THE CORPORATION OF THE TOWNSHIP OF PERTH EAST

BY-LAW NO. 52-2022

BEING A BY-LAW TO LICENCE REFRESHMENT VEHICLES AND REGULATE REFRESHMENT VEHICLES WITHIN THE TOWNSHIP OF PERTH EAST

November 1, 2022

WHEREAS Section 8(3) of the *Municipal Act, 2001*, a by-law respecting a matter may, (a) regulate or prohibit the matter; (b) require persons to do things respecting the matter; and (c) provide for a system of licences respecting the matter;

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

WHEREAS Section 151 of the of the *Municipal Act, 2001*,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 onetime basis;

WHEREAS Section 391 of the *Municipal Act, 2001* enables a municipality to pass a by-law imposing fees or charges for services or activities provided or done by or on behalf of it; and

WHEREAS the Council of the Corporation of the Township of Perth East deems it appropriate to update the Refreshment Vehicle licensing regulations.

NOW THEREFORE the Corporation of the Township of Perth East enacts as follows:

1. Definitions

In this by-law,

a. **Applicant** means a person seeking a Licence or renewal of a Licence and is the Person who is managing or responsible for the Overall operations of a Refreshment Vehicle;
b. **Charitable organization** means an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or minor sports group;
c. **Eating Establishment** has the same meaning as an eating establishment or restaurant as defined in the Township's Zoning By-law;
d. **Fire Chief** means the Fire Chief of the Municipality or an authority having designation in accordance with the Fire Protection and Prevention Act, 1997;
e. **Health Inspector** means a Public Health Inspector acting under the direction of the Perth District Health Unit Medical Officer of Health;
f. **Highway** shall have the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8;
g. **Licence** means a licence issued by the Municipal Clerk to operate a Refreshment Vehicle in accordance with this By-law;
h. **Licensee** means a Person to whom a Licence has been issued and shall include any Person operating a licenced Refreshment Vehicle;
i. **Mobile Barbecue** means an open-air barbecue affixed to a cart which is on wheels or is capable of being moved from place to place by a person on which food is prepared and sold or offered for sale to the public;
j. **Motor Vehicle** means a Motor Vehicle as defined in the Highway Traffic Act, R.S.O. 1990.
k. **Municipal Act, 2001** means the Municipal Act, 2001, c.25;
l. **Municipal Clerk** means the Clerk of the Township or a designate;
m. **Municipality** means The Corporation of the Township of Perth East or the geographic area of Perth East, as the context requires;
n. **Officer** means an Ontario Provincial Police Officer as defined in the Police Services Act, R.S.O. 1990, and shall include a Municipal By-law Enforcement Officer, whose duties include the enforcement of the By-law, including a Fire Prevention Officer, Fire Chief, or any Assistant(s) to The Fire Marshal;

o. **Person** includes an individual, association, firm, partnership, corporation, trust, organization, trust or agent, and their heirs, executors or legal representatives;
p. **Refreshment** includes and form of food or drink intended for human consumption;
q. **Refreshment Vehicle**, also commonly known as a Food Truck, a commercial operation from which food is cooked and/or refreshments prepared, carried and offered for sale for consumption to the general public, and shall include a conveyance provided with or without wheels or runners used for the carriage of persons or goods and shall include, but nor be limited to a car, truck, trailer, motorcycle, cart, carriage, container, wagon, snowmobile or all-terrain vehicle;
r. **Special Community Events** shall mean a special event or any event that has been sanctioned as a Community Event of Municipal Significance by resolution of Council;
s. **Special Event** means an event held in the Municipality for which a special events permit has been issue by the Township or which has been sanctioned by the Township;
t. **Trailer** means a Trailer as defined in the Highway Traffic Act, R.S.O. 1990;
u. **Zone** means a Zone as defined in the Township of Perth East's Zoning By-law, as amended from time to time.

