



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2009-55

A BY-LAW FOR THE LICENSING, REGULATING AND GOVERNING OF REFRESHMENT VEHICLES.

(Refreshment Vehicle Licensing By-law).

WHEREAS Section 151 of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, provides that a local municipality may provide for a system of licenses with respect to a business;

AND WHEREAS the Council of the Town of Newmarket enacted By-law Number 2002-151, as amended, being a by-law to license, regulate and govern any business carried on within the Town of Newmarket;

AND WHEREAS it is deemed necessary to repeal Schedule 10 of By-law Number 2002-151 as amended;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

#### **SECTION 1 – DEFINITIONS**

1.1 In this By-law:

- (1) "Appeal Committee" means a Committee of Council duly appointed by By-law to conduct hearings under this By-law;
- (2) "Applicant" means a person who applies for a license or the renewal of a license pursuant to this By-law;
- (3) "Clerk" means the Town Clerk of the Corporation of the Town of Newmarket or his/her designate;
- (4) "Council" means the Council of the Corporation of the Town of Newmarket;
- (5) "Farmers Market" means a central location at which a group of persons who operate stalls or other food premises meet to sell or offer for sale to consumers products that include, without being restricted to, farm products, baked goods and preserved foods, and at which the majority of the persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products;
- (6) "He and his" shall be deemed to include "she and her";
- (7) "Highway" means 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;
- (8) "License" means authorization obtained or granted or issued pursuant to this by-law to carry on a business, activity or undertaking.
- (9) "Licensed" means to have in one's possession a valid and current license issued pursuant to the by-law;
- (10) "Licensee" means any person who is licensed pursuant to this by-law or a licensee applying for renewal of a license as the context requires;
- (11) "Licensing Officer" means the Licensing Officer of the Town of Newmarket;

- (12) "Medical Officer of Health" means the Medical Officer of Health for The Regional Municipality of York;
- (13) "Motor Vehicle" includes an automobile, truck, trailer, motorcycle and any other vehicle propelled or driven otherwise than by muscular power;
- (14) "Municipality" means the Corporation of the Town of Newmarket or the geographic area of the Town of Newmarket as the context requires;
- (15) "Owner" means the owner of a refreshment vehicle and/or a person who is licensed and who is the registered owner of a refreshment plate;
- (16) "Owner's Licence" means the license issued under this by-law to the owner of a Refreshment Vehicle;
- (17) "Owner's Plate" means a numbered metal plate issued to an Owner licensed under this By-law;
- (18) "Operate" means to manage, work, control, maintain, put or keep in a functional state any business;
- (19) "Operator" means:
- (1) a person who is the owner of a refreshment vehicle and/or;
  - (2) a person who has the care and control of a refreshment vehicle, under a lease, hourly wage, salary or commission rate of remuneration, or other rental agreement.
- (20) "Park" means land and land covered by water and all portions thereof owned or made available by lease, agreement or otherwise to the Town that is or hereafter may be established, dedicated, set apart, or made available for use as public open space including a natural park area or an environmentally significant area;
- (21) "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
- (22) "Provincial Offences Officer" means a police officer or person designated under the *Provincial Offences Act*;
- (23) "Refreshment" means any food or beverage;
- (24) "Refreshment Vehicle" means, without a qualifier, a Refreshment Vehicle - Type 1, Type 2 and/or Type 3;
- (25) "Refreshment Vehicle – Type 1" means a motor vehicle that is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to vehicles such as catering trucks and ice cream trucks;
- (26) "Refreshment Vehicle – Type 2" means a trailer/cart that is stationary and licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to hot dog carts;
- (27) "Refreshment Vehicle – Type 3" means a muscle powered cart that is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to bicycle ice cream carts;
- (28) "Special Event" shall mean an event which is sponsored, authorized or conducted by the Town of Newmarket, or on behalf of the Town of Newmarket;
- (29) "Town" means the Town of Newmarket in the Regional Municipality of York;

- (30) "Trail" means that part of a park that has been improved with a hard surface either paved or not paved and intended for a variety of uses including pedestrians.

