



The Corporation of the Town of Orangeville By-law Number 20XX-XX

A by-law to regulate and licence Mobile Food and Refreshment Vending in the Town of Orangeville

WHEREAS Section 9 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended hereinafter referred to as the “*Municipal Act*” provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act; and

WHEREAS Section 8 (3) of the *Municipal Act* authorizes a municipality to provide for a system of licences and a licence includes a permit; and

WHEREAS Section 11 of the *Municipal Act* authorizes a municipality to pass a by-law respecting the health, safety and well-being of persons and respecting the protection of persons and property including consumer protection; and

WHEREAS Sections 9, 11 and 391 of the *Municipal Act* authorizes a municipality to impose fees and charges on persons; and

WHEREAS Section 23.1, 23.2 and 23.3 of the *Municipal Act* authorizes a municipality to delegate its powers and duties under the Act to a person; and

WHEREAS Section 151 of the *Municipal Act*, provides that a municipality may provide for 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 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 Section 425 (1) of the *Municipal Act* authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of a municipality passed under the *Municipal Act* is guilty of an offence; and

WHEREAS Section 431 of the *Municipal Act* authorizes that where any by-law of a municipality under the *Municipal Act* is contravened and a conviction entered, 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 and requiring the person convicted to correct the contravention; and

WHEREAS Section 436 of the *Municipal Act* authorizes a municipality to pass a by-law providing that the municipality may enter on land to conduct inspections; and

WHEREAS Sections 444 and 445 of the *Municipal Act* authorizes a municipality to make orders to discontinue, or to correct, the contravention of a by-law; and

WHEREAS Section 446 of the *Municipal Act* authorizes a municipality to do a matter or thing in default of it being done by the person directed or required to do it; and

WHEREAS the Council for the Town of Orangeville deems it desirable and in the public interest to enact a By-law to regulate and licence Mobile Food Vendors;

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

1. DEFINITIONS

1.1. In this By-law:

- a) “**Central Business District**” means the area outlined in Schedule “D” attached hereto;
- b) “**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;
- c) “**Chip Truck**” means a vehicle or trailer of sufficient size to allow a **person** to prepare therein french fried potatoes, and from within which french fried potatoes, hamburgers, hot dogs, hot or cold beverages, non-hazardous pre-packaged foods, such as potato chips, popcorn, nuts, candy bars and similar non-hazardous confections may be sold or provided for consumption;
- d) “**Clerk**” means the Clerk for the **Town** or any **person** designated by the Clerk;
- e) “**Food Cart**” means a cart which is propelled by muscular power and is equipped with cooking or barbeque grills on which to prepare hot food, and such pushcart shall not exceed an overall dimension of 75 centimetres in width and 1.5 meters in length;
- f) “**Ice Cream Bicycle**” means an insulated container for storing and transporting frozen ice cream, propelled totally by muscular power without motorized

- assistance and from which ice cream and other frozen confections may be sold or provided for consumption;
- g) "**Ice Cream Truck**" means a vehicle modified to transport frozen ice cream from place to place, which is duly licensed by the Ministry of Transportation and is capable of being driven on highways or within municipalities and from which ice cream and other frozen confections may be sold or provided for consumption;
 - h) "**Licence**" means a licence issued pursuant to this By-law;
 - i) "**Licence Issuer**" means a **Town** employee responsible for issuing a **licence**;
 - j) "**Licensee**" means a **person** issued a current valid **licence**;
 - k) "**Market on Broadway**" means a group of vendors operating refreshment vehicles or refreshment stands from the approved market location;
 - l) "**Mobile Lunch Truck**" means a vehicle modified to transport food preparation and serving equipment from place to place, which is duly licensed by the Ministry of Transportation and is capable of being driven on highways or within municipalities;
 - m) "**Non-resident**" means the applicant/business does not own, rent or lease a permanent building in the **Town**;
 - n) "**Not for Profit**" for the purposes of this By-law means a charitable or non-profit organization including a club, society or association that is organized and operated exclusively for social welfare, civic improvement, recreation or any other purpose except profit, and any profits or economic advantages which are received by it are used to promote its objectives and not used for the personal gain of any of its members or of any other **person**;
 - o) "**Officer**" means a police officer, municipal law enforcement officer, or any other **person** appointed by by-law to enforce the provisions of this By-law;
 - p) "**Person**" includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;
 - q) "**Proof of insurance**" means a certified copy of a policy of insurance or a certificate of insurance issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the Insurance Act, R.S.O. 1990, c.I.8., as amended, that shows proof of liability coverage as required by this by-law;
 - r) "**Refreshment Vehicle**" means any vehicle from which food and refreshments are for sale, sold or provided for consumption by the public, and includes, without limiting the generality of the foregoing, a **chip truck, food cart, ice**

cream bicycle, ice cream truck and mobile lunch truck, irrespective of the type of power employed to move the refreshment vehicle from one point to another;

