

The Corporation
of the
Municipality of Huron East
By-law No. 016 for 2024

Being a By-law to Licence, Regulate, and Govern
Refreshment Vehicles in the Municipality of Huron East

Whereas Section 8(3) of the Municipal Act, 2001, S.O. 20001, c.25, as amended, a by-law respecting any matter may, (a) regulate or prohibit the matter; (b) require persons to do things respecting the matter; and (c) provide for a system of licence respecting the matter;

And Whereas Section 11(2) of the Municipal Act, 2001, provides that a Municipality may pass by-laws for the purpose of ensuring economic, social well-being of the municipality, and the health, safety and well-being of people in the municipality;

And Whereas Section 151 of the Municipal Act, 2001 provides for a system of business licences for any business wholly or partially carried on within the municipality and allows a municipality to prohibit the carrying on or engaging in the business without a licence, to refuse to grant a licence, to revoke or suspend a licence or to impose special conditions for licence;

And Whereas Section 391 of the Municipal Act, 2001 enables a municipality to pass a by-law imposing fees or charges for services or activities provided or done by or on behalf of it;

And Whereas the Council of the Municipality of Huron East considers it desirable and necessary to licence, regulate and govern Refreshment Vehicles in the Municipality of Huron East;

And Whereas the Council of the Municipality of Huron East 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 Municipality of Huron East enacts as follows:

1. Definitions

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

“Applicant” means a person seeking a licence or renewal of a licence and is the person who is managing or responsible for the overall operations of a Refreshment Vehicle.

“By-law Enforcement Officer” means the By-law Enforcement Officer of the Municipality of Huron East.

“CAO” means the Chief Administrative Officer of the Municipality of Huron East.

“Charitable Organization” means 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.

“Clerk” means the Clerk of the Municipality of Huron East.

“Council” means the Council of the Corporation of the Municipality of Huron East.

“Eating Establishment” has the same meaning as an eating establishment or restaurant as defined in the Municipality’s Zoning By-law.

Office Consolidation of By-law 016-2024.

Last Amendment: By-law 099-2024

“Fire Chief” means the Fire Chief for the Municipality of Huron East.

“Health Unit” ~~means Huron Perth Public Health.~~ means any board of health recognized or established under the Health Protection and Promotion Act, R.S.O. 1990, c. H. 7, as amended, any successor legislation thereto, and any public health organization or authority created, designed or recognized by the Government of Ontario for the geographic region covered by the Municipality of Huron East and its nearby catchment areas. **[By-law 099-2024]**

“Licence” means a licence issued pursuant to this By-law.

“Licencee” means a person licensed under this By-law.

“Motor Vehicle” means a Motor Vehicle as defined in the Highway Traffic Act, R.S.O. 1990.

“Municipality” or “Municipal” means the Corporation of the Municipality of Huron East.

“Officer” means an Ontario Provincial Police Officer as defined in the Police Services Act, R.S.O. 1990, and shall include a Municipal By-law Enforcement Officer, whose duties include the enforcement of the By-law, and includes a Fire Prevention Officer, and Fire Chief.

“Person” means an individual, partnership, firm or corporation and any heirs, executors or legal representative to whom the context can apply.

“Refreshment” includes any form of food or drink intended for human consumption.

“Refreshment Vehicle” means a motor vehicle, trailer, cart or any conveyance, driven by any kind of power, including muscular power, which is used for the sale, preparation or dispenses of food or drink for consumption by the general public.

~~**“Refrigerated Bicycle Cart”** means a manually propelled itinerant tricycle vehicle from which ice cream, ice cream cones, ice milk and other iced confectionary food items are offered for sale or sold to the public. **[By-law 099-2024]**~~

“Special Community Events” means a special event or any event that has been sanctioned as a Community Event of Municipal Significance by resolution of Council.

“Special Event” means an event held in the Municipality for which a special event has been sanctioned by the Municipality.

