

The Corporation of the Municipality of Brockton



By-Law 2021-085

Being a By-Law for Licensing, Regulating and Governing Vehicles from Which Refreshments are Sold for Consumption by the Public and for Revoking any Such License.

Whereas pursuant to the provisions of the *Municipal Act, 2001, S.O. 2001, c. 25*, Section 150, as amended, Councils are authorized to pass a by-law licensing, regulating and governing any business carried on within the Municipality;

And Whereas the Council of the Corporation of the Municipality of Brockton deems it advisable to license, regulate and govern vehicles from which refreshments are sold within the Municipality of Brockton, as set out herein.

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts As Follows:**

Section A – Definitions

1.

- a) **Cart** means a vehicle, other than a motor vehicle, which is capable of being moved from place to place by any person;
- b) **Charitable Organizations** means an organization which performs services of public good or welfare without profit;
- c) **Competitive Commercial Establishment** means a permanent establishment in which identical goods or merchandise are sold or displayed;
- d) **Highway** means a common and public highway, street, avenue, parkway, drive, square, place, bridge, viaduct or trestle any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof within the boundaries of the "Municipality";
- e) **Intersection** means the area embraced within the prolongation or connection of the lateral curve lines or if none then of the lateral boundary lines of two or more highways that join one another at an angle whether or not one highway crosses the other;
- f) **Municipality** means the Corporation of the Municipality of Brockton;
- g) **Operator** means the individual operating or conducting business at the vehicle, cart or stand licensed under this by-law;
- h) **Outdoor Vending** means the offering to sell, the display for sale, and the sale of goods or services on highways, municipal owned parks or land; **or outside on any private property except for patios connected to any permanent restaurant, or dining establishment;**
- i) **Sidewalk** means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians;
- j) **Stand** means a frame, base or display structure upon which items or goods are displayed for sale and is capable of being removed on a daily basis;

- k) **Vehicle** means a motor vehicle, trailer, traction engine, farm tractor, road building machine and any vehicle drawn propelled or driven by any kind of power, including muscular power and includes a cart but does not include a motorized snow vehicle or a street car;
- l) **Vendor** means a person(s), partnership or corporation to whom a license has been issued pursuant to this by-law;
- m) **Council** means the Council of the Municipal Corporation of Brockton.

Section B – Regulations

- 2. No person(s), partnership or corporation shall sell or offer for sale any goods or services upon any highway or part thereof or in any public parks or lands owned by the Municipality of Brockton **or upon any privately-owned property except for patios outside of restaurant or dining establishments**, unless such person(s), partnership or corporation holds an outdoor vending license issued by the Municipality of Brockton and as regulated herein. The following goods or services shall be permitted to be sold, subject to the provisions of this by-law:
 - a) Food items;
 - b) Any other goods or services as permitted by by-law of the Council of the Corporation of the Municipality of Brockton as an exemption to this by-law.
- 3. Any person, partnership, or corporation licensed pursuant to the provisions of this by-law shall:
 - a) Operate only in the permanent location designated by a license issued pursuant to this by-law;
 - b) Not operate within 15 metres of an intersection;
 - c) Not operate, locate or sell from or on the travelled portion of the highway or street;
 - d) Not operate within twenty metres of any competitive commercial establishment;
 - e) Not cause any obstructions of any nature or kind on the sidewalk;
 - f) Not operate within one hundred metres of any school.
- 4. The issuance of every Outdoor Vending License shall be subject to the following requirements:
 - a) Completion of the application form attached hereto as Schedule “A” to this by-law to the satisfaction of the Municipality of Brockton;
 - b) A license shall be required for each cart, stand or vehicle, and shall either be displayed in a conspicuous place on the said unit or available for presentation on demand by a Police Officer or a Municipal By-Law Enforcement Officer;
 - c) The interior walls and ceiling of such vehicle shall be painted and finished with enamel or other washable type of paint. The floor shall be painted or covered with some impermeable substance and free from any holes or cracks and shall be kept clean and in good condition;
 - d) The body, doors and windows of such vehicle shall be of sufficiently sound construction to provide all reasonable protection against dust, dirt, flies or other possible contaminants;

