

# **TOWN OF SMITHS FALLS**

## **CONSOLIDATED BY-LAW NO. 8214-2009, AS AMENDED**

### **By-law to Licence, Regulate and Govern Refreshment Vehicles in the Town of Smiths Falls**

Amended by By-laws:  
By-law 10042-2019

OFFICE CONSOLIDATION: This is an office consolidation of the Refreshment Vehicle By-law and amendments thereto which has been prepared for convenience only. While every effort has been made to ensure the accuracy of the information contained herein, reference should be made to the original by-law and all amending by-laws for legal purposes.

As this is a consolidated version of the by-law, please see Fee By-law 8142-2008 for current fees

**THE CORPORATION OF THE TOWN OF SMITHS FALLS**  
**CONSOLIDATED VERSION**  
**BY-LAW NO: 8214-2009**

*A BY-LAW TO LICENCE, REGULATE AND GOVERN  
REFRESHMENT VEHICLES IN THE TOWN OF SMITHS FALLS*

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WHEREAS, Part IV of the Municipal Act, 2001 authorizes the council of every local municipality to pass by-laws for licensing, regulating and governing any business carried on within the municipality.

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows

1. **DEFINITIONS**

The following definitions shall apply for the purposes of this by-law:

- (a) “Chip Wagon” shall mean a motor vehicle or trailer equipped for the cartage. Storage and preparation of refreshments which is used only for the sale of such refreshments intended for the consumption of the general public. A Chip Wagon shall be permitted to locate at one designated site and shall be included in the definition of “Refreshment Vehicle”.
- (b) “Clerk” shall mean the Clerk or Deputy Clerk of the Town of Smiths Falls.
- (c) “Corporation” shall mean the Corporation of the Town of Smiths Falls.
- (d) “Council” shall mean the Council of the Town of Smiths Falls.
- (e) “Licence” shall mean a licence issued under the provisions of this by-law.
- (f) “Medical Officer of Health” shall mean the Medical Officer of Health for Leeds, Grenville and Lanark District Health Unit or his duly authorized delegate.
- (g) “Mobile Canteen” shall mean a motor vehicle equipped for the cartage, storage and preparation of refreshments from which said motor vehicle refreshments are offered for sale for consumption primarily by person 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 refreshments. A Mobile Canteen shall be included in the definition of “Refreshment Vehicle.”
- (h) “Operate” shall mean the act of selling, offering for sale or otherwise dispensing of refreshments and “Operator” shall have a like meaning.
- (i) “Refreshment” 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 not be limited to French fries, hamburgers, onion rings, pogos, hotdogs, sausages, sandwiches, popcorn, ice cream, candy, confections and fresh produce.
- (j) “Refreshment Cart” shall mean a mobile vehicle propelled by human muscle power from which refreshments are sold for consumption by the general public. It shall include a barbeque. A main body of the Refreshment Cart shall not exceed the following dimensions: 96 inches in length, 44 inches in width and 48 inches in height, measured from the ground upward.
- (k) “Refreshment Vehicle” shall include a Chip Wagon, Mobile Canteen and Refreshment Cart as defined in this by-law.
- (l) “Roadworthy” shall mean that the vehicle complies with the requirements of the Highway Traffic Act and in the case of the Chip Wagon and Mobile Canteen is

licensed by the Ministry of Transportation on for operation on Public Highway. The applicant for a licence shall produce such vehicle licence prior to issuance of a licence.

