

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 36-2025

Being a By-law to licence, regulate and govern refreshment vehicles within the Municipality of Thames Centre

(REFRESHMENT VEHICLE BY-LAW)

WHEREAS Section 5(3) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that the powers of The Corporation of The Municipality of Thames Centre, shall be exercised by by-law;

AND WHEREAS Section 11(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons and for the protection of persons and property, including consumer protection;

AND WHEREAS Section 128 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS the provisions of Part IV of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, authorizes Council to licence, regulate and govern businesses and events and that this authority includes but is not limited to: the power to issue licences, to impose conditions on a licence, to revoke a licence, to suspend a licence, to regulate or govern the place used in the carrying on of such businesses, and to prevent the carrying on of such businesses without a licence;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, authorizes a municipality to impose fees or charges on persons for services or activities or done by or on behalf of it;

AND WHEREAS Section 425 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

AND WHEREAS Section 436 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law of the municipality is being complied with;

AND WHEREAS the Council of the Municipality of Thames Centre deems it necessary to pass a by-law to licence, regulate and govern refreshment vehicles within the Municipality of Thames Centre;

NOW THEREFORE the Council of the Corporation of the Municipality of Thames Centre hereby enacts as follows:

1.0 Definitions

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

- 1.1 "Charitable Organization" shall mean a registered organization which is created primarily for a charitable object or purpose in Ontario and is operated not for profit.
- 1.2 "Clerk" shall mean the Clerk of the Municipality of Thames Centre and shall include the Deputy Clerk and/or delegate.
- 1.3 "Council" shall mean the Council of The Corporation of the Municipality of Thames Centre.

- 1.4 “Director of Community Services and Facilities” means the Municipality’s Director of Community Services and Facilities, or any employee of the Municipality acting under his or her direction.
- 1.5 “Designated Property” shall mean a municipally owned property or location approved by the Director of Community Services and Facilities, for a Refreshment Vehicle.
- 1.6 “Eating Establishment” shall mean a building or part of a building where food is offered for sale or sold to the public for consumption, and which has seating and eating facilities. Such uses include a restaurant, ice cream parlour, tea or lunchroom and/or coffee shop.
- 1.7 “Fire Chief” shall mean the Fire Chief of the Municipality of Thames Centre or an authority having designation in accordance with the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*.
- 1.8 "Licence" shall mean a licence issued under the provisions of this By-law.
- 1.9 "Licensee" shall mean the person, company or organization who is named on the licence including the person who assumes the primary responsibility for complying with this By-law.
- 1.10 "Medical Officer of Health" shall mean a Medical Officer of Health or Public Health Inspector under the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*
- 1.11 “Municipality” shall mean The Corporation of the Municipality of Thames Centre.
- 1.12 “Officer” means an officer appointed by Council or through an authority of applicable legislation, such as, but not limited to, By-law Compliance Officer, Fire Prevention Officer, Building Inspector, Chief Building Official, and may include a member of Ontario Provincial Police.
- 1.13 "Operate" shall mean the act of selling, offering for sale, or otherwise dispensing of refreshments and “Operator” shall have a like meaning.
- 1.14 “Refreshment Vehicle” shall mean a vehicle, trailer or other food preparation device which is transported from site to site, from which food is prepared therein and made available to the general public but excludes ice cream bicycles and produce stands.
- 1.15 "Refreshments" shall mean all food or beverages either prepared on site or pre-packaged and intended for consumption by the public. Refreshments shall include, but are not limited to, french fries, hamburgers, onion rings, pogos, hotdogs, sausages, sandwiches, popcorn, ice cream, candy, confections, and fresh produce.
- 1.16 “Road Authority” means the applicable road authority having jurisdiction in the case of the Municipality being the Director of Public Works or any municipal employee acting under his or her direction; or in the case of the County of Middlesex being the County Engineer or any County employee acting under his or her direction.
- 1.17 "Roadworthy" shall mean the Refreshment Vehicle complies with the requirements of the *Highway Traffic Act, R.S.O. 1990, c. H.8* and is registered by the Ontario Ministry of Transportation for operation on a public highway.
- 1.18 “Waste” shall mean food, disposable eating utensils, paper, wooden, cardboard, plastic, glass, metal products or any other materials or refuse used in or generated by the preparation, serving or consumption of the food or beverages offered for sale from a Refreshment Vehicle.

