

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 90-2004

Being a by-law to license owners, operators and assistants with vehicles from which refreshments are sold for consumption by the public

WHEREAS Section 150(1) of the *Municipal Act, S.O. 2001, c.25*, Part IV empowers a local municipality to license, regulate and govern any business carried on within the municipality;

AND WHEREAS owners, operators and assistants selling refreshments from vehicles for consumption by the public within the municipality are carrying on a business;

AND WHEREAS under Section 150(2) of the *Municipal Act, S.O. 2001, c.25*, Part IV provides that where the Council of the Corporation of the Town of Kingsville deems it necessary to license, regulate and govern owners, operators and assistants selling refreshments from vehicles for consumption by the public for the purpose of health and safety, nuisance or consumer protection;

AND WHEREAS the Council of the Corporation of the Town of Kingsville wishes to ensure that:

- a) Refreshments sold from vehicles for consumption by the public are prepared, stored and served in a consistently clean and sanitary manner and that all said refreshments are clean, fresh and wholesome in order to minimize health risks to consumers within the municipality;
- b) Litter resulting from the refreshments being sold is contained; and
- c) That every owner of a vehicle from which refreshments are sold has adequate insurance in place to protect consumers from loss or damage arising from the sale of said refreshments or from the use and operation of vehicles from which they are sold;

AND WHEREAS the total amount of fees to be charged for licensing a class of business shall not exceed the costs directly related to the administration and enforcement of the by-law, in accordance with Section 150(9) of the *Municipal Act, S.O. 2001, c.25*;

AND WHEREAS the types of allowable costs for Licence fees are set out in Section 150(10) of the *Municipal Act, S.O. 2001, c.25*, being the costs associated with preparation of the by-law inspections related to the by-law enforcement of the by-law against the person operating without a licence, prosecution and court proceedings

AND WHEREAS a public meeting for consideration of this by-law has been held and notice was given in accordance with Section 150(4) of the *Municipal Act, S.O. 2001, c.25*.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE HEREBY ENACTS AS FOLLOWS:

1. In this by-law "Council" means the Council of The Corporation of the Town of Kingsville and "Municipality" means The Corporation of the Town of Kingsville;
2. In this by-law "Licence" means the actual licence issued under the provisions of the by-law;
3. In this by-law "Licensee" means the person, or owner, or operators and assistants licensed under the provisions of the by-law;
4. In this by-law "Vehicle" means the vehicle from which the refreshments are sold for consumption by the public;

5. It is declared that if any section, sections or part or parts thereof be declared by any court to be bad, illegal or ultra vires; such section, subsection or part or parts shall be deemed to be severable and all parts hereto are declared to be separate and enacted as such;
6. It is the responsibility of a licensee who wishes to sell refreshments from a Vehicle at a particular location to obtain permission in writing from the owner of the property on which the Vehicle is located and provide the written proof to the Municipality at the time of application for a Licence;
7. The Licensee shall not operate a Vehicle in the downtown area where the operation of same will obstruct members of the public from using the municipal sidewalk in any manner whatsoever;
8. The annual Licence fee for a Vehicle shall be the sum of \$250.00 payable to the Municipality and shall be valid for the calendar year for which it was passed. The Licensee is responsible to procure such Licence not later than January 1st of each calendar year;
9. Each Vehicle must be licenced separately. Approval for each Licence must be sought from the Municipality and granted by the Municipality in consultation with the Windsor-Essex County Health Unit, or its successor;
10. The Vehicle shall be a type approved by the Municipality so that it can be satisfied that the Vehicle is properly equipped to address the health and safety and consumer protection concerns of the Municipality;
11. All condiments, milk, cream and sugar shall be dispensed from containers approved by the Municipality in consultation with the Windsor-Essex County Health Unit, or its successor;
12. To ensure cleanliness and sanitation, only single-service disposal cups, plates, containers, forks, spoons and serviettes either individually wrapped or provided in dispensers approved by the Municipality in consultation with the Windsor-Essex Health Unit, or its successor, shall be used in the sale of all refreshments from Vehicles;
13. Every person selling or handling refreshments from Vehicles shall wear clean clothes, be clean and neat in appearance and have clean hands;
14. The Vehicle and all parts and equipment used in connection therewith for the sale of refreshments to the public shall, at all times, be kept in a clean and sanitary condition and in good repair;
15. All sandwiches, cakes, doughnuts, hot dogs, hamburgers, pies and other similar refreshments sold from Vehicles shall be wrapped and sold in individual servings;
16. The date of preparation of refreshments sold from Vehicles shall be clearly and legibly marked on or affixed to the wrapper of all sandwiches and like refreshments;
17. Except for refreshments in unopened cans or packages on which the "best before" date is visible and has not been passed, no refreshments shall be sold from a Vehicle more than 24 hours after they have been prepared;
18. All Vehicles must include adequate refrigeration equipment capable of storing perishable refreshments at a temperature of five degrees Celsius or lower;
19. All milk sold from Vehicles shall be kept in dry storage at a temperature no higher than five degrees Celsius and shall be sold only in individual, disposable containers;
20. All other unprepared, unheated, perishable refreshments sold from Vehicles shall be kept at a temperature no higher than 5 degrees Celsius at all times;

