

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2010-20

(as amended by By-law 2014-58, 2017-112 & 2021-57)

BEING A BY-LAW TO REGULATE AND LICENCE REFRESHMENT VEHICLES, REFRESHMENT CYCLES AND REFRESHMENT CARTS IN THE TOWNSHIP OF WEST LINCOLN.

WHEREAS Section 11(3) subsection 11 the Municipal Act, 2001, S.O. 2001, C. 25, as amended, provides that a lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting matters relating to business licensing;

AND WHEREAS SECTION 151(1) provides that without limiting sections 9, 10 and 11, a municipality may provide for a system of licences with respect to a business and may,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
- (g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licences established by the municipality. 2006, c. 32, Sched. A, s. 82.

AND WHEREAS the Council of the Corporation of the Township of West Lincoln deems it desirable to license refreshment vehicles/cycles and carts which will serve to ensure the health and safety of residents in West Lincoln in the provision of food from a refreshment cart by requiring inspections/approvals/certificates and will serve to control the nuisance of an over-abundance of vehicles/cycles and carts.

NOW THEREFORE THE COUNCIL OF THE TOWNSHIP OF WEST LINCOLN ENACTS AS FOLLOWS:

(1) Vehicles Defined:

- (a) For the purposes of description and regulation, the types of vehicles are named as follows:
 1. "refreshment vehicle" means a motorized vehicle which has equipment inside the vehicle for preparing food and requires the proprietor to be inside the vehicle to prepare the food for consumption by the public.
 2. "refreshment cart" means a wheeled, peddled or transported, non-motorized refreshment vehicle, other than a refreshment cycle.
 3. "refreshment cycle" means a non-motorized bicycle or tricycle from which ice cream, frozen desserts or other frozen confections are sold.

(2) Licence and Application and Fee:

- (a) Every person who carries on, conducts, operates, maintains or keeps in the Township of West Lincoln the business of operating a refreshment vehicle, refreshment cart or refreshment cycle shall take out a licence for same in the manner prescribed in this by-law.
- (b) Every person who operates a refreshment vehicle, refreshment cart or refreshment cycle in the Township of West Lincoln shall pay a licence fee as follows and a separate licence shall be required for each refreshment vehicle,

refreshment cart or refreshment cycle if more than one such refreshment vehicle, refreshment cart or refreshment cycle is operated by any one owner:
(As amended by By-law 2014-58)

ANNUAL FEE:

Refreshment Vehicle	\$400.00 per vehicle
Refreshment Cart	\$400.00 per cart
Refreshment Cycle	\$200.00 for first cycle; \$50.00 for any additional cycles

DAILY FEE:

Refreshment Vehicle	\$100.00 per vehicle
Refreshment Cart	\$100.00 per cart
Refreshment Cycle	\$50.00 for first cycle; \$12.50 for any additional cycles

- (c) No such licence is required:
1. by a non-profit and/or charitable organization or persons who enters into a written agreement with a non-profit and/or charitable organization for attendance at a special event, show, festival, fair or fundraising event organized by the non-profit and/or charitable organization and only during the hours of operation of the organization's fundraising event or show, festival or fair, provided such person(s) shall have obtained all relevant inspections, liability insurance and approvals including fire, building and health and obtain the required. *(As amended by By-law 2014-58)*
 2. by existing local farmers if the produce they are selling is being sold from their own property and has been grown and harvested by them, or as a participant in the Farmers' Market; provided such person(s) shall have obtained all relevant inspections and approvals including fire, building and health.
- (d) Any applicant for a licence, as herein provided, shall file an application with the Township's Clerk and shall file therewith the following:
1. approval of the Medical Officer of Health or designate;
 2. approval of the Fire Chief or designate, if required;
 3. compliance certificate under The Ontario Propane Code, if required;
 4. a site plan setting out the proposed location of the refreshment vehicle or refreshment cart showing the location(s) from which the operator intends to sell;
 5. Council shall hereby delegate authority to the Clerk and/or designate to approve every application for an annual or daily/temporary licence for a refreshment vehicle, refreshment cart or refreshment cycle provided all other regulations/requirements of this by-law are met. *(As amended by By-law 2021-57)*
- (e) Any person applying for a refreshment vehicle, refreshment cart, or refreshment cycle licence shall supply the following information with the application;
1. a list of the types of refreshments to be sold specifying whether the items include ice cream, frozen desserts, or other frozen confections.
 2. 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.
 3. Name and address of business under which the refreshment vehicle, refreshment cart or refreshment cycle will be operated.
 4. The intended location(s) and times for such operation of a refreshment vehicle, refreshment cart or refreshment cycle.

