

# THE CORPORATION OF TAY VALLEY TOWNSHIP

## BY-LAW NO. 2011-052

### REFRESHMENT VEHICLE LICENSING BY-LAW

**WHEREAS**, Section 151 of the *Municipal Act*, 2001, S.O. 2001, Chapter 25, as amended, provides that a municipality may provide for a system of licenses with respect to a business;

**AND WHEREAS**, the Council of the Corporation of Tay Valley Township deems it to be in the public interest to license and regulate vehicles from which refreshments are sold;

**NOW THEREFORE BE IT RESOLVED THAT**, the Council of the Corporation of Tay Valley Township enacts as follows:

#### 1. DEFINITIONS

For the purpose of this by-law:

**“Chief Building Official”** – shall mean the Chief Building Official of the Corporation of Tay Valley Township or his/her designate.

**“Chip Wagon”** – shall mean a motor vehicle that is stationary in one designated site and is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments.

**“Clerk”** – shall mean the Clerk of the Corporation of Tay Valley Township or his/her designate.

**“County”** – shall mean the County of Lanark.

**“Fire Chief”** – shall mean the Fire Chief of the Drummond/North Elmsley Tay Valley Fire Rescue or his/her designate.

**“License”** - shall mean a license issued under the provisions of this by-law.

**“Medical Officer of Health”** – shall mean the Medical Officer of Health for the Leeds, Grenville and Lanark District Health Unit or his/her designate.

**“Mobile Canteen”** – shall mean a motor vehicle that is licensed or required to be licensed, is mobile at all times and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments.

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**“Motor Vehicle”** – includes an automobile, truck, trailer, motorcycle and any other vehicle propelled or driven otherwise than by muscular power.

**“Municipal Law Enforcement Officer”** – shall mean a Police Officer, By-Law Enforcement Officer, or another person duly appointed to enforce the by-laws of the Township.

**“Owner/Operator”**- shall mean the owner of a refreshment vehicle and/or a person who is selling, offering for sale or otherwise dispensing of refreshments.

**“Province”** – shall mean the Ministry of Transportation.

**“Public Works Superintendent”**- shall mean the Public Works Superintendent of the Corporation of Tay Valley Township or his/her designate.

**“Refreshment”** – shall mean any food or beverage.

**“Refreshment Cart”** – shall mean a muscle powered cart that is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments.

**“Refreshment Vehicle”** – shall include a Chip Wagon, Mobile Canteen and Refreshment Cart as defined by this by-law.

**“Site Plan”** – shall mean a plan (drawing) to scale, showing details and items relevant to this by-law.

**“Special Event”** – shall mean an event, the duration of which is temporary in nature and has a maximum duration of four (4) days.

**“Subdivision”** – shall mean an area composed of subdivided lots, on which houses or buildings are to be built or have been built, that has been registered as a plan of subdivision.

**“Township”** – shall mean the Corporation of Tay Valley Township.

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**2.00 GENERAL LICENSING REGULATIONS**

- 2.1** Administration of this by-law shall be the responsibility of the Clerk, who is hereby authorized to issue licenses to owners in accordance with the provisions of this by-law.
- 2.2** The Clerk may revoke, cancel, suspend or refuse to renew or issue a license pursuant to the provisions of this by-law.
- 2.3** An application for a new license of a Refreshment Vehicle shall be completed and submitted to the Clerk on the forms provided along with the licensing fee.
- 2.4** An application for a renewal of a license of a Refreshment Vehicle shall be completed and submitted to the Clerk on the forms provided along with the licensing fee before the expiry date of such license. If the application is received after the expiry date of the license, a late fee will be applied.
- 2.5** A license may be transferred from one Refreshment Vehicle to another and/or from one Owner to another, and for a Chip Wagon from one location to another, upon completion of an application for a transfer of a Refreshment Vehicle and the submission of the application, on the forms provided, to the Clerk along with the transfer fee.
- 2.6** The fees shall be as listed in Schedule "A" to this by-law.
- 2.7** Acceptance of the application and fee shall not represent approval of the application nor shall it obligate the Township to issue a license.
- 2.8** The term of each license shall be valid for a period of one year from the 1<sup>st</sup> day of January to the 31<sup>st</sup> day of December in each year, unless sooner revoked, amended, cancelled, suspended or voluntarily relinquished to the Township.
- 2.9** The Township may impose conditions as a requirement of obtaining, continuing to hold, renewing or transferring a license at any time during the term of the license.
- 2.10** The Township may take advice from the Ontario Provincial Police, the Public Works Superintendent, the County of Lanark, the Province and any other source in reaching decisions about any special conditions to be imposed to a license.

