

**THE CORPORATION OF THE TOWN OF SMOOTH
ROCK FALLS
BY-LAW NO. 2024- 15**

**Being a By-law to licence, govern and regulate food
vending vehicles and portable vendors**

WHEREAS Section 8 of the *Municipal Act, 2001* provides that the powers of the Municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs as they consider appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Sections 151 and 160 of the *Municipal Act, 2001* provide that a municipality may provide for a system of licenses with respect to a business and pass by-laws licensing businesses under any section of the *Municipal Act* or any other Act;

AND WHEREAS the proposed fees for each food vendor licence and portable vendor licence is set out in Schedule "A" to this by-law;

AND WHEREAS there are costs to the Town associated with preparing this by-law, issuing licences, and enforcing this by-law;

AND WHEREAS the Council for the Town of Smooth Rock Falls deems it expedient to establish a by-law to control business activities relating to food vending vehicles and portable vending in the Town of Smooth Rock Falls in the interest of public safety and consumer protection;

NOW THEREFORE THE COUNCIL of the Corporation of the Town of Smooth Rock Falls pursuant to the *Municipal Act, 2001*, S.O. 2001, c.25, **ENACTS** as follows:

1. SHORT TITLE

1.1. This By-law shall be known and may be cited as the "Licensing of Food Vending Vehicles and Portable Vendors By-law".

2. DEFINITIONS

In this By-law:

- 2.1 "Applicant" means the person making application for issuance of a Licence under this by-law.
- 2.2 "Council" means the Council of the Town of Smooth Rock Falls;
- 2.3 "Designated Property" means Town owned property approved for mobile food vending operation as specifically indicated on Schedule "B" of this by-law.
- 2.4 "Fire Chief" means the Fire Chief of the Town of Smooth Rock Falls Fire Department or any officer of that department.
- 2.5 "Food" shall include food or drink for human consumption but excludes alcoholic beverages.
- 2.6 "Food Vending Vehicle" means a handcart, peddled vehicle, vehicle, or trailer from which refreshments and/or food are sold for consumption by the public.

- 2.7 **“Food Vendor”** includes a person operating or using a Food Vending Vehicle; or any person who goes from place to place, or to a particular place, with food or refreshments for sale to the public; or any retailer which has an employee or agent who goes from place to place or to a particular place with food or refreshments for sale to the public.
- 2.8 **“Licence”** means a licence issued pursuant to this by-law, which authorizes a Person to operate or use a Food Vending Vehicle or to go from place to place with food or refreshments for sale, or to carry and expose samples of food or refreshments. There are three (3) classes of Food Vending Vehicle Licences.
- 2.9 **“Licensee”** means the holder of the Licence.
- 2.10 **“Medical Officer of Health”** shall mean the Porcupine Health Unit Medical Officer of Health or a person delegated by him or her for the purposes of this by-law.
- 2.11 **“Officer”** means an officer appointed by Council or through an authority of applicable legislation, such as, but not limited to, a municipal law enforcement officer, fire prevention officer, licensing officer or building inspector and may include a member of the Ontario Provincial Police.
- 2.12 **“Owner”** with respect to a premises licensed under this by-law shall mean the registered owner of the land on which the premises is situated and includes a trustee acting on behalf of the registered owner, the estate of a registered owner and person with a leasehold interest in the land.
- 2.13 **“Owner”** with respect to a trade, business or occupation licenced under this by-law shall mean the person, company or partnership that carries on the trade, business or occupation and whose name appears on the Licence issued by the Town for such business pursuant to this by-law.
- 2.14 **“Person”** shall include an individual, a partnership, a firm or a corporation.
- 2.15 **“Portable Vendor”** shall mean any trailer, vehicle, tent, or stand from which products are sold to the public and may include, but is not limited to, retail products, merchandise, crafted items, artwork, kayaks, but does not include Food;
- 2.16 **“Street”** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle designed and intended for, or based by, the general public for the passage of vehicles.
- 2.17 **“Town”** means the Corporation of the Town of Smooth Rock Falls.
- 2.18 **“Vehicle”** has the same meaning as within the Highway Traffic Act, R.S.O. 1990, c. H.8.

