

The Corporation of the Town of Tecumseh

DRAFT By-Law Number 2022-xx

Being a By-Law to license Mobile Food Vendors in the The Corporation of the Town of Tecumseh

Whereas under subsection 11(2) of the *Municipal Act, 2001*, a municipality may pass by-laws for protecting the health, safety, and well-being of persons; and for the protection of persons and property, including consumer protection;

And whereas under Section 151(1) of the *Municipal Act, 2001*, a municipality may provide for a system of licences with respect to any business and may,

- a) prohibit the carrying on or engaging in the business without a licence;
- b) refuse to grant a licence or suspend a licence; impose conditions as a requirement to obtaining or continuing to hold and renew a licence;
- c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- e) impose conditions, including special condition, as a requirement of continuing to hold a licence at any time during the term of the licence; and
- f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

And whereas Section 391 on the *Municipal Act, 2001*, enables a municipality to pass a by-law imposing fees or charges for services and activities provided or done by or on behalf of it;

And whereas the Council of the Corporation of the Town of Tecumseh deems it appropriate to regulate Mobile Food Vendors within the Town.

Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

1. Definitions

- 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 **Eating Establishment** means a restaurant or building that prepares and/or sells Food or drink for public consumption.
- 1.3 **Fire Chief** means the Fire Chief of the Town.
- 1.4 **Food** means food or drink for human consumption and includes refreshments and confections.
- 1.5 **Frozen Treat Vehicle** means a Refreshment Vehicle which only provides ready-to-eat frozen dessert type refreshments (such as popsicles, ice cream bars, and slushies) which are prepared and/or sold for consumption to the public.
- 1.6 **Health Inspector** means a Public Health Inspector acting under the direction of the Medical Officer of Health for the Windsor-Essex County Health Unit.
- 1.7 **Highway** shall have the same meaning as “highway” in the *Highway Traffic Act* R.S.O. 1990, C.H8 as amended or successor thereto.
- 1.8 **Licence** means a licence issued by the Municipal Clerk to operate a Refreshment Vehicle in accordance with this by-law.
- 1.9 **Licensee** means a Person to whom a Licence has been issued and shall include any Person operating a licensed Refreshment Vehicle.
- 1.10 **Motor Vehicle** means a motor vehicle as defined by the *Highway Traffic Act*, R.S.O 1990, C. H.8, as amended or successor thereto.
- 1.11 **Municipal Clerk** means the Clerk of the Town or a designate.
- 1.12 **Municipal Property** means all property owned, leased or under control of the municipality and with limitation this term shall include all Parks, open spaces, open and unopened road allowances, sidewalks, pathways, trails and parking lots.
- 1.13 **Officer** means a police officer, provincial offences officer, a municipal by-law enforcement officer or any other person as may be appointed by Council to enforce this by-law.

- 1.14 **Private Property** means all property in the Town of Tecumseh but does not include any Highway or Municipal Property.
- 1.15 **Person** means an individual, a partnership, or a corporation and the heirs, executors, administrators or other legal representatives of the Persons, as the case may be.
- 1.16 **Refreshment Vehicle**, also commonly known as Food Truck, means any vehicle, trailer, cart or bike, and irrespective of the type of power employed to move the refreshment vehicle from one point to another, where refreshments are prepared for sale and or sold for consumption to the public.
- 1.17 **Special Event** means an event held in the Town for which a special event permit has been issued by the Town or which has been sanctioned by the Town.
- 1.18 **Town** means The Corporation of the Town of Tecumseh.
- 1.19 **Waste** means any food, disposable eating utensils, paper, wooden, cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverage offered for sale from a refreshment vehicle.
- 1.20 **Zone** means a zone defined in the Town of Tecumseh Zoning by-law, as amended from time to time.

2. General

Prohibitions

- 2.1 No Person shall operate a Refreshment Vehicle or a Frozen Treat Vehicle in the Town without a Licence issued under this by-law.
- 2.2 No Person shall operate a Refreshment Vehicle or a Frozen Treat Vehicle with a suspended or revoked Licence.
- 2.3 The Licensee shall conform to the requirements and any conditions of the Licence throughout the duration of the Licence.
- 2.4 Each Refreshment Vehicle must be licensed separately.
- 2.5 No Person shall sell Food from a Refreshment Vehicle between the hours of 11:00 pm to 7:00 am, seven (7) days a week.
- 2.6 Every Person providing Food from a Refreshment Vehicle shall do so in accordance with the applicable provisions of the *Health Protection and Promotion Act*, R.S.O, 1990, c.H.7, as amended, and regulations made there under any successor legislation in substitution thereof.

- 2.7 Every Person who has been issued a Licence for a Refreshment Vehicle shall have a Licence for each location the where the Refreshment Vehicle carries on business.