(3) **Locations:**

- (a) Operators may be licensed annually to operate a refreshment vehicle on any commercially zoned property in the Township of West Lincoln where permitted in accordance with the Comprehensive Zoning By-Law 2017-70,

save and except vacant properties, subject to the following (*as amended by By-law 2021-57*)

1. Such vehicles shall be located on surplus parking space.
2. The licence shall continue on an annual basis subject to compliance with the provisions of this by-law. If the applicant fails to renew the licence then such licence may go to any other person who so applies and complies with the provisions of this by-law.
3. The provision of a letter of consent and compliance of owner's requirements from the owner of the subject property.
4. Any application to locate a vehicle on the lands occupied by a gas station shall provide that the vehicle shall be located at least 50 feet from the gas pumps.
5. The provision of a site plan drawing showing the proposed location of the vehicle on the lands delineated as surplus parking space and in relationship to the property line, other buildings and highways bounded by the said lands.

- (b) The authority to approve an operator's licence to operate a refreshment vehicle, refreshment cart or refreshment cycle on a daily/temporary basis at a particular location(s) and time(s) shall hereby be delegated to the Clerk and/or designate. (*As amended by By-law 2021-57*)

(4) **General Provisions**

- (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.
- (c) Any person operating a refreshment vehicle, refreshment cart and refreshment cycle, for the sole purpose of selling ice cream on a highway or part thereof shall be equipped and maintained as follows:
1. with the warning "**WATCH FOR CHILDREN**" in readily legible black letters at least six inches high on a yellow background, conspicuously displayed on the rear of the vehicle;
- (d) Every refreshment vehicle and refreshment cart, not including refreshment cycle, shall be a minimum of 45.72 metres (150 feet) away from the 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 occupancies.
- (e) Upon receipt of an application for a refreshment vehicle or refreshment cart, the Clerk shall ensure that the proposed location of such vehicle complies with this by-law.
- (f) This by-law does not apply to a farmer, market gardener or other persons selling or delivering goods at any place of business or residence upon such highways or part thereof.
- (g) The operator shall ensure that the area of sale is kept clean and tidy at all times.
- (h) 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.

- (i) Liability insurance in the amount of Two Million Dollars (\$2,000,000.00) naming the Township of West Lincoln as additional insured shall be provided to the Clerk prior to the issuance of the licence.

(5) **Penalty:**

Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable upon conviction to a penalty as prescribed under the Provincial Offences Act, as amended.

(6) **Partial Invalidity:**

If any term of this by-law or the application thereof shall to any extent be invalid or unenforceable, the remainder of this by-law and/or the application of such term to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of this by-law shall be separately valid and enforceable to the fullest extent permitted by law.

(7) **Enactment:**

This by-law shall come into force on the day it is passed.

(8) **Term:**

This By-law shall come into force and effect on February 22, 2010 and shall remain in effect until the day it is repealed.

(9) **Short Title:**

The short title of this by-law is the Refreshment Vehicle Licensing By-law, Township of West Lincoln.

(10) **Amendment - Fees & Charges By-law:**

That the binder of fees and charges as confirmed by By-law 2002-115, be amended to include By-law 2010-20 refreshment vehicle/cycle/cart licence fees.

(11) **Repeal of former By-law:**

That, by-law 2005-17 be and is hereby repealed.

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS
22nd DAY OF FEBRUARY, 2010.**

CONSOLIDATED VERSION – ORIGINAL SIGNED

MAYOR KATIE TROMBETTA

CONSOLIDATED VERSION – ORIGINAL SIGNED

CAROLYN LANGLEY, CLERK