- e) The interior of the vehicle shall be equipped with at least one (1) metal or plastic refuse container lined with a plastic garbage bag for disposal of the refuse once full. This container shall also be equipped with a self closing lid;
- f) Each vehicle operator shall be responsible for placing at least two (2) metal or plastic refuse containers, of a minimum size being 40 cm x 35 cm x 60 cm within 2 metres of the vending vehicle during all hours of operation. These containers shall be the responsibility of the operator of the vending vehicle and the operator must ensure that they are in an upright position, emptied when full, equipped with a self closing lid and removed when the vendor vacates each operation site;
- g) The heating units used in any such vehicle for the preparation of food shall be of a smokeless type and must be vented to prevent the escape of gases and carbon monoxide which may contaminate food;
- h) All foods and refreshments shall be adequately protected against contamination from droplet infection and flies;
- i) All uncooked foods shall be maintained at all times in a clean sanitary condition;
- j) All persons engaged in the operation of such a vehicle including their assistants or employees shall maintain a neat and clean appearance at all times;
- k) All such operators and their employees shall satisfy the Medical Officer of Health as to their freedom from communicable disease and shall submit to X-Ray examinations or such other tests as the Medical Officer of Health having jurisdiction within the Municipality of Brockton or his/her designated representative may require;
- l) The applicant for an Outdoor Vending License shall maintain the cart/stand/vehicle in good repair and appearance;
- m) Agree to save harmless the Municipality of Brockton from any claim of any nature or kind resulting from the operation of the Outdoor Vending pursuant to this license. The applicant shall agree to purchase liability insurance in the amount of \$1,000,000.00 insuring the applicant, the Municipality of Brockton and any employee of the applicant conducting business pursuant to this license. A certified copy of such insurance shall be filed with the Municipality and be in good form and content satisfactory to the Municipality prior to the issuance of the license and shall be in good standing at all times;
- n) Shall comply with all applicable provisions and regulations under the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*;
- o) Shall comply with all applicable provisions and regulations under the Ontario Propane Storage Handling Utilization Code;
- p) Not to use load speakers, amplifiers, lights or other hailing devices and shall not contravene any noise by-law of the Municipality;
- q) Agree that the license shall not be transferred;
- r) Agree to the surrender of the license if this license has been revoked under resolution of the Council of the Corporation of the Municipality of Brockton if any of the provisions of this by-law have been breached;
- s) A license issued under this by-law shall be for a period of time not exceeding one year expiring December 31st of the current year. Each licensee shall have 30 days from the expiration date to renew their license for the same location as designated by their license otherwise such location may be assigned to another applicant on a first come

first serve basis;

- t) All operators shall be a minimum of 16 years of age.
5. Notwithstanding anything contained in this by-law to the contrary the following regulations shall apply to all Municipal parks and facilities:
- a) No Vendor/Operator shall sell any goods or services in a sports field other than from behind the spectator area;
 - b) No Vendor/Operator shall sell any goods or offer any services 11:30 p.m. – 7:00 am. Monday through Saturday and from Sunday 11:00 p.m. to Monday 7:00 a.m.
 - c) In the event of a motorized vehicle every Vendor/Operator shall be:
 - i) Responsible for the cost of ground preparation and maintenance of the location as designated by the license;
 - ii) Restore such location to its original state as required by the Municipality of Brockton;
 - iii) Be responsible for the removal of the motorized vehicle by October 15th of each year;
 - iv) Be required to confirm adequate motor vehicle insurance on the application for an outdoor vending permit.
 - d) Notwithstanding anything contained in this by-law to the contrary Council shall have the authority to approve outdoor vending in any municipal park or facility for special events or special hours associated with these or other events.

Section C – Administration

6. Every application for an Outdoor Vending License shall be in accordance with the application form attached hereto as Schedule “A”.
7. The provisions of this by-law shall be administered by Council, ~~CAO/~~Clerk, Treasurer and ~~Director of Community Services-Facilities/Recreation Manager~~.
8. The license fee shall be collected upon the issuance of any outdoor vending license:
- “The fee to be collected for the issuing of any outdoor vending licence shall be as established in the Municipality of Brockton consolidated fee by-law, as amended”.
9. Any charitable organization wishing to vend shall be subject to the provisions of this by-law save and except any fee may be waived by Council **and the individuals described in paragraph 7 above** provided the proceeds from any sale shall be used for charitable purposes.
10. The licensing provision for a license is this by-law shall not apply to any legally operating commercial enterprise that wishes to occupy a portion of the sidewalk directly adjacent to their commercial property. However before occupying a portion of the sidewalk a written proposal outlining the area to be occupies must be submitted to the Brockton Municipal Office. All other provisions of this by-law shall be complied with.

Section D – Enforcement/Penalties

11. Every person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for under the *Provincial Offences Act, R.S.O. 1990, c. P.33*.
12. This by-law shall come into effect on the date of the final passing thereof.
- 13. That By-Law 2006-27 be hereby amended.**

14. This By-Law shall supersede all others.

15. This By-Law may be cited as the “Amend Refreshment Vehicle Licensing By-Law”.

Read, Enacted, Signed and Sealed this 22nd day of June, 2021.

