



THE CORPORATION OF THE TOWN OF WHITBY

Refreshment Vehicles

A by-law for licencing and regulating refreshment vehicles within
the Town of Whitby.

By-law # 7125-16

Consolidated Version

As amended by By-laws:

By-law Number:

7220-17

Date Passed:

January 30, 2017

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1. Definitions

In this by-law,

- 1.1. **Applicant** means a Person seeking a Licence or renewal of a Licence and is the Person who is managing or responsible for the overall operations of a Refreshment Vehicle;
- 1.2. **Commissioner of Corporate Services/Treasurer** means the Commissioner of Corporate Services/Treasurer of the Town or a designate;
- 1.3. **Eating Establishment** has the same meaning as an eating establishment or restaurant as defined in the Town's Zoning By-law;
- 1.4. **Fire Chief** means the Fire Chief of the Town or an authority having designation in accordance with the Fire Protection and Prevention Act, 1997;
- 1.5. **Health Inspector** means a Public Health Inspector acting under the direction of the Medical Officer of Health for the Regional Municipality of Durham;
- 1.6. **Highway** shall have the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8;
- 1.7. **Licence** means a licence issued by the Municipal Clerk to operate a Refreshment Vehicle in accordance with this By-law;
- 1.8. **Licensee** means a Person to whom a Licence has been issued and shall include any Person operating a licenced Refreshment Vehicle;
- 1.9. **Motor Vehicle** means a Motor Vehicle as defined in the Highway Traffic Act, R.S.O. 1990.
- 1.10. **Municipal Act, 2001** means the Municipal Act, 2001, S.O. 2001, c.25;
- 1.11. **Municipal Clerk** means the Clerk of the Town or a designate;
- 1.12. **Officer** means a Police Officer as defined in the Police Services Act, R.S.O. 1990, and shall include a Municipal Law Enforcement Officer, whose duties include the enforcement of this By-law, including a Fire Prevention Officer;
- 1.13. **Person** includes an individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and their heirs, executors or legal representatives;
- 1.14. **Refreshment** includes any form of food or drink intended for human consumption;
- 1.15. **Refreshment Vehicle**, also commonly known as a Food Truck, means any Vehicle or Trailer from which Refreshments are prepared and sold for consumption by the public;

- 1.16. **Special Event** means an event held in the Town for which a special events permit has been issued by the Town or which has been sanctioned by the Town;
- 1.17. **Town** means The Corporation of the Town of Whitby or the geographic area of Whitby, as the context requires;
- 1.18. **Trailer** means a Trailer as defined in the Highway Traffic Act, R.S.O. 1990.
- 1.19. **Zone** means a Zone as defined in the Town of Whitby's Zoning By-law, as amended from time to time.

2. General

Prohibitions

- 2.1. No Person shall operate a Refreshment Vehicle in the Town without a Licence.
- 2.2. No Person shall operate a Refreshment Vehicle with a suspended or revoked Licence.
- 2.3. The Licensee shall conform to the requirements and conditions of the Licence throughout the Licence term.
- 2.4. No Person shall obstruct an Officer during the performance of a duty under this By-law.
- 2.5. No Person shall sell Refreshments from a Refreshment Vehicle between the hours of 11:00 p.m. and 7:00 a.m.
- 2.6. Every Person providing Refreshments from a Refreshment Vehicle shall do so in accordance with the Health Protection and Promotion Act, R.S.O. 1990, c.H.7, as amended, and regulations made thereunder and any successor legislation in substitution thereof.

Licensing Procedures

- 2.7. Every application for a Licence shall be completed and submitted on forms prescribed by the Municipal Clerk.
- 2.8. A Licence is not transferrable.
- 2.9. Licences are valid from the date of issuance and expire on December 31st of each year, unless revoked or suspended.
- 2.10. Licences will not be prorated.
- 2.11. The Municipal Clerk shall refuse to issue or renew a Licence where:

- 2.11.1. the application for a Licence fails to meet the requirements for issuance set forth in this by-law or any other Town by-law or applicable regional by-law or provincial or federal law.
- 2.11.2. the Applicant is not at least 18 years of age;
- 2.11.3. the application is incomplete;
- 2.11.4. the Licence was issued in error;
- 2.11.5. the prescribed fee has not been paid;
- 2.11.6. the Applicant has submitted false information in support of the application;
- 2.11.7. an Officer or Health Inspector, by way of inspection, has determined that the Refreshment Vehicle is not in compliance with this By-law.

Licensing Requirements

- 2.12. Every Licence application to operate a Refreshment Vehicle shall include:
 - 2.12.1. an applicable fee set out in the Fees and Charges Bylaw (Amended by By-law No. 7220-17);
 - 2.12.2. a photograph of the Refreshment Vehicle;
 - 2.12.3. a copy of the Motor Vehicle or Trailer registration;
 - 2.12.4. If a Motor Vehicle, a valid safety standards certificate issued by a provincially authorized Motor Vehicle inspection mechanic certifying that the Motor Vehicle to which the licence application relates complies in all respects with the applicable equipment and performance standards set out in the regulations made under the Highway Traffic Act, R.S.O. 1990, c.H.18, as amended, or any successor legislation in substitution thereof;
 - 2.12.5. Indemnification and proof of Commercial General Liability insurance in the amount of two million dollars (\$2,000,000) for the sale of prepackaged foods or five million dollars (\$5,000,000) for when raw food is being cooked, and naming the Town as an additional insured. Proof of indemnification and insurance shall be on the prescribed Town form(s);
 - 2.12.5.1 proof of Automobile Liability insurance in the amount of two million dollars (\$2,000,000), coverage against claims for bodily injury and/or property damage for all licenced vehicles and equipment owned or leased by the Applicant;

