

THE CORPORATION OF LOYALIST TOWNSHIP

BY-LAW 2020-085

BEING A BY-LAW TO LICENCE REFRESHMENT VEHICLES

WHEREAS pursuant to Section 150 and 151 of the *Municipal Act, 2001*, a municipality may provide for a system of licences with respect to any business wholly or partly carried on within the municipality, including the sale or hire of goods or services on an intermittent or one time basis;

AND WHEREAS pursuant to section 11(2) of the *Municipal Act, 2001* a municipality may exercise its licensing powers for the purpose of consumer protection and to protect the health and safety of the general public;

AND WHEREAS Council has determined it is desirable to licence Refreshment Vehicles within Loyalist Township for reasons of health, safety, and consumer protection.

NOW THEREFORE the Council of The Corporation of Loyalist Township enacts as follows:

Section 1: Definitions

1.1 For the purpose of this by-law the following definitions shall apply:

- (a) **"Applicant"** shall mean a Refreshment Vehicle Owner who applies to the Clerk for a license for a Refreshment Vehicle in accordance with the provisions of this By-law;
- (b) **"Clerk"** shall mean the Clerk or his/her designate of the Corporation of Loyalist Township as appointed by By-law from time to time;
- (c) **"Council"** shall mean the Council of The Corporation of Loyalist Township;
- (d) **"Licence"** shall mean a licence issued by the Municipal Clerk to operate a Refreshment Vehicle in accordance with this By-law;
- (e) **"Licensee"** shall mean any person who is issued a license for a Refreshment Vehicle pursuant to the provisions of this By-law;
- (f) **"Provincial Offences Officer"** shall mean an individual appointed by by-law or other agencies designated by Council who are responsible for the administration of this by-law
- (g) **"Person"** shall mean an individual, corporation, partnership or association and the heirs, executors, administrators or other legal representatives of any person to whom the context can apply according to law;
- (h) **"Property Owner"** shall mean the registered owner of land as shown in the Land Registry Office for the County of Lennox & Addington and

- includes a lessee, mortgagee in possession or any person in charge of the property;
- (i) **"Refreshments"** shall mean any food or beverage prepared or provided for human consumption;
 - (j) **"Refreshment Vehicle"** shall mean any vehicle whether motorized or not from which refreshments are offered for sale for consumption to the public and shall include a motor vehicle, motor assisted bicycle, trailer, bicycle, tricycle or any other vehicle drawn, propelled or driven by any kind of power, including muscular power, and includes fixed or mobile barbecues;
 - (k) **"Refreshment Vehicle Owner"** shall mean the Owner of the Refreshment Vehicle for which a license is applied pursuant to this By-law and in relation to a motor vehicle shall mean the registered owner of the vehicle as shown by the records kept by the Ministry of Transportation and includes a lessee or mortgagee in possession;
 - (l) **"Designated area"** means an area that is not part of a highway and is zoned by the Township's bylaw to permit a commercial or industrial use and for a refreshment vehicle also including areas zoned recreation open space, park/open space or community facility;
 - (m) **"Highway"** includes the entire right-of-way of a common and public highway, street, avenue, parkway, driveway, square, place, bridge, any part of which is intended for or used by the general public for passage of vehicles
 - (n) **"Medical Officer of Health"** shall mean the Medical Officer of Health for Kingston Frontenac Lennox and Addington Health Unit or a duly authorized designate;
 - (o) **"Municipality"** shall mean The Corporation of Loyalist Township;
 - (p) **"Technical Safety Standards Association"** (TSSA) means the Provincial ministry responsible for requirements of various safety and technical standards and for fuel storage and handling, pressure vessels, hazardous material.
 - (q) **"Local Food"** Shall mean food that is sourced within KFL&A or within 100 KM of the KFL&A Region.
 - (r) **"Whole Foods"** shall mean plant-based foods that are unprocessed and unrefined, or processed and refined as little as possible, before being consumed. Can also include meats that are processed and refined as little as possible

Section 2: Types of Refreshment Vehicle

2.1 Under this by-law there are four classes of refreshment vehicle types.

Class 1: A large vehicle either stationary or mobile equipped with facilities for cooking, selling, offering for sale, serving and/or dispensing of refreshments. Includes but is not limited to food trucks.

