

# THE CORPORATION OF THE TOWNSHIP OF CHATSWORTH

## BY-LAW NUMBER 2020-34

**BEING** a By-law to license and regulate Food and Refreshment Vehicles.

WHEREAS Section 150, Municipal Act, S.O. 2001, c.25, as amended, authorizes Council to license, regulate and govern any business wholly or partly carried on within the Municipality, to impose conditions for the purposes of consumer protection upon any highway or part of it or in any public park or other public place;

AND WHEREAS Council deems it appropriate to license and regulate food and refreshment vehicles

### 1. DEFINITIONS

1.1 For the purposes of this by-law the following definitions shall apply:

**“Council”** means the Council of the Corporation of the Township of Chatsworth;

**“Health Unit”** means the Grey Bruce Health Unit;

**“Municipality”** means the Corporation of the Township of Chatsworth;

**“Park”** means a park, public dock, ball diamond, soccer field, playground, beach, recreation area, recreation centre, or any other area in the Municipality owned or used by the Municipality and devoted to active or passive recreational use;

**“Person”** shall mean an individual human being, his or her personal agent, heir, successors and assigns, and shall include a corporation with or without share capital;

**“Food and Refreshment Vehicle”** includes any vehicle (whether propelled by a motor or by the application of force by a person or animal) which is used for the storage or preparation of food or drink intended for immediate consumption by the public. The different types of refreshment vehicles licensed by the Municipality are:

- a) Class 1 – Chip Wagons – which are refreshment vehicles that are relatively stationary, and vend food and beverages;
- b) Class 2 – Food Trucks – which are refreshment vehicles that are mobile and have the ability to vend food and beverages from more than one location in any given day;
- c) Class 3 – Other Refreshment Vehicles – which are smaller refreshment vehicles that contain barbeque or other cooking facilities for preparing food and includes ice cream carts, portable barbecues and popcorn carts.

**“Site Plan”** means a sketch of the property outlining the location of the refreshment vehicle, outdoor seating, proximity to washrooms and other information requested by the municipality;

**“Special Community Event”** means but is not limited to any cultural or recreational event of limited duration, , including a fair, exhibition, show, display, concert, festival, race, public entertainment, parade or other public amusement, whether free or for a fee, that is open to members of the public to attend and sanctioned by Council;

1.2 Statutes: References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable in the Province of Ontario.

1.3 Severability: If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to be in full force and effect.

1.4 Conflicts: If a provision of this by-law conflicts with a provision of any applicable Act, regulation or by-law, the provision that establishes the higher or more restrictive standard to protect the health, safety and welfare of the general public shall prevail.

## **2. LICENSING**

- 2.1 No person shall own, operate, lease or maintain a food and refreshment vehicle within the corporate limits of the Municipality without a license issued by the municipality.
- 2.2 Minimum Distance - All Class 1 or Class 2 Food and Refreshment Vehicles must be set back a minimum of 3.04 metres (10 feet) from any structure either on the same or adjacent property.
- 2.3 Proximity to other Eating Establishments – No license shall be issued to any person to operate a food and refreshment vehicle business from a location which is within one hundred (100m) metres of an existing restaurant or other eating establishment, including another refreshment vehicle.

## **3. APPLICATION FOR LICENSING**

- 3.1 Application for a license under this By-law shall be made to the Clerk in the form provided. The application must be fully completed, together with the necessary supporting documentation as outlined below:
  - a) Site plan drawing showing the location of the vehicle, refuse containers, proximity to washrooms, potable water, outdoor seating area (if applicable);
  - b) a Propane Fitter's Certificate indicating compliance with the provisions of the Ontario Propane Storage and Utilization Code if propane fuelled appliances are located on the vehicle;
  - c) Copy of Ontario Master Business License;
  - d) Satisfactory inspection report from the Health Unit for the current year;
  - e) Ministry of Transportation approval for Provincial Highways (if applicable)
  - f) County of Grey for County Roads (if applicable).
  - g) The appropriate license fee.
- 3.2 Each application shall be circulated to the following for approval:
  - a) Fire Department
  - b) Building/Planning Department;
  - c) Public Works Department.
- 3.3 Each application shall be accompanied by a letter or Certificate of Insurance from the Owner's insurance company assuring that the food and refreshment vehicle owner carries a minimum of two million dollars \$2,000,000.00 public liability, property damage inclusive, against loss or damage resulting from bodily injury to, or the death of one or more persons, or from loss of or damage to, property resulting from any one incident. Such letter or Certificate of Insurance shall cover both the licensee and the municipality and shall contain such an endorsement specifying that the municipality shall be given a minimum of thirty (30) days written notice of any change, expiration or cancellation of such policy.
- 3.4 If the vehicle is to be located on private lands, the application is to be accompanied by a letter from the property owner where the vehicle is to be located.

## **4. FEES**

- 4.1 Prior to the issuance of a Food and Refreshment Vehicle License, the applicant shall pay such fee as set out in the Township's fees and charges by-law, as amended from time to time.

