



**TOWN OF HINTON
BYLAW No. 1170**

**BYLAW OF THE TOWN OF HINTON IN THE PROVINCE OF ALBERTA
TO PROVIDE FOR THE CONTROL AND REGULATION OF MOBILE
VENDOR BUSINESSES**

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26 (hereinafter referred to the "Act") as amended from time to time, provides that a municipality may pass Bylaws for municipal purposes respecting services provided by the municipality; and

WHEREAS pursuant to section 7(a) of the Act, a council may pass Bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

WHEREAS pursuant to section 7(e) of the Act, a council may pass Bylaws for municipal purposes respecting Businesses, Business activities and Persons engaged in Business;

WHEREAS pursuant to section 7(i) of the Act, a council may pass Bylaws for municipal purposes respecting the enforcement of Bylaws made under the Act or any other enactment including any or all of the matters listed therein;

AND WHEREAS pursuant to section 8 of the Act, a council may, through Bylaw:

- a) Regulate or prohibit;
- b) Deal with any development, activity, industry, Business or thing in different ways, divide each of them into classes and deal with each class in different ways; and
- c) Provide for a system of licenses, permits or approvals, including any or all of the matters listed therein;

NOW THEREFORE the Municipal Council of the Town of Hinton in session duly assembled hereby enacts as follows:

PART 1 – DEFINITIONS AND INTERPRETATION

1.0 TITLE

- 1.1 This Bylaw may be referred to as the "Mobile Vendors Bylaw".

2.0 DEFINITIONS

- 2.1 **Act:** means the *Municipal Government Act*, R.S.A. 2000 c. M-26, as amended.
- 2.2 **Applicant:** a Person who is lawfully entitled to make, and makes, an application for any document, approval, Mobile Vending Permit, other permit or other thing that may be issued, made or done under the authority of this Bylaw.

- 2.3 **Business:** means the definition assigned within Business License Bylaw No. 1126.
- 2.4 **Business License:** means the definition assigned within the Business License Bylaw, summarized as a license issued for the purpose of licensing any Business operating within Hinton.
- 2.5 **Business License Bylaw:** means the Town of Hinton Business License Bylaw No. 1126 or as may be amended or replaced from time to time.
- 2.6 **CAO:** means the Chief Administrative Officer of the Town of Hinton or the employee of the Town of Hinton who has been delegated the authority to exercise the powers, duties, and functions of the Chief Administrative Officer under this Bylaw.
- 2.7 **Event:** means activities occurring in the Town which are open to or intended to attract the general public, including but not restricted to a festival, public show, exhibition, trade show, commercial performance, or parade.
- 2.8 **Development Authority:** means the definition assigned within Land Use Bylaw No. 1088 or as may be amended or replaced from time to time, summarized as a person who is authorized to exercise development powers.
- 2.9 **Hinton/Town:** the Municipal Corporation of the Town of Hinton in the Province of Alberta, and/or the area contained within the corporate boundaries of said municipality, as the context may require.
- 2.10 **Land Use Bylaw:** means the Town of Hinton Land Use Bylaw No. 1088 or as may be amended or replaced from time to time.
- 2.11 **Mobile Cart Vendor:** means any Person operating from a portable cart or wagon (which may be attached to a bicycle) used for the purposes of offering food products, beverages, or goods for sale to the public.
- 2.12 **Mobile Food Vendor:** means any Person operating from a motor vehicle, trailer, or similar mobile structure designed for the purpose of offering food products or beverages ready for immediate consumption for sale to the public. Commonly referred to as a "food truck".
- 2.13 **Mobile Vendor/Vendor:** any Person selling goods, food, amusements or services from a mobile motor vehicle, trailer, cart, temporary structure or display, stand or similar structure that is designed for offering the sale of goods, food, beverages, or services; includes Mobile Food Vendors and Mobile Cart Vendors.