## **SECTION 2 – GENERAL LICENSING PROVISIONS**

- 2.1 Administration of this by-law shall be the responsibility of the Clerk or Licensing Officer, who are hereby authorized to issue licenses to owners and operators in accordance with the provisions of this by-law.
- 2.2 The Clerk or Licensing Officer may revoke, cancel, suspend or refuse to renew or issue a license pursuant to the provisions of this by-law.
- 2.3 The Clerk or Licensing Officer may issue a license on a temporary basis where it is deemed necessary or advisable to do so.
- 2.4 An application for a new license, renewal or a transfer of a Refreshment Vehicle shall be completed and submitted to the Clerk or Licensing Officer on the forms provided along with the licensing fee as may be set by Council from time to time.
- 2.5 Acceptance of the application and fee shall not represent approval of the application nor shall it obligate the Town to issue a license.
- 2.6 No person shall promote or carry on business under any name other than the name endorsed upon the license, except in accordance with the provisions of this by-law.
- 2.7 No person shall act as or be an owner unless he is licensed as an owner pursuant to this by-law.
- 2.8 No person shall act as or be an operator unless he is licensed as an operator pursuant to this by-law.
- 2.9 The term of each license shall, unless otherwise expressed in this by-law, be valid for a period of one year from the 1<sup>st</sup> day of April in the year of issuance or renewal up to and including the 31<sup>st</sup> day of March of the following year, unless sooner revoked, amended, cancelled, suspended or voluntarily relinquished to the Town.
- 2.10 An applicant is entitled to be licensed and a licensee is entitled to have such license renewed, except where:
- (1) the past conduct of the applicant or licensee affords reasonable grounds for belief that the applicant or licensee will not carry on the activity for which the applicant is applying for or the licensee is licensed for, in accordance with law and with integrity and honesty;
  - (2) the applicant or licensee is carrying on activities that are, or will be if the applicant was licensed, in contravention of this by-law;
  - (3) there are reasonable grounds for belief that the premises, accommodation, equipment, vehicles or facilities in respect of which the license is required, do not comply with the provisions of this by-law or other applicable law;
  - (4) there are reasonable grounds for belief that an applicant or licensee has provided a false statement or false information for the purpose of obtaining a license;
  - (5) the applicant or licensee is not in compliance with any Town land use by-laws, any other Town by-laws, any other requirement under the *Planning Act* or any other *Act*.

- 2.11 An application for renewal of a license issued pursuant to this by-law shall be delivered along with the prescribed fee in person to the Clerk or Licensing Officer, before the expiry date of such license. If the application is received after the expiry date of the license, a late fee will be applied as set by Council from time to time.
- 2.12 A license issued to an owner and/or operator under this by-law is not transferable.
- 2.13 In this by-law, the words "Refreshment Vehicle" refers to "Refreshment Vehicle – Type 1", "Refreshment Vehicle – Type 2" and "Refreshment Vehicle – Type 3".

