

# Licence

## Chapter 0628 Refreshment Vehicles

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## Article 1 - Short Title

### 628.1.1 Citation

The short title of this Chapter is the "Mobile Refreshment Vehicles Licensing By-law."

## Article 2 - Interpretation

### 628.2.1 City - defined

"City" means The Corporation of the City of Woodstock

### 628.2.2 Council - defined

"Council" means the Council of The Corporation of the City of Woodstock.

### 628.2.3 Eating Establishment – Defined

"Eating establishment" means a building or part of a building wherein food or refreshments are offered for sale or sold to the public for immediate consumption either within the building or elsewhere, including a terrace, patio or clearly delineated open area adjacent to the building. An eating establishment may include a catering service or a take-out service. By-Law 9033-16, February 4, 2016.

### 628.2.4 Licensee - defined

"licensee" means the holder of a licence issued under this Chapter and shall include the owner/operator and operators of the mobile refreshment vehicles.

### 628.2.5 Mobile refreshment vehicle - defined

"mobile refreshment vehicle" shall include any vehicle, trailer, tricycle or grill capable of being moved from place to place whether by its own power or otherwise and designed to accommodate the sale of refreshments for human consumption therefrom. Mobile refreshment vehicle shall include all of the following classes as defined:

**Class 1** - Chip Wagon, means a trailer of sufficient size to prepare french-fries, hamburgers, hot dogs, onion rings, sausages or other similar products. By-Law 9033-16, February 4, 2016.

**Class 2** - Ice Cream Cart, means an insulated container vehicle or tricycle used to carry frozen ice cream, yogurt, popsicles or other similar products.

**Class 3** - Food Cart means a stand with a grill used to prepare hot dogs, sausages, hamburgers or other similar products.

**Class 4** - Mobile Lunch Vehicle means a vehicle used to sell prepackaged single portion food products including sandwiches, desserts or other similar products.

**Class 5** - Food Truck, means a motorized vehicle as defined by the Highway Traffic Act designed for the purpose of preparing, selling or dispensing food or drinks from the actual vehicle, intended for consumption by the general public. By-Law 9033-16, February 4, 2016.

**Class 6** – Persons operating the mobile refreshment vehicle (operators) who are not the person licenced to operate the refreshment vehicle.

**628.2.6 Municipal By-law Enforcement Officer - defined**

“Municipal By-law Enforcement Officer” means the Municipal By-law Enforcement Officer of the City or his/her representative or a member of the municipal police service for the City of Woodstock.

**628.2.7 Refreshment or refreshments - defined**

“refreshment” or “refreshments” means any item of food or drink for human consumption.

**628.2.8 Criminal record check - defined**

“Criminal record check” means a certificate issued by police services or the applicant’s local policing agency indicating criminal infractions. By-law 8747-12, April 5, 2012.

**Article 3 - General Provisions**

**628.3.1 Operation - without licence - prohibited**

No person shall sell or offer for sale any refreshment from a mobile refreshment vehicle within the limits of the City without having first obtained a licence for such mobile refreshment vehicle as provided for in this Chapter. (See Set Fine)

**628.3.2 Licence - carried - at all times**

A licensee shall, while operating a mobile refreshment vehicle business as defined by this Chapter, have with him/her the licence granted to him/her for such mobile refreshment vehicle under this Chapter and shall have same available for immediate production to any peace officer or Municipal By-Law Enforcement Officer requesting same. (See Set Fine)

**628.3.3 Failure to produce licence - deemed offence**

Failure of an operator of a mobile refreshment vehicle to produce on demand a licence issued under this Chapter for same shall constitute an offence under this Chapter.

**628.3.4 Location - other than specified – prohibited**

No person shall operate a mobile refreshment vehicle in any location other than the location specified on the approved application. By-Law 9033-16, February 4, 2016. (See Set Fine)

**628.3.5 Operation - park - other - permission – required**

No person shall sell or offer for sale any refreshment from a mobile refreshment vehicle located in any public park or on any street, highway or other public place adjacent to or bordering on a public park within the limits of the City without having first obtained specific permission of the Director of Parks and Recreation. By-Law 9033-16, February 4, 2016. (See Set Fine)

**628.3.6 Operation - public highway - obstruct the view**

No person shall operate a mobile refreshment vehicle on a public highway in front of any window of any building which obstructs the view from such building through such window or the view from outside the building through such window to any display within the building.

