

**THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
BY-LAW NUMBER 2006-16**

Being a by-law Regulating and Governing the operation of Mobile Canteens within the limits of the City of Clarence-Rockland

WHEREAS under the provisions of the Municipal Act, S.O. 2001, Chapter 25, Section 150(1), a local municipality may license, regulate and govern any business wholly and partly carried in within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS without limiting the powers of section 150(1) of the Municipal Act S.O. 2001, Chapter 25, to license, regulate and govern a business includes the power,

- (a) to prohibit the carrying on of or engaging in business without a license;
- (b) to fix the expiry date for a license;
- (c) to impose conditions as a requirement of obtaining, continuing to hold or renewing a license, including conditions;
- (d) requiring the payment of license fees;
- (e) restricting the hours of operation of the business; and
- (f) to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on or engaging in the business.

NOW THEREFORE the Council of the Corporation of the City of Clarence-Rockland enacts as follows :

DEFINITIONS

1. (1) In this schedule:

- (a) "**Applicant**" means a person making an application for a licence under this by-law;
- (b) "**Boulevard**" means all the parts of the highway save and except any street;
- (c) "**Corporation**" means the corporation of the City of Clarence-Rockland;
- (d) "**Pedal -Powered Vehicle**" means a vehicle that is propelled by muscular power;
- (e) "**Highway**" includes the entire right-of-way of a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, designed and intended for, or used by, the general public for the passage of vehicles;

- (f) “**Intersection**” means the area embraced within the prolongation or connection of the lateral curb lines or if none, then of the lateral boundary lines of two (2) or more streets which join one another at an angle, whether or not one (1) street crosses the other;
- (g) “**Medical Officer of Health**” shall mean the Medical Officer of Health of the Counties of Prescott and Russell or his subordinates to whom he may designate such authority from time to time;
- (h) “**Municipal Law Enforcement Director**” shall mean the Municipal Law Enforcement Officer appointed by the City Council as the director to administer and enforce the provisions of this by-law;
- (i) “**Physical Department Director**” means a person appointed as the Director of Physical Services for the City of Clarence-Rockland or his duly appointed representative;
- (j) “**Private Property**” means all property in the City and includes property of the municipal, federal and provincial government, but does not include any of the sidewalks;
- (k) “**Sidewalk**” includes all such parts of a highway as are set aside by the Corporation for the use of pedestrians or used by the general public for the passage of pedestrians, and includes the boulevard and a pedestrian walkway, and;
- (l) “**Street**” means that part of the highway that is improved, designed or ordinarily used for vehicular traffic.

INTERPRETATION

- (2) The content of this by-law applies to the Municipal Road System under the jurisdiction of the City of Clarence-Rockland and, without limiting the generality of the foregoing and for ease of reference, is as follows:
 - (a) If, in the opinion of the Physical Services Director, the maintenance and use of such encroachments do not hinder or impede the proper use, maintenance and operation of the Municipal Road System, this part shall not apply to the following uses and encroachments: tables, chairs, umbrellas, wagons, carts, Pedal -powered vehicles, information kiosks, temporary entrance shelters and other similar equipment located on a highway.

CLASSES OF LICENSES

2. (1) The following licenses may be issued pursuant to this schedule:
 - (a) **License "A"** to a vendor selling ice-cream, frozen milk products and beverages only from:
 - (i) the streets or on private property in the City, from a pedal-powered vehicle.
 - (b) **License "B"** to a person selling food products that are prepared and cooked elsewhere than in the motor vehicle, from a motor vehicle that is currently licensed to be driven on the highway pursuant to the Highway Traffic Act, R.S.O. 1990, Chap. H.8, as amended, on private property.
 - (c) **License "C"** to a person selling ice cream and frozen milk products, from a motor vehicle that is currently licensed to be driven on the highway pursuant to the said Highway Traffic Act, on private property in the City.
 - (d) **License "D"** to a person selling food products from a refreshment vehicle as set out in any of the above license categories who vends for or at a **"specific event"**, said event being held for a period of not more than ten (10) days, in lieu of issuing one of the licenses in the categories as set out in paragraphs (a) to (c) herein.

