

The Corporation of the City of Kawartha Lakes

By-Law 2016-245

A By-Law to Licence, Regulate and Govern Refreshment Vehicle Businesses in Kawartha Lakes

Recitals

1. Section 150 - 153 of The Municipal Act, 2001, S.O. 2001 c.25, as amended authorizes Council to licence, regulate and govern businesses and events.
2. This authority includes but is not limited to: the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, 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.
3. Section 425(1) 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 passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended, is guilty of an offence.
4. Section 429(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2016-245.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law:

“agent, trustee” means any person who may represent the owner or the refreshment vehicle business and includes but is not limited to an employee or operator of the business;

“ancillary business” means the operation of a refreshment vehicle for profit as part of an established permanent business that sells food as its primary business and where the owner of the permanent business is the operator of the refreshment vehicle and is operated on the same property as the permanent business;

"applicant" includes a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension;

"business" means a trade that requires a licence pursuant to this by-law, whether or not a licence has been issued or maintained for that business;

"by-law" means this by-law, as it may be amended from time to time. The recitals to, and the schedules attached to this by-law are considered integral parts of it;

"charity" is a corporation which is registered by the Canadian government as a charity for the purposes of the Federal Income Tax Act, as amended;

"City", "City of Kawartha Lakes", "Kawartha Lakes" or "municipality" means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

"city facility" means any property owned by the City that is not a highway;

"City Clerk" means the person within the administration of the City who fulfils the function of the City Clerk as required by the Municipal Act, 2001, S.O. 2001, c.25, as amended or their delegate;

"committee" means the committee of Council to which Council has delegated the responsibility of handling licensing matters. Where no delegation has been made, the term refers to the Council itself;

"Council" means the municipal council for the City;

"Director" means the person who holds that position and their delegate(s) or, in the event of organizational changes, another person designated by Council;

"eating establishment" means any building or part of a building, booth, stall or place where food or drink is offered for sale or sold to the public for immediate consumption. The term includes but is not limited to: restaurants, bars, taverns, cafés, food courts, cafeterias, take-out restaurants, ice cream parlours, tea or lunch rooms, dairy bars, coffee shops, donut shops, snack bars, refreshment rooms and refreshment stands;

"Fees By-Law" means the City of Kawartha Lakes Fees By-Law as amended or any subsequent by-law known as the Consolidated Fees By-Law;

"Fire Chief" means the person within the City's administration who fulfills the function of the fire chief as required by the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended or their delegate;

"Health Unit" means the Haliburton, Kawartha, Pine Ridge District Health Unit;

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

"licence" means a licence issued pursuant to this by-law;

"licensee" means the owner of a licence;

"Licensing Enforcement Officer" means the municipal Licensing Enforcement Officer for the City, responsible for the issuing, administration and approval of licences in accordance with provincial legislation and City policies and procedures, or their delegate;

"Manager of Municipal Law Enforcement and Licensing"

"Medical Officer of Health" means the Medical Officer of Health of the Health Unit or their delegate;

"Municipal Act" means the Municipal Act, 2001, S. O. 2001 c.25. as amended from time to time;

"Municipal Law Enforcement Officer" is a person duly appointed within the City's administration to enforce the by-laws of the City, and includes the Licensing Enforcement Officer;

"non-profit" is an adjective used to describe a person or organisation who meets one or more of the following requirements:

- (a) is registered in Ontario as a non-profit corporation by the applicable Provincial or Federal authority or Ministry;
- (b) is certified by an Accountant (to the satisfaction of the Licensing Officer as a person that makes no profit and intends to make no profit in its day to day business operations;
- (c) files no income tax return as a commercial or for profit business; or

(d) is a minor sports association or organization; or

(d) is a community betterment organization or group that returns 100% of its net proceeds to the community for the community's benefit.

"Operator" is a person with care and control of a business at any given point in time, with authorization from the owner of the business. The terms **"operate"**, **"operation"** and words of like import or intent have corresponding meanings;

"Owner" is a person with legal title to real or personal property. The terms **"own"**, **"ownership"**, and words of like import or intent have corresponding meanings;

"person" to include but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person;

"Police" means the Chief of Police, other designated officer in charge of a police service or other police officer with jurisdiction in the relevant geographic area of Kawartha Lakes, or their delegate;

"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 vehicle licensed by the City are:

- (a) Class 1 - Chip Trucks - which are refreshment vehicles that are relatively stationary, and vend food and beverage stuffs;
- (b) Class 2 – Food Trucks - which are refreshment vehicles that are mobile and have the ability to vend food and beverage stuffs and sundry items 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 sausages, frankfurters and/or similar hand-held sandwiches served and prepared at the refreshment vehicle and vend such food and beverage stuffs and also includes ice cream carts, portable barbeques and popcorn carts.