- s) "**Refreshment Stand**" means any facility (other than a restaurant or similar permanent establishment) from which food and refreshments are for sale, sold or provided for consumption by the public on a seasonal basis, but does not include a refreshment vehicle;
- t) "**Special Event Permit**" means a permit issued by the Community Services to hold an event on municipal property under the control of the Parks and Recreation Department;
- u) "**Special Function**" means an event occurring on private property, located outside the boundaries of the Town of Orangeville's Business Improvement Area (BIA), which does not satisfy the criteria for obtaining a **Special Event Permit** from the Parks and Recreation Department;
- v) "**Town**" means the Corporation of the Town of Orangeville or the land within the geographic limits of the Corporation of the Town of Orangeville as the context requires;
- w) "**Vulnerable Sector Check**" means the original search results of a Police Vulnerable Sector Check, enhanced screening for those employed in positions working with vulnerable **persons**, from each police service's jurisdiction in Canada in which the applicant has been a resident during the prior three hundred and sixty-five (365) days, dated no more than sixty (60) days prior to the submission of the Application;
- x) "**Waste**" includes food, disposable eating utensils, paper, wooden, cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a refreshment vehicle or refreshment stand;
- y) "**Zoning By-law**" means any by-law passed by a municipality pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended.

2. GENERAL ADMINISTRATION AND EXEMPTIONS

- 2.1. The Short Title of this By-law is the "Mobile Food Vendor By-law".
- 2.2. This By-law applies throughout the whole of the **Town**.

3. GENERAL PROHIBITIONS AND REGULATIONS

- 3.1. No **person** shall operate or permit the operation of any **refreshment vehicle** or **refreshment stand** within the **Town**, unless a **licence** is obtained in accordance with the requirements of this by-law or is otherwise exempt under the provisions of this by-law.

- 3.2. No **licence** issued under the provisions of this By-law shall be assigned, transferred, leased or granted the right to use to any other **person**.
- 3.3. Notwithstanding any provision of this By-law, any **not-for-profit** deemed by the **Clerk** to require a **licence** must obtain a **licence** but is exempt from paying any associated **licence** fee, provided the organization is utilizing the profits from the **Mobile Food Vendor** for charitable and non-profit fundraising purposes.
- 3.4. No **person** shall carry on business other than in the name that appears on a **licence**.
- 3.5. No **person** shall alter, erase, modify or permit such alteration, erasure or modification of a **licence**.
- 3.6. No **person** shall represent to the public that the **person** is **licensed** under this By-law if the **person** is not so licensed.
- 3.7. No **person** shall own, operate or permit the operation of a **Mobile Food Vendor** other than in accordance with the terms and conditions of a **licence** and this By-law.
- 3.8. The number of **licences** issued annually to permit the operation of an **ice cream bicycle, ice cream truck, chip truck, mobile lunch truck or refreshment stand** shall not be limited.
- 3.9. The number of **licences** issued annually to permit the operation of a **food cart** shall be limited to a maximum of six (6), with a maximum of three (3) of the six (6) **licences** being issued for locations in the **Central Business District**.
- 3.10. **Refreshment vehicles** or **refreshment stands** may be permitted to operate only in CBD, C1, C2, C3 and M1 Zones, as defined in the **Town's** Zoning By-law.
- 3.11. Notwithstanding Section 3.10, at the discretion of the **Licence Issuer**, **refreshment vehicles** or **refreshment stands** may be permitted to operate in an Institutional (INST) Zone with a **licence** provided that the funds from the sale of the food are used for charitable purposes.
- 3.12. No **person** shall operate any **refreshment vehicle** or **refreshment stand** from any property except a location or locations approved by the **Licence Issuer** and as listed on the **licence** for such **refreshment vehicle** or **refreshment stand**.
- 3.13. No **person** shall operate a **refreshment vehicle** or **refreshment stand** on any municipal property, which shall, for the purposes of this By-law, include road allowances, municipal parks, parking lots, Operations Centre and recreation facilities, except as described in Sections 3.14, 3.22.
- 3.14. The operation of a **refreshment vehicle** or **refreshment stand** may be permitted in a municipal park or facility under the control of the Parks and

Recreation Department during a special event/tournament for which a **Special Event Permit** has been obtained by a **not-for-profit** or **charitable organization**.

