

LICENCE

Chapter 875 REFRESHMENT VEHICLE

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WHEREAS section 150 of the *Municipal Act, 2001*, c. 25 authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern the operation of refreshment vehicles within the Town;

AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the by-law relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;
- ensuring that drivers and owners are competent to provide services and that they provide equal, courteous and fair treatment of customers;

AND WHEREAS purposes of health and safety will be served by this by-law through:

- the requirement that safe maintenance and operational practices are observed by drivers and owners;
- ensuring that industry participants are accountable for health and safety issues;

AND WHEREAS purposes of nuisance control will be served by this by-law through:

- the promotion of professional behaviour, fair dealing amongst participants in the industry, and courteous treatment of customers, drivers and owners;
- the limitation or mitigation of unsightliness, unnecessary noise, nuisance or disruption for clients, drivers, owners and the general public;
- the limitation of the time that a refreshment vehicle may be stopped at any location;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Town of Richmond Hill Municipal Code - Public Notice.

Article 1
INTERPRETATION

875.1.1 Administrative Penalty By-law

"Administrative Penalty By-law" means the Corporation's By-law No. 69-16, as amended or superseded, establishing a system of administrative Penalties. By-law 59-23, 14 June, 2023

875.1.2 Agent - defined

"agent" means a natural individual authorized to act on behalf of a person in doing anything that can, by this Chapter, be done by an agent.

875.1.3 Applicant - defined

"applicant" means a person applying for a license under this Chapter. By-law 194-05, 12 December, 2005.

875.1.4 By-law Enforcement Officer - defined

"By-law Enforcement Officer" means any person appointed by the Commissioner as a By-law Enforcement Officer for the Town. By-law 145-08, 14 July, 2008.

875.1.5 Commissioner - defined

"Commissioner" means the Commissioner of Community Services of The Corporation of the Town of Richmond Hill. By-law 89-10, 11 June, 2019.

875.1.6 Council - defined

"Council" means the Council of The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

875.1.7 Dairy and related products - defined

"dairy and related products" means milk or cream based products or artificial substances commonly associated therewith and includes frozen flavoured liquid wrapped and sold in individual packages.

875.1.8 Driver - defined

"driver" means any person who operates or has the care and control of a refreshment vehicle, but shall not include an operator as defined in this Chapter.

875.1.9 License - defined

"license" means authorization under this Chapter to carry on the trade or business specified in this Chapter.

875.1.10 Licensee - defined

"licensee" means any person licensed under this Chapter.

875.1.11 License Hearings Committee - defined

"License Hearings Committee" means a committee of Council duly appointed to conduct hearings under this Chapter.

875.1.12 License certificate - defined

"license certificate" means the document issued by the Licensing Officer evidencing the authorization under this Chapter to carry on the trade or business

specified herein and allowed under this Chapter.

875.1.13 License plate - defined

“license plate” means the plate issued to an operator under this Chapter. By-law 194-05, 12 December, 2005.

875.1.14 Licensing Officer - defined

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licenses. By-law 145-08, 14 July, 2008.

875.1.15 Medical Officer of Health - defined

“Medical Officer of Health” means the Medical Officer of Health of The Regional Municipality of York.

875.1.16 Motor vehicle - defined

“motor vehicle” means any vehicle powered by a motor and equipped to travel on roads, but shall not include a farm tractor, self-propelled implement of husbandry, road building machine, motorcycle, or motor assisted bicycle.

875.1.17 Municipal By-law Enforcement Officer

"Municipal By-law Enforcement Officer" means an individual appointed for the purpose of enforcing the provisions of this by-law or all of the bylaws of the Corporation. By-law 59-23, 14 June, 2023.

875.1.18 Operator - defined

“operator” means:

- (a) a person who is the owner of a refreshment vehicle or a refreshment cart, including a person who is the registered owner of a refreshment vehicle according to the records maintained by the Registrar of Vehicles for the Province of Ontario; and
- (b) a person who has the care and control of a refreshment vehicle or refreshment cart under a lease or other rental agreement; provided, where a person has the exclusive care and control of a refreshment vehicle or refreshment cart under a lease or other rental agreement; “operator” shall not include a person who is the owner of the refreshment vehicle or a person who is the registered owner of the refreshment vehicle according to the records maintained by the Registrar of Vehicles for the Province of Ontario.

