



THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

BY-LAW NUMBER 2014 -XXX

A by-law to licence, regulate and govern Mobile Food Service Vehicles within the Township of Puslinch.

WHEREAS the Municipal Act, S.O. 2001, c. 25, as amended, authorizes a Council of a municipality, to pass by-laws respecting business licensing, and to provide for a system of licences with respect to a business, including any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS pursuant to this authority the Council of the Corporation of the Township of Puslinch deems it necessary and expedient to enact a by-law in this regard;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PUSLINCH ENACTS AS FOLLOWS:

1. DEFINITIONS

For the purpose of this By-law:

“Applicant” means a person applying for a Licence under this By-law;

“Collector Road” means a Highway under the jurisdiction of the Township that serves low to moderate volumes of short distance traffic between local and arterial Highways and provides individual property access with some limitations;

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Ice Cream Cart” means a non-motorized vehicle and is exclusively used for the sale of pre-packaged frozen products;

“Licence Issuer” means a person or person(s) appointed by by-law to issue a Licence;

“Licence” means a licence issued by the Licence Issuer pursuant to this By-law;

“Licensee” means the holder of a Licence;

“Mobile Barbecue Facility” means an open air barbecue affixed to a cart which is on wheels or is capable of being moved from place to place from which food is prepared and sold or offered for sale to the public;

“Mobile Food Service Vehicle” means a Motor Vehicle that moves from place to place and from which food or refreshments are sold or offered for sale to the public and includes an Ice Cream Cart, Mobile Barbecue Facility and includes a trailer;

“Motor Vehicle” means a motor vehicle as defined under the Highway Traffic Act;

“Officer” means a police officer, municipal law enforcement officer or other person appointed by by-law to enforce the provisions of this By-law;

“Operator” includes a person other than an Owner who, alone or with others, operates, manages, supervises, runs or directs a business on an ongoing basis or from time to time, or who exercises control over a business on behalf of an Owner and shall include a driver;

“Owner” means a person who owns, keeps or leases a Mobile Food Service Vehicle and does not include an Operator;

“Roadway” means that part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder;

“Township” means the Corporation of the Township of Puslinch or the land within the geographic limit of the Corporation of the Township of Puslinch as the context requires;

2. GENERAL REGULATIONS AND PROHIBITIONS

- (1) No person shall own or operate a Mobile Food Service Vehicle in the Township unless he has been issued a current valid Licence.
- (2) The issuing of a Licence pursuant to this By-law shall not relieve any person from the necessity of acquiring any other licence, permit or approval required for such activity by any governmental or public authority.
- (3) No person shall own or operate a Mobile Food Service Vehicle except from lands designated as Commercial, Industrial, Institutional or Open Space.
- (4) No person shall alter a Licence or permit the alteration of a Licence.
- (5) Every person to whom a Licence is issued under this By-law shall comply with the conditions of the Licence.
- (6) No person shall operate a Mobile Food Service Vehicle:
 - (a) on a County Road within the Township;
 - (b) on a Collector Road within the Township;
 - (c) on Township lands without written permission from the Township;
 - (d) on private property without written permission from the property owner and in compliance with applicable zoning by-law;
 - (e) within thirty (30) metres of an intersection;
 - (f) within ten (10) metres of an existing restaurant;
 - (g) within ten (10) metres of an existing licensed Mobile Food Service Vehicle;
 - (h) within one hundred (100) metres of any public or private school property during the hours of 8:00 a.m. and 5:00 p.m. on a school day;

- (i) at a specific location within two (2) hours of a previous attendance at that same location;
- (j) between the hours of 10:00 p.m. one day and 8:00 a.m. the following day;
- (k) ring bells or chimes or make any other recognizable sounds at any one location for more than twenty (20) seconds.

3. APPLICATION REQUIREMENTS – OPERATOR’S LICENCE

- (1) An Applicant for an Operator’s Licence shall submit the following:
 - (a) a complete application to the Township in the form provided by the Township;
 - (b) an original copy of a police criminal record search of the Applicant issued within the previous sixty (60) days of the date of the application;
 - (c) two (2) copies of a current passport quality photograph of the Applicant;
 - (d) a letter from an Owner licensed under this By-law indicating that he intends to employ the Operator, once licensed;
 - (e) a valid Class “G” driver’s licence issued by the Province of Ontario, which is in good standing according to the records of the Ministry of Transportation; and
 - (f) an original current driver’s abstract from the Ministry of Transportation, dated within sixty (60) days of the date of the application; and
 - (g) the required Licence fee in accordance with the Township’s Fee By-law.

