CORPORATION OF THE TOWNSHIP
OF DRUMMOND/NORTH ELMSLEY

BY-LAW NO. 2012-029

"TEMPORARY AND MOBILE VENDOR BY-LAW"

BEING a by-law to regulate and license temporary food and merchandise vendors

WHEREAS Section 150 (1) of the Municipal Act, 2001, S.O. 2001 c.25 (herein, the 'Act') authorizes a municipality to license, regulate and govern any business wholly or partly carried on within the municipality;

WHEREAS the Council of the Corporation of the Township of Drummond/North Elmsley deems it expedient to enact a By-law respecting the issuing of certain licences in the Township;

NOW THEREFORE the Council of the Corporation of the Township of Drummond/North Elmsley enacts as follows:

1. Definitions

For the purposes of this By-law:

"Charitable Organization" shall be defined as an organization registered as a charity under the Income Tax Act.

"Chip Wagon" shall mean a motor vehicle that is stationary in one designated site and is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, servicing and/or dispensing of refreshments.

"Clerk" shall mean the Clerk Administrator or designate for the Township of Drummond/North Elmsley

"Council" shall mean the Council for the Township of Drummond/North Elmsley;

"Enforcement Officer" shall mean a police officer, by-law enforcement officer, Health Unit enforcement officer and any other public officer engaged in the enforcement of this by-law or any other by-law;

"Fire Chief" shall mean the Chief of the Fire Department which provides protection to the Township and/or designate.

"Garage Sale" shall mean an informal irregularly scheduled event for the sale of used goods from the home or yard and shall be operated by the usual inhabitant of a residential dwelling. Garage sales, which shall also include yard sales, rummage sales and like events shall not include commercial yard sales as defined in the Township's Zoning By-Law.

"Goods" shall mean wares, crafts, jewellery, art objects, refreshments, foodstuffs, merchandise or any other items whatsoever;

"Licence" shall mean a licence issued under the provisions of this by-law;

"Licensee" shall mean any person to whom a licence is issued pursuant to this By-Law;

"Medical Officer of Health" shall mean the Medical Officer of Health for the Lanark, Leeds and Grenville District Health Unit or his/her duly authorized delegate.

"Mobile Canteen" shall mean a temporary business containing a vehicle equipped for the cartage, storage, preparation and sale of food products and soft drinks. If the vehicle is motorized it shall have a current licence to be driven on a highway pursuant to the Highway Traffic Act R.S.O. 1990, as amended. A motorized Mobile Canteen is a vehicle which operates at locations of employment or specific events which are held for a specified time period. A hand or pedal powered Mobile Canteen is a vehicle which may sell food products on the roads in the Township.

"Non-Profit Organization" shall be defined as a body registered as a non-profit organization under the Income Tax Act.

"Operate" shall mean the act of selling, offering for sale or otherwise dispensing of food or drink and operator shall have a like meaning.

"Person" shall include a corporation, partnership, association, club or firm.

"Roadworthy" shall mean that the vehicle complies with all of the requirements of the Highway Traffic Act and is licensed for operation on a Public Highway.

"Seasonal Stand" shall mean temporary business that is engaged in the retail sale of raw unprocessed fruits, vegetables, corn, nuts and other produce in its natural state or artisanal wares. Such a business shall be located in an unenclosed structure and operate for a period of not longer than 120 days in any calendar year.

"Special Event" shall mean an event, the duration of which is temporary in nature and has a maximum duration of four (4) days.

"Temporary Business" shall mean any business engaged in the preparing and/or offering goods for sale outside an enclosed building and which, in furtherance of such purpose, hires, leases, uses or occupies any location for the exhibition, sale and delivery of such products. Such a definition shall include and not be limited to produce stands, artisan stands, mobile canteens, chip wagons, refreshment carts, stands and all other commercial operations otherwise not deemed as a "building" under the provisions of the Ontario Building Code. Each individual location, regardless of any common ownership, shall be considered one temporary business.

"Township" shall mean the Corporation of the Township of Drummond/North Elmsley.

2. Licence Required

2.1 No person shall operate a temporary business in the Township of Drummond/North Elmsley without first obtaining a Licence from the Township to do so.

2.2 No Licence issued under this By-law shall be valid unless all applicable fees, as set out in Schedule "A" to this By-law are paid in full.

2.3 Notwithstanding Clause 2.2, the licence fees specified in Schedule "A" shall not apply when the temporary business is operated by a registered charitable or non-profit organization at a location approved by the Township and all the net proceeds from any sale are used for charitable purposes.