875.1.19 Penalty Notice – defined

"Penalty Notice" means a notice in relation to a contravention of this bylaw issued pursuant to the Administrative Penalty By-law. By-law 59-23, 14 June, 2023.

875.1.20 Person - defined

“person” means an individual, firm, corporation, association or partnership.

875.1.21 Refreshment cart - defined

“refreshment cart” means a device, other than a motor vehicle, which is used or is to be used for the sale of refreshments.

875.1.22 Refreshment vehicle - defined

“refreshment vehicle” means a motor vehicle which is used or is to be used for the sale of refreshments.

875.1.23 Refreshments - defined

“refreshments” means food or drink.

875.1.24 Town - defined

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

875.1.25 Validation sticker - defined

“validation sticker” means the sticker issued to an operator under this Chapter to be affixed to the license plate.

Article 2

GENERAL PROVISIONS

875.2.1 Refreshment vehicle - license - required

There shall be taken out by every operator of a refreshment vehicle a license authorizing him or her to carry on the trade, calling, business or occupation of hawking, peddling or selling refreshments in the Town from such vehicle and no person shall, within the geographic limits of the Town, carry on or engage in the said trade, calling, business or occupation until he or she has procured a license to do so and such license shall be known as a refreshment vehicle operator's license.

875.2.2 Refreshment cart - license - required

There shall be taken out by every operator of a refreshment cart a license authorizing him or her to carry on the trade, calling, business or occupation of hawking, peddling or selling refreshments in the Town from such cart and no person shall, within the geographic limits of the Town, carry on or engage in said trade, calling, business or occupation until he or she has procured a license to do so and such license shall be known as a refreshment cart operator's license.

875.2.3 Driver - of refreshment vehicle - license - required

There shall be taken out by every driver of a refreshment vehicle, a license authorizing him or her to drive or operate a refreshment vehicle in the Town and no person shall, within the geographic limits of the Town, carry on or engage in the said trade, calling, business or occupation until he or she has procured a license to do so and such license shall be known as a refreshment driver's license.

875.2.4 Operator - as driver - refreshment driver's license

Despite anything to the contrary in this Chapter, and for greater particularity, no operator shall drive or act as a driver of a refreshment vehicle unless he or she is licensed as a driver under this Chapter.

875.2.5 License - continuance - not vested right

No person shall enjoy a vested right in the continuance of a license and the value of a license, including the license certificate and the license plate, shall be the property of the Town and shall remain so irrespective of the issuance, renewal or revocation of such license.

875.2.6 Expiry - annually - June 30 – Events and City Property Exception

The licenses for the several trades, callings, businesses and occupations set out in this Chapter shall terminate on the 30th day of June in the year endorsed upon the license certificate, unless they are obtained solely for the purpose of operating on City property, in which case they will expire in accordance with the applicable City permission. By-law 59-23, 14 June, 2023.

Chapter 875
Refreshment Vehicle
REFRESHMENT VEHICLE

875.2.7 Separate license - each vehicle - cart

An operator shall apply for and obtain a license for each refreshment vehicle and for each refreshment cart operated by him or her within the geo- graphic limits of the Town and, where such license is for a refreshment vehicle, the Licensing Officer shall endorse on the license certificate the number of the current permit for that vehicle issued pursuant to the *High- way Traffic Act*.

875.2.8 Fee – license – special event exception

Prior to obtaining a license under this Chapter, every applicant shall pay to the City the fee set forth in the City's most recent by-law imposing fees and charges known as the Tariff of Fees By-law. Notwithstanding the foregoing, no license fee shall be payable for a license obtained pursuant to the requirements of this Chapter to operate on City property for City-led special events in accordance with a permission issued by the Commissioner of Community Services (or any successor position) or their designate. By-law 59-23, 14 June, 2023.

875.2.9 Inspection - at any time - obstruction - prohibited

The Licensing Officer, a By-law Enforcement Officer or a police officer may at any time inspect any refreshment vehicle or refreshment cart to ensure that the provisions of this Chapter have been and are being complied with and the person who has the care and control of such refreshment vehicle or refreshment cart shall provide the Licensing Officer, the By-law Enforcement Officer or the police officer with free and unobstructed access to the vehicle or cart.