## **5. REQUIREMENTS OF LICENSEE**

- 5.1 Every licensee shall:
  - a) ensure that every vehicle is equipped with a metal refuse container with a self-closing lid and such container shall be kept in a clean and sanitary condition and emptied at least once daily;

- b) ensure that every refuse container is located in such a position on or near the vehicle so as to be easily accessible by persons making purchases while the vehicle is stopped.
- c) ensure that the vehicle and all parts and equipment for use in the dispensing of refreshments are maintained in a clean and sanitary condition and at all times in good repair;
- d) ensure that adequate refrigeration as approved by the Medical Officer of Health, is provided for perishable foodstuffs;
- e) ensure that all foodstuffs are wrapped or sold in individual packages;
- f) ensure that beverages are only sold in individual disposable containers;
- g) ensure that where a vehicle is powered by propane, the vehicle is inspected and certified at the time of application and on an annual basis by an authorized inspector; and file with the Clerk, a copy of the inspection;
- h) ensure that where the vehicle is powered by propane, or as otherwise may be require by the Chief Fire Official, a minimum five-pound ABC dry chemical fire extinguisher, which shall be mounted on the vehicle and the operator of such vehicle shall be knowledgeable in the proper use of such fire extinguisher;
- i) ensure that no LPG (liquified petroleum gas), LNG (liquified natural gas) or any combustible fuelled appliance is operated within ten feet (3 metres) of any structure, door, window, or opening which shall include an alcove or alleyway;
- j) Ensure that the vehicle is free from holes, crevices or cracks and the surface is readily washable is kept clean and in good condition;
- k) ensure that a recycling container is available;

5.2 Every person selling or handling refreshments and foodstuffs shall be clean and neat in appearance and shall maintain good hygiene at all times.

5.3 No person employed with any licensee under this Section shall be suffering from any form of contagious disease while actively engaged in work.

5.4 No licensee shall permit any other than a bona fide employee to operate the refreshment vehicle.

5.5 Every vehicle shall have posted or painted, in a contrasting colour, on both side panels, in clearly visible letters, the name of the business.

5.6 Every license issued under this By-law shall be displayed in a conspicuous location on the vehicle and shall be produced on demand by any Police or Municipal Enforcement Office.

5.7 No person shall hinder, obstruct, or attempt to hinder or obstruct a Municipal Law Enforcement Officer in the exercise of a power or the performance of a duty under this By-law.

5.8 No vehicle licensed under this By-law shall sell food or refreshments to the public while situated, standing or parked on a public highway, park or playground or other municipally owned property within the limits of the Township of Chatsworth without having obtained Council authorization by resolution.

5.9 Food and Refreshment vehicles licensed under this By-law shall be permitted to operate on private property in a Local Commercial Zone (C3) or Rural Commercial Zone (C2).

## **6. DELEGATED AUTHORITY**

6.1 Where a Food and Refreshment Vehicle License has previously been approved to be located on municipally owned land by Council, renewal applications for the same location may be approved by the Clerk provided that the renewal meets all other terms and conditions as set out in this by-law.

6.2 Where a Food and Refreshment Vehicle License is located on privately owned lands, both new applications and renewal applications may be approved by the Clerk, provided that all terms and conditions as set out in this by-law and other municipal laws have been met.

## **7. EXPIRY**

7.1 A license issued under this By-law shall terminate on December 31<sup>st</sup> of each year, regardless of the date it was obtained from the Municipality.

7.2 No personal shall continue to operate under the authority of an expired license unless he has filed an application for renewal complete in all respects and paid the renewal fee as set out in the Fees and Charges By-law, as amended from time to time.

## **8. REVOCATION**

8.1 The Municipality may revoke, refuse or cancel any license at any time that does not comply or continue to comply with the provisions of this By-law. Notice of revocation of any license may be given by the Municipality by registered letter signed by the Clerk, mailed or delivered to the last known address, and the license shall then cease and terminate and be of no further effect.

## **9. ENFORCEMENT AND FINES**

9.1 Every person who contravenes any provision of this By-law is guilty of an offence and shall be liable to a fine in the amount to be determined pursuant to the Provincial Offences Act, R.S.O., Chapter P. 33, and every such fine is recoverable under the Provincial Offences Act.

9.2 The conviction of an offender upon the breach of any provisions of this By-law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provision and the Judge or Justice may convict any offender repeatedly for continued or subsequent breaches of the By-law and the provisions of the Municipal Act, S.O. 2001, c.25, as amended, s. 150 from time to time shall further apply to any continued or repeated breach of this By-law.

9.3 If any court of competent jurisdiction finds that any of the provisions of this By-law are ultra vires the jurisdiction of Council or are invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any other provisions of the By-law which shall remain in full force and effect.

## **10. EXEMPTIONS**

10.1 Notwithstanding the provisions of this By-law, no person shall be required to submit a license fee when operating in conjunction with a Special Community Event for which prior approval of the event has been obtained or where the vehicle is accessory to a permitted use under the Zoning By-law.

10.2 Notwithstanding Section 9.1, all other requirements of this by-law shall be met to maintain the safety of the public (including regulations under the Health Protection and Promotion Act, Reg. 562 Food Premises).

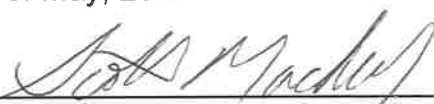
## **11. ENACTMENT**

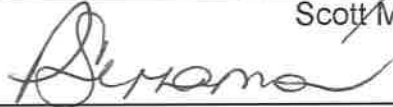
11.1 This by-law shall come into full force and effect on its passing.

11.2 This By-law may be referred to as the "Township of Chatsworth Food and Refreshment Vehicle By-law".

Read a first and second time this 20th day of May, 2020

Read a third time and finally passed this 20th day of May, 2020

  
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Scott Mackey, Mayor

  
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Patty Sinnamon, CAO Clerk