- 3.15. Licensed vendors who wish to operate at a Council-sanctioned community event at a location outside the **Central Business District** must obtain the express written permission of the event organizers, and provide a copy of such letter of permission to the **Licence Issuer** at least one (1) week in advance of the event.
- 3.16. No **person** shall operate a **refreshment vehicle** or **refreshment stand** within 8 metres (26 feet) of the vehicular entrance to the property or in any location which will obstruct the flow of vehicles.
- 3.17. No **person** shall operate a **refreshment vehicle** or **refreshment stand** within 90 metres (295 feet) of any other **refreshment vehicle**, **refreshment stand** or restaurant:
 - a) with the exception of the three (3) locations listed in Section 3.22 and as otherwise exempt;
 - b) unless a letter in a form as provided by the **Town** is submitted to the **Licence Issuer** from any and all owner(s) of a **refreshment vehicle(s)**, **refreshment stand(s)** and restaurant(s) located within 90 metres of the proposed location of the **refreshment vehicle** indicating they do not object to the said **refreshment vehicle** being located within 90 metres of their **refreshment vehicle**, **refreshment stand** or restaurant.
- 3.18. Notwithstanding Sections 3.17 and 3.22, the location of special fundraising events shall be at the discretion of the **Licence Issuer**.
- 3.19. A letter referred to in Section 3.17 (b) is required upon making an application for renewal of a **licence**.
- 3.20. Every **person** applying for a **licence** to permit the operation of a **refreshment vehicle** or **refreshment stand** who intends to operate from private property shall submit with the application a letter of permission with respect to the proposed use from the registered property owner or his authorized agent.
- 3.21. Notwithstanding anything in Section 3, the owner of a **mobile lunch truck**, which has the sole purpose of travelling from place to place to serve a number of private locations is permitted to serve his clients in any zone and shall not be required to provide letters of permission from the property owners.
- 3.22. In the **Central Business District** one **food cart** is permitted to operate from the sidewalk at each of the following locations:
 - Northwest corner of First Street and Broadway
 - South side of Broadway, between 114 and 136 Broadway

- Northwest corner of Second Street and Broadway

4. APPLICATION FOR A LICENCE

- 4.1. A **person** making an application for a **licence** or renewal of a **licence** shall submit to the satisfaction of the **Licence Issuer**:
- a) a complete application in the form provided by the **Town**;
 - b) where the applicant is a corporation, a copy of the articles of incorporation or other incorporating documents issued by the Province of Ontario or the Government of Canada, and the business name registration, when applicable;
 - c) where the applicant, is a sole proprietor, a copy of the business name registration, when applicable;
 - d) where the applicant, is a registered partnership, a copy of the registered declaration of partnership, the names and addresses of each member of the partnership as well as the name under which the partnership intends to carry on business and a copy of the business name registration;
 - e) the applicable **licence** fee;
 - f) any documents, and obtain all required approvals and inspections from the appropriate approval authority having jurisdiction as outlined on Schedule "A" to this By-law;
 - g) any other documents as may be required by the **Licence Issuer**.
- 4.2. A **person** submitting an application for **licence** renewal shall submit:
- a) a complete application (a licensee is not required to submit on renewal of a licence the items listed in sections 4.1 (b), a.1 (c) or 4.1 (d) provided no changes have occurred in the information contained in those documents)
 - b) the applicable licence fee
 - c) all required documents as outlined in Schedule "A" at least fourteen (14) days prior to the expiry of the current licence. Applications for renewal submitted after fourteen (14) days shall be considered a new licence application.

5. FEES

- 5.1. A fee for a **licence** shall be as prescribed in Schedule "C" of this By-law.
- 5.2. Fee payable with an application for a **licence** shall not be pro-rated.
- 5.3. Every fee paid is non-refundable;

- 5.4. Acceptance of the **licence** fee does not constitute approval of the application or oblige the **Town** to issue a **licence**.

