

By-law 7-2024

THE CORPORATION OF THE MUNICIPALITY OF WEST PERTH

Being a By-law to licence and regulate Refreshment Vehicles within the Municipality of West Perth

Whereas Section 8 (3) of the *Municipal Act, 2001*, as amended, provides that a by-law respecting a matter may (a) regulate or prohibit the matter; (b) require persons to do things respecting the matter; and (c) provide for a system of licences respecting the matter;

Whereas Section 11 (2) of the *Municipal Act, 2001*, as amended, provides that a municipality may exercise its licensing powers for the purpose of consumer protection and to protect the health and safety of the general public;

Whereas Section 150 and 151 of the *Municipal Act, 2001*, as amended, provides that 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 the Council of the Corporation of the Municipality of West Perth deems it appropriate to update the Refreshment Vehicle licensing regulations.

Now therefore be it resolved that the Council of the Corporation of the Municipality of West Perth enacts as follows:

1. Short Title

- 1.1. This By-law may be cited as the “Refreshment Vehicle By-law”.

2. Definitions

The following definitions shall apply for the purposes of this By-law:

- a) **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;
- b) **Charitable Organization** means an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or minor sports group;
- c) **Clerk** means the Clerk of the Municipality or a designate;
- d) **Eating Establishment** has the same meaning as an eating establishment or restaurant as defined in the Municipality’s Zoning By-law;
- e) **Event Organizer** means the organizer and/or coordinator of a Special Community Event or Special Event in the Municipality of West Perth;
- f) **Fire Chief** means the Fire Chief of the Municipality or an authority having designation in accordance with the *Fire Protection and Prevention Act, 1997*, as amended;
- g) **Health Inspector** means a Public Health Inspector acting under the direction of Huron Perth Public Health;
- h) **Highway** shall have the same meaning as in the *Municipal Act, 2001*, as amended;
- i) **Licence** means a licence issued by the Clerk to operate a Refreshment Vehicle in accordance with this By-law;

- j) **Licensee** means a Person to whom a Licence has been issued and shall include any Person operating a licenced Refreshment Vehicle;
- k) **Mobile Barbecue** means an open-air barbecue affixed to a cart which is on wheels or is capable of being moved from place to place by a person on which food is prepared and sold or offered for sale to the public;
- l) **Motor Vehicle** means a Motor Vehicle as defined in the *Highway Traffic Act, 1990*, as amended;
- m) **Municipal Act, 2001** means the *Municipal Act, 2001*, as amended;
- n) **Municipality** means The Corporation of the Municipality of West Perth or the geographic area of West Perth, as the context requires;
- o) **Offence** means an Offence under an Act of the Legislature under a regulation or by-law made under the authority of an Act of the Legislature;
- p) **Officer** means an Ontario Provincial Police Officer as defined in the *Police Services Act, 1990*, as amended, and shall include a Municipal By-law Enforcement Officer, whose duties include the enforcement of this By-law, including a Fire Prevention Officer, Fire Chief, or any Assistant(s) to the Fire Marshal;
- q) **One-Time Event** means an event held in the Municipality of West Perth not exceeding four consecutive days, open to the public, either free or ticketed, for a cultural, charitable, commercial, entertainment, or cause-related purpose and/or conducted for the purpose of attracting revenue, support, awareness and/or entertainment;
- r) **Person** includes an individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and their heirs, executors, or legal representatives;
- s) **Private Event** shall mean an event that is held on private property, that is by invite only and/or is not open to the general public, and where Refreshments are not made available to the general public, including but not limited to, weddings, birthday parties, family reunions, employee recognition events et cetera;
- t) **Property Owner** shall mean the registered owner of land, and includes a lessee, mortgagee in possession or any person in charge of the property;
- u) **Refreshment** includes any form of food or drink intended for human consumption;
- v) **Refreshment Vehicle**, also commonly known as a Food Truck, shall mean a mobile food premise which is a trailer, cart or vehicle-mounted food premise or other itinerant food premise that is capable of being readily moved and in which food is prepared and offered for sale to the public, including a Mobile Food Barbecue;
- w) **Set Fine** means the amount of fine set by Schedule "A" of this By-law, approved by the Ontario Court of Justice for an offence for the purpose of proceedings commenced under Part I or Part II of the *Provincial Offences Act, 1990*, as amended;
- x) **Special Community Events** shall mean a special event or any event that has been sanctioned as a Community Event of Municipal Significance by resolution of Council;
- y) **Special Event** means an event held in the Municipality for which a special events permit has been issued by the Municipality or which has been sanctioned by the Municipality;
- z) **Trailer** means a Trailer as defined in the *Highway Traffic Act, 1990*, as amended; and,
- aa) **Zone** means a Zone as defined in the Municipality of West Perth's Zoning By-law, as amended from time to time.