875.2.10 Certificates - permits - produced on demand

Upon inspection under Section 875.2.9, the Licensing Officer, a By-law Enforcement Officer or a police officer is entitled to request and have produced all relevant license certificates and permits and other documents of the person being inspected related to the business for which a license is required under this Chapter and the person who has the care and control of such refreshment vehicle or refreshment cart shall immediately produce such license certificates, permits or other documents for inspection.

875.2.11 Identification - information - produced on demand

The Licensing Officer, a By-law Enforcement Officer or a police officer may, where there is reasonable and probable grounds that an offence under this Chapter has been committed, request any person believed to have committed such offence to provide suitable identification and information and where such person is licensed by the Town or any other municipality, to produce all relevant licenses or permits and such person shall immediately produce such licenses or permits for inspection.

875.2.12 Change of information - reported - within seven days

Where there is to be any change in any of the particulars relating to a licensee, which particulars are required to be filed with the Town on applying for a license under this Chapter, such licensee shall report the change to the Town within seven days of the change.

875213 Partnership - change of information - requirements

Where a licensee is a partnership and there is to be a change in the composition of the partnership, the licensee shall obtain the approval of the Town to such change prior thereto, failing which, the license may be revoked, provided, where there has been a transfer of a majority or controlling interest in the partnership since the license was issued, either by one transaction or a number thereof and regardless of whether any such prior transfer was with or without the approval of the Town, the license shall be automatically revoked.

875214 Corporation - change of information - requirements

Where a licensee is a corporation and there is to be a change in the composition of the shareholders, such licensee shall obtain the approval of the Town to such change prior thereto, failing which, the license may be revoked, and where the transfer results in a new person or persons acquiring a controlling interest in the corporation since the license was issued, either by one transaction or a number thereof and regardless of whether any such prior transfer was with or without the approval of the Town, the license shall be automatically revoked.

875215 Vehicle - drawn by animal - prohibited

No refreshments shall be sold from a refreshment vehicle or other device drawn by an animal.

875216 Sales - prohibitions - from refreshment cart

No person shall hawk, peddle or sell refreshments from a refreshment cart except:

- (a) Within a building by or on behalf of the person who is the lawful owner or tenant of such building, or part thereof, that person carries on a full-time commercial business therein related to the hawking, peddling or selling of refreshments; or
- (b) Outside a building described in paragraph (a) with the written permission of the lawful owner or tenant of such building.

Items hawked, peddled or sold from a refreshment cart may only include items such as dairy, hot dogs and related products. By-law 89-21, 23 June, 2021.

875217 Compliance - all provisions - licensed or not

Every person shall comply with the provisions of this Chapter applicable to him or her whether or not he or she is licensed under this Chapter.

Article 3
APPLICATION - GENERAL

875.3.1 Application - fee - acceptance - not approval

Acceptance of the application and/or the license fee by the Town shall not represent approval of the application for the issuance of a license nor shall it obligate the Town to issue such license.

875.3.2 Investigation - as required - recommendations

Without limiting the generality of any other provision in this Chapter, every application for a license may be submitted by the Licensing Officer to the Medical Officer of Health, the York Region Police Department and any other government official or functionary for a report or comment, and where any such report or comment is negative or unfavourable to the applicant, the Licensing Officer may recommend refusal of the license to Council under Article 13.

875.3.3 License plate - sticker - issued - by Licensing Officer

When an application for a license is made in accordance with the provisions of this Chapter and the applicant meets all the requirements of this Chapter the Licensing Officer shall issue a license certificate which shall set out the expiry date of the license in accordance with Section 875.2.6 and all supplementary material and the applicant shall thereby be licensed and, where the license is a refreshment vehicle operator's license or a refreshment cart operator's license, the Licensing Officer shall issue a license plate and/or a validation sticker for the respective refreshment vehicle or refreshment cart.

Article 4
APPLICATION - OWNER - OPERATOR

875.41 Information - on form - provided - to Licensing Officer

Every applicant for a refreshment vehicle owner's license and every applicant for a refreshment cart operator's license shall complete the forms prescribed by the Licensing Officer and provide all information requested thereon.

875.42 Information - additional - as required

Every applicant for a refreshment vehicle owner's license and every applicant for a refreshment cart operator's license shall furnish to the Licensing Officer such information as the Licensing Officer may direct.