2. **LICENSING**

- (a) No person shall operate a Refreshment Vehicle within the limits of the Town of Smiths Falls unless and until the operator has obtained a separate licence for each refreshment vehicle, as issued under the provisions of this by-law.
- (b) The annual licence fees for each Refreshment Vehicle shall be as listed in Schedule "A" of this By-law.
- (c) The term of each licence shall be from the first day of January to the thirty-first day of December in each year and no licence shall be issued except on payment of the full amount of the prescribed fee, provided that where an applicant for a Chip Wagon or Mobile Canteen, who has not at any time in the previous two calendar years held such a licence applies after the thirty first day of July, a licence may be issued for the balance of that year on payment of one-half the licence fee set out herein.
- (d) A licence may be transferred from one vehicle to another or from one operator to another upon application and payment of the fee detailed in Schedule "A" provided always that the new vehicle and/or operator comply with the provisions contained in this by-law. A transfer application may not be granted if the nature of the business has changed from that detailed in the licence application.
- (e) An annual renewal licence may be issued to the previous holder of the licence for a previously approved location provided all other application requirements, including the payment of the prescribed fee, permission of the land owner, proof of valid vehicle licence and compliance approval from the Medical Officer of Health, Chief Fire Official and Chief Building Official, are submitted on an annual basis.
- (f) A Refreshment Vehicle shall have in the vehicle at all times, the refreshment vehicle license granted for the vehicle. The vehicle operator shall present said license upon request of a Law or By-law Enforcement Officer.
- (g) The operator of a Refreshment Vehicle shall accept liability for all or any claims for injury or damage to any person or property caused or created by the operation of the Refreshment Vehicle.
- (h) The Corporation may refuse to grant a license or revoke or suspend a license.
- (i) The Corporation may impose conditions as a requirement of obtaining, continuing to hold or renewing a license at any time during the term of the license.
- (j) No person shall enjoy a vested right in the continuance of a licence, except as provided in this by-law, and, whether issued, renewed, expired, revoked or otherwise terminated, the licence, and any value of such licence, shall continue to be the property of the Corporation.
- (k) Every person who holds a licence shall ensure compliance with this by-law and all other applicable law by all persons involved in the carrying on of such business, and no such person shall permit any person employed by such person or otherwise involved in the carrying on the business, to do so other than in compliance with this by-law. No licence issued under this by-law shall authorize any person to do any thing in contravention of any other law.
- (l) No licence shall be issued if the applicant owes any monies, including taxes, permit fees or outstanding work-orders to the Corporation of the Town of Smiths Falls.

- (m) The corporation reserves the right to investigate any business or individual who applies for a licence under this by-law. Such investigation shall be conducted by the Smiths Falls Police Service and reported to the licence issuer.
- (n) The issuance of any licence may be subject to the written approval of the Smiths Falls Fire Department, Smiths Falls Building/Planning Department, The Medical Officer of Health/Health Unit and Smiths Falls Police Services.
- (o) Consideration to public interest, non-compliance with this by-law, imposed conditions or any other law is a factor relevant to the consideration of whether or not a licence may be granted, (renewed,) refused or revoked, notwithstanding that the holder of the licence has not been prosecuted or convicted for contravention of such law.
- (p) The applicant must permit ample and reasonable time from the time of initial application (providing it is complete) to a response whether the licence shall be permitted or not.
- (q) If the Town refuses to grant or revokes a licence pursuant to this by-law, the applicant may request a hearing of Council in accordance with the Statutory Powers Procedure Act.
- (r) The Licensing Officer shall carry out the administrative functions of administering, applying and enforcing this by-law.
- (s) All applications shall be accompanied by the required fee.

3. **GENERAL REGULATIONS - ALL REFRESHMENT VEHICLES**

- (a) Nothing in this by-law, including the issuance of a licence, conveys the right to enter upon or conduct business from any private, public or Crown property. Written evidence of the land owner's permission to locate the refreshment vehicle on property shall be produced prior to the issuance of a license.
- (b) The operator of every Refreshment Vehicle shall at all times comply with the requirements of the District Health Unit of Leeds, Grenville and Lanark with respect to sanitation, cleanliness, washroom facilities, refuse and all other matters under this jurisdiction and every application for a licence shall submit written confirmation from the Health Unit of compliance in that regard.
- (c) The operator of every Refreshment Vehicle shall at all times comply with the requirements of the Chief Fire Official of the Town of Smiths Falls with respect to matters of fire prevention and fire safety. Every applicant for a licence shall submit written confirmation from the Fire Chief of compliance in that regard.
- (d) Every Refreshment Vehicle shall at all times be roadworthy and in proper operating condition. When in motion on a public highway, shall be subject to the provisions of the Highway Traffic Act. Refreshment vehicles are not exempt from parking by-laws of the Corporation.
- (e) All Refreshment Vehicles shall be kept in a clean and presentable condition and be painted in a manner satisfactory to the Corporation and such shall include approved sign appurtenant thereto. The property on which the Refreshment Vehicle 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.
- (f) Exemptions from certain provisions of this by-law may be granted for Refreshment Vehicles to be operated in parks, or other lands in the control of the Corporation for specific special events but only, during the time times and at the locations designated by the Clerk in writing.

