

The Corporation of the Township of North Huron

By-law No. 27-2023

A by-law to license, regulate and govern the operation of food trucks on municipal property within the Township of North Huron.

This accessible version of this by-law is printed under the authority of the Council of the Township of North Huron.

Printing Date: April 18, 2023

Disclaimer:

The following version is an electronic reproduction made available for information only. It is not an official version of the by-law. The format may be different, and plans, pictures, other graphics or text may be missing or altered. The Township of North Huron does not warrant the accuracy of this electronic version. This consolidation cannot be distributed or used for commercial purposes. It may be used for other purposes only if you repeat this disclaimer and the notice of copyright. Official versions of all by-laws can be obtained from the Clerk's Department by calling 519-357-3550.

The Corporation of the Township of North Huron

By-law No. 27-2023

Being a By-law to Licence, Regulate and Govern the Operation of Food Trucks on Municipal Property within the Township of North Huron

WHEREAS Subsection 5(3) of the *Municipal Act, 2001, S.O. 2001 c.25*, as amended (hereinafter referred to as the “Municipal Act”), provides that a municipal power shall be exercised by by-law;

AND WHEREAS Section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to the provisions of Part IV of the *Municipal Act*, the Council of the Township of North Huron may pass by-laws for licensing, regulating and governing businesses;

AND WHEREAS subsection 151(1) of the *Municipal Act* provides that, without limiting sections 9, 10 and 11 of the Act, a municipality may provide 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; and
- f) licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it.

AND WHEREAS subsections 11(2) and (3) of the *Municipal Act* allows a municipality to pass by-laws for one of more of the following purposes:

- health, safety and well-being of persons;
- protection of persons and property, including consumer protection; and
- business licensing;

AND WHEREAS the Council of the Township of North Huron considers it desirable and necessary to licence, regulate and govern Food Trucks on Municipal Property in the Township of North Huron;

AND WHEREAS the Council of the Township of North Huron deems it necessary to establish penalties for those convicted of an offence under any provision of this By-law or any Schedule to this By-law;

NOW THEREFORE the Council of the Corporation of the Township of North Huron ENACTS as follows:

1. SHORT TITLE

- 1.1 This by-law may be cited as the “Food Trucks on Municipal Property By-law”.

2. DEFINITIONS

- 2.1 **“Applicant”** means any person applying for a licence in the first instance, or for a subsequent licence in the same calendar year, under this by-law;
- 2.2 **“By-law”** means this by-law, as it may be amended from time to time, and including the recitals and all schedules forming part of this by-law;
- 2.3 **“Clerk”** shall mean the Clerk of the Corporation of the Township of North Huron, or their delegate;
- 2.4 **“Council”** shall mean the Council of the Corporation of the Township of North Huron;
- 2.5 **“Enforcement Officer”** means a Municipal By-law Enforcement Officer appointed by the Council of the Corporation of the Township of North Huron or a Police Officer with the Ontario Provincial Police;
- 2.6 **“Fees and Charges By-law”** means the Township of North Huron Fees and Charges By-law, as amended from time to time;
- 2.7 **“Fire Chief”** means the person within the Township’s administration who fulfills the function of the Fire Chief as required by the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended or their delegate;
- 2.8 **“Food Truck”** includes any vehicle (whether propelled by a motor or by the application of force by a person or animal, both mobile and immobile) which is used for the storage or preparation of food or drink intended for immediate consumption by the public (both prepared on premises and pre-packaged), and that has the ability to vend food and beverage stuffs and sundry items from more than one location in any given day;
- 2.9 **“Health Unit”** means an official public health unit established in the Province of Ontario;
- 2.10 **“Highway”** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- 2.11 **“Licence”** means a licence issued pursuant to this by-law;
- 2.12 **“Licensee”** means any person to whom a current licence is issued under this by-law;
- 2.13 **“Licensing Officer”** shall mean the Clerk or their delegate for the Township of North Huron;
- 2.14 **“Medical Officer of Health”** means a Medical Officer of Health of the Health Unit for an official public health unit established in the Province of Ontario, or their delegate;
- 2.15 **“Municipal Act”** means the Municipal Act, 2001, S. O. 2001 c.25. as amended from time to time;
- 2.16 **“Municipal facility”** or **“municipal property”** means any property owned by the Township of North Huron that is not a highway, and includes parks, trails and parkland;