Class 2: A vehicle that is designed for selling, offering for sale, serving, and/or dispensing of refreshments and/or prepackaged items. Includes but is not limited to vehicles such as catering trucks and ice cream trucks.

Class 3: A trailer/cart that is either stationary or mobile designed for selling, offering for sale, serving and/or dispensing of refreshments. Includes but is not limited to hot dog carts.

Class 4: A manual powered cart that is used for selling, offering for sale, serving and/or dispensing of refreshments. Includes but is not limited to bicycle ice cream carts.

Section 3: Administration

- 3.1 The Clerk or designate is responsible for the administration of this by-law.
- 3.2 All Provincial Offences Officers with authority to enforce the by-laws of the municipality are responsible for enforcing the provisions of this by-law.
- 3.3 The Clerk is not required to consider any application for a license until the application is complete, and the Applicant has provided all the information and documentation as required pursuant to this bylaw, as well as the application fees. Acceptance of an application does not represent approval nor shall it obligate the Township to issue a licence.
- 3.4 The Clerk may approve or refuse any licence application, and may impose any conditions upon an approval as determined. This can be done based on the vehicle type, appearance or where the location is deemed inappropriate, unsuitable, or unsafe.
- 3.5 Any person may submit a written request to the Clerk or designate requesting an exemption from any of the prohibitions described in Sections 4 and 5 and Council hereby delegates to the Clerk or designate, the authority to process any such application and to approve, reject or approve with conditions, an exemption. All written exemption request shall include:
 - (a) the name and address of the applicant;
 - (b) a statement of the particular provision or provisions of the by-law from which exemption is sought;
 - (c) the period of time, of a duration not in excess of six months for which the exemption is sought;
 - (d) the reasons why the exemption should be granted; and
 - (e) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law.
- 3.6 Upon receipt of a written request for Grant of Exemption to this by-law,

the Clerk or designate may refuse to grant any exemption or may grant the exemption applied for. Any exemption granted shall specify the time period not in excess of six months during which it is effective and may contain such terms and conditions as the Clerk or designate determines to be appropriate.

- 3.7 The Clerk or designate shall consider all request for exemption and shall only grant an exemption, or an exemption on conditions, where:
 - (a) the request is necessary and in the public interest;
 - (b) the proposed mitigation measures are appropriate;
 - (c) the duration of the requested exemption is reasonable.
- 3.8 Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void and is an offence under this by-law.
- 3.9 Loyalist Township Emergency Services may impose alternative setbacks from adjacent structures or vehicles as is deemed necessary in the interest of public safety. The Refreshment Vehicle must be at least fifteen (15) meters from the following:
 - Fuel dispensers at fuel dispensing stations; and
 - Retail propane dispensing tanks and cylinders.
- 3.10 A licensee shall comply with all licence requirements

Section 4: Licensing

- 4.1 No refreshment vehicle which does not hold a valid License issued by the Clerk or designate under the authority of this By-law, shall carry on its business within the municipality
- 4.2 The applicant shall determine the proposed location for the designated area and shall provide a letter from the property owner or property manager permitting the use of said land for the proposed use;
- 4.3 The applicant shall submit a site plan which clearly shows the designated area along with the location of proposed parking, signage and refuse containers.
- 4.4 No licensee shall operate a Refreshment Vehicle in a location other than the location for which the Refreshment Vehicle licence has been issued, unless authorized by the Clerk or designate;