"schedule" means a schedule to this by-law;

"Senior Licensing Officer"

"site plan" means a sketch of the property outlining the location of the refreshment vehicle and the proximity to neighbouring businesses;

"Special Community Event" means but is not limited to any cultural, recreational, or educational event of limited duration, including an exhibition, show, display, concert, festival, or race, competition, public entertainment, parade, and any other organized public amusement, whether free or for a fee, that is open to members of the public to attend and is expected to attract 350 or more people over the entirety of the event;

"Special Community Event Organizer" means a person who alone, or with others, is responsible for the planning and management of a Special Community Event;

"trade" includes business, calling or occupation and "carrying on a trade" includes any act of:

- (a) selling any goods or services; or
- (b) soliciting business or offering or exposing goods or services for sale or hire;

1.02 **Interpretation Rules:**

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words "include" and "including" are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.

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

1.04 **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 operate in full force and effect.

- 1.05 **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.

Section 2.00: Licensing Requirements

- 2.01 **Licence Requirement:** Every person carrying on a business of a Refreshment Vehicle shall obtain a licence from the City authorizing them to carry on that business. This section is subject to any exemption provided for within this by-law. No person shall, either directly or indirectly, carry on or continue to carry on a business, either for profit or not for profit, without first having obtained the required licence. Failure to comply with this section or any provisions of this by-law shall be an offence.
- 2.02 **Regulations:** A person who operates a Refreshment Vehicle business shall comply with the regulations set out in this by-law. Failure to comply with the regulations is an offence.
- 2.03 **Responsibility of Agents:** An agent, trustee or representative of persons carrying on a refreshment vehicle business in Kawartha Lakes shall also be personally liable for the compliance of their principal, beneficiary or persons they represent in connection with this by-law. The owner of the refreshment vehicle shall be liable for any action of their agent(s) that is in breach of any section of this or any other by-law or Provincial or Federal legislation or regulation.
- 2.04 **Locational Requirement:** A licence shall be obtained for each location from which a refreshment vehicle business is carried on. Failure to comply with this section is an offence.
- 2.05 **Minimum Distance Separation:** All Class 1 or Class 2 Refreshment Vehicles must be set back a minimum of 3.04 metres (10 feet) from any structure either on the same or adjacent property. Failure to comply with this section is an offence.

- 2.06 **Proximity to Other Eating Establishments:** No licence shall be issued to any person to operate a refreshment vehicle business from a location which is within one hundred (100m) metres (328 feet) of an existing restaurant or other eating establishment, including another refreshment vehicle. Failure to comply with this section is an offence.
- 2.07 **Exemption to Section 2.06:** Exemption from this provision is available where the refreshment vehicle business is located on City property or in a City owned park where the owner of the eating establishment has given written permission. An exemption from section 2.06 may be granted if the applicant provides written permission, signed by the owner or operator of a restaurant, eating establishment or another refreshment vehicle, that they have no objection to the refreshment vehicle operating within the one hundred (100m) metre (328 feet) distance of their business.
- 2.08 **Municipal Property:** No Person shall operate a refreshment vehicle on municipal property without the written authorization from the appropriate Director or a rental agreement with the appropriate department. An individual may operate a refreshment vehicle on municipal property which is being used with permission from the City by an organization or individual for a community or private event.
- 2.09 **Liability Insurance:** No person shall be granted or hold a licence to operate a Refreshment Vehicle unless the Applicant, upon application or at the request of the Licensing Officer, provides proof of general commercial liability insurance in accordance with the provisions of this by-law. Failure to maintain insurance as required constitutes an offence.
- 2.10 **Criminal Charges and Convictions:** Every Licensee shall, prior to the issuance of the initial Refreshment Vehicle license, provide a Criminal Records Check completed by their local police detachment. Any Persons that have pending criminal charges shall not be eligible for a Licence under this by-law until documented proof of an absolute or conditional discharge of such charges is provided to the Licensing Officer.
- 2.11 **Temporary Licence:** The Licensing Officer shall issue a temporary licence to a person or organization who will be operating for no more than

seven consecutive days during the calendar year if all of the conditions to issue a licence as outlined within this by-law have been met. Where the licence is being issued for charitable purposes, the charity must obtain the licence, in accordance with the terms of this by-law, identifying the vendor and produce a copy of their charitable status documentation in a form acceptable to the Licensing Officer.