4. APPLICATION REQUIREMENTS – OWNER’S LICENCE

- (1) An Applicant for an Owner’s Licence shall submit the following:
 - (a) a complete application to the Township in the form provided by the Township;
 - (b) an original copy of a police criminal record search of the Applicant; or of a partnership Applicant, directors or officers of a corporate Applicant, issued within the previous sixty (60) days of the date of the application;
 - (c) a copy of his business documents, including incorporation and business registration;
 - (d) a valid Class “G” driver’s licence issued by the Province of Ontario, which is in good standing according to the records of the Ministry of Transportation;

- (e) proof of current valid ownership of the Motor Vehicle to be plated and in the case of a leased Motor Vehicle, the owner shall provide an original copy of a lease agreement between himself and the vehicle's owner;
 - (f) a safety standards certificate of mechanical fitness issued under the *Highway Traffic Act* dated within sixty (60) days of the date the Motor Vehicle is produced for inspection;
 - (g) where applicable, a signed approval from a certified propane contractor attesting to the fact that equipment in the Motor Vehicle fuelled by propane or natural gas has been inspected and conforms to the Propane Code adopted under the Technical Standards and Safety Act, 2000, as amended;
 - (h) proof of current Commercial General Liability Insurance in a minimum amount of no less than two (2) million dollars (\$2,000,000.00) for the term of the Licence with an endorsement that notice in writing at least fifteen (15) days prior to cancellation, expiration, or variation thereof will be given to the Township by the insurance underwriter;
 - (i) in the case, where the Township has granted permission for the use of Township lands, submit proof of current Commercial General Liability Insurance in a minimum amount of no less than two (2) million dollars (\$2,000,000.00) for the term of the Licence with an endorsement that notice in writing at least fifteen (15) days prior to cancellation, expiration, or variation thereof will be given to the Township by the insurance underwriter and naming the Township as an additional insured; and
 - (j) proof of current Ontario Automobile Insurance in a minimum amount of no less than two (2) million dollars (\$2,000,000.00) for the term of the Licence with an endorsement that notice in writing at least fifteen (15) days prior to cancellation, expiration, or variation thereof will be given to the Township by the insurance underwriter;
 - (k) written permission of the property owner, if applicable;
 - (l) if applicable, a site plan drawn to approximate scale outlining the following:
 - i) buildings;
 - ii) significant ground features;
 - iii) parking areas;
 - iv) ingress and egress routes; and
 - v) the proposed location of the Mobile Food Service Vehicle
 - (m) any other documents as may be required to substantiate compliance with any other legislation to the satisfaction of the Township; and
 - (n) the required Licence fee in accordance with the Township's Fee By-law.
- (2) The issuing of an owner's Licence shall be subject to:
- (a) the vehicle passing an inspection conducted by an Officer; and
 - (b) written approval from the Wellington Guelph Dufferin Health

5. APPLICATION REQUIREMENTS – MOBILE BARBECUE FACILITY

- (1) An Applicant for an Owner's Licence for a Mobile Barbecue Facility shall submit those items listed under Section 4(1) (a), (b), (c), (h), (i), (k), (l), (m) and (n) of this By-law.

6. OPERATOR DUTIES AND RESPONSIBILITIES

- (1) An Operator shall:
 - (a) be civil and behave in a courteous manner;
 - (b) keep the interior of the Mobile Food Service Vehicle clean and in good repair;
 - (c) ensure all equipment used for dispensing consumable products are kept in a clean and sanitary condition;
 - (d) ensure that all containers, dispensers, storage equipment, utensil washing and hand washing facilities, as applicable and necessary for food safety are approved by Wellington Guelph Dufferin Health;
 - (e) only operate a Mobile Food Service Vehicle for which a current valid Licence has been issued;
 - (f) only use single service disposable cups, plates, forks, spoons serviettes which are individually wrapped or provided in dispensers approved by Wellington Guelph Dufferin Health;
 - (g) clean up any debris, refuse or garbage resulting from the operation of the Mobile Food Service Vehicle in the immediate vicinity of the serving location for the Mobile Food Service Vehicle;
 - (h) make a complete safety tour around the Mobile Food Service Vehicle prior to departing from any stop made for the purpose of selling consumable products;
 - (i) refuse to serve any customer standing on a Roadway;
 - (j) wear clean clothes, be clean and neat in appearance, and have clean hands;
 - (k) not have or provide a seating area.

