

# **THE CORPORATION OF THE MUNICIPALITY OF WEST GREY**

## **BY-LAW NUMBER 38 - 2020**

### **A By-law to licence, regulate and govern refreshment vehicles in the Municipality of West Grey**

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WHEREAS section 11(2) of the Municipal Act, 2001 S.O. 2001 c.25 (the "Act") provides that municipalities may pass by-laws for the purpose of ensuring economic, social well-being of the municipality, and the health, safety and well-being of people in the municipality; and

WHEREAS section 151 of the Act provides for a system of business licences for any business wholly or partially carried on within the municipality and allows a municipality to prohibit the carrying on or engaging in the business without a licence, to refuse to grant a licence, to revoke or suspend a licence or to impose special conditions for a licence; and

WHEREAS section 445 of the Act provides that if a by-law has been contravened, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention and that the municipality may provide that any person who contravenes such an order is guilty of an offence; and

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST GREY ENACTS AS FOLLOWS:**

#### **Section 1 - Definitions**

1. For the purpose of this by-law the following definitions shall apply:
  - 1.1 "By-law Enforcement Officer" means the By-law Enforcement Officer of the Municipality of West Grey;
  - 1.2 "CAO/Clerk" means the CAO or Clerk of the Municipality of West Grey;
  - 1.3 "Council" means the Council of the Corporation of the Municipality of West Grey;
  - 1.4 "Health Unit" means the Grey Bruce Health Unit;
  - 1.5 "Licence" means a licence issued pursuant to this By-law;
  - 1.6 "Licencee" means a Person licenced under this By-law;
  - 1.7 "Municipality" or "Municipal" means the Corporation of the Municipality of West Grey and a reference to the "Municipality" or "Municipal" is a reference to its geographical area or to the municipal corporation, as the context requires;
  - 1.8 "Person" means an individual, partnership, firm or corporation and any heirs, executors or legal representatives to whom the context can apply;

- 1.9 "Refreshment Vehicle" means a motor vehicle, trailer, cart or any conveyance, driven by any kind of power, including muscular power, which is used for the sale, preparation or dispensing of food or drink for consumption by the general public, except for the exclusive sale of ice cream or ice cream cones.

## **Section 2 - Short Title**

2. This by-law shall be known as the "Refreshment Vehicle Licencing By-law".

## **Section 3 - Interpretation**

3. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.
4. All references to applicable law apply as amended from time to time.
5. The provisions of this by-law shall not relieve any person operating a refreshment vehicle of the requirements of any applicable provincial by-law, act or regulation.

## **Section 4 - Refreshment Vehicle Licencing**

6. Every person who operates a refreshment vehicle in the municipality shall apply for an amendment to their refreshment vehicle licence if the refreshment vehicle is proposed to relocate to a new place or changes ownership.
7. No person shall operate a refreshment vehicle in the municipality without a refreshment vehicle licence.
8. No person shall operate a refreshment vehicle in the municipality where a refreshment vehicle licence has expired or been refused, revoked or suspended.
9. No person shall operate a refreshment vehicle in the municipality contrary to an order issued by a by-law enforcement officer or a Superior Court of Justice.
10. Prior to issuing a refreshment vehicle licence, the applicant shall provide the CAO/Clerk with:
  - (a) A report from the health unit indicating that the refreshment vehicle complies with all health requirements, and implement any recommendations regarding equipment and sanitation which the health unit considers necessary for the operation of the refreshment vehicle.
  - (b) If propane is to be used in the refreshment vehicle, an inspection certificate issued by a licenced propane installer indicating compliance with the Ontario Propane Code, the Technical Standards & Safety Act and the Gaseous Fuels Regulations.

- (c) If the refreshment vehicle is to be located on property other than land owned by the applicant, written consent of the owner of the said property must be provided. In any event, approval of a licence shall only be considered on lands zoned as commercial, industrial, or institutional.
  - (d) A refreshment vehicle licence application may be referred to council for council's consideration prior to issuance, at the sole discretion of the CAO/Clerk, and in such circumstances, the issuance of the refreshment vehicle licence shall be at the sole discretion of council.
11. The annual refreshment vehicle licence fee shall be \$300/year per refreshment vehicle. Annual refreshment vehicle licences shall be effective for one year from the date of issue, unless revoked earlier.
  12. The refreshment vehicle licence fee for a licence issued for a period of one week or less shall be \$100.00 per refreshment vehicle.
  13. Licence fees shall be paid in full upon approval of the refreshment vehicle licence application and said fees are non-refundable.
  14. The application fee to amend a refreshment vehicle licence is \$50.00.