CONDITIONS FOR ISSUANCE OF A LICENSE

3. No applicant for a refreshment vehicle license shall be issued a license unless:
 - (a) the applicant is at least sixteen (16) years of age, for a license "A".
 - (b) where the application is for a License "B", License "C", or License "D", the applicant shall be at least eighteen (18) years of age and shall:
 - (i) apply in person, and;
 - (ii) filed one (1) full-faced photograph of the applicant, of a size 1.5 inches square, taken not more thirty (30) days prior to the date of the application.
 - (c) the Medical Officer of Health has reported in writing that the refreshment vehicle or vending equipment is suitable for the purpose of the license application and is in a sanitary condition.
 - (d) the Fire Chief has reported in writing that, where applicable, the refreshment vehicle or vending equipment is suitable for the purpose of the license application and is in a fire safe condition.
 - (e) the applicant has specified the make, style, model and serial number of the refreshment vehicle.
 - (f) the applicant is the holder of a current motor vehicle permit issued pursuant to the said Highway Traffic Act that permits it to be driven on any highway, where applicable.
 - (g) the applicant has filed proof of insurance in accordance with Section 16 hereof,

- (h) where an applicant proposes to vend on the sidewalks of the City, the applicant has furnished the description:
 - (i) of the Pedal -powered vehicle or vending equipment including its serial number, and;
 - (ii) of the method by which the refreshments are to be vended, in sufficient detail to indicate compliance with the standards in the by-law.
 - (i) a license may be issued for a specific event provided that:
 - (i) the event is being held for a period of not more than ten (10) days, and
 - (ii) the applicant has furnished details as to the specific event including its location, and the license shall indicate which one of the categories specified in paragraphs (a) to (d) of subsection (1) of Section 2 the license is issued in lieu of, and;
 - (j) the refreshment vehicle to be used by the applicant for vending complies with the standards and dimensions prescribed by Sections 19, 20, 21 , 22, and 23.
 - (k) pay the Corporation a license fee as set out in schedule "A" fixed by this by-law.
4. The Municipal Law Enforcement Director is authorized to require that each pedal-powered vehicle or other refreshment vehicle or vending equipment to be used by the applicant for vending be submitted for inspection prior to the issuance of the license.
 5. Every person who provides or operates a refreshment vehicle shall obtain a separate license for each refreshment vehicle to be operated pursuant to this by-law.
 6. A separate license shall be obtained for each vendor who vends refreshments from his or her person.
 7. Where reports have been received from the Medical Officer of Health or the Fire Chief in respect of the pedal-powered vehicle or other vehicle or vending equipment, and the Municipal Law Enforcement Director has issued the license based on the reports, the licensee shall ensure that no modifications are made to the pedal-powered vehicle or other vehicle, or equipment placed in the vehicle without the prior approval of the Municipal Law Enforcement Director.

ISSUANCE OF LICENSE

8. The Municipal Law Enforcement Director shall, upon issuing the license, furnish to the licensee, in addition to the license, one (1) plate bearing an identifying number, and the category for which the license was issued, and the words "Refreshment Vehicle" and "Clarence-Rockland" and a serial number to be encoded on the vehicle if the vehicle does not have one.
9. Despite Section 8, the Municipal Law Enforcement Director shall not furnish a plate if the vendor is carrying the refreshments on his or her person.

10. Despite Section 8, the Municipal Law Enforcement Director shall not furnish a plate for License “D” for special events.
11. The onus of obtaining the necessary approval to vend from a particular location on private property from the owner of such property is on the licensee.
12. No person shall vend refreshments on any property of the Corporation without first obtaining a written permission from the Municipal Law Enforcement Director or his authorized representative.
13. (1) No person shall vend on private property without the consent of the owner or occupant of such property.

(2) Every person who vends on private property with the consent of the owner or occupant of such property shall:
 - (a) ensure that he or she has a written the consent in his or her possession, and;
 - (b) when so requested by Municipal Law Enforcement Director, or the Chief of Police, produce the consent for inspection.
14. No person shall vend with or from a refreshment vehicle on a boulevard without first obtaining a written permission from the Corporation of the City of Clarence-Rockland.

TRANSFERS OF LICENSE

15. No person shall transfer a license issued pursuant to this By-law in any manner, including leasing agreement or assignment.

INSURANCE

16. (1) Every owner of a refreshment vehicle or vending equipment shall file with the Municipal Law Enforcement Director proof of insurance for public liability in the amount of not less than Five Hundred Thousand (\$500,000.00) Dollars public liability inclusive of bodily injuries, property damage and accident benefits and including damage occasioned by any accident arising out of the operation of the refreshment vehicle or vending equipment in respect of which a license is applied for.