- 4.5 The proposed location for the designated area shall comply with the following criteria:
- (a) No person shall operate a refreshment vehicle while on a highway, a vacant lot or a parking lot adjacent thereto, or property owned by the municipality without the prior approval of the Clerk;
 - (b) The designated area shall be located only on land zoned as commercial or industrial pursuant to the Loyalist Township zoning by-laws. A refreshment vehicle may also be permitted on lands zoned as recreational open space, park/open space and community facility pursuant to the Loyalist Township zoning by-laws;
 - (c) No portion of the designated area shall be located directly in front of an entrance or exit from a building;
 - (d) The designated area shall not be located within 120 metres of a business establishment where similar products are sold;
 - (e) The designated area shall be set back at least twelve metres from a highway measured from the property line closest to the highway;
 - (f) No Person shall sell Refreshments from a Refreshment Vehicle between the hours of 11:00 p.m. and 7:00 a.m.;
 - (g) The parking, signage and refuse requirements indicated in the site plan shall be within the designated area.
- 4.6 The operator of the refreshment vehicle shall be responsible for maintaining the area within 60 metres of the refreshment vehicle, free of litter and debris;
- 4.7 All refreshment vehicles shall be roadworthy and comply with the Highway Traffic Act and shall be licensed for operation on a public highway;
- 4.8 A separate refreshment vehicle license shall be taken out for each Refreshment vehicle in operation;
- 4.9 Upon receipt of a completed application on the prescribed form (attached as Schedule 'B' to this by-law), including payment of the applicable license fee, and subject to compliance with all other sections of this By-law, the Clerk or designate shall issue a refreshment vehicle License.
- 4.10 The fees for a Refreshment Vehicle License are found under Schedule 'A' of this by-law.
- 4.11 Any fee paid for a refreshment vehicle license shall be credited to the person paying it, or to any "bona fide" purchaser of the business who carries on the business.
- 4.12 Every refreshment vehicle license shall expire on December 31st of each year.

- 4.13 Every owner of a refreshment vehicle issued a licence under this by-law shall comply with this by-law and shall ensure that any person employed by the owner or otherwise involved in carrying on business, will do so in compliance with this by-law and all other applicable by-laws.
- 4.14 Commercial General Liability-The successful applicant for a license shall, at his or her expense, obtain and keep in force during the term of this licensed agreement, Commercial General Liability Insurance satisfactory to the Municipality, written by an insurer licensed to conduct business in Ontario and include but not be limited to the following:
- a) A limit of liability of not less than five million dollars (\$5,000,000)/ occurrence.
 - b) The Municipality shall be named as an additional insured;
 - c) The policy shall contain a provision for cross liability in respect of the named insured;
 - d) Non-owned automobile coverage with a limit of at least five million dollars (\$5,000,000) including contractual non-owned coverage;
 - e) Products and completed operation coverage (Broad Form) with an aggregate limit not less than five million dollars (\$5,000,000).
 - f) That 30 days prior notice of an alteration, cancellation or material change in policy terms which reduces coverages shall be given in writing to the Municipality

Section 5 - Regulations

- 5.1 Every person to whom a refreshment vehicle license has been issued shall be prominently and permanently displayed in the place of business;
- 5.2 The operator of every refreshment vehicle shall at all times comply with the requirements of the Medical Officer of Health and, prior to the issuance of a refreshment vehicle license under this By-law, supply the Clerk with written confirmation of compliance in this regard;
- 5.3 Every refreshment vehicle which is equipped with propane-fuelled appliances must be inspected by a certified propane fitter registered by the Fuel Safety Branch, and found to comply with the Ontario Propane Code and, prior to the issuance of a refreshment vehicle License under this By-law, shall supply the Clerk with written confirmation of compliance in this regard.
- 5.4 All signage must meet the requirements set out under the Townships Sign By-law.

- 5.5 Lennox & Addington County may have jurisdiction on some roadways.
- 5.6 Any platforms/decks for accessing the food truck service window shall be reviewed by the building department and comply with all building code requirements.

Section 6: Park Permit to Operate on Township Property

- 6.1 Loyalist Township has four parks that are available to lease for refreshment vehicle operators; one refreshment vehicle will be permitted for each park. Applicants wishing to operate on Township property, shall submit a permit application to the Clerk or designate found on Schedule C of this by-law; a list of parks available are included on this schedule. A Refreshment Vehicle Licence will also need to be obtained to operate in all Township locations. Applicants wishing to obtain a park permit shall submit their application no later than the last Friday in the month of November to be considered for the following year. The Township will award the park permit to applicants that have the highest score based on the criteria below.
- Provide local food options
 - Provide healthy food options
 - Have sustainable business practices and/or environmental contributions
 - Have accessibility considerations
 - Are local to KFL&A region
- 6.2 Fees to operate in a Township park are found under Schedule C of this by-law
- 6.3 Refreshment vehicles permitted to operate in Loyalist Township Parks shall be removed by November 30th of each year. Including removal of any Platforms/decks.
- 6.4 The agreement may be transferrable to a successor or assign with the written approval from the Clerk or designate.
- 6.5 The applicant shall be required to submit a plan to acknowledge and accommodate the requirements of the *Accessibility for Ontarians with Disabilities Act*.
- 6.5 The location within the park shall include a detailed site plan to the satisfaction of the Township. Any subsequent revisions to the site plan shall require written consent from the Township.
- 6.6 Any class of refreshment vehicle can apply for a permit to operate on Township properties listed under schedule C of this by-law.