### **SECTION 3 - OWNER REGULATIONS**

- 3.1 Every applicant for a Refreshment Vehicle owner's license or for the renewal of such license, shall submit in person to the Clerk's Department with the completed application and provide the following original documentation to the Clerk or Licensing Officer:
- (1) Canadian citizenship, or
  - (2) landed immigrant status, or
  - (3) a valid work permit issued by the Government of Canada, and
  - (4) a Police Clearance letter issued by the York Regional Police, current within thirty (30) days of the application; and
  - (5) a certificate prepared by a duly qualified medical doctor licensed to practice medicine in Ontario which states that the applicant or licensee is fit and able to operate a motor vehicle and to work with food; such certificate shall be required every two years or earlier if so required by the Clerk or Licensing Officer; and
  - (6) driver's abstract current within thirty (30) days; and
  - (7) a current valid Class "G" Ontario Driver's license; and
  - (8) vehicle ownership; and
  - (9) a Safety Standards Certificate for the vehicle that is to be licensed, dated not more than 30 days of application; and
  - (10) a certificate of automobile insurance in the amount of two million dollars (\$2,000,000); and if requested a certificate of general liability insurance in the amount of two million dollars (\$2,000,000);
  - (11) submit a certificate from the Medical Officer of Health indicating that the Refreshment Vehicle complies with all regulations regarding food served from vehicles, if the vehicle has not been previously licensed by the Town of Newmarket; and
  - (12) the appropriate license fee as set by Council from time to time.
- 3.2 Subsections (6), (7), (8) and (9) of Section 3.1 do not apply to Refreshment Vehicle - Type 3.
- 3.3 Every owner of a licensed Refreshment Vehicle shall employ only the services of an operator who is licensed under this By-law.
- 3.4 Every owner of a licensed Refreshment Vehicle shall attach the Owner's Plate to the Refreshment Vehicle for which it was issued in a manner and position approved by the Licensing Officer.

## **SECTION 4 - OWNER PROHIBITIONS**

4.1 Every owner licensed under this By-law shall not:

- (1) operate a Refreshment Vehicle which is not licensed under this By-law;
- (2) operate a Refreshment Vehicle unless it has the license and the Owner's Plate issued by the Licensing Officer affixed thereto;
- (3) operate a Refreshment Vehicle from any site unless such use is permitted by the Town's Zoning By-law as may be amended from time to time;
- (4) operate a Refreshment Vehicle on private property without written consent from the property owner or management company. Notwithstanding anything in this section, the owner of a refreshment vehicle – Type 1 which has the sole purpose of travelling from place to place shall not be required to provide letters of permission from the property owner.
- (5) operate a Refreshment Vehicle on Main Street from Water Street to Millard Avenue and from a point immediately west of the railroad tracks on Water Street to one hundred (100) metres east of Main Street at any time;
- (6) operate a Refreshment Vehicle which does not comply with the requirements of Region of York Health Department;
- (7) operate a Refreshment Vehicle which depends upon outside sources of power, electricity or water unless approved by property owner;
- (8) provide any seating or move any park benches or tables to his location for the purpose of his customers;
- (9) operate or stop to sell within thirty (30) metres of any intersection;
- (10) operate or stop to sell within one hundred (100) metres of an entrance to any public park;
- (11) operate or stop to sell within one hundred (100) metres of the property line of any land occupied by a public, separate or private school between the hours of 10:00 a.m. and 5:00 p.m. on any day;
- (12) operate or be located on an approved site for more than twelve hours in any twenty-four hour period;
- (13) operate a Refreshment Vehicle, with the exception of Refreshment Vehicle - Type 1 Catering Trucks, between the hours of 10:00 p.m. of one day and 10:00 a.m. of the next day.
- (14) operate a Refreshment Vehicle within eight (8) metres of the vehicular entrance to the property or in any location which would obstruct the flow of vehicle traffic;
- (15) use any amplification of sounds that are contrary to the Town's Noise By-law as may be amended from time to time;
- (16) operate a Refreshment Vehicle while under the influence of or consume or have in their possession any alcohol or drugs other than drugs prescribed by a duly qualified medical practitioner which do not and may not impair their ability to operate the Refreshment Vehicle while in charge;
- (17) permit a person not licensed under this By-law as an operator, to assist in the driving or to assist in or engage in the selling of refreshments from the Refreshment Vehicle.

4.2 No owner of a Refreshment Vehicle shall permit any Owner's Plate issued to the owner under this By-law to be affixed to any Refreshment Vehicle other than the one for which the Owner's License was issued.