**628.3.7 Operation – sidewalk – boulevard – prohibited**

No person shall operate a mobile refreshment vehicle on any sidewalk or boulevard or in a manner that interferes with the normal use of a sidewalk by pedestrians. By-Law 9033-16, February 4, 2016. (See Set Fine)

**628.3.8 Operation - distance from - eating establishments**

No person shall sell or offer for sale any refreshment from a mobile refreshment vehicle within the limits of the City while such mobile vehicle is located within 91.4 metres (300 feet) of any eating establishment during the normal business hours of such business. By-Law 9033-16, February 4, 2016. (See Set Fine)

**628.3.9 Distance - from eating establishment - calculated**

The calculation of aforesaid distance of 91.4 metres (300 feet.) shall be from the closest point of the mobile refreshment vehicle to the property line of the eating establishment. By-Law 9033-16, February 4, 2016.

**628.3.10 Private Property – Operation – Written Consent**

No person shall operate a mobile refreshment vehicle on private property without the written consent of the property owner. By-Law 9033-16, February 4, 2016. (See Set Fine)

**628.3.11 Special events – private – exempt**

Mobile refreshment vehicles that are providing services to private special events on private property where the sale of refreshments are not made available to the general public or mobile refreshment vehicles that are providing services on private property on behalf of charitable events are exempt from this by-law provided that the operator has received written consent from the property owner. By-Law 9033-16, February 4, 2016.

**628.3.12 Operation – licensed vehicles – parking**

Mobile refreshment operators who are using a licenced vehicle as a mobile refreshment vehicle shall ensure that the mobile refreshment vehicle is legally parked in a parking space and is in compliance with the City’s Traffic By-law. By-Law 9033-16, February 4, 2016.

**628.3.13 Fee - per vehicle**

The per annum licence fee payable shall be: (By-law 8896-14, January 16, 2014, By-Law 9033-16, February 4, 2016.)

<b>Class</b>	<b>Description</b>	<b>Fee</b>
Class 1	Chip wagon	\$340/vehicle;
Class 2	Ice Cream Cart	\$180 for the first vehicle and \$55 for each additional vehicle of the same licence;
Class 3	Food Cart	\$180 for the first vehicle and \$55 for each additional vehicle;
Class 4	Mobile lunch wagon	\$340 per vehicle;

<b>Class</b>	<b>Description</b>	<b>Fee</b>
Class 5	Food Truck	\$360/vehicle
Class 6	Persons operating the mobile refreshment vehicle (operators) who are not the person licensed to operate the vehicle	\$30/operator

**628.3.14 Reduction - after February 15**

There shall be no reduction in the licence fee for any licence issued after the 15th day of February in any year.

**628.3.15 Design – operated - suitable - safe - sanitary**

Every person operating a mobile refreshment vehicle for the sale of refreshments shall be responsible to ensure that the mobile refreshment vehicle shall be of suitable design and operated and maintained in a safe and sanitary condition. By-Law 9033-16, February 4, 2016.

**628.3.16 Propane - vehicle - inspection**

Every person operating a mobile refreshment vehicle, which uses propane fuel for the preparation, and/or heating of food products, must have a current safety certificate and sticker provided by a vehicle inspection station licensed by the Ontario Ministry of Transportation.

**628.3.17 Insurance - minimum requirement**

No person shall operate a mobile refreshment vehicle in the City of Woodstock without first having produced a certificate of insurance confirming that a general liability policy in the amount of \$2,000,000 is in force. By-law 9233-18 – August 9, 2018

**628.3.18 Refuse container - clean - sanitary requirements**

Every licensee shall ensure that his/her mobile refreshment vehicle is equipped with:

- a. a refuse container with a self-closing lid and such container shall be kept in a clean and sanitary condition and emptied at least once daily; and
- b. a disposable litter container, which shall be replaced at least once daily; and such containers shall be used for the disposal of all refuse.

**628.3.19 Refuse container - accessible - to all persons**

Every licensee shall ensure that every refuse container is located in such a position on the mobile refreshment vehicle so as to be easily accessible to a customer.

**628.3.20 Operator – uniform**

Every person operating a mobile refreshment vehicle for the sale of refreshments shall be responsible to ensure that any person selling or offering for sale refreshments from such mobile refreshment vehicle shall:

- a. be neat, clean and tidy;
- b. wear a hair net; and
- c. wear gloves when handling and preparing raw meat, fish, or poultry.

**628.3.21 Revocation - public interest - fee - refunded**

Council may revoke any licence granted under this Chapter at any time if it deems it in the public interest to do so and, in such event; the licensee shall be given a refund of the licence fee proportionate to the unexpired term of the licence.

**628.3.22 Vehicle - attached to permanent structure – prohibited**

No person shall attach a mobile refreshment vehicle or trailer to any permanent structure as defined in the City Zoning By-law.

**628.3.23 School cafeteria - exemption**

For the purposes of Section 628.3.8 referring to distance from an eating establishment, a school cafeteria is not considered an eating establishment. By-law 8537-09, May 7, 2009.