- 6.7 Park permits will be offered on a month to month basis, provided no applications come forward for the full 8 months.
- 6.8 The Township reserves the right to cancel, revoke or place on hold any permit:
- a) When a park is needed for an event of municipal significance
 - b) When the park requires maintenance.
 - c) In order to ensure public safety
 - d) For venues where someone has rented the facility for a full day and has requested the temporary closure of the refreshment vehicle.
 - e) If, in the sole opinion of Township staff the permit holder fails to comply with the requirements of the permit or any provision of the refreshment vehicle by-law or for any reason that the Township deems appropriate.

Section 7 Ineligibility/Disqualification of licence

- 7.1 The Clerk or designate shall refuse to issue or renew a licence where:
- a) The applicant is not at least 18 years of age;
 - b) The application is incomplete, false or incorrect information;
 - c) The prescribed licence fee has not been paid;
 - d) The applicant has outstanding fines or debts to the Municipality;
 - e) The applicant is convicted of an offence under any federal or provincial statute or regulation or under any municipal by-law; and
 - f) An officer, by way of inspection, has determined that the Refreshment Vehicle is not in compliance with this By-law.

Section 8: Revocation and Contravention

- 8.1 A refreshment vehicle license issued under the provisions of this By-law may be revoked by the Clerk or designate when:
- a) written notice has been received from the Medical Officer of Health or designate, or the Technical Safety Standards Association stating that the refreshment vehicle is operating contrary to required standards; or
 - b) The Licensee has been served notice of non-compliance with the terms of this By-law, by a Provincial Offences Officer.
 - c) If, in the sole opinion of Township staff the licence holder fails to comply with any provision of the refreshment vehicle by-law or for any reason that the Township deems appropriate.

Section 9: Validity

- 9.1 If a court of competent jurisdiction declares any provision, or part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

Section 10: Penalty

- 10.1 Every person who contravenes any provisions of this by-law shall be guilty of an offence and, upon conviction, is subject to a fine as provided in the Provincial Offences Act and to any other applicable penalties.

Section 11: Exemptions

- 11.1 Notwithstanding the provisions of this by-law, no person shall be required to submit a license fee when refreshments are offered for sale in conjunction with Fairs, Auctions, Community Festivals/Events or any Council authorized event for which prior approval of Council has been obtained or where the vehicle is accessory to a permitted use under the Zoning by-law.
- 11.2 Notwithstanding the provisions of this by-law, a licence will not be required for a vehicle with a valid licence from another municipality within Loyalist Township, for a period of no more than four days within a calendar year.

Section 12: Effective Date

- 12.1 By-law 2012-100, 2017-008 and any other by-laws or portions thereof conflicting with this by-law are hereby repealed.
- 12.2 This by-law shall come into force and take effect upon the date of its passing;
- AND
- 12.3 The Clerk or designate of Loyalist Township is hereby authorized to make any minor modifications or corrections of an administrative, numerical, grammatical, semantically or descriptive nature or kind to the By-Law and schedule as may be deemed necessary after the passage of this By-Law, where such modifications or corrections do not alter the intent of the By-Law,

ENACTED AND PASSED THIS 23rd DAY OF NOVEMBER 2020

MAYOR

CLERK

Schedule A to By-law 2020-085

Refreshment Vehicle Fee Schedule

Yearly License Fees

New Licence for Class 1, 2 & 3 Refreshment vehicles	\$300.00
New Licence for Class 4 Refreshment vehicles	\$100.00
Renewal Licence for Class 1, 2 & 3 Refreshment vehicles	\$150.00
Renewal Licence for Class 4 Refreshment vehicles	\$50.00

Schedule B to By-law 2020-085

Application for a Refreshment Vehicle Licence

Note: This application must be reviewed by all municipal departments to determine suitability of location prior to any license being issued.