- 2.12 **Responsibility of Special Community Event Organizer:** It shall be the responsibility of the Special Community Event Organizer to inform the Senior Licensing Officer, Health Unit, and Fire Department if a Refreshment Vehicle will be vending at their event, providing the Refreshment Vehicle Owner or Operators contact information at least two (2) weeks in advance of the first day of the Special Community Event.
- 2.13 **Exemption for Ancillary Business:** The owner of a permanent business where they also operate an ancillary business, shall apply for a refreshment vehicle licence as outlined in Section 3.00, providing the documents required by the Licensing Officer.
- 2.14 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.
- 2.15 **Exemption for Section 2.05:** Where a Refreshment Vehicle operated lawfully and was lawfully licenced immediately before By-law 2005-80 or 2013-195 took effect, the owner or operator shall be exempt from section 2.05 where no changes to any building locations have taken place. This exemption does not apply if building changes to the property have occurred.

Section 3.00: Licensing Procedures

- 3.01 **Application:** An application for a licence or renewal of a licence required under this by-law may be obtained from the main administrative offices of the City, or at any of the City's municipal service centres, on the form prescribed by the Licensing Officer.
- 3.02 **Application Requirements and Documentation – First Time Applicants:** The application form shall require information to be

provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application in support of the application as outlined below:

- a) a fully completed application form as supplied by the city;
- b) proof that the vehicle holds all required current provincial licences and insurance applicable to that vehicle type;
- c) a Propane Fitter's Certificate indicating compliance with the provisions of the Ontario Propane Storage and Utilization Code if propane fueled appliances are located on the refreshment vehicle;
- d) proof of valid liability insurance policy with a minimum of \$2,000,000.00 coverage, and if the refreshment vehicle is located on city property, the city shall be named as an additional insured party with an indemnification clause;
- e) copy of Ontario Master Business Licence;
- f) documentation from the Fire Chief or designate confirming that the refreshment vehicle and all buildings, structures, and facilities, or the plan for same, are in compliance with applicable fire safety regulations;
- g) a satisfactory inspection report from the Health Unit completed no more than two weeks prior to the date of application;
- h) an original Criminal Reference Check from the police provided within 30 days from the date of issue for every applicant, partner, shareholder or shareholders of a corporation, if applicable; and
- i) the appropriate licence fee required in accordance with the Fees By-law.

3.03 Application Requirements and Documentation – Renewal Applications: The application form shall require information to be

provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application in support of the application as outlined below:

- a) a fully completed application form as supplied by the city;
- b) proof that the vehicle holds all required current provincial licences and insurance applicable to that vehicle type;
- c) a Propane Fitter's Certificate indicating compliance with the provisions of the Ontario Propane Storage and Utilization Code if propane fueled appliances are located on the refreshment vehicle;
- d) proof of valid liability insurance policy with a minimum of \$2,000,000.00 coverage, and if the refreshment vehicle is located on city property, the city shall be named as an additional insured party with an indemnification clause;
- e) copy of Ontario Master Business Licence;
- f) documentation from the Fire Chief or designate confirming that the refreshment vehicle and all buildings, structures, and facilities, or the plan for same, are in compliance with applicable fire safety regulations;
- g) a satisfactory inspection report from the Health Unit completed no more than two weeks prior to the date of application;
- h) the appropriate licence fee required in accordance with the Fees By-law.

3.04 Application Requirements and Documentation – Temporary Licences and Special Community Events: The application form shall require information to be provided, and other necessary papers to be completed or submitted by the applicant in conjunction with their application in support of the application as outlined below:

- a) a fully completed application form as supplied by the city;
- b) proof that the vehicle holds all required current provincial licences and insurance applicable to that vehicle type;
- c) a Propane Fitter's Certificate indicating compliance with the provisions of the Ontario Propane Storage and Utilization Code if propane fueled appliances are located on the refreshment vehicle completed within the same calendar year as the event;
- d) proof of valid business liability and, if applicable, vehicle insurance as outlined in Section 6.00 of this by-law;
- e) copy of Ontario Master Business Licence;
- f) an inspection report completed by a Health Unit from the current year;
- g) the appropriate licence fee required in accordance with the Fees By-law.