2. Prohibitions

- 2.1 No person shall operate a Refreshment Vehicle in the Municipality without a licence.
- 2.2 No person shall operate a Refreshment Vehicle with a suspended or revoked licence.
- 2.3 Every Licencee shall conform to the requirements and conditions of the licence through the licence term.
- 2.4 No person shall obstruct an officer during the performance of a duty under this By-law.
- 2.5 Every person providing refreshments from a refreshment vehicle shall do so in accordance with the Health Protection and Promotion Act, R.S.O. 1990, c.H.7., as amended, and regulation made thereunder and any successor legislation in substitution thereof.
- 2.6 No Licencee shall transfer a Refreshment Vehicle licence.

3. Licensing Procedures

Office Consolidation of By-law 016-2024.

Last Amendment: By-law 099-2024

- 3.1 Every application for a licence shall be completed and submitted on forms prescribed by the Clerk.
- 3.2 Licences are valid ~~Until December 31 of the year of issuance~~ for the length of the applied for event, for a maximum of seven (7) days. **[By-law 099-2024]**
- 3.3 The Licensee of the of the Refreshment Vehicle shall ensure that the Refreshment Vehicle does not remain in a particular location for longer than the duration of any particular event.
- 3.4 The Clerk shall refuse to issue or renew a licence where:
 - 3.4.1 The application for a licence fails to meet the requirements for issuance set out in this By-law or any other municipality By-law or applicable regional By-law or provincial or federal law.
 - 3.4.2 The applicant is not at least 18 years of age without written consent of the parent or guardian.
 - 3.4.3 The application is incomplete.
 - 3.4.4 The licence was issued in error.
 - 3.4.5 The prescribed fee has not been paid.
 - 3.4.6 The applicant has submitted false information in support of the application.
 - 3.4.7 An Officer or Health Inspector, by way of inspection, has determined that the refreshment vehicle is not compliant with this By-law.

Licensing Requirements

- 3.5 Every licence application to operate a Refreshment Vehicle shall include:
 - 3.5.1 An application fee as prescribed in the current Fees and Charges By-law.
 - 3.5.2 A photograph of the Refreshment Vehicle.
 - 3.5.3 A copy of the motor vehicle, or trailer registration.
 - 3.5.4 If a motor vehicle, a valid safety standards certificate issued by a provincially authorized motor vehicle inspection mechanic certifying that the motor vehicle to which the licence application relates complies in all respects with the applicable equipment and performance standards set out in the regulation made under the Highway Traffic Act, R.S.O, 1990, C.H.18, as amended, or any successor legislation in substitution thereof.
 - 3.5.5 Indemnification and proof of Commercial General Liability insurance in the amount of ~~five million dollars (\$5,000,000.00)~~ two million dollars (\$2,000,000.00), where required. **[By-law 099-2024]**
 - 3.5.5.1 Proof of Automobile Liability insurance in the amount of two million dollars (\$2,000,000.00), coverage against claims for bodily injury and/or property damage for all licensed vehicles and equipment owned or leased by the applicant, if applicable.
 - 3.5.5.2 All renewal certificates for such insurance shall be provided thirty (30) days prior to the expiry of the insurance during the term.
 - 3.5.5.3 The Municipality of Huron East may require additional types of insurance coverage or higher limits of insurance coverage as determined by the Clerk.
 - 3.5.6 A current proof of inspection and approval, in writing, from the Huron Perth

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Public Health or any other valid Ontario Public Health Organization.

- 3.5.7 Approved Mobile Food Service Equipment Inspection Self Checklist from the Huron East Fire Department.
- 3.5.8 Where the Refreshment Vehicle is fitted with propane or natural gas, a current certificate issued within thirty (30) days of the date of the Refreshment Vehicle licence application, on the prescribed TSSA Application or Field Approval of Mobile Food Service Equipment, by a provincially authorized propane or natural gas fitter, as the case may be, certifying that the Refreshment Vehicle complies with the applicable equipment and performance standards as prescribed by the Province of Ontario.
- 3.5.9 ~~Refrigerated Bicycle Carts shall be equipped with a soft toned bell or chime in proper working order.~~ **[By-law 099-2024]**
- 3.5.10 The Clerk may accept documents submitted under a previous Refreshment Vehicle licence application provided that all applicable documents, inspections, insurance, or permits have not expired and are still in force.
- 3.5.11 The Clerk may impose conditions not specified in this By-law as a requirement of obtaining or renewing a licence.