Licensing Procedures

- 2.8 Every application for a Licence shall be completed and submitted on forms prescribed by the Municipal Clerk, and such other information or documentation as the Clerk may require, and shall include the required licensing fee.
- 2.9 A Licence issued under the provisions of this by-law shall not be assigned, transferred, leased or granted the right to use to any other Person.
- 2.10 Every change of address or telephone number of any Person licensed under this by-law shall be reported to the Clerk within fifteen (15) days.
- 2.11 Licences are valid from the date of issuance and expire on December 31st of each year, unless revoked, suspended, or otherwise issued for a shorter or different period of time.
- 2.12 Licence fees will not be prorated.
- 2.13 Licence fees are not refundable.

Licensing Requirements – Refreshment Vehicle

- 2.14 Every Licence application to operate a Refreshment Vehicle shall include the following:
- 2.14.1 the applicable fee as set out in the Town's Fees and Charges By-law;
 - 2.14.2 a photograph of the Refreshment Vehicle;
 - 2.14.3 a current list containing the name, address, and phone number of every Person who will be operating the Refreshment Vehicle, which may be used for notification purposes in respect of health and /or public safety matters;
 - 2.14.4 a copy of the Refreshment Vehicle registration, where applicable;
 - 2.14.5 If the Refreshment Vehicle is 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 to, and 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.H18*, as amended, or any successor thereto;

- 2.14.6 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. In addition to:
- 2.14.6.1 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 licensed Motor Vehicles and related equipment owned or leased by the Applicant.
- 2.14.7 Such policy or policies shall be in the name of the owner and shall name The Corporation of the Town of Tecumseh as an additional insured thereunder, and shall state that The Corporation of the Town of Tecumseh shall be indemnified by the owner of the Licence so that if a lawsuit is filed against the Town, notwithstanding that the operator or owner of the Licence or vehicle will be required to pay the Town any and all costs it incurred, or losses suffered by the Town as a result of any legal proceeding. All policy or policies shall also contain a cross liability of interest clause protecting the Town against any actions, causes of actions, claims and demands whatsoever which may arise resulting from the Town's insurance of the permit to use in the designated area;
- 2.14.8 It shall be the responsibility of the Licensee to ensure that all such insurance is renewed and kept in force and effect without interruption during the term of the Licence, and evidence of such insurance renewal must be submitted to the Town within thirty (30) days of expiration.
- 2.14.9 The proof of insurance shall include a provision that the Municipal Clerk will be given at least ten (10) days' notice in writing of any cancellation, expiration or variation in the policy;
- 2.14.10 No Licensee shall fail to have proof of insurance on site while operating the Refreshment Vehicle;
- 2.14.11 The Town or the Municipal Clerk may require additional types of insurance coverage or higher limits of insurance coverage;
- 2.14.12 Proof of an inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for a Licence of both the Refreshment Vehicle and any premises used to prepare Food;
- 2.14.13 A copy of a valid Food Handler Certification Card for at least one (1) employee supervising the preparation, processing, packaging, service, and storage of Food;

- 2.14.14 Where the Refreshment Vehicle is fitted with propane or natural gas (except for 20 pound or smaller sized propane or natural gas tanks), a current certificate issued within thirty (30) days of the date of the Refreshment Vehicle licence application, on the prescribed Technical Standards and Safety Authority (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;
- 2.14.15 Proof of inspection conducted by the Fire Chief of the Town of Tecumseh dated within thirty (30) days of the Application for the Licence of both the Refreshment Vehicle to comply with the NFPA 96 (Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations) and any premises used to prepare Food must comply with the Ontario Fire Code. If the Food premises is located outside of the Town of Tecumseh, an inspection of the food premises is required by the Fire Services of the municipality. Written permission is required for a Refreshment Vehicle location if the location is on private property such as an Eating Establishment, School, or Municipal Property;
- 2.14.16 Such other conditions as the Municipal Clerk may impose that are not otherwise specified in this by-law as a requirement of obtaining or renewing a Licence.
- 2.15 Every Licensee shall produce the Licence issued in accordance with this by-law when requested to do so by an Officer.
- 2.16 Every Licensee shall affix the Licence to the Refreshment Vehicle so it is clearly visible to the public and customers at all times.
- 2.17 The Refreshment Vehicle and immediate surrounding location shall be kept in a clean and sanitary condition at all times and free from grease, papers, rubbish and debris.
- 2.18 Every Licensee shall equip the Refreshment Vehicle with a hard sided garbage receptacle with lid and recycling bin of sufficient size to accommodate waste and all waste generated by the operation of the Refreshment Vehicle. The Licensee shall ensure that all garbage be removed daily from the site to maintain cleanliness.
- 2.19 Every Licensee shall ensure that no waste generated by the operation of the Refreshment Vehicle is deposited in any Town-owned waste containers.
- 2.20 No Refreshment Vehicle shall be equipped with any flashing lights or sounding device for attracting attention except those required by the Highway Traffic Act for vehicles on the road.

