

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

BY-LAW NO. 162-2003 & 351-2015 (CONSOLIDATED BY-LAW)

BEING A BYLAW TO LICENSE, REGULATE AND GOVERN REFRESHMENT VEHICLES

WHEREAS, Section 5 of the Municipal Act 2001, as amended, specifies that a Municipal Council shall exercise its powers by By-Law;

AND WHEREAS, Section 8 and 9 of the Municipal Act 2001, as amended, provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS, Section 11 (2) of the Municipal Act 2001, as amended, specifies the Spheres of Jurisdiction the Municipality may pass By-Laws respecting matters in those Spheres of Jurisdiction;

AND WHEREAS, Section 150 of the Municipal Act 2001, as amended, permits the Municipality to license and regulate any business wholly or partly carried out within the Municipality

NOW, THEREFORE, the council of the Corporation of the Municipality of Brighton enacts as follows:

DEFINITIONS

1. For the purpose of this by-law
 - aa) **By-Law Enforcement Officer:** shall mean the person appointed by the Municipality of Brighton for the purpose of enforcing By-Laws
 - a) **Catering Vehicle:** shall mean a motor vehicle which travels on a daily basis to various locations throughout the municipality for the purpose of selling refreshments.
 - b) **Clerk:** shall mean the Clerk of the Municipality of Brighton
 - c) **Eating Establishment:** shall mean a building or a part of a building where food is offered for sale or sold to the public for immediate

consumption and includes a restaurant, dining room, café, cafeteria, ice cream parlour, tea or lunch room, diary bar, coffee shop, snack bar or refreshment room or stand, but does not include a boarding or lodging home.

- d) **Municipality:** shall mean the Corporation of the Municipality of Brighton.
- e) **Person:** shall mean any individual, firm, society, association, partnership or corporation.
- f) **Refreshment Vehicle** shall mean any trailer or vehicle whether mechanically propelled or otherwise from which refreshments, including: French fries, (chips), ice cream products, hot dogs, sausages, confections and beverages are sold for consumption by the public, but does not include a catering vehicle.
- gg) **Special Event:** shall mean a not for profit or Brighton community group event in the Municipality of Brighton.
- g) **Take-out eating establishment** shall mean a building or part of a building designed, intended or used for the sale of food and refreshments to the general public but which does not include any provision for consumption of the food by the customer while in his vehicle, within the building or elsewhere on the site.
- h) **Waste** includes food, liquid disposable eating utensils, paper, wooden cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a refreshment vehicle.

OPERATING LOCATION REQUIREMENTS

2. No person shall operate a refreshment vehicle or catering vehicle within the municipality without first having obtained a license to do so.
3. No person shall operate a refreshment vehicle on any public property, street or road allowance within the municipality.
4. (i) Every person shall provide to the Municipality a food safety inspection report from the Health Unit, a propane certificate, proof of insurance, letter of consent from property owner and a letter of consent from the event organizer before operating a refreshment vehicle at a special event.

(ii) This By-Law shall not apply to a refreshment vehicle which has been approved for operation in conjunction with a community festival or special event approved by the Municipality.

5. No person shall operate a refreshment vehicle in a location within the municipality other than the location approved by the municipality and recorded on the license.
6. No person shall operate a refreshment vehicle except on land within Highway Commercial (HC), Recreational Commercial (RC), and General Industrial (MI) Zones defined in the Municipality of Brighton Zoning By-Law Number 140-2002.
7. A license shall be issued with respect to one refreshment vehicle only, and the licensee shall ensure that it is at all times affixed in a conspicuous place to the vehicle for which it was issued.
8. Every License issued pursuant to this By-Law shall expire on 31st day of December of the year in respect to which it was issued. No person shall operate a refreshment vehicle with an expired license.
9. No person shall transfer or assign any license to a refreshment vehicle other than the refreshment vehicle for which the license is specifically issued.
10. A license shall not be issued until the applicant has filed a formal application together with the items detailed in Section 13 hereof.
11. A license renewal shall be subject to review and approval by the Clerk who may request confirmation or renewal of any of the information required in the initial application.