2.0 General Provisions

- 2.1 No person shall operate a Refreshment Vehicle on municipal property unless the Operator has obtained a licence for said Vehicle, as issued under the provisions of this By-law.
- 2.2 The term of each Licence shall either be from the first (1st) day of January to the thirty-first (31st) day of December of the year; or for a specified period of three (3) consecutive days, as indicated in the submitted application (Schedule "A" to this By-law).
- 2.3 No person shall operate a Refreshment Vehicle on municipal property without written consent from the Director of Community Services and Facilities or designate.
- 2.4 No person shall operate a Refreshment Vehicle without affixing a licence, issued under the provisions of this By-law, in a visible location on said Vehicle.
- 2.5 Any written decision of the Municipality's By-law Compliance Officer to refuse, suspend or revoke a License may appeal to Council by filing, in writing, an appeal with the Clerk within ten (10) days of the said decision being provided. All decisions made by Council on these matters shall be final.
- 2.6 No license issued under the provisions of this By-law shall be transferred, assigned or sold.
- 2.7 All applications for a Refreshment Vehicle license shall comply with the insurance provisions outlined in the "Insurance and Indemnification" Section of this By-law.

3.0 General Exemptions

- 3.1 Refreshment Vehicles attending private events are exempt from the requirements of this By-law, provided that these are located on private property.
- 3.2 Where permission has been granted by the Director of Community Services and Facilities or designate, to operate a Refreshment Vehicle through a separate agreement, the provisions of this by-law do not apply.
- 3.3 Notwithstanding any other provision of this By-law, a Licence shall not be required to operate a Refreshment Vehicle if part of the Dorchester or Thorndale Annual Fall Fairs.
- 3.4 The provisions of this By-law shall not apply to Registered Charitable Organizations, operating in connection with a community or charitable fundraising event, provided that written approval has been obtained by the Municipality.

4.0 Application Requirements

- 4.1 Every owner of a Refreshment Vehicle shall apply for a licence, as required by this By-law, and shall file a completed application in the form prescribed (Schedule "A" to this By-law) and any other information or documentation requested by the By-law Compliance Officer and shall pay the approved fee set forth in the current Fees & Charges By-law, as amended. Acceptance of licence fee does not constitute approval of the application or oblige the Municipality to issue a licence.
- 4.2 No fee pursuant to Section 6.1 shall be pro-rated for a portion of the year and the fee is non-refundable.
- 4.3 The Applicant for every licence shall be a minimum of eighteen (18) years of age or have written consent from a parent or guardian.
- 4.4 Every application for a Refreshment Vehicle Licence shall include the following:

- 4.4.1 Completed Application Form (Schedule “A” to this By-law)
- 4.4.2 Required Licence fee for the applied-for term (annual or three (3) consecutive days), in accordance with the Municipality’s current Fees and Charges By-law;
- 4.4.3 A photocopy of the current motor vehicle registration related to the proposed Refreshment Vehicle;
- 4.4.4 A photograph of the Refreshment Vehicle;
- 4.4.5 A current proof of inspection and approval in writing from any valid Ontario Public Health Unit within the last three (3) months;
- 4.4.6 Written approval by the Municipality’s Fire Chief or designate, having inspected the Refreshment Vehicle within the last three (3) months of the application and confirming that it meets the applicable sections of the Ontario Fire Code;
- 4.4.7 Approved Mobile Food Service Equipment Inspection Self-Checklist from the Thames Centre Fire Department (Schedule “B” to this By-law);
- 4.4.8 Proof of Technical Standards & Safety Authority (TSSA) Field Approval for all equipment and appliances that are not approved by the Canadian Standard Association or the Underwriter Laboratories of Canada;
- 4.4.9 Proof of propane inspection by a certified gas fitter, if applicable;
- 4.4.10 Proof of Insurance as specified under the “Insurance and Indemnification” Section of this By-law.
- 4.4.11 A copy of a menu for food, refreshments and confections served.