Licensing Requirements - Frozen Treat Vehicle

- 2.21 Every Licence application to operate a Frozen Treat Vehicle shall include the following:
- 2.21.1 the applicable fee as set out in the Town's Fees and Charges By-law for a Refreshment Vehicle;
 - 2.21.2 a photograph of the Frozen Treat Vehicle;
 - 2.21.3 a current list containing the name, address, and phone number of every Person who will be operating the Frozen Treat Vehicle, which may be used for notification purposes in respect of health and /or public safety matters;
 - 2.21.4 the Licensee and any Person operating a Frozen Treat Vehicle shall provide a Criminal Record – Vulnerable Sector Check;
 - 2.21.5 Indemnification and proof of Commercial General Liability insurance in the amount of two million dollars (\$2,000,000) for the sale of prepackaged foods;
 - 2.21.6 Where a Frozen Treat Vehicle is not a Motor Vehicle, section 2.14.6.1.5 shall not apply, and shall be maintained and in good state of repair;
 - 2.21.7 Proof of Inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for a Licence;
 - 2.21.8 Not operate a Frozen Treat Vehicle on Municipal Property unless authorized by the Town;
 - 2.21.9 Notwithstanding the Town's Noise By-law or any successor thereto, no Person operating a Frozen Treat Vehicle shall operate any type of auditory signaling device or electronic amplification /speaker system (including but not limited to: ringing bells or gongs, blowing horns, sirens, whistles; playing of music; or the use of a loud speaker) within a Residential Zone between the hours of 10:00 pm to 8:00 am any day of the week;
 - 2.21.10 Stop for longer than 10 minutes at one location;
 - 2.21.11 Not visit the same location within the same two-hour period.

Location Requirements

- 2.22 The location of the Refreshment Vehicle shall be permitted on private property and be zoned for Commercial, Recreational, Industrial purposes pursuant to the Town's Zoning By-law.

- 2.23 No Person shall operate a Refreshment Vehicle within 60 meters of a school unless authorized to do so by the applicable school or school board. A copy of the school or school board permission must be submitted to the Municipal Clerk.
- 2.24 No Person shall operate a Refreshment Vehicle within 60 meters from the front entrance of an Eating Establishment unless authorized to do so by the owner of the Eating Establishment.
- 2.25 No Person shall operate a Refreshment Vehicle at a special event or within 100 meters of a special event unless the event organizer has approved the Refreshment Vehicle as a vendor at the event.
- 2.26 Where a Refreshment Vehicle is operating at a special event, the Licensee shall be required to obtain a Refreshment Vehicle Licence in accordance with this By-law at the prescribed fee.
- 2.27 No Licensee shall operate a Refreshment Vehicle on Municipal Property, unless the Refreshment Vehicle has been awarded the rights to operate on Municipal Property by the Clerk.
- 2.28 A Refreshment Vehicle authorized to operate on Municipal Property shall not be subject to setback requirements for Schools or Eating Establishments as set out in section 2.23 and 2.24 of this by-law.
- 2.29 A Licensee shall be permitted to operate a Frozen Treat Vehicle from a municipal road in all Residential Zones under the Town's Zoning By-law.
- 2.30 No Licensee shall operate a Refreshment Vehicle from Private Property unless the Licensee has obtained written permission of the property owner. A copy of written permission shall be submitted to the Municipal Clerk.
- 2.31 No Refreshment Vehicle shall be located where it can obstruct the entrance or exit to any building, or obstruct the accessibility of a sidewalk.
- 2.32 No Refreshment Vehicle Licensee shall place tables or chairs at the designated location as an eating area for customers.
- 2.33 The location of the Refreshment Vehicle will be parked or stored when not in operation and the location shall be in compliance with the Town's Zoning By-law.

3. Enforcements and Penalties

Inspections

- 3.1 Any Officer may, at any reasonable time, enter upon any Refreshment Vehicle or Frozen Treat Vehicle for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law are being complied with.

- 3.2 No Person shall prevent or interfere, or attempt to prevent 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 or any provision of a Licence issued under this by-law is guilty of an offence and upon conviction is liable to a maximum fine, as provided for in the *Provincial Offences Act, R.S.O 1990*.
- 3.5 In addition to section 3.4, the Municipal Clerk shall refuse to issue a Licence to any Person, or shall refuse to renew a Licence, or shall revoke a Licence where:
- 3.5.1 a Person or Licensee has any unpaid fines arising from a conviction for an offence under the By-law;
 - 3.5.2 a Person or a Licensee has submitted false information or documents in support of an application for a Licence;
 - 3.5.3 in sole and absolute discretion of the Municipal Clerk, a suspension under section 3.5 is not appropriate or sufficient given the nature of the non-compliance with this by-law;
 - 3.5.4 after a period of suspension under section 3.5 there is continued non-compliance with the provisions of this by-law.

4. Effective Date

4.1 This by-law shall come into force and effect on the date of final passage.

Read a first, second, third time and finally passed this 24th day of May, 2022.

Gary McNamara, Mayor

Laura Moy, Clerk

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