

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

OFFICE CONSOLIDATION OF BY-LAW 2005-080

Consolidated on May 21, 2008

Passed by Council on April 12, 2005

Amendments:

1) By-law 2008-067 May 13, 2008 Article 2.10

Note: This consolidation is prepared for convenience only. For accurate reference the original by-laws should be reviewed.

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2005 - 80

<p>A BY-LAW TO LICENCE, REGULATE AND GOVERN REFRESHMENT VEHICLE BUSINESSES IN KAWARTHA LAKES</p>

Recitals

1. Section 105 of The *Municipal Act, 2001*, S.O. c.25 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. Council considers it appropriate in accordance with Section 150 to licence certain businesses carried on in Kawartha Lakes in order to promote the health and safety of residents, provide nuisance control and ensure consumer protection.

Explanation

Refreshment Vehicles are regulated in Kawartha Lakes for the purposes of health and safety of the Operators and Patrons. It is important for the health and safety of the Patrons of the Refreshment Vehicle that the premises be established and maintained in a sanitary fashion. It is important for the health and safety of the Operators and Patrons of Refreshment Vehicles that the vehicles be maintained in a safe condition.

Therefore, for the purpose of ensuring the health and safety of Patrons and Operators, as contemplated under Section 150(2).1 of the *Municipal Act, 2001*, S.O., c.25 as amended from time to time, Council deems it necessary and appropriate to licence, regulate and govern refreshment vehicles as hereinafter set forth.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2005 -80.

<p>Article 1.00: Definitions and Interpretation</p>

- 1.01 **Definitions**: Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this section 1.01, or, alternatively, in the section of the appropriate Schedule which defines terms. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

“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.

“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.

“City” means The Corporation of the City of Kawartha Lakes.

A **“City Facility”** means any property owned by the City that is not a Highway.

“Clerk” means the Person within the administration of the City who fulfills the function of the City Clerk as required by the *Municipal Act, 2001*. S.O. c.25 or his or her 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 elected municipal council for the City.

“Directors” means all of: the Chief Administrative Officer, the Development Services Director, the Community Services Director, the Public Works Director, the Social Services Director, the Emergency Services Director, Finance Director, Human Resources Director, the Chief of Police, or their delegate.

“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.

“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*, S. O. 1997, c.4 or his or her 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.

“**Kawartha Lakes**” means the geographic area within the City’s jurisdiction.

“**Licence**” means a Licence to operate a Trade issued pursuant to this By-law.

“**Licensee**” means the Owner of a Licence.

“**Licensing Officer**” means the municipal Licensing officer for the City, responsible for the issuing, administration and approval of Licences in accordance with provincial legislation and City policies and procedures, or his or her delegate.

The “**Medical Officer of Health**” means the Medical Officer of Health of the Health Unit or his or her delegate.

“**Municipal Act**” means the *Municipal Act, 2001*.S. O. c.25. as amended from time to time.

A “**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 Officer.

“**Non-Profit**” is an adjective used to describe a Person who meets one or more of the following requirements:

- (a) it is registered in Ontario as a non-profit corporation by the applicable Provincial or Federal authority or Ministry;
- (b) it is certified by an Accountant (to the satisfaction of the Clerk) as a Person that makes no profit and intends to make no profit in its day to day business operations;
- (c) it files no income tax return as a commercial or for profit business; or
- (d) it is a minor sports association or organization.
- (e) it is a Community Betterment Organization or Group that returns 100% of its net proceeds to the community for the community's benefit.

An “**Operator**” is a Person with care and control of a Business at any given point in time, with authorization of the Owner of the Business. The terms “Operate”, “Operation” and words of like import or intent have corresponding meanings.

An “**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.

“**Peace Officer**” to include but is not limited to the mayor, sheriff, deputy sheriff, sheriff’s officer, justice of the peace, jailer or keeper of a prison, and a police officer, bailiff, or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process, or any officer appointed for enforcing or carrying out the provisions of this By-law.