- 2.14 **Mobile Vending Permit/Permit:** means a permit issued for the purpose of allowing a Business operating as a Mobile Vendor to operate on Public Lands within Hinton.
- 2.15 **Nuisance Bylaw:** means the Town of Hinton Nuisance Bylaw No. 1101 or as may be amended or replaced from time to time.
- 2.16 **Officer:** means:
- a. a Bylaw Enforcement Officer appointed to enforce Bylaws of the Town;
 - b. a Community Peace Officer appointed by the Solicitor General of Alberta and authorized by the Town; or
 - c. a member of the Royal Canadian Mounted Police.
- 2.17 **Permitting Inspector:** means a person to whom the CAO has delegated the authority to assist in carrying out the administration and enforcement of this Bylaw and includes, for the purposes of this Bylaw, an Officer, Development Authority, and any other person, or Town Department whose consultation, approval or certificate is required under this Bylaw
- 2.18 **Person:** an individual, a group of individuals, a corporation, firm, partnership, proprietorship, association, society or co-operative.
- 2.19 **Public Land:** means and includes all land registered in the name of the Town of Hinton and includes but is not limited to roads under the direction, control and management of the Town.
- 2.20 **Traffic Bylaw:** means the Town of Hinton Traffic Bylaw No. 1023 or as may be amended or replaced from time to time.
- 2.21 **Vending Unit:** means a mobile motor vehicle, trailer, temporary structure or display, stand or similar structure from which a Business is carried on.

3.0 INTERPRETATION

- 3.1 Nothing in this Bylaw relieves a person from complying with any Federal or Provincial law or regulation, other Bylaw or any requirement of any lawful permit, order or licence.
- 3.2 Any headings or subheadings in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.
- 3.3 Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
- 3.4 All Schedules attached to this Bylaw shall form part of this Bylaw.

- 3.5 Any reference in this Bylaw to a Part, Section or Clause, unless otherwise specified, is a reference to a Part, Section or Clause in this Bylaw.
- 3.6 Specific references to laws in this Bylaw are meant to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.

PART 2 – PERMIT APPLICATION REQUIREMENTS

4.0 LICENSES AND PERMITS REQUIRED

- 4.1 A Person must not carry-on Business as a Mobile Vendor unless that Person holds a valid Business License issued under the provisions of the Business License Bylaw.
- 4.2 A Person must not carry-on Business as a Mobile Vendor on Public Land within the Town unless that person has a valid Mobile Vending Permit issued under the provisions of this Bylaw.
- 4.3 A Mobile Vending Permit is not required for a Mobile Vendor operating solely on private property or during Events.

5.0 PERMIT REQUIREMENTS

- 5.1 Every Applicant applying for the issuance of a Mobile Vending Permit must provide:
 - a. a completed application in a form established by the Permitting Inspector.
 - b. pay to the Town the applicable fee.
 - c. proof that the Applicant is the holder of a valid Business License.
 - d. proof, satisfactory to the Permitting Inspector, of compliance with all applicable land use regulations for the base of operations and/or storage of Vending Unit and/or equipment.
 - e. a Certificate of Insurance with a minimum liability coverage in the amount of two million (\$2,000,000) dollars. The Town of Hinton must be named as an additional insured.
 - f. a waste management plan, satisfactory to the Permitting Inspector, including a description of how and where fats, oils, grease, and grey water will be disposed, if applicable to the services provided.
 - g. proof of a valid Alberta Health Services approval (Food Handling Permit), if applicable to the service provided.
 - h. proof of Fire Inspection approval, if applicable to the service provided.

- i. any additional information reasonably required by the Permitting Inspector.
- 5.2 No Person shall give false information in an application pursuant to the provisions of this Bylaw.

6.0 PERMIT FEES

- 6.1 An application for a Mobile Vending Permit will not be considered unless and until the Applicant pays the fee set out in Schedule 'A'.
- 6.2 Permit and inspection fees paid by an Applicant pursuant to this Section of the Bylaw are not refundable.
- 6.3 Annual Mobile Vendor Permits and Annual Mobile Cart Vendor Permits issued in 2022 shall pay a pro-rated fee calculated on the remaining months of 2022.