3. Licences

3.1 The annual licence fee for each temporary business shall be set out in Schedule "A" to this By-law;

3.2 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. If a person has not at any time in the previous two (2) calendar years held such a licence and 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 as set out in Schedule "A";

3.3 The applicant shall submit with the application a site plan drawn to scale showing details of the proposed site where the refreshment vehicle will be located, which shall include:

a) the exact location on the site, with all property line setbacks indicated in metric;

b) locations of all adjacent structures;

c) entrances and exits to the site;

d) parking spaces;

e) sign locations;

f) approved electrical or other utility hook-ups;

g) provisions for garbage receptacles and removal;

h) other specific details, as required;

3.4 The following written approvals must accompany the original application and the annual application for renewal:

a) Fire Department;

b) Lanark, Leeds and Grenville District Health Unit;

c) written authorization of the owner of the property on which the temporary business is located;

d) proof of Public Liability Insurance totalling a minimum of Two Million Dollars ($2,000,000) to cover bodily injury and property damage and include a 30 day cancellation clause;

e) written authorization from the transportation authority having jurisdiction over the adjacent road;

f) propane certification, if applicable.

3.5 The applicant shall deliver full payment to the Clerk at the time the licence is applied for and if the application is not approved, such payment shall be refunded;

3.6 Acceptance of the application and fee shall not represent approval of the application nor shall it obligate the Township to issue a licence;

3.7 The Licence issued under the provisions of this By-law shall apply only to the location in which it was issued and a separate licence is required for each temporary business operated within the Township;

3.8 Every person obtaining a licence under this By-law shall keep the licence posted in a conspicuous place on the premises in respect of which the licence is issued and every person so licensed shall produce the licence when requested by an enforcement officer

3.9 No licence shall be transferred except with the written consent of the Township and the Township shall not be bound to give such consent;

3.10 Nothing in this By-Law shall permit a temporary business to operate where such a use is otherwise prohibited subject to the provisions of the Township's Zoning By-Law, any other Township by-laws, any other requirement under the Planning Act or any other Act.

4. Renewal

4.1 An annual renewal licence is exempted from the provisions of Section 3.3 and a licence may be issued to the previous holder of a licence provided that the site plan does not change and all other application requirements as specified in Section 3.4 along with the prescribed fee are submitted on an annual basis.

5 General Provisions for All Temporary Businesses

5.1 Any person, licensed pursuant to the provisions of this By-Law shall:

a. Operate only within the General Commercial (CG), Highway Commercial (CH), Tourist Commercial (CT), General Industrial (M1), Rural Industrial (M2) or Institutional (I) Zones and, if the operation is less than 10 sq.m., the Rural (RU) Zone;
b. Not operate within the required front yard of the zone in which the temporary business is located;
c. Notwithstanding Section 6, not operate within 30 m of any other outdoor vendor;
d. Not operate within 100 m of any elementary or secondary school, unless said temporary business is operating on school property subject to the permission of the applicable school board;
e. Not operate unless in the location approved on the licence and the licence has not been revoked;
f. Ensure that the area between the temporary business and the front line of the property is improved sufficiently to provide a minimum for four parking spaces;
g. Comply with all applicable provisions of any sign by-law adopted by the Township and the Corporation of the County of Lanark;
h. Comply with all applicable regulations of the authority having jurisdiction over the adjacent public road;
i. Comply with all applicable provisions and regulations under the Health Protection and Promotion Act, R.S.O. 1990, as amended;
j. Allow at any reasonable time, the Enforcement Officer to inspect the places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business;
k. Indemnify and save harmless the Township of Drummond/North Elmsley from any action, claim, damage or loss of any nature or kind resulting from the operation of the

temporary business pursuant to this licence and pay legal fees reasonably incurred by the Township arising from the issuance of the permit.

6. Special Provisions for Events, Festivals and Tradeshows

6.1 Individual licences may be issued for temporary businesses at special events upon application by the event's organizing body. Every application shall include a site plan drawn to scale showing the proposed temporary businesses, their types, locations, adjacent structures, entrance and exit information from adjacent streets, parking spaces, garbage receptacles and any other specific details that may be required.

6.2 All other provisions of this By-Law shall apply.

7. Special Provisions for Seasonal Stands

7.1 Subject to the provisions outlined in Section 3, a Seasonal Stand operator may offer produce and artisanal goods for sale to the general public provided that:

a. The proposed site from which the business is conducted has been approved by the Clerk;
b. The proposed site shall be no closer than 30 m to a residence, other than the residence which may be on the property;
c. No person shall operate a produce stand for a period of longer than one hundred twenty (120) days in any calendar year;
d. The operator of the seasonal stand shall cause the stand to be dis-assembled and removed and the site restored to its previous condition once the stand is no longer in operation.

7.2 Sections 2 and 3 and Subsections 5(a) through (e) of this By-law shall not apply when the seasonal stand offers for sale any produce, meat, dairy, maple products or other goods grown, raised or otherwise produced primarily on lands within the geographical boundaries of the Township of Drummond/North Elmsley.

