



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 043-2015

A BY-LAW TO LICENCE, REGULATE REFRESHMENT VEHICLES IN THE TOWN OF COBOURG

WHEREAS pursuant to Section 150 and 151 of the *Municipal Act, 2001*, a municipality may provide for a system of licences with respect to any business wholly or partly carried on within the municipality, including the sale or hire of goods or services on an intermittent or one time basis;

AND WHEREAS pursuant to section 11(2) of the *Municipal Act, 2001* a municipality may exercise its licensing powers for the purpose of consumer protection and to protect the health and safety of the general public;

AND WHEREAS Council has determined it is desirable to licence Refreshment Vehicles within the Town for reasons of health, safety and consumer protection.

NOW THEREFORE the Council of the Corporation of the Town of Cobourg hereby enacts as follows:

1.0 DEFINITIONS

“Applicant” shall mean a Refreshment Vehicle Owner who applies to the Clerk for a license for a Refreshment Vehicle in accordance with the provisions of this By-law;

“Clerk” shall mean the Clerk of the Corporation of the Town of Cobourg from time to time as appointed by By-law from time to time;

“Council” shall mean the Council for the Corporation of the Town of Cobourg;

“Heritage Conservation District” shall mean any part of the Town of Cobourg designated as a Heritage Conservation District by By-law pursuant to the provisions of Part V of the Ontario Heritage Act, R.S.O., 1990, c.O-18 as amended;

“Licence” shall mean a licence issued by the Municipal Clerk to operate a Refreshment Vehicle in accordance with this By-law;

“Licensee” shall mean any person who is issued a license for a Refreshment Vehicle pursuant to the provisions of this By-law;

“Municipality” shall mean the Corporation of the Town of Cobourg;

“Officer” shall mean an appointed Municipal By-law Enforcement Officer whose duties include the enforcement of this By-law.

“Person” shall mean an individual, corporation, partnership or association and the heirs, executors, administrators or other legal representatives of any person to whom the context can apply according to law;

“Property Owner” shall mean the registered owner of land as shown in the Land Registry Office for the County of Northumberland and includes a lessee, mortgagee in possession or any person in charge of the property;

“Refreshments” shall mean any food or beverage prepared or provided for human consumption;

“Refreshment Vehicle” shall mean any vehicle whether motorized or not from which refreshments are offered for sale for consumption to the public and shall include a motor vehicle, motor assisted bicycle, trailer, bicycle, tricycle or any other vehicle drawn, propelled or driven by any kind of power, including muscular power, and includes fixed or mobile barbecues;

“Refreshment Vehicle Owner” shall mean the Owner of the Refreshment Vehicle for which a license is applied pursuant to this By-law and in relation to a motor vehicle shall mean the registered owner of the vehicle as shown by the records kept by the Ministry of Transportation and includes a lessee or mortgagee in possession;

“Special Event” shall mean a cultural, recreational, educational or similar event including fairs, festivals and carnivals, for which a Municipal Special Events Permit has been issued or which has been sanctioned by the Municipality.

“Special Community Events Refreshment License” shall mean a temporary licence issued to a vendor for the purpose of taking part in a special event for any event that has been sanctioned as a Community Event by resolution of Council.

“Vehicle” shall have the same meaning as in *the Highway Traffic Act*, R.S.O. 1990, c.H.8.

2.0 REQUIRMENT

- 2.1 No person shall sell or offer to sell any refreshment from any Refreshment Vehicle within the Town of Cobourg unless the person has a valid and current license for the operation of the Refreshment Vehicle issued by the Municipal Clerk pursuant to the provisions of this By-law.
- 2.2 No person including any Property Owner shall cause or permit any person to sell or offer to sell Refreshments from a Refreshment Vehicle on any property located within the Town of Cobourg unless there is a valid license for that Refreshment Vehicle issued by the Municipal Clerk pursuant to the provisions of this By-law.