875.43 Signed - owner - operator - partnership - corporation

Every applicant for a refreshment vehicle owner's license and every applicant for a refreshment cart operator's license shall appear in person or by an agent at the offices of the Licensing Officer, provided, in the case of a refreshment vehicle or refreshment cart owned or operated by a partnership, such appearance may be made by one of the partners or an agent, provided the application shall be signed by all of the partners, and, in the case of a refreshment vehicle or a refreshment cart owned or operated by a corporation, such appearance shall be made by an officer or agent of the corporation, provided the application shall be signed by the corporation, and for greater particularity, any affidavit verifying the information contained in the application and any other forms, other than the application itself, may be signed by the person authorized to appear as set out herein.

875.44 Inspection - vehicle - at appointed place - time
Repealed. By-law 89-21, 23 June, 2021.

Article 5
APPLICATION - DRIVER

875.51 Information - forms - provided - to Licensing Officer
Every applicant for a refreshment vehicle driver's license shall complete the forms prescribed by the Licensing Officer and provide all information requested thereon.

875.52 Information - additional - as required
Every applicant for a refreshment vehicle driver's license shall furnish to the Licensing Officer such information as the Licensing Officer may direct.

875.53 Appearance - in person
Every applicant for a refreshment vehicle driver's license shall appear in person at the offices of the Licensing Officer.

875.54 Photographed - by Licensing Officer
Every applicant for a refreshment vehicle driver's license shall submit to having his or her photograph taken by the Licensing Officer.

Article 6

PARTNERSHIP - CORPORATION

875.6.1 Partnership - partners - names - addresses

Without limiting the generality of any other provision in this Chapter, persons associated in a partnership applying for a license under this Chapter shall provide to the Licensing Officer the full name of every partner and the address of his or her ordinary residence.

875.6.2 Partnership - as corporation

If any member of a partnership applying for a license is a corporation, such partnership shall be deemed to be a corporation applying for a license and if such license is issued to the partners, the partnership shall be deemed to be a corporation which holds the license under this Chapter.

875.6.3 Corporation - shareholders - names - addresses - other

Without limiting the generality of any other provision in this Chapter, every corporation applying for a license shall provide the Licensing Officer with the full name of every shareholder and the address of his or her ordinary residence and shall file with the Licensing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating document or documents.

Article 7 VEHICLE - CART

875.7.1 Refreshment cart - operation - license - required

No person shall operate a refreshment cart for which the operator thereof has not obtained a refreshment cart operator's license.

875.7.2 Operator - licensed vehicle - cart - only

No operator of a refreshment vehicle or refreshment cart shall operate a refreshment vehicle or a refreshment cart or permit a refreshment vehicle or a refreshment cart to be operated except one in respect of which a license has been issued under this Chapter.

875.7.3 Advertisement - promotion - endorsed name only

No operator of a refreshment vehicle or refreshment cart shall advertise or promote or carry on the business for which he or she is required to have a license under this Chapter under any name other than the name endorsed upon his or her license certificate.

875.7.4 License plate - sticker - attached to vehicle - location

No operator of a refreshment vehicle or refreshment cart shall operate a refreshment vehicle or refreshment cart or permit a refreshment vehicle or refreshment cart to be operated without the license plate for that vehicle or cart, together with the validation sticker attached to the license plate in a location approved by the Licensing Officer, affixed to such vehicle or cart in a location approved by the Licensing Officer.

875.7.5 Vehicle - information - requirements - kept - all times

Every operator of a refreshment vehicle shall keep at all times in the refreshment

vehicle the original or a photostatic copy of the original of each of the following documents:

- (a) the current permit for that vehicle issued pursuant to the *Highway Traffic Act*;
- (b) the current refreshment vehicle operator's license certificate issued under this Chapter.

875.7.6 Mechanical defects - repaired - immediately

Every operator of a refreshment vehicle shall repair any mechanical defect in the vehicle of which he or she has knowledge and not permit or re-quire the vehicle to be operated until this has been done.

875.7.7 Employee - penalty - for compliance - prohibited

No operator of a refreshment vehicle shall dismiss, threaten to dismiss, discipline or suspend an employee, or impose a penalty upon the employee, or intimidate or coerce the employee because the employee has acted in accordance with or sought enforcement of this Chapter.

875.7.8 Vehicle - safe - approved - clean - good repair

No operator of a refreshment vehicle shall operate a refreshment vehicle, except one that meets the standards required for approval under a Ministry of Transportation of Ontario vehicle inspection or meets the standards for a safety standards certificate issued under the *Highway Traffic Act* and is clean and in good repair, without exterior body damage or rust.