## **SECTION 5 - OPERATOR'S REGULATIONS**

- 5.1 Every applicant for a Refreshment Vehicle operator's license or for the renewal of such license shall submit in person to the Clerk's Department with the completed application and provide the following original documentation to the Clerk or Licensing Officer:
- (1) Canadian citizenship, or
  - (2) landed immigrant status, or
  - (3) a valid work permit issued by the Government of Canada, and
  - (4) a valid current Class "G" Ontario Driver's Licence, and
  - (5) a Police Clearance letter issued by York Regional Police current within thirty (30) days of application; and
  - (6) a driver's abstract current within thirty (30) days of application; and
  - (7) a certificate prepared by a duly qualified medical doctor licensed to practice medicine in Ontario which states that the applicant or licensee is fit and able to operate a motor vehicle and to work with food; such certificate shall be required every two years or earlier if so required by the Clerk or Licensing Officer; and
  - (8) the appropriate license fee as set by Council from time to time.
- 5.2 Subsections (4) and (6) of Section 5.1 do not apply to Refreshment Vehicle - Type 3.
- 5.3 Every Refreshment Vehicle Operator shall at all times while operating a Refreshment Vehicle wear in a prominent place on the outside of clothing his Operator's license so that it is visible at all times when operating a Refreshment Vehicle.

## **SECTION 6 - OPERATOR'S PROHIBITIONS**

- 6.1 Every operator licensed under this by-law shall not:
- (1) operate a Refreshment Vehicle which is not licensed under this By-law;
  - (2) operate a Refreshment Vehicle unless he is licensed with the Town;
  - (3) operate a Refreshment Vehicle unless the license and the Owner's Plate issued by the Licensing Officer is affixed thereto;
  - (4) operate a Refreshment Vehicle on Main Street from Water Street to Millard Avenue and from a point immediately west of the railroad tracks on Water Street to one hundred (100) metres east of Main Street at any time;
  - (5) operate a Refreshment Vehicle from any site unless such use is permitted by the Town's Zoning By-law as may be amended from time to time;
  - (6) operate a Refreshment Vehicle on private property without written permission from the property owner or management company. Notwithstanding anything in this section the owner of a Refreshment Vehicle - Type 1 which has the sole purpose of travelling from place to place to serve a number of private locations shall not be required to provide letters of permission from the property owner;
  - (7) operate a Refreshment Vehicle which does not comply with the requirements of the Region of York Health Department;
  - (8) operate a Refreshment Vehicle which depends upon outside sources of power, electricity or water unless approved by the property owner;

- (9) provide any seating or move any park benches or tables to his/her location for the purpose of his customers;
- (10) operate or stop to sell within thirty (30) metres of any intersection;
- (11) operate or stop to sell within one hundred (100) metres of an entrance to any public park;
- (12) operate or stop to sell within one hundred (100) metres of the property line of any land occupied by a public, separate or private school between the hours of 10:00 a.m. and 5:00 p.m. on any day;
- (13) operate a Refreshment Vehicle within eight (8) metres of the vehicular entrance to a property or in any location which would obstruct the flow of vehicle traffic;
- (14) operate or be located on an approved site for more than twelve hours in any twenty-four hour period;
- (15) operate a Refreshment Vehicle with the exception of Refreshment Vehicle - Type 1 Catering Trucks, between the hours of 10:00 p.m. of one day and 10:00 a.m. of the next day;
- (16) use any amplification of sounds that are contrary to the Town's Noise Control By-law as may be amended from time to time;
- (17) operate a Refreshment Vehicle while under the influence of or consume or have in their possession any alcohol or drugs other than drugs prescribed by a duly qualified medical practitioner which do not and may not impair their ability to operate the Refreshment Vehicle while the Refreshment Vehicle is under his care and control;
- (18) permit a person not licensed under this By-law as an operator to assist in the driving or to assist in or engage in the selling of refreshments from the Refreshment Vehicle;

6.2 No operator of a Refreshment Vehicle shall permit any Owner's Plate issued to the owner under this By-law to be affixed to any Refreshment Vehicle other than the one for which the Owner's License was issued.