7. OWNER DUTIES AND RESPONSIBILITIES

- (1) No Owner shall permit or allow any person to operate a Mobile Food Service Vehicle without a current valid Operator's Licence.
- (2) An Owner shall equip and maintain a Mobile Food Service Vehicle with:
 - (a) a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily;
or
 - (b) a disposable litter container which shall be replaced daily, and such containers shall be used for the disposal of all refuse; and
 - (c) a multi-purpose dry chemical fire extinguisher with a minimum rating of 2A10BC, if the Mobile Food Service Vehicle contains equipment fuelled by propane or natural gas;
 - (d) black letters on a yellow background the words "Watch for Children" in letters at least fifteen (15) centimetres in height, conspicuously displayed on the rear of the Mobile Food Service Vehicle, where the Mobile Food Service Vehicle is travelling from location to location.

8. TERM OF LICENCE

- (1) A Licence is valid until it expires or it is revoked or suspended.
- (2) All Licences issued under this By-law will expire March 30th of each year.

9. CALCULATION OF FEE

- (1) When an initial application for a Licence for a new business is received during the Licence term,
 - (a) a pro-rated fee may be calculated for every month remaining in the term of the Licence until the expiry date but a minimum payment of one quarter of the annual fee shall apply;
 - (b) a part of a month shall count as a full month; and
 - (c) every Licence renewed thereafter shall be subject to the full annual fees as prescribed in the Township's Fee By-law.

10. NOTIFICATION OF CHANGE

- (1) A Licensee shall notify the Licence Issuer within seven (7) days of any change of name, address or any other information related to the Licence.
- (2) Where the Licensee is a corporation, the Licensee shall notify the Licence Issuer of any change in the names and addresses of officers and directors, the location of the corporate head office, and the name under which the business operates within seven (7) days of the change, and if necessary, the Licence shall be returned immediately to the Licence Issuer for amendment.

11. LICENCE NON-TRANSFERABLE

- (1) A Licence issued by the Township is not transferable and the fee is non-refundable.
- (2) No person shall use, or attempt to use either a fraudulent Licence or a Licence issued to another person under this By-law.
- (3) Every Licence shall remain at all times the property of the Township and no person shall enjoy a vested right in any Licence or the continuance of any Licence.

12. POSTING OF LICENCE

- (1) A Licensee shall post its Licence pursuant to this By-law in a conspicuous place clearly visible to the public.

13. RESPONSIBILITY OF LICENSEE

- (1) No Licensee shall advertise or promote or carry on business under any name other than the name endorsed upon the Licence issued by the Township.

14. ADMINISTRATIVE SUSPENSIONS

- (1) An administrative suspension of a Licence without a hearing may be imposed for up to fourteen (14) days if the Licence Issuer is satisfied that the continuation of the business poses an immediate danger to the health or safety of any person or to any property.
- (2) Before any administrative suspension is imposed, the Licence Issuer shall provide written notice to the Licensee by personal delivery or registered mail of:
 - (a) the reason(s) for the suspension;
 - (b) the proposed start date of the suspension; and
 - (c) the proposed length of time of the suspension; andshall provide the Licensee with an opportunity to respond to the notice of suspension in writing to the Licence Issuer within three (3) business days of the service of the notice.
- (3) Such written notice shall be deemed to have been served on the seventh (7th) day after the day of mailing or on the date of personal delivery.
- (4) A Licence Issuer may impose conditions on the administrative suspension as the Licence Issuer considers appropriate.
- (5) The Licence Issuer shall reinstate a Licence which has been suspended upon satisfactory proof that the requirements stated in the written notice of the administrative suspension have been met.

15. GROUNDS FOR REFUSAL OF LICENCE

- (1) A Licence or Licence renewal may be refused, suspended or revoked on one or more of the following grounds:
 - (a) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation which affords reasonable cause to believe that the person will not carry on or engage in the business in respect of which the application is made in accordance with the law or with honesty and integrity;
 - (b) the Applicant or Licensee has past breaches of any law and any outstanding fines imposed by a court for the contravention of any provision of this By-law or any other municipal by-law or Provincial or Federal Statute associated with the carrying on of such a business;
 - (c) the issuing of a Licence would be contrary to the public interest with respect to health and safety, consumer protection, or nuisance control;
 - (d) the financial positions or history of the Applicant or Licensee affords reasonable grounds to believe that the business will not be carried on in a financially responsible manner;
 - (e) there are reasonable grounds to believe that an application or other documents provided to the Township by or on behalf of the Applicant or

Licensee contain a false statement, incorrect, incomplete, or misleading information;

- (f) the Applicant or Licensee is carrying on or engaging in activities that are, or will be, if the Applicant or Licensee is licensed, in contravention of this By-law, or any other applicable law;
- (g) the equipment or other personal property used in connection with the carrying on of or engaging in the business licensed under this By-law is dangerous, or unsafe; or
- (h) the Applicant or Licensee has not paid the required Licence fee.

