

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 52-2021, of the Municipality of Thames Centre, attached hereto are the set fines for those offences. This Order is to take effect June 25, 2021.

Dated at London this 25th of June 2021.

A handwritten signature in black ink, reading "Jeanine LeRoy". The signature is written in a cursive, flowing style.

Jeanine E. LeRoy
Regional Senior Justice
West Region

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 52-2021

Being a By-law to license and regulate refreshment vehicles and
repeal By-law 29-2021

REFRESHMENT VEHICLE BY-LAW

WHEREAS Section 5(3) of the Municipal Act, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws to exercise its municipal powers.

AND WHEREAS Section 151 of the Municipal Act, S.O. 2001, c.25, as amended, authorizes Council to license, regulate and govern any business wholly or partly undertaken within the Municipality, to impose conditions for the purpose of consumer protection upon any highway or part thereof, or any public park or other public place.

AND WHEREAS subsection 391(1) of the Municipal Act, S.O. 2001, c.25, as amended, provides that a municipality may impose fees and charges on persons.

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 "Approved Location" shall mean the location(s) specified in the application and for which a license has been granted.
- 1.2 "By-law Enforcement Officer" shall mean any Police Officer or employees of the Municipality limited to the By-law Enforcement Officer, Building Inspector or Chief Building Official.
- 1.3 "Clerk" shall mean the Clerk of the Municipality of Thames Centre, and shall include the Deputy Clerk and/or delegate.
- 1.4 "Council" shall mean the Council of The Corporation of the Municipality of Thames Centre.
- 1.5 "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.
- 1.6 "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 "License" shall mean a license issued under the provisions of this By-law.
- 1.8 "Licensee" shall mean the person to whom the license has been issued and who assumes the primary responsibility for complying with this By-law.
- 1.9 "Located Refreshment Vehicle" shall mean a Refreshment Vehicle equipped for the transportation, storage and preparation of refreshments which is used only for the sale of such refreshments intended for the consumption by the general public and only located at an Approved Location.
- 1.10 "Medical Officer of Health" shall mean the Medical Officer of Health for the Middlesex London Middlesex Health Unit, or his or her duly authorized delegate.

- 1.11 "Mobile Refreshment Vehicle" shall mean a Refreshment Vehicle equipped for the transportation, storage and preparation of refreshments which is used only for the sale of such refreshments intended for the consumption of the general public and moves from more than one location on any given day.
- 1.12 "Municipality" – shall mean The Corporation of the Municipality of Thames Centre.
- 1.13 "Roadworthy" shall mean the refreshment vehicle complies with the requirements of The Highway Traffic Act and is registered by the Ontario Ministry of Transportation for operation on a public highway.
- 1.14 "Operate" shall mean the act of selling, offering for sale, or otherwise dispensing of refreshments and "Operator" shall have a like meaning.
- 1.15 "Refreshments" shall mean all food stuffs 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 "Refreshment Vehicle" shall mean any roadworthy vehicle or trailer from which refreshments are sold for human consumption, and which includes a Located Refreshment Vehicle and Mobile Refreshment Vehicle.
- 1.18 "Special Event" shall mean a one-time, annual or infrequently occurring event held on property owned by the Municipality or on property containing the Dorchester Fairgrounds that is exclusively reserved for the occasion. It must have predetermined opening and closing dates/times and be open to public participation/attendance. In the case of municipally owned land, the event must also be pre-approved and booked with the Municipality.

2.0 GENERAL PROVISIONS

- 2.1 No person shall operate a Refreshment Vehicle within the limits of the Municipality unless the Operator has obtained a license for said the Vehicle and issued under the provisions of this By-law. The applicant for every license shall be a minimum of eighteen (18) years of age.
- 2.2 No person shall operate a Refreshment Vehicle without affixing a license, issued under the provisions of this By-law, in a visible location on the said Vehicle.
- 2.3 No person shall operate a Refreshment Vehicle in a location other than those areas specified below:
 - 2.3.1 All municipal property with written consent from the Director of Community Services and Facilities unless part of a Special Event.
 - 2.3.2 Private property in non-residential zones with permission of the property owner.
 - 2.3.3 No person shall locate or operate a Refreshment Vehicle on any portion of a public highway, unless written permission is granted by the Road

Authority. Written permission must be submitted to the By-law Enforcement Officer prior to locating the Refreshment Vehicle.

