

**THE CORPORATION OF THE COUNTY OF PRINCE EDWARD**

**BY-LAW NO. 1778- 2006**

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**BEING A BY-LAW TO REGULATE, GOVERN AND LICENCE MOBILE CANTEENS, CHIP WAGONS AND OTHER REFRESHMENT VEHICLES.**

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**WHEREAS** pursuant to Section 150 of the Municipal Act, 2001, S.O. 2001, c.25, the municipality is authorized to licence, regulate and govern certain trades, occupations, businesses and callings;

**AND WHEREAS** the Municipality is further authorized to licence any person carrying on or engaged in any trade, occupation, or calling and to prohibit the carrying on or engaging in a trade, occupation, business or calling without a licence;

**AND WHEREAS** it is deemed expedient and necessary to implement such licencing and registration regulations with respect to certain trades, occupations, businesses and callings, including group homes, within the City;

**NOW THEREFORE**, the Council of the Corporation of the County of Prince Edward enacts as follows;

**SECTION 1 – STATEMENT OF INTENT**

It is Council's intention to use licencing of refreshment vehicles as a means to ensure:

- i) the health of the public in relation to food preparation and food service by stipulating conditions of operation of refreshment vehicles;
- ii) the safety of the public in relation to fire prevention and property damage by requiring adherence to aspects of fire safety and protection and through the requirement of liability insurance;
- iii) the control of noise and nuisance through the limiting of permitted areas of operation and requirements for litter control.

**SECTION 2: DEFINITIONS:**

- 1) For the purpose of this By-Law the following definitions shall apply:
  - a) "By-Law Enforcement Officer" shall mean the By-Law Enforcement Officer / Provincial Offences Officer appointed by by-law by Council of the Corporation of the County of Prince Edward.
  - b) "Business" means a Trade that requires a Licence pursuant to the By-Law, whether not a licence has been issued or maintained for that business.
  - c) "Chip Wagon" shall mean a motorized vehicle or a unit so constructed that it may be towed or drawn by a motor vehicle equipped for the cartage, storage and preparation of food stuffs, beverages, confections and from which the aforesaid items are offered for sale directly to the public.
  - d) "Clerk" shall mean the Clerk or Deputy-Clerk of the County of Prince Edward.
  - e) "Chief By-Law Enforcement Officer" shall mean the Chief Building / By-Law Enforcement Officer appointed by Council of the Corporation of the County of Prince Edward as prescribed by the Ontario Building Code Act.
  - f) "Commercial Zone" shall mean all lands zoned CC (Commercial Core) according to the current zoning by-law.
  - g) "Corporation" shall mean the Corporation of the County of Prince Edward.
  - h) "Council" shall mean the Council of the Corporation of the County of Prince Edward.

- i) "Fire Chief" shall mean the Fire Chief or designate of Prince Edward County.
- j) "Human Propelled Vehicle" shall mean a vehicle propelled by human muscle power selling ice cream products, prepackaged food, fresh fruit and vegetable products and liquid refreshments only.
- k) "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.
- l) "Licence" shall mean a licence issued under the provisions of this By-Law.
- m) "Medical Officer of Health" shall mean the Medical Officer of Health for Hastings and Prince Edward Counties or his duly authorized delegate.
- n) "Mobile Canteen" shall mean a motorized vehicle equipped for the cartage, storage, and sale of food stuffs, beverages, confections where no cooking takes place in the vehicle and from which the aforesaid goods are offered for sale directly to the public for the consumption primarily by persons at their place of employment or by persons attending a private function including auction sales or other special sales where the mobile canteen operator has been invited or authorized by the person holding the sale to dispense food and beverages at such function. A mobile canteen does not include a Chip Wagon.
- o) "Officer" shall mean a Municipal By-Law Enforcement Officer, Provincial Offences Officer, Police Officer or a Public Health Inspector.
- p) "Other Refreshment Vehicle" shall mean a motorized vehicle equipped for the cartage, storage and preparation of food stuffs, beverages, confections and the aforesaid food items are offered directly for the consumption to the general public other than any vehicle defined elsewhere in this By-Law.
- q) "Operate" means the selling or offering for sale of refreshments from such vehicle.
- r) "Operator" means a Person who Operates and sells from a vehicle, refreshments for consumption by the public; and if an Owner is also an Operator, the words Owner and Operator shall have the same corresponding meaning.
- s) "Portable Barbeque" shall mean a vehicle equipped for the cartage, storage and preparation of Hot Dogs, Hamburgers and Soft Drinks.
- t) "Person" includes a Corporation
- u) "Refreshment Vehicle" means a human propelled refreshment vehicle from which food or drink are sold to the public and does not include a mobile canteen, a portable barbeque, or a chip wagon.
- v) "Residential Zone" shall mean all lands zoned R-1, R-2, R-3 and RU according to the current zoning by-law.
- w) "Roadworthy" shall mean that the vehicle complies with all of the requirements of the Highway Traffic Act and is licenced for operation on a public highway.
- x) "Sidewalk" shall mean any municipal walkway or road works for the accommodation of pedestrians on that portion of a street between the curb line and the street line which is located outside a roadway, primarily intended for the use of pedestrians.
- y) "Temporarily Parked" shall mean a maximum of fifteen (15) minutes in any one location.
- z) "Zoning By-Law" shall mean a by-law enacted under section 34 of the Planning Act that restricts the use of land.