3. GENERAL PROVISIONS

All of the regulations contained in this Part of this by-law shall apply to Licences required under this by-law in addition to any other regulation contained in any other part of this by-law.

3.1 LICENCES

- 3.1.1 **Licence Requirement.** No person shall operate a mobile Food Vending Vehicle or Portable Vendor anywhere within the Town without possessing a valid Licence issued by the Town under the authority of this by-law and shall pay to the Town at the time of taking out of such Licence the fee as set out in this by-law.

3.1.2 Licence Fees. The sums of money set out in Schedule "A" of this by-law are hereby fixed as the fees for Licences and which shall be paid before the issue or renewal of any Licence.

3.1.3 Late Licence Fee. A Licence shall be taken out prior to any person operating or using any Food Vending Vehicle or Portable Vendor. A person who takes out a Licence after already engaging in the activities mentioned within this by-law for which a Licence is required shall pay an additional "Late Licence" fee as set out in Schedule "A" to this by-law.

3.1.4 Duration of Licence. The duration of the Licence shall be set out on the Licence and shall depend on the Class of Licence issued.

3.1.5 Transfer Not Permitted. No person shall enjoy a vested right in the continuance of a Licence and upon the issue, renewal, transfer or suspension, the value of a Licence shall be the property of the Town. No Licence shall be transferred except upon the written approval of the Town.

3.1.4 Display of Licence. No person shall operate a Food Vending Vehicle or Portable Vendor anywhere within the Town without displaying a Licence issued by the Town posted in a conspicuous place within the Food Vending Vehicle or Portable Vendor.

3.2 APPLICATION PROCEDURE

3.2.1 Administration. The Clerk for the Town, or his/her designate, shall be responsible for the administration of this by-law and shall be the Issuer of Licences under this by-law.

3.2.2 Application for Licence. Every person making application for a Food Vender Vehicle Licence or Portable Vendor Licence shall submit a completed application form with the required licensing fee as outlined in Schedule "A".

3.2.3 Issuance of Licence. If, after processing an application under section 3.2, and

The required supporting documents, the Clerk for the Town, or his/her designate, is satisfied that a Licence should be issued, the Clerk for the Town, or his/her designate, shall issue a Licence to the Applicant. Every Licence issued under this by-law shall be issued to the owner of the Food Vending Vehicle or Portable Vendor. If the Clerk for the Town is of the opinion that a Licence should not be issued, the Clerk for the Town shall advise the Applicant of this in writing and why the Licence will not be issued.

3.2.4 Cancellation or Revocation of Licence. Any Licence issued under this by-law may be revoked or cancelled at any time by the Town, without notice, subject to the provisions of the *Statutory Procedures Act*, R.S.O., 1990, c.S.22 and the *Municipal Act*, 2001, S.O. 2001, c.25. Upon cancellation or revocation, the Licensee shall return the Licence to the Town.

Reasons for cancellation or revocation include:

- a) Any reason that would disentitle the holder of the Licence if he or she were an Applicant;
- b) If the information in the application is false;
- c) If the operation of the Licensee's business is or will not be carried out in compliance with the law; or
- d) If the conduct of the Licensee is calculated to mislead, deceive, or intimidate the public, or in a manner contrary to the provisions of this by-law.

3.2.5 Lost Licences. Upon the Clerk for the Town, or his/her designate, being satisfied that a Licence has been lost and that the Licencee has made a diligent search and therefore must make a new application in good faith, the Clerk for the Town, or his/her designate may issue a duplicate Licence and shall be endorsed as "duplicate". The Licencee must agree to surrender their original Licence, if found.

3.2.6 Partnership. Where two or more persons carry on or engage in a partnership in business, the Licence shall be issued in the name of one partner only.

3.3 RESPONSIBILITIES OF LICENCEE

3.3.1 Licence to be posted/carried. Every person obtaining a Licence under this by-law, where the same applies to a Food Vending Vehicle and Portable Vendor, shall during the currency of such Licence be kept affixed to and prominently displayed on the Food Vending Vehicle or Portable Vendor for which the Licence was issued.