2. General

Prohibitions

2.1. No person shall operate a Refreshment Vehicle in the Municipality without a Licence.

2.2. No person shall operate a Refreshment Vehicle with a suspended or revoked Licence.

2.3. Every Licensee shall conform to the requirements and conditions of the Licence throughout the Licence term.

2.4. No person shall obstruct an Officer during the performance of a duty under this By-law

2.5. Every Person providing Refreshments from a Refreshment Vehicle shall do so in accordance with the Health Protection and Promotion Act, R.S.O. 1990, c.H.7, as amended, and regulation made thereunder and any successor legislation in substitution thereof.

Licensing Procedures

2.6. Every application for a Licence shall be completed and submitted on forms prescribed by the Municipal Clerk.

2.7. A Licence is not transferrable.

2.8. Licences are valid from the date of issuance and expire on December 31st of each year, unless revoked or suspended.

2.10. Licences will not be prorated.

2.11. The Municipal Clerk shall refuse to issue or renew a Licence where:

2.11.1. The application for a Licence fails to meet the requirements for issuance set forth in this by-law or any other Municipality by-law or applicable regional by-law or provincial or federal law.

2.11.2. The Applicant is not at least 18 years of age without written consent of the parent or guardian;

2.11.3. The application is incomplete;

2.11.4. The Licence was issued in error;

2.11.5. The prescribed fee has not been paid;

2.11.6. The applicant has submitted false information in support of the application;

2.11.7. An Officer or Health Inspector, by way of inspection, has determined that the Refreshment Vehicle is not in compliance with this By-law.

Licensing Requirements

2.12. Every Licence application to operate a Refreshment Vehicle shall include:

2.12.1. An application fee as prescribed in the current General Fees and Charges By-law;

2.12.2. A photograph of the Refreshment Vehicle;

2.12.3. A copy of the Motor Vehicle or Trailer registration, if applicable;

2.12.4. If a Motor Vehicle, a valid safety standards certificate issued by a provincially authorized Motor Vehicle Inspection mechanic certifying that the Motor Vehicle to which the licence application relates complies in all respects with the applicable equipment and performance standards set out in the regulation made under the Highway Traffic Act, R.S.O. 1990, c.H.18, as amended, or any successor legislation in substitution thereof;

2.12.5. Indemnification and proof of Commercial General Liability insurance in the amount of five million dollars ($5,000,000).

2.12.5.1. Proof of Automobile Liability insurance in the amount of two million dollars ($2,000,000), coverage against claims for bodily injury and/or property damage for all licenced vehicles and equipment owned or leased by the Applicant, if applicable;

2.12.5.2. All renewal certificates for such insurance shall be provided thirty (30) days prior to the expiry of the insurance during the term;

2.12.5.3. The Corporation of the Township of Perth East may require additional types of insurance coverage or higher limits of insurance coverage as determined by the Municipal Clerk.

2.12.6. A current proof of inspection and approval in writing from the Huron Perth Public Health unit or any other valid Ontario Public Health Organization;

2.12.7. Approved Mobile Food Service Equipment Inspection Self Checklist from the Perth East Fire Department;

2.12.8. Where the Refreshment Vehicle is fitted with propane or natural gas, a current certificate issued on the prescribed TSSA Application for Field Approval of Mobile Food Service Equipment, by a provincially authorized propane or natural gas fitter, as the case may be, certifying that the Refreshment Vehicle complies with the applicable equipment and performance standards as prescribed by the Province of Ontario; and

2.12.9. The Municipal Clerk may impose conditions not specified in this By-law as a requirement of obtaining or renewing a Licence.

Licencing Renewal Requirements

2.13. Every renewal Licence application to operate a Refreshment Vehicle shall meet the applicable licencing requirements and be accompanied by a renewal fee.

Operating Requirements

2.14. Every Licensee shall produce the Licence issued in accordance with this By-law when requested to do so by an Officer or Health Inspector.

2.15. Every Licensee shall affix the Licence to the Refreshment Vehicle so it is clearly visible to the public and customers at all times.

2.16. The Refreshment Vehicle and immediate surrounding location shall be kept in a clean and sanitary condition at all times.