- 2.4 Notwithstanding any other provision of this By-law, a License shall not be required to operate a Refreshment Vehicle if part of the Dorchester Fair or Thorndale Fair.
- 2.5 No person shall operate a Refreshment Vehicle in a location where its operation would conflict with any existing agreement of the Municipality or any of its committees or local boards, unless written permission is granted by the lessee.
- 2.6 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, un-traveled portion of a municipal road allowance or municipal park.
- 2.7 No person shall transfer a License issued under the provisions of this By-law unless written consent is obtained by the Municipality. Notwithstanding the foregoing, the Municipality shall not be bound to give such consent unless the request is contrary to the public interest.
- 2.8 No person shall operate a Refreshment Vehicle overnight between the hours of 11:00 p.m. and 7:00 a.m.
- 2.9 No person shall equip a licensed Refreshment Vehicle with any sounding device, loud speakers, amplifiers or other hailing devices for the purpose of attracting patrons.
- 2.10 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 Enforcement Officer.
- 2.11 No person shall locate or operate a Refreshment Vehicle on a sidewalk or boulevard adjacent to the traveled portion of a public highway.
- 2.12 No person shall locate a Refreshment Vehicle within 3 metres of any building or structure.
- 2.13 No person shall use a power fuel generator in conjunction with a Refreshment Vehicle except as permitted below:
 - 2.13.1 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.
 - 2.13.2 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,
 - 2.13.3 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.
- 2.14 No person shall connect a Refreshment Vehicle to a municipal utility source.

3.0 GENERAL REGULATIONS

- 3.1 Every Licensee 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.

- 3.2 Every Licensee shall ensure that all refuse 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.
- 3.3 Every Licensee shall ensure that the waste and recycling receptacles are emptied at least once a day.
- 3.4 Every Licensee shall ensure their Refreshment Vehicle, any and all appurtenant accessories and equipment, and the immediate vicinity are all kept in a clean and sanitary condition at all times.
- 3.5 Every Licensee 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.
- 3.6 Every Licensee shall ensure that:
 - 3.6.1 no person other than an employee of the Licensee shall operate the Refreshment Vehicle;
 - 3.6.2 any employee (operator) shall be adequately trained in the safe operation of the Refreshment Vehicle and equipment;
 - 3.6.3 all employees shall be familiar with the regulations governing this By-law; and
 - 3.6.4 any operator or employee under their control, management or supervision does not breach any of the provision of this By-law.
- 3.7 Every Licensee shall ensure that all conditions imposed by the Municipality's Fire Department and the Medical Officer of Health, shall be adhered to at all times.
- 3.8 Every Licensee shall comply with all other applicable Municipal and Provincial regulations.
- 3.9 The term of each Licence shall be from the first (1st) day of January to the thirty- first (31st) day of December of the year, and no Licence shall be issued except on payment of the full amount of the prescribed fee.
- 3.10 The following requirements shall apply to a Located Refreshment Vehicle:
 - 3.10.1 The property on which a Located Refreshment Vehicle is to be located shall be zoned for commercial or industrial purposes as set out in the current Zoning By-law with written permission from the property owner submitted with the application.
 - 3.10.2 Every Located Refreshment Vehicle shall be capable of being moved and driven or towed on a highway upon 24 hours' notice by a By-law Enforcement Officer.
 - 3.10.3 Only temporary electrical and/or utility hook-ups shall be permitted. To provide for the operation of exhaust fans, approved lighting and other electrical power requirements, a Refreshment Vehicle may connect to an approved power source provided such connection is made by means of a

connection which can be readily and safely disconnected. Such connection must not inhibit the capability of the Refreshment Vehicle to be mobile on short notice or to otherwise cause the Refreshment Vehicle to be recognized as a permanent structure.

- 3.10.4 Every Located Refreshment Vehicle application shall include a site plan drawn to scale showing the proposed vehicle location, adjacent structures, entrance and exit from adjacent street(s), proposed additions to the vehicle, signs, the location and proposed temporary hook-up of all utilities and set back distances from the street, all as required by the provision of this by-law.
- 3.10.5 The Refreshment Vehicle shall be located at least three (3) metres from the front line of the property on which it is located or at the discretion of the By-Law Enforcement Officer.
- 3.10.6 No sign or advertising device may be displayed, except in accordance with the Municipality of Thames Centre Sign By-law.
- 3.11 The following requirements shall apply to a Mobile Refreshment Vehicle:
- 3.11.1 The Mobile Refreshment Vehicle may be operated as a fully mobile unit offering refreshments for sale to the general public.
- 3.11.2 No Mobile Refreshment Vehicle shall interfere with the normal movement of pedestrian and vehicular traffic and the maintenance of the sidewalks and streets in the Municipality.
- 3.11.3 The power for the Mobile Refreshment Vehicle shall be supplied by the licensee and the licensee shall be responsible for the cost of the power.
- 3.11.4 No Mobile 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.
- 3.12 Notwithstanding any other provision of this By-law, any person may make application to the Municipality's By-law Enforcement Officer to request an exemption to the hour of operation limits in regards to Section 2.8 and Section 3.11.4 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.

