



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | June 6, 2017 |
| SUBJECT/REPORT NO: | Business Licensing By-law 07-170 – Review and Replacement of Food Service Vehicles (Schedule 6) (PED17057) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Monica Ciriello (905) 546-2424 Ext. 6656 |
| SUBMITTED BY: | Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATIONS

- (a) That the Business Licensing By-law 07-170 be amended by replacing Food Service Vehicles (Schedule 6) with the draft By-law attached as Appendix “A” to Report PED17057, which has been prepared in a form satisfactory to the City Solicitor;
- (b) That, subject to the approval of recommendation (a), the fire inspection fee of \$156 be removed as a requirement for Schedule 6;
- (c) That, subject to the approval of recommendation (a), a four day licence fee of \$250 be approved and added to the User Fees and Charges By-law; and
- (d) That, subject to the approval of recommendation (a), the parks project be made permanent and administered by the Licensing Division and a fee of \$200 for access to eight predetermined parks be approved and added to the User Fees and Charges By-law.

EXECUTIVE SUMMARY

Food Service Vehicles are licensed by the City to ensure public health and safety and consumer protection. The proposed amendments to Schedule 6 concentrate on Open for Business initiatives by introducing a four day licence, access to eight City parks available as option with an annual Food Service Vehicles licence, and the removal of the fire inspection fee.

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The review and rewrite of the Business Licensing By-law is a key element of Planning and Economic Development's (PED) ongoing Open for Business initiative. The primary objectives of reviewing the City's Business Licensing By-law 07-170 (Licensing By-law) is to modernize our approach, increase clarity, address emerging issues and remove unnecessary regulation. This report proposes changes to the Food Service Vehicle (Schedule 6) in line with the overall Licensing By-law review objective.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The report is not proposing any changes to the current Class A, Class B or Class C licence fee.

The removal of the fire inspection fee, which is required every three years for Class A Food Service Vehicles will result in a minimal loss of \$1,560 every three years, as outlined in Table 1.

Table 1:

| # of Licences for Class A | Fire Fee every 3 years | Total Loss |
|----------------------------------|-------------------------------|-------------------|
| 10 | \$156 | \$1,560 |

A four consecutive day licence is being proposed at the cost of \$250. This fee has been calculated based upon the estimated staff time required to administer and enforce the licence. At this point, it is difficult to determine the number of licences that will be issued.

Access to eight City parks as an option is being proposed at a cost of \$200. This fee has been calculated based upon the estimated staff time required to administer and monitor this program. It is difficult to determine the number of park permits that will be issued per year, however based on the previous park permit pilot, staff estimate that applications for the park option will generate approximately \$2,000 per year.

Staffing: The proposed changes to Food Service Vehicles (Schedule 6) will have little to no impact on staff time, as administration and enforcement of this Schedule is still required.

Legal: N/A

HISTORICAL BACKGROUND

The *Municipal Act, 2001* provides Council with the authority to regulate any business, wholly or in part, carried out within its jurisdiction, including the authority to license. The justifications for licensing certain types of businesses generally relate to the health and safety of the community, consumer protection and nuisance control. The current Licensing By-law is a compilation of amendments passed by Council over many years and currently contains licensing categories and requirements that no longer serve its original municipal purpose.

The review and rewrite of the Business Licensing By-Law is a key element of the Planning and Economic Development Department's on-going Open for Business initiative. The primary objective of rewriting the By-law is to delete duplication, increase clarity and ease of understanding / clarify intent, remove unnecessary regulation and improve overall readability. In addition, the rewrite will reflect new policy and regulatory initiatives and address emerging issues and trends within the Hamilton community, including the Sharing Economy.

In 2012 staff addressed the first wave of changes in the mobile food service industry by preparing the current Food Service Vehicles (Schedule 6) which replaced the Refreshment Vehicle Schedule. Upon examination of the Food Service Vehicle Schedule it was determined that this Schedule should remain with minor amendments, as it continues to be a useful tool to promote health and safety and consumer protection.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Internal consultations were consulted in the preparation of this Report include:

Planning and Economic Development

- Parking Services
- Tourism and Culture Division
- Planning Division
- Building Division
- Small Business Enterprise Centre

Public Health Services

- Healthy Environments Division

Public Works Department

Transportation and Facility Management

Capital Programs Section

Transportation Division & Office of the Associate General Manager

Policy & Program Section

Hamilton Fire Department

Fire Prevention Division

Corporate Services

Financial Services

Legal Services

External consultations in preparation of this Report include: Food Service Vehicle licence holders through a survey and the BIA Advisory Committee.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As the Food Service Vehicle industry is expanding in Hamilton, in both the number of vehicles and the public's interest, it was necessary to conduct a review of this Schedule. It was determined that Food Service Vehicles should continue to be licensed as this is a useful tool to protect public health and safety and provide consumer protection for all those to enjoy the mobile food service industry.