5.0 Location and Operation Requirements

- 5.1 No person shall locate a Refreshment Vehicle in such a manner that it unreasonably confines, impedes or presents a hazard to pedestrians or other users of a sidewalk, boulevard, multi-use pathway, un-traveled portion of a municipal road allowance or municipal park.
- 5.2 No person shall operate a Refreshment Vehicle overnight between the hours of 11:00 p.m. and 7:00 a.m.
- 5.3 No person shall equip a licensed Refreshment Vehicle with any sounding device, loudspeakers, amplifiers or other hailing devices for the purpose of attracting patrons.
- 5.4 No person shall operate a Refreshment Vehicle closer than 30 metres to a property line of any existing Eating Establishment located in the Municipality. Should the operator of a Refreshment Vehicle wish to locate the said Vehicle closer than 30 metres to an existing Eating Establishment, written consent from the owner of the said restaurant shall be filed with the By-law Compliance Officer.
- 5.5 No person shall locate or operate a Refreshment Vehicle on a sidewalk or boulevard adjacent to the traveled portion of a public highway.
- 5.6 No person shall locate a Refreshment Vehicle within three (3) metres of any building or structure.
- 5.7 No person shall locate a Refreshment Vehicle within thirty (30) metres of a refueling station or volatile environment.

- 5.8 No person shall use a power fuel generator in conjunction with a Refreshment Vehicle except as permitted below:
- 5.8.1 When a power outage has occurred in the area and beyond the control of the Licensee which directly affects the operation of the Refreshment Vehicle.
 - 5.8.2 When a proposed Licensee applies for the use of a power fuel generator as the main power source, such generator specifications shall have a maximum decibel rating of 60dB and,
 - 5.8.3 When a generator is used in conjunction as the power source, the generator shall be situated no closer to any buildings, property lines, or businesses than any Refreshment Vehicle is permitted.
- 5.9 No person shall connect a Refreshment Vehicle to a municipal utility source.
- 5.10 Every person shall ensure that at least one (1) container for recyclable materials and one (1) waste receptacles, each with self-closing lids are provided in accessible locations in the immediate vicinity of the Refreshment Vehicle, and such containers shall be kept in a clean sanitary condition.
- 5.11 Every person shall ensure that all waste generated by the operation of the Refreshment Vehicle is disposed of in accordance with the Municipality's waste management regulations and at the expense of the Licensee. The placing of any refuse by the Licensee in a waste and/or recycling receptacle located on property owned by the Municipality is prohibited.
- 5.12 Every person shall dispose of gray water, grease and garbage in a sanitary manner satisfactory to the Municipality.
- 5.13 Every person shall ensure that the waste and recycling receptacles are emptied at least once a day.
- 5.14 Every person shall ensure that the Refreshment Vehicle, all accessories and equipment shall be kept in good repair and at all times in a clean and sanitary condition.
- 5.15 Every person shall ensure that:
- 5.15.1.1 No person other than an employee of the Licensee shall operate the Refreshment Vehicle;
 - 5.15.1.2 Any employee (operator) shall be adequately trained in the safe operation of the Refreshment Vehicle and equipment;
 - 5.15.1.3 All employees shall be familiar with the regulations governing this By-law; and
 - 5.15.1.4 Any operator or employee under their control, management or supervision does not breach any of the provision of this By-law.
- 5.16 Every person shall ensure that all conditions imposed by the Municipality's Fire Chief and the Medical Officer of Health or Public Health Inspector, shall be adhered to at all times.
- 5.17 Every person shall comply with all other applicable Municipal and Provincial regulations.
- 5.18 Every person shall comply with the following Refreshment Vehicle requirements:

- 5.18.1 The Refreshment Vehicle may be operated as a fully mobile unit offering refreshments for sale to the general public.
 - 5.18.2 No Refreshment Vehicle shall interfere with the normal movement of pedestrian and vehicular traffic and the maintenance of the sidewalks and streets in the Municipality.
 - 5.18.3 The power for the Refreshment Vehicle shall be supplied by the licensee and the licensee shall be responsible for the cost of the power.
 - 5.18.4 No Refreshment Vehicles shall remain on any site except during the hours of 7 a.m. and 11 p.m. and must be removed from the site at the end of each day.
- 5.19 Notwithstanding any other provision of this By-law, any person may make application to the Municipality's By-law Compliance Officer to request an exemption to the hour of operation limits in regards to Section 5.2 and Section 5.18.4 of this By-law by following the same exemption procedure as outlined in the Municipality's Noise By-law currently in effect; and, furthermore, any exemption request to this By-law shall also require an exemption from said Noise By-law.

