



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 17, 2018
<b>SUBJECT/REPORT NO:</b>	Hess Village Paid Duty Policing (PED18081) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Ken Leendertse (905) 546-2424 Ext. 3059
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the Business Licensing By-law 07-170 be amended to include the draft By-law "Food Premises" (Schedule 21), attached as Appendix "A" to Report PED18081, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (b) That the item respecting the Paid Duty Policing Program in Hess Village be identified as complete and removed from the Planning Committee Outstanding Business List.

**EXECUTIVE SUMMARY**

At its meeting on September 27, 2017 Council directed staff to address the issue of declining establishments paying into the Paid Duty Policing Program in Hess Village and report back to the Planning Committee 45 days before the start of the 2018 Paid Duty Policing season with solutions.

Over the past few years, several bars / nightclubs have closed early or have changed their seating capacity to seek exclusion under the current Licensing By-law to avoid paying the Paid Duty Policing Fees. This has resulted in only a few businesses carrying the full cost of Paid Duty Policing in Hess Village.

Working with the stakeholders, staff is recommending that all business license holders, that serve alcohol in the Hess Village Entertainment District, share the cost of Paid Duty Policing Fees regardless of operational hours or seating capacity, therefore voiding the exemption under the current By-law afforded to these businesses.

***Alternatives for Consideration – See Page 5***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / Staffing / Legal: N/A

**HISTORICAL BACKGROUND**

The Paid Duty Policing Program was initiated in the year 2000, when the cost was shared between the Hess Village merchants and the Hamilton Police Service (HPS). Only those establishments serving alcohol participated in this Program. It was based on a verbal agreement between these merchants and the HPS, independent of City By-laws. The Program was formally established in a City By-law in 2005, which required the use of Paid Duty Officers as a special condition of the business licence. Licensing By-laws may include conditions that impose costs which are not part of the licensing fee; in this case, paid duty fees are set by the HPS. The cost sharing arrangement between the merchants and the HPS continued, with half of the Paid Duty Officers (i.e. one Sergeant and three Constables) paid for by the Hess Village merchants through paid duty fees and the other half (i.e. four Constables) paid for by the HPS through its overtime budget. This 50-50 cost sharing model changed following the comprehensive Hess Village Review conducted in 2009.

A series of recommendations were approved by Council on May 21, 2009 through the Hess Village Review (Report PED09127). On the cost sharing issue, the By-law continued to require each Hess Village merchant to contribute their pro-rated share based on the total capacity of their liquor licence, to the cost of Paid Duty Officers. However, the Report notes that although it had been shared in the past, the cost of Paid Duty Officers now would be covered completely by the Hess Village merchants.

In 2015, a two year Hess Village Paid Duty Proportional Fund Sharing Pilot Program was established for the paid duty patio season to cover 50 percent of the cost of Paid Duty Policing through the Tax Stabilization Reserve. The Program ended in 2017 and the results of the pilot indicated an additional decline in attendance at Hess Village and relief for the merchants from increased operating costs (PED17033). The 2017 Hess Village season returned with merchants paying the full costs of Paid Duty Policing.

In September 2017, Council further amended the Business Licensing By-law so that the Hess Village bar / nightclub operators would pay for three Special Duty Police Officers and ½ Sergeant for the Hess Village Entertainment District each Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning May 24 weekend through to the end of

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September. It is estimated this will reduce the cost of Paid Duty Policing to approximately \$50,000 per year.

### **Public Consultation**

Restaurant / bar / nightclub business license holders in the Hess Village Entertainment District were invited to attend a Public Consultation on January 31, 2018 seeking input on the Paid Duty Policing Program. There were nine representatives from 13 establishments that attended the meeting. Following a lively discussion, the following points were drawn from this meeting.

1. Of all the identified Entertainment Districts in Canada and Ontario, no other city has a By-law that requires the merchants to hire and pay for Paid Duty Policing.