**Article 4 - Licence - Issue – Requirements**

**628.4.1 Application - in writing - prescribed form - fee paid**

Applications must be filed in writing on the prescribed form with payment of the applicable application fee and a criminal records check. The applicant shall provide any documentation that the Clerk or designate deems appropriate. Any person requiring a licence or operating a refreshment vehicle must provide the Clerk or designate with a criminal records check. By-law 8537-09, May 7, 2009; By-law 8747-12, April 5, 2012.

**628.4.2 Application - circulated - for recommendations**

The Clerk or designate shall provide a copy of every application for the issuance or renewal of a mobile refreshment vehicle licence to such civic departments, boards, commissions, authorities or agencies as the Clerk considers may have an interest in the application; who may submit comments or recommendations to the Clerk in respect of the application within such time as the Clerk may specify.

**628.4.3 Licence - issue - signed by Clerk**

Each licence shall be issued in the name of the City and shall be granted and signed by the Clerk or designate.

**628.4.4 Issuance - rejected - conditions**

The Clerk shall issue a mobile refreshment vehicle licence to an applicant except where:

- a. there are reasonable grounds for belief that the mobile refreshment vehicle or equipment used in the carrying on of the business does not comply with the provisions of this Chapter or regulations of the board of health, the fire department or the building department;
- b. the fee payable in respect of the licence has not been paid;
- c. the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Chapter;
- d. d) the issuance of the licence would cause non-compliance with any City by-law; or
- e. e) the applicant is in default with respect to any financial or other obligation to the City.

**628.4.5 Non-issuance – disputed – refer to Appeal Tribunal**

Where a licensee or applicant disputes in writing the non-issuance of a licence or the revoking of a licence, the Clerk shall refer the disputed matter to Appeal Tribunal.

**628.4.6 Obstruction - inspection - prohibited**

No person shall obstruct a person inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by a person inspecting for the purposes of this Chapter.

**628.4.7 Issue - current year - expiry - February 15**

Each licence granted under this Chapter shall be for one year from February 15 in the current year and expire on the 15th of February one year after issuance or sooner if the licence so indicates.

**628.4.8 Renewal - by new application**

Any person requiring a new licence for a year following the date of expiry of any previous licence shall apply for the new licence in the same manner as any new applicant.

**628.4.9 Transfer - prohibited**

Licences issued under the provisions of this Chapter shall not be transferable.

**628.4.10 Cancellation - suspension - refund**

The Corporation may at any time cancel or suspend any licence issued under this Chapter and any licence fee collected for such licence shall be refunded for the period of cancellation or suspension.

**628.4.11 Cancellation - suspension - privileges - discontinued**

While any licence granted under this Chapter is suspended or cancelled, the licensee shall not exercise any right or privilege conferred by such licence and any such licensee attempting to exercise any right or privilege under such licence during such suspension or cancellation shall be liable to the same penalties and may be prosecuted in the same way as though such person had procured no such licence. By-law 8537-09, May 7, 2009.

**Article 5 - Refusal - Revocation - Suspension of Licence**

**628.5.1 Notice - issued - conditions set out**

The Clerk shall provide a notice of refusal to issue a licence to an applicant if the conditions for issuance have not been met, the Clerk determines that, the information on the licensee's application for a licence is inaccurate, the applicant has contravened a Section of this Chapter or if the applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada.

The Clerk shall provide the applicant with the written notice of refusal to issue a licence setting out the reasons for refusal, when the right to review will expire and how to apply for a review.

**628.5.2 Notice - how served**

The notice shall be served personally or by registered mail to the applicant at the address shown on the application.

**628.5.3 Application - not filed - expired without notice**

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to a review will expire without further notice.



**628.5.4 Licence fee returned - not granted - review expired**

The Clerk shall return the licence fee paid at the time of the application if the licence is not granted and the applicant's right to a review has expired.

**628.5.5 Revocation or suspension of a licence**

The Clerk shall provide a notice to revoke or suspend a licence if the licensee no longer complies with the conditions for issuance after the licence is issued, the Clerk determines that, the information on the licensee's application for the licence is inaccurate, the licensee has contravened a Section of this Chapter or if the licensee or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall give the licensee notice of the revocation or suspension in writing setting out the reasons for revocation or suspension, when the right to a review will expire and how to apply for a review. The notice shall be served personally or by registered mail to the licensee's address last on file with the Clerk.

**628.5.6 Application for review - expiry**

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to review will expire without further notice.

**628.5.7 Licence - fee - refund - pro-rated**

The Clerk shall return a pro-rated portion of the licence fee (based on the length of time the licence was in effect) of a revoked or suspended licence.