2.17. Every Licensee shall equip the Refreshment Vehicle with a garbage receptacle of sufficient size to accommodate all waste material generated by the operation of the Refreshment Vehicle.

2.18. Every Refreshment Vehicle shall be equipped with a fire extinguisher that is maintained in good working order and has been approved for such use by the Fire Chief,

Location Requirements

2.19. No Person shall operate a Refreshment Vehicle within 60 metres of a school unless authorized to do so by the applicable school board.

2.20. No Person shall operate a Refreshment Vehicle within 60 metres from the front entrance of an Eating Establishment.

2.21. No Person shall operate a Mobile Food Service Equipment / Refreshment Vehicle within 30 metres of a re-fueling station or any other volatile environment.

2.22. No Person shall operate a Refreshment Vehicle at a Special Event or within 100 metres of the Special Event unless the event organizer has approved the Refreshment Vehicle as a vendor at the Special Event.

2.23. No Person shall operate a Refreshment Vehicle on property owned or managed by the Municipality, unless the Refreshment Vehicle has been awarded the rights to operate at that location by the Municipality.

2.23.1. A Refreshment Vehicle authorized to operate at a Municipally owned or operated location shall not be subject to setback requirements for schools or eating establishments.

2.24. No Person shall operate a Refreshment Vehicle on a Highway, unless:

2.24.1. The Municipality or other applicable road authority has authorized a portion of the Highway for that purpose.

2.25. No Person shall operate a Refreshment Vehicle in a Residential Zone, unless:

2.25.1. The Refreshment Vehicle is servicing an active construction site for no longer than thirty (30) minutes.

2.26. No Person shall operate a Refreshment Vehicle from a location unless the Licensee has obtained the land owner or property manager’s permission.

2.27. Every Licensee shall operate a Refreshment Vehicle from a location which ensures no waste or chemical shall be spilled in a Municipal Drain or natural watercourse.

2.28. The Licensee shall comply with all Municipal by-laws, including, but not limited to Zoning By-laws and Property Standards By-law, and comply with all provincial and federal legislation.

2.29. Every Licensee shall keep a location log for each day the Refreshment Vehicle is operating that includes a note for each stop made by the Refreshment Vehicle for the purpose of preparing or offering food for sale, and the date, time, duration, and location of the stop.

2.29.1. Upon request of an Officer, the Licensee shall immediately produce this location log.

3. Enforcement and Penalties

Inspections

3.1. An Officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been compiled with.

3.2. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken by an Officer.

Revoke, Suspend or Cancel a Licence

3.3. The Municipal Clerk may revoke, suspend, or cancel a Licence if the Licensee fails to comply with any provision of this by-law and such noncompliance is not remedied following notice from the Municipality specifying the particulars of the noncompliance.

Offences and Penalties

3.4. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33 and/or the Municipal Act, 2001.

Ultra Vires

3.5. It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this

Conflict

3.6. In the event of a conflict between any provision of this By-law and any other By-law in effect if the Township of Perth East or with any other law statute or regulation applying to the Municipality, the more restrictive requirement shall apply.

4. Appeal Process

4.1. The Clerk shall provide in writing to the Applicant or Licensee the particulars for refusing to issue, refusing to renew a licence or revoking, suspending or cancelling a licence including information regarding the Appeal Process as outlined in Section 3 to this By-law.

4.2. When an Applicant or Licensee is not entitled to a Licence as set out in Sections 3 of this By-law, the Applicant or Licensee may appeal this decision and request a hearing to the Council of the Township of Perth East, within 14 days of the decision.

4.3. Upon receipt of a written request from an Applicant or Licensee for a hearing, the Clerk shall provide the Applicant or Licensee with written notice of the date, time and location of the hearing and such notice shall be provided at least twenty (20) days prior to such hearing.

4.4. The provisions of the Statutory Powers and Procedures Act, R.S.O. 1990, Chapter S.22, or any successor thereof, shall apply to all hearings conducted by Council under this By-law.