3. General Provisions

- 3.1. No Person shall operate a Refreshment Vehicle in the Municipality without a Licence.
- 3.2. No Person shall operate a Refreshment Vehicle with an expired, suspended, or revoked Licence.
- 3.3. No Person shall sell Refreshments from a Refreshment Vehicle between the hours of 11:00 p.m. and 7:00 a.m. without authorization from the Municipality.
- 3.4. Every Licensee shall conform to the requirements and conditions of the Licence throughout the Licence term.
- 3.5. Every Person providing Refreshments from a Refreshment Vehicle shall do so in accordance with the *Health Protection and Promotion Act, 1990*, as amended, and regulations made thereunder and any successor legislation in substitution thereof.
- 3.6. Every Licensee shall ensure that all conditions expressed by the Fire Chief or designate, the By-law Department, the Medical Officer of Health or designate, the Chief Building Official or designate, or the Planning Department forming part of any approval shall be adhered to at all times.
- 3.7. Every person shall comply with any order or notice issued under the authority of this By-law.
- 3.8. No Person shall provide false information or give a false statement to an Officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.
- 3.9. No Person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the Municipality in the lawful exercise of a power under this By-law.

4. Licensing

Issuance of Licence

- 4.1. The Clerk is not required to consider any application for a Licence until the application is complete and the Applicant has provided all information and documentation, as required pursuant to this By-law, and the applicable fee.
- 4.2. The Clerk is not required to consider any application for a Licence if the Applicant is in breach of a municipal by-law or any provincial or federal legislation.
- 4.3. The Clerk may impose any conditions upon an approval of the application as determined.
- 4.4. Every application for a Licence shall be completed and submitted on forms prescribed by the Clerk.
- 4.5. Licences are not transferrable.
- 4.6. Licences are valid from the date of issuance and expire on December 31st of each year, unless revoked or suspended.
- 4.7. Licences will not be prorated.
- 4.8. The Clerk shall refuse to issue or renew a Licence where:
 - (i) The application for a Licence fails to meet the requirements for issuance set forth in this By-law or any other municipal by-law or applicable regional by-law or provincial or federal law;

- (ii) The Applicant is not at least 18 years of age without written consent of the parent or guardian;
- (iii) The application is incomplete;
- (iv) The Licence was issued in error;
- (v) The prescribed fee has not been paid;
- (vi) The Applicant has submitted false information in support of the application; or,
- (vii) An Officer or Health Inspector, by way of inspection, has determined that the Refreshment Vehicle is not in compliance with this By-law.

Applications

4.9. Every Licence application to operate a Refreshment Vehicle shall include:

- (i) An application fee as prescribed in the current Fees and Charges By-Law;
- (ii) A photograph of the Refreshment Vehicle;
- (iii) A current proof of inspection and approval in writing from Huron Perth Public Health;
- (iv) An approved Mobile Food Service Equipment Inspection Self Checklist, a form as determined by the Fire Chief, from the West Perth Fire Department;
- (v) A copy of the Motor Vehicle or Trailer registration, if applicable;
- (vi) 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, 1990*, as amended, or any successor legislation in substitution thereof;
- (vii) 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 Application for Field Approval of Mobile Food Service Equipment, 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;
- (viii) Where there are additions or structures being installed within the vicinity of the Refreshment Vehicle, a site plan showing the location and adjacent structures.
- (ix) Indemnification and proof of Commercial General Liability insurance in the amount of five million dollars (\$5,000,000), and naming the Municipality as an additional insured;
 - (a) 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, if applicable;
 - (b) All renewal certificates for such insurance shall be provided thirty (30) days prior to the expiry of the insurance during the term;
 - (c) The Corporation of the Municipality of West Perth may require additional types of insurance coverage or higher limits of insurance coverage as determined by the Clerk;

- (x) The Clerk may impose conditions not specified in this By-law as a requirement of obtaining or renewing a Licence.

One-Time Event Licence

- 4.10. During a Special Community Event or Special Event, a Refreshment Vehicle shall be permitted to operate on a municipally owned property provided that the following have been provided to the Municipality:
- (i) A completed One-Time Event Licence Application;
 - (ii) Written authorization from the Director of Community Services or their designate to operate on a municipally owned property;
 - (iii) Written authorization from the Event Organizer to operate in conjunction with the Special Community Event or Special Event;
 - (iv) A copy of a Refreshment Vehicle Licence issued by another Ontario municipality;
 - (v) A current proof of inspection and written approval from the Public Health Unit;
 - (vi) A current proof of inspection and written approval from the Fire Department; and,
 - (vii) A One-Time Event Licence Fee as set out in the current Fees and Charges By-law.
- 4.11. A One-Time Event Licence shall only be valid for the date(s) and location listed on the Licence.