CONDITIONS FOR ISSUANCE OF LICENSE

12. Every application for a license shall be in writing on a form provided by the Clerk and shall contain the following information and be accompanied by the follow items
 - a) Name, address and telephone number of the person applying for the license. If this person is partnership or corporation, the names and addresses of all members of the partnership or officers of the corporation.

- b) A description of the vehicle including all equipment installed or to be installed therein for use in the preparation, storage and dispensing of refreshments.
 - c) Approval from the Haliburton, Kawartha, Pine Ridge District Health Unit, a copy of the food safety inspection report included in the refreshment vehicle application
 - d) Written approval from the Director of Public Works that the proposed location or the refreshment vehicle will not interfere with normal traffic flow on roads within the municipality and that sufficient off-road parking is provided.
 - e) Written permission from the owner of the land on which the refreshment vehicle is to be located.
 - f) Installation of propane-fueled appliances in a refreshment vehicle shall be conducted in accordance with the Ontario Propane Code and a statement from the propane company that states compliance with the requirements of the Ontario Propane Code will be required prior to license being issued.
13. Following receipt of all appropriate approvals and providing all other conditions have been met, the Clerk shall issue a license upon payment of a \$200.00 fee.

INSURANCE

14. No person shall be granted or hold a license for a refreshment vehicle unless he establishes and maintains in effort proof of financial responsibility covering each vehicle. Such proof shall be made by delivering to the Clerk an original copy of a current valid insurance policy which includes the following:
- a) A description of the coverage, policy number, effective date, expiry date, limits of liability and details of the vehicle covered.
 - b) An insurance amount not less than \$1,000,000 exclusive of interest and cost for each vehicle to include:
 - (i) loss or damage resulting from illness, injury or death of one or more persons from any food, products, goods or any one act or omission by the operator or owner of a refreshment vehicle and

- (ii) loss or damage resulting from bodily injury to or death of one or more persons or from loss or damage to property resulting from any one accident, and
- c) An endorsement included in the insurance policy that provides for the Clerk to receive at least 15 days written notice of said policy being cancelled or expiring or any variation of said policy.

OPERATION REGULATIONS

- 15.** All licensed operators shall:
- a) Ensure that each refreshment vehicle is provided with a sufficient number of waste receptacles with self-closing lids, located in such a position so as to be easily accessible by the public make purchases, and are emptied at least once daily.
 - b) Ensure that the waste resulting from the operation of the refreshment vehicle is collected for recycling or disposal.
 - c) Ensure that the grounds in the immediate vicinity of the refreshment vehicles are kept clean of all waste.
 - d) Ensure that the vehicle and all parts and equipment for use in the dispensing of refreshments are maintained in a clean and sanitary condition and at all times in good repair.

SEVERABILITY

16. In the event that any section of this by-law, including any section or part of any of the schedules hereto, is declared by a Court of competent jurisdiction to be invalid, the remaining parts shall remain valid and binding and shall be read as if the offending section had been struck out.

ENFORCEMENT AND PENALTY

- 17(a)** The By-Law Enforcement Officer is responsible for the administration of this by-law.
- 17(b)** The By-Law Enforcement Officer may at reasonable times enter upon any premises other than a dwelling house in order to ascertain whether the provisions of this By-Law are being observed or to enforce this By-Law.

17(c) Any person who violates any provision of this By-Law is, upon conviction, guilty of an offence and shall be liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, c.p.33. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

17(d) The penalties for violating sections of this By-Law are payable as per Schedule "A" which may be amended from time to time.

READ A FIRST AND SECOND TIME, read a third time and finally passed this 2nd day of June 2003. (By-Law 162-2003)

READ A FIRST AND SECOND TIME, read a third time and finally passed this 4th day of May 2015. (By-Law 351-2015)

SCHEDULE "A" SET FINES

**THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON
PART 1, PROVINCIAL OFFENCES ACT**

By-Law 162-2003 as amended, being a being a bylaw to license, regulate and govern Refreshment Vehicles.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Operating a refreshment vehicle without a license	Section 2	\$150.00
2	Operating a refreshment vehicle on public property, street or on the Municipal road allowance	Section 3	\$150.00
3	Operating a refreshment vehicle without the Municipality having the proper documentation	Section 4(i)	\$150.00
4	Operating a refreshment vehicle in a unauthorized location	Section 5	\$150.00
5	Operating a refreshment vehicle in unpermitted zone	Section 6	\$150.00
6	License not in a visible location for inspection/Bylaw Enforcement Officer	Section 7	\$150.00
7	Expired refreshment vehicle license	Section 8	\$150.00
8	Transfer or assign licence to improper refreshment vehicle	Section 9	\$150.00

Note: The general penalty provision for the offences listed above is section 17(c) of bylaw 162-2003 as amended, a certified copy of which has been filed.