6. FEE REDUCTION AND EXEMPTIONS

- 6.1. **Not-for-profit** community associations, **charitable organizations**, service clubs and other organizers of special fund-raising events carried on solely for the benefit of a particular charity or **not-for-profit** organization are required to obtain a **licence** to operate any **refreshment vehicle** or **refreshment stand** and comply with the requirements of this By-law. Provided that the **person**, organization, association or service club is directly responsible for the vending operation, the fee for such **licence** shall be reduced as set out in Schedule "C" to this By-law.
- 6.2. The **Market on Broadway**, the Orangeville Business Improvement Area (BIA) and organizers of **Town** initiated events are required to obtain a **licence** to permit the operation of **refreshment vehicles** and **refreshment stands** from the market location and during outdoor events organized by the BIA or initiated by the **Town**.
- 6.3. The **Market on Broadway**, the BIA and own-initiated events are exempt from the provisions of this By-law limiting the number of vendors permitted to operate in the **Central Business District**.
- 6.4. Participating vendors will not be required to obtain individual **licences** provided they do not operate outside the Market, the BIA or the area specified for a **Town** initiated event. The **licence** fee for the **Market on Broadway**, the BIA and **Town** initiated events shall be waived.
- 6.5. For greater clarification, all **persons** operating any **refreshment vehicle** or **refreshment stand** in areas other than or in addition to the **Market on Broadway**, BIA outdoor events or at a **Town** initiated event are required to obtain a **licence**, pay the prescribed fee and comply with the requirements of this By-law.

7. DELEGATED AUTHORITY

- 7.1. The **Licence Issuer** is hereby delegated authority to administer this By-law and to issue a **licence** in accordance with the provisions of this By-law and the applicable Schedules to this By-law.
- 7.2. The **Licence Issuer** is hereby delegated authority to impose additional terms and conditions on a **licence** that in the opinion of the **Licence Issuer** are reasonable and take into consideration:
 - a) the health, safety and well-being of **persons**;
 - b) the past conduct of an applicant or **licensee**.

- 7.3. The **Licence Issuer** is hereby delegated authority to revoke, suspend, refuse to issue, or refuse to renew a **licence**, where the applicant or **licensee** would not be entitled to a **licence**, or to the renewal of a **licence**, on any grounds set out in this By-law.
- 7.4. The **Licence Issuer** may cancel a **licence** at any time upon the written request of the **licensee**.
- 7.5. The **Licence Issuer** shall not issue or renew a **licence** to a **person** if:
- a) the **Town** is aware that the applicant has two or more related convictions within the last year concerning the licensed business or **person**;
 - b) overdue by-law fines, penalties or other monies owing to the **Town**;
- 7.6. The **Appeal Tribunal** shall have the same powers as the **Licence Issuer** pursuant to this By-law for the purpose of authorizing the issuing of a **licence**.

8. LICENCE

- 8.1. A **licence** shall be issued by the **Licence Issuer** upon being satisfied that the requirements of this By-law have been met.
- 8.2. A **licence** shall expire on the 31st day of January of each year unless otherwise suspended or revoked in accordance with the provisions of this By-law.
- 8.3. Every **licence** shall remain at all times the property of the **Town** and no **person** shall enjoy a vested right in a **licence** or the continuance of a **licence**.
- 8.4. The issuing of a **licence** does not relieve a **person** from any responsibility to obtain all other approvals that may be required from any level of government or authority or agencies thereof having jurisdiction.
- 8.5. Upon receipt of each application completed in accordance with the requirements of this By-law, the **Licence Issuer** shall request comments or reports from other **Town** departments as appropriate or make such other inquiries and obtain and review such other information and documents relevant to the application as the **Licence Issuer** considers necessary for the proper processing of the application.
- 8.6. A **licence** is not transferable.

9. LICENCE – TERMS AND CONDITIONS – GENERAL

- 9.1. A **Licensee** shall notify the **Licence Issuer** within seven (7) days:
- a) of any change of name, address or any other change to the information related to the **licence**;

- b) where the **Licensee** is a corporation, of any change in the names and addresses of officers and directors, the location of the corporate head office and change of ownership of shares;
- c) where the **Licensee** is a registered partnership, of any change in the names and addresses of each member of the partnership;

and if necessary, the **licence** shall be returned immediately to the **Licence Issuer** for amendment.

- 9.2. A **Licensee** shall operate in compliance with this By-law, the terms and conditions of a **licence** including the terms and conditions outlined in the applicable Schedule(s) to this By-law and all federal and provincial legislation.
- 9.3. A **Licensee** in carrying out a business licensed under this By-law shall provide services that are free from discrimination and respect all grounds protected by the Ontario Human Rights Code.
- 9.4. A **Licensee** upon the request of the **Licence Issuer** or an **Officer** shall submit documents and records required to be kept in accordance with this By-law.