875.7.9 Accidents reported - Licensing Officer - seventy-two hours

Every operator of a refreshment vehicle shall report to the Licensing Officer all accidents involving the attention or attendance of a police officer, or where such attention or attendance is required by law, within seventy- two hours and at that time, or, at the option of the Licensing Officer, at a later time designated by him or her, deliver the refreshment vehicle to the Licensing Officer for inspection after which the Licensing Officer may suspend the license if in the Licensing Officer's opinion the refreshment vehicle cannot safely be operated.

875.7.10 Operation - without appropriate license - prohibited

No operator of a refreshment vehicle shall permit any person without having a valid and subsisting refreshment vehicle driver's license to operate a refreshment vehicle owned or controlled by him or her.

Article 8
DRIVER - RESPONSIBILITY

875.8.1 Inspection - vehicle - daily - defects - reported

Every driver shall, each day before commencing the operation of the refreshment vehicle, examine the vehicle for mechanical defects and interior or exterior damage to the vehicle and shall report forthwith any defects found to the operator of the refreshment vehicle and shall not operate such vehicle until the mechanical defects so reported are corrected.

875.8.2 License certificate - carried - produced on demand

Every driver shall have available at all times and produce, on request of the Licensing Officer or a passenger, the license certificate issued to him or her under this Chapter, his or her Ontario driver's license and proof of public liability insurance, provided the driver shall at all times wear the license certificate issued to him or her under this Chapter in open view in a manner satisfactory to the Licensing Officer so that it can be readily read and viewed by a member of the public.

875.8.3 Civil - courteous behaviour - required

Every driver shall be civil and behave courteously.

875.8.4 Operation - vehicle - licenses - approval - maintained

No driver shall operate a refreshment vehicle except a refreshment vehicle which:

- (a) in respect of which a refreshment vehicle operator's license has been issued under this Chapter;
- (b) meets the standards required for approval under a Ministry of Transportation of Ontario vehicle inspection or meets the standards for a safety standards certificate issued under the *Highway Traffic Act*; and
- (c) is clean, and in good repair as to its exterior, free from exterior body damage and with a well maintained exterior paint finish.

875.8.5 Alcohol - drugs - intoxicants - use - prohibited

No driver shall be under the influence or consume or have in his or her possession any alcohol, drugs, other than drugs prescribed by a duly qualified medical practitioner and which do not and may not impair his or her ability to operate the vehicle, or intoxicants while he or she is in charge of a refreshment vehicle.

875.8.6 Alcohol - drugs - sale - agent - prohibited

No driver shall buy or sell or act as an agent of a person in buying or selling alcohol, drugs or intoxicants or give information as to where illicit intoxicants or drugs may be obtained.

875.8.7 Information - given - on request - license number

Every driver shall, upon the request of any person, give his or her name, the number of the license certificate issued to him or her under the provisions of this Chapter, the number of the license plate and the provincial motor vehicle license number.

875.8.8 Accidents - reported Licensing Officer - seventy-two hours

Every driver shall report to the Licensing Officer all accidents involving the attention or attendance of a police officer, or where such attention or attendance is required by law, within seventy-two hours.

875.8.9 Medical certificate - required - upon request

Every driver shall provide the Licensing Officer at any time, upon request by him or her, with a certificate prepared by a duly qualified medical practitioner attesting as to whether or not the said driver is physically fit and able to operate a motor vehicle and is free from all contagious diseases.

**Article 9
OPERATOR - RESPONSIBILITY**

875.9.1 Operation - regulations - refreshment cart

Every operator of a refreshment cart shall, in the operation of the refreshment cart, comply with and ensure compliance with the regulation set out in Section 875.9.2.

875.9.2 Soft toned bell - chimes - only

No refreshment cart shall be equipped with any sounding device for attracting attention other than a soft toned bell or chime.

875.9.3 Regulations - refreshment vehicle - cart - set out

Every operator shall, in the operation of a refreshment vehicle or a refreshment cart, comply with and ensure compliance with the regulations set out in Sections 875.9.4 through 875.9.13 inclusive.

875.9.4 Doors - windows - body - sound construction

The body, doors and windows of such refreshment vehicle or refreshment cart shall be of sufficiently sound construction to provide reasonable protection against dust, dirt, flies and other injurious matter or things.