4.5. If the Applicant or Licensee who has been sent notice of the hearing does not appear at the appointed time and place of the hearing, Council may proceed with the hearing in the absence of the Applicant or Licensee.

4.6. Council may uphold or vary the recommendation of the Clerk or do any act or make any decision and the Applicant or Licensee shall not be entitled to any further hearing on the matter before Council and the decision of Council shall be final.

4.7. The Council of the Township of Perth East may, by Resolution, delegate the holding of the aforesaid Hearing to an Appeal Committee of Council.

5. Exemptions

5.1. Notwithstanding Section 2.1 of the By-law, a Licensee of a Refreshment Vehicle shall be permitted to operate in a Public Park in conjunction with and during a Special Community Event provided written approval has been obtained from the Municipality in advance.

5.2. The provisions of the By-law shall not apply to a mobile barbecue operated in connection with a charitable fundraising event, or a community event held on a Municipal property, or where written approval has been obtained from the Municipality in advance.

6. Short Title

The short title of this by-law shall be the “Refreshment Vehicle By-law”

7. Effective Date

This By-law comes into full force and effect on the date of its passing.

READ A FIRST AND SECOND TIME THIS 18TH DAY OF OCTOBER, 2022.

_____	_____
Eric Bell, Acting Municipal Clerk	Rhonda Ehgoetz, Mayor

READ A THIRD TIME AND PASSED THIS 1ST DAY OF NOVEMBER, 2022.

_____	_____
Ashley Carter, Municipal Clerk	Rhonda Ehgoetz, Mayor

Schedule 'A'
By-Law 52-2022

Refreshment Vehicle Licence Application

Full Name of Applicant: _____

Residence Address: _____

Business Address: _____

Telephone No.: Business: _____ Residence: _____

Type of Vehicle: _____

_____

Type of Cooking Units: Propane ( ) Natural Gas ( ) Electricity ( )

Other ( ) Please Specify: _____

Has any previous licence issued under this by-law been suspended or revoked?
Yes ( ) No ( )
If yes, please provide details: _____

_____

Material to be Attached:	Attached?	
1. Report from Health Unit	Yes ( )	No ( )
2. Inspection certificate/ letter re. Ontario Propane Code	Yes ( )	No ( )
3. Perth East Fire Department Self-Inspection Checklist	Yes ( )	No ( )

I certify that the information provided in this application is true and correct and I acknowledge that the provision of false information in this application may result in revocation of any licence issued in addition to a fine.

_____ _____
Date Application Signature

OFFICE USE ONLY
Application Received: _____

Supporting Documents Checked: _____

Licence Issued: _____ Licence No._____

Health Unit Notified: _____

Schedule 'B'
By-Law 52-2022

Refreshment Vehicle Licence

Licence Number: _____

This Licence is granted to: _____

Of: _____

To operate a refreshment vehicle within the limits of the Township of Perth East.

Provided the said _____ shall duly observe all such by-laws, rules, regulations, matters and things as are, or may be enacted by the Council of the Corporation of the Township of Perth East.

The licence shall continue in force and effect until: _____ and no longer.

Issued at the Township of Perth East

This _____ day of _____.

(SEAL)

_____
Clerk or designate

SCHEDULE 'C'
By-Law 52-2022

Perth East Fire Department
Mobile Food Service Equipment Self-Inspection Checklist

Applicant Name: _____ Date: _____

Application Type: ☐ General Food Service Equipment **OR** ☐ Commercial Cooking Unit w/ Fire Suppression System

