

# THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

## BY-LAW 2004 -114

A By-law to regulate and license Refreshment Vehicles within the Municipality of Clarington and to repeal By-law #91-95, as amended.

WHEREAS the Municipal Act, S.O. 2001, CHAPTER 25, provides a Municipal Council with the authority to license, regulate and govern vehicles from which refreshments are sold for consumption by the public, and for revoking any such license;

AND WHEREAS the Municipal Act, S.O 2001, CHAPTER 25 provides that the Municipality of Clarington may exercise its licensing powers for the purpose of Consumer Protection and the interests of Health and Safety of the general public;

AND WHEREAS By-law 91-95 is considered deficient and should be repealed and replaced by a new licensing By-law to license, regulate and govern the operation of various types of Refreshment Vehicles within the Municipality of Clarington:

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON ENACTS AS FOLLOWS:

### DEFINITIONS

1. In this By-law:

- (a) "cook" shall mean to prepare food for eating by the action of heat and cooking shall have the corresponding meaning;
- (b) "eating establishment" has the same meaning as defined in the current Municipal Zoning By-law;
- (c) "highway" shall have the same meaning as defined in the Highway Traffic Act;
- (d) "license" shall mean the Municipality issued permit to operate a business;
- (e) "Mobile Refreshment Vehicle" shall mean a vehicle designed and intended to move from one location to another on a regular basis and may include facilities for cooking;
- (f) "park" shall mean a Municipality owned area of land which is operated as a park for the general public;
- (g) "plate" shall mean a metal plate issued by the Municipality and bearing an identifying number on it;
- (h) "Refreshment" includes any form of food or drink fit for human consumption;
- (i) "Refreshment Cart" shall mean any non-motorized vehicle used exclusively for the sale of prepackaged foods and does not include facilities for cooking;

- (j) "Stationary Refreshment Vehicle" shall mean a vehicle which may contain cooking facilities and is intended to be operated from one location only;
- (k) "vehicle" shall have the same meaning as defined in the Highway Traffic Act.

## **GENERAL**

2. No person shall own or operate a vehicle from which refreshments are sold for consumption by the public in any situation other than in compliance with the provisions of this by-law.
3. No person shall own or operate a vehicle from which refreshments are sold for consumption by the public without first obtaining a license from the Municipality.
4. Every license issued under the provisions of this By-law shall be displayed in or on the Refreshment Vehicle and the owner, driver or operator of the licensed vehicle shall produce the license when requested to do so by an officer.
5. The Municipality shall have the right to deny an application for a Refreshment Vehicle where, in the Municipality's discretion, the vehicle type, appearance, or location is inappropriate, unsuitable or unsafe.
6. Application for a Refreshment Vehicle License or any renewal thereof shall be completed by the applicant and forwarded with prescribed fee and all required inspections to the Clerks Department for approval.
7. Every person obtaining a license under this By-law shall, upon request of a Police Officer, Municipal Law Enforcement Officer or Health Inspector, produce the said license for inspection.
8. Every vehicle licensed to operate a Refreshment Vehicle shall, unless otherwise stipulated in this By-law, be issued a plate by the Municipality, such plate shall be affixed to the rear of the vehicle and clearly visible at all times.
9.
  - a) The annual license fee shall be \$200 for the first vehicle and \$100 for each additional vehicle.
  - b) The license shall be specific to the holder thereof and shall not be transferred to another holder except with the written consent of the Municipal Clerk, who is required to give consent subject to any instructions of Council to the contrary. There shall be no fee charged for any transfer of a license prior to the expiry date.
10. A license issued under the authority of this By-law shall expire on December 31<sup>st</sup> of each calendar year.
11. Unless otherwise specified in this By-law the vehicle shall not be used to conduct business while parked on any portion of a highway.
12. The owner of a Refreshment Vehicle shall, upon application for a licence, file proof of insurance with the Municipal Clerk. Insurance shall be in an amount to be determined by the Municipal Clerk as sufficient and shall name the Municipality of Clarington as an insured party.

13. No vehicle shall be used to conduct business:
  - a) within 60 meters of an eating establishment;
  - b) within 60 meters of playground equipment located in any park; and
  - c) within any park without prior written consent of the Director of Community Services in accordance with the Municipal Parks By-law.
14. The vehicle shall be kept in a clean and sanitary condition at all times and equipped with a garbage receptacle of sufficient size to accommodate all waste material generated by the operation of the vehicle.
15. All food and beverages sold from the vehicle shall comply with all health and sanitary regulations applicable thereto.
16. If the vehicle is fitted with propane or natural gas, a current certificate issued within thirty (30) days of the license application by a provincially authorized propane or natural gas fitter, as the case may be, certifying that the vehicle to which the license application relates complies with the applicable equipment and performance standards as prescribed by the Province of Ontario.
17. It constitutes an offence for any person to operate a mobile or stationary vehicle without a 5 lb. ABC portable fire extinguisher if it contains cooking or heating facilities.
18. The owner and/or operator of the vehicle shall comply with all Municipal and Fire Regulations.
19. The owner and/or operator of the vehicle shall comply with all Parking and Traffic Regulations.