3.05 Additional Documents Required: In addition to the requirements prescribed in Sections 3.02, 3.03, and 3.04 the applicant shall, at the request of the Licensing Officer, or when application is being made for a new or altered business, provide the following:

- a) documentation, satisfactory to the Licensing Officer, that the applicant is the property owner of the land at the location or, alternatively, that they have the authority of the property owner and/or manager to operate from the site;
- b) a site plan drawing outlining the location of all roads and streets and their names, all buildings, the buildings dimensions and their proximity to other buildings and property lines;

- c) documentation from the Development Services Department that the property upon which the refreshment vehicle will operate is appropriately zoned;
- d) documentation from the Director of Community Services that the requirement with respect to the proximity to parks has been met;
- e) A current Safety Standard Certificate for any refreshment vehicle over 180 kilograms in weight (fully equipped but not including food stuffs);
- f) documentation from the City's Chief Building Official confirming that all buildings, structures and facilities, on site, or the plans for same, are or will be in compliance with the requirements of Property Standards By-law and the Building Code Act S. O. 1992, c.23, as amended; and
- g) documentation from an owner or operator of an existing restaurant or any other Eating Establishment or another refreshment vehicle within one hundred (100m) metres of the proposed location of the refreshment vehicle that they have no objection to the issuance of the licence.

3.06 Additional Criteria Considered: The Licensing Officer may deny a licence or issue a licence with specific conditions based on, but not limited to the following criteria:

- a) the applicant's premises or place of trade are the object of an order to comply made under the Property Standards By-law, or an order made under the Building Code Act S. O. 1992, c.23, as amended;
- b) the applicant's premises (or use of such for the business requested) is not in compliance with the Zoning By-law or any parking requirements of the city;

- c) the applicant's premises requires corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
- d) the applicant's premises requires corrective action pursuant to an order of the Fire Chief;
- e) the applicant has been found to have discriminated against a member of the public contrary to The Ontario Human Rights Code R. S. O. 1990, c.H.19;
- f) the applicant has been convicted of an offence pursuant to the Criminal Code of Canada, R.S.C. 1985, c. C.46;
- g) the applicant was previously convicted of an offence pursuant to this or a predecessor by-law;
- h) the applicant is financially obligated to the city in some manner other than for current taxes; and
- i) the applicant is in breach of this or some other city by-law or law of Ontario or Canada.

3.07 **Disclosure of Private Information:** It shall be a condition of every licence that an owner or operator shall consent to the disclosure of all records and personal information with respect to any licence application, approval refusal or revocation to any law enforcement agency, provincial ministry, federal department, agency, board or commission thereof or any other municipality, or to the owner of the refreshment vehicle, pursuant to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.m.56,s.32, as amended.

3.08 **Inspection Requirement:** The Licensing Officer or designate may inspect any property where a refreshment vehicle is to operate prior to the issuance of any licence.

- 3.09 **Time Limited:** Licences shall be issued for a maximum period of one year and shall come into effect on the date that they are issued, and expire on December 31 of that same year.

Section 4.00: Structural Requirements

- 4.01 **Maintain Mobility of Refreshment Vehicle:** No owner, operator, or agent of a refreshment vehicle shall alter the interior or exterior of the vehicle in a manner which would prohibit it from being moved, whether propelled by a motor or by the application of force by a person or animal.
- 4.02 **Storage Areas:** No owner, operator, or agent of a refreshment vehicle shall permit the construction of a storage area either attached or detached from the Refreshment Vehicle that is 3.04 metres by 3.04 metres (10 feet by 10 feet) in size or more.
- 4.03 **Seating Areas:** No owner, operator, or agent of a refreshment vehicle shall permit seating areas to encroach on to neighbouring properties or on to City owned property.
- 4.04 **Patios and Decks:** Any owner, operator, or agent of a Refreshment Vehicle Business shall ensure that:
- a) Patios and decks constructed around any Refreshment Vehicle do not exceed 0.60m (2 feet) in height, 1.8m (6 feet) in depth, or be longer than the refreshment vehicle;
- 4.05 **Exemption:** Where a refreshment vehicle operated lawfully and was lawfully licensed immediately before by-law 2005-80 or 2013-195 took effect, the owner or operator shall be exempt from sections 4.01, 4.02, and 4.04 provided they can provide proof satisfactory to the Licensing Officer evidencing the structural alterations were in place prior to the passage of this by-law.
- 4.06 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.