- 2.12.5.2 all renewal certificates for such insurance shall be provided thirty (30) days prior to the expiry of the insurance during the term;
- 2.12.5.3 The Corporation of the Town of Whitby may require additional types of insurance coverage or higher limits of insurance coverage as determined by the Commissioner of Corporate Services/Treasurer.
- 2.12.6. a current proof of inspection and approval in writing from the Region of Durham Health Department;
- 2.12.7. where the Refreshment Vehicle is fitted with propane or natural gas, a current certificate issued within thirty (30) days of the date of the Refreshment Vehicle licence application, on the prescribed TSSA form, by a provincially authorized propane or natural gas fitter, as the case may be, certifying that the Refreshment Vehicle complies with the applicable equipment and performance standards as prescribed by the Province of Ontario; and
- 2.12.8. the Municipal Clerk may impose conditions not specified in this By-law as a requirement of obtaining or renewing a Licence.

Licencing Renewal Requirements

- 2.13. Every renewal Licence application to operate a Refreshment Vehicle shall meet the applicable licencing requirements and be accompanied by a renewal fee set out in the Fees and Charges Bylaw (Amended by By-law No. 7220-17).

Operating Requirements

- 2.14. Every Licensee shall produce the Licence issued in accordance with this By-law when requested to do so by an Officer or Health Inspector.
- 2.15. Every Licensee shall affix the Licence to the Refreshment Vehicle so it is clearly visible to the public and customers at all times.
- 2.16. The Refreshment Vehicle and immediate surrounding location shall be kept in a clean and sanitary condition at all times.
- 2.17. Every Licensee shall equip the Refreshment Vehicle with a garbage receptacle of sufficient size to accommodate all waste material generated by the operation of the Refreshment Vehicle.
- 2.18. Every Refreshment Vehicle shall be equipped with a fire extinguisher that is maintained in good working order and has been approved for such use by the Fire Chief.

Location Requirements

- 2.19. No Person shall operate a Refreshment Vehicle within 60 meters of a school unless authorized to do so by the applicable school board.
- 2.20. No Person shall operate a Refreshment Vehicle within 60 meters from the front entrance of an Eating Establishment.
 - 2.20.1. Notwithstanding Section 2.20, no Person shall operate a Refreshment Vehicle within 60 meters from the property line of the property upon which an Eating Establishing is situated in the Commercial Area of the Downtown Secondary Plan or the Central Area Boundary of the Brooklin Secondary Plan.
- 2.21. No Person shall operate a Refreshment Vehicle at a Special Event or within 100 meters of the Special Event unless the event organizer has approved the Refreshment Vehicle as a vendor at the Special Event.
- 2.22. No Person shall operate a Refreshment Vehicle on property owned or managed by the Town, unless the Refreshment Vehicle has been awarded the rights to operate at that location by the Town.
 - 2.22.1. A Refreshment Vehicle authorized to operate at a Town owned or operated location shall not be subject to setback requirements for schools or eating establishments.
- 2.23. No Person shall operate a Refreshment Vehicle on a Highway, unless:
 - 2.23.1. The Town or other applicable road authority has authorized a portion of the Highway for that purpose.
- 2.24. No Person shall operate a Refreshment Vehicle in a Residential Zone, unless:
 - 2.24.1. The Refreshment Vehicle is servicing an active construction site for no longer than thirty (30) minutes.
- 2.25. No Person shall operate a Refreshment Vehicle from a location unless the Licensee has obtained the land owner or property manager's permission.
- 2.26. Every Licensee shall keep a location log for each day the Refreshment Vehicle is operating that includes a note for each stop made by the Refreshment Vehicle for the purpose of preparing or offering food for sale, and the date, time, duration, and location of the stop.
 - 2.26.1. Upon request of an Officer, the Licensee shall immediately produce this location log.

3. Enforcement and Penalties

Inspections

- 3.1. An Officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been complied with.
- 3.2. No person shall prevent hinder or interfere or attempt to prevent hinder or interfere with an inspection undertaken by an Officer.

Suspension of Licence

- 3.3. The Municipal Clerk may suspend a Licence if the Licensee fails to comply with any provision of this by-law and such non-compliance is not remedied following notice from the Town specifying the particulars of the non-compliance.

Offences and Penalties

- 3.4. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33 and/or the Municipal Act, 2001.

4. Short Title

- 4.1. The short title of this by-law shall be the "Refreshment Vehicle By-law"

5. Repeal of Existing By-law

- 5.1. Schedule 10 of By-law 5545-04 is repealed upon expiry of all licences issued in accordance with Section 10, and until such time as it is repealed, shall only apply to licences that were issued in accordance with Schedule 10.

6. Effective Date

- 6.1. This by-law shall come into force and effect on May 1, 2016. All refreshment vehicles issued a current license in accordance with Schedule 10 of By-law 5545-04 may continue operating under the provisions of By-law 5545-04 until said licence expires, or may obtain a licence and be subject to the provisions of this by-law prior to the existing licence having expired. Where a licence holder applies for a licence under this by-law and holds a licence under By-law 5545-04, the licence fees shall be prorated for the remainder of 2016, which shall be calculated from the expiry of the existing licence until December 31, 2016.

By-law read and passed this 18th day of April, 2016.

Original Approved and Signed.

Don Mitchell, Mayor

Original Approved and Signed.

Christopher Harris, Town Clerk