- 2.17 **“Person”** to include but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person;
- 2.18 **“Police or Police Officer”** shall mean a member of the Ontario Provincial Police (OPP);
- 2.19 **“Site plan”** means a sketch of the property outlining the location of the Food Truck and the proximity to other vendors and neighbouring businesses;
- 2.20 **“Special Event”** means a one-time, annual, or infrequently occurring event on Township of North Huron property that is reserved for exclusive use, which meets the following criteria:
- Celebration of a specific theme;
 - Has a predetermined opening and closing date/time;
 - Is available to the community at large.
- 2.21 **“Township”, “Township of North Huron”, “North Huron” or “municipality”** means the Corporation of the Township of North Huron and includes its entire geographic area.

3. PROHIBITIONS

- 3.1 No person shall:
- a) Operate a Food Truck on municipal property without a licence issued under the provisions of this by-law authorizing them to operate a Food Truck on municipal property.

4. EXEMPTIONS

- 4.1 This by-law shall not apply to:
- a) Food Trucks operating on private property. Any Food Truck operating on private property is not subject to the licensing provisions of this by-law. Despite the exemption from the licensing provisions of this by-law, all Food Trucks operating on private property shall abide by all of the by-laws of the Township of North Huron, including but not limited to the Zoning By-law, as amended from time to time.

5. ADMINISTRATION OF BY-LAW

- 5.1. The Clerk, as the Licensing Officer, or their delegate, shall oversee the administration of this by-law on behalf of Council.
- 5.2. Authority to act as the Licensing Officer may be delegated to additional staff members of the Township of North Huron, at the sole discretion of the Clerk.
- 5.3. All licences issued pursuant to this by-law shall expire no more than seven (7) days from the date of issuance.
- 5.4. Any licences issued pursuant to the provisions of this by-law may be revoked or cancelled with cause at any time by the Clerk or their delegate and the Clerk shall provide the notice in writing.

- 5.5. The Clerk or their delegate shall refuse to grant a licence if the applicant has not satisfied all of the requirements of this by-law and the Clerk shall provide notice of refusal in writing.

6. DUTIES OF THE LICENSING OFFICER/MUNICIPALITY

- 6.1. The Licensing Officer shall have the responsibility for supervision of all persons licensed under this by-law and over all Food Trucks operating on municipal property in connection with the provisions of this by-law and such responsibilities include compliance with the following requirements:
- a) To make necessary inquiries concerning applications for licences as may be required to secure due observance of the law and of this by-law;
 - b) To grant all licences where the applicant has satisfied all of the requirements of this by-law;
 - c) To keep a record of all licences. Such record shall contain the name or names of the applicant, the amount paid for the licence, and the date of issue. The Licensing Officer shall keep other such further particulars and such other books as needed;
 - d) To permit any Enforcement Officer to examine and approve every Food Truck operating on municipal property and the necessary equipment thereof of every applicant for a licence under this by-law;
 - e) To refuse to grant a licence where an applicant or licensee fails to satisfy all of the requirements of this by-law, or is in contravention of this by-law.