### **SECTION 3: LICENCING:**

- 1) No person shall operate a refreshment vehicle within the limits of the County of Prince Edward unless such person holds a valid licence issued by the By-Law Enforcement Services under the authority of this By-Law.
- 2) Applications for licences shall be submitted to the Chief By-Law Enforcement Officer on the required application form, as detailed in Schedule "A" to this By-Law.
- 3) The operator of a refreshment vehicle shall have at all times on display the licence granted by the Corporation and shall present this licence on demand for inspection by any By-Law Enforcement Officer for the Corporation.
- 4) A licence shall not be assigned or transferred.
- 5) All licences shall be for the calendar year in which they are issued and shall expire on the 31<sup>st</sup> day of December of the year of issue.
- 6) The annual fee for a licence shall accompany the application, and be as follows:
  - a) Chip Wagon - \$400.00 for each vehicle.
  - b) Human Propelled Refreshment Vehicle - \$25.00 for each vehicle
  - c) Portable Barbeque - \$200.00 for each portable barbeque
  - d) Other Refreshment Vehicle - \$200.00 for each vehicle

### **SECTION 4: REGULATIONS**

#### **1) General**

- a) No person shall operate a chip truck, chip wagon, portable barbeque, or any other refreshment vehicle either on a sidewalk or within 1 metres of a sidewalk.
- b) The operator of every refreshment vehicle shall at all times comply with the requirements of the Medical Officer of Health and prior to the issuance of a licence under this By-Law, and shall supply the Chief By-law Enforcement Officer with written confirmation of compliance in this regard.
- c) The issuance of a licence does not act to exempt operators from the provisions of the Highway Traffic Act and all traffic and parking by-laws of the Corporation, or of the necessity for licencing and assuring that vehicles are road worthy as provided by the provisions of the Highway Traffic Act and other applicable legislation.
- d) Every mobile canteen or chip wagon shall at all times be roadworthy and shall be licenced by the Ministry of Transportation and Communications under the provisions of the Highway Traffic Act.
- e) Every applicant for a licence except those for a human propelled refreshment vehicle shall, before such licence is issued, provide a Certificate of Insurance showing that the operator is covered by insurance for public liability and property damage in the minimum amount of \$500,000 per occurrence, and the licensee shall hold harmless and indemnify the Corporation in all respects in the operation of such refreshment vehicle.
- f) Notwithstanding any provision of this By-Law to the contrary, no refreshment vehicle with the exception of human propelled refreshment vehicles shall be situated on any property unless it is expressly listed as a permitted use in the applicable zone for such property.

#### **2) Mobile Canteens**

- a) The operator of a mobile canteen shall conduct business only while "temporarily parked" off the traveled portion of public streets, public lands, highways, parks and boulevards unless permission is granted by the Corporation.

- b) No operator of a mobile canteen shall conduct business from areas designated as public parking unless permission has been granted by the Corporation.

### 3) Chip Wagons

- a) The operator of every chip wagon shall at all times comply with all requirements of the Fire Chief of the Corporation with respect to fire safety and prevention. Every applicant for a licence under this By-Law shall submit written confirmation from the Fire Chief of compliance in this regard.
- b) The operator of a chip wagon shall ensure it is kept in a clean and presentable condition and is painted in a manner satisfactory to the Corporation including signs appurtenant thereto. The property on which the chip wagon is located shall be maintained in a neat and tidy condition and all refuse shall be deposited in proper containers and disposed of by the operator.
- c) The chip wagon shall be roadworthy and be capable of being mobile under its own power. Permanent electrical or other utility hook ups are prohibited.
- d) No person shall operate a chip wagon in any Residential Zone.
- e) No person shall operate a chip wagon on any lot in the County of Prince Edward without written consent of the owner or government agency responsible for the land.
- f) Notwithstanding any provision of this By-law to the contrary, no chip truck or chip wagon shall be situated on any property unless it is within a Highway Commercial (CH), Tourist Commercial (CT) or Trailer Park Commercial (TPC) type zone.

### 4) Human Propelled Refreshment Vehicles

Refreshments may be sold from the human propelled vehicle in the public streets provided that the operator of the vehicle does not stop in any location for longer than is necessary to complete a sale or sales and at no time be longer than fifteen (15) minutes.