Applicant name:	
Applicant Phone #:	
Applicant Mailing Address:	
Business Name:	
Business Phone Number:	
Plate Details of Vehicle (if applicable):	
Location of Refreshment Vehicle under this License (please provide map):	
Name and Contact info for property owner (where vehicle is to be located, if different from applicant):	
Types of products to be sold:	

Attach the following additional Documents applicable to your application:	CHECK:
Permission Letter from Property Owner	
Site Map of Vending Area	
Health Department Inspection (current within last 60 days)	
Technical Safety Standards Association Approval (if applicable)	
Propane Inspection and certification (if applicable)	
Insurance Certificate (\$5,000,000, naming the Municipality as additional insurer)	

Fees Per Class	Check One:
Class 1, 2 & 3 Refreshment Vehicles	\$300.00
Class 4 Refreshment Vehicles	\$100.00

Fees for License Renewal	
Class 1, 2,& 3 Refreshment Vehicles	\$150.00
Class 4 Refreshment Vehicles	\$50.00

I, _____, swear that the information given in this application and any supporting document is true and complete and understand that false statements could result in the revocation of a license if granted.

sworn before me at loyalist township, in the county of Lennox and Addington this _____ day of _____, 20_____.

Signature of applicant

Commissioner etc.

****Personal information contained on this form is collected under authority of the Municipal Act, 2001, and will be used to determine eligibility for a license.****

Schedule C to By-law 2020-085

Permit Application

The following Parks are eligible for leasing for Refreshment Vehicle use

1. Fairfield Park-4574 Bath Road Amherstview (Hydro and Washroom facility available)
2. Finkle Shores Park- 697 Bath Road, Bath (Hydro and Washroom facility available)
3. Bath Centennial Park-336 Main Street, Bath (no hydro available)
4. Millcreek Park-Mud Lake Road South (no hydro or washroom available)

This application is for individuals interested in operating Refreshment vehicles in the parks listed above. Please submit this form and upon approval submit an application for a Refreshment vehicle license (Schedule B) along with supporting documents as required under Schedule B.

NOTE: The successful applicant will have the highest overall score for the selected location. Refreshment Vehicle Operators will sign and submit an agreement satisfactory to The Township before a Park permit will be issued.

Date and time submitted:
Applicant name:
Applicant Phone #:
Applicant Mailing Address:
Business Name:
Business Phone Number:
Plate Details of Vehicle (if applicable):
Please check which Park you are interest in operating from 1. Fairfield Park-4574 Bath Road Amherstview 2. Finkle Shores Park- 697 Bath Road, Bath 3. Bath Centennial Park-336 Main Street, Bath 4. Millcreek Park-Mud Lake Road South
Please provide an accessibility plan:
Additional Information:

Do you Provide local food options and if so what percentage of your menu comes from locally sourced options?		
Yes	No	Maximum 10 points
“ Local Food ” is defined as food that is sourced within KFL&A or within 100 KM of the KFL&A Region.		
Do you provide non processed food options (ie; foods that are not frozen, rather made from whole foods) and if so what percentage of your menu is made from whole foods		
Yes	%	No Maximum 10 points
“ Whole Foods ” are plant-based foods that are unprocessed and unrefined, or processed and refined as little as possible, before being consumed. Can also include meats that are processed and refined as little as possible.		
Does your business practice sustainability and environmental contributions? (i.e. Use biodegradable and or compostable dishes/cutlery/napkins made from renewable sources)		
Yes	No	Maximum 5 points
Does your business have accessibility considerations?		
Yes	No	Maximum 5 points
Are you local to KFL&A region?		
Yes	No	Maximum 2 points

Permit Fees to Operate on Township property

Fairfield Park and Finkle Shores Park (Hydro available)	\$2600.00
Centennial Park and Millcreek Park (Hydro not available)	\$1400.00

Fee Breakdown

Park Lease and Park Maintenance x8	\$175/month
Hydro/month x8	\$150/month