

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW NO. 2024-22

Being a By-law to License and Regulate the Sale of Refreshments in
Public Places and Vehicles from which Refreshments are Sold

WHEREAS Section 8 of the *Municipal Act* provides that the powers of the Municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs as they consider appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising authority under the *Municipal Act* and any other Act;

AND WHEREAS Sections 151 and 160 of the *Municipal Act* provide that a municipality may provide for a system of licenses with respect to a business and pass by-laws licensing businesses under any section of the *Municipal Act* or any other Act;

AND WHEREAS Section 429 of the *Municipal Act* provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS Section 434.1 (1) of the *Municipal Act* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS the Council for the Town of Gravenhurst deems it expedient to establish regulations to control business activities relating to refreshment vehicles in Gravenhurst in the interest of public safety and consumer protection;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST HEREBY ENACTS AS FOLLOWS:

1. SHORT TITLE

- 1.1 This By-law shall be known and may be cited as the "Licensing of Refreshment Vehicle By-law".

2. DEFINITIONS

In this By-law:

- 2.1 **Applicant** means a person who has applied for a license in accordance with the provisions of this by-law.
- 2.2 **Catering Truck** means a motor vehicle from which prepackaged food and beverages are offered for sale and sold to employees and other workers on private

property at the invitation of a property or business owner or a contractor working on the property.

- 2.3 Charitable Organization** means a not-for profit organization or group registered by a recognized government agency and in full compliance with the reporting requirements under the relevant legislation.
- 2.4 Designated Property** means a Town property approved for refreshment vehicle operation as specifically indicated on Schedule "A" of this by-law.
- 2.5 Fee** means a fee as set out within the Towns current User Fees and Service Charges By-law (as amended from time to time).
- 2.6 Food** shall include food or drink for human consumption but excludes alcoholic beverages.
- 2.7 License** means a refreshment vehicle license issued to a licensee to operate a refreshment vehicle business in compliance with this by-law. Licenses are valid from January to December of the current calendar year.
- 2.8 Licensee** means a person, company or organization that has been issued a license and includes an applicant.
- 2.9 Mobile Cart** means a pushcart, pedal-driven cart, wagon, or other nonmotorized cart.
- 2.10 Mobile Refreshment Stand** means a portable building or structure that is used to prepare and/or serve food to the general public.
- 2.11 Mobile Refreshment Vehicle** means a Vehicle or Mobile Cart from which food is sold or offered for sale for consumption by the public and includes a wagon, a trailer, bicycle carts and food trucks, but does not include a Catering Truck.
- 2.12 Nuisance means an** activity or activities, intentional or negligent in origin, which have a detrimental impact on the use and enjoyment of properties in the vicinity of the premises.
- 2.13 Officer** means an officer appointed by Council or through an authority of applicable legislation, such as, but not limited to, a municipal law enforcement officer, fire prevention officer, licensing officer or building inspector and may include a member of the Ontario Provincial Police.
- 2.14 Operate** means to directly or indirectly manage, work, control, maintain, put or keep in a functional state any business.
- 2.15 Operator** has the same meaning of "Operate".

- 2.16 Owner** – means the person registered on title as the owner of a refreshment vehicle, property, structure or building.
- 2.17 Person** – for the purpose of this by-law, includes:
- a) an individual;
 - b) an Authorized Agent;
 - c) a Responsible Person;
 - d) an Occupant; and/or
 - e) an Owner.
- 2.18 Premises** means the land, including all buildings and structures located on the land, the refreshment vehicle, mobile refreshment vehicle and refreshment stand is situated.
- 2.19 Public Health Inspector** means a public health inspector of a board of health as defined under the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*.
- 2.20 Refreshment Vehicle** means a Mobile Refreshment Vehicle or a Mobile Refreshment Stand.
- 2.21 Restaurant** has the same meaning as in the Town's current Comprehensive Zoning By-law.
- 2.22 Special Event** means an event proceeding under the authority of a valid special event permit issued by the Town.
- 2.23 Street** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle designed and intended for, or based by, the general public for the passage of vehicles.
- 2.24 Town** means the Corporation of the Town of Gravenhurst.
- 2.25 Valid License** means a refreshment vehicle license issued by the Town of Gravenhurst currently in effect and not expired.
- 2.26 Vehicle** has the same meaning as within the Highway Traffic Act, R.S.O. 1990, c. H.8.

3 GENERAL PROVISIONS

- 3.1** No person shall operate a mobile refreshment vehicle or a mobile refreshment stand anywhere within the Town without possessing a valid refreshment vehicle license issued by the Town under the authority of this by-law.
- 3.2** No person shall operate a mobile refreshment vehicle or a mobile refreshment stand anywhere within the Town without displaying a valid refreshment vehicle license issued by the Town posted in a conspicuous place within the refreshment vehicle.