### 5) Portable Barbeques

- a) The operator of a portable barbeque shall at all times comply with all requirements of the Fire Chief of the Corporation with respect to fire safety and prevention. Every applicant for a licence under this By-Law shall submit written confirmation from the Fire Chief of compliance in this regard.
- b) The operator of a portable barbeque shall ensure it is kept in a clean and presentable condition and is painted in a manner satisfactory to the Corporation including signs appurtenant thereto. The property on which the portable barbeque is located shall be maintained in a neat and tidy condition and all refuse shall be deposited in proper containers and disposed of by the operator.
- c) Permanent electrical or other utility hook-ups to a portable barbeque are prohibited.
- d) No person shall operate a portable barbeque in any Residential Zone.
- e) No person shall operate a portable barbeque on any lot area without written consent of the owner or government agency responsible for the land.
- f) A licence for a portable barbeque shall specify the location and the duration of the operation of a portable barbeque.
- g) No portable barbeque shall be operated either on a sidewalk or within one (1) metre of a sidewalk.

#### **6) Other Refreshment Vehicle**

- a) The operator of every "Other Refreshment Vehicle" shall at all times comply with all requirements of the Fire Chief of the Corporation of the County of Prince Edward with respect to fire safety and prevention. Every applicant for a licence under this By-Law shall submit written confirmation from the Fire Chief of compliance in this regard.
- b) The operator of every "Other Refreshment Vehicle" shall ensure it is kept in a clean and presentable condition and painted in a manner satisfactory to the Corporation including any signs appurtenant thereto. "Other Refreshment Vehicle" shall be maintained in a neat and tidy condition and have provision whereby all refuse shall be deposited in proper containers and disposed of by the operator.
- c) The "Other Refreshment Vehicle" shall be roadworthy and capable of being mobile under its own power. Other refreshment vehicles shall only be "temporarily parked" and have no permanent electrical or other utility hook-ups.
- d) No person shall operate an "Other Refreshment Vehicle" in any Residential Zone.
- e) No person shall operate an "Other Refreshment Vehicles" on any lot in the County of Prince Edward without written consent of the owner or government agency responsible for the land.

#### **SECTION 5: EXCLUSIONS**

Exclusions to this by-law will be any chip truck, chip wagon, portable barbeque, or other refreshment vehicle authorized for use at:

- a) a County of Prince Edward sanctioned function or a charity/fundraising event;
- b) a property upon which an auction sale or equivalent is being conducted during the course of the sale not to exceed a forty-eight (48) hour period.

#### **SECTION 6: REVOCATION OF LICENCE:**

- 1) Council may revoke, suspend or refuse to renew a Licence where:
  - a) the Licencee would not qualify for a licence or would be disentitled to a renewal of a licence on the grounds set out in this By-law; or
  - a) the Licencee has been the subject of repeated, established complaints regarding the operation of the business; or
  - b) the Licencee has been found by the Chief By-law Enforcement Officer to have failed to comply with any of the provisions of this By-law.

#### **SECTION 7: SEVERABILITY**

If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all the other sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.

#### **SECTION 8: CONTRAVENTION:**

Every person who contravenes or causes or permits the contravention of any provision of this By-Law is guilty of an offence and upon conviction is liable to such fines and other penalties as provided for under the Provincial Offences Act, R.S.O. 1990, c.P-33, as amended.

**SECTION 9: REPEAL**

The following By-laws within the County of Prince Edward are hereby repealed.

- (a) Corporation of the County of Prince Edward By-Law No.427-2000
- (b) Corporation of the County of Prince Edward By-Law No. 668-2001
- (c) Picton By-Law No.29-1992
- (d) Picton By-Law No.25-1993
- (e) Picton By-Law No. 36-1993
- (f) Wellington By-Law No.1240-1992
- (g) Wellington By-Law No. 1249
- (h) Hallowell By-Law No. 1189

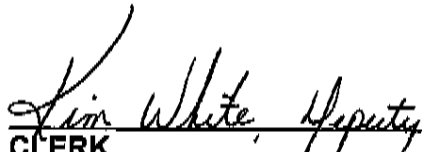
**SECTION 10: SHORT TITLE**

The short title of this By-law is the Refreshment Vehicle Licencing By-law.

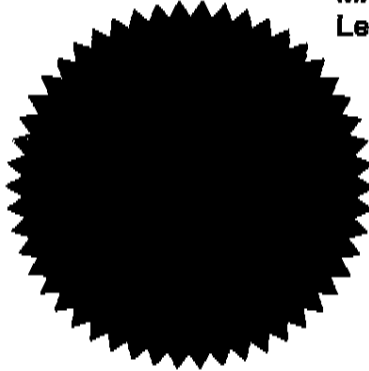
**SECTION 11: EFFECTIVE DATE**

This By-Law shall come into force and take effect on the date of its passing.

Read a first, second and third time and finally passed this 24<sup>th</sup> day of July, 2006.

  
\_\_\_\_\_  
CLERK  
Victoria Leskie

  
\_\_\_\_\_  
MAYOR  
Leo P. Finnegan





**DECLARATIONS:**

As the applicant / operator named above, I hereby make this application and confirm that I have read By-Law No. \_\_\_\_\_ and agree to abide by its regulations.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200 .

This licence is hereby granted and is in effect for the period ending December 31, \_\_\_\_\_.

\_\_\_\_\_  
By-Law Enforcement Officer

\_\_\_\_\_  
Chief Building Official