PART 3 – PERMITTING AND APPEALS

7.0 PERMIT APPROVAL, REFUSAL, SUSPENSION OR REVOCATION

- 7.1 Prior to issuing or renewing a Permit, the Permitting Inspector may consult with authorities and agencies.
- 7.2 Where a Permit has been issued in error without all the necessary approvals required pursuant to this Bylaw, the Permit may be revoked by the Permitting Inspector.
- 7.3 The Permitting Inspector may determine that it is inappropriate to issue a Permit to a Person where the safety, health or welfare of the public may be at risk due to the issuance of a Permit.
- 7.4 Where any certificate, authority, License or other document of qualification under this Bylaw or any other bylaw, or under any statute of Canada or the Province of Alberta is suspended, cancelled, terminated or surrendered, the Permitting Inspector shall suspend any Permit issued under this Bylaw based in whole or in part on the certificate, authority, License or other document of qualification.
- 7.5 Subject to an appeal to the CAO, the Permitting Inspector may refuse to grant any Permit required by this Bylaw, may suspend or revoke any Permit issued pursuant to this Bylaw, and may impose any conditions on a Permit for any of the following reasons:
- a. An Applicant submits an application which does not comply with the requirements of this Bylaw;
 - b. An Applicant, or Mobile Vendor holding a previously approved Permit:

- i. Fails to comply with the provisions of this Bylaw;
 - ii. Does not hold a valid certificate, authority, license, or other document required to qualify under this or any other bylaw, or under any law of Canada or Alberta;
 - iii. has, in the opinion of the Permitting Inspector, based on reasonable grounds, contravened this bylaw whether or not the contravention has been prosecuted;
 - iv. has outstanding fees related to a Business regulated under this Bylaw;
 - v. fails to pay a fine imposed by a court for a contravention of this Bylaw;
 - vi. has failed to comply with the conditions of a Permit issued pursuant to this Bylaw; or
 - vii. fails to allow a Permitting Inspector to enter and inspect a unit for the purpose of determining compliance with this bylaw; and
- c. in the opinion of the Permitting Inspector, based on reasonable grounds, it is in the public interest to do so.

7.6 Upon a Permit application being refused, or a Permit revoked or suspended, the Permitting Inspector shall notify the Applicant or Mobile Vendor of the refusal, revocation, or suspension and the reasons for it by:

- a. delivering a notice to the Applicant or Mobile Vendor or any of its officers or employees personally; or
- b. sending a notice by ordinary mail to the mailing address on the Permit application.

7.7 Upon receipt of a notice of a revocation or suspension, the Mobile Vendor shall immediately terminate the operation of the Vending Unit.

7.8 The CAO has the authority to suspend any activity under this Bylaw.

8.0 APPEAL PROCESS

8.1 A Person may appeal a refusal, revocation or suspension of a Permit to the CAO by submitting a notice of appeal in a form prescribed by the Town as well as an appeal fee set out in Schedule 'A' attached hereto within fourteen (14) days after the date the notice under Section 7.0 is received.

8.2 An appeal will be heard by CAO within thirty (30) days after the date the notice of appeal and the appeal fee are received by the Town.

- 8.3 The CAO may hear the appellant, the Permitting Inspector and any other person who, in the opinion of CAO, is affected by the decision being appealed. The CAO may accept any other evidence or information deemed pertinent to the subject matter of the appeal.
- 8.4 The CAO may uphold, vary, or reverse a decision of the Permitting Inspector.
- 8.5 The appellant will be notified of the outcome of the appeal within seven (7) days of the decision being rendered by the CAO.
- 8.6 Appeal fees paid by an appellant under this Section of the Bylaw are refundable if the appeal is successful.

9.0 INSPECTIONS

- 9.1 No Person shall attempt to prevent, obstruct or hinder an Officer from making an inspection authorized by this Bylaw.