3.3.2 Compliance with Laws. Every person applying for or holding a Licence under this by-law, or who is liable to be Licenced under this by-law, shall in such application or in carrying on such business, observe, comply with and be governed by the regulations set out in this by-law which relate to such business. No person shall operate or use a Food Vending Vehicle or Portable Vendor or carry on or engage in any trade, calling, business or occupation in contravention of any of the provisions of any other by-law of the Town or of any provincial or federal law. Each holder of a Licence, where the same applies to a Food Vendor or Portable Vendor, shall comply with all provincial requirements regarding the handling of food.

3.3.3 Physical Intimidation Prohibited. No person operating under a Licence issued pursuant to this by-law shall engage in physical intimidation including but not limited to entering or failing to leave private property when it is known or ought reasonably be known to be unwelcome.

3.3.4 Operate in Permitted Location. Any Food Vendor Vehicle or Portable Vendor parked or located on Town property shall be located on a designated Town property identified in Schedule "A".

4. FOOD VENDORS & PORTABLE VENDORS

4.1 LICENCE – CLASSES

The following classes of Food Vendors and Portable Vendors are hereby established:

Class 1 - "Stationary Day Sales" shall include temporary businesses for one period of up to seven (7) days from one specific location. Class 1 shall apply to both Food Vendors and Portable Vendors.

Class 2 - "Stationary Temporary Sales" shall include temporary businesses for one period of up to five (5) months from one specific location. Class 2 shall apply to both Food Vendors and Portable Vendors.

Class 3 - "Ice-cream or Hotdog Cart" shall include a vehicle from which only ice-cream and related products, or hotdogs and related products, are sold or offered for sale for consumption by the public, including, but not limited to, push carts and wheeled vehicles. Class 3 shall only apply to Food Vendors.

4.2 REQUIREMENTS FOR FOOD VENDOR

4.2.1 Health Certificate. No Food Vending Vehicle or Food Vendor shall be Licenced under this by-law unless the Clerk for the Town has received from the Medical Officer of Health a certificate of approval of such vehicle.

4.2.2 TSSA Approval. If the Food Vending Vehicle contains fuel-burning equipment, the Applicant must provide the Clerk for the Town with a certificate of approval.

4.2.3 Fire Extinguisher. If the Food Vending Vehicle contains fuel-burning equipment, the Applicant must provide to the Clerk for the Town satisfactory proof that the Food Vending Vehicle is equipped with a working certified portable fire extinguisher.

4.2.4 Location Approval. No Food Vending Vehicle or Food Vendor shall be Licenced as a Class 1, Class 2 or Class 3 Food Vendor under this by-law unless the Applicant has received approval from the relevant Town of the location in which the Food Vending Vehicle shall operate.

4.2.5 Criminal Record Check & Vulnerable Sector Check. No Food Vending Vehicle or Food Vendor shall be Licenced as a Class 1, Class 2 or Class 3 Food Vendor under this by-law unless the Applicant has provided a Criminal Record Check and Vulnerable Sector Check to the Town.

4.2.6 Business Information. No Food Vending Vehicle or Food Vendor shall be Licenced under this by-law unless the Applicant has provided the Town with the requested Business Ownership information such as corporate name/number, trade name, business registration number or business name.

4.2.7 Insurance. A person operating a Food Vending Vehicle or operating as a Food Vendor on Town owned property shall maintain at all times during the Licence a minimum of Two Million (\$2,000,000.00) Dollars comprehensive general liability insurance in respect of personal injury, death, loss or damage of or to any person or property of third parties, with insurers licenced to conduct business in Ontario.

The Town shall be added as an Additional Insured to the required liability insurance policy or policies and no such policy shall be cancelled or allowed to lapse without at least thirty (30) days written notice having been given to the Town. Proof of Insurance shall be provided to the Town.

4.2.8 Waste Disposal. The Licencee of the Food Vending Vehicle shall:

- a) Provide a waste receptacle complete with a tight fitting lid for the collection of customer waste located in a way that is easily accessible by all customers;
- b) Ensure all waste receptacles are emptied at the conclusion of each business day; and
- c) Ensure all waste disposed off in accordance with the Town by-laws at the sole expense of the Licensee.