		YES	NO	N/A
SECTION A - GENERAL Applies to ALL food service equipment				
1	All documents have the name of the business, name of the owner of the vehicle and the name of the operator of the vehicle and are in your possession.			
2	Contact phone numbers and emails if you need to be contacted for any matter relating to fire safety are readily available.			
3	A clear description of where the mobile food/beverage truck will be located (as provided to you by municipal staff) is available.			
4	Must possess a current certificate from TSSA that an inspection has been carried out and that the appliances and vehicle are acceptable to be operated.			
5	The appliance serial number is in a visible location and legible for inspectors.			
6	The vehicle appliance manufacturer name is clearly visible and legible for inspectors.			
7	Vehicle must contain a charged portable fire extinguisher of a 3A 20BC or higher rating			
8	Equipment cooking with grease, oils or fats must be accompanied by a "Class K" type of portable extinguisher that is a 40BC rating			
9	All portable extinguishers have been serviced in the past 12 months by a portable extinguisher company			
10	Cooking appliances have been cleaned and are free of grease build-up or food remnants			
11	Owner, operator or other workers on these mobile vehicles are knowledgeable in the use of portable fire extinguishers and of manually discharging the fixed extinguish system if it fails to discharge.			
SECTION B - COMMERCIAL COOKING/FIRE SUPPRESSION SYSTEMS Applies only to mobile food service equipment requiring NFPA 96 guidelines (commercial cooking range hood systems with fire suppression systems)				
1	The venting equipment for grills, fryers, burners or other open cooking appliances are installed to NFPA 96 Standard for Ventilation Control and Fire Protection of Cooking Operations.			
2	Fixed extinguishing systems installed for grills, fryers, burners or other open cooking appliances are to NFPA 96 – Standard for Ventilation Control and Fire Protection of Cooking Operations.			
3	Suppression system is inspected every six (6) months and an inspection tag is affixed showing the last inspection date.			

Comments

Perth East Fire Department
Mobile Food Service Equipment Self-Inspection Checklist

I/We the individual completing this survey hereby acknowledge and declare that;

- ☐ The information contained in this form is true and complete to the best of my/our knowledge.
- ☐ Failure to provide complete or accurate information may delay the licensing process.

Name: _____

Signature: _____

Business Name: _____

Business Address: _____

Business Phone/Email: _____

This self-inspection checklist consists of excerpts from the Ontario Fire Code and does not imply or limit the responsibility of the owner or owner's representative to carry out all the provisions of the Ontario Fire Code.

If you have any questions, please direct them to:
JAMES MARSHALL - Fire Prevention Officer

Email: jmarshall@pertheast.ca Phone: 519-595-2800 ext. 227
Fax: 519-595-2801
Mail: Perth East Fire Department
25 Mill Street East
Milverton, ON N0K 1M0

OFFICE USE ONLY

Approved _____ Date _____

Signature _____

Schedule 'D'
By-Law 52-2022

The Township of Perth East
By-law 52-2022
Being a By-law to Licence Refreshment Vehicles and regulate Refreshment Vehicles within the Township of Perth East

Part I – Provincial Offences Act

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Operating a Refreshment Vehicle without a licence	2.1	$350.00
2.	Operating a Refreshment Vehicle with a suspended or revoked licence	2.2	$350.00
3.	Obstructing an Officer during performance of a duty	2.4	$350.00
4.	Operating a Refreshment Vehicle at a prohibited time	2.5	$350.00
5.	Operating a Mobile Food Service Equipment/Refreshment Vehicle within 60 metres of a school without authorization.	2.19	$350.00
6.	Operating a Refreshment Vehicle within 60 metres of an Eating Establishment	2.20	$350.00
7.	Operating a Mobile Food Service Equipment/Refreshment Vehicle within 30 metres of a re-fueling station or volatile environment.	2.21	$350.00
8.	Operating a Refreshment Vehicle at a Special Event or within 100 metres of Special Event without authorization.	2.22	$350.00
9.	Operating a Refreshment Vehicle on municipal property without authorization	2.23	$350.00
10.	Operating a Refreshment Vehicle on a highway	2.24	$350.00
11.	Operating a Refreshment Vehicle in a Residential Zone.	2.25	$350.00
12.	Operating a Refreshment Vehicle from location without property authorization.	2.26	$350.00

Note the general penalty provision for the offences listed above is Section 3 of By-law 52-2022, a certified copy of which has been filed, and Section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.