10.0 APPOINTMENT, AUTHORITY, AND DUTIES OF PERMITTING INSPECTOR

- 10.1 The CAO shall appoint a minimum of one Permitting Inspector.
- 10.2 Permitting Inspectors are authorized to:
 - a. administer and enforce this Bylaw;
 - b. approve or refuse Permits, either with or without conditions;
 - c. cancel, suspend, alter, add conditions to, or revoke any Permit where it is deemed to be appropriate;
 - d. issue a minor variance or exemption from the terms of this Bylaw where it is deemed to be appropriate;
 - e. inspect or investigate any Business to determine whether it is in compliance with this Bylaw;
 - f. issue orders requiring compliance with this Bylaw;
 - g. initiate and conduct prosecutions for violations of this Bylaw; and
 - h. collect fees on behalf of the Town pursuant to this Bylaw.

PART 4 – PERMIT REGULATIONS

11.0 RESPONSIBILITIES OF MOBILE VENDOR AND EMPLOYEES

- 11.1 A Mobile Vendor shall be responsible for the act or acts of its agents in the carrying on of the Business in the same manner and to the same extent as

though the act or acts were done by the Mobile Vendor.

- 11.2 All information required to be provided to the Permitting Inspector must be accurate and up to date and promptly provided by the Mobile Vendor to the Permitting Inspector.
- 11.3 A Mobile Vendor shall maintain, on a continuous basis the standards and requirements necessary to obtain a Mobile Vending Permit.
- 11.4 A Mobile Vendor shall maintain any standards or requirements imposed by a Bylaw, or a Federal or Provincial Act or regulation, after the Mobile Vending Permit is issued.
- 11.5 A Mobile Vendor shall maintain any additional standards and requirements that are necessary because of any change in the operations of the Business after the Mobile Vending Permit is issued.
- 11.6 A Mobile Vendor shall produce the Mobile Vending Permit to the Permitting Inspector if requested to do so.

12.0 MOBILE VENDING OPERATING LOCATIONS

- 12.1 Mobile Vendors must not carry-on Business on Public Land without obtaining the prior written consent of the service area that has care, control, and management of the Public Land, as set out in the following table:

| Public Land | Approving Authority |
|------------------------|---|
| Parks and Green Spaces | Director of Community Services |
| Town Parking Lots | Director Responsible for Associated Building or Use |
| Roads | Director of Development and Infrastructure Services |

- a. A list and/or map of approved mobile vending locations shall be made available to Mobile Vendors at issuance of the Mobile Vending Permit.
 - b. Development Services shall be responsible to manage the approved mobile vending locations in cooperation with the directors of the service areas noted in the table above.
 - c. Requests for amendments, additions, or removals of approved locations may be directed to Development Services.
- 12.2 A Mobile Vendor must not carry-on Business on private property without obtaining the prior written consent of the property owner or occupier. Such written permission must be immediately provided to an Officer upon request.
 - 12.3 A Mobile Vendor must not carry-on Business at an Event without obtaining the prior written consent of the Event organizer. Such written permission must be immediately provided to an Officer upon request.