#### **Section 5 - Regulations**

15. The following regulations shall be strictly observed by the owners and operators of all refreshment vehicles:
  - (a) The heating units used in any such refreshment vehicle for the preparation of food shall be of a smokeless type and be vented to prevent the escape of gases and carbon monoxide which may contaminate food.
  - (b) Provisions shall be made for the recycling of all recycling materials, and disposal of all waste materials including paper containers so that the same shall be disposed of in a manner that the area in which such a refreshment vehicle is parked shall be kept free from garbage, refuse waste water at all times.
  - (c) All persons engaged in the operation of a refreshment vehicle, including the applicant and his employees, shall abide by the provisions of the Health Protection & Promotion Act, R.S.O.1990, and amendments thereto and comply with the Section 562 of the Food Premises Regulations.
  - (d) All propane connections shall be maintained so as to comply with the provisions of the Ontario Propane Code.
  - (e) The refreshment vehicle licence shall be displayed so as to be visible to the public.

#### **Section 6 - Administration**

16. Every person seeking a refreshment vehicle licence shall adhere to the requirements set out in Schedule "A" to this by-law.

17. Every person seeking a refreshment vehicle licence shall complete the refreshment vehicle licence application form attached as Schedule "B" to this by-law.
18. A refreshment vehicle licence issued under this By-law shall be in the form attached hereto as Schedule "C".

### **Section 7 – Penalty and Enforcement**

19. The CAO/Clerk and/or the by-law enforcement officer may refuse, revoke or suspend a refreshment vehicle licence, subject to any limits in the Municipal Act, 2001, under the following circumstances;
  - a. non-payment of any fees, charges or outstanding fines;
  - b. non-compliance with an order, condition on a refreshment vehicle licence or any provision of this by-law or any applicable by-law, Act or regulation;
  - c. as directed by council; or
  - d. the continuation of the refreshment vehicle business poses an immediate danger to the health or safety of any person or to any property.
20. The by-law enforcement officer may:
  - a. enforce the provisions of this by-law:
  - b. inspect, at any reasonable time, any refreshment vehicle which is licenced or has applied for a refreshment vehicle licence to determine if the business complies with this by-law or any applicable by-law, Act or regulation;
  - c. issue a work order, order to discontinue activity or order to do any action or thing required to bring a refreshment vehicle business into conformity with this by-law or any applicable by-law or any Act or regulation; or
  - d. apply to a Superior Court of Justice for an order for a refreshment vehicle business to close where the conditions for public nuisance or lack of a business licence set out in the Municipal Act, 2001 have been satisfied.
21. Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to the penalty set out in the Provincial Offences Act.
22. Upon receipt of a notice of contravention, each day that a contravention of this by-law continues constitutes a separate and distinct offence.
23. In addition to any other remedy provided for in law, where all or part of a fine under this by-law remains unpaid, such fine may be added to the tax roll for property owned in whole or in part by the person upon whom the fine is imposed and collected as municipal taxes.

## **Section 8 - Conflict and Transition**

24. In the event the provisions of this by-law are inconsistent with the provisions of the Municipal Act, 2001, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.
25. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the by-law shall continue to be in full force and effect.

## **Section 9 - Exemptions**

26. Upon receipt of a written request, council may, in its sole discretion, grant an exemption from the licensing provisions of this by-law for operation of a refreshment vehicle, as defined in this by-law, for a special occasion of the duration of one week or less.
27. A refreshment vehicle owned and operated by a non-profit organization is exempt from payment of licence fees.