7. LICENSING REQUIREMENTS AND GENERAL APPLICATION REQUIREMENTS

- 7.1 In addition to the specific requirements set out herein, this Section shall apply to all Persons operating a Food Truck on municipal property within the municipality.
- 7.2 Every person carrying on a business of a Food Truck on municipal property shall obtain a licence from the Township authorizing them to carry on that business. Food Trucks located on private property are not subject to the provisions of this by-law.
- 7.3 No licence shall be issued to any applicant under the age of 18 years without the written consent of a parent or guardian.
- 7.4 For a Special Event or other applicable circumstances where multiple Food Trucks may be present in a concentrated area of the municipality, all individual Food Truck business owners/operators shall obtain a licence under this by-law in order to operate.
- 7.5 Every licence issued under this By-law shall be personal to the holder thereof and shall not be transferable or assignable from Person to Person or location to location and no licensee shall advertise or promote or carry on business under any name other than the name endorsed up the licence issued to the licensee.
- 7.6 No person licensed under this by-law to operate a Food Truck on municipal property shall obstruct the use of a sidewalk.

- 7.7 Every person issued a licence under this By-law shall supply a refuse container for their Food Truck to the satisfaction of the municipality.
- 7.8 Minimum Distance Separation: All Food Trucks on municipal property must be set back a minimum of 3.04 metres (10 feet) from any structure either on the same or an adjacent property unless otherwise authorized by the Township of North Huron.
- 7.9 Proximity to Other Eating Establishments: No licence shall be issued to any person to operate a Food Truck from a location on municipal property which is within one hundred (100m) metres (328 feet) of an existing restaurant or other eating establishment.
- 7.10 An exemption from the provisions of subsection 7.9 of this by-law is applicable where all owners of eating establishments within one hundred (100m) metres (328 feet) of the proposed Food Truck location have given written permission for the Food Truck to operate within the one hundred (100m) metre (328 feet) radius of the existing restaurant(s) or other eating establishments. Proof of written permission shall be provided by the applicant to the Licensing Officer at the time of submission of an application.
- 7.11 Liability Insurance: No person shall be granted or hold a licence to operate a Food Truck on municipal property unless the applicant, upon application or at the request of the Licensing Officer, provides proof of general commercial liability insurance in the amount of \$2,000,000.00, with the Township of North Huron named as an additional insured party, in accordance with the provisions of this by-law.
- 7.12 A licence to operate a food truck on municipal property shall be valid for a period of no more than seven (7) consecutive days and shall be required to be associated with a Special Event unless otherwise permitted by the Licensing Officer.
- 7.13 Subsequent Licences – Same Calendar Year: At the discretion of the Licensing Officer, the Licensing Officer may accept documents submitted under a previous Food Truck licence applications within the same calendar year, provided that the applicable documents, inspections, insurance or permits have not expired, and are still in force.
- 7.14 Acceptance of Documents Already Submitted to the Township: At the discretion of the Licensing Officer, the Licensing Officer may accept applicable documents already submitted to the Township as part of a Special Event application.
- 7.15 An application form to apply for a licence required under this by-law may be obtained from the main administrative offices of the Township, or via the municipal website, on the form prescribed by the Licensing Officer, as amended from time to time.
- 7.16 Application Requirements and Documentation: For an application to be deemed complete, the applicant shall provide the Licensing Officer with the following documentation at the time of submission of the application:
- a) a fully completed application form as supplied by the Township;
 - b) a Propane Fitter's Certificate indicating compliance with the provisions of the Ontario Propane Storage and Utilization Code if propane fueled appliances are located on the Food Truck;