3.0 APPLICATIONS

- 3.1 Any person who wishes to sell refreshments to the public from a Refreshment Vehicle within the Town of Cobourg may apply to the Municipal Clerk for a license for the Refreshment Vehicle.
- 3.2 No person shall be issued a license for a Refreshment Vehicle pursuant to the provisions of this By-law until that person has provided to the Municipal Clerk the following:

- a) a completed application in writing in a form authorized by the Municipal Clerk and executed by the Applicant;
- b) an application fee as prescribed in the Council approved Fees and Charges By-law;
- c) a copy of a valid liability insurance policy that is in effect for the Refreshment Vehicle for the year in which the application is made in an amount that is not less than two million dollars (**\$2,000,000.00**) and in accordance with the provisions of Schedule "A" which is attached to an forms part of this by-law, and;
 - i) The policy shall include a description of the coverage, policy number, effective date, expiry date, limits of liability and details of the vehicle covered, an endorsement included in the insurance policy that provides for the Municipal Clerk or designate to receive at least fifteen (15) days written notice of said policy being cancelled or expiring or any variation of said policy
- d) a Criminal Record Check dated for the current year from the Cobourg Police Service confirming that the Applicant has not been convicted of any offence pursuant to the *Criminal Code of Canada* within three (3) years immediately preceding the date of the application;
- e) a written report and proof of inspection from a Public Health Inspector for the Halliburton Kawartha Pine Ridge District Health Unit stating that the Refreshment Vehicle together with any equipment or accessories that form part of the Refreshment Vehicle complies with any standards or requirements as set out by the *Health Protection and Promotion Act* and any regulations enacted pursuant to that Act;
- f) 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, 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.

3.3 In addition to the requirements in section 3.2, every licence application to operate a Refreshment Vehicle shall include:

- a) A written report including proof of inspection and approval from the Town of Cobourg Fire Department for a Fixed Fire Suppression System if any; and stating that the Refreshment Vehicle complies with the provisions of the *Fire Protection and Prevention Act*;
- b) in the case of a new applicant, the Technical Standards and Safety Authority Initial Vehicle Inspection Report;
- c) where there are cooking appliances that produce grease laden vapors and smoke must comply with N.F.P.A. #96 (National Fire Protection Association)- Standard for the Removal of Grease Laden Vapors and Smoke from Commercial Cooking Equipment."
 - i. All new Refreshment Vehicles must comply with N.F.P.A #96 before a licence is issued; and

- ii. All existing Refreshment Vehicles must comply within four (4) years from the passage of this by-law.
 - d) where the Applicant is not the owner of the land where the Refreshment Vehicle will be located, the consent in writing by the Property Owner confirming and granting permission of the location of the Refreshment Vehicle.
 - e) Proof from the Municipality's Director of Planning and Development or designate stating that the operation of the Refreshment Vehicle at the proposed location will comply with the provisions of the Municipality's Comprehensive Zoning By-law; and
 - f) A site drawing, drawn to scale, showing:
 - i) The proposed primary location of the Refreshment Vehicle;
 - ii) Parking facilities for the business; and
 - iii) The distance between the proposed location and all property lines.
 - g) Written proof of ownership of the Refreshment Vehicle, and where applicable, the consent in writing of the Refreshment Vehicle owner for the vehicle's use as a Refreshment Vehicle; and
 - h) a written acknowledgement from the Applicant whereby the Applicant acknowledges that the Applicant will be required prior to the issuance of any licence for the Refreshment Vehicle to enter into an Indemnity Agreement with the municipality whereby the Applicant shall agree to indemnify and hold harmless the Municipality, its agents, employees, officers, and Councillors from any and all claims, actions, or suits which might be brought against the municipality or its agents, servants, employees, officials, or Councillors arising out of the operation of a Refreshment Vehicle.
- 3.4 Every licence application to operate a Refreshment Vehicle as part of a Special Event, and be issued a Special Community Events Refreshment Licence, shall include:
- a) written proof of participation approval by the Special Event Host Organizer;
 - b) a Criminal Record Check dated for the current year from the Cobourg Police Service confirming that the Applicant has not been convicted of any offence pursuant to the *Criminal Code of Canada* within three (3) years immediately preceding the date of the application;
 - c) a copy of a valid liability insurance policy that is in effect for the Refreshment Vehicle for the year in which the application is made in an amount that is not less than five million dollars (\$5,000,000.00) and in accordance with the provisions of Schedule "A" which is attached to an forms part of this by-law;
 - d) A written report including proof of inspection and compliance from the Town of Cobourg Fire Department;
 - e) a written report and proof of inspection from a Public Health Inspector for the Halliburton Kawartha Pine Ridge District Health Unit stating that the Refreshment Vehicle together with any equipment or accessories that form part of the Refreshment Vehicle complies with

any standards or requirements as set out by the *Health Protection and Promotion Act* and any regulations enacted pursuant to that Act;

- f) Written proof of ownership of the Refreshment Vehicle, and where applicable, the consent in writing of the Refreshment Vehicle owner for the vehicle's use as a Refreshment Vehicle; and
- g) An Indemnity Agreement, between the Applicant and the Municipality.

