

**CITY OF ST. THOMAS**

**BY-LAW NO. 9-92**

A by-law to license and regulate mobile food and refreshment vendors in City of St. Thomas.

**AS AMENDED BY:**

By-Law No. 190-97  
By-Law No. 71-2001  
By-Law No. 126-2009

December 15<sup>th</sup>, 1997  
May 14<sup>th</sup>, 2001  
August 10, 2009

CITY OF ST. THOMAS

BY-LAW NO. 9-92

A by-law to license and regulate mobile food and refreshment vendors in the City of St. Thomas.

WHEREAS the Council is authorized to license, regulate and govern vehicles from which refreshments are sold for consumption by the public;

AND WHEREAS the Council is further authorized to prohibit and regulate the sale of refreshments from vehicles upon any highway and in certain other places.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

SECTION 1 – DEFINITIONS

In this by-law, unless the context otherwise requires:

- 1.1 CHIP WAGON shall mean a vehicle or trailer of sufficient size to allow a person to prepare therein french fried potatoes and from within which french fried potatoes, 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;
- 1.2 COUNCIL shall mean the Council of The Corporation of the City of St. Thomas;
- 1.3 FOOD CART shall mean a push cart which is propelled by muscular power and is equipped with cooking or barbecue grills on which to prepare hot food, such push cart shall not exceed overall dimensions in excess of 26 inches in width and 60 inches in length;
- 1.4 ICE CREAM CART shall mean an insulated container, for storing and transporting frozen ice cream, mounted on wheels and propelled by muscular or engine power;
- 1.5 LICENSING ADMINISTRATOR shall mean the person appointed by Council to issue licenses or any person designated by him/her;
- 1.6 MOBILE LUNCH WAGON shall mean a vehicle modified to transport food preparation and serving equipment from place to place and is licensed for and is capable of being driven on highways or within municipalities;
- 1.7 MOTORIZED MOBILE ICE CREAM VEHICLES shall mean a vehicle modified and insulated for storing and transporting frozen ice cream products;
- 1.8 PERSON includes any individual, firm or corporation and its successors or other legal representatives thereof;
- 1.9 REFRESHMENT VEHICLE shall mean any vehicle from which food and refreshments are sold for consumption by the public and includes, without limiting the generality of the foregoing, carts, wagons, trailers and trucks, irrespective of the type of motive power employed to move the refreshment vehicle from one point to another;
- 1.10 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.

## SECTION 2 – LICENSING PROVISIONS

- 2.1 No person shall engage in or carry on any of the occupations, trades, callings or businesses listed in column 1 of Schedule “A” attached to and forming part of this By-law within the City of St. Thomas unless and until he has obtained from the Licensing Administrator a license authorizing him so to do and shall have paid the annual fee set out in column 2 of such schedule with respect to such license.
- 2.2 No license shall be issued until the fee therefore has been paid and there shall be no refund or reduction for any part of any year.
- 2.3 Licenses shall be issued in the name of The Corporation of the City of St. Thomas and shall be signed by the Licensing Administrator upon submission of a written application provided by the Licensing Administrator that has been completed and signed by the applicant.
- 2.4 No license shall be granted with respect to any refreshment vehicle until the Licensing Administrator has received from those listed below a written statement certifying compliance with their standards:
  1. Medical Officer of Health
  2. Fire Department
  3. Engineering Department
  4. Planning Department
- 2.5 No license shall be granted with respect to any refreshment vehicle until the Licensing Administrator has received a copy of the insurance policy described in 3.1(i).
- 2.6 The license shall be for the calendar year in which it is issued and shall expire on the 31st day of December next following the date of issue.
- 2.7 The provisions of this By-Law shall apply with respect to each application and license subsequent to the original application and license.
- 2.8 All vehicles to which a license applies may be inspected at all reasonable times by any police officer, municipal law enforcement officer or by a public health inspector.
- 2.9 Each person obtaining a license, which applies to a refreshment vehicle, shall keep the license posted up in a conspicuous place on such vehicle and the license shall remain posted so long as it is in force.
- 2.10 (a) Subject to the Statutory Powers Procedure Act, the Council may revoke any license granted herein, is not bound to give any reasons for so doing and the decision of Council in this regard is not open to question or review by any Court.  
  