- c) proof of a valid commercial liability insurance policy with a minimum of \$2,000,000.00 coverage, and with the Township named as an additional insured party;
 - d) documentation from the Fire Chief or designate confirming that the Food Truck is in compliance with applicable fire safety regulations;
 - e) a satisfactory inspection report from the Health Unit completed within the current calendar year of the date of application;
 - f) a site plan noting the location of the Food Vehicle and the distance from other structures in the area such as buildings, sidewalks, roadways, other Food Trucks, and any other relevant buildings, structures, vehicles etc.; and
 - g) the appropriate licence fee required in accordance with the Fees and Charges By-law, as amended from time to time.
- 7.17 Inspection Requirement: The Licensing Officer or delegate may at any time require the Enforcement Officer to inspect any property where a Food Truck is to operate prior to the issuance of any licence.
- 7.18 Licence Fee: A Food Truck licence fee has been established and shall apply to all persons seeking a licence under this by-law. The fee for obtaining a licence shall be as set out in the Fees and Charges By-law, as amended from time to time.
- 7.19 Posting & Production of Licences: The licensee shall post the licence obtained under this by-law in a conspicuous place in or on the Food Truck, in a location that is visible to the public at all times. Persons licensed under this by-law shall, when requested by the Licensing Officer, the Police, the Medical Officer of Health, the Fire Chief, a Municipal Law Enforcement Officer or any person authorized by council, produce the licence for inspection and shall exhibit the licence to any person to whom the licensee is offering goods for sale.
- 7.20 Failure to Produce Licence – a licence issued under this by-law must be produced when requested by an authorized person as described in subsection 7.19 of this by-law.

8. GENERAL PROVISIONS AND DUTIES

- 8.1. The Council of the Township of North Huron may impose such further and additional conditions on the issuance of any licence or group of licences hereunder as it sees fit by way of resolution from time to time, and the Licensing Officer is hereby instructed to communicate such conditions to any and all applicants thereof prior to issuing the said licence or licences. The Licensing Officer is hereby further instructed to take all steps necessary to ensure compliance with the said conditions, including, without limiting the generality of the foregoing, collection of all necessary information from applicants prior to the issuance or renewal of the said licence or licenses. Every person shall comply with any condition imposed by Council on the issuance of a licence.

9. SCOPE

- 9.1. This by-law shall apply to all municipal facilities and municipal property in the Township of North Huron.

10. ENFORCEMENT

- 10.1. The provisions of this by-law may be enforced by any Police Officer or Enforcement Officer appointed by the Township of North Huron for the administration and enforcement of this by-law.
- 10.2. Persons responsible for the enforcement of this by-law by issuing tickets for regulating Food Trucks on municipal property shall report all relevant information related to the offence on the form and in the manner prescribed by the Clerk or their delegate.

11. OFFENCE AND PENALTIES

- 11.1. No person shall provide false information or give a false statement to an officer, employee and/or agent of the municipality in the lawful exercise of a power or duty under this by-law.
- 11.2. No person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or agent of the municipality in the lawful exercise of a power or duty under this by-law.
- 11.3. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c.33, as amended.

12. VALIDITY AND SEVERABILITY

- 12.1. Should any section of this by-law be declared by a court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining part shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

13. EFFECTIVE DATE AND REPEAL

- 13.1. By-law No. 17-2018 of the Corporation of the Township of North Huron is hereby repealed.
- 13.2. This by-law shall come into force and take effect on the date of the final passing thereof.

Read a first and second time this 17th day of April, 2023.

Read a third time and passed this 17th day of April, 2023.

Paul Heffer, Reeve

CORPORATE SEAL

Carson Lamb, Clerk

Schedule “A” to By-law No. 27-2023
Part I – Provincial Offences Act

The Corporation of the Township of North Huron
 By-law 27-2023: Being a By-law to Regulate Food Trucks on Municipal Property

Item	Short form wording	Provision creating or defining offence	Set fine (CAD \$)
1	Operating a Food Truck on Municipal Property without a licence	Section 3.1 (a)	\$400.00
2	Obstructing the use of a sidewalk	Section 7.6	\$400.00
3	Fail to produce licence upon request from authorized person	Section 7.20	\$400.00
4	Fail to comply with licence condition imposed by Council	Section 8.1	\$400.00
5	Providing a false statement	Section 11.1	\$400.00
6	Hindering or obstructing an Officer	Section 11.2	\$400.00

Note: The penalty provision for the offences indicated above is part of Section 11.3 of By-law No. 27-2023, a certified copy of which has been filed.