(2) The proof of insurance shall include a provision therein or an endorsement thereon that the insurance company will endeavour to give the Municipal Law Enforcement Director at least fifteen (15) days notice in writing of any cancellation of or amendment to the policy.

RENEWAL OF LICENSE

17. (1) The licensee shall ensure that, during the period of sixty (60) days prior to the expiration of the license, his or her refreshment vehicle or vending equipment is submitted for inspection, where applicable, to,
 - (a) the Medical Officer of Health, and
 - (b) the Fire Chief,as if the applicant was filing an original application.
- (2) The Municipal Law Enforcement Director shall not renew the refreshment license unless and until,
 - (a) the Medical Officer of Health has reported in writing that the refreshment vehicle or vending equipment is suitable for the purpose of the license renewal application and is in a sanitary condition, and
 - (b) the Fire Chief has reported in writing that, where applicable, the refreshment vehicle or vending equipment is suitable for the purpose of the license application and is in a fire safe condition.
18. Where the application is for a License "B", License "C", or License "D", the Municipal Law Enforcement Director shall not renew the license unless the applicant has,
 - (a) applied in person, and
 - (b) filed one (1) full-faced photograph of the applicant, of a size 1.5 inches square, taken not more thirty (30) days prior to the date of the application.

PEDAL-POWERED VEHICLE OR OTHER VEHICLE STANDARDS

19. (1) Every pedal-powered vehicle shall,
 - (a) have,
 - (i) at least two (2) wheels,
 - (ii) two (2) handles or a push-bar, and
 - (b) be mobile so that it may be propelled by muscular power by the person who is vending, and
 - (c) be structured so as to be safe and stable with or without refreshments or other goods therein.
- (2) The pedal-powered vehicle may have a canopy so long as the canopy conforms to the provisions of subsection (3).
- (3) The canopy may not extend beyond the dimensions of the pedal-powered vehicle.
- (4) A table with castors shall not constitute a pedal-powered vehicle as prescribed by subsection (1).

- (5) The maximum height of the display on or in the pedal-powered vehicle shall not exceed a height of one point four (1.4 m) metres as measured from the ground to the top of the display.
 - (6) No person shall vend with or from a pedal-powered vehicle that does not comply with the provisions of this By-law.
20. Refreshment vehicle license “B”, “C” or “D” that is currently licensed to be driven on the highway pursuant to the Highway Traffic Act, R.S.O. 1990, Chap. H.8, as amended, may have a canopy that extends beyond the dimensions of the vehicle provided that:
- (a) the extension of the canopy is at the height of not less than one point nine eight (1.98 m) metres measured from the ground, and
 - (b) the extension of the canopy does not extend beyond the dimensions of the vehicle by more than one (1 m) metre on any one (1) side.

DIMENSIONS OF PEDAL -POWERED VEHICLE OR OTHER VEHICLE

21. No person shall use a pedal -powered vehicle that exceeds the dimensions of three (3 m) meters in length, by one (1 m) metre in width, by two point five (2.5 m) metres in height.
22. No person shall use a Pedal-powered vehicle for vending that is,
- (a) not structured so as to be safe and stable with or without goods, wares or merchandise therein, or
 - (b) not capable of easy relocation by the user.

REGULATIONS

23. Every licensee who vends on private property or a part thereof that is,
- (a) outdoors,
 - (b) improved, designed or ordinarily used for pedestrian passage, and
 - (c) visible to the public as sidewalk space,
- shall vend with a pedal-powered vehicle and the provisions respecting vendors on sidewalks shall apply to every vendor.
24. Every licensee who vends on a sidewalk shall,
- (a) operate from a Pedal -powered vehicle, and
 - (b) ensure that all refreshments or other goods whether on display or not on display are contained within the Pedal-powered vehicle.
25. Sections 23 and 24 do not apply to a person licensed to vend ice-cream, frozen milk products or beverages from his or her person.