13.0 MOBILE VENDING REGULATIONS

- 13.1 Operation of a Business as a Mobile Vendor must comply will all other applicable Town of Hinton Bylaws including but not limited to the Business License Bylaw, Nuisance Bylaw, Land Use Bylaw, and Traffic Bylaw.
- 13.2 Any Person that carries on Business as a Mobile Vendor on Public Land must abide by the following regulations:
- a. Maintain at all times the Vending Unit in a safe, sanitary, well-ventilated, and clean condition.
 - b. The Vending Unit shall be self-contained and supply its own power and water source if required for operation. Generators are permitted providing they do not cause a disturbance.
 - c. Overhead canopies, doors or appurtenances shall not obstruct or hinder pedestrian or vehicular traffic.
 - d. All elements associated with the Mobile Vendor and its operations including line-up, signage, and waste receptacles, shall not cause any vehicular or pedestrian obstructions or hazards.
 - e. Mobile Vendors shall at all times operate with the service side facing toward a sidewalk, green space, or equally suitable safe location for patrons.
 - f. Mobile Vendors shall provide proper trash and recycling receptacles for customers.
 - g. Mobile Vendors shall collect and dispose of any refuse produced directly or indirectly by the Mobile Vending Business within a six (6) metre radius of the Vending Unit after service at a location.
 - h. Mobile Vendors shall make arrangements to provide proper access to public washroom facilities for employees.
 - i. Mobile Vendors shall attend the Vending Unit at all times while operating.
 - j. Temporary pedestrian-oriented signage associated with the Mobile Vendor is permitted and shall be placed within five (5) metres of the Vending Unit. Such signage shall not obstruct or hinder pedestrian or vehicular traffic.
 - k. Overnight storage of the Vending Unit, equipment, signage, or other apparatus associated with a Mobile Vendor Business is prohibited on Public Land between the hours of 11:01 p.m. and 6:59 a.m. unless:
 - i. associated with a multiple day Event and with the written permission of the Event organizer and the Town at their sole discretion.

- ii. written permission is obtained by the Town at their sole discretion.
- I. Operations of a Mobile Vendor shall be conducted in a manner that does not restrict or interfere with the ingress or egress of any adjacent property or constitute an obstruction to the access or movement of emergency or Town operations vehicles.
- m. Mobile Vendors may not actively solicit or harass pedestrians or park users.
- n. Mobile Vendors may not sell to customers in their vehicles. The client must approach the Vending Unit.
- o. Mobile Vendors may not operate within:
 - i. Twenty (20) metres from a Business that sells a similar product or service to the Mobile Vendor without the express written permission from the Business. Such written permission must be immediately provided to an Officer upon request.
 - ii. One hundred (100) metres from any primary or secondary school site without the express written permission from the school administration. Such written permission must be immediately provided to an Officer upon request.
 - iii. One hundred (100) metres from an Event without the express written permission from the Event organizer. Such written permission must be immediately provided to an Officer upon request.
- p. Mobile Vendors shall not operate on public roads within residential land use districts as identified within the Land Use Bylaw, except for instances where the following apply:
 - i. during an Event where the express written permission of the Event organizer has been obtained. Such written permission must be immediately provided to an Officer upon request.
 - ii. the Mobile Vendor is a Business that operates solely for the sale of ice cream or frozen foods in a form intended for individual consumption and the Vendor is not stopped for longer than ten (10) minutes at a time.
 - iii. the Mobile Vendor has been expressly invited by a residential landowner to carry-on Business on or in front of their property and the use is temporary, short term, and is not re-occurring. Such written permission must be immediately provided to an Officer upon request.

- q. Mobile Vendors shall not create any excessive disturbance or nuisance, including but not limited to noise, vibration, smoke, dust, odour, air pollution, heat, glare, bright lights, hazardous or unacceptable waste that encroaches onto private property, public roads, public spaces, or which may be a distraction for motorists or pedestrians.
- r. Mobile Vendors shall not modify Public Land or any improvements thereon (including any landscaping), or affix anything to Public Land except with the prior written authorization of the Town, which shall be in the Town's sole discretion.
- s. Mobile Vendors shall not bring, permit, allow, or release any hazardous substances (as defined in the *Environmental Protection and Enhancement Act*) onto Public Land.

PART 5 - ENFORCEMENT

14.0 OFFENCE

14.1 Any Person who contravenes any provision of this Bylaw by:

- a. doing any act or thing which the person is prohibited from doing; or
- b. failing to do any act or thing the person is required to do;
- c. is guilty of an offence.

15.0 CONTINUING OFFENCE

15.1 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a Person guilty of such an offence is liable to a fine in an amount not less than the amount established by this Bylaw, for each day the contravention continues.