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**2.11** An owner is entitled to be licensed and is entitled to have such license renewed, except where:

- a) the operation of a refreshment vehicle is within 100 metres of an existing food establishment; and/or
- b) the operation of a refreshment vehicle is within 100 metres of an existing or proposed subdivision; and/or
- c) the past conduct of the owner affords reasonable grounds for belief that the owner will not carry on the activity for which the owner is applying for or is licensed for, in accordance with law and with integrity and honesty; and/or
- d) the owner is carrying on activities that are, or will be if the owner was licensed, to be in contravention of this by-law; and/or
- e) there are reasonable grounds for belief that the premises, accommodation, equipment, vehicles or facilities in respect of which the license is required, do not comply with the provisions of this by-law or other applicable law; and/or
- f) there are reasonable grounds for belief that the owner has provided a false statement or false information for the purpose of obtaining a license; and/or
- g) the owner owes any money, including taxes, permit fees or outstanding work-orders to the Township; and/or
- h) the owner is in default of any fine or fines which have been imposed by a court as a sentence arising from a conviction for breach of a by-law enacted by the Township, or arising from a conviction for a breach of a law or regulation; and/or
- i) the owner is not in compliance with any Township land use by-laws, any other Township by-laws, any other requirement under the *Planning Act* or any other Act.

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**3. APPLICATION REQUIREMENTS**

**3.1** The Owner shall provide in full, at the time the application is submitted, all of the information requested on the application form.

**3.2** The owner shall submit the following with the application:

- a) a Site Plan drawn to scale showing details of the proposed site where the refreshment vehicle will be located, which shall include:
  - the exact location
  - adjacent structures
  - closest neighbours
  - entrances and exits to the site
  - parking spaces
  - roads
  - sign locations
  - approved electrical or other utility hook-ups
  - seating and/or tables, if any
  - other specific details, as required;
- b) indicate what provisions will be made for:
  - garbage receptacles with lids
  - garbage removal
  - recycling
  - general cleanliness and tidiness of the site and surrounding area;
- c) a copy of a "Certificate of Liability Insurance" in the amount of not less than two million dollars (\$2,000,000.00) for the operation of the Refreshment Vehicle, as identified in Section 4 of this by-law;
- d) written approval of the Medical Officer of Health that the Refreshment Vehicle has been inspected and has met all health requirements;
- e) a copy of an "Inspection Certificate" from a qualified propane fitter (where propane is to be used) showing evidence of an inspection for compliance under the *Technical Standards and Safety Act, 2000*, as amended, *Ontario Regulation 211/01 Propane Storage and Handling*, as amended, and *Ontario Regulation 212/01 Gaseous Fuels*, as amended;
- f) for Chip Wagons and Mobile Canteens, written approval from the Fire Chief that the Chip Wagon and Mobile Canteen has been inspected and has met the requirements of the *Fire Protection and Prevention Act, 1997*, as amended;

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- g) for Chip Wagons, written approval from the Township, County and/or Province (whichever applies) that the Chip Wagon has met all requirements (ex. traffic, entrance, parking, etc.) with regards to any and all roads;
- h) for Chip Wagons and Mobile Canteens, written permission from the property owner that the Owner/Operator of the Chip Wagon or Mobile Canteen has permission to use the property.