10. LICENCE – ADMINISTRATIVE SUSPENSIONS

- 10.1. Where required in accordance with this By-law a **Licensee's** policy of liability insurance expires, is cancelled, or is otherwise terminated; then the applicable **licence** shall be automatically suspended effective on the date of such expiration, cancellation, revocation or termination and shall remain so until such insurance has been reinstated.
- 10.2. An administrative suspension of a **licence** without a hearing shall be imposed for fourteen (14) days if the **Licence Issuer** is satisfied that the continuation of the business poses an immediate danger to the health and safety of any **person** or to any **premise** or in accordance with Section 11. Before any suspension is imposed, the **Licence Issuer** shall provide the **licensee** with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
- 10.3. An administrative suspension imposed under Section 10.2 may be imposed on such conditions as the **Licence Issuer** considers appropriate.

11. LICENCES – GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION

- 11.1. An applicant or **licensee** is entitled to a **licence** upon meeting the requirements of this By-law except where:
 - a) the past or present conduct of any **person**, including any partner, the officers, directors, employees or agents of a corporation affords reasonable cause to believe that the **person** will not carry on or engage in the business in respect of which the application is made in accordance with the law or with honesty or integrity; or

- b) the applicant or **licensee** has past breaches or contraventions of any law or any provision of this By-law or any other municipal by-law or Provincial or Federal Statute associated with the carrying on of such business; or
- c) the financial position of the applicant or **licensee** affords reasonable grounds to believe that the activity for which he is licensed or to continue to be licensed in accordance with law will not be carried on in a financially responsible manner; or
- d) the applicant or **licensee** has failed to pay a fine, or fines imposed by a Court for convictions for breach of this or any other municipal by-law; or
- e) the applicant or **licensee** has failed to comply with any term, condition or direction of the **Licence Issuer** or **Officer** or has failed to permit any investigation or inspection by the **Licence Issuer** or **Officer**; or
- f) the applicant or **licensee** has failed to comply with the requirements set out in this By-law or any of the applicable Schedules to this By-law; or
- g) the issuing of a **licence** would be contrary to the public interest with respect to health and safety or consumer protection; or
- h) the applicant or **licensee** has submitted an application or other documents to the **Town** containing false statements, incorrect, incomplete, or misleading information; or
- i) the applicant or **licensee** is carrying on or engaging in activities on or off the **premise** that are, or will be, if the applicant or **licensee** is licensed, in contravention of this By-law, any other applicable law or is unsafe; or
- j) the applicant or **licensee** has exhibited discriminatory behaviour against a **person** on any grounds protected by the Ontario Human Rights Code; or
- k) the applicant or **licensee** has not paid the required **licence** fees.

11.2. The **Licence Issuer** may revoke, suspend, refuse to issue, or refuse to renew a **licence**, where the applicant or **licensee** would not be entitled to a **licence**, or to the renewal of a **licence**, on any grounds set out in this By-law.

11.3. Where the application for a **licence** has been refused, revoked, suspended or cancelled, the fees paid by the applicant or **licensee**, in respect of the **licence**, shall not be refunded.

11.4. Where a **licence** has been revoked, suspended, or cancelled the **licensee** shall return the **licence** to the **Licence Issuer** within two (2) days of service of the notice of the decision.

11.5. When a revoked, suspended or cancelled **licence** has not been returned, an **Officer** may enter upon the **premise** for the purpose of receiving, taking or

removing the said **licence** and no **person** shall refuse to return the **licence** or in any way obstruct or prevent the **Licence Issuer** or **Officer** from obtaining the **licence**.

11.6. No **person** shall re-apply to obtain or renew a **licence** for a minimum of one (1) year from the later of:

- a) the date of the **Licence Issuer's** decision to refuse to issue, renew or revoke a **licence**;
- b) where the decision of the **Licence Issuer** is appealed, the date of the **Appeal Tribunal's** decision if the **Appeal Tribunal** upholds the decision to refuse to issue, renew or revoke the **licence**.

12. LICENCES – GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION – TERMS AND CONDITIONS – RIGHT TO A HEARING

12.1. With the exception of Section 10, before a **licence** is refused, revoked, suspended, cancelled or issued with terms or conditions, written notice shall be given by the **Licence Issuer** to the applicant or **licensee**.