#### **STATIONARY REFRESHMENT VEHICLES**

20. All stationary Refreshment Vehicles shall require an inspection and approval from the Fire Department and the Regional Health Department prior to the issuance of any license.
21. No stationary Refreshment Vehicle shall operate on any land in the Municipality unless such use is permitted by the Zoning By-law of the Municipality.
22. An applicant for a license for a stationary Refreshment Vehicle shall provide to the Municipality a letter of permission signed by the owner of the property on which the applicant proposes to operate.
23. The applicant shall provide to the Municipality a detailed diagram of the property illustrating the proposed location of the vehicle and parking facilities for the business, said plan shall be reviewed by the Planning Department to insure compliance with Zoning requirements.
24. The license, once issued, shall be site specific and shall be null and void if the vehicle is relocated to another property.
25. Where a license holder wishes to relocate a vehicle in respect of which a license has been issued under this By-law to a temporary site, he may apply to the Municipal Clerk for a temporary license. Such license shall be valid for a maximum of four consecutive days and shall be issued on payment of a fee of \$50.00.

26. No person shall permanently relocate a vehicle in respect of which a license has been issued under this By-law unless a new license has been applied for and issued under this By-law and the provisions of Sections 2 to 23 inclusive of this By-law, except the requirement of the Fire and Health inspection, shall apply in respect of such new license with all necessary changes thereto being considered to have been made to give effect to this Section 24.

### **MOBILE REFRESHMENT VEHICLES**

27. All Mobile Refreshment Vehicles shall require an inspection and approval from the Fire Department and the Regional Health Department prior to the issuance of any licenses.
28. Where the applicant for a Mobile Refreshment license is a company which owns more than one vehicle, each vehicle that is to be used shall be inspected and plated separately.
29. Notwithstanding section 10 of this by-law, a Mobile Refreshment Vehicle may, in the course of its rounds, operate on a portion of a highway where it would be impractical to do otherwise.
30. A Mobile Refreshment Vehicle is permitted to operate anywhere within the Municipality except during festival or event covered by Road Occupancy or Special Event Permit without prior written approval of the event organizer.

### **REFRESHMENT CARTS**

31. All Refreshment Carts shall require an inspection and approval from the Regional Health Department prior to the issuance of any license.
32. Where the applicant for a Refreshment Cart is a company which owns more than one vehicle, the license will stipulate the total number of vehicles to be used and each vehicle used shall display the plate on the front in a prominent position.
33. Notwithstanding section 8 of this by-law, where the applicant for a Refreshment Cart is a company which owns more than one vehicle, the annual license fee shall be \$200.00 regardless of the number of vehicles operated.
34. Notwithstanding section 10 of this by-law, a Refreshment Cart may, in the course of its rounds, operate on a portion of the highway where it would be impractical to do otherwise but all sales shall be conducted of the traveled portion of the highway.
35. A Refreshment Cart shall be exempt from the distance limitations as set out in section 12 but shall not operate within a park save and except under the authority of a permit issued by the Municipality of Clarington.
36. A Refreshment Cart shall sell only prepackaged food and drink, and there shall be no cooking or other food preparation.

### **PENALTY**

37. Council may revoke any license issued under the authority of this by-law where such power to revoke may, pursuant to the provisions of the

Municipal Act, or any other Act, be exercised by the Council of the Municipality, but before any license is revoked, the holder of the license shall be given at least seven days notice mailed or delivered to the address given in his application, and shall be permitted to appear before the Council to show cause why he believes such license should not be revoked.

38. Any person who contravenes the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.
39. It shall constitute an offence for any person to transfer or assign a licence issued under this by-law to any other person or corporation.
40. No person shall enjoy a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension; a licence shall remain the property of the Municipality.
41. By-law 91-95 and its amendment 92-167 are hereby repealed.
42. Should any section, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.
43. This By-law shall come into full force and effect immediately on the day of final passing by Council.

BY-LAW read a first and second time this 26<sup>th</sup> day of April 2004.

BY-LAW read a third time and finally passed this 26<sup>th</sup> day of April 2004.

Original signed by the Mayor

Original signed by the Municipal Clerk