## **SECTION 7 – GENERAL REGULATIONS**

7.1 Every Owner and Operator licensed under this By-law shall:

- (1) be civil and behave courteously; and
- (2) keep the interior and exterior of the Refreshment Vehicle clean and in good repair; and
- (3) ensure that all equipment used for dispensing refreshments are kept in a clean and sanitary condition; and
- (4) ensure that condiments are only dispensed from containers approved by the Region of York Health Unit; and
- (5) only operate a Refreshment Vehicle for which a license has been issued; and
- (6) only use single service disposable cups, plates, forks, spoons, serviettes which are individually wrapped or provided in dispensers approved by the Region of York Health Unit; and
- (7) clean up any debris, refuse and garbage resulting from the operation of the Refreshment Vehicle in the immediate vicinity of the serving location of the Refreshment Vehicle.

## **SECTION 8 - REFRESHMENT VEHICLE INSPECTION**

- 8.1 The Clerk or Licensing Officer may require an Owner to submit his Refreshment Vehicle for inspection at any time and at an appointed place and time and the Owner/Operator shall submit each Refreshment Vehicle for inspection when required to do so by the Clerk or Licensing Officer or Provincial Offences Officer.
- 8.2 Where following an inspection the Clerk or Licensing Officer or Provincial Offences Officer does not approve a Refreshment Vehicle the Owner's Plate shall be removed and the Owner/Operator shall not operate the Refreshment Vehicle until the Owner obtains approval from the Clerk or Licensing Officer or Provincial Offences Officer.
- 8.3 Failure to submit a Refreshment Vehicle for inspection as required shall result in the Owner's Plate and/or Operator's license being suspended by the Clerk or Licensing Officer until such time as the vehicle has been inspected and approved.
- 8.4 No person shall obstruct a Provincial Offences Officer from conducting an inspection, or withhold, destroy, conceal or refuse to supply any information or thing required for the purpose of the inspection.

## **SECTION 9 - REFRESHMENT VEHICLE – TYPE 1; DUTIES OF OWNER AND OPERATOR**

- 9.1 Every Refreshment Vehicle – Type 1 shall have:
- (1) conspicuously displayed on the rear, in black letters on a yellow background, the words "WATCH FOR CHILDREN" in letters at least 15 centimetres high and the vertical width of such yellow background shall be at least 22.8 centimetres; and
  - (2) a "Mirror System" which makes it possible for the driver to complete a 360° visual inspection of the area around the Refreshment Vehicle; and
  - (3) a back-up warning device that is engaged when the Refreshment Vehicle transmission is placed in reverse gear.

## **SECTION 10 - TOWN PROPERTY/SPECIAL EVENTS/COMMUNITY EVENTS**

- 10.1 Every owner or operator shall not:
- (1) operate a Refreshment Vehicle from any park or recreation facility without permission and a signed lease agreement from the Director of Recreation and Culture or his designate; and having provided a certificate of general liability insurance in the amount of \$2,000,000 naming the Town of Newmarket as an additional insured;
  - (2) operate a Refreshment Vehicle at a Special Event which has been sponsored by the Town, without first obtaining written permission from the Director of Recreation and Culture or his designate;
  - (3) operate a Refreshment Vehicle at a Special Event without first completing the York Region Public Health Department's street food vending cart application and after receiving their subsequent approval, file the approval with the Director of Recreation and Culture or his designate;
  - (4) operate a Refreshment Vehicle at a Community Event which has been sponsored by a charitable or not for profit organization without first obtaining written permission of the said charitable or not for profit organization;
  - (5) operate a Refreshment Vehicle on any trail in the Town.
- 10.2 An Owner's and/or Operator's License for a Special Event issued under this By-law shall only be valid for the date(s) and location listed on the License.

