

BY-LAW 92-2022

THE CORPORATION OF THE TOWN OF ST. MARYS

Being a By-law to provide for the licencing, regulating and governing of refreshment vehicles within the Town of St. Marys.

WHEREAS: Pursuant to Section 150 and 151 of the *Municipal Act, 2001*, as amended, a municipality may provide for a system of licences with respect to any business wholly or partly carried on within the municipality, including the sale or hire of goods or services on an intermittent or one-time basis;

AND WHEREAS: Pursuant to Section 11(2) of the *Municipal Act, 2001*, as amended, a municipality may exercise its licencing powers for the purpose of consumer protection and to protect the health and safety of the general public;

AND WHEREAS: The Corporation of the Town of St. Marys has determined it is desirable to licence Refreshment Vehicles within the Town for reasons of health, safety and consumer protection;

NOW THEREFORE: The Council of the Corporation of the Town of St. Marys hereby enacts as follows;

1.0 DEFINITIONS

For the purpose of the By-law, the following terms shall have the meanings indicated:

- a) "Applicant" shall mean the Refreshment Vehicle Owner, or their agent, who applies to the Clerk for a Refreshment Vehicle Licence in accordance with the provisions of this By-law;
- b) "Clerk" shall mean the Clerk of the Corporation of the Town of St. Marys as appointed by By-law;
- c) "Downtown" shall have the same meaning as defined in the Town of St. Marys Official Plan;
- d) "Licence" shall mean a licence issued by the Clerk to operate a Refreshment Vehicle pursuant to the provisions of this By-law;
- e) "Licensee" shall mean any person who is issued a Licence for a Refreshment Vehicle pursuant to the provisions of this By-law;
- f) "Private Event" shall mean an event that is held on private property; that is by invite only and/or is not open to the general public; and where Refreshments are not made available to the general public, including but not limited to, weddings, birthday parties, family reunions, employee recognition events et cetera.

- g) "Property Owner" shall mean the registered owner of land, and includes a lessee, mortgagee in possession or any person in charge of the property;
- h) "Public Event" shall mean a cultural, recreational, educational, charitable or similar event that is open to the general public including, but not limited to, fairs, festivals and carnivals et cetera;
- i) "Refreshment" shall mean any food or beverage prepared or provided for human consumption;
- j) "Refreshment Vehicle" shall mean any vehicle whether motorized or not from which Refreshments are offered for consumption by the public and may include a motor vehicle, motor assisted bicycle, trailer, bicycle, tricycle or any other vehicle drawn, propelled or driven by any kind of power, including muscular power;
- k) "Refreshment Vehicle Owner" shall mean the owner, or the operator in the case where the owner does not perform day to day operations, of the Refreshment Vehicle for which a Licence is applied pursuant to this By-law and in relation to a motor vehicle shall mean the registered owner of the vehicle as shown by the records kept by the Ministry of Transportation and includes a lessee or mortgagee in possession; and
- l) "Town" shall mean the Corporation of the Town of St. Marys.

2.0 REQUIREMENTS

- 1) No person shall sell or offer any Refreshment to the public from any Refreshment Vehicle unless the person has a valid Licence.
- 2) No person including any Property Owner shall cause or permit any person to offer Refreshments from a Refreshment Vehicle on any property located within the Town of St. Marys contrary to this By-law.

3.0 APPLICATIONS

- 1) Any person who wishes to sell Refreshments to the public from a Refreshment Vehicle must be a minimum of eighteen (18) years of age, and may apply to the Clerk for a Licence for the Refreshment Vehicle to be accompanied by the following:
 - a) a completed application in writing in a form authorized by the Clerk and executed by the Applicant;
 - b) an application fee as prescribed in the Town's Fees By-law, as amended;
 - c) a satisfactory inspection report from the Health Unit completed no more than three (3) months prior to the date of application
 - d) a Technical Standards & Safety Authority Field Approval for all equipment and appliances that are not approved by the Canadian Standard Association or the Underwriter Laboratories of Canada;
 - e) proof that the Refreshment Vehicle complies with propane, handling and storage provision of the *Technical Standards and Safety Act*, 2000, S.O 2000, c. 16, as amended, and any regulations thereunder, where applicable;

