

THE CORPORATION OF THE TOWNSHIP OF SEVERN

BY-LAW NO. 2013-39

BEING A BY-LAW TO LICENSE, REGULATE AND GOVERN REFRESHMENT  
VEHICLES AND FOOD CARTS IN THE TOWNSHIP OF SEVERN

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WHEREAS the *Municipal Act*, S.O. 2001, Section 150, provides that a municipality may license, regulate and govern any business wholly or partly carried on within the municipality;

AND WHEREAS the Corporation of the Township of Severn deems it expedient to license, regulate and govern refreshment vehicles within the municipality;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SEVERN HEREBY ENACTS AS FOLLOWS:

1. Definitions

**“Charitable Organization”** shall mean an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit and includes a religious organization or minor sports group.

**“Chip Truck”** shall mean a vehicle or trailer of sufficient size to allow a person to prepare therein French fried potatoes and from within which french fried potatoes, hamburgers, hot dogs, hot or cold beverages, non-hazardous pre-packaged food, such as potato chips, popcorn, nuts, candy bars and similar non-hazardous confections may be sold.

**“Clerk”** shall mean the Clerk of the Corporation of the Township of Severn.

**“Council”** shall mean the Council of the Corporation of the Township of Severn.

**“Food Cart”** shall mean a cart which is propelled by muscular power and is equipped with cooking or barbeque grills on which to prepare hot food and such push cart shall not exceed overall dimensions of 75 centimetres in width and 1.5 metres in length.

**“License”** shall mean a license to permit the operation of a refreshment vehicle in the Township of Severn issued under the provisions of this By-law which may be subject to conditions.

**“Licensee”** shall mean any person who is licensed as required by this By-law.

**“Licensing Officer”** shall mean the Clerk of the Corporation of the Township of Severn.

**“Non-Resident”** shall mean the applicant/business does not own, rent or lease a permanent building in the Township of Severn.

**“Officer”** shall mean a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, Medical Officer of Health, Licensing Officer or Public Health Inspector.

**“Proof of Insurance”** shall mean a Certificate of Liability Insurance issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the *Insurance Act*, R.S.O. 1990, Chapter I.8, as amended, that show proof of liability coverage as required by this By-law.

**“Refreshment Vehicle”** shall mean any vehicle from which food and refreshments are for sale or sold for consumption by the public and includes, without limiting the generality of the foregoing, a chip truck, food cart and ice cream truck irrespective of the type of power employed to move the refreshment vehicle from one point to another.

**“Special Function Permit”** shall mean a permit issued by the Clerk’s Department to hold an event on municipal property under the control of the Clerk’s Department.

**“Waste”** shall include food, disposable eating utensils, paper, wooden, cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a refreshment vehicle.

**2. License Requirements**

2.1 That no person shall operate any refreshment vehicle, chip truck or food cart within the Township of Severn unless he/she has obtained a license in accordance with the requirements of this By-law or is otherwise exempt under the provisions of this By-law.

**3. Application & License Fee**

3.1 That every applicant for a license or license renewal, as required by this By-law, shall file with the Licensing Officer a completed application as provided in Schedule “A” and in the form prescribed by the Clerk and such other information or documentation as the Licensing Officer may require and shall pay the required License Fee as set out in Schedule “B” to this By-law.

3.2 That no fee pursuant to Section 3.1 of this By-law shall be pro-rated for a portion of the year.

3.3 That no license issued under the provisions of this By-law shall be assigned, transferred, leased or granted the right to use to any other person.

3.4 That every change of address or telephone number of any person licensed under this By-law shall be reported to the Licensing Officer within fifteen (15) days of the change.

3.5 That every person applying for a License, as required by this By-law, shall file with the Licensing Officer proof of insurance as set out in Section 9 herein, naming the Township of Severn as an additional insured.

3.6 That every fee paid for a License under this By-law is refundable if the License is not issued by the Licensing Officer.

3.7 That acceptance of the License Fee does not constitute approval of the application or oblige the Township to issue a License.

