

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW 122/2007

Being a By-law to license, regulate and govern vehicles from which refreshments are sold

WHEREAS Section 151(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides in part that a municipality may provide for a system of licenses with respect to a business in whole or part that is carried on within the municipality;

AND WHEREAS Council of the Corporation of the Municipality of Port Hope deems it to be in the public interest to license and regulate vehicles from which refreshments are sold;

Now therefore the Council of the Corporation of the Municipality of Port Hope enacts the following:

1. DEFINITIONS

In this By-law:

“Applicant” shall mean a person, association, organization or corporation making an application for a license.

“Clerk” shall mean the Clerk of the Municipality of Port Hope and shall include any person designated as “Acting Clerk” in the Clerk’s absence, by Statute or by By-law.

“Council” shall mean the Municipal Council of the Corporation of the Municipality of Port Hope.

“Chief of Police Service” shall mean the Chief or Administrative Head of the Police Service for the Corporation of the Municipality of Port Hope.

“Director of Fire and Emergency Services” shall mean the Director of Fire and Emergency Services for the Corporation of the Municipality of Port Hope;

“Director of Planning Services” shall mean the Director of Planning Services for the Corporation of the Municipality of Port Hope.

“Health Unit” shall mean the Haliburton Kawartha Pine Ridge District Health Unit.

“Municipality” shall mean the Corporation of the Municipality of Port Hope.

“Person” shall mean and include every natural person, firm, partnership, society, association or corporation and the legal representative of such.

“Police Service” shall mean the Police Force providing Police Services for the Corporation of the Municipality of Port Hope.

“Refreshment Vehicle” shall mean any vehicle from which refreshments are sold for consumption by the public and shall include a motor vehicle, motor assisted bicycle, trailer, unmotorized vehicle, bicycle, tricycle and

any other vehicle drawn, propelled or driven by any kind of power, including muscular power.

2. No person shall own, operate or maintain a vehicle from which refreshments are sold for consumption by the public within the boundaries of the Municipality of Port Hope without first obtaining and thereafter keeping in good standing a refreshment vehicle license from the Municipality in accordance with the provisions of this By-law.
3. No person shall sell refreshments from a refreshment vehicle for consumption by the public within the boundaries of the Municipality of Port Hope without first obtaining and thereafter keeping in good standing a refreshment vehicle license from the Municipality in accordance with the provisions of this By-law.
4. The Clerk of the Municipality of Port Hope is hereby authorized to issue a refreshment vehicle license for each vehicle when:
 - 4.1 A complete application in such form provided by the Clerk is received and the fees have been paid to the Municipality prescribed by the Municipality's Fees and Charges By-law;
 - 4.2 Written permission from the owner of the property upon which the vehicle will operate is received;
 - 4.3 The report of the Chief of the Police Service is received confirming a criminal record check indicating that the applicant and all persons who operate or purport to operate a refreshment vehicle owned by the applicant:
 - 4.3.1 have not been convicted of an offence under the Criminal Code of Canada within three (3) years preceding the date of the application;
 - 4.3.2 have not been convicted of an offence under the Controlled Drugs and Substances Act within three (3) years preceding the date of the application.
 - 4.3.3 No applicant, owner or operator shall fail to notify the Municipality of any conviction of a criminal offence, or an offense under the Controlled Drugs and Substances Act of the applicant, owner and of any person who operates or purports to operate a refreshment vehicle owned by the applicant, and to do so constitutes an offence.
 - 4.4 The report of the Health Unit is received confirming that all health standards and regulations with respect to the vehicle, equipment and facilities and the operation thereof have been complied with; and
 - 4.4.1 Every person who operates a refreshment vehicle owned by the applicant and every person hired by the applicant to handle food on the premises of the refreshment vehicle is required to complete and to update to maintain valid, the Food Handlers Training course through the Health Unit or an equivalent course recognized by the Health Unit, and to at all times while operating and/or handling food on the premises of the refreshment vehicle have in his or her possession a valid Food Handlers Certificate or proof of completion of an equivalent course recognized by the Health Unit, issued to him or her by the Health Unit, and to produce such certificate for inspection upon request of an officer of the Police Service, By-law Enforcement Officer, or representative of the Health Unit.