4. **CHIP WAGONS**

- (a) The property on which a Chip Wagon is to be located shall be zoned Commercial or Industrial as set out in the current Zoning By-law. The location shall be approved by Council of the Corporation. Every application for Council approval of the location shall include a site plan drawn to scale showing the proposed vehicle location, proposed structures, adjacent structures, entrance and exit from adjacent streets, proposed additions to the vehicle, signs, required parking spaces and set back distances from the street, all as required by the provisions of this by-law.
- (b) The Chip Wagon shall be located at least 6 meters from the front line of the property on which it is located.
- (c) The site for a Chip Wagon shall provide a minimum of four automobile parking spaces for the exclusive use of the Chip Wagon's patrons.
- (d) All structures or additions to the Chip Wagon site, including signs and structures designed to protect the public from the elements while being served at the servicing window, are subject to approval of Committee of the Whole, building permit and inspection by the Chief Building Official. The changes shall be shown on the site plan required pursuant to section 4 (a). Such structures or additions shall be designed and constructed in a neat and workmanlike fashion such that they do not detract from the general appearance of the site nor inhibit the ability to move the vehicle on short notice. The maximum area of all additions, in total, shall not exceed 1/3 of the area occupied by the Chip Wagon itself.

5. **MOBILE CANTEEN**

- (a) The operator of a Mobile Canteen shall conduct business only while parked other than on a public highway, street, road, lane, park, boulevard or other public land provided that when special exemption to do so has been granted in writing by the Clerk under Clause 3(f) herein, business may be conducted when parked on a street where construction work is being carried out or when parked in a park or other lands in the control of the Corporation.

6. **REFRESHMENT CART**

- (a) Refreshment Carts may operate on specified public parks lands in the control of the Corporation upon written permission from the Director of Community Services. Such written permission shall be submitted with the application for a licence.
- (b) Refreshment Carts may operate on private property zoned Commercial or Industrial as set out in the current Zoning By-law. The location of the cart on site shall be approved by the Director of Planning and Administrative Services of the Corporation. Every application shall include a site plan drawn to scale showing the proposed cart location, adjacent structures, entrance and exit from adjacent streets, garbage receptacle location, and other requested information, all as required by the provisions of this by-law and the Corporation.
- (c) Refreshment Carts shall be self contained units capable of being removed from the site immediately upon the request of any Law or By-law Enforcement Officer of the Town of Smiths Falls.
- (d) Placement of any articles such as signs, chairs, benches and umbrellas, excluding waste receptacles is prohibited.

7. **FESTIVALS/CHARITABLE EVENTS/TRADESHOWS**

- (a) A single license may be issued for multiple refreshment sales at festivals and tradeshow upon application by the festival/tradeshow organizing body. Every application shall include a site plan drawn to scale showing the proposed

refreshment vehicle types, their location, adjacent structures, entrance and exit from adjacent streets, garbage receptacle locations, and other requested information. Sufficient notice shall be provided to ensure fire and/or building inspections can be provided prior to/at the event.

- (b) The fee for charitable refreshment sales events, festivals and/or tradeshow of a broad community nature may be waived at the discretion of the Clerk. To qualify for charitable status exemption the proceeds must serve local needs.
- (c) All other provisions of this by-law shall apply.

8. **REVOCAION OF LICENCE**

- (a) A licence issued under the provisions of this by-law may be revoked by the Corporation when:
  - (1) Written notice has been received from the Medical Officer of Health, Chief Fire Official or Chief Building Official stating that the Refreshment Vehicle is operating contrary to required standards; or
  - (2) The licensee has been served notice of non-compliance with the terms of this by-law by the Corporation and the licensee has failed to take such action as necessary within five (5) working days of receipt of the notice; or
  - (3) The licensee has been served, by the Corporation, with three (3) notices of non-compliance with the terms of this by-law during the period for which the licence was issued.
- (b) The Corporation shall service notice to the licensee of an impending revocation of a licence and the licensee or his representative shall have ten (10) days to request a hearing before Council. Failure to request a hearing within the ten (10) day period shall result in revocation of the licence immediately thereafter.
- (c) Any licence granted under this by-law may be revoked by Council at any time by reason of the breach or failure to fulfill any of the provisions of this by-law. The Council may revoke any licence issued under this by-law, on the basis of any one or more the following grounds:
  - (1) There are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee contains a false statement or provides false information.
  - (2) There are reasonable grounds for belief that the carrying on of the said business has resulted or will result in a breach of this by-law or any other law, including a breach of any condition imposed on a licence under this by-law;
  - (3) There are reasonable grounds for belief that the building, premises or equipment used in carrying on the business does not comply with the provisions of this by-law or any other law;
  - (4) Information contained in the original application form, or any other information provided to the Clerk by or on behalf of the applicant, has ceased to be accurate, the licensee has not provided up-to-date accurate information to the Clerk sufficient to allow the Clerk to conclude that the licence should be maintained as valid and subsisting;
  - (5) The fee payable in respect of the licence has not been paid.
  - (6) No licence shall be revoked under this by-law, except after a hearing by the Council, or after the licensee has been given the opportunity for such a hearing, in accordance with the Statutory Powers Procedure Act.