**4. OWNER REQUIREMENTS**

**4.1 Every Owner licensed under this by-law shall:**

- a) ensure compliance with this by-law and all other applicable law;
- b) ensure that any person employed by the Owner or otherwise involved in carrying on the business, will do so in compliance with this by-law and all other applicable law;
- c) keep the interior and exterior of the Refreshment Vehicle clean and in good repair;
- d) ensure that all equipment used for dispensing refreshments are kept in a clean and sanitary condition;
- e) clean up any debris, refuse and garbage resulting from the operation of the Refreshment Vehicle in the immediate vicinity of the serving location of the Refreshment Vehicle;
- f) accept all liability for all or any claims for injury or damage to any person or property caused or created by the operation of the Refreshment Vehicle.
- g) obtain and maintain motor vehicle insurance compliant with Ontario law to be evidenced by an, in force OAP#1 for any road licensed vehicle.

In addition where a refreshment vehicle is to be operated on or from any property, roadway, road right-of-way, or location immediately adjacent thereto, of the Township, the County of Lanark or the Province of Ontario; Commercial General Liability insurance, including products liability insurance, and further that the Corporation of Tay Valley Township shall be added as an additional insured.

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**5. SPECIAL EVENTS**

**5.1** A single license may be issued for multiple Refreshment Vehicles at festivals and events upon application by the festival/event organizing body.

**5.2** The festival/event organizer shall submit the following with the application:

a) a Site Plan drawn to scale showing details of the proposed site where the refreshment vehicles will be located, which shall include:

- the refreshment vehicle types
- the exact locations of the refreshment vehicles
- adjacent structures
- entrance and exit information from adjacent streets
- parking spaces
- approved electrical or other utility hook-ups
- seating and/or tables, if any
- garbage receptacles with lids and recycling locations;
- other specific details, as required.

b) written commitment to remove all garbage, garbage containers, recyclables and recycle containers from the site within 24 hours of the conclusion of the event.

**5.3** All other provisions of this by-law apply.

**6. REFRESHMENT VEHICLE INSPECTION**

**6.1** The Clerk may require an Owner to submit his/her Refreshment Vehicle for inspection at any time at an appointed place and time and the Owner shall submit each Refreshment Vehicle for inspection when required to do so by the Clerk.

**6.2** Following an inspection where the Clerk does not approve a Refreshment Vehicle, the License shall be removed and the Owner shall not operate the Refreshment Vehicle until the Owner obtains approval from the Clerk.

**6.3** Failure to submit a Refreshment Vehicle for inspection as required shall result in the License being suspended by the Clerk until such time as the vehicle has been inspected and approved.

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**6.4** A fee shall be charged, as set out in Schedule "A", when a re-inspection is required:

- a) to confirm compliance with a condition imposed;
- b) to rectify a deficiency in order that a license be issued or re-instated;
- c) because the Owner failed to appear at a scheduled inspection.

**7. REVOCATION, SUSPENSION, CANCELLATION OR REFUSAL TO RENEW OR ISSUE**

**7.1** Where the Clerk has revoked, suspended, cancelled or refused to renew or issue a license under this by-law, a written notice signed by the Clerk shall be delivered to the owner within seven (7) business days and such notice shall set out and give reasonable particulars of the grounds for the decision.

**7.2** Where a license was revoked, suspended, cancelled or refused for renewal, the owner shall return the license to the Clerk within seventy two (72) hours of receiving the written notice of the decision of the Clerk sent pursuant to this by-law.

**7.3** When a person has had a license revoked, suspended or cancelled under this by-law, the Clerk may enter upon the business premises or into the vehicle of the owner for the purpose of receiving, taking, or removing the said license.

**7.4** When a person has had his/her license revoked, suspended, or cancelled under this by-law he/she shall not refuse to deliver or in any way obstruct or prevent the Clerk or Municipal By-Law Enforcement Officer from obtaining the said license.

**8. SERVING OF NOTICE OR ORDER**

**8.1** Any notice or order required to be given pursuant to this by-law by the Clerk shall be deemed to be sufficiently served if delivered personally or sent by registered mail or by prepaid first class mail addressed to the person who service is to be made, at the address on the application or the last known address on file in the Clerk's Office.