- 4.5 The report of the Director of Fire and Emergency Services is received confirming that all applicable legislation/regulations and standards with respect to fire protection and prevention for the refreshment vehicle, equipment and facilities and operation thereof, and any other requirements deemed necessary by the Director of Fire and Emergency Services for the health, safety and welfare of the operators and public, have been complied with,
 - 4.6 The report of the Director of Planning Services is received confirming that the application complies with all applicable provisions of the Municipality's Zoning By-law.
 - 4.7 That the refreshment vehicle shall have a mandatory set back from the road, sidewalk and/or any property line of no less than 3 metres.
 - 4.8 If the refreshment vehicle is located within a designated Heritage Conservation District, confirmation that a heritage permit has been issued indicating that the refreshment vehicle and any signage complies with the heritage district guidelines for heritage colors and signage.
 - 4.9 The certificate of insurance is received confirming that each refreshment vehicle is insured in the amount of \$2,000,000.00 or more per occurrence (exclusive of interest and costs) against loss or damage resulting in bodily injury to, illness or the death of one or more persons from food, products, goods or any one act or omission by the operator or owner of a refreshment vehicle and loss or damage resulting from bodily injury to or death of one or more persons or from loss or damage to property resulting from any one accident or from loss or damage to property resulting from any one incident. The said policies shall clearly acknowledge that the vehicle is being used for purposes of a refreshment vehicle and shall include all necessary coverages as are reasonable for the such use. The policy or policies of insurance shall be endorsed to provide that the policy or policies shall not be altered, cancelled or allowed to lapse without 30 days written notice to the Municipality. No person shall be granted a refreshment vehicle license unless and until a letter from the applicant's insurance company(ies) addressed to the Municipality is provided to the Clerk for each vehicle which certifies that the policy or policies of insurance obtained by the applicant are in full force and effect and in accordance with all of the requirements of this By-law. The Municipality shall be entitled to rely on the said letter from the applicant's insurance company(ies). Every refreshment vehicle license shall automatically be revoked upon the cancellation, suspension or termination of the relevant policy(cies) of insurance.
 - 4.10 The refreshment vehicle and its operation comply with all other applicable By-laws of the Municipality.
5. Applications for any type of License to be issued pursuant to this By-law shall be upon such form or forms as shall be provided by the Clerk together with the required fee prescribed in the Municipality's Fees and Charges By-law and such other material and information as is required by this By-law.

- 5.1 There shall be no fee charged for a refreshment vehicle license to any person who operates premises primarily used for the sale of refreshments to the public.
- 5.2 There shall be no fee charged for a refreshment vehicle license to any person who operates a fixed or mobile barbeque, where the barbeque is located on a commercial property and the barbeque is owned and operated by the owner of a commercial business on that property.
6. The owner and/or operator of every refreshment vehicle shall display the refreshment vehicle license for the refreshment vehicle in the refreshment vehicle, and the owner or operator of the refreshment vehicle shall produce the refreshment vehicle license when requested by any Officer of the Police Service, By-law Enforcement Officer for the Municipality, or the Health Unit.
- 7.1 No person shall use or permit to be used, a vehicle licensed under this by-law for the purpose of selling or purporting to sell refreshments to the public while such vehicle is situated, standing or parked on a public highway, public park, playground or other public property within the corporate limits of the Municipality of Port Hope unless prior written consent is obtained from the Council of the Municipality with regard to the public property within its jurisdiction.
- 7.2 No refreshment vehicle license shall be required for refreshment vehicles operated at special community events approved by the Port Hope Municipal Council. However, the community organization sponsoring the special event shall be responsible for ensuring that the refreshment vehicle operators comply with Section 4.2, 4.3, 4.4, and 4.5 of this By-law.
8. Every person holding a refreshment vehicle license shall ensure that every licensed refreshment vehicle owned or operated by such person shall continue to meet the requirements of this By-law.
9. Every person owning or operating a refreshment vehicle shall permit such vehicle to be inspected on a continuing basis from time to time by the Chief of Police Service, Director of Fire and Emergency Service, Director of Planning Services, or their designates, and the Health Unit.
10. When an applicant for a refreshment vehicle license does not comply with all the requirements set out in this By-law the Clerk shall decline issuance of a refreshment vehicle license.
- 10.1 Where the holder of a refreshment vehicle license fails to comply with the requirements of this By-law, the Clerk shall suspend the license until the holder has complied with the terms and conditions of the by-law. Where the holder of a refreshment vehicle license is found to be non-compliant on a second and subsequent occurrence, the Clerk shall revoke the license.
11. The owner, driver or operator of every refreshment vehicle shall be responsible for providing litter receptacles at the site on which the refreshment vehicle is situate, standing or parked and the owner, driver or operator of every refreshment vehicle shall be responsible for ensuring the said site is maintained in a tidy condition at all times and that the waste and litter is disposed of by the owner,