- f) proof that the Refreshment Vehicle has received a satisfactory inspection of its fire suppression system and fire extinguishers. The fire suppression system and fire extinguishers are required to be reinspected if the Refreshment Vehicle is on operation for greater than six (6) months of the year;
 - g) 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;
 - h) documentation from the Town'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 the Town's Zoning By-law, Property Standards By-law and the Building Code Act S. O. 1992, c.23, as amended;
 - i) proof of a valid Province of Ontario driver's licence, if applicable;
 - j) a copy of the ownership for the Refreshment Vehicle, if applicable;
 - k) proof of general liability insurance (by an insurer satisfactory to the Town) in the amount of \$2,000,000.00 naming the Town as an additional insured;
 - l) proof of automotive liability insurance (by an insurer satisfactory to the Town) in the amount of \$2,000,000.00 on all vehicles used in Refreshment Vehicle operations;
 - m) the dimensions of the Refreshment Vehicle;
 - n) a plan for the containment and disposal of grey water, grease and garbage in a sanitary manner satisfactory to the Town;
 - o) evidence that the Refreshment Vehicle does not require the use of municipal services when operating on public property;
 - p) a description of food menu;
 - q) a photograph of the Refreshment Vehicle;
 - r) written permission from the Property Owner of private property, clearly acknowledging the intended use of the property (if applicable); and
 - s) a general sketch or plan 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.
 - t) the appropriate Licence fee required in accordance with the Fees By-law
- 2) A Licensee must ensure the required certificates and approvals are kept in the Refreshment Vehicle at all times and available for immediate inspection upon demand by the Clerk, Police Officer, By-Law Enforcement, Fire Inspector, or Public Health Inspector.

4.0 ISSUANCE, INELIBILITY, AND DISQUALIFICATION OF LICENCE

- 1) The Clerk is not required to consider any application for a Licence until the application is complete, and the Applicant has provided all information and documentation as required pursuant to this By-law, as well as the annual application fee.

- 2) The Clerk is not required to consider any application for a Licence if the Applicant is in breach of this or any other Town by-law or health unit or provincial or federal legislation.
- 3) The Clerk may approve or refuse any Licence application and may impose any conditions upon an approval as they deem appropriate. This can be done based on the vehicle type, appearance or where the location is deemed inappropriate, unsuitable or unsafe.
- 4) No person shall operate a Refreshment Vehicle within fifteen (15) metres from a fuel dispenser at a fuel dispensing station or retail propane dispensing tanks and cylinders.
- 5) The St. Marys Fire Department may impose alternative setbacks from adjacent structures or Vehicles as is deemed necessary in the interest of public safety.
- 6) Licensees shall comply with all Town by-laws, including, but not limited to the Town's Zoning By-Laws and Property Standards By-Law, and comply with all provincial and federal legislation.
- 7) A Licensee shall comply with all Licence requirements.
- 8) If, at any time, the Clerk determines, as a result of evidence that is provided, that the operation of a licenced Refreshment Vehicle does not conform to the requirements of this or any Town by-law or health unit or provincial or federal legislation, the Clerk may suspend or revoke the Licence.
- 9) A total of two (2) Licences shall be issued for permanent Refreshment Vehicles to be located in the Downtown as detailed in Section 5 of this by-law. Each Refreshment Vehicle shall be subject to the Licence fees and regulations as set out in this By-law. Existing Licence holders will have priority over applications submitted by new applicants, subject to being in good standing with the Town.
- 10) Notwithstanding Section 4.9, there shall be no limit on the number of Licences for Public Events which are located in the Downtown.

5.0 LOCATIONS

- 1) Downtown
 - a) The parking stall on the west side of Water Street North, south of Trout Creek, adjacent to the municipal parking lot;
 - b) Additional location(s) deemed appropriate by the Town.
- 2) Municipal Facility Parking Lots and Municipal Parks
 - a) being requested by municipal staff to attend the property, or;
 - b) having been granted a Licence issued by the Clerk after considering the provisions of Section 5.3.c below; and
 - c) operating in compliance with regulations provided by the Town; and
 - d) operating in compliance with the by-law.
- 3) Private Property and Offering Refreshments to the General Public