## **SECTION 11 - FARMERS MARKET**

- 11.1 A Farmers Market is exempt from obtaining an Owner's or Operator's Refreshment Vehicle license where products that are grown, raised or produced on a farm and intended for use as food and include, without being restricted to, fruits and vegetables, mushrooms, meat and meat products, dairy products, honey products, maple products, fish, grains and seeds and grain and seed products, at which the majority of the persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products.

## **SECTION 12 - REVOCATION, SUSPENSION, CANCELLATION OR REFUSAL TO RENEW OR ISSUE**

- 12.1 The Clerk may revoke, suspend, cancel or refuse to renew or issue a license:
- (1) where the past conduct of the applicant or licensee affords reasonable grounds for belief that the applicant or licensee will not carry on the activity for which the applicant is applying for or the licensee is licensed for, in accordance with law and with integrity and honesty; and/or
  - (2) where the applicant or licensee has been found by the Clerk or Licensing Officer to fail to comply with any provision of this by-law or any other by-law or statute; and/or
  - (3) where the past conduct of the applicant affords reasonable grounds for belief that the issuance of a license would be adverse to the public interest; and/or
  - (4) where the applicant is in default of any fine or fines which have been imposed by a court as a sentence arising from a conviction for breach of a by-law enacted by the Town, or arising from a conviction for a breach of a law or regulation.
- 12.2 Upon such revocation, suspension, cancellation or refusal to renew or issue, a written notice signed by the Clerk or Licensing Officer shall be delivered to the applicant or licensee within seven (7) business days as provided for hereunder:
- (1) such notice shall set out and give reasonable particulars of the grounds for the decision; and
  - (2) shall inform the applicant or licensee of his entitlement to a hearing before the Appeals Committee, if he delivers within seven (7) business days after the date of service or the date of mailing of the notice, whichever is later, a written request for a hearing; and
  - (3) if a written request from the applicant or licensee is not received by the Clerk or Licensing Officer within the prescribed time, the decision of the Clerk shall be final and the licensee shall deliver within twenty-four (24) hours of the expiration of the appeal period, the license or Owner's Plate.
- 12.3 Where a hearing held pursuant to this by-law has taken place and the license was revoked, suspended, cancelled or refused for renewal, the licensee shall return the license to the Clerk or Licensing Officer within seventy-two (72) hours of receiving the written notice of the decision of the Appeals Committee sent pursuant to the provisions of this by-law.
- 12.4 When a person has had his license revoked, suspended or cancelled under this by-law the Clerk or Licensing Officer or Provincial Offences Officer may enter upon the business premise or into the vehicle of the licensee for the purpose of receiving, taking, or removing the said license or Owner's Plate.
- 12.5 When a person has had his license revoked, suspended or cancelled under this by-law he shall not refuse to deliver or in any way obstruct or prevent the Clerk or Licensing Officer or Provincial Offences Officer from obtaining the said license or the Owner's Plate.

### **SECTION 13 - APPEALS COMMITTEE HEARING**

- 13.1 Upon receipt of a written request for a hearing from an applicant or licensee, the Clerk shall advise the Appeals Committee and request the Appeals Committee to convene a meeting and shall give the applicant or licensee written notice of the date, time and location of such meeting which shall not be less than seven (7) business days after the date of notice.
- 13.2 The Clerk shall make a recommendation to the Appeals Committee with respect to revocation, suspension, cancellation or refusal to renew or issue a license or recommend that a license be issued subject to certain terms and conditions.
- 13.3 Before the Appeals Committee makes any decision, a written notice advising the applicant or licensee of the recommendations being made by the Clerk with respect to the license shall be given to the applicant or licensee by the Clerk or Licensing Officer.
- 13.4 The applicant or licensee shall have the right to make a submission in support of an application or renewal or retention of a license at such hearing and if the applicant or licensee who has been given written notice of the hearing does not attend such hearing, the Appeals Committee may proceed with the hearing in the applicant or licensee's absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.
- 13.5 The decision of the Appeals Committee is final and is not subject to an appeal.