875.9.5 Floor - impervious - free from holes - cracks

The floor of such refreshment vehicle or refreshment cart shall be of a suitable impervious material, free of holes, cracks or crevices, and the surface thereof shall be readily washable and shall be kept clean and in good condition.

875.9.6 Equipment - dispensers - kept clean - sanitary

The refreshment vehicle or refreshment cart and all parts and equipment thereof for use in the dispensing of refreshments shall at all times be kept in a clean and sanitary condition and in good repair.

875.9.7 Refuse container - requirements

Every refreshment vehicle or refreshment cart shall be equipped with either:

- (a) a metal refuse container with a self-closing lid which shall be kept in a clean and sanitary condition and emptied at least once daily; or
- (b) a disposable litter container which shall be replaced at least once daily; and such container shall be used for the disposal of all refuse.

875.9.8 Refuse container - location - easily accessible

Every refuse container shall be located in such a position on the refreshment vehicle or refreshment cart so as to be easily accessible by persons making purchases while the refreshment vehicle or refreshment cart is stopped.

875.9.9 Refreshments - wrapped - sold - individual packages

Repealed. By-law 89-21, 23 June, 2021.

875.9.10 Milk - cream - sugar - condiments - single service

Milk, cream, sugar and all condiments shall be in single service containers only.

875.9.11 Cutlery - plates - serviettes - disposable - only

Only disposable forks, knives, spoons, cups, plates and serviettes shall be used.

875.9.12 Refrigeration - adequate - perishables

Adequate refrigeration as determined by the Medical Officer of Health shall be equipped and maintained in each refreshment vehicle or refreshment cart for perishable refreshments which shall be kept so refrigerated.

875.9.13 Business name - operator - painted - on vehicle

Each refreshment vehicle or refreshment cart shall have clearly and legibly painted or posted on both sides of the vehicle or cart the name of the operator or the business name endorsed upon the refreshment vehicle operator's license or the refreshment cart operator's license.

875.9.14 Clothing - hands - cleanliness - maintained - at all times

Every person selling or handling refreshments shall wear clean clothes, be clean and neat in appearance and maintain clean hands at all times.

Article 10
OPERATOR - DRIVER - RESPONSIBILITY

875.10.1 Operator - driver - regulations - set out

Every operator of a refreshment vehicle and every driver shall, in the operation of the refreshment vehicle, comply with and ensure compliance with the following regulations set out in Sections 875.10.2 through 875.10.7 inclusive.

875.10.2 Vehicle - four-wheeled - motorized

The refreshment vehicle from which the refreshments are sold shall be of a four-wheeled motor vehicle type.

875.10.3 Hot refreshments - temperature - maintained

Vehicles which dispense prepared hot refreshments shall be equipped to maintain such refreshments at a temperature approved by the Medical Officer of Health.

875.10.4 Date of preparation - marked - on wrapper

The date of preparation shall be clearly and legibly marked on or affixed to the wrapper of each prepared non-liquid refreshment, including but not limited to sandwiches, hamburgers and hot dogs.

875.10.5 Operation - between sunrise and sunset only

Every refreshment vehicle shall operate only between the hours of sunrise of any day and sunset of the same day.

875.10.6 Service - restricted areas

The operation of a Refreshment Vehicle shall be restricted to locations within industrial, commercial or retail zones, or at temporary construction sites. Notwithstanding the foregoing, a Refreshment Vehicle may be operated on City property with approval granted in the form of a permission from the Commissioner of Community Services (or any successor position) or their designate. By-law 59-23, 14 June, 2023.

875.10.7 Service - duration - fifteen minutes - in one place

The operation of a Refreshment Vehicle shall be restricted such that the vehicle goes from place to place and does not remain in one place, while operating for a length of time in excess of fifteen minutes, unless written permission has been provided by the property owner for a longer duration.
By-law 89-21, 23 June, 2021.

Article 11

REPORT TO COUNCIL

875.11.1 Report to Council

Where the Commissioner is of the opinion that an applicant for a license does not comply with any one or all of the conditions set out in Article 13 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the license if, in the opinion of Council, the said conditions have been satisfied.

Article 12

LICENCE NON-TRANSFERABLE WITHOUT COUNCIL APPROVAL

875.12.1 License not transferable

A license issued under this Chapter shall not be transferred or assigned by the license holder without the consent of Council upon the recommendation of the Commissioner.