- 3.3** No person shall operate a mobile refreshment vehicle or a mobile refreshment stand in contravention of the Town's Official Plan, the Town's Zoning By-law, any Town enacted By-laws or any other plans and policies currently in effect that apply to the use or application of a refreshment vehicle.
- 3.4** No person shall locate and operate a mobile refreshment vehicle or a mobile refreshment stand on any portion of a public sidewalk, boardwalk or boulevard area at any time.
- 3.5** No person shall operate a mobile refreshment vehicle or a mobile refreshment stand unless the vehicle displays, in contrasting colour and in clearly visible letters measuring at least 10 centimetres in height, the operating name of the business as it appears on the issued license.
- 3.6** No person shall alter or modify or permit the alteration or modification of a license.

4 APPLICATION OF REFRESHMENT VEHICLE

- 4.1** Every person making application for a refreshment vehicle license shall submit the following information and/or documentation to the Town as part of a completed application package:
- a. a completed application form with the required licensing fee as contained within the current User Fees and Services By-law;
 - b. where applicable, a copy of each of the following, which will remain on the premises of the mobile refreshment vehicle or the mobile refreshment stand at all times;
 - i. a valid relevant certificate or permit from the Medical Officer of Health of the Health Unit from the Simcoe Muskoka District Health Unit; and,
 - ii. Certification of Fire Inspection from the Town's Fire and Emergency Services department containing a TSSA annual inspection certificate, MFSE-002, a field approval by TSSA, a copy of certificate of hydro inspections – ESA and a recent (within six months) Certificate of inspection for the fire suppression system and a portable fire extinguisher(s), as required, that have been certified within the last twelve (12) months;
 - c. all approvals, inspections or other documentation as specified under the provisions of this by-law or specifically requested by the Town;
 - d. where a mobile refreshment vehicle or a mobile refreshment stand is permitted to be located on private property, written consent provided by the property owner permitting the operation and use of the refreshment vehicle.
 - e. Proof of compliance with Section 5 of this By-law.

- 4.2** Mobile refreshment vehicles or mobile refreshment stands parked on Town property shall;
- a. be located on a designated Town property identified in Schedule 'A' of this By-law;
 - b. be placed in compliance with written permission of the Town; and
 - c. operate in compliance as per the administrative procedures.
- 4.3** Where more than 3 inspections are conducted by an officer within the operating year, the Applicant may be subject to a re-inspection fee.

5. INSURANCE

- 5.1** The licensee shall, for the term of the license, maintain full, necessary and adequate insurance with insurers licensed to carry on business in the Province of Ontario, at their own expense as follows: Such coverage must be maintained and in effect continuously while the license is valid.
- 5.2** With the exception of the Standard OAP 1 Automobile Insurance, all other policies shall be endorsed to provide thirty (30) days' notice to the Municipality in the event of cancellation or in the event of non-renewal of an Insurance Policy or pertinent coverage.
- 5.3** Certificate of Insurance must be identified by the associated Vehicle Refreshment license.
- 5.4 General Liability**
- a. Subject to limits of not less than \$5,000,000 per occurrence;
 - b. Coverage to include but not limited to Bodily Injury including Death, Property Damage, Contractual Liability, Non-owned Automobile Liability, and Products and Completed Operations;
 - c. Shall contain a cross liability, severability of insured clause; and,
 - d. The Corporation of the Town of Gravenhurst shall be named as an additional insured.
- 5.5 Standard OAP 1 Automobile Policy**
- a. For all licensed motor vehicles owned, leased or operated by the Applicant and used as Refreshment Vehicle.
 - b. Subject to limits of not less than \$5,000,000 per occurrence for Third Party Liability coverage.

5.6 Certificate of Insurance

- a. Prior to the issuance of the license, the licensee shall promptly provide the Town with confirmation of coverage in a Town approved format, by an authorized representative of the insurer together with copies of any amending endorsements applicable to the license.

6. REQUIREMENTS FOR WASTE DISPOSAL

- 6.1 The owner and/or operator of a mobile refreshment vehicle or a mobile refreshment stand shall:
 - a. provide a waste receptacle complete with a tight fitting lid for the collection of customer waste located in a way that is easily accessible by all customers;
 - b. ensure all waste receptacles are emptied at the conclusion of each business day; and
 - c. ensure all waste is disposed of in accordance with Town and District of Muskoka By-laws at the sole expense of the licensee.
- 6.2 A mobile refreshment vehicle or a mobile refreshment stand operating as part of a registered Special Event shall be exempt from Section 7.1.

7. EXEMPTIONS

- 7.1 A mobile refreshment vehicle or a mobile refreshment stand operated by or on behalf of a registered charitable and/or not-for-profit organization shall be exempt from the Town's application license fee.
- 7.2 A mobile refreshment vehicle or a mobile refreshment stand operated by or on behalf of a restaurant on the premises of the restaurant shall be exempt from the Town's application license fee.