### **SECTION 14 - SERVING OF NOTICE OR ORDER**

- 14.1 Any notice or order required to be given pursuant to this by-law by the Clerk or Licensing Officer shall be deemed to be sufficiently served if delivered personally or sent by registered mail or by prepaid first class mail addressed to the person to whom service is to be made at the address on the application or the last known address on file in the Clerk's Office.
- 14.2 Notice served by either registered mail or by prepaid first class mail shall be deemed to have been received on the fifth day following the mailing of the notice.

### **SECTION 15 - NOTIFICATION OF CHANGE OF INFORMATION**

- 15.1 When a licensee who is a natural individual changes their name, address, or any information relating to the license, the licensee shall notify the Clerk or Licensing Officer within seven (7) business days after the change of information relating to the license and shall if required by the Clerk or Licensing Officer return the license immediately to the Clerk or Licensing Officer for amendment.
- 15.2 Where a licensee is a corporation and there is change in the information as set out in the application for license, such as the names or addresses of the officers or directors, the location of the corporate head office or any change in the ownership of shares, the licensee shall notify the Clerk or Licensing Officer of the change within seven (7) business days thereof and shall, if required by the Clerk or Licensing Officer, return the license immediately to the Clerk or Licensing Officer for amendment.

### **SECTION 16 - POWER OF ENTRY**

- 16.1 The Town may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (1) the provisions of this by-law;
  - (2) an order issued under this by-law; or
  - (3) an order made under Section 431 of the *Municipal Act*.
- 16.2 Where an inspection is conducted by the Town, the person conducting the inspection may;

- (1) require the production for inspection of documents or things relevant to the inspection;
  - (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
  - (3) require information from any person concerning a matter related to the inspection including their name, address, phone number and identification; and
  - (4) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.
- 16.3 The Town may undertake an inspection pursuant to an order issued under Section 438 of the *Municipal Act*.
- 16.4 The Town's power of entry may be exercised by an employee, officer or agent of the Town or by a member of a police force with jurisdiction, as well by any person under his or her direction.

### **SECTION 17 – PENALTY**

- 17.1 Every person who contravenes a provision of this by-law, including an Order issued under this by-law, is guilty of an offence.
- 17.2 If a person is in contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 17.3 If an Order has been issued under this by-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- 17.4 Every person who is guilty of an offence under this By-law shall be subject to the following penalties:
- 17.5 Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;
- 17.6 Upon a second or subsequent conviction for the same offence, a fine shall be a minimum of \$500.00 and the maximum fine shall be \$100,000.00;
- (1) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues;
  - (2) Upon conviction of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.
- 17.7 For the purposes of this By-law, 'multiple offence' means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of a provision of this By-law.
- 17.8 For the purposes of this By-law, an 'offence' is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence."
- 17.9 Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for under *the Provincial Offences Act*.

**SECTION 18 - SEVERABILITY**

- 18.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.
- 18.2 Where the provisions of this by-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

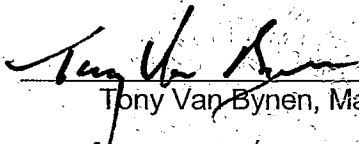
**SECTION 19 - SHORT TITLE**

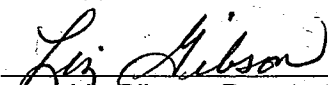
- 19.1 This By-law may be referred to as the "Refreshment Vehicle Licensing By-law".

**SECTION 20 – REPEAL/EFFECTIVE DATE**

- 20.1 Schedule 10 of By-law Number 2002-151, as amended, is hereby repealed and this by-law shall come into force and effect upon its adoption.

ENACTED THIS 15TH DAY OF JUNE 2009

  
Tony Van Bynen, Mayor

  
Liz Gibson, Deputy Clerk