Operating Requirements

- 3.6 Every Licencee shall produce the licence issued in accordance with this By-law when requested to do so by an Officer or Health Inspector.
- 3.7 Every Licencee shall affix the licence to the Refreshment Vehicle so it is clearly visible to the public and customers at all times.
- 3.8 Every operator of a Refreshment Vehicle shall ensure that the Refreshment Vehicle and immediate surrounding area is kept in a clean and sanitary condition at all times.
- 3.9 Every Licencee shall equip the Refreshment Vehicle with a garbage receptacle of sufficient size to accommodate all waste material generated by the operation of the Refreshment Vehicle.
- 3.10 Every Licencee shall equip the Refreshment Vehicle with a fire extinguisher that is maintained in good working order and has been approved for use by the Fire Chief.
- 3.11 ~~Every Refrigerated bicycle cart shall ensure that only ice cream, ice cream cones, ice milk and other iced confectionery products are offered for sale or sold from the Refrigerated Bicycle Cart.~~ **[By-law 099-2024]**
- 3.12 ~~Every food item offered for sale or sold from Refrigerated Bicycle Carts are individually wrapped.~~ **[By-law 099-2024]**
- 3.13 ~~No Licensee of a Refrigerated Bicycle Cart shall employ or allow anyone under the age of 15 years to operate the Refrigerated Bicycle Cart.~~ **[By-law 099-2024]**

Location Requirements

- 3.14 No person shall operate Refreshment Vehicle within 60 metres of a school unless authorized to do so by the applicable school board.
- 3.15 No person shall operate a Refreshment Vehicle within 60 metres from the entrance of an Eating Establishment unless authorized to do so by the applicable eating establishment.
- 3.16 No person shall operate a Refreshment Vehicle within 30 metres of a re-fueling station or any other volatile environment.

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3.17 No person shall operate a Refreshment Vehicle at a Special Event or within 100 metres of a Special Event unless the event organizer has approved the Refreshment Vehicle as a vendor at the Special Event.

3.18 No person shall operate a Refreshment Vehicle on property owned or managed by the Municipality, unless the Refreshment Vehicle has been awarded the rights to operate at that location by the Municipality.

3.18.1 A Refreshment Vehicle authorized to operate on Municipally owned or operated location shall not be subject to setback requirements or schools or eating establishments.

3.19 No person shall operate a Refreshment Vehicle on a Highway, unless:

3.19.1 The Municipal or other applicable road authority has authorized a portion of the Highway for that purpose.

3.20 No person shall operate a Refreshment Vehicle in a Residential Zone, unless:

3.20.1 The Refreshment Vehicle is servicing an active construction site for no longer than thirty (30) minutes.

3.21 No person shall operate a Refreshment Vehicle on private property without landowner or property manager permission.

3.22 Every Licencee, when operating a Refreshment Vehicle, shall ensure no waste or chemicals are spilled in a municipal drain or natural watercourse.

3.23 The Licencee shall comply with all Municipal By-laws, including, but not limited to Zoning By-laws and Property Standard By-laws, and comply with all provincial and federal legislation.

3.24 Every Licencee shall keep a location log for each day the Refreshment Vehicle is operating that includes a note for each stop made by the Refreshment Vehicle for the purpose of preparing or offering food for sale, and the date, time duration, and location of the stop.

3.24.1 Upon request of an Officer, the Licencee shall immediately produce this location log.

4. Enforcement and Penalties

Inspections

4.1 Any Officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law have been complied with.

4.2 No person shall prevent, hinder, or interfere or attempt to prevent, hinder or interfere with an inspection undertaken by an Officer.

Revoke, Suspend or Cancel a Licence

4.3 The Municipal Clerk may revoke, suspend, or cancel a licence if the Licencee fails to comply with any provision of this By-law and such non-compliance is not remedied following notice from the Municipality specifying the particulars of the noncompliance.