**8.2** Notice served by either registered mail or by prepaid first class mail shall be deemed to have been received on the fifth day following the mailing of the notice.



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**9. NOTICE OF CHANGE OF INFORMATION**

- 9.1** When an owner who is a natural individual changes their name, address, or any information relating to the license, the owner shall notify the Clerk of the change within seven (7) business days after the change of information relating to the license and shall, if required by the Clerk, return the license immediately to the Clerk for amendment.
- 9.2** Where an owner is a corporation and there is change in the information as set out in the application for license, such as the names or addresses of the officers or directors, the location of the corporate head office or any other change in ownership, the owner shall notify the Clerk of the change within seven (7) business days after the change of information relating to the license and shall, if required by the Clerk, return the license immediately to the Clerk for amendment.
- 9.3** The owner shall provide seven (7) days notice, in writing, of any cancellation, expiration or variation in the insurance policy required under this by-law.

**10. POWER OF ENTRY**

- 10.1** The Township may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) the provisions of this by-law;
  - b) an order issued under this by-law; or
  - c) an order made under the *Municipal Act, 2001*, as amended.
- 10.2** Where an inspection is conducted by the Township, the person conducting the inspection may:
- a) require the production for inspection of documents or things relevant to the inspection;
  - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
  - c) require information from any person concerning a matter related to the inspection including their name, address, phone number and identification;
- and

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d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.

**10.3** The Township's power of entry may be exercised by an employee, officer or agent of the Township or by a member of a police force with jurisdiction, as well as by any person under his/her direction.

**11. ENFORCEMENT**

**11.1** Municipal Law Enforcement Officers are authorized to enforce this by-law on behalf of the Township.

**12. OFFENCES**

**12.1 Operating without a License**

No person shall operate a Refreshment Vehicle within the limits of the Township unless and until the owner has obtained a separate license for each Refreshment Vehicle, as issued under the provisions of this by-law.

**12.2 Failure to Display License**

No person shall fail to display his or her Refreshment Vehicle License in a conspicuous place at the site or vehicle to which the license applies.

**12.3 Failure to Operate under Endorsed Name**

No person shall promote or carry on business under any name other than the name endorsed upon the license, except in accordance with the provisions of this by-law.

**12.4 Failure to Report Change of Information**

No person shall fail to report to the Clerk every change of name, mailing address and telephone number for each Refreshment Vehicle License held, within seven (7) days of the change.

**12.5 Failure to Produce License**

No person shall fail to produce his or her License and identification upon request.

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**12.6 Obstruction of Clerk**

No person shall obstruct the Clerk from conducting an inspection, or withhold, destroy, conceal or refuse to supply any information or thing required for the purpose of inspection.

**12.7 Obstruction of Municipal Law Enforcement Officer**

No person shall obstruct a Municipal Law Enforcement Officer from conducting an inspection, or withhold, destroy, conceal or refuse to supply any information or thing required for the purpose of inspection.

**13. PENALTIES**

**13.1** Any person who contravenes any provision of this by-law shall be guilty of an offence and shall be liable, upon conviction, to a fine for each offence in accordance with Schedule "B" of this by-law.

**13.2** Upon registering a conviction for the contravention of any provision of the by-law, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, pursuant to the *Municipal Act, 2001*, as amended.

**14. ULTRA VIRES**

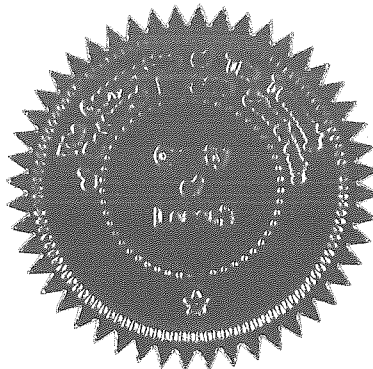
**14.1** Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