8. Special Provisions for Chip Wagons

8.1 Subject to the provisions outlined in Section 3, a Chip Wagon operator may offer food and drink to the general public provided that:

a. The proposed site from which the business is conducted has been approved by the Clerk;
b. The proposed site shall be no closer than 60 m to a residence, other than the residence which may be on the property;
c. A Chip Wagon is considered to be a permanent or semi-permanent structure, however, it shall be capable of being fully mobile and roadworthy within twenty-four (24) hours if notice is given by a person authorized by the Clerk;
d. No person shall operate a chip wagon for a period of longer than one hundred eighty (180) days in any calendar year;
e. The operator of the chip wagon shall cause the chip wagon to be removed and the site restored to its previous condition once the chip wagon is no longer in operation;
f. A refuse container with a self closing lid is provided and located in such a position so as to be easily accessible by persons making purchases;
g. The operation shall be equipped with a portable fire extinguisher that meets the approval of the Fire Chief;
h. 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;
i. The property on which the Chip Wagon is located is maintained in a neat and tidy condition and all refuse which is deposited in containers is disposed of by the operator;
j. Notwithstanding Subsection 5(b) of this By-Law, the Chip Wagon is located no closer than 6 metres from the front lot line, subject to the approval of the applicable agency having jurisdiction over any adjacent public road.

9. Special Provisions for Mobile Canteens

9.1 Subject to the provisions outlined in Section 3, a Mobile Canteen operator may offer food and drink provided that:

a. The food and drinks are sold in areas and at times which are specified in the application and are approved by the Clerk;
b. A Mobile Canteen shall be subject to the same regulations as Chip Wagons with regard to refuse, sanitation, general condition and insurance;
c. A Mobile Canteen shall only operate in areas approved by the Clerk;
d. Notwithstanding Subsection 5(b) of this By-Law, the Mobile Canteen is located no closer than 3 metres from the front lot line, subject to the approval of the applicable agency having jurisdiction over any adjacent public road.

10. Revocation of Licence

10.1 A licence issued under the provisions of this By-law may be revoked by the Township where:

a) Written notice has been received by the Township from the Medical Officer of Health or the Fire Chief stating that the temporary business is operating contrary to required standards, or

b) The operator has been served notice of non-compliance with the terms of this By-law by the Township and the operator has failed to take such action as necessary within twenty-one (21) days of the notice, or

c) The operator has been served by the Township with three (3) notices of non-compliance with the terms of this By-law during the period for which the licence was issued.

10.2 The Township shall serve notice to the operator of an impending revocation of a licence not less than ten (10) days prior to the proposed date of revocation and the operator or his/her representative may appear before Council to show why he believes the licence should not be revoked.

10.3 Any notice or order required to be given pursuant to this By-Law by the clerk shall be deemed to be sufficiently served if delivered personally or sent by registered mail or by prepaid first class mail addressed to the person who service is to be made, at the address on the application or the last known address on file at the Clerk's Office;

10.4 Notice served by either registered mail or by prepaid first class mail shall be deemed to have been received on the fifth day following the mailing of the notice.

11. Exemptions

11.1 Garage Sales shall be excluded from the provisions of this By-Law.

11.2 The minimum separation distance provisions specified pursuant to Subsections 7.1(b) and 8.1(b) may be reduced, if in the opinion of the Clerk, the operation will not have an adverse impact on that residence;

11.3 The provisions of this By-law shall not apply if the use is specifically provided for in the Township's Zoning By-law and subject to the Township's Site Plan Control By-law.

12. Contravention of the By-law

12.1 Every person who contravenes any provision of this By-Law is guilty of an offence and upon 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.

13. Appeal

13.1 Subject to Subsection 284.1(1) of the *Act*, the Township shall designate the Committee of the Whole for the Township of Drummond/North Elmsley to provide for a review or appeal.

13.2 Any person may appeal to the Committee of the Whole any decisions made by the Clerk pursuant to the provisions of this By-Law.

14. Conflict

14.1 Where a provision of this By-Law contradicts a provision of any other by-law or any other federal or provincial statute or regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

15. Ultra Vires

15.1 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.

16. Effective Date

16.1 This By-law shall take effect on the date of its passing.

17. Repeal

17.1 By-Law No. 98-19, being "A By-Law to Regulate and Licence Chip Wagons and Mobile Canteens within the Corporation of the Township of Drummond/North Elmsley" is hereby repealed.

By-Law read a first and second time this 22nd day of May, 2012

By-Law read a third time and finally passed this 22nd day of May, 2012

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Clerk Administrator

SCHEDULE "A" TO BY-LAW 2012-029
OF THE TOWNSHIP OF DRUMMOND/NORTH ELMSLEY

SCHEDULE OF FEES

1.	Chip Wagon:	$450.00
2.	Motorized Mobile Canteen:	$450.00
3.	Hand or pedal Mobile Canteen:	$150.00
4.	Individual Licence- Special Event:	$100.00
5.	All Other Temporary Business Operations:	$450.00
6.	Renewal Licence: Same cost as new licence	