



**THE CORPORATION  
OF THE TOWN OF FORT ERIE**

**SCHEDULE "8" - By-law No. 217-05**

**REFRESHMENT VEHICLES, CYCLES AND CARTS**

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**1. DEFINITIONS**

In this Part:

- (a) "Refreshment Vehicle" means a motorized vehicle which has equipment inside the vehicle for preparing food and requires the operator to be inside the vehicle to prepare the food for consumption by the public.
- (b) "Refreshment Cart" means a wheeled, pedaled or transported non-motorized refreshment vehicle other than a refreshment cycle.
- (c) "Refreshment Cycle" means a non-motorized bicycle or tricycle from which ice cream, frozen desserts or other frozen confections are sold.

**2. PURPOSE OF BY-LAW**

The purpose of the licencing of refreshment vehicles, cycles and carts relates to matters of Health and Safety, Consumer Protection and Nuisance Control.

**3. LICENCE FEE**

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

**4. CONDITIONS**

4.1 Every applicant for a licence shall file an application with the Town including the following:

- (a) Approval of the Medical Officer of Health or designate;
- (c) Approval of the Fire Inspector or designate, if required

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- (d) Compliance Certificate under The Ontario Propane Code, if required;
  - (e) The intended location(s) for the operation of a refreshment vehicle or refreshment cart;
  - (f) A site plan setting out the proposed location of the refreshment vehicle or refreshment cart on the highway under the control of the Town or the location(s) that the operator intends to sell from;
  - (g) Upon approval by the Town these locations shall not be available to any other applicant until such time as the current licensee fails to renew the licence for the following year or such licence is suspended or revoked by the Appeals Committee.
- 4.2 Operators may be licenced to operate a refreshment vehicle, refreshment cart or refreshment cycle on any commercially zoned property in the Town as provided for under the Zoning By-law as amended, save and except vacant commercial properties, subject to the following:
- (a) Such vehicle shall be located on surplus parking space on a semi-permanent basis;
  - (b) Compliance with Section (4.1) herein;
  - (c) The provision of a letter of consent from the owner of the subject property;
  - (d) Any application to locate a vehicle on the lands occupied by a gas station shall provide that the vehicle will be located at least fifty (50) feet (15.24 metres) from the gas pumps;
  - (e) The provision of a site plan drawing showing the proposed location of the vehicle on lands delineated as surplus parking space and its relationship to the highways bounded by the said lands;
  - (f) The licence shall continue on an annual basis subject to compliance with the provisions of this by-law.
- 4.3 Except for commercial and residential properties, refreshment carts may go from place to place to sell refreshments and may only stop for the period of time of sale.

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- 4.4 Any person applying for a new refreshment vehicle, refreshment cart or refreshment cycle licence shall supply the following information with the application:
- (a) A list of the types of refreshments to be sold specifying whether the items include ice cream, frozen desserts or other frozen confections;
  - (b) Particulars of the type of vehicle including the serial number and in the case of a motorized refreshment vehicle, a valid and current safety standard certificate as issued by the Ministry of Transportation for the vehicle;
  - (c) Name and address of business under which the refreshment vehicle, refreshment cart or refreshment cycle will operate;
  - (d) Photograph of vehicle/cart.
- 4.5 (a) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped and maintained with a clean compartment for the storage of food and in the case of an ice cream vehicle the compartment shall be refrigerated.
- (b) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped with a suitable refuse container.
- 4.6 Any person operating a refreshment vehicle, refreshment cart and refreshment cycle for the sole purpose of selling ice cream shall additionally be equipped and maintained as follows:
- (a) With the warning "WATCH FOR CHILDREN" in readily legible black letters at least six inches (6") (15.24 cm) high on a yellow background, conspicuously displaced on the rear of the vehicle;
  - (b) With a minimum of two (2) amber lights on top so placed as to be readily visible by a person five (5) feet (1.52 metres) in height standing four (4) feet (1.22 metres) in front of or behind the vehicle and equipped with a device to keep the lights flashing while the vehicle is stopped for the sale of refreshments and that the vehicle's rear bumper shall have an angled cover on top designated and placed so as to prevent a child from standing or sitting on top.
- 4.7 Every refreshment vehicle and refreshment cart, not including refreshment cycles shall be a minimum of 45.72 metres (150 feet) away from the

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nearest restaurant unless written permission has been granted by the property owner and the operator of such establishment consents to a distance of less than 45.72 metres (150 feet). Such consent shall be provided annually upon renewal of the licence. Such distance shall be measured from the location of the vehicle to the nearest exterior wall of the restaurant or the restaurant portion of the building having multiple occupancy.

- 4.8 Any person being the owner or operator of a licenced eating establishment and being licenced under this by-law for being a refreshment vehicle may operate the refreshment vehicle on the premises of the eating establishment without having to comply with being a certain distance from an eating establishment.
- 4.9 Upon receipt of an application for a refreshment vehicle or refreshment cart, the Coordinator, Community Liaison and Business Licencing, Director, Infrastructure Services or designate and the Director, Planning and Development Services or designate of the Town shall ensure the proposed location of such vehicle does not create a traffic hazard, does not impede the flow of traffic or jeopardize the safety of pedestrians, customers or passing motor vehicles.
- 4.10 This schedule does not apply to a farmer, market gardener or other persons selling or delivering goods to any place of business or residence upon such highways or part thereof.
- 4.11 Any person licenced under this by-law who fails to comply with the *Highway Traffic Act*, R.S.O. 1990 Chapter H.8 or regulations under the *Act* while operating a refreshment vehicle shall be grounds for the Council to consider suspension or the revocation of or the addition of conditions to the licence.
- 4.12 The operator shall ensure the area of sale is kept clean and tidy at all times and the garbage receptacle disposed of its contents.
- 4.13 The operator shall keep the refreshment vehicle, cart and cycle in good condition at all times.
- 4.14 (a) No application shall be considered for any municipal park that operates a refreshment canteen or for any municipal property that is bound by a lease or agreement for the provision of refreshments and/or food therein.
- (b) Any other park location requires the approval of the Director, Infrastructure Services or designate of the Town prior to consideration of the application for approval.

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- 4.15 Liability insurance in the amount of Two Million (\$2,000,000) Dollars naming the Town of Fort Erie as additional insured shall be provided to the Town prior to the issuance of the licence.