- 3.8 That upon receipt of each application completed in accordance with the requirements of this By-law, the Licensing Officer shall request comments or reports from other Township departments as appropriate or make such other inquiries and obtain and review such other information and documents relevant to the application as the Licensing Officer considers necessary for the proper processing of the application.
- 3.9 That no License shall be issued until the applicant has obtained approval from the Severn Township Fire Department, the Township of Severn Planning / Building Department and the Simcoe Muskoka District Health Unit.
- 3.10 That no License shall be issued by the Licensing Officer unless the vehicle or cart is in good repair and appearance and is of a scale in keeping with the character and appearance of the neighbourhood in which it is proposed to be located.

4. **Exemption**

- 4.1 That non-profit community associations, charitable organizations, service clubs and other organizers of special fund-raising events carried on solely for the for the benefit of a particular charity or non-profit organization are exempt from the provisions of this By-law.

5. **Commencement & Expiry of License**

- 5.1 That any License issued under the provisions of this By-law shall be for the current year and shall expire on the 31<sup>st</sup> day of January following the year of issue or until said License is revoked or suspended.

6. **Renewal**

- 6.1 That every person licensed under this By-law shall make application for the renewal of such License prior to the expiration of the said License and in any event no later than two (2) weeks prior to the expiry date.
- 6.2 That unless the Licensing Officer has determined that the information contained within a renewal application has changed from the original application, a renewal application need not be circulated to other departments.
- 6.3 That notwithstanding Section 6.2 above, no renewal License shall be issued until the application has obtained approval from the Severn Township Fire Department, the Township of Severn Planning / Building Department and the Simcoe Muskoka District Health Unit.

7. **Location Requirements**

- 7.1 That refreshment vehicles or food carts shall only be permitted to operate within Commercial Zones as defined in the Township's Zoning By-law.
- 7.2 That the location of the refreshment vehicle or food cart shall be in compliance with the setbacks as defined in the Commercial Zones of the Township's Zoning By-law.
- 7.3 Notwithstanding Sections 7.1 and 7.2 above, refreshment vehicles deemed to be legal non-conforming under the Township's Zoning By-law shall be permitted to continue their current use, provided that a License is obtained annually under this By-law.
- 7.4 That refreshment vehicles or food carts shall not be located on a municipal road allowance.

- 7.5 That no person shall operate any refreshment vehicle or food cart on any municipal property, which shall include road allowances, municipal parks, parking lots and Township facilities, except as described herein.
- 7.6 That the operation of a refreshment vehicle or food cart may be permitted in a municipal park or facility under the control of the Clerk's Department during a special event / tournament for which a Special Function Permit has been obtained by a non-profit community association or charitable organization.
- 7.7 That no person operating a refreshment vehicle / food cart shall obstruct an entrance to a property in order to ensure safe access by emergency vehicles.
- 7.8 That every person applying for a License to permit the operation of a refreshment vehicle or food cart who intends to operate from private property shall submit with the application a letter of permission with respect to the proposed use from the registered property owner(s) or his authorized agent.

**8. Insurance**

- 8.1 That no person shall operate a refreshment vehicle or food cart unless he/she takes out and keeps in force during such operation a comprehensive policy of public liability and property damage insurance acceptable to the Licensing Officer.
- 8.2 That the policy shall, at a minimum, provide for the following:
  - (a) Insurance coverage in respect of any one incident to the limit of \$2 million exclusive of interest and costs against loss or damage resulting from bodily injury or death of one (1) or more persons and loss of or damage to property;
  - (b) Name the Corporation of the Township of Severn as an additional insured;
  - (c) State that the Corporation of the Township of Severn shall be indemnified by the owner of the License so that if a law suit is filed against the Township, notwithstanding that the operator or owner of the License had general liability insurance, the operator or owner of the License or vehicle or cart will be required to pay to the Township any and all costs it incurred or losses suffered by the Township as a result of any legal proceeding.
  - (d) Contain a cross-liability of interest clause protecting the Township of Severn against any actions, causes of actions, claims and demands whatsoever which may arise resulting from the Township's issuance of the permit to use the designated area.
  - (e) Include a provision that the Licensing Officer will be given at least thirty (30) days' notice in writing of any cancellation, expiration or variation in the policy.
- 8.3 That no person shall fail to have the proof of insurance with him/her while operating a refreshment vehicle or food cart.