Appendix "B", attached to Report PED17057, shows the number of Food Service Vehicle licences held each year in the City from 2001 to the date of drafting this report - note that from 2001-2012 these were licensed as Refreshment Vehicles. Appendix "C" attached to Report PED17057 provides a jurisdictional scan of the licensing practices of 33 Ontario municipalities regarding Food Service Vehicles. It demonstrates that 29 other municipalities have a similar licensing category. Since 2012 when the Food Service Vehicles Schedule was passed, there have been eight convictions under this licensing category for operating without a licence.

Following internal and external consultation the following amendments are being proposed to the Food Service Vehicles Schedule:

Fire Fee / Inspection

Following internal consultation, staff is proposing to remove the fire inspection fee of \$156, paid every three years, for all Class A Food Service Vehicles. The inspection to ensure that Class A and Class B Food Service Vehicles are equipped with a 2A10BC or equivalent fire extinguisher system will be completed by a Municipal Officer at no additional cost to the license holder.

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Access to City Parks Option

In 2014, Council approved the implementation of a pilot program by the Public Works Department for food service vehicles in seven parks, with Valley Park being added for 2015 / 2016. The pilot program ran for two years from May 1 – September 1, see Appendix “D” attached to Report PED17057. After reviewing the results and effectiveness of the pilot, staff determined that the pilot park permit would be best operated within the Licensing and By-law Division to better use City resources as well as more cost effective for the Food Service Vehicles.

Staff is proposing to designate the same eight parks identified by Public Works in the 2014-2016 pilot as they are zoned to permit restaurant use, do not have an established volunteer group selling concession items, have a high volume of visitors, and are regularly monitored by City staff. The eight parks are:

- Bayfront Park
- Pier 4 Park
- Confederation Beach Park
- Heritage Green Community Sports Park
- Turner Park
- Sam Lawrence Park
- Gage Park
- Valley Park

The Licensing and By-law Services Division is proposing to administer this option permanently as an addition to any Class B or C Food Service Vehicle. Public Work’s staff found that many Food Service Vehicles preferred to operate into the spring and fall season. Based on this feedback, staff is proposing to make the park option available for one year for the cost of \$200 annually. As a condition of the park option, a maximum of three Food Service Vehicles per park is being proposed on a first come first serve basis. With regards to parking at the eight parks, Licensing and By-law Services is proposing to follow the model used in the pilot: Bayfront Park, Pier 4 Park, Confederation Beach Park, Gage Park and Sam Lawrence Park all have designated areas for Food Service Vehicles to park while Heritage Green Community Sports Park, Turner Park and Valley Park allowed vendors to park anywhere in the parking lot. When a Food Service Vehicle applies for the park option, staff will provide them with a copy of a map outlining where they can park.

The permit would not be available to Class A Vehicles or Food Service Vehicle’s with a four day licence. In addition, Licensing and By-law Staff will work with Recreation staff to compile a list of sport tournaments which do not currently offer food vendors at the eligible park, as well as the Special Events team for all special events which are held in parks. This list will be provided to the Food Service Vehicle’s with a park option.

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Four Day Licence Option

To aid in the promotion of our Open for Business initiative, staff is proposing the creation of a four Day Licence to be used on consecutive days. Based on survey feedback from the Food Service Vehicle industry, licence holders indicated that they want the option of a weekend licence. The cost for the four Day Licence is \$250 and would be available for only Class B and C Food Service Vehicle Licences compared to \$530 and \$450 respectively for annual licences. It is expected that this licence will be used by Food Service Vehicles that only come to the City once a year.

In addition, following comments from the Food Service Vehicle industry, the Licensing and By-law Services Division will be working to create an easy to use online resource tool for those looking to start a Food Service Vehicle in the City. The online resource tool will also including information about when and where licensed Food Service Vehicles can operate in the City.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A”: Draft By-law amending the Business Licensing By-law

Appendix “B”: Total Number of Licences: 2001-2017

Appendix “C”: Jurisdictional Scan of Municipalities with Food Service Vehicle Licences

Appendix “D”: Public Works Food Service Vehicle Pilot Program

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