Article 13

GROUND FOR REFUSAL TO ISSUE OR RENEW A LICENCE

875.13.1 License - entitlement

An applicant is entitled to be licensed and a licensee is entitled to have his or her license renewed.

875.13.2 License refused - financial position

Notwithstanding Section 875.13.1, a license may not be issued or renewed where, having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

875.13.3 License refused - past conduct of applicant

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

875.13.4 License refused - contrary to public interest

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the issuance of the license or renewal of the license would be contrary to the public interest.

875.13.5 License refused - activities in contravention

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

875.13.6 License refused - use of premises

Notwithstanding Section 875.13.1, a license may not be issued or renewed where

there are reasonable grounds for belief that the nature, condition or use of the premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this Chapter or any other law.

875.137 License refused - applicant provides false information

Notwithstanding Section 875.13.1, a license may not be issued or renewed where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant, contains a false statement or provides false information.

875.138 License refused - information provided - accuracy

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the information provided to the Town by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the Town sufficient to allow the Council to conclude that the license should be granted or maintained as valid and subsisting.

875.139 License refused - fee not paid

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the fee payable in respect of the license applied for has not been paid.

875.1310 License refused - applicant - non-compliance

Notwithstanding Section 875.13.1, a license may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a license.

875.1311 License refused - equipment non-compliance

Notwithstanding Section 875.13.1, a license may not be issued or renewed where there are reasonable grounds for belief that the vehicle, equipment or facilities in respect of which the license is issued or required do not comply with the provisions of this Chapter or any other law.

875.1312 License refused - applicant is corporation

Notwithstanding Section 875.13.1, a license may not be issued or renewed where if the applicant or licensee is a corporation,

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
- (c) the issuance of the license or renewal of the license would be contrary to the public interest; or
- (d) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

Article 14

COUNCIL'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE

875.14.1 Council's power to refuse to issue or renew a license

Council may refuse to issue or renew a license or may refuse to renew a license, where the applicant or licensee would be disentitled to a license for any of the reasons set out in Article 13.

Article 15

REFUND OF FEE ON REFUSAL TO ISSUE OR RENEW A LICENCE

875.15.1 License not issued - refund of fee

When an application for a license or renewal of a license is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

Article 16

ISSUANCE OF LICENCE ON TERMS AND CONDITIONS

875.16.1 License issued - terms and conditions

Notwithstanding any other provision of this Chapter, Council may issue a license or renew a license subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the License Hearings Committee after a hearing as provided for in Section 875.20.1 of this Chapter.

Article 17

COUNCIL'S POWER TO REVOKE OR SUSPEND A LICENCE

875.17.1 License revoked or suspended

Council may revoke or suspend a license where the licensee would be disentitled to a renewal of a license on the grounds set out in Article 13 of this Chapter.

875.17.2 Suspension - permitted - conditions - notice

The Licensing Officer may suspend a license where:

- (a) he or she has reasonable grounds to believe that the licensee would not be entitled to a renewal of a license for the reasons set out in Article 13;
- (b) he or she has reasonable grounds to believe that the licensee has committed any breach of a provision of the *Highway Traffic Act*, the *Liquor Control Act*, or the Criminal Code of Canada; or
- (c) where the license is a refreshment vehicle operator's license and the refreshment vehicle has been involved in an accident involving the attention or attendance of a police officer, or where such attention or attendance was required by law, and, in the opinion of the Licensing Officer the refreshment vehicle cannot safely be operated, and such suspension shall take effect upon the delivery of notice thereof to the licensee and the license shall remain suspended until the Licensing Officer reinstates the license or the hearing of the matter by the Council to determine whether the license should be revoked.

875.17.3 Operation - while suspended - prohibited

No person shall, within the geographic limits of the Town, carry on or engage in the trade, calling, business or occupation for which a license under this Chapter has been suspended until such license has been reinstated.

875.17.4 Suspension - report to Council - recommendation

Following suspension of a license under Section 875.17.2, the Licensing Officer shall prepare a written report to the Council advising of the suspension and:

- (a) recommending that the License Hearings Committee hold a hearing to determine whether the suspension should continue, or be terminated, and whether the Committee should give consideration to whether or not the license should be revoked or otherwise dealt with pursuant to this Chapter; or
- (b) recommending reinstatement of the license on the basis that the conditions leading to the suspension have been remedied; or
- (c) recommending that no action be taken upon the termination of the suspension.