(b) Without restricting the generality of paragraph (a) of this subsection, any license may be revoked by reason of a violation of this By-Law, the failure of the licensee to comply with any of the provisions of this By-Law or the failure by the licensee to maintain the minimum standards and requirements necessary for licensing in the first instance.

## SECTION 3 – PROVISIONS APPLICABLE TO ALL VEHICLES

- 3.1 No person shall:
  - (a) operate a refreshment vehicle in contravention of the Highway Traffic Act or the Traffic By-Law of the City of St. Thomas;
  - (b) operate a refreshment vehicle within fifty (50) feet of the customers entrance to an eating establishment. Distance from the entrance to a restaurant shall be determined by measuring the distance by the “most direct route” or “the straightest route”. (B/L 190-97)

- (c) operate a refreshment vehicle within twenty (20) feet of the entrance to any building or within twenty (20) feet of a bus stop area;
- (d) operate a refreshment vehicle in front of any window of any building so as to obstruct the view from such building through such window or the view from outside the building through such window to any display within the building;
- (e) operate a refreshment vehicle unless he is wearing clean clothes and is neat and clean in appearance;
- (f) operate a refreshment vehicle if, upon request by a public health inspector or any person named by a public health inspector before or after such request, he fails to provide a Certificate from a qualified physician certifying the good health of the operator;
- (g) operate a refreshment vehicle, the sanitary condition of which is not satisfactory to any public health inspector;
- (h) operate a refreshment vehicle which has not been approved by a public health inspector prior to the commencement of the operation of the vehicle in the calendar year to which the license relates;
- (i) operate a refreshment vehicle unless he takes out and keeps in force during such operation a comprehensive policy of public liability and property damage insurance acceptable to the City Corporation providing insurance coverage in respect of any one accident to the limit of One Million Dollars (\$1,000,000.00) exclusive of interest costs, against loss or damage resulting from bodily injury to or death of one or more persons and loss of or damage to property and such policy or policies shall name the City Corporation as an additional insured thereunder; or
- (j) operate a refreshment vehicle unless there is posted up with the license a certificate as to insurance required by paragraph (i) of this subsection 3.1.

3.2 The following locations (for Hot Dog Carts) are the only locations within the Downtown Improvement Area that are exempt from Section 3.1(b):

- 1. Hepburn Parkette
- 2. Green's Parkette
- 3. Currah Parkette (B/L 190-97)

3.3 During certain special events Council may determine that the provisions of the by-law regarding the location of vehicles as set out in Section 3.1(b) and 3.2 will be deemed exempt for the duration of the scheduled event. (B/L 190-97)

#### SECTION 4 – PROVISIONS APPLICABLE TO FOOD CARTS

- 4.1 The number of licenses issued annually for food carts shall not exceed three and not more than one shall be issued to any person.
- 4.2 In the event that more than three (3) Food Cart (Hot Dog Cart) License Applications are received and accepted, the vehicle operator will be determined by “lot”. Applicants will be notified of the time and place of the determination by lot, and may be present at the determination. (B/L 190-97)
- 4.3 No Person shall:
  - (a) operate a food cart on a sidewalk, which is less than ten feet in width;
  - (b) operate a food cart unless he provides on the food cart or in close proximity to the cart a waste receptacle the volume of which is not less than 1.5 cubic feet (0.042 cubic metres);

- (c) sell from the food cart any food unless the food is wrapped and sold in individual, single-serving packages or disposable containers and serviettes are provided for customers;
- (d) sell from the food cart any goods, wares or merchandise or other item other than refreshments, food stuffs and confections;
- (e) operate a food cart from which is sold heated or cooked food unless the food cart is capable of maintaining the prepared food at a temperature of not less than 150 degrees Fahrenheit; or
- (f) operate a food cart from which is sold milk unless the food cart is capable of maintaining the milk at a temperature of not more than 40 degrees Fahrenheit.