driver or operator of every refreshment vehicle in accordance with the applicable By-laws, regulations and requirements of the County of Northumberland, the Municipality, and all other applicable legislation.

12. All refreshment vehicle licenses issued under the provisions of this By-law shall expire on the thirty-first day of December of the year of issuance of the license, however, the Clerk may revoke any license at any time if the provisions of this By-law are not complied with.
13. No person shall enjoy a vested right in the continuance of a license and upon issuance, cancellation or suspension; a license shall remain the property of the Municipality.
14. Every person applying for or holding a license under this By-law shall be subject to all regulations contained in this By-law and every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for under the provisions of The Provincial Offences Act.
15. Upon a conviction being entered, the Court in which the conviction was entered and any Court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed in this By-law, make an Order prohibiting the continuation or repetition of the offence by the person convicted.
16. If any provision or requirement of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
17. That this By-law shall come into force and effect immediately upon passing.
18. That By-law No. 47/96 be repealed.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 4th day of December, 2007.

Linda Thompson

Linda Thompson, Mayor

Sue Dawe

S.C. Dawe, Municipal Clerk

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Part 1 Provincial Offences Act

Set Fine Schedule

<i>Item</i>	<i>Column 1 Short Form Wording</i>	<i>Column 2 Offence Creating Provision</i>	<i>Column 3 Set Fine</i>
<i>1</i>	<i>Operating a refreshment vehicle without a municipal refreshment vehicle license</i>	<i>Section 2.</i>	<i>\$110.00</i>
<i>2.</i>	<i>Selling refreshments from a refreshment vehicle without a municipal refreshment vehicle license</i>	<i>Section 3.</i>	<i>\$110.00</i>
<i>3.</i>	<i>Failure to report conviction of an offence committed by an owner or operator of a refreshment vehicle under the Criminal Code of Canada or under the Controlled Drugs and Substances Act</i>	<i>Section 4.3.3</i>	<i>\$110.00</i>
<i>4.</i>	<i>Failure to display refreshment vehicle license</i>	<i>Section 6.</i>	<i>\$110.00</i>
<i>5.</i>	<i>Selling or purporting to sell refreshments on Municipal property</i>	<i>Section 7.1</i>	<i>\$110.00</i>
<i>6.</i>	<i>Failure to permit inspections by Municipal or Provincial official</i>	<i>Section 9.</i>	<i>\$110.00</i>
<i>7.</i>	<i>Failure to provide litter receptacles and/or maintain site in a tidy condition</i>	<i>Section 11.</i>	<i>\$110.00</i>

NOTE: The penalty provisions for the offences indicated above is Section 14 of By-law 122/2007 and section 61 of the Provincial Offences Act, R.S.O. 1990, C.p.33. Certified copies of By-law 122/2007 have been filed.