Section 5.00: Health and Sanitation Requirements

- 5.01 **Health and Sanitation Requirements:** All owners, operators, or agents must comply with all health and sanitary regulations as outlined in this by-law, all municipal, Provincial or Federal Health and Sanitary By-laws, legislation and regulations applicable to either the refreshment vehicle or to the food sold from the refreshment vehicle.
- 5.02 **Waste Facilities:** It constitutes an offence for any person to operate any refreshment vehicle without providing on the exterior of the refreshment vehicle, at all times waste facilities for the use of the patrons to dispose of waste products.
- 5.03 **Water and Wastewater:** In regards to water and wastewater all persons who operates a refreshment vehicle shall:
- a) Provide a water and wastewater storage and disposal plan to the Licensing Officer that outlines the source of freshwater and means of disposal for grey water;
 - b) Only dispose of grey water in a manner approved by the Health Unit and/or the City;
 - c) In the case of winter operations where weather conditions would cause fresh or grey water to freeze, Applicants shall provide a detailed description of plans to prevent water and wastewater from freezing that does not include the use of chemicals;
 - d) Shall not permit a Class 1 or Class 2 Refreshment Vehicle to operate unless there is continuous supply fresh water to the vehicle.
- 5.04 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.

Section 6.00: Insurance Requirements

- 6.01 **Insurance Requirements:** Any person who obtains a Refreshment Vehicle licence shall provide, to the Licensing Officer, prior to the issuance of such licence and any renewals thereafter, a current and valid Certificate of Insurance evidencing General Liability Insurance including but not

limited to bodily injury including death, personal injury and property damage including the loss of use thereof, contractual liability and contain a cross liability/severability interest clause. This insurance shall be with an insurance company authorized by law to underwrite such insurance in the province of Ontario. The amount of the insurance shall be not less than two million (\$2,000,000) dollars per occurrence and in a form satisfactory to the Licensing Officer.

The policy shall include a provision that the Licensing Officer shall be provided thirty (30) days written notice in advance of any cancellation, expiration or variation in coverage provided by the policy. If for any reason such insurance is cancelled, expires, or for any other reason does not remain in effect or fails to meet the requirements of the Licensing Officer, the licence shall become void on the final date for which the insurance was valid.

Where the business is operating on City property the policy shall name the Corporation of the City of Kawartha Lakes as an additional insured.

- 6.02 **Automobile Liability Insurance:** Where a licence is being obtained for a Class 2 Refreshment Vehicle, in addition to the requirements outlined in Section 8.01, the Applicant shall provide to the licensing officer proof of Automobile Liability Insurance in an amount not less than two million (\$2,000,000.00) dollars per occurrence for each licensed motor vehicles owned or leased by the applicant that will be used as the Refreshment Vehicle.
- 6.03 **Failure to Comply:** Failure to comply with any of the provisions of this section is an offence.

Section 7.00: Licence Issue

- 7.01 **Licence Fee:** A refreshment vehicle licence fee has been established and shall apply to all persons seeking a licence under this by-law. The fee for obtaining a licence or renewal of a licence shall be as set out in the Fees By-Law. No fee is refundable except in the event that a licence is revoked by reason of municipal staff error. In that case the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.

- 7.02 **Exemption:** An exemption of the fee as set out in the Fees By-Law shall apply to non-profit/charitable organizations, as defined within this by-law, operating a refreshment vehicle at a Special Community Event or an event.
- 7.03 **Duplicate Licence:** Except as otherwise provided in a schedule to this by-law, a duplicate licence may be issued by the Licensing Officer to replace any licence previously issued which has been lost, stolen, destroyed or needs to be replaced for any other reason, upon written application by the licensee and upon payment of the fee as set out in the Fees By-Law.
- 7.04 **Posting & Production of Licences (Fixed Location):** Where a licensee carries on their business from a fixed location, the licensee shall post the licence obtained under this by-law in a conspicuous place at that place of business and be visible to the public at all times. Persons licensed under this by-law shall, when requested by the Licensing Officer, the Police, the Medical Officer of Health, the Fire Chief, a Municipal Law Enforcement Officer or any person authorized by council, produce the licence for inspection and shall exhibit the licence to any person to whom the licensee is offering goods for sale. Failure to comply with this section is an offence.
- 7.05 **Posting & Production of Licences (No Fixed Location):** Where a licensee or employee of a licensee travels from place to place to perform their business, they shall carry their licence at all times when engaged in the business. Persons licensed under this by-law shall, when requested by the Licensing Officer, the Police, the Medical Officer of Health, the Fire Chief, a Municipal Law Enforcement Officer or any person authorized by council, produce the licence for inspection and shall exhibit the licence to any person to whom the licensee is offering goods for sale. Failure to comply with this section is an offence.
- 7.06 **Partnerships and Corporations and Unincorporated Associations:**
- (a) Except as otherwise noted in the schedules, a partnership, a corporation, an association or a combination of persons is considered as a single applicant for any one business.