4.0 ISSUANCE

- 4.1 The Municipal Clerk is not required to consider any application for a license until the application is complete, and the Applicant has provided all of the information and documentation as required pursuant to this by-law, as well as the application fees.
- 4.2 The Municipal Clerk may approve or refuse any licence application, and may impose any conditions upon an approval as he/she determines appropriate. This can be done based on the vehicle type, appearance or where the location is deemed inappropriate, unsuitable or unsafe.
- 4.3 The Cobourg Fire Department may impose alternative setbacks from adjacent structures or vehicles as is deemed necessary in the interest of public safety.
 - a) The Refreshment Vehicle must be at least fifteen (15) metres from the following:
 - i. Fuel dispensers at fuel dispensing stations; and
 - ii. Retail propane dispensing tanks and cylinders.
- 4.4 A licensee shall comply with all licence requirements.

5.0 INELIGIBILITY/DISQUALIFICATION OF LICENCE

- 5.1 The Municipal Clerk shall refuse to issue or renew a licence where:
 - a) The applicant is not at least 18 years of age;
 - b) The application is incomplete, false or incorrect information;
 - c) The prescribed licence fee has not been paid;
 - d) The applicant has outstanding fines or debts to the Municipality;
 - e) The applicant is convicted of an offence under any federal or provincial statute or regulation or under any municipal by-law; and
 - f) An officer, by way of inspection, has determined that the Refreshment Vehicle is not in compliance with this By-law.

6.0 TERM/TRANSFER

- 6.1 Licences are valid from the date of issuance, and expire on December 31st of each year, unless revoked or suspended.
- 6.2 Licences are not transferable except with the written consent of the Municipal Clerk.

7.0 EXEMPTIONS

- 7.1 A Refreshment Vehicle licence is not required:
 - a) For selling or offering to sell refreshments from a Refreshment Vehicle for any Special Community Event as defined in Section 1 of this by-law, however the community organization sponsoring the event shall be responsible for ensuring that a Refreshment Vehicle operator complies with Section 3.4 of this by-law, and returns a compliance checklist to the Community Events Coordinator who will then provide a copy to the Municipal Clerk; and
 - b) For selling or offering to sell refreshments from a fixed barbeque or mobile barbeque as an accessory use to an existing eating establishment which is located on the same lands as the eating establishment as defined in the Municipalities Comprehensive Zoning by-law.

8.0 REQUIRMENTS

- 8.1 No licensee shall operate a Refreshment Vehicle in a location other than the location for which the Refreshment Vehicle licence has been issued;
- 8.2 Every licensee, driver or operator of the Refreshment Vehicle shall produce the licence issued in accordance with this by-law when requested to do so by an Officer, Police Officer or Health Inspector.
- 8.3 Any person who has been issued a licence for a Refreshment Vehicle pursuant to the provisions of this by-law shall keep the licence posted in a conspicuous place in the Refreshment Vehicle and the licence shall remain so posted for so long as it is in force.
- 8.4 All Refreshment Vehicles licensed under a Special Community Events Refreshment Licence are required to maintain and keep on hand at all times documentation required under Section 3.4 of the by-law. When asked, the licensee shall provide a copy to the Community Events Coordinator or designate at any time during the term of the Licence.
- 8.5 Every licensee shall keep the licensed Refreshment Vehicle in a clean and sanitary condition at all times.
- 8.6 Any person that has been issued a licence for a Refreshment Vehicle pursuant to this by-law shall provide covered receptacles for the disposal of garbage, refuse and debris within five (5) metres of the Refreshment Vehicle and shall keep the property on which the Refreshment Vehicle is located free of any litter, garbage, refuse or debris.

- 8.7 No person shall sell or offer to sell refreshments from a Refreshment Vehicle:
- a) On any public highway within the Municipality whether owned by the Municipality, of the County of Northumberland or the Province of Ontario;
 - b) On any property within the Municipality that is owned by the Municipality;
 - c) On any property located within the Heritage Conservation District;
 - d) On any property located within an area zoned as Main Central Commercial (MC) in the Municipality's comprehensive Zoning By-law; or
 - e) On any property where selling or offering to sell refreshments is not a permitted use within the Municipality's Comprehensive Zoning By-law.
- 8.8 No licensee shall operate a Refreshment Vehicle containing cooking or heating facilities, without a 2A10BC Fire Extinguisher and also a Class K Fire Extinguisher for back-up.
- 8.9 a copy of a current contract with an authorized disposal contractor for the pick-up and disposal of used cooking oil shall be filed with the Municipal Clerk for all stationery Refreshment Vehicles.