6. Insurance and Indemnification

- 6.1 The Applicant and Licensee shall indemnify and hold harmless the Municipality its elected officials, officers, employees and agents from and against any and all claims, actions, causes of action, applications, suits, regulatory prosecutions, losses, costs demands, expenses, taxes, penalties, fines, administrative penalties, liabilities, judgments, damages (including, without limitation court costs and reasonable legal fees) which may arise either directly or indirectly by reason of the operation of the Refreshment Vehicle, or taking any other action or obligation that may be associated with the Refreshment Vehicle of every nature and kind whatsoever and/or directly or indirectly related to the Refreshment Vehicle including but not limited to bodily injury, sickness, disease, death, property damage, destruction of property, loss of revenue, business losses, and/or Licensee's not complying with all applicable laws. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Licensee in accordance with the terms and conditions of the Licence. This clause shall survive any termination of the Licence.

6.2 Commercial General Liability

- 6.2.1 The Applicant and Licensee for a Refreshment Vehicle shall, at their expense obtain and keep in force during the term of the license, Commercial General Liability Insurance satisfactory to the Municipality and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for Bodily Injury, Property Damage and Personal Injury and shall include but not be limited to:
- 6.2.2 A limit of liability of not less than \$5,000,000/occurrence with an aggregate of not less than \$5,000,000;
- 6.2.3 Add the Municipality as an additional insured with respect to the operations of the Named Insured;
- 6.2.4 The policy shall contain a provision for cross liability and severability of interest in respect of the Named Insured;
- 6.2.5 Non-owned automobile coverage with a limit not less than \$5,000,000 and shall include contractual non-owned coverage (SEF 96); Coverage to include damage caused by operating or moving vehicles;

6.2.6 Products and completed operations coverage;

6.2.7 Broad Form Property Damage;

6.2.8 Contractual Liability;

6.2.9 The policy shall provide 30 days prior notice of cancellation to the Municipality of Thames Centre.

6.3 Automobile Insurance

Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$5,000,000 per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Contractor.

6.4 Proof of Insurance

6.4.1 Every person shall provide proof of insurance upon request.

7. **Fire Prevention Requirements**

7.1 All cooking equipment exhaust and fire protection systems are installed and maintained in accordance with NFPA 96 "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations".

7.2 Maintenance reports relating to fire protection equipment, including exhaust system cleaning is maintained for the Refreshment Vehicle and shall be made available upon request.

7.3 A minimum 2A:10BC dry chemical fire extinguisher is provided unobstructed, maintained and readily available. For those Refreshment Vehicles that are cooking food that releases grease-laden vapors, a "K" class fire extinguisher is also required;

7.4 General fire safety practices are observed at all times including but not limited to; exits being kept clear and accessible, combustible materials are minimized, and clutter is kept to a reasonable and safe level;

7.5 The installation, use and storage of propane or gas-fired systems shall have an inspection certificate provide by a Technical Standards & Safety Authority (TSSA) inspector or approved contractor and be valid for the year in which the permit is issued.

8. **Inspection and Enforcement**

8.1 Any person to whom a license has been issued pursuant to this By-law shall permit any Officer, acting reasonably, at any reasonable time, to inspect the Refreshment Vehicle for which the license was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

8.2 No person shall hinder or otherwise 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 or duty under this by-law

8.3 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.

8.4 Every person shall comply with any order or notice issued under the authority of this By-law.

9. Penalties

- 9.1 Every person who contravenes any of the provision of this By-law is guilty of an offence, is subject to the penalties as prescribed in the *Provincial Offences Act, R.S.O. 1990 Ch. P.33*, as amended, and subject to the fines noted under Schedule “C” of this By-law or by suspension or revocation of any Licence issued under this By-law.
- 9.2 The Municipality reserves the right to refuse, suspend or revoke a Licence.
- 9.3 All provisions of this By-law may be enforced by the Municipality’s By-law Compliance Officer.

10. Miscellaneous

- 10.1 That By-law No. 52-2021, being a by-law to license and regulate refreshment vehicles, is hereby repealed.
- 10.2 That this by-law shall come into full force and effect on the day of final passing thereof.
- 10.3 This by-law shall be known as the “Refreshment Vehicle By-law”.

READ a FIRST and SECOND TIME this 12th day of May, 2025.

READ a THIRD TIME and FINALLY PASSED this 12th day of May, 2025.

Mayor, S. McMillan

Clerk, J. Nethercott