26. Every person who vends from his or her person shall ensure that all refreshments or other goods whether on display or not on display are contained within the vending equipment.
27. Every licensee shall ensure that the plate furnished pursuant to Section 8 is attached by bolts to the rear of the cart or vehicle so as to be clearly visible to the public during the currency of the license.
28. Every licensee shall keep his or her refreshment vehicle or vending equipment at all times in a clean and sanitary condition and in a state of good repair and appearance.
29. Every licensee using a refreshment vehicle with a food heating capability shall ensure that his or her vehicle is adequately equipped with a fire extinguisher having a 10 B.C. rating.
30. No person licensed pursuant to this schedule shall carry, sell, offer or expose for sale any or all of the food products which are prohibited from time to time by the Medical Officer of Health.
31. Every licensee shall ensure that:
 - (a) he or she conforms, where applicable, with the provisions of the Highway Traffic Act, R.S.O. 1990, Chap. H.8, as amended,
 - (c) he or she does not interfere with the normal movement of pedestrian or vehicular traffic or the maintenance of the sidewalks or streets in the City.
32. The licensee shall ensure that any person vending refreshments has available on his or her person the license issued by the Municipal Law Enforcement Director.
33. Every person who vends under the authority of a license shall ensure that he or she has the license in his or her possession.
34. Every person who vends refreshments shall produce his or her license for the vehicle or vending equipment for inspection, when requested by any municipal law enforcement officer.
35. Every person who vends under the authority of a license shall ensure that the license corresponds with the plate furnished by the Municipal Law Enforcement Director pursuant to Section 8.
36. Every licensee who vends on a street shall restrict such sales to occur between 6:00 o'clock in the forenoon (6:00 a.m.) and 11:00 o'clock in the afternoon (11:00 p.m.) of the same day.

37. Every licensee shall ensure that his or her Pedal-powered vehicle or other vehicle or any article used in the business is removed from the sidewalk or street from the hours of 11:00 o'clock in the afternoon (11:00 p.m.) of one day to 6:00 o'clock in the forenoon (6:00 a.m.) of the next following day.
38. No person who vends shall leave the any refreshment vehicle or anything on the sidewalk or street after the vending activity has ceased, or after 11:00 o'clock in the afternoon (11:00 p.m.), whichever occurs first.
39. No licensee shall leave his or her Pedal-powered vehicle unattended on the sidewalk.
40. Despite Sections 36 and 37, every licensee may vend until midnight on Canada Day.
41. The holder of a License in a category set out in subsection (1) of Section 2 shall not use that license for the purposes of any other category unless specifically permitted herein.
42. Every person to whom this By-law relates shall be governed by the Health Protection and Promotion Act, R.S.O. 1990, Chap. H.7, as amended, and regulations enacted thereunder.
43. No person shall cook food in a refreshment vehicle licensed as a License "A", "C" or "D" class.
44. Every licensee shall ensure that his or her refreshment vehicle is a fit motor vehicle under the said Highway Traffic Act.
45. Where a refreshment vehicle is a combination unit of a motor vehicle and trailer, every licensee shall ensure that,
 - (a) the combination unit of motor vehicle and trailer shall be treated as one motor vehicle, and
 - (b) the trailer must remain hitched to the motor vehicle at all times in such a way that the combination unit of motor vehicle and trailer is capable of being moved at all times as a single unit, and
 - (c) the motor vehicle shall be sufficient to tow the trailer to which it is hitched.
46. Despite the provisions of Section 45, a holder of a License "D" for a refreshment vehicle that is a combination unit of a motor vehicle and a trailer, may permit the trailer to be unhitched from the motor vehicle for the duration of the specific event provided that the trailer is located on and all vending activities are confined to private property.
47. Any holder of a License "A", "B", or "C" class may change his or her particular place during the currency of the license without notification to the Municipal Law Enforcement Director.

48. No person shall use,
(a) an external gasoline-powered generator,
(b) an external propane-powered generator,
(c) an external diesel-powered generator, or
(d) an external natural gas-powered generator,
in conjunction with a refreshment vehicle.
49. No person who vends with or from a refreshment vehicle shall place or locate any carton, box or other article, other than a garbage receptacle, outside of the refreshment vehicle.
50. (1) Every person who vends shall ensure that the garbage or litter resulting from his or her vending activity is collected and removed from the vending area.
- (2) For the purposes of subsection (1), the placing of the garbage or litter in a sidewalk refuse container provided by the Corporation is not sufficient to constitute removal.
- (3) Every person who vends with or from a refreshment vehicle shall ensure that the garbage receptacle placed outside the vehicle is taken away with the vehicle and that the garbage is disposed of in a proper manner.
51. Each licensee shall ensure that a garbage receptacle is placed outside of the refreshment vehicle while he or she is vending, and that the garbage is disposed of as required.
52. No person shall vend with or from a refreshment vehicle without first placing a garbage receptacle outside of the refreshment vehicle.