Licensing Renewal Requirements

- 4.12. Every renewal Licence application to operate a Refreshment Vehicle shall meet the applicable licencing requirements and be accompanied by the prescribed fee.

Revisions to the Licence

- 4.13. After the issuance of a Licence under this By-law, notice of any material change to a plan, specification, document, or other information on the basis of which the Licence was issued, must be given in writing to the Municipality together with the details of the change.
- 4.14. No modification(s) to any Refreshment Vehicle shall be carried out without the express written authorization from the Clerk.

Operating Requirements

- 4.15. Every Licensee shall produce the Licence issued in accordance with this By-law when requested to do so by an Officer or Health Inspector.
- 4.16. Every Licensee shall affix the Licence to the Refreshment Vehicle, so it is always clearly visible to the public and customers.
- 4.17. 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 Department.
- 4.18. Every Licence shall ensure that the Refreshment Vehicle and immediate surrounding location are always kept in a clean and sanitary condition, in accordance with municipal by-laws and regulations, and Huron Perth Public Health guidelines and requirements.

- 4.19. Every Licensee shall equip the Refreshment Vehicle with a waste and recycling receptacle of sufficient size to accommodate all waste and recyclable materials generated by the Refreshment Vehicle.
- 4.20. Every Licensee shall ensure that all waste and recyclable materials, grey water, and grease are disposed of in a proper and sanitary manner.
- 4.21. The placing of garbage or litter in a sidewalk refuse container provided by the Municipality is not sufficient to constitute proper removal of waste materials.
- 4.22. Every Licensee shall operate the Refreshment Vehicle in compliance with all Municipal by-laws, including but not limited to the Noise and Nuisance By-law, Parking By-law.

Location Requirements

- 4.23. No Person shall operate a Refreshment Vehicle within 60 metres of a school unless authorized to do so by the applicable school board.
- 4.24. No Person shall operate a Refreshment Vehicle within 60 metres from the front entrance of an Eating Establishment.
- 4.25. No person shall operate a Refreshment Vehicle within 30 metres of a re-fueling station or any other volatile environment.
- 4.26. No Person shall operate a Refreshment Vehicle at a Special Event or within 100 metres of the Special Event unless the Event Organizer has approved the Refreshment Vehicle as a vendor at the Special Event.
- 4.27. No Person shall operate a Refreshment Vehicle on property owned or managed by the Municipality unless the Refreshment Vehicle has been awarded the rights to operate at that location by the Municipality.
 - (i) A Refreshment Vehicle authorized to operate at a municipally owned or operated location shall not be subject to setback requirements for schools or Eating Establishments.
- 4.28. No Person shall operate a Refreshment Vehicle on a Highway, unless:
 - (i) The Municipality or other applicable road authority has authorized a portion of the Highway for that purpose.
- 4.29. No Person shall operate a Refreshment Vehicle in a residential Zone, unless:
 - (i) The Refreshment Vehicle is servicing an active construction site for no longer than thirty (30) minutes.
- 4.30. No Person shall operate a Refreshment Vehicle from a location unless the Licensee has obtained the landowner or property manager's permission.
- 4.31. No Person shall operate a Refreshment Vehicle on a public sidewalk. A Refreshment Vehicle, if located on private property, shall not be located any closer than 1.2 metres to a sidewalk.
- 4.32. No Person shall operate a Refreshment Vehicle on a street so as to be within nine (9) metres from the nearest street intersection.
- 4.33. The Licensee shall comply with all Municipal by-laws, including, but not limited to Zoning By-laws and Property Standards By-Law, and comply with all provincial and federal legislation.

5. Enforcement and Penalties

Inspections

- 5.1. An Officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether the provisions of this By-law have been complied with.
- 5.2. No Person shall prevent hinder or interfere or attempt to prevent hinder or interfere with an inspection undertaken by an Officer.

Revocation and Contravention

- 5.3. The Clerk may revoke, suspend, or cancel 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 Municipality specifying the particulars of the non-compliance.
- 5.4. Where a Licence is revoked, the Refreshment Vehicle shall be removed from its location within forty-eight (48) hours of the date of revocation.
- 5.5. Failure to remove the Refreshment Vehicle within the time period specified shall allow the Municipality to remove and impound the vehicle at the Licensee's expense.
- 5.6. Where the Municipality removes and impounds the Refreshment Vehicle, it shall be entitled to recover the expense incurred from the owner of the vehicle before it releases custody of the vehicle to the owner. Release from impoundment shall occur at the Licensee's expense.
- 5.7. Where a Licence has been revoked, the Licensee shall have the right to reapply for a new Licence, and therefore, shall submit a new application together with the required application fee for the new Licence, and if the application is approved, the Licensee shall pay the applicable Licence fee.
- 5.8. In addition to any measures that are available to the Municipality in this Section, the Municipality shall have the right to seek to impose a penalty as provided for in Section 5.9.