4.0 APPLICATION PROCESS

- 4.1 Every application for a Refreshment Vehicle License shall include the following information:
- 4.1.1 required Licence fee in accordance with the Municipality's Tariff and Fees By-law;
- 4.1.2 a photocopy of the current motor vehicle registration related to the proposed Refreshment Vehicle;
- 4.1.3 a photograph of the Refreshment Vehicle;
- 4.1.4 be accompanied by Food Premises Inspection Report, R.R.O. 1990, Regulation 562, signed by the Medical Officer of Health certifying that the refreshment vehicle has been inspected within the last (3) months and it conforms to the applicable sections of the Health Protection and Promotion Act;

- 4.1.5 written consent by the Municipality's Fire Chief or his or her delegate, having inspected the Refreshment Vehicle within the last three (3) months of the application and confirming that it confirms with the applicable sections of the Ontario Fire Code;
 - 4.1.6 a copy of a Mobile Food Service Equipment (MFSE) Annual Inspection Certificate for MFSE's from the Technical Standards & Safety Equipment (TSSA);
 - 4.1.7 written consent from the Road Authority having jurisdiction if the Refreshment Vehicle will be parked on any public highway; and
 - 4.1.8 proof of insurance as specified under Section 5 of this By-law.
- 4.2 Every application for a License addressing the requirements specified under Section 4.1 of this By-law shall be forwarded to the Municipality's By-law Enforcement Officer for review and processing.
- 4.3 Any written decision of the Municipality's By-law Enforcement Officer to refuse, suspend or revoke a License may be appealed 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.

5.0 INSURANCE AND IDEMNIFICATION

- 5.1 The Licensee shall provide the Municipality with a valid insurance certificate of a minimum of Two Million Dollars (\$2,000,000.00) liability insurance and name the Municipality as an additional insured.
- 5.2 The Licensee agrees to name the Municipality in the Licensee's Release of Liability, Waiver of claims, Assumption of Risks and Indemnity Agreement signed by each customer.
- 5.3 The Licensee shall indemnify and hold harmless the Municipality, its officers, members of municipal council and employees from and against any and all liabilities, claims, expenses, demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, directly or indirectly arising out of the agreement attributable to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service and caused by any acts of omissions of the licensee, it's officers, agents, servants, employees, customers, invitees or licensees, or occurring in or on the premises or any part thereof and, as a result of activities under this License.

6.0 PENALTIES

- 6.1 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 A of this By-law or by suspension or revocation of any License issued under this By-law.
- 6.2 The Municipality reserves the right to refuse, suspend or revoke a License.
- 6.3 All provisions of this By-law may be enforced by the Municipality's By-law Enforcement Officer.

7.0 MISCELLANEOUS

- 7.1 That By-law No. 29-2021, being a by-law to license and regulate refreshment vehicles, is hereby repealed.
- 7.2 That this by-law shall come into full force and effect upon its final passage.
- 7.3 This by-law may be cited as the “Municipality of Thames Centre Refreshment Vehicle By-law”.

READ a FIRST and SECOND TIME this 14th day of June, 2021.

READ a THIRD TIME and FINALLY PASSED this 14th day of June, 2021.



Mayor, A. Warwick



Clerk, T. Michiels

Appendix "A"

**THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE
Part 1 Set Fine Schedule
Provincial Offences Act
By-law 52-2021: Refreshment Vehicle By-law**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offense	COLUMN 3 Set Fine*
1	Operate a refreshment vehicle without a license	Section 2.1	\$400.00
2	Operate a refreshment vehicle without affixing a license in a visible location	Section 2.2	\$50.00
3	Operate a refreshment vehicle in a location other than approved	Section 2.3	\$100.00
4	Operate a refreshment vehicle between 11pm and 7am	Section 2.8	\$100.00
5	Operate a refreshment vehicle within 30 metres of an eating establishment	Section 2.10	\$400.00
6	Operate a refreshment vehicle on a sidewalk/boulevard adjacent to the traveled portion of a public highway	Section 2.11	\$100.00
7	Use a generator in conjunction with a refreshment vehicle	Section 2.13	\$100.00
9	Connect a refreshment vehicle to a municipal utility source	Section 2.14	\$400.00
10	Failure to dispose of refuse	Section 3.2	\$100.00
11	Failure to keep site in a clean and sanitary condition	Section 3.5	\$100.00

*Each fine is listed per offence

Note: the general penalty provision for the offences listed above is section 6.1 of By-law 52-2021, a certified copy of which has been filed.