- (b) On any application by a partnership, the licence shall be issued in the name under which business is carried on by the applicant. The names and addresses of all partners must be listed on the application form.
- (c) Any application by a corporation shall contain the names and addresses of the officers and directors of the corporation.
- (d) A change in composition of the members of a partnership or in the officers and/or directors of a corporation shall be reported to the or Licensing Officer within thirty days. Failure to comply with this section is an offence.

- 7.07 **Change of Address:** Every change of mailing address or telephone number of any licensee shall be reported to the Licensing Officer within fifteen (5) business days. Failure to comply with this section is an offence.
- 7.08 **No Transfer:** It is an offence to attempt to transfer or assign a licence issued under this by-law except in accordance with subsection 7.09.
- 7.09 **Licence Transfer:** Upon cessation or sale or other transfer of a business, the licensee of that business shall notify the Licensing Officer of the cessation or transfer. Where the business is being transferred, and subject to any restrictions in the applicable schedule, the new owner or operator shall be required to submit an application for the licence transfer, in the form prescribed by the Licensing Officer. The Licensing Officer may, depending upon the circumstances of the transfer, require the new owner or operator to submit any or all of the same documentation and/or information that would have been required for a new application for the licence in question. The requirements of sections 3.00, 4.00 and 5.00 of this by-law apply to applications for licence transfer. A transfer fee shall be charged as set out in the Fees By-Law.

- 7.10 **No Vested Right:** No person enjoys a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension, all licences remain the property of the city.
- 7.11 **Licensees to Use Name on Licence:** It is an offence for a person licensed to carry on a business under this by-law to advertise or carry on that business under any other name than the one endorsed on their licence.
- 7.12 **Offence to Vend Near Another Eating Establishment:** It is an offence for a person to vend from a refreshment vehicle from any location which is within one hundred (100m) metres of an existing restaurant or other eating establishment, including another refreshment vehicle, without the written consent of the owner or operator of that restaurant, eating establishment, or another refreshment vehicle.
- 7.13 **Offence to Vend Near Municipal Park or School Ground:** It is an offence for a person to vend from a refreshment vehicle from any location which is within one hundred (100m) metres of an existing municipal park or school ground without the explicit written consent of the Community Services Director, or as part of a contract for rental of a city facility.
- 7.14 **Vending from Highway:** It constitutes an offence for a person to vend from a refreshment vehicle on a public highway, where the refreshment vehicle obstructs the free flow or safety of pedestrians and traffic.
- 7.15 **Fire Suppression:** It constitutes an offence for any person to operate a refreshment vehicle which contains cooking or heating facilities without fire safety and suppression equipment as required by all applicable fire by-laws, legislation and regulations.
- 7.16 **Vending from Unlicensed Location:** It constitutes an offence for any person to vend from a refreshment vehicle (other than a catering truck) at a location other than that authorized on the person's refreshment vehicle licence unless they have first received a location permit from the Licensing Officer which shall require a letter of permission from the land owner or event organizer for the location they want to temporarily vend from.

- 7.17 **Inspections:** The Licensing Officer, the Police, the Medical Officer of Health, Municipal Law Enforcement Officer, the Fire Chief or any person acting under those persons, or any person authorized by council may at reasonable times during business hours and upon producing proper identification, inspect:
- (a) any premises or place where a business is carried on or where there are reasonable and probable grounds to believe a business is being carried on;
 - (b) any goods or equipment, to be used by the applicant in connection with the business; and,
 - (c) it is an offence to obstruct or permit the obstruction of an inspection under this section.
- 7.18 **No Obstruction:** No person shall obstruct, hinder or in any way interfere with any person designated to enforce this by-law.
- 7.19 **Measurement:** In relation to any reference to distance or separation of one location to another location within this by-law, the measurement shall be completed from the established property line of the existing eating establishment, school or park, to the location of the refreshment vehicle business.
- 7.20 **Grandfathering:** Any business that lawfully operated under by-laws and was lawfully licenced immediately before by-laws 2005-80 or 2013-195 took effect shall be exempt from Sections 7.12 and 7.13.