- a) Private property in the “Industrial”, Commercial”, and “Institutional” zones and zones that include as a permitted use any of the following: “Eating establishment (take out)”, “Caterer’s establishment”, “Banquet hall” and/or “Hotel”, subject to the Refreshment Vehicle and its location meeting the requirement of the Town’s zoning by-law and traffic by-laws.
 - b) Notwithstanding subsection 3.a, the Clerk may approve the operation of a Refreshment Vehicle for a Public Event on private property in any zone with the submission of the following:
 - i. Written proof of invitation to the location from the property owner or event organizer; and
 - ii. Written proof the event is no more than three consecutive days in length.
 - c) The Clerk’s approval shall consider:
 - i. the general intent of the by-law;
 - ii. the past actions by the Refreshment Vehicle operator; and
 - iii. the impact on the community.
- 4) Private Events on Private Property
- a) Refreshment Vehicles that are providing services to Private Events with the consent of the Property Owner, and where Refreshments are not made available to the general public, are exempt from requiring a Licence and paying a fee.
 - b) Notwithstanding Section 5.2 (a) above, Refreshment Vehicles that are providing services to Private Events shall comply with all applicable Town, Provincial, Federal provisions and regulations.

6.0 TERM OF LICENCE

- 1) 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, unless revoked or suspended.
- 2) Daily licenses are valid only for the date(s) as indicated on the license.
- 3) Licences are not transferable except with the written consent of the Clerk.

7.0 PROVISIONS

- 1) A Refreshment Vehicle shall not exceed:
 - a) 2.6 metres in width, and ;
 - b) 13.4 metres in length, and;
 - c) or no larger than one parking stall if located within the Downtown, and;
 - d) 4,500 kilograms.
- 2) No person shall carry on a Refreshment Vehicle business or occupation for which a Licence is required under this by-law:

- a) if the Licence has expired or been revoked; or,
 - b) while the Licence is under suspension.
- 3) Refreshment Vehicles shall be exempt from hourly parking limits on Town highways provided they are:
- a) parked in legal parking stalls;
 - b) actively engaged in the operation of the Refreshment Vehicle business; and,
 - c) in compliance with this by-law.
- 4) No person shall operate a Refreshment Vehicle business except in the defined areas set out in section 5 of this by-law, subject to Zoning By-Law compliance and compliance with other applicable by-laws not exempted by this by-law.
- 5) No person shall operate a Refreshment Vehicle without affixing a refreshment vehicle licence issued under the provisions of this by-law in a conspicuous place on a Refreshment Vehicle for which it is issued.
- 6) No person shall connect to a municipal utility source while situated on municipal property.
- 7) No person shall transfer a licence except with consent in writing of the Clerk, and the Clerk shall not be bound to give such consent to the transfer.
- 8) All Refreshment Vehicles shall operate in compliance with the Town's Noise By-law.
- 9) No person shall permit Refreshment Vehicles to park overnight on public property or private lands after operating hours except on land owned, leased or rented by the operator and in compliance with the Town's Zoning By-Law and Parking, Traffic and Boulevard Maintenance By-law.
- 10) The requirements of section 7.9 above do not apply where:
- a) A Refreshment Vehicle is parked on private property for the duration of a Private Event or Public Event
 - b) A Refreshment Vehicle has been granted an exemption by the Town to permit overnight parking on public property.
- 11) No person shall equip a Refreshment Vehicle with any sounding device, loud speakers, amplifier or other hailing devices for attracting attention.
- 12) No person shall operate a Refreshment Vehicle:
- a) within 10 metres of a restaurant without consent from the restaurant;
 - b) in a manner that interferes with the normal use of a sidewalk by pedestrians
 - c) on the boulevard adjacent to a public highway;
 - d) on private property without the written consent of the Property Owner;
 - e) in a residential area, except on the specific request and with the written permission of a resident to provide food to that resident and guests at the resident's address; or,

- f) on highways outside of the Downtown.
- 13) Notwithstanding 7.12 (a) there shall be no consent requirements for Refreshment Vehicles operating at Public Events which are located in the Downtown.
- 14) No person shall operate a Refreshment Vehicle with a licence that is expired, revoked or suspended.
- 15) Every Licensee shall produce the Licence for inspection at the request of the Clerk, Police Officer, By-Law Enforcement, Fire Inspector, or Public Health Inspector .
- 16) Every Licensee shall maintain the Refreshment Vehicle in a clean and sanitary condition, with adequate measures for the storage and disposal of garbage and waste and sufficient levels of illumination to permit the safe use of the Refreshment Vehicle. The placing of refuse in a sidewalk refuse container provided by the Town is not sufficient to constitute removal.
- 17) Every Licensee shall ensure that the grounds in the vicinity of the Refreshment Vehicle for a distance of 30 metres are kept clean of all waste.
- 18) Every Licensee shall comply with all provisions of this By-law and with all provisions set out in the Licence.
- 19) Every Licensee shall comply with all applicable Town, Provincial, Federal provisions and regulations.