8. ADMINISTRATION, ENFORCEMENT, AND RIGHT OF ENTRY

- 8.1 This By-law shall be administered and enforced by an Officer as defined within this By-law.
- 8.2 An officer may enter upon and inspect any land or property at any reasonable time to determine if any section of this by-law is being complied with, or to determine if any direction, notice, or order issued pursuant to this By-law, the *Municipal Act, 2001*, or the *Fire Protection and Prevention Act, 1997, S.O. 1997 c.4*, is being complied with.
- 8.3 In addition to any other action, where a person is in contravention of any provision of the By-law, an officer may post on site, or send a notice in the form of a letter or email to the person, describing the contravention.

- 8.4** Any order or direction given under this By-law may be given personally to the owner or occupant of the property, or may be posted on site, mailed by ordinary or registered mail, or by hand delivery to the mailing address of the registered owner or occupant of the property and any such delivery shall be deemed good and sufficient service.
- 8.5** No person shall obstruct or hinder or attempt to obstruct or hinder an officer in the exercise of a power or the performance of a duty under this By-law.
- 8.6** No person shall refuse to produce any documents or things required by an officer under this By-law, and every person shall permit the entry, inspection, examination, or inquiry by an officer.
- 8.7** No person shall knowingly furnish false or misleading information to the Town or to an officer with respect to this By-law.

9. REFUSAL/SUSPENSION/REVOCATION OF LICENSE

- 9.1** The Town may refuse to issue a license and may suspend or revoke a license where:
- a. the applicant cannot satisfy the terms required for the license;
 - b. the licensee has failed to remedy any reasonable concern with regard to conditions of a license;
 - c. the licensee has failed to comply with any requirements of this or any other applicable by-laws, or provincial or federal statute or regulations;
 - d. the applicant made a material misrepresentation in the application or supporting documentation;
 - e. the licensee is not complying with any terms or conditions of their license;
 - f. the licensee acted in a manner that would appear to give rise to issues relating to the specific grounds for consideration; or,
 - g. the owner(s) or applicant(s) have any outstanding fines, penalties, legal costs, disbursements, property taxes and late payment charges owing to the Town of Gravenhurst.

10. NO VESTED RIGHT, REVOCATION OR SUSPENSION

- 10.1** No person shall have a vested right to the continuation or re-issuance of a license. All licenses issued, renewed, cancelled, suspended, or terminated remain the sole property of the Town.

10.2 Upon written notice to the licensee at the address provided in the application for a license hereunder, the Town may suspend or revoke a license issued to any applicant where the Town believes it is in the public interest to do so, including the grounds that the conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or that it is otherwise determined that it is in the public interest to do so.

10.3 Any suspension or revocation of a license may be subject to such terms and conditions hereto or where such license has been revoked.

11. OFFENCES AND PENALTIES

11.1 A person is guilty of an offence if the person:

a) Fails to comply with an order, notice direction or other requirements under this By-law, or,

b) Contravenes any provision of the By-law.

11.2 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence.

11.3 Any person who knowingly falsely reports a violation of this By-law shall, upon the second and any subsequent false reports, be guilty of an offence.

11.4 If the contravention of this By-law results in fire suppression or fire prevention personnel and vehicles being dispatched to respond to the property, the person in control of the fire and/or the Owner may be invoiced by the Fire Department, for the cost of such response according to the rates established by the Town's Fees and Charges By-law, as amended. However, nothing in any schedule of rates shall be construed as limiting the rights of the Town to seek restitution for other direct or consequential damages or costs incurred beyond those listed.

11.5 An officer may issue an Administrative Monetary Penalty to the person, owner, occupant, agent or person responsible found in contravention of any provision of this By-law.

11.6 Any person who contravenes any provision of this By-law is responsible for any fines and fees imposed under the Administrative Monetary Penalty System By-law.

11.7 Any person who has been found in contravention of this By-law may request a review if the matter is in accordance with the Administrative Monetary Penalty System By-law.

11.8 Every person who contravenes any of the provisions of this By-law is guilty of an offence and shall be subject to a penalty in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33. as amended.

11.9 The court in which the contravention has been entered, and any court of competent jurisdiction, thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

12. VALIDITY AND SEVERABILITY

12.1 Every provision of this by-law is declared severable from the remainder and if any such provision of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the by-law.

13. FORCE, EFFECT AND REPEAL

13.1 This by-law shall come into effect on the day of passage.

13.2 On the day of passage, By-law No. 2020-51 shall be repealed:

READ AND PASSED this 19th day of March, 2024.

Deputy

Mayor

Clerk

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Deputy Mayor

Clerk

Schedule 'A' to By-law 2024-22

Designated Town Property

Designated Location
Gull Lake Rotary Park
Muskoka Bay Park
Centennial Centre