Offences and Penalties

- 5.9. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provinces Offences Act, 1990*, as amended.
- 5.10. Each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a separate Offence under this By-law as provided for in Section 429(2) of the *Municipal Act, 2001*, as amended.

Severability

- 5.11. It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent therefore and enacted as such.

Conflict

- 5.12. In the event of a conflict between any provision of this By-law and any other by-law in effect in the Municipality of West Perth or with any other law, statute or regulation applying to the Municipality, the more restrictive requirement shall apply.



6. Exemptions

- 6.1. The requirement for Licence fees shall be exempt for those Refreshment Vehicles owned and operated by existing Municipality of West Perth Eating Establishments which are operating at Special Community Events or Special Events.
- 6.2. Where a Charitable Organization operating in West Perth receives written approval from the Municipality in advance, the licencing provisions of the By-law shall not apply to a Mobile Barbecue operated in connection with their charitable fundraising event, subject to the approval of the Fire Chief.
- 6.3. Refreshment Vehicles providing services to Private Events with the consent of the Property Owner, and where Refreshments are not made available to the general public, are exempt from the Licence requirement and the payment of the applicable Licence fee.
 - (i) Notwithstanding Section 6.3 above, Refreshment Vehicles that are providing services to Private Events shall:
 - (a) Notify the Municipality in writing of the date, time, and location of the Private Event at which they are providing services. The Municipality shall issue a confirmation letter following receipt of the notification.
 - (b) Comply with all applicable municipal, provincial, and federal provisions and regulations.

7. Repeal and Amendment

- 7.1. By-law 69-2017 and all amendments thereto are hereby repealed.
- 7.2. By-law 4-2024 is hereby amended to remove Schedule “J” – Licencing and replace it with Schedule “B” attached hereto.

8. Effective Date

- 8.1. This By-law shall come into full force and effect on March 31, 2024.

Read a first time on this 20th day of February, 2024.

Mayor Walter McKenzie

Clerk Daniel Hobson

Read a second, third and final time and finally passed on this 04th day of March, 2024.

Mayor Walter McKenzie

Clerk Daniel Hobson



Schedule “A” to By-law 7-2024

**Municipality of West Perth
Part I Provincial Offences Act
By-law 7-2024: Refreshment Vehicle By-law**

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Operating a Refreshment Vehicle without a Licence	Section 3.1	\$ 350.00
2	Operating a Refreshment Vehicle with an expired, suspended, or revoked Licence	Section 3.2	\$ 350.00
3	Operating a Refreshment Vehicle between the hours of 11:00 p.m. and 7:00 a.m. without authorization	Section 3.3	\$ 350.00
4	Operating a Refreshment Vehicle within 60 metres of a school without authorization	Section 4.23	\$ 350.00
5	Operating a Refreshment Vehicle within 60 metres from the front entrance of an Eating Establishment	Section 4.24	\$ 350.00
6	Operating a Refreshment Vehicle within 30 metres of a re-fueling station or any other volatile environment	Section 4.25	\$ 350.00
7	Operating a Refreshment Vehicle at a Special Event or within 100 metres of the Special Event without authorization	Section 4.26	\$ 350.00
8	Operating a Refreshment Vehicle on property owned or managed by the Municipality without authorization	Section 4.27	\$ 350.00
9	Operating a Refreshment Vehicle on a Highway without authorization	Section 4.28	\$ 350.00
10	Operating a Refreshment Vehicle in a residential Zone	Section 4.29	\$ 350.00
11	Operating a Refreshment Vehicle from location without landowner authorization	Section 4.30	\$ 350.00
12	Operating a Refreshment Vehicle on a public sidewalk	Section 4.31	\$ 350.00
13	Operating a Refreshment Vehicle on a street within nine (9) metres from the nearest street intersection	Section 4.32	\$ 350.00

NOTE: The penalty provision for the offences indicated above is Section 4 of By-law No. 7-2024, a certified copy of which has been filed.



Schedule "B" to By-law 7-2024

Licencing

Service	Description	2024 Rate
Licencing	Hawkers and Pedlars Licence (West Perth Resident) (Per Year)	\$ 100.00
Licencing	Hawkers and Pedlars Licence (Non-resident) (Per Year)	\$ 250.00
Licencing	Refreshment Vehicles (Per Year)	\$ 250.00
Licencing	Refreshment Vehicles (One-Time Event Licence)	\$ 50.00
Licencing	Charitable Organization/Community Event (Refreshment Vehicle)	No Charge
Licencing	Sidewalk Patio Licence	\$ 250.00
Licencing	Taxicab Driver's Licence	\$ 100.00
Licencing	Taxicab Vehicle Licence	\$ 100.00
Licencing	Taxicab Transfer	No Charge
Licencing	Taxicab Vehicle Plate Replacement	Replacement Cost