“**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 or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, or his or her 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 include are:

- (a) Class 1 - Chip Trucks (which are Refreshment Vehicles that are relatively stationary, and vend food and beverage stuffs);
- (b) Class 2 - Catering Trucks (which are Refreshment Vehicles that are mobile and vend food and beverage stuffs and sundry items from more than one location in any given day);
- (c) Class 3 - Hot Dog Carts (which are smaller Refreshment Vehicles that contain bar-be-que 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);
- (d) Class 4 - Ice Cream Carts (which are smaller Refreshment Vehicles that store and sell frozen products such as ice cream bars, Popsicles and slushies);
- (e) Class 5 - Popcorn Carts (which are Refreshment Vehicles that vend popcorn, peanuts, chestnuts and/or candy floss with or without beverages); and
- (f) Class 6 - Other Refreshment Vehicles (which are any Refreshment Vehicles which do not meet the definitions in (a) through (e) above).

“Schedule” means a schedule to this By-law.

"Site Plan" means a sketch of the property outlining the location of the refreshment vehicle and the proximity to neighbouring businesses.

“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) 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.
- (b) References to items in the plural include the singular, as applicable.
- (c) The word “include” is not to be read as limiting the phrases or descriptions that precede it.

1.03 **Statutes:** Specific references to laws in this By-law are printed in italic font and are meant to refer to the current laws applicable within the province of Ontario as at the time the By-law was enacted. For provincial laws, the reference is to the relevant chapter of the R.S.O. 1990 edition, as amended from time to time or current S. O. edition. References to by-laws are references to the municipal by-laws with force of law in Kawartha Lakes.

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 will be considered to be severed from the balance of the By-law, which will continue to operate in full force and effect.

- 2.01 **Requirements**: Subject to any exemption provided for in this By-law, no person shall, either directly or indirectly, carry on or continue to carry on a refreshment vehicle business, either for profit or not for profit, without first having obtained the required Licence. Failure to comply with this section or provision of this By-law is an offence.
- 2.02 **Regulations**: A Person who receives a Licence for a Refreshment Vehicle shall comply with the regulations set out in this By-law and any other applicable By-laws, Provincial or Federal legislation or regulations. 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 his or her principal, beneficiary or Persons he or she represents in connection with this By-law.
- 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 **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 (100 m) meters of an existing restaurant or other Eating Establishment, including another Refreshment Vehicle.
- 2.06 **Exemption to Article 2.05**: Exemption from this provision is available where the Refreshment Vehicle business is located on municipal property or on a public park where the City or park owner has given written permission. An exemption from Article 2.05 may be granted if the applicant provides written permission, signed by the Owner or Operator of a restaurant, Eating Establishment, another refreshment vehicle, that they have no objection to the refreshment vehicle operating within the one hundred meter (100m) distance of their business.
- 2.07 **Proximity to Parks**: No Licence shall be issued to any Person to operate a Refreshment Vehicle from a location, which is within one hundred (100m) meters of an existing municipal park. Exemption from this prohibition may be granted where the Refreshment Vehicle is to operate in or adjacent to city property, whether permanently, for an extended period of time, or at a specific event, and has the written authorization of the Community Services Director or a written contract for the rental of a city facility.
- 2.08 **Liability Insurance**: No Person shall be granted or hold a Licence for a Refreshment Vehicle unless the Applicant establishes and maintains in effect proof of liability insurance and vehicle insurance covering each vehicle as required by the terms of this By-law. Failure to maintain insurance as required constitutes an offence.
- 2.09 **Temporary Licence**
The Licensing Officer shall issue a temporary licence to a person or organization for a single event which does not last for more than seven consecutive days during the calendar year if all of the conditions to issue a licence as outlined within the 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.

A temporary licence issued for operation within the geographic areas identified in Schedule "B" shall be exempt from the number restrictions outlined in Section 2.10.

2.10 **Number and Classes of Licences Issued/Geographic Area:** Not more than the following number of owners and licenses shall be issued each year per geographic area:

Class of Licence	Number Allowed	Geographic Location
Class 1 – Chip Truck	Maximum of four (4)	Lindsay – Area identified in Schedule “B”
Class 1 – Chip Truck	Maximum of two (2)	Fenelon Falls, and Coboconk – Areas identified in Schedule “B” (2008-067, effective May 13/08)
Class 1 – Chip Truck	Maximum of one (1)	Bethany, Bobcaygeon, Kinmount, Kirkfield, Little Britain, Norland, Oakwood, Omemee, Pontypool and Woodville – Areas identified in Schedule “B” (2008-067, effective May 13/08)
Class 1 – Chip Truck	No restrictions	Areas identified in Schedule “C”
Class 2 – Catering Truck	Maximum of four (4)	Lindsay – Area identified in Schedule “B”
Class 2 – Catering Truck	Maximum of one (1)	Bethany, Bobcaygeon, Coboconk, Fenelon Falls, Kinmount, Kirkfield, Little Britain, Norland, Oakwood, Omemee, Pontypool and Woodville – Areas identified in Schedule “B”
Class 2 – Catering Truck	No restrictions	Areas identified in Schedule “C”
Class 3 – Hot Dog Cart	Maximum of four (4)	Lindsay – Area identified in Schedule “B”
Class 3 – Hot Dog Cart	Maximum of two (2)	Bobcaygeon– Area identified in Schedule “B”
Class 3 – Hot Dog Cart	Maximum of one (1)	Bethany, Coboconk, Fenelon Falls, Kinmount, Kirkfield, Little Britain, Norland, Oakwood, Omemee, Pontypool and Woodville – Areas identified in Schedule “B”
Class 3 – Hot Dog Cart	No restrictions	Areas identified in Schedule “C”
Class 4 – Ice Cream Cart	Maximum of four (4)	Lindsay – Area identified in Schedule “B”
Class 4 – Ice Cream Cart	Maximum of one (1)	Bethany, Bobcaygeon, Coboconk, Fenelon Falls, Kinmount, Kirkfield, Little Britain, Norland, Oakwood, Omemee, Pontypool and Woodville – Areas identified in Schedule “B”
Class 4 – Ice Cream Cart	No restrictions	Areas identified in Schedule “C”
Class 5 – Popcorn Cart	Maximum of two (2)	Lindsay – Area identified in Schedule “B”
Class 5 – Popcorn Cart	Maximum of one (1)	Bethany, Bobcaygeon, Coboconk, Fenelon Falls, Kinmount, Kirkfield, Little Britain, Norland, Oakwood,

		Omeme, Pontypool and Woodville – Areas identified in Schedule “B”
Class 5 – Popcorn Cart	No restrictions	Areas identified in Schedule “C”
Class 6 – Other Refreshment Vehicles	Maximum of two (2)	Lindsay – Area identified in Schedule “B”
Class 6 – Other Refreshment Vehicles	Maximum of one (1)	Bethany, Bobcaygeon, Coboconk, Fenelon Falls, Kinmount, Kirkfield, Little Britain, Norland, Oakwood, Omeme, Pontypool and Woodville – Areas identified in Schedule “B”
Class 6 – Other Refreshment Vehicles	No Restrictions	Areas identified in Schedule “C”

2.11 **Exemption for Ancillary Business:** The owner of a permanent business where they also operate an ancillary business, shall apply for a refreshment vehicle licence and pay the fee in accordance with Schedule “A” attached to this by-law.

Article 3.00: Application Procedures and Requirements

3.01 **Application:** An application for a Licence or renewal of a Licence may be made at the main licensing office of the City, or at any of the City’s municipal service centers, on the form prescribed by the Licensing Officer.

3.02 **Application Requirements and Documentation:** The application form shall require information to be provided, and other necessary papers to be completed or submitted by the Applicant in conjunction with his or her 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 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 \$1,000,000.00 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 Vendor’s Permit;
- f) documentation from the Fire Chief 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) documentation from the Medical Officer of Health that all health requirements have been met;
- h) a Personal Information Query (PIQ) for every applicant, partner, shareholder or shareholders of a corporation; and
- i) the appropriate Licence fee required in accordance with Schedule “B” of this By-law.

3.03 **Additional Documents Required:** In addition to the requirements prescribed in Section 3.02, 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 he or she

has 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 Ontario *Building Code Act S. O. 1992, c.23*; 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) meters of the proposed location of the Refreshment Vehicle that they have no objection to the issuance of the licence.

3.04 **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 Ontario *Building Code Act S. O. 1992, c.23*;
- 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.

3.05 **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*.

3.06 **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.

3.07 **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.