#### SECTION 5 – PROVISIONS APPLICABLE TO ICE CREAM CARTS

5.1 The number of licenses issued annually for ice cream carts shall not exceed six.

5.2 No person shall:

- (a) operate an ice cream cart if that cart remains in any place or in the vicinity of that place for more than fifteen (15) minutes in any hour;
- (b) operate an ice cream cart unless he provides at all times during the operation of the cart, on the cart, or in close vicinity to the cart a waste receptacle the volume of which is not less than 0.5 cubic feet (0.014 cubic metres);
- (c) operate an ice cream cart from which is sold ice cream or frozen refreshments unless the ice cream and frozen refreshments are wrapped and sold in individual, single-serving packages or disposable containers and serviettes are provided for customers;
- (d) operate an ice cream cart from which is sold heated or cooked food;
- (e) operate an ice cream cart from which is sold milk or any other beverages; or
- (f) sell from the ice cream cart any goods, wares or merchandise or other item other than ice cream and frozen refreshments.

#### SECTION 6 – PROVISIONS APPLICABLE TO CHIP WAGONS

6.1 The location for the operation of each chip wagon shall be approved by Council by resolution.

6.2 The number of licenses issued annually for chip wagons shall be two.

6.3 In the event that more than two (2) Chip Wagon License Applications are received and accepted, the vehicle operator will be determined by “lot”. Applicants will be notified of the time and place of determination by lot, and may be present at the determination.  
(B/L190-97)

6.4 No person shall:

- (a) operate a chip wagon in a location other than the location approved by Council;
- (b) operate a chip wagon on a sidewalk;
- (c) operate a chip wagon unless he provides at all times during the operation of the chip wagon in close proximity to the chip wagon a waste receptacle, the volume of which is not less than 1.5 cubic feet (0.042 cubic metres);

- (d) operate a chip wagon so as to permit waste from food or beverages sold by him to accumulate in or about the location approved by Council;
- (e) sell from the chip wagon any sandwich, cake, donut, hot dog, hamburger or other food unless the food is wrapped and sold in individual, self-serving packages or disposable containers and serviettes are provided for customers;
- (f) sell from the chip wagon any goods, wares or merchandise or other item other than refreshments, food stuffs and confections;
- (g) operate a chip wagon from which is sold heated or cooked food unless the chip wagon is capable of maintaining the prepared food at a temperature of not less than 150 degrees Fahrenheit; or
- (h) operate a chip wagon from which is sold milk unless the chip wagon is capable of maintaining the milk at a temperature of not more than 40 degrees Fahrenheit.

**SECTION 7 – PROVISIONS APPLICABLE TO MOBILE LUNCH WAGONS**

7.1 No person shall:

- (a) operate a mobile lunch wagon on or in any of the following streets or parks:

Talbot Street	Ross Street
Wellington Street	Elgin Street
Wilson Avenue	Centre Street
Curtis Street	Pinafore Park
Waterworks Park	Barrie Park
- (b) operate a mobile lunch wagon on a sidewalk;
- (c) operate a mobile lunch wagon unless he provides at all times during the operation on or within the lunch wagon a waste receptacle, the volume of which is not less than 0.5 cubic feet (0.014 cubic metres);
- (d) sell from the mobile lunch wagon any food unless the food is wrapped and sold in individual, single-serving packages or disposable containers and serviettes are provided for customers;
- (e) sell from the mobile lunch wagon any goods, wares or merchandise or other item other than refreshments, food stuffs and confections;
- (f) operate a mobile lunch wagon from which is sold heated or cooked food unless the mobile lunch wagon is capable of maintaining the prepared food at a temperature of not less than 150 degrees Fahrenheit; or
- (g) operate a mobile lunch wagon from which is sold milk unless the mobile lunch wagon is capable of maintaining the milk at a temperature of not more than 40 degrees Fahrenheit.

**SECTION 8 – PROVISIONS APPLICABLE TO MOTORIZED MOBILE ICE CREAM VEHICLES (B/L 71-2001)**

8.1 Mobile Ice Cream vehicles can only operate on City streets.

8.2 No person shall operate a motorized mobile ice cream vehicle:

- (a) which does not have a four-way flashing light system satisfactory to the City Police;
- (b) that remains in any place or in the vicinity of that place for more than fifteen (15) minutes in any hour;

- (c) without a safety sign stating “watch for children/pedestrians” which is affixed in a prominent visible location on all sides of the vehicle;
- (d) in which the music system, if present, is volume adjustable;
- (e) without the service window being located on the right-hand (curb) side of the vehicle;
- (f) on a sidewalk or boulevard;
- (g) unless provision is made at all times during the operation on or within the motorized ice cream vehicle for a waste receptacle, the volume of which is not less than 0.5 cubic feet (0.014 cubic metres);
- (h) from which is sold ice cream or frozen refreshments unless the ice cream and frozen refreshments are wrapped and sold in individual, single serve packages or disposable containers and serviettes are provided for customers;
- (i) from which is sold heated or cooked food;
- (j) in which to sell any goods, wares or merchandise or other items other than ice cream and frozen refreshments;
- (k) from which is sold milk or any other beverages unless the motorized ice cream vehicle is capable of maintaining the milk at a temperature of not more than 40 degrees Fahrenheit.