**628.5.8 Application for review - procedure - deadline**

An applicant or licensee in receipt of a notice to refuse, revoke or suspend a licence, may, within fourteen days after service of notice apply in writing for a review of notice to refuse, revoke or suspend a licence by filing the application for review with the Clerk and the provisions of Sections 628.5.10 to 628.5.21, inclusive shall apply.

**628.5.9 Report for a review of status of licensee**

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the licensee of this Chapter or other relevant considerations.

**628.5.10 Review hearing - date of**

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after the receipt of the application for review.

**628.5.11 Review hearing - notice of**

Upon determination of the review hearing date, the Clerk shall give notice in writing to the applicant or licensee, said notice to:

- a. include a statement,
  - i. as to the time, date, place and purpose of the review hearing, and
  - ii. that, if the applicant or licensee does not attend the review hearing, the Review Tribunal shall proceed in the absence of the applicant or licensee and the applicant or licensee will not be entitled to any further notice;
- b. be served personally or by registered mail to the applicant or licensee at the address last on file with the Clerk; and

- c. where the good character, propriety of conduct or competence of an applicant or licensee is an issue, contain reasonable information of any allegation with respect thereto.

**628.5.12 Review hearing - by Review Tribunal - procedure**

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The applicant or licensee may be represented at the review hearing by counsel, and the applicant or licensee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

**628.5.13 Review hearing - City - represented**

The City shall be represented at the review hearing by either the Clerk or the City Solicitor, who is entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the applicant or licensee.

**628.5.14 Review hearing - onus upon applicant**

At the review hearing, the onus shall be upon the applicant or licensee to show cause why:

- a. the licence should be granted;
- b. the licence should not be suspended or revoked; or
- c. conditions should not be imposed on the licence.

**628.5.15 Review hearing - open to public - exception**

All review hearings shall be public hearings unless the applicant or licensee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

**628.5.16 Review hearing - applicant absent - decision rendered**

Where notice of the review hearing has been served on the applicant or licensee and the applicant or licensee does not attend the hearing, the Review Tribunal may proceed with the review hearing and render a decision in the absence of the applicant or licensee.

**628.5.17 Review hearing - completion - decision rendered**

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a. confirm the Clerk's decision to refuse, revoke or suspend the licence;
- b. reject the Clerk's decision and order the Clerk to issue a licence; or
- c. reject the Clerk's decision to revoke or suspend the licence.

**628.5.18 Licence - conditions - imposed**

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the applicant or licensee as a requirement to hold a licence on such terms as are deemed just.

**628.5.19 Review Tribunal - decision final - binding**

The Review Tribunal's decision shall be final and binding.

**628.5.20 Review Tribunal - decision in writing**

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

### **628.5.21 Waiver of hearing**

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a. without a hearing; or
- b. without compliance with any other requirements of the Statutory Powers Procedure Act, as amended, or of this Chapter,

where the applicant or licensee has waived such hearing or compliance.

### **628.5.22 Review Tribunal - decision - notification procedure**

The Clerk shall notify the applicant or licensee of the decision by serving a copy personally or by registered mail to:

- a. the applicant or licensee at the address shown on the application, or last on file with the Clerk; or
- b. the counsel or agent of the applicant or licensee, if any, at the address as stated to the Review Tribunal.

### **628.5.23 Licence - continued until expired**

If the decision rendered is to reject the Clerk's decision, the licence shall be issued or in the case of a notice to suspend or revoke the licence shall continue until its expiry date.

### **628.5.24 Licence - suspended or revoked - authority**

If the decision is to confirm the Clerk's decision to suspend or revoke the licence, the licensee shall within twenty-four hours of service of notice by registered mail, or immediately if the notice is personally served, return the licence to the Clerk and the Clerk shall have access to any premises or other property of the licensee for the purpose of receiving or taking the same.

### **628.5.25 Conditions - imposed - acceptance confirmed**

If the decision is to confirm the Clerk's decision to impose conditions on the licence, the licensee shall within twenty-four hours of service of notice by registered mail or immediately if the notice is personally served, advise the Clerk as to his or her acceptance of the conditions.

### **628.5.26 Service of notice - by registered mail**

Service of a notice by registered mail is effective on the fifth day after the document is mailed. By-law 8774-12, June 7, 2012.

## **Article 6 - Enforcement**

### **628.6.1 Fine - for contravention**

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the Provincial Offences Act.

### **628.6.2 Separate offence - daily**

Each day a violation of this Chapter continues shall constitute a separate and distinct offence under this Chapter.

## **Article 7 - Repeal - Enactment**

### **628.7.1 By-law - previous**

All previous by-laws regarding mobile refreshment vehicle licensing are hereby repealed.

### **628.7.2 Effective date**

This Chapter shall come into force and take effect as of third and final reading of the enabling by-law. By-law 8537-09, May 7, 2009