16.0 PROOF OF PERMIT OR EXEMPTION

16.1 The onus of proving that a Person has a valid and subsisting Permit is on the Person alleging they have a Permit.

16.2 The onus of proving that a Person is exempt from the provisions of this Bylaw is on the Person alleging the exemption.

17.0 ENGAGING IN OR OPERATING A BUSINESS

17.1 Proof of one transaction in the Business or that the Business has been advertised is sufficient to establish that a person is engaged in or operates the business.

18.0 CERTIFIED COPY OF RECORD

18.1 A copy of a record of the Town, certified by the CAO as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

19.0 FINES AND PENALITES

19.1 A person who is guilty of an offence is liable upon summary conviction to a fine of not less than two hundred (\$200.00) dollars and not more than ten thousand (\$10,000.00) dollars and in default of payment of any fine, to imprisonment for up to six (6) months.

19.2 Without restricting the generality of Section 19.1, the following fine amounts are established for use on municipal tags and violation tickets if a voluntary payment option is offered:

- a. Two hundred (\$200.00) dollars for a first offence;
- b. Four hundred (\$400.00) dollars for a second offence; and
- c. Eight hundred (\$800.00) dollars for a third or subsequent offence.

20.0 MUNICIPAL TAG

20.1 An Officer is hereby authorized and empowered to issue a municipal tag to any person who the Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

20.2 A municipal tag may be issued to such Person:

- a. either personally; or
- b. by mailing a copy to such person at his or her last known address.

20.3 The municipal tag shall be in a form approved by the CAO and shall state:

- a. the name of the Person;
- b. the offence;
- c. the specified penalty established by this Bylaw for the offence;
- d. that the penalty shall be paid within 14 days of the issuance of the municipal tag; and
- e. any other information as may be required by the CAO.

21.0 PAYMENT IN LIEU OF PROSECUTION

21.1 Where a municipal tag is issued pursuant to this Bylaw, the Person to whom the

municipal tag is issued may, in lieu of being prosecuted for the offence, pay to the Town the penalty specified within the time period indicated on the municipal tag.

22.0 VIOLATION TICKET

- 22.1 If a municipal tag has been issued and if the specified penalty has not been paid within the prescribed time, then an Officer is hereby authorized and empowered to issue a violation ticket pursuant to the *Provincial Offences Procedure Act*.
- 22.2 Notwithstanding Section 22.1, an Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to the *Provincial Offences Procedure Act* to any person who the Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 22.3 If a violation ticket is issued in respect of an offence, the violation ticket may:
- a. specify the fine amount established by this Bylaw for the offence; or
 - b. require a person to appear in court without the alternative of making a voluntary payment.

23.0 VOLUNTARY PAYMENT

- 23.1 A person who commits an offence may:
- a. if a violation ticket is issued in respect of the offence; and
 - b. if the violation ticket specifies the fine amount established by this Bylaw for the offence;
 - c. make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the violation ticket, the specified penalty set out on the violation ticket.

24.0 SCHEDULES

- 24.1 The attached Schedule 'A' shall form part of this Bylaw.

25.0 SEVERABILITY

- 25.1 If any portion of this Bylaw is found by a court of competent jurisdiction to be invalid, such portion shall be severed from the Bylaw, and the remainder is to remain valid.

26.0 THAT THIS BYLAW COMES INTO EFFECT UPON THIRD AND FINAL READING.

READ A FIRST TIME THIS 17th DAY OF MAY 2022.

READ A SECOND TIME THIS 21st DAY OF JUNE 2022.

READ A THIRD TIME THIS 16th DAY OF AUGUST 2022.



Mayor



Interim Chief Administrative Officer

SCHEDULE 'A'

| Mobile Vending Permits | Fee |
|---|------------|
| Annual Mobile Vendor (January 1 to December 31) | \$500.00 |
| Monthly Mobile Vendor | \$100.00 |
| Daily Mobile Vendor | \$25.00 |
| Annual Mobile Cart Vendor | \$100.00 |
| Mobile Vendor Fire Inspection | \$75.00 |
| Appeal Fee | \$250.00 |