Mayor – Chris Peabody

Clerk – Fiona Hamilton

Schedule A
Application for Outdoor Vending
By-Law 2021-XXX

Date:_____

Applicant Name:_____

Address:_____

Postal Code: _____ Phone No._____

Contact Person Name:_____

Address:_____

Postal Code:_____ Phone No._____

Location of Proposed Vending:

Name of Street/Park:_____

Specific Area Requested:_____

If Private land: Plan or Lot No._____

Approval of Landowner by Signature:_____ Print Name:_____

Type of Vending:

☐Food ☐Non-Food Details:_____

Type of Vending

☐Vehicle ☐Cart ☐Stand **Provide detailed drawing and photograph with relevant detailed dimensions

If A Motorized Vehicle:

Insurance Agent:_____ Policy Number Expiry Date:_____

Insuring Company for Motor Vehicle Insurance:_____ Policy Number:_____

Certificate of Medical Officer of Health:

This is to certify that I have inspected the Food Vending Unit in respect of which the application is made, and have found that it complies with the required standards of the Ministry of Health.

Date:_____ Inspector:_____

Certificate of Fuel Safety Branch, Technical Standards Branch:

This is to certify that I have inspected the Food Vending Unit in respect to which the application if made, and have found that it complies with the required standards of the propane storage, handling and utilization code.

Date:_____ Inspector:_____

I certify that I have read and understand By-Law 2021-XXX, and if granted a license, shall comply with the provisions of the by-law. I understand that this license may be revoked by the Municipality of Brockton for the breach of any by-law or statute:

Insurance Policy attached: _____Policy No. _____ Amount _____

Name of Insurance Company:_____

Expiry Date:_____ Applicant Signature:_____

For Office Use Only:

Date:_____ Renewal: ☐ New: ☐ License No.:_____

Expiry Date:_____ Approved by:_____

Fees attached _____ License _____ BIA _____ Parking _____

Guidelines for Outdoor Vending

Under By-Law 2021-XXX

Municipality of Brockton

These guidelines are designated to assist persons applying for permission to vend from a vehicle, cart or stand at specific locations in the Municipality of Brockton.

- a) Applications for approval must be submitted to the Brockton Municipal Office
- b) The selection of the location is entirely up to the application on a first come first served basis and Council will determine whether the location is appropriate;
- c) Outdoor vending is prohibited from within residentially zoned areas of the town. When reviewing request for locations near residential zoned areas, Council will consider the potential disruption to the residential area and will deny requests for locations where any potential for residential disruption exists;
- d) Outdoor vending from parking lot shall not interfere with this normal movement of pedestrians and sales are not permitted from or on the traveled portion of a highway;
- e) Vendors will not be permitted in front of building entrances/exits, names or numbers, standpipes, display windows or fire hydrants;
- f) Vendors vehicle/cart/stand will not interfere with the visibility of pedestrian and vehicles;
- g) The maximum area permitted for carts or stand will be 2.32 metres (25.0 square feet, and the space will include the seats and waste receptacles(s).);
- h) All food vendor application will be accompanied by details of waste receptacles, food storage area, heating, cooling or other equipment as required by the Medical Officer of Health and Inspection thereof;
- i) Applicants whose vending involves propane or other fuel heaters require an inspection of the vehicle/cart/stand by the Fuel Safety Branch, Technical Standards Division;
- j) The applicants has the right to appear before Council;
- k) Prior to issuance of license, you will be required to submit a certificate of general liability insurance in the amount of \$1,000,000 containing a cross-liability clause naming the Municipality of Brockton as an additional named insured;
- l) Requisite fees as outlined in the Municipal Fees and Charges By-Law must accompany the application and will be refunded if the application is not approved;
- m) On issuance of a license you are free to vend in your approved location in accordance with the provisions of By-Law 2021-XXX;
- n) The license will be issued for a one (1) year period and all licenses shall expire on December 31st of each year. Each licensee shall have thirty (30) days from the expiration date to renew the license for the same location.

Part 1 Provincial Offences Act

The Corporation of the Municipality Of Brockton

By-Law 2006-27

Being a By-Law for the Licensing of Outdoor Vendors.

Item	Short Form Wording	Offence Creating Provision Or Defining Offence	Set Fine (Includes Costs)
1.	No license	Section 2	\$350.00
2.	Operating on improper location or times	Sections 3 and 5	\$75.00
3.	Failure to produce license	Section 6	\$75.00