**9. Availability of License**

- 9.1 That when operating a refreshment vehicle or food cart, the operator shall ensure that the License issued pursuant to this By-law is available for inspection at all times.
- 9.2 That the License issued in respect of a License for a refreshment vehicle or food cart shall be securely affixed to the vehicle in a visible location at all times.

10. **General Provisions**

- 10.1 That every person licensed under this By-law shall comply with all municipal, provincial and federal laws.
- 10.2 That every Licensee shall ensure that where a vehicle is powered by propane or where propane is utilized for food preparations, a minimum five (5) pound ABC dry chemical fire extinguisher or other such extinguisher as required by the Fire Chief or his designate is attached to the vehicle at all times and the operator of such vehicle shall be knowledgeable in the proper use of such fire extinguisher. In all cases, where a Licensee requires any food heating capability, he/she shall be adequately equipped with a fire extinguisher in accordance with the provisions of the Fire Code, O. Reg. 388/97.
- 10.3 That no person shall fail to keep his refreshment vehicle or food cart in a clean and sanitary condition.
- 10.4 That no person shall offer for sale or sell from a refreshment vehicle or food cart any goods, wares, merchandise or other item other than refreshments, food stuffs and confections.
- 10.5 That no person shall sell any food from a refreshment vehicle or food cart unless the food is wrapped and sold in individual, single-serving packages or disposable containers and serviettes are provided for customers.
- 10.6 That no person shall operate a refreshment vehicle or food cart between the hours of 11:00 p.m. and 6:00 a.m. on any day.
- 10.7 That no Licensee shall permit any individual other than a bona fide employee to operate the refreshment vehicle or food cart.
- 10.8 That no refreshment vehicle shall be equipped with any flashing lights or sounding device to attract attention.
- 10.9 That any person operating a refreshment vehicle or food cart shall:
  - (a) Provide waste receptacles of an adequate size to contain all waste generated from the operation.
  - (b) Ensure that all waste in the vicinity of the operation is placed in such container and that the container and its contents are removed before leaving the area.
  - (c) Ensure that no waste generated by the operator or contained in the waste receptacle is deposited in any Township-owned waste containers.
  - (d) Maintain the designated area and the pavement, sidewalk and boulevard adjacent thereto in a clean and sanitary condition free from grease, papers, rubbish and debris.
- 10.10 That no person shall operate a refreshment vehicle or food cart unless he/she is in compliance with the *Health Protection and Promotion Act*, R.S.O. 1990, Chapter H.7, and its regulations as amended.
- 10.11 That where any person vends without holding a License issued under this By-law, the Licensing Officer or any other Office is authorized and empowered to seize the refreshment vehicle or food cart and remove it and, if applicable, place the vehicle or cart and its contents in storage.
- 10.12 That the cost of the removal and storage of a refreshment vehicle or food cart and its contents shall be paid by the owner.

- 10.13 That all costs of the removal, care and storage of the refreshment vehicles or food carts and contents are a lien upon it which may be enforced in a manner provided by the *Repair and Storage Liens Act*, R.S.O. 1990, Chapter R.25, as amended.
- 10.14 That a refreshment vehicle or food cart removed and stored in accordance with this section and not claimed by the owner within sixty (60) days is the property of the Township and may be sold and the proceeds shall form part of the general funds of the Township.
- 10.15 That any perishable contents of the refreshment vehicle or food cart upon being removed in accordance with this section are the property of the Township and may, subject to the provisions of Section 132 of the *Police Services Act*, R.S.O. 1990, Chapter P.15 be destroyed or given to a charitable institution.

11. **Inspection**

- 11.1 That any person to whom a License has been issued pursuant to this By-law shall permit any Officer, at any reasonable time, to inspect the refreshment vehicle or food cart for which the License was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.
- 11.2 That any person who is licensed as required by this By-law shall, upon the request of any Officer, Clerk and person authorized by Council or any other person to whom they are offering goods for sale, produce their License for inspection and provide, in writing, their name and address and also the name and address of their employer, if applicable.