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

BY-LAW NO. 351-2015

**A BY-LAW TO AMEND BY-LAW 162-2003, BEING A BYLAW TO LICENSE,
REGULATE AND GOVERN REFRESHMENT VEHICLES**

WHEREAS Section 8 and 9 of the Municipal Act 2001, as amended, provides that a Municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS Section 150 of the Municipal Act 2001, as amended, permits the Municipality to license and regulate any business wholly or partly carried out within the Municipality

AND WHEREAS it is deemed advisable to amend By-Law Number 162-2003

NOW, THEREFORE the council of the Corporation of the Municipality of Brighton enacts as follows:

- (1) THAT the amending of the definitions of By-Law 162-2003 by adding;
 - aa By-Law Enforcement Officer: shall mean the person appointed by the Municipality of Brighton for the purpose of enforcing By-Laws.
 - gg Special Event: shall mean a not for profit or Brighton community group event in the Municipality of Brighton.
- (2) THAT Section 4 of By-Law number 162-2003 is hereby deleted and replaced with the following:
 - (i) "Every person shall provide to the Municipality a food safety inspection report from the Health Unit, a propane certificate, proof of insurance, letter of consent from the property owner and a letter of consent from the event organizer before operating a refreshment vehicle at a Special Event."
 - (ii) "This By-Law shall not apply to a refreshment vehicle which has been approved for operation in conjunction with a community festival or special event approved by the Municipality"

- (3) THAT Section 6 of By-Law number 162-2003 is hereby deleted and replaced with the following:

"No person shall operate a refreshment vehicle except on land within Highway Commercial (HC), Recreational Commercial (RC), and General Industrial (MI) Zones defined in the Municipality of Brighton Zoning By-Law Number 140-2002"

- (4) THAT Section 7 of the By-Law number 162-2003 is hereby deleted and replaced with the following:

"A license shall be issued with respect to one refreshment vehicle only, and the licensee shall ensure that it is at all times affixed in a conspicuous place to the vehicle for which it was issued."

- (5) THAT Section 8 of the By-Law number 162-2003 is hereby deleted and replaced with the following:

"Every license issued pursuant to this By-Law shall expire on 31st day of December of the year in respect to which it was issued. No person shall operate a refreshment vehicle with an expired license"

- (6) THAT Section 12 (c) of By-Law number 162-2003 is hereby deleted and replaced with the following:

"Approval from the Haliburton, Kawartha, Pine Ridge District Health Unit, a copy of the food safety inspection report included in the refreshment vehicle application"

- (7) THAT the penalty section heading of By-Law number 162-2003 is hereby deleted and replaced with the following:

Enforcement and Penalty

- (8) That Section 17 of By-Law number 162-2003 is hereby deleted and replaced with the following:

17(a) The By-Law Enforcement Officer is responsible for the administration of this by-law.

17(b) The By-Law Enforcement Officer may at reasonable times enter upon any premises other than a dwelling house in order to ascertain whether the provisions of this By-Law are being observed or to enforce this By-Law

17(c) Any person who violates any provision of this By-Law is, upon conviction, guilty of an offence and shall be liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, c.p.33. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

17(d) The penalties for violating sections of this By-Law are payable as per Schedule "A" which may be amended from time to time.

- (9) THAT By-Law number 162-2003 is hereby amended by adding Schedule "A" Set Fines
- (10) That this By-Law shall come into force and take effect on the date of passing there hereof.

Read a first, second and third time and finally passed this ____ day of _____ 2015.

Mark Walas, Mayor

Gayle J. Frost, CAO/Clerk