**15. EFFECTIVE DATE**

**15.1** This by-law shall come into force and effect on the 1<sup>st</sup> day of January, 2012.

**15.2** ENACTED AND PASSED this 11<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Keith Kerr, Reeve



  
\_\_\_\_\_  
Amanda Mabo, Clerk

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**SCHEDULE "A"**

**FEES**

- |    |  |                                    |
|----|--|------------------------------------|
| 1. | Chip Wagon   | \$300.00 per vehicle, per location |
| 2. | Mobile Canteen   | \$250.00 per vehicle               |
| 3. | Refreshment Cart   | \$30.00 per cart                   |
| 4. | Refreshment Vehicle Transfer<br>(vehicle to vehicle or owner to owner) | \$30.00 per transfer               |
| 5. | Refreshment Vehicle Transfer<br>(location to location)                 | \$150.00 per transfer              |
| 6. | Re-Inspection  | \$30.00 per re-inspection          |
| 7. | Late Fee   | \$30.00 per application            |

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**REFRESHMENT VEHICLE LICENSING**

**SCHEDULE "B"**

**SET FINES**

**Part I, Provincial Offences Act**

<b>ITEM</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Offence Creating Provision</b>	<b>Column 3 Set Fine</b>
1.	Operating without a License	Section 12.1	\$500
2.	Failure to Display License	Section 12.2	\$200
3.	Failure to Operate under Endorsed Name	Section 12.3	\$200
4.	Failure to Report Change of Information	Section 12.4	\$200
5.	Failure to Produce License	Section 12.5	\$200
6.	Obstruction of Clerk	Section 12.6	\$500
7.	Obstruction of Municipal Law Enforcement Officer	Section 12.7	\$500

Note: The penalty provisions for the offences indicated above is Section 13 of By-Law No. 2011-052, a certified copy of which has been filed.

Note: The general penalty provision for the offences indicated above is Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.

THE HONOURABLE LISE T. MAISONNEUVE  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
EAST REGION

161 ELGIN STREET, 6<sup>TH</sup> FLOOR  
OTTAWA, ONTARIO K2P 2L1



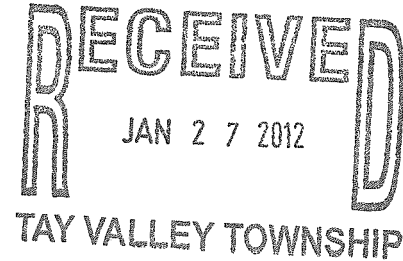
L'HONORABLE LISE T. MAISONNEUVE  
JUGE PRINCIPALE RÉGIONALE  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DE L'EST

161, RUE ELGIN, 6<sup>ÈME</sup> ÉTAGE  
OTTAWA (ONTARIO) K2P 2L1

TELEPHONE/TÉLÉPHONE (613) 239-1520  
FAX/TÉLÉCOPIEUR (613) 239-1572

January 23<sup>rd</sup>, 2012

Corporation of Tay Valley Township  
217 Harper Road, R.R. #4  
Perth, Ontario  
K7H 3C6



**Attention: Ms. Amanda Mabo, Clerk**

Dear Ms. Mabo,

***Re: Set Fines – Provincial Offences Act – Part I  
By law No. 2011-052: Refreshment Vehicle***

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Enclosed herewith is the original Order dated January 23<sup>rd</sup>, 2012 and original schedule of set fines for By-Law No. 2011-052, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Office, which has jurisdiction for the Corporation of Tay Valley Township.

Yours truly,

A handwritten signature in cursive script, appearing to read "L. Maisonneuve".

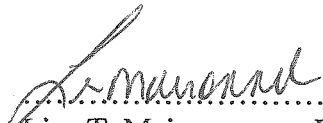
\_\_\_\_\_  
Lise T. Maisonneuve  
Regional Senior Justice  
East Region  
Enclosures

**PROVINCIAL OFFENCES ACT**

**Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2011-052 of the Corporation of Tay Valley Township, attached hereto is the set fine for that offence. This Order is to take effect on January 23<sup>rd</sup>, 2012.

Dated at Ottawa this 23<sup>rd</sup> day of January 2012.

  
.....  
Lise T. Maisonneuve, Regional Senior Justice  
Ontario Court of Justice  
East Region