12.2. Notice shall be served to the applicant's or **licensee's** last known address or email address filed with the **Town** and shall:

- a) contain sufficient information to specify the nature of or reason for, any recommendation;
- b) inform the applicant or **licensee** of entitlement to a hearing before the **Appeal Tribunal**, if a request in writing for a hearing is returned to the **Clerk** within fourteen (14) days after the date of service of the notice; and
- c) inform the applicant or **licensee** that if no written request is received, the **Appeal Tribunal** may proceed and make any decision with respect to the **licence**.

12.3. On receipt of a written request for a hearing from an applicant or **licensee**, the **Clerk** shall:

- a) schedule a hearing; and
- b) give the applicant or **licensee** notice of the hearing at least twenty (20) days prior to the hearing date; and
- c) post notice of the hearing on the **Town's** website at least twenty (20) days prior to the hearing date.

12.4. Service of any notice on the applicant or **licensee** under this by-law shall be made by personal delivery, ordinary mail or email transmission. The notice shall

be deemed to have been served on the fourth (4th) day after the day of mailing on the date of personal service or the date of the email transmission.

13. ESTABLISHMENT OF APPEAL TRIBUNAL

13.1. The **Appeal Tribunal** shall hear and render decisions regarding the refusal, revocation or suspension of a **licence**, and the imposing of terms and conditions on a **licence**.

13.2. The decision of the **Appeal Tribunal** shall be final and binding.

14. HEARING PROCESS

14.1. The provisions of the *Statutory Powers and Procedures Act, R.S.O. 1990, c. S. 22*, as amended, shall apply to all hearings conducted under this By-law.

14.2. A hearing shall be held in public unless determined otherwise in accordance with the *Statutory Powers and Procedures Act, R.S.O. 1990, c. S. 22*, as amended, and the **Appeal Tribunal** shall hear the applicant or **licensee** and every other **person** who desires to be heard, and the **Appeal Tribunal** may give its decision orally or adjourn the hearing and reserve its decision but in any case, the decision shall be provided in writing.

14.3. The decision of the **Appeal Tribunal**, shall be in writing and shall set out the reasons for the decision, and shall be signed.

14.4. Any authority or permission granted by the **Appeal Tribunal** may be for such time and subject to such terms and conditions as the **Appeal Tribunal** considers advisable and as are set out in the decision.

14.5. When a **person** who has been given written notice of a hearing does not attend at the appointed time and place, the **Appeal Tribunal** may proceed with the hearing in his absence, and the **person** shall not be entitled to any further notice of the proceedings.

14.6. The **Clerk** shall no later than ten (10) days from the making of the decision send one (1) copy of the decision to:

- a) the applicant or **licensee**;
- b) each **person** who appeared in **person** or by Counsel or by Agent at the hearing and who filed with the **Clerk** a written request for notice of the decision.

15. ORDERS

15.1. If an **Officer** has reasonable grounds to believe that a contravention of this By-law or the terms and conditions of a **licence** has occurred, the **Officer** may make

an Order requiring the **person** who contravened this By-law or the terms and conditions of a **licence** or who caused or permitted the contravention to occur to:

- a) discontinue the contravening activity; and/or
- b) do work or take action to correct the contravention.

15.2. An Order under section 15.1 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention;
- b) the location of the **premise** on which the contravention occurred; and
- c) either:
 - i. in the case of an Order under section 15.1 (a), the date by which there must be compliance with the Order; or
 - ii. in the case of an Order under section 15.1 (b), the action to be done and the date by which the action must be done.

15.3. An Order made under this By-law may be served personally, by ordinary mail to the last known address or by email transmission to:

- a) the **person** the **Officer** believes contravened this By-law; and
- b) such other **persons** affected by the Order as the **Officer** making the Order determines.

15.4. The Order shall be deemed to have been served on the fourth (4th) day after the date of mailing or on the date of personal service or on the date of email transmission.

15.5. An **Officer** who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the **premise** and the placing of the placard shall be deemed to be sufficient service. The placing of the placard of the Order shall be deemed to be served on the date of placing the placard.

16. ENFORCEMENT AND PENALTY PROVISIONS

16.1. The enforcement of this By-law shall be conducted by an **Officer**.

16.2. An **Officer** may enter on land or a **premise** at any reasonable time for the purpose of carrying out an inspection to determine whether or not:

- a) the By-law is complied with;

- b) the **licence**, or the term or condition of a **licence**, or this By-law is complied with;
- c) a direction or Order made under the *Municipal Act, S.O. 2001, c.25*, as amended, or this By-law is complied with.