LOCATION REGULATIONS

53. Every person who vends shall ensure that:
(a) he or she does not vend within fifty (100m) metres of a licensed restaurant.
54. (1) No holder of a License "B", "C" or "D" class shall vend with or from a refreshment vehicle in any of the following areas:
(a) Urban Policy Area, and
(b) Community Policy Area,
as provided for under the provisions of the Zoning By-law of the City of Clarence-Rockland.
- (2) Despite the provision of section 54.(1), a holder of a License "B", "C" or "D" class may vend on a construction site during periods of construction.

55. Any holder of a License "A" may remain up to thirty (30) minutes at a location on a street.
56. No person who vends shall place or locate himself or herself or anything on a street or sidewalk so as to be within nine (9 m) meters from the nearest street intersection.
57. No licensee who is vending on a street from or with a Pedal -powered vehicle shall occupy or utilize an area that exceeds three (3 m) metres in length, by one (1 m) metre in width, by two point five (2.5 m) metres in height.
58. No person shall vend within three (3 m) metres of any other itinerant seller or refreshment vending activity on the sidewalk or street or on private property that is described in Section 23.

ADMINISTRATION AND ENFORCEMENT

59. Nothing in this By-law shall exempt any person from complying with the requirements of any other by-law or regulation or any other law in force within the area affected by this by-law. It is the responsibility of the licensee and the owner to ensure that the refreshment vehicle complies with all legislation and regulation pertaining to such a business.
60. The provisions of this by-law shall be administered and enforced by the Municipal Law Enforcement Services.
61. No person who is licensed or required to be licensed, shall hinder or obstruct the Municipal Law Enforcement Officer during any inspection or cause any inspections to be hindered or obstructed.

PENALTIES

62. Each day that a person operates a business in contravention of the provisions of this By-law shall constitute a separate offence.
63. Any person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction shall forfeit and pay a penalty as provided for in the **Provincial Offences Act**, 1990, R.S.O., Chapter P. 33. and amendments thereto

ORDER PROHIBITING

64. When a person has been convicted of an offence under the provisions of this By-law, any court of competent jurisdiction thereafter may in addition to any other penalty

imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act by person convicted directed towards the continuation or repetition of the offence.

SEVERABILITY

65. It is declared that if any section or subsection or part or parts thereof be declared by any competent Court of Law to be illegal shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

BY-LAW ENFORCE

66. This By-law shall come into force and take effect on the day it s duly pass in Council .

SCHEDULE ADOPTED

67. The schedule referred to in this by-law shall form part of this by-law and be read in conjunction with the entry across there from, and not otherwise.

FORMER BY-LAW REPEAL

68. That the Town of Rockland By-law No.1985-11, for the licensing, regulating, and governing of refreshment vehicles.

**READ A FIRST, SECOND AND DULY PASSED UPON THE THIRD READING,
THIS 13TH DAY OF MARCH, 2006**

Richard Lalonde, Mayor

Daniel Gatién, Clerk

imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act by person convicted directed towards the continuation or repetition of the offence.

SEVERABILITY

65. It is declared that if any section or subsection or part or parts thereof be declared by any competent Court of Law to be illegal shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

BY-LAW ENFORCE

66. This By-law shall come into force and take effect on the day it s duly pass in Council .

SCHEDULE ADOPTED

67. The schedule referred to in this by-law shall form part of this by-law and be read in conjunction with the entry across there from, and not otherwise.

FORMER BY-LAW REPEAL

68. That the Town of Rockland By-law No.1985-11, for the licensing, regulating, and governing of refreshment vehicles.

**READ A FIRST, SECOND AND DULY PASSED UPON THE THIRD READING,
THIS 13TH DAY OF MARCH, 2006**

(Original signed by)

Richard Lalonde, Mayor

(Original signed by)

Daniel Gatien, Clerk

THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW NO. 2006-16

SCHEDULE "A"

LICENCE CLASS AND FEES

<u>CLASS OF LICENSE</u>	<u>CLASS OF LICENSE FEES</u>
License "A"	\$ 300.00 / vehicle
License "B"	\$ 500.00 / vehicle
License "C"	\$ 500.00 / vehicle
License "D"	\$ 500.00 / vehicle