8.0 EXEMPTIONS

- 1) The requirement for Licence fees shall be exempt for those Refreshment Vehicles operating at Public Events that are owned and operated by existing St. Marys food and beverage establishment owners for the duration of the event.
- 2) The requirement for Licence fees shall be exempt for Public Events organized by service clubs and registered charities whose charitable objects benefit the residents of the Town of St. Marys.

9.0 INSPECTIONS

- 1) The Town may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, an Order to Discontinue Activity, or an order under Section 431 of the *Municipal Act*, 2001 is being complied with.
- 2) For the purposes of conducting an inspection pursuant to 9.1 of this by-law, the Town may, in accordance with the provisions of Section 436 of the *Municipal Act*, 2001;
 - a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c) require information from any person concerning a matter related to the inspection; and,
 - d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take test, samples or photographs necessary for the purposes of the inspection.

- 3) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

10.0 ORDER TO DISCONTINUE ACTIVITY

- 1) Where the Clerk has reasonable grounds to believe that a contravention of this By-law has occurred, the Clerk may issue an Order to Discontinue Activity requiring the person contravening the By-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and every person shall comply with such an order.

11.0 ENFORCEMENT

- 1) This by-law may be enforced by the Clerk, Police Officer and Public Health Inspectors, By-Law Enforcement Officer, or Fire Inspector.

12.0 OFFENCE AND PENALTY PROVISIONS

- 1) Any person who contravenes any provision of this By-law is guilty of an offence and:
 - a) Upon conviction is subject to a maximum fine of five thousand dollars (\$5,000.00); and
 - b) A maximum fine of ten thousand dollars (\$10,000.00) upon a first conviction and a maximum fine of \$25,000 for any subsequent conviction.
- 2) Despite section 12.1, where the person convicted is a corporation, the corporation is liable;
 - a) On the first conviction, to a maximum fine of not more than ten thousand dollars (\$10,000.00); and
 - b) On any subsequent conviction, to a maximum fine of not more than twenty-five thousand dollars (\$25,000.00).
- 3) Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended

13.0 SHORT TITLE

This By-law may be referred to as the "Refreshment Vehicle By-law".

14.0 REPEAL

- 1) By-law 34-69, To Licence, regulate, and govern food premises, and for revoking any such licence.
- 2) By-law 16-1998, To Amend By-law No. 34-69 regulating mobile canteens in the Town of St. Marys.

15.0 ENACTMENT

This By-law comes into force and takes effect on January 1, 2023.

Read a first, second and third time and finally passed this 11th day of October 2022.

Signed by Mayor
Mayor Al Stratthdee

Signed by Clerk
Jenna McCartney, Clerk

Penalties of Infraction

Part I: Provincial Offences Act

Item	Short Form Wording	Provision creating or defining offence	Set Fine
1	Sell or offer refreshments from a refreshment vehicle – no licence	2(1)	\$150.00
2	Refreshment vehicle is within 15 metres of fuel or propane dispensing tank and cylinder	4(4)	\$150.00
3	Operate a refreshment vehicle with an expired or revoked licence	7(2)a	\$150.00
4	Operate a refreshment vehicle with a suspended licence	7(2)b	\$150.00
5	Operate a refreshment vehicle in an unauthorized area	7(4)	\$150.00
6	Operate a refreshment vehicle without a licence affixed to the vehicle	7(5)	\$150.00
7	Connect refreshment vehicle to a municipal utility	7(6)	\$150.00
8	Transfer a licence without Town’s consent	7(7)	\$150.00
9	Vehicle equipped with sounding device, loud speakers, amplifier or other hailing device	7(11)	\$150.00
10	Operate a refreshment vehicle within 10 metres of a restaurant without consent	7(12)a	\$150.00
11	Operate a refreshment vehicle that interferes with the normal use of a sidewalk	7(12)b	\$150.00
12	Operate a refreshment vehicle on the boulevard adjacent to a public highway	7(12)c	\$150.00
13	Operate a refreshment vehicle on private property without consent	7(12)d	\$150.00
14	Operate a refreshment vehicle on highways outside of the Downtown	7(12)f	\$150.00
15	Operate a refreshment vehicle with a licence that is expired, revoked or suspended.	7(14)	\$150.00
16	Contravene an order to discontinue activity	10(1)	\$300.00

NOTE: The penalty provisions for the offences listed above is Section 12.1 of by-law 92-2022, a certified copy of which has been filed.