12. **Refusal, Revocation or Suspension**

- 12.1 That any contravention of this By-law or any other law may be grounds for the refusal, revocation or suspension of the License.
- 12.2 That if the Licensing Officer deems that the continuation of a business poses an immediate danger to the health or safety of any person or property, the Licensing Officer may, for the time and on such conditions as considered appropriate, suspend a License subject to providing the Licensee with the reasons for the suspension, either orally or in writing, and providing an opportunity to respond to them.
- 12.3 That upon revocation or suspension of a License issued under this By-law, the Licensee shall return to the Licensing Officer all Licenses issued by the Township and an Officer shall have access to any premises, vehicles or other property of the Licensee for the purpose of receiving or taking the License, and no person shall refuse to deliver the License to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking same.

13. **Offence & Penalty**

- 13.1 That every person who contravenes any provisions of this By-law or any Officer of the Township shall be guilty of an offence and, upon conviction, shall be liable to a fine as provided under the *Provincial Offences Act*, R.S.O. 1990, as amended from time to time.

14. **Severability**

14.1 That should any section or subsection of this By-law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of the By-law is separate and therefore enacted as such.

15. **Effect**

15.1 That this By-law shall come into force and effect on the 1<sup>st</sup> day of May, 2013.

16. **Repeal**

16.1 That By-law No. 1995-35, as amended, be and it is hereby now repealed.

By-law read a first and second time this 18<sup>th</sup> day of April, 2013.

By-law read a third time and finally passed this 18<sup>th</sup> day of April, 2013.

CORPORATION OF THE TOWNSHIP OF SEVERN

  
MAYOR

  
CLERK-TREASURER

**SCHEDULE "A" TO BY-LAW NO. 2013-39**



The Corporation of the Township of Severn  
 1024 Hurlwood Lane, P.O. Box 159  
 Orillia, Ontario – L3V 6J3

Phone: (705) 325-2315 – Ext. 232  
[sgoerke@townshipofsevern.com](mailto:sgoerke@townshipofsevern.com)

**Application for Refreshment Vehicle / Food Cart License**

Date of Application:	<b>FOR OFFICE USE ONLY</b> License #
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Owner's Name:
Resident <input type="checkbox"/> Non-Resident <input type="checkbox"/>
Owner's Address:
Postal Code: Phone No.: ( )
E-Mail Address:
Name of Business:
List of food items to be sold:
Location for License (Municipal Address):
<b><i>Pursuant to the Licensing By-law, if operating from a private property, written permission from the owner(s) or authorized agent of the property must be submitted with the application.</i></b>
<b><i>Proof of a Certificate of Liability Insurance in the amount of \$2 million, naming the Township of Severn as an additional insured must be submitted with the application.</i></b>

The undersigned hereby releases the Corporation of the Township of Severn from any or all claims for damages which may arise in the carrying on of business within the municipality under which the undersigned is licensed by the Municipality to do so.

\_\_\_\_\_

I certify that the information contained herein is true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please contact the Severn Township Fire Department, Township of Severn Planning / Building Department and the Simcoe Muskoka District Health Unit to arrange a time when representatives can meet to inspect the refreshment vehicle or food cart. ***Written approval is required from all departments when submitting the application.***

Severn Township Fire Department	Fire Chief (705) 325-9131
Township of Severn Planning / Building Department (705) 325-2315	Planning Dept. – Ext. 234 Building Dept. – Ext. 228
Simcoe Muskoka District Health Unit	(705) 721-7330

DEPARTMENT	DATE APPROVED	COMMENTS
Fire Department		
Planning / Building Department		
Simcoe Muskoka District Health Unit		



**FOR OFFICE USE ONLY**

License Fee \$	Cash / Cheque / Debit	Date
Insurance Received	Insurance Expiry Date	
Letter(s) of permission from property owner and/or event organizer		

License Approved <input type="checkbox"/>	License Not Approved <input type="checkbox"/>
Reasons for Denial:	
_____	
_____	
_____	
_____	
_____	

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Licensing Officer

**SCHEDULE "B" TO BY-LAW NO. 2013-39**

**ANNUAL LICENSE FEES**

Annual License	Fee per Vehicle/Cart (resident)	Fee per Vehicle/Cart (non- resident)
Refreshment Vehicle / Food Cart	\$250.00	\$350.00