16.3. For the purposes of an inspection under this By-law, an **Officer** 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 or extracts;
- c) require information from any **person** concerning a matter related to the inspection; and
- d) alone or in conjunction with a **person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

16.4. All documents and records shall be kept in a good and business-like manner for review by the **Officer** at their request.

16.5. A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.

16.6. A sample taken under this By-law shall be divided into two parts, and one part shall be delivered to the **person** from whom the sample is taken, if the **person** so requests at the time the sample is taken and provides the necessary facilities.

16.7. If a sample is taken under this By-law and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the **person** from whom the sample was taken.

16.8. Every **person** who contravenes any provision of this By-law, including failing to comply with an Order issued pursuant to this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended, and the Municipal Act, 2001, as amended.

16.9. Every **person** who is charged with an offence under this By-law or an Order issued pursuant to this By-law or every director or officer of a corporation, who knowingly concurs in the contravention, by the laying of an Information under Part III of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended and is found guilty of the offence is liable pursuant to the Municipal Act, 2001, as amended to the following:

- a) on a first offence, to a fine of not more than \$50,000.00; and
- b) on a second offence and each subsequent offence, to a fine of not more than \$100,000.00

16.10. Every **person** who is issued a Part 1 offence notice or summons and is convicted is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.

16.11. No **person** shall hinder or obstruct, or attempt to hinder or obstruct, any **Officer** exercising a power or performing a duty under this By-law.

16.12. Every **person** who is alleged to have contravened any of the provisions of this By-law shall identify themselves to an **Officer** upon request, failure to do so shall be deemed to have hindered or obstructed an **Officer** in the execution of his or her duties.

16.13. Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.

16.14. If a **person** is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the **person** convicted.

17. SEVERABILITY

17.1. If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of **Council** that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

18. INTERPRETATION

18.1. References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.

18.2. In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

18.3. The Schedules appended to this By-law are incorporated into and form part of this By-law.

19. TRANSITIONAL RULES

19.1.By-law 102-2008, as amended, shall continue to apply to any enforcement proceedings commenced prior to the effective date of this By-law.

20.REPEAL

20.1.By-law 102-2008, 120-2009, 2021-047 and 2023-041 are hereby repealed.

21.EFFECTIVE DATE

21.1.This By-law shall come into effect on MONTH XX, 20XX.

READ three times and finally passed this XXth day of Month, 20XX

Lisa Post, Mayor

Raylene Martell, Clerk

DRAFT

SCHEDULE 'A' to BY-LAW 20XX-XX

MOBILE FOOD VENDOR LICENCE REQUIREMENTS

1. APPLICATION REQUIREMENTS

1.1. In addition to the requirements set out in Section 4 of this By-law, every new application will require, prior to issuance of a license:

- a) written confirmation of authorization to issue a **licence** from the Public Health Office, the Orangeville Fire Division, and any other department of the Town as the **Licence Issuer** considers necessary;
- b) confirmation that the **premises** where the **restaurant** operates is in compliance with any applicable **Zoning By-law** and Site Plan Agreement;
- c) proof of valid insurance in an amount not less than two (2) million dollars naming the Town as additional insured;
- d) **Vulnerable Sector Check** from each police service's jurisdiction in Canada in which the applicant has been a resident during the prior three hundred and sixty-five (365) days, dated no more than sixty (60) days prior to the submission of the Application;
- e) a letter of permission with respect to the proposed use from the registered property owner or his authorized agent;
- f) any other documents as may be required by the Licence Issuer.

1.2. Renewal

- a) Every application for renewal of a licence under this By-law shall be made in a form satisfactory to the Licence Issuer and shall include:
 - i. The fully completed application form
 - ii. The applicable renewal fee as set out in Schedule C of this By-law
 - iii. Proof of valid insurance in an amount not less than two (2) million dollars naming the Town as additional insured.
- b) A renewal application must be approved by all of the approval bodies set out in section 1.1 (a) in the event the conditions of the original application have changed.
- c) Where a **person** fails to renew the **licence** within fourteen (14) days after the expiry of such **licence**, the **person** shall no longer be entitled to renew but must apply for a new **licence**.

- d) The holder of a **licence** for the operation of a **food cart** in the **Central Business District** in the previous year shall have the right of first refusal before the said licence is offered to a new applicant, provided that the holder of the **licence** has made an application for renewal no later than January 15th of the following year in which the **licence** was first issued.