16. RIGHT TO A HEARING

- (1) Before a Licence is refused, revoked, suspended, cancelled, or issued with conditions other than an administrative suspension, written notice shall be given to the Applicant or Licensee that a recommendation is to be made to Council with respect to the Licence application or the Licence.
- (2) The Licence Issuer shall serve notice upon the Applicant or Licensee by personal delivery or by registered mail to the Applicant's or Licensee's last known address filed with the Licence Issuer and shall:
 - (a) contain sufficient information to specify the nature of, or reason for, any recommendation;
 - (b) inform the Applicant or Licensee of his entitlement to a hearing before Council if a request in writing for a hearing is returned to the Licence Issuer within fifteen (15) days after the date of service of the notice;
 - (c) inform the Applicant or Licensee that if no written request is received, Council may proceed and make any decision with respect to the Licence in the absence of the Applicant or Licensee; and
 - (d) be deemed to have been served on the seventh (7th) day after the day of the mailing or on the date of personal delivery.
- (3) On receipt of a written request for a hearing from an Applicant or Licensee, the Township shall schedule:
 - (a) a hearing before Council; and
 - (b) shall give the Applicant or Licensee notice of hearing at least twenty (20) days prior to the hearing date.

17. HEARING

- (1) The provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted under this By-law.
- (2) When an Applicant or Licensee who has been given written notice of the hearing does not attend at the appointed time and place, Council may proceed with the hearing in his absence, and the person shall not be entitled to any further notice of the proceedings.

- (3) The Licence Issuer shall send written notice of the decision of Council by registered mail or by personal delivery to the Applicant or Licensee within five (5) days of such decision.
- (4) Council may impose conditions as a requirement of continuing to hold a Licence at any time during the term of the Licence.
- (5) When Council has revoked, suspended, or cancelled a Licence, the Licensee shall return the Licence to the Licence Issuer within two (2) days of service of the notice of the decision of Council.
- (6) No person whose Licence has been revoked or suspended shall refuse to deliver the Licence to the Licence Issuer.
- (7) No person whose Licence has been revoked or suspended shall in any way obstruct or prevent the Licence Issuer or Officer from receiving or taking the Licence.
- (8) An Officer may enter upon the business premises of the Licensee for the purpose of receiving, taking or removing the said Licence.
- (9) An Applicant or Licensee whose Licence has been refused or revoked, shall not be entitled to make a new application for a similar type of Licence for a period of at least twelve (12) months from the date of the refusal or revocation.

18. POWERS OF ENTRY

- (1) In order to assess and determine compliance with the provisions of this By-law, including the determination of an unlicensed business, an Officer may at any reasonable time enter and inspect any premises used for the business, and the equipment, vehicles, records, documents and other personal property used or kept for hire in the carrying on of the business, and may remove documents or things that are relevant to the Licensed business for the purpose of making copies or extracts. An Officer shall return such documents within twenty-four (24) hours of removal.
- (2) No person shall construct or equip any premises used for a business Licensed under this By-law so as to hinder the enforcement of this By-law.
- (3) No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or person exercising a power or performing a duty under this By-law.

19. ENFORCEMENT AND PENALTY PROVISIONS

- (1) The enforcement of this By-law shall be conducted by an Officer.
- (2) No person shall hinder or obstruct an Officer in the enforcement of this By-law.
- (3) Any person who is alleged to have contravened any section of this By-law shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of his duties.

- (4) An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.
- (5) Every person shall comply with the terms and conditions of a Licence.
- (6) Every person who contravenes any provision of this By-law is guilty of an offence.
- (7) Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law by the corporation is guilty of an offence.
- (8) A person who is convicted of an offence is liable:
 - (a) on a first offence, to a fine of not less than \$150.00 and to a fine of not more than \$50,000.00; and
 - (b) on a second offence and each subsequent offence, to a fine of not less than \$500.00 and a fine of not more than \$100,000.00.

20. SEVERABILITY

- (1) Should any section, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part, which is declared invalid.

21. SINGULAR AND PLURAL USE

- (1) In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS XXX DAY OF XXXXXX, 2014.

Dennis Lever, Mayor

Karen Landry, CAO/Clerk