#### SECTION 9 – ISSUANCE OF LICENSE

- 9.1 Beginning in January each year, the Licensing Administrator will accept applications from refreshment vehicle operators wishing to operate Food Carts (Hot Dog Carts), Chip Wagons, Mobile Lunch Wagons, Mobile Ice Cream Vehicles and Ice Cream Carts.
- 9.2 For those vehicle categories where the number of licenses to be issued is restricted by this by-law, refreshment vehicle licenses in the City are allocated by lot, pursuant to the provisions of this by-law, from all qualified applicants whose complete applications are received by the Licensing Administrator within the advertised application period or, where no such period is set, by the last business day in January. Where within such application period fewer applications are received than the number which can be issued, and for those vehicle categories having no restriction on the number of licenses issued, all vehicles that meet the provisions of this by-law shall be licensed on a “first come, first served” basis. *(B/L 126-2009)*
- 9.3 In the case of licenses for Food Carts (hot dog carts), the license will be renewable by the same vehicle operator annually for up to and including three consecutive years. After which time, the license will be publicly advertised and open for new applicants, as well as the current vehicle operator. *(B/L 190-97 and 126-2009)*
- 9.4 In the case of licenses for Chip Wagons, the license will be renewable by the same vehicle operator annually for an unrestricted number of years. Should the vehicle operator choose not to renew the license or be ineligible for renewal, or should the license be revoked under Section 2.10, the license will be publicly advertised and open to new applicants. *(B/L 126-2009)*
- 9.5 The renewal rights in this section supersede the selection by lot described in Sections 4.2, 6.3 and 9.2 but do not increase the maximum number of licenses issued. To be eligible for renewal, the operator must submit an application annually and maintain compliance with all applicable requirements of this by-law. *(B/L 126-2009)*

9.6 In the case of licenses for chip wagons, a license may be transferred to a new owner, subject to the provision that the new owner (transferee) qualifies and meets all of the requirements of the By-law, to the satisfaction of the Licensing Administrator. Subject to approval by City Council, the license will be re-issued by the Licensing Administrator in the name of the approved transferee licensee, for the remainder of the term and subject to the remaining renewal rights of the transferor licensee. *(B/L 126-2009)*

SECTION 10 – INSURANCE COVERAGE

10.1 Persons to whom a mobile Refreshment License has been issued under the provisions of this by-law shall provide to the City proof – to the satisfactory of the City Treasurer – of \$1,000,000.00 public liability insurance coverage with respect to their refreshment vehicle operations. *(B/L 190-97)*

SECTION 11 – BY-LAWS REPEALED

11.1 By-Laws 29-53 and 92-70 are hereby repealed.

SECTION 12 - CONTRAVENTION

12.1 Any person who contravenes any provision of this By-Law is guilty of an offence and is subject to the provisions of the Provincial Offences Act.

SECTION 13 – EFFECTIVE DATE

13.1 This By-Law shall come into force on the 1<sup>st</sup> day of January 1992.

READ a First and Second time this 17<sup>th</sup> day of February, 1992.

READ a Third time and Finally passed this 17<sup>th</sup> day of February, 1992.

\_\_\_\_\_  
original signed  
City Clerk

\_\_\_\_\_  
original signed  
Mayor



SCHEDULE "A"

COLUMN 1 Occupation, trade calling or business	COLUMN 2 Annual License Fee
Food Cart (Hot Dog)	\$300.00/cart
Ice Cream Cart	\$ 50.00/cart
Chip Wagon	\$300.00/wagon
Mobile Lunch Wagon	\$150.00/wagon
Mobile Motorized Ice Cream Vehicle (B/L 71-2001)	\$150.00/vehicle