21. All Vehicles shall include equipment capable of maintaining hot, prepared refreshments at a temperature of not less than 66 degrees Celsius, all hot prepared refreshments sold from that vehicle shall be kept heated at a temperature of not less than 66 degrees Celsius;
22. All refreshments sold from Vehicles shall be clean, fresh and wholesome;
23. All Vehicles shall be equipped with a portable litter basket and the owner, operator and/or assistant as the case may be shall be responsible for ensuring that all litter resulting from the sale of refreshments from said vehicle shall be deposited in the litter basket at all times;
24. Whenever required to do so by the Municipality or its staff, the Licensee of a Vehicle shall bring such vehicle to a place and at a time designated by the Municipality or its staff to inspect same to ensure that the Vehicle and any parts and equipment ancillary thereto are being maintained in a manner which addresses the health and safety and consumer protection concerns of the Municipality;
25. No refreshments shall be sold from a Vehicle drawn by an animal;
26. No Vehicle shall be placed so as to obstruct the entrance or exit to any building, whether the building is located on public or private property;
27. In order to be able to trace sources of contamination if necessary, every owner and operator of a Vehicle shall:
 - a) at the time that the owner/operator receives the Licence, specify to the Municipality the source of supply of all refreshments to be sold from the Vehicle;
 - b) notify the Municipality forthwith of any change in the source of supply of refreshments, and
 - c) refrain from selling or permitting to be sold from the Vehicle, any refreshments from a source of supply other than that specified to the Municipality as aforesaid.
28. Every owner/operator of a Vehicle shall for each licenced Vehicle, procure a policy of insurance in an amount of at least one million (\$1,000,000.00) Dollars comprehensive against loss of or damage resulting from bodily injury to or death of one or more persons, or from loss of or damage to property resulting from any one incident. Said policy of insurance shall contain an endorsement requiring that the Municipality shall be given at least ten (10) days notice in writing of any cancellation, expiration or variation in the amount of the policy. A certified copy or certificate of such a policy shall be deposited with the Municipality at the time that the Licence is received;
29. No person shall operate a Vehicle in contravention of any of the provisions of any other by-law of the Town of Kingsville;
30. The provisions of this by-law do not apply to a person operating a business providing food for delivery or operating a restaurant elsewhere in the Municipality;
31. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine, as provided for in the *Provincial Offences Act*. R.S.O. 1990, c. P. 33;
32. The Council may by resolution revoke any Licence issued under this by-law; and
33. This by-law shall come into force and effect on the day following the final passing thereof.

34. Bylaw 28-1999 for the former Town of Kingsville is hereby repealed.

**READ A FIRST AND SECOND TIME THIS 27th DAY OF SEPTEMBER,
2004.**

**READ A THIRD TIME AND FINALLY PASSED THIS 27th DAY OF
SEPTEMBER, 2004.**

MAYOR, Nelson Santos

CLERK, Linda Burling