Section 8.00: Granting, Refusal And Revocation Of Licenses

- 8.01 **Grant Licence:** The Licensing Officer shall issue a licence or licence renewal where the applicant is in full compliance with the terms of this By-law and all other applicable By-laws, Provincial and Federal legislation and regulations.
- 8.02 **Grant Licence With Conditions:** The Licensing Officer may, where the provisions of this By-law have been met, propose in writing to the Applicant to grant the Licence subject to conditions if appropriate. If

within five (5) days following the written proposal to grant the Licence with conditions, the Applicant has not indicated an objection to the Licence with conditions, the Licence is deemed to have been issued on the day of the notice of the proposal to grant.

The Licensing Officer shall revoke a licence granted with conditions if the applicant has not met the imposed conditions within the stipulated time frame.

8.03 **Refuse Licence:** In the event that the Licensing Officer refuses for any reason to grant a Licence, or suspends or revokes a Licence, and the Applicant requests that the matter be considered by Council, the Licensing Officer shall prepare a report for the consideration of Council and the Applicant shall be provided with at least two (2) weeks written notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.

8.04 **Council Discretion:** Council may in its sole discretion grant, grant with conditions, refuse to grant, or revoke or suspend a Licence.

In the exercise of its discretion under Section 8.03 such discretion shall be exercised,

- i. upon such grounds as are set out in this By-law, or
- ii. upon the grounds of the conduct of a person, or in the case of a corporation, the conduct of its officers, directors, employees or agents, affords reasonable grounds for belief that the Person will not carry on or engage in the business in accordance with the law or with honesty and integrity.

8.05 **Consideration to Matters Raised:** Council may, in exercising its discretion pursuant to this By-law, consider any matter raised under Section 3.00 or any other matter that relates to the general welfare, health or safety of the public, the control of nuisances within Kawartha Lakes, or the protection of consumers.

- 8.06 **Surrender of Licence:** It shall be an offence for any person licenced under this by-law to fail to deliver or surrender to the Licensing Officer, a Licence issued by the City, upon suspension or revocation.

Section 9.00: Enforcement and Penalties

- 9.01 **Enforcement:** Municipal Law Enforcement Officers, Licensing Officer, Police or any other Person designated by Council may enforce this By-law.
- 9.02 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.
- 9.03 **Offence and Penalty:** Every Person who contravenes any of the provisions of this by-law is guilty of an offence pursuant to Section 429 of the Municipal Act, 2001, S.O. 2001, c. 25 and all contraventions of this by-law are designated continuing offences.
- 9.04 **Offence by an Individual:** Every Person, excluding a corporation, who is convicted of an offence under this by-law, is liable to a fine as stipulated by the set fines as attached to this by-law or as stipulated by the Provincial Offences Act R.S.O. 1990, Chapter P.33.
- 9.05 **Offence by a Corporation:** Every corporation who is convicted of an offence under this by-law is liable to a maximum fine of Fifty Thousand Dollars (\$50,000) for the first offence and a maximum fine of One Hundred Thousand Dollars (\$100,000) for any subsequent offence in accordance with the Municipal Act, 2001, S.O. 2001, c. 25 and Provincial Offences Act R.S.O. 1990, Chapter P.33.
- 9.06 **Multiple Offences:** The conviction of an offender for the breach of any provision of this By-law shall not operate as a bar to a prosecution against the same offender upon any subsequent or continued breach of any provision of this By-law.
- 9.07 **Court Order:** If this By-law is contravened and a conviction entered, the court in which the conviction is entered and any court that has jurisdiction thereafter may, in addition to any other remedy and to any penalty

imposed, make an order prohibiting the continuation or the repetition of the offence.

Section 10.00: Administration and Effective Date

10.01 **Administration of the By-law:** Unless otherwise indicated in this By-law, the administration of this By-law is assigned to the City Clerk whom may delegate the performance of any of the functions under this By-law from time to time as occasion requires.

10.02 **Effective Date:** This by-law shall come into force on January 1, 2017.

By-law read a first, second and third time, and finally passed, this 13th day of December, 2016.

Andy Letham, Mayor

Judy Currins, City Clerk