DRAFT

SCHEDULE 'B' to BY-LAW 20XX-XX

MOBILE FOOD VENDOR'S LICENCE TERMS AND CONDITIONS

1. DUTIES AND RESPONSIBILITIES

- 1.1 A licensee shall:
- 1.2 Every licensee shall ensure that where a vehicle is powered by propane, or where propane is utilized for food preparations, a minimum five (5) pound ABC dry chemical fire extinguisher or other such extinguisher as required by the Fire Chief or his designate, is attached to the vehicle at all times and the operator of such vehicle at all times and the operator of such vehicle shall be knowledgeable in the proper use of such fire extinguisher. In all cases, where a licensee requires any food heating capability, he shall be adequately equipped with a fire extinguisher in accordance with the provisions of the Fire Code, O. Reg. 388/97.
- 1.3 No **person** shall fail to keep his **refreshment vehicle** or **refreshment stand** in a clean and sanitary condition.
- 1.4 No **person** shall offer for sale or sell from a **refreshment vehicle** or **refreshment stand**, any goods, wares, merchandise or other item other than refreshments, food stuffs and confections.
- 1.5 No **person** operating a **refreshment vehicle** or **refreshment stand** shall be under the influence, or consume, or have in his possession, any alcohol or drugs other than any drugs prescribed by a duly qualified medical practitioner which do not and may not impair his ability to operate the vehicle/stand while in charge of the same.
- 1.6 No **person** shall operate a **refreshment vehicle** or **refreshment stand** between the hours of 12:00 midnight and 6:00 a.m. on any day.
- 1.7 No licensee shall permit any individual other than a bona fide employee to operate the **refreshment vehicle** or **refreshment stand**.
- 1.8 No **person** shall operate a **mobile lunch truck**, **chip truck** or **ice cream truck** unless it has been equipped with an audible reversing alarm to alert the public when the vehicle is backing up.
- 1.9 No **refreshment vehicle** or **refreshment stand** shall be equipped with any flashing lights or sounding device for attracting attention.
- 1.10 No **person** shall operate a **refreshment vehicle** or **refreshment stand** at the **Market on Broadway** without the approval of the Market Manager.

1.11 Any **person** operating a **refreshment vehicle** or **refreshment stand** shall:

- a) Provide a waste receptacle of an adequate size to contain all waste generated from the operation of the **refreshment vehicle** or **refreshment stand**.
- b) Ensure that all waste in the vicinity of the **refreshment vehicle** or **refreshment stand** is placed in such container before leaving the area.
- c) Remove such receptacle and its contents before leaving the area.
- d) Ensure that no waste generated by the operator or contained in his waste receptacle is deposited in any **Town**-owned waste containers; and
- e) Maintain the designated area and the pavement, sidewalk and boulevard adjacent thereto in a clean and sanitary condition free from grease, papers, rubbish and debris.

2. Provisions Applicable to Ice Cream Trucks and Ice Cream Bicycles

1.2. Despite Section 1.4, no **person** shall operate an **ice cream truck** or an **ice cream bicycle** from which is sold:

- a) heated or cooked food
- b) milk or any beverages
- c) any goods, wares or merchandise or other item other than ice cream, and frozen refreshments.

3. Provisions Applicable to Refreshment Stands

3.1. A **refreshment stand** may be permitted to operate in a park where a municipally owned refreshment facility is located, only during the hours when said refreshment facility is not in operation, in accordance with the provisions of this By-law and subject to the following:

3.2. The operator of the **refreshment stand** must submit a drawing indicating the proposed location of the **refreshment stand** and a schedule of operating hours to the General Manager of Community Services. who shall determine the suitability of the proposed location of the **refreshment stand** and the hours of operation.

SCHEDULE 'C' to BY-LAW 20XX-XX

FEEES

Type of Mobile	Resident	Non Resident
	Fee per Food Vending	Fee per Cart/Vehicle
Chip truck per year	\$500.00	\$600.00
Food cart per year	\$500.00	\$600.00
Ice cream bicycle per year	\$100.00	\$120.00
Ice cream truck per year	\$500.00	\$600.00
Mobile lunch truck per year	\$500.00	\$600.00
Refreshment stand per year	\$500.00	\$600.00
 Food vendor selling at a special function only		
per event	\$120.00	\$144.00
 Administration Fee (special fund-raising events only)		
per event	\$25.00	\$25.00

SCHEDULE 'D' to BY-LAW 20XX-XX