4.3 REQUIREMENTS FOR PORTABLE VENDOR

4.3.1 Location Approval. No Portable Vendor shall be Licenced as a Class 1 or Class 2 Portable Vendor under this by-law unless the Applicant has received approval from the Town of the location in which the Portable Vendor shall operate.

4.3.2 Criminal Record Check & Vulnerable Sector Check. No Portable Vendor shall be Licenced as a Class 1 or Class 2 Portable Vendor under this by-law unless the Applicant has provided a Criminal Record Check and Vulnerable Sector Check to the Town.

4.3.3 Business Information. No Portable Vendor shall be Licenced under this by-law unless the Applicant has provided the Town with the requested Business Ownership information such as corporate name/number, trade name, business registration number or business name.

4.3.4 Insurance. A person operating a Portable Vendor on Town owned property shall maintain at all times during the Licence a minimum of Two Million (\$2,000,000.00) Dollars comprehensive general liability insurance in respect of personal injury, death, loss or damage of or to any person or property of third parties, with insurers licenced to conduct business in Ontario. The Town shall be added as an Additional Insured to the required liability insurance policy or policies and no such policy shall be cancelled or allowed to lapse without at least thirty (30) days written notice having been given to the Town. Proof of Insurance shall be provided to the Town.

4.4 LOCATION OF FOOD VENDING VEHICLE & PORTABLE VENDOR

4.4.1 Town Property. The Licencee shall first obtain approval from the Clerk for the Town, or his/her designate, as to the location of the Food Vending Vehicle or Portable Vendor on property owned by the Town.

4.4.2 Occupation without Permission. It is an offence for any person to operate a Food Vending Vehicle or Portable Vendor on Town property without the written consent of the Town.

4.4.3 Residential Areas Prohibited. No Licencee or person shall operate a Food Vending Vehicle or Portable Vendor within an area of the Town zoned Residential.

5. ADMINISTRATION AND ENFORCEMENT

5.1 ENFORCEMENT

5.1.1 Enforcement Agency. The Town's by-law enforcement officer, or a designate, shall be responsible for the enforcement of this by-law.

5.1.2 Inspections. The Town's by-law enforcement officer, or a designate, may at reasonable times during business hours inspect as much of any place or premises carrying on any business in respect of which a person has or is required to have a Licence.

5.1.3 Offences and Penalties. Any person violating any of the provisions of this by-law shall be subject to a penalty as provided for under the *Provincial Offences Act*, R.S.O. 1990, c.P.33. A separate violation shall be deemed to have been committed for each and every day during which such violation continues, and conviction in respect of a violation shall not operate as a bar to further prosecution if such violation continues.

5.2 ENACTMENT

5.2.1 Interpretation. In this by-law, unless context provides or requires otherwise, words importing the singular shall include the plural and words importing the masculine shall include the feminine.

5.2.2 Conflict. In the case of a conflict between the provisions of this by-law and any other municipal by-law, the provisions of this by-law shall prevail.

5.2.3 Severances. If any section, subsection, sentence, clause, phrase or provision of this by-law is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the by-law.

The Town hereby declares that it would have passed this by-law and each section, subsection, sentence, clause, phrase and provision herein, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions be declared invalid.

5.2.4 Effective Date. This by-law shall be effective on the date of its final passing.

PASSED in open Council this 6 day of June, 2024



MAYOR – PATRICK ROBERTS



DEPUTY CLERK – JOHANNA BERUBE

Schedule "A" to By-law 2024-15**Fee Schedule**

LICENCE TYPE	FEE	LATE FEE
Food Vendor		
Class 1 – Stationary Day	\$100 (max 7 day Licence)	\$200
Class 2 – Stationary Temporary	\$275 (max 5 month Licence – May to September) Plus \$75.00 per month	\$375
Class 3 – Ice Cream or Hotdog Cart	\$275 (seasonal) Plus \$75.00 per month	\$375

**Schedule "B" to By-law 2024 -
Designated Town Property**

Designated Location
Kelly Park

Schedule "B" to By-law 2024 –

Designated Town Property

Designated Location
Kelly Park