- 4.01 **Licence Fee**: The fee for obtaining a Licence or renewal of a Licence shall be as set out in Schedule "A" of this 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. An exemption of fee as set out in Schedule "A" shall apply to non profit organization, as defined within this by-law, operating a refreshment vehicle at a Community Event.
- 4.02 **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 or destroyed, upon written application by the Licensee and upon payment of a fee of ten (\$10.00) dollars.
- 4.03 **Posting & Production of Licences (Fixed Location)**: Where a Licensee carries on his or her 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 any Person authorized by Council, produce the Licence for inspection. Failure to comply with this section is an offence.
- 4.04 **Posting & Production of Licences (No Fixed Location)**: Where a Licensee or employee of a Licensee travels from place to place to perform his or her Business, he or she shall carry his or her Licence at all time when engaged in the Business. Persons licensed under this By-law shall, when requested by any Person authorized by Council, produce the Licence for inspection. Failure to comply with this section is an offence.
- 4.05 **Licence Identifier for Vehicles**: Where a Licensee is issued an identifier obtained under this By-law bearing an identifying number, the Licensee shall securely affix the licence identifier, in a conspicuous position visible to the public, to the vehicle for which it was issued. Failure to comply with this section is an offence.
- 4.06 **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 Clerk within thirty days. Failure to comply with this section is an offence.
- 4.07 **Change of Address**: Every change of mailing address or telephone number of any Licensee shall be reported to the Licensing Officer within fifteen (15) days. Failure to comply with this section is an offence.
- 4.08 **No Transfer**: It is an offence to attempt to transfer or assign a Licence issued under this By-law except in accordance with section 4.09.
- 4.09 **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 section 3.03 of this By-law apply to applications for Licence transfer. A transfer fee shall be charged as set out in Schedule "A" attached to this by-law.

- 4.10 **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.
- 4.11 **Licensees to Use Name on Licence**: It is an offence for a Person licensed to carry on a Trade under this By-law to advertise or carry on that Trade under any other name than the one endorsed on his or her Licence.
- 4.12 **Health and Sanitary Requirements**: It constitutes an offence for a Person to fail to comply with all health and sanitary regulations, 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.
- 4.13 **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) meters 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
- 4.14. **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) meters 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.
- 4.15 **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.
- 4.16 **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..
- 4.17. **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.
- 4.18 **Vending from Unlicensed Location**: It constitutes an offence for any Person to vend from a Refreshment Vehicle (other than a Catering Truck or Ice Cream Cart) at a location other than that authorized on the Person's Refreshment Vehicle Licence.
- 4.19 **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.
- 4.20 **No Obstruction:** No person shall obstruct, hinder or in any way interfere with any person designated to enforce this By-law.
- 4.21 **Consideration to Matters Raised:** Council may, in exercising its discretion pursuant to this By-law, consider any matter raised under section 3.04 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.
- 4.22 **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.
- 4.23 **Transition:** Where a refreshment vehicle operated lawfully and was lawfully licensed in 2004 and immediately before this by-law took effect, the owner or operator shall be provided with a maximum of twelve (12) months to comply with the provisions of this by-law save and except Section 4.13 and 4.14.

Where a refreshment vehicle operated lawfully and was lawfully licensed in 2004 and immediately before this by-law took effect, the owner or operator shall be exempt from the provisions of Section 4.13 and 4.14 except within the geographic area identified in Schedule "B" identified as Fenelon Falls. (2005-129, effective June 7/05)

Where the number of lawfully operated refreshment vehicles within an area defined in Schedule "B" exceeds the number allowed within Section 2.10 at the time of passage of this by-law, the Licensing Officer shall be authorized to continue to licence those specific licensed locations under the terms and conditions of Article 3.00 until such time as the business ceases operation by the owner licensed at the time of passage of this by-law.

Article 5.00: Granting, Refusal and Revocation Of Licenses
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- 5.01 **Grant Licence:** Where the Applicant's documentation is in order and the applicable fee has been paid, the Licensing Officer shall grant the Licence of the Applicant, or the renewal, as applicable.
- 5.02 **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
- 5.03 **Refuse Licence:** In the event that the Licensing Officer refuses to grant for any reason, 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 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.

- 5.04 **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 5.03 such discretion shall be exercised,
- a) upon such grounds as are set out in this by-law or
 - b) 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.