## **Section 10 – Repeal of By-law**

28. That the By-law No. 83-2009 is hereby repealed.

## **Section 11 – Effective Date of By-law**

29. This By-law shall come into full force and effect on the day of its passing.

**Read a first and second time this 19<sup>th</sup> day of May, 2020.**

**Read a third time and finally passed this 19<sup>th</sup> day of May, 2020.**

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**Christine Robinson, Mayor**

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**Clerk**

## Schedule "A" – By-law Number 38-2020 - Refreshment Vehicle Regulations

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### **Licence Application**

1. In addition to the requirements set out in this by-law, every person applying for a refreshment vehicle licence:
  - a. provide a photograph of the refreshment vehicle;
  - b. indicate the intended place(s) of operation of the refreshment vehicle;
  - c. arrange an inspection of the refreshment vehicle and its equipment by the health unit;
  - d. provide a technical standards and safety (TSSA) form completed by a qualified inspector if fueled by propane or other cooking fuel; and
  - e. provide proof of a minimum of \$2 million liability insurance naming the municipality as an additional named insured which provides 30 days prior written notice of any material amendment or cancellation of the policy to the municipality.

### **Operation**

2. Every person operating a refreshment vehicle business shall ensure that:
  - a. accessible service is provided for any customer with a disability;
  - b. the area around the refreshment vehicle is clean and free of garbage, and any grease, sidewalk markings or snow is removed daily;
  - c. all health and safety regulations are followed, including those set out in Ontario Regulation 562 of the Health Protection and Promotion Act the Technical Standards and Safety Act, 2000 and National Fire Protection Association Code 96.;

### **Operating Locations**

3. No person shall operate a refreshment vehicle:
  - a. on a sidewalk or walkway which in any way blocks or creates a hazard to pedestrians; and
  - b. on any portion of a municipal highway or on-street parking space.
4. Subject to sections 5 and 6 of this schedule, refreshment vehicle businesses shall not be operated on property without the owner or occupier's permission.
5. To operate a refreshment vehicle business at a festival or event held in the municipality, the operator must:
  - a. have permission from the organizers of the event; and

- b. operate in accordance with all event rules and regulations.
6. To operate a refreshment vehicle business on municipal property, including municipal parking lots, the operator must have approval from the CAO/clerk, subject to consultation by the CAO/clerk with either the director of infrastructure and public works or manager, recreation, as applicable.



**SCHEDULE "B"**  
**By-law Number 38- 2020**

Refreshment Vehicle Licence  
Application

Full Name of Applicant: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone No.: Business \_\_\_\_\_ Residence \_\_\_\_\_

Type of Vehicle: \_\_\_\_\_  
\_\_\_\_\_

Type of Cooking Units: Propane ( ) Natural Gas ( ) Electricity ( )  
Other ( ) Please Specify \_\_\_\_\_

Place(s) of Operation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has any previous licence issued under this by-law been suspended or  
revoked ? Yes ( ) No ( )

If yes, please provide details \_\_\_\_\_  
\_\_\_\_\_

<u>Material to be Attached:</u>	<u>Attached?</u>	
1. Report from Health Unit	Yes ( )	No ( )
2. Inspection certificate/letter re: Ontario Propane Code	Yes ( )	No ( )
3. Consent of owner of property	Yes ( )	No ( )

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Signature



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**OFFICE USE ONLY**

Application Received \_\_\_\_\_

Supporting Documents Checked \_\_\_\_\_

Licence Issued \_\_\_\_\_ Licence No. \_\_\_\_\_

Health Unit Notified \_\_\_\_\_



**SCHEDULE "C"**  
**By-law Number 38- 2020**

Refreshment Vehicle License

Licence Number: \_\_\_\_\_

This Licence is granted to: \_\_\_\_\_

Of \_\_\_\_\_

to operate a **REFRESHMENT VEHICLE** within the limits of the Municipality of West Grey, and more particularly located on the lands known as \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

Provided the said \_\_\_\_\_ shall duly observe all such by-laws, rules, regulations, matters and things as are, or may be enacted by the Municipal Council of the Corporation of the Municipality of West Grey.

This licence shall continue in force and effect until \_\_\_\_\_ and no longer.

**ISSUED at the Municipality of West Grey**

**This \_\_\_\_\_ day of \_\_\_\_\_.**

(SEAL)

\_\_\_\_\_  
CAO/Clerk or designate