Offences and Penalties

4.4 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended from time to time.

Office Consolidation of By-law 016-2024.

Last Amendment: By-law 099-2024

Ultra Vires

4.5 It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this.

Conflict

4.6 In the event of a conflict between any provision of this By-law or any other By-law in effect if the Municipality of Huron East or with any other law statute or regulation applying to the Municipality, the more restrictive requirement shall apply.

5. Exemptions

5.1 Notwithstanding Section 3.1 of this By-law, a Licencee of a Refreshment Vehicle shall be permitted to operate in a Public Park in conjunction with and during a Special Community Event provided written approval has been obtained from the Municipality, in advance.

5.2 The provisions of this By-law shall not apply to a mobile barbecue operated in connection with a charitable fundraising event, or a community event held on a Municipal property, or where written approval has been obtained from the Municipality in advance.

~~5.3~~ Refreshment Vehicles being operated by one of the following organizations for fundraising purposes ~~are~~ may be exempt from paying the refreshment vehicle fee ~~provided the Refreshment vehicles does not operate in excess of the event~~ subject to Council approval. All other provisions of this By-law apply unless special permission has been granted by Council. The listed organizations are responsible for ensuring the licensing provisions of this By-law are met. ~~In the even there is a disagreement whether the fee exemption applies, Council will make the final decision.~~ **[By-law 099-2024]**

5.3.1 An Ontario organization which provides service to Huron East residents and has a registered charitable status number;

5.3.2 An Ontario registered non-profit organization with charitable purposes which has direct benefit to Huron East residents;

5.3.3 Local churches, local schools and local service club events;

5.3.4 Business Improvement Area Association events; and

5.3.5 Events sponsored or approved by Huron East Council.

6. Force and Effect

6.1 This By-law shall be known as the "Refreshment Vehicle By-law".

6.2 That By-law 23-1992 of the Former Town of Seaforth is hereby repealed.

6.3 That this By-law shall be in force and effect on the date of final passing thereof.

Read a first and second time this 5th day of March 2024

Read a third time and finally passed this 5th day of March 2024.

The Corporation
of the
Municipality of Huron East

Schedule “A” of By-law No. 016 for 2024: Refreshment Vehicle

Set Fine Schedule – Part 1 Provincial Offences

Item	Short Form Wording	Provisions creating or defining offence	Set Fine
1	Operating a refreshment vehicle without a licence	2.1	\$300
2.	Operating a refreshment vehicle with a suspended or revoked licence	2.2	\$300
3.	Obstructing an officer during the performance of their duty	2.4	\$300
6.	Transfer Refreshment Vehicle Licence	2.6	\$300
7.	Fail to affix licence so clearly visible to public and customers	3.7	\$300
8.	Fail to ensure clean and sanitary conditions	3.8	\$300
9.	Fail to equip Refreshment Vehicle with sufficient garbage receptacle	3.9	\$300
10.	Fail to equip Refreshment Vehicle with working fire extinguisher	3.10	\$300
11.	Operate Refreshment Vehicle within 60 metres of school without authorization	3.14	\$300
12.	Operate Refreshment Vehicle within 60 metres of an eating establishment without authorization	3.15	\$300
13.	Operate Refreshment Vehicle within 30 metres of a re-fueling station or other volatile environment	3.16	\$300
14.	Operate Refreshment Vehicle at a special event without approval	3.17	\$300
15.	Operate Refreshment Vehicle on municipal property without awarded rights	3.18	\$300

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Item	Short Form Wording	Provisions creating or defining offence	Set Fine
16.	Operate Refreshment Vehicle on a highway without authorization	3.19	\$300
17.	Operate Refreshment Vehicle in a residential zone	3.20	\$300
18.	Operate Refreshment Vehicle on private property without authorization	3.21	\$300
19.	Spill waste or chemicals in municipal drain or watercourse	3.22	\$300
20.	Fail to keep location log	3.24	\$300

Note: The penalty provisions for the offences indicated above is Section 4.4 of By-law 016-2024, a certified true copy of which has been filed.