Article 6.00: Enforcement and Penalties

- 6.01 **Schedules Shall Apply:** Every Applicant is subject to all relevant regulations contained in the Schedules.
- 6.02 **Administration of the By-law:** Unless otherwise indicated in this By-law, the administration of this By-law is assigned to the City Clerk, who may delegate the performance of any of the City Clerk's functions under this By-law from time to time as occasion requires.
- 6.03 **Enforcement:** This enforcement of this By-law is assigned to the Municipal Law Enforcement Officers.
- 6.04 **Offence and Penalty:** It is an offence for any person to contravene any of the provisions of this By-law. Every person who contravenes this by-law, and every director or officer of a corporation who concurs in the contravention by the corporation, is guilty of an offence and on conviction is liable to the penalties prescribed in the *Provincial Offences Act, 1990 c.P.33*.
- 6.05 **Removal Upon Request:** When requested to do so by any Municipal Law Enforcement Officer, the Operator of a Refreshment Vehicle must move the Refreshment Vehicle immediately, as instructed. Failure to comply with this section constitutes an offence.
- 6.06 **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.

Article 7.00: Repeals; Predecessor By-laws; Effective Date
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- 7.01 **Repeals:** Subject to section 7.02, the following by-laws are repealed:
- (a) **By-Laws Regarding Refreshment Vehicles**

Municipality	By-law Number
Town of Lindsay	93-71
Village of Fenelon Falls	89-7
Township of Fenelon	34-91

United Townships of Laxton, Digby and Longford;	4-96
Village of Omemee	1994-15
Township of Verulam	12-94
Village of Woodville	2000-10
Township of Somerville	95-18
Township of Ops	79-6, 95-11 and 99-22
Village of Bobcaygeon	10-93
Township of Eldon	96-9

- 7.02 **Ongoing Matters**: Each by-law listed in section 7.01 shall remain in force and effect for the purpose of conclusion of any legal proceedings commenced under those by-laws prior to the effective date of this By-law, and for the purpose and effect of the validity of any licence issued pursuant to any of those by-laws for the calendar year 2005.
- 7.03 **References to Predecessor By-laws**: References in other by-laws governing Kawartha Lakes to any historically applicable Licensing by-law are deemed to be references to this By-law.
- 7.04 **Effective Date**: This By-law shall take effect on the date of passage.

By-law read a first, second and third time, and finally passed, this 12th day of April, 2005.

 Mayor

 Clerk

**SCHEDULE "A"
 TO BY-LAW 2005 -80**

BUSINESSES, LICENCE FEES AND REFERENCE TO REGULATIONS

TRADE OR BUSINESS	LICENCE FEE
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First Location	
Refreshment Vehicle - Chip Truck	\$ 305.00 per year or part year
Refreshment Vehicle - Coffee Truck	\$ 305.00 per year or part year
Refreshment Vehicle - Hot Dog Cart	\$ 305.00 per year or part year
Refreshment Vehicle - Ice Cream Cart	\$ 305.00 per year or part year
Refreshment Vehicle - Popcorn Cart	\$ 305.00 per year or part year
Refreshment Vehicle - Other	\$ 305.00 per year or part year
Refreshment Vehicle – Temporary	\$150.00 per event
Refreshment Vehicle – Temporary – Non-Profit Organization	No Charge
Refreshment Vehicle – where extension of current business operation on the same property	No Charge
Second Location	
Refreshment Vehicle – Chip Truck second location	\$305.00 per year or part year
Refreshment Vehicle – Coffee Truck – second location	\$305.00 per year or part year
Refreshment Vehicle - Hot Dog Cart – second location	\$ 305.00 per year or part year
Refreshment Vehicle - Ice Cream Cart – second location	\$ 305.00 per year or part year
Refreshment Vehicle - Popcorn Cart – second location	\$ 305.00 per year or part year
Refreshment Vehicle – Other – second location	\$ 305.00 per year or part year
Third Plus Locations	
Refreshment Vehicle – Chip Truck for each location in addition to two	\$305.00 per year or part year
Refreshment Vehicle – Coffee Truck for each location in addition to two	\$305.00 per year or part year
Refreshment Vehicle - Hot Dog Cart for each location in addition to two	\$305.00 per year or part year
Refreshment Vehicle - Ice Cream Cart for each location in addition to two	\$305.00 per year or part year
Refreshment Vehicle - Popcorn Cart for each location in addition to two	\$305.00 per year or part year
Refreshment Vehicle – Other for each location in addition to two	\$305.00 per year or part year
Other Fees	
Transfer of Licence	\$150.00 per transfer
Ancillary Licence	No Charge