(7) Failure to comply within thirty (30) days to the provisions of this by-law shall result in the revocation of the licence. Council may grant a reasonable extension of time to the holder of the licence in order to comply with the provisions of this by-law.

(8) If the licence is revoked, all licence fees are non refundable based on the costs associated with administering the application. If a license is refused 50% of the fee shall be returned. The balance shall be held to cover administrative costs. Once issued there shall be no return of any license fee.

9. **CONTRAVENTION**

(a) Any person violating any of the provisions of this by-law is guilty of an offence and on conviction shall be liable to a penalty pursuant to the Provincial Offences Act. Set fines may be established for certain offences contained in this by-law. Such set fines shall be established pursuant to the Provincial Offences Act and shall become effective upon the approval of the Regional Senior Judge of the Ontario Court of Justice.

10. **EFFECTIVE DATE**

(a) The provisions of this by-law shall come into force and take effect upon the passing thereof. Holders of Valid 2008 Refreshment Vehicle license, on the date of passing this by-law, may continue to operate until January 1, 2009.

11. **ULTRA VIRES**

Should any sections of this by-law, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

Read a first and second time this 6<sup>th</sup> day of April, 2009

Read a third time and passed this 6<sup>th</sup> day of April, 2009

Original Signed by Mayor

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Mayor

Original Signed by Clerk

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Clerk

**SCHEDULE "A" to BY-LAW 8214-2009**  
**Schedule of Fees\***  
**Refreshment Vehicle Licensing By-Law**

The fees listed herein shall be the annual licence fees (January 1 to December 31) for refreshment vehicles unless otherwise provided herein or detailed in Section 2 b) the by-law.

Refreshment Vehicle (Motorized)	<b>\$600.00/vehicle</b>
Refreshment Vehicle (If owner/applicant pays business tax to Town used in connection)	<b>Annual Fee of \$50.00/Vehicle</b>
Refreshment Vehicle (Non-Motorized)	<b>\$150.00/Vehicle</b>
Refreshment Vehicle-Non-Motorized (If owner/applicant pays business tax to Town used in connection)	<b>Annual Fee of \$50.00/Vehicle</b>
Chip Wagon Structure Modification	<b>\$50.00/request</b>
Charitable BBQ's	<b>No Fee</b>

Multi-refreshment Festival/Tradeshow Event      \$200.00 per Festival/Tradeshow to maximum of 6 days or 2 consecutive weekends (3 days each)

Administrative Penalty for failure to comply with any part of the licensing system      \$50.00 per non-compliance

\* In accordance with the provisions of this by-law, fees may be waived for charitable refreshment sales, festivals or tradeshow's of a broad community nature. However, license(s) must still be obtained and the events must comply with provisions of this by-law.

\*\* If the licence is revoked, all licence fees are non refundable based on the costs associated with the administering the application. If a license is refused 50% of the fee shall be returned. The balance shall be held to cover administrative costs. Once issued there shall be no return of any license fee.

The annual fee for a Refreshment Vehicle be reduced to \$200.00 for business owners who comply with the following provisions:

- a) Applicant has paid the full licencing fee for their primary/first inspection;
- b) Any major renovations/upgrades to the Refreshment Vehicle have not occurred within the year;
- c) The Annual Inspection has been completed and signed off by the Fire Prevention Officer and Chief Building Official and confirmation that no other follow up inspections are required for that calendar year;
- d) Any major upgrades or replacement of kitchen equipment has not occurred within the year;
- e) Applicant has not re-located;
- f) Both the property owner(s) and applicant(s) have no outstanding accounts (i.e. invoices, taxes, water, permit fees and any other outstanding account with the municipality) or outstanding work orders with the Corporation; and
- g) The reduced fee pertains to "motorized" Refreshment Vehicles only.