servicing of food or refreshments to the public where the servicing and consumption of food or refreshments takes place entirely within such building or at outside tables immediately adjacent to such building and may include a dining lounge licensed under the *Liquor License Act*.

2. Interpretation

- 2.1. The requirements of this By-law are in addition to requirements contained in any other applicable by-laws of the Municipality or applicable provincial or federal statutes or regulations.
- 2.2. If there is a conflict between a provision of this By-law and any other by-law of the Municipality or a provincial or federal statute or regulation, the most restrictive in relation to the regulation of animals shall prevail.

3. Scope

- 3.1. The provisions of this By-law apply to the entire geographic area of the Municipality.

4. Licensing of Mobile Food Service Premises

- 4.1. No person shall operate a Mobile Food Outlet within the limits of the Municipality of West Elgin unless and until the operator has obtained a separate license for each Mobile Food Service Premises, as issued under the provisions of this by-law. Such licence must be posted in a visible spot.
- 4.2. No person shall operate a Mobile Food Outlet on municipal public property, unless in conjunction with a municipally approved event.
- 4.3. No person shall operate a Mobile Food Outlet within 150 m of a restaurant.
- 4.4. No person shall operate a Mobile Food Outlet on private property without the written consent of the property owner.
- 4.5. No person shall operate a Mobile Food Outlet on a sidewalk or boulevard adjacent to a public highway.
- 4.6. No person shall operate a Mobile Food Service Premises, the sanitary condition of which is not satisfactory to any public health inspector.
- 4.7. No person shall operate a Mobile Food Service Premises, which has not been approved by a public health inspector prior to commencement of operation in the calendar year which the premises is set to operate.
- 4.8. No person shall operate a Mobile Food Outlet which has not been inspected by the West Elgin Fire Chief or his/her designate prior to commencement of operation in the calendar year which the premises is set to operate.

4.9. All Mobile Food Outlets must conform to all Municipal By-Laws.

5. Application

5.1. Every application for a licence shall be in the form as shown in attached Schedule "A", which forms part of this by-law and shall provide any other information relating to the application as required by the Municipality.

5.2. Every application for a Mobile Food Outlet shall:

5.2.1. provide written consent of property owner

5.2.2. be accompanied by the required licence fee

5.2.3. be accompanied by Mobile Food Premises Inspection Report R.R.O. 1990, Regulation 562, signed by the Southwest Public Health Official

5.2.4. be accompanied by proof of insurance in accordance with Section 7 of this by-law

5.2.5. be accompanied by a current Mobile Food Service Equipment (MFSE) Annual Inspection Certificate for MFSE's from Technical Standards & Safety Equipment (TSSA)

5.2.6. Signed Inspection from West Elgin Fire Chief or his/her designate

5.3. Applications shall be processed and approved by the Clerk and/or his/her designate.

6. Fees

6.1. A licence fee shall be charged on an annual basis in accordance with Fees and Charges By-Law, as amended.

6.2. No application shall be reviewed or issues a licence unless fees have been paid in full.

7. Insurance

The licensee shall provide the Municipality of West Elgin with a valid insurance certificate of a minimum of two million dollars (\$2,000,000.00) liability insurance.

8. Enforcement

Any person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine as provided for in Part One the *Provincial Offences Act*.

9. Enactment

This by-law shall come into force and effect upon the final passing thereof.

Read a first and second time this _____

Read a third time and passed this _____

Duncan McPhail
Mayor

Jana Nethercott
Clerk

DRAFT

BY-LAW 2018-____
APPLICATION FOR MOBILE FOOD SERVICE PREMISES

Name of Applicant: _____

Address of Applicant: _____

Telephone No: _____ **Email:** _____

Location of Mobile Food Service: _____

Documents Attached:

- License Fee (\$50.00 per Mobile Food Service Premises)
- Motor Vehicle Registration
- Photograph of Mobile Food Service Premises
- Proof of Insurance
- Written Permission from Property Owner
- Mobile Food Service Equipment (MFSE) Annual Inspection Certificate from TSSA

West Elgin Fire Department

I hereby certify that I or an authorized officer of this department have inspected the Mobile Food Service Premises within the last three (3) months and confirm that it conforms to applicable sections of the Ontario Fire Code.

Date: _____

Signature: _____
Fire Chief

I hereby certify that all the information contained in this form is true and accurate to the best of my knowledge.

Signature of Applicant

Date

Office Use Only

Licence No: _____

Date Issued: _____

Personal information collected on this form is collected under the authority of the Municipal Act, 2001 and will be used for the purpose of creating a record of Mobile Food Service Premises licences. Questions about this collection should be directed to the Clerk of the Municipality of West Elgin at 22413 Hoskins Line, Rodney Ontario, N0L 2C0, 519-785-0560.