9.0 ENFORCEMENT

- 9.1 An Officer may 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.
- 9.2 No person shall prevent hinder or interfere or attempt to prevent hinder or interfere with an inspection undertaken by an Officer.

10.0 SUSPENSION

- 10.1 The Municipal Clerk and/or the Cobourg Fire Department may suspend a licence if the licensee fails to comply with any provision of this by-law and such non-compliance is not remedied in the time deemed appropriate by the Municipal Clerk, following notice from the Municipality specifying the particulars of the non-compliance.

11.0 REVOCATION OF LICENSE

- 11.1 The Municipal Clerk may revoke a licence if,
- a) it is issued in error;
 - b) it was suspended in accordance with a provision of this by-law and no satisfactory evidence of compliance has been filed with the Municipality within sixty (60) days from the date of suspension;

- c) it was issued as a result of false, mistaken, incorrect, or misleading statements, information or undertakings on the application or on any submitted documents that formed the basis of issuance; or

12.0 OFFENCES

12.1 Every person who contravenes a provision of this by-law is guilty of an offence and upon CONVICTION, is liable to the penalties provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as well as subject to the set fines set out herein Schedule "A" of this by-law.

13.0 GENERAL

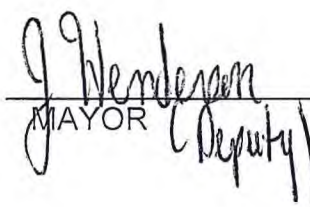
13.1 This by-law shall come into force and take effect on the date that it is approved by the Council of the Corporation of the Town of Cobourg, and, subject to the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule "A" for the offences listed under this by-law, and in accordance with the *Provincial Offences Act*, R.S.O 1990 CHAPTER P.33.

13.2 THAT Town of Cobourg By-law No. 86-2009 be hereby repealed:

14.0 EFFECTIVE DATE

14.1 This By-law shall come into full force and effect upon the date of its passing.

READ a first, second and third time and finally passed in Open Council this 27th day of April, 2015.


MAYOR (Deputy)


Deputy MUNICIPAL CLERK

Corporation of The Town of Cobourg

By-law #043-2015

By-law to licence, regulate and govern Refreshment Vehicles within the Town of Cobourg

Part I Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fines
1.	Sell refreshments from a Refreshment Vehicle within the Town of Cobourg without a Refreshment Vehicle Licence.	Section 2.1	\$200.00
2.	Cause or permit the sale of refreshments from a Refreshment Vehicle on any property within the Town of Cobourg without a valid licence.	Section 2.2	\$200.00
3.	Operate a Refreshment Vehicle in a location other than location the licence was issued for.	Section 8.1	\$100.00
4.	Failure to produce licence upon request.	Section 8.2	\$100.00
5.	Fail to display Refreshment Vehicle licence in Refreshment Vehicle.	Section 8.3	\$100.00
6.	Fail to provide covered receptacles for the disposal of garbage within 5 metres of the Refreshment Vehicle.	Section 8.5	\$100.00
7.	Fail to keep property free of any litter, garbage, refuse or debris.	Section 8.5	\$100.00
8.	Sell refreshments from a Refreshment Vehicle on any public highway within the Municipality.	Section 8.6 (a)	\$200.00
9.	Sell refreshments from a Refreshment Vehicle on any property owned by the Municipality.	Section 8.6 (b)	\$200.00
10.	Sell refreshments from a refreshment vehicle on any property within a Heritage Conservation District.	Section 8.6 (c)	\$200.00
11.	Sell refreshments from a Refreshment Vehicle on any property zoned as Main Central Commercial.	Section 8.6 (d)	\$200.00
12.	Sell refreshments from a Refreshment Vehicle on any property where selling of refreshments is not a permitted use.	Section 8.6 (e)	\$200.00
13.	Hinder or obstruct person from enforcing by-law	Section 9.2	\$100.00

NOTE: The general penalty provision for the offences listed above is Section 12.1 of By-law #043-2015, a certified copy of which has been filed.