REFUND OF FEE ON REVOCATION OF A LICENSE

875.18.1 License revoked - refund of fee

When a license is revoked under Section 875.17.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the license fee which is proportionate to the unexpired part of the term for which the license was issued.

875.18.2 Refund of fee - not applicable

The provisions of Section 875.18.1 do not apply when the unexpired part of the term is less than four months.

Article 19

CANCELLATION OF A LICENCE

875.19.1 License - cancelled

Any license issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

Article 20

APPEALS TO THE LICENCE HEARINGS COMMITTEE

875.20.1 License refused - recommendation to Council

When an applicant or a licensee is not entitled to be licensed or to have his or her license renewed for any of the grounds set out in Article 13, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the license, or that Council suspend or revoke the license, or, subject to Section 875.16.1, that Council issue a license on terms and conditions.

875.20.2 License refused - written notice

Before Council refuses to issue or refuses to renew a license, or revokes or suspends or cancels a license, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the license, shall be given to the applicant or licensee by the Licensing Officer.

875.20.3 Written notice - contents

The written notice to be given under Section 875.20.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds,
- (c) be signed by the Licensing Officer,
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the License Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the License Hearings Committee.

Article 21

NOTICE OF HEARING

875.21.1 Notice of hearing

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the License Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

Article 22

SERVICE OF WRITTEN NOTICE

875.22.1 Written notice - service

The written notice referred to in Sections 875.20.2, and 875.20.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

875.22.2 Written notice - service - via registered or certified mail

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

Article 23
HEARING BEFORE THE LICENCE HEARINGS COMMITTEE

875.23.1 Applicant does not attend

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the License Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

875.23.2 Recommendation to Council

At the conclusion of a hearing, the License Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

Article 24
COUNCIL AUTHORITY AFTER THE HEARING

875.24.1 Council - recommendation of License Hearing Committee

Council may accept or vary the recommendations of the License Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

Article 25
RETURN OF LICENCE AFTER REVOCATION OR SUSPENSION

875.25.1 License revoked - suspended - returned - Licensing Officer

When a license has been revoked or suspended, the holder of the license shall return the license to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

875.25.2 License revoked - Licensing Officer to obtain license

When a person has had his or her license revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the license, in accordance with Section 875.25.1.

Article 26
TRANSITION

875.26.1 By-law - previous

A license issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter only until the earlier of its expiry or its revocation.

Article 27
SEVERABILITY

875.27.1 Validity

If a court of competent jurisdiction declares any provision, or any part of a provision of this Chapter to be invalid or to be of no force and effect, it is the intention of the Council in enacting this Chapter, that each and every other provision of this Chapter authorized by law, be applied and enforced in accordance with its terms, to the extent possible according to law.

Article 28
ENFORCEMENT

875.28.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and, upon conviction is liable to a fine and other penalties imposed pursuant to the *Provincial Offences Act*, as amended.

Article 29
ADMINISTRATIVE PENALTIES

875.29.1 Alternative to Charge

In lieu of laying a charge under the Provincial Offences Act for a breach of any provision of this By-law, a Municipal By-law Enforcement Officer may issue a Penalty Notice to the Person who has contravened this By-law in accordance with the service requirements of the Corporation's Administrative Penalty By-law. For greater certainty, the Municipal By-law Enforcement Officer has the discretion to either proceed by way of an administrative penalty or a charge laid under the Provincial Offences Act, if an administrative penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach. By-law 59-23, 14 June, 2023

875.29.2 Amount – Payment

A Person served with a Penalty Notice shall be liable to pay to the Corporation an administrative penalty in the amount specified in Schedule "A" of the Administrative Penalty By-law. An administrative penalty for a contravention of this By-law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the Person to the Corporation and may be added to a municipal tax roll and collected in the same manner as municipal taxes. By-law 59-23, 14 June 2023

875.29.3 Procedures

A Person who is issued a Penalty Notice shall be subject to the procedures as provided for in the Administrative Penalty By-law. By-law 59-23, 14 June, 2023.

Article 30
REPEAL - ENACTMENT

875.30.1 By-law - previous

Chapter 875 of the Municipal Code respecting Refreshment Vehicles be repealed in its entirety and replaced with the new Chapter 875. By-law 14-01 be repealed. By-law 194-05, 12 December, 2005; By-law 78-11, 11 July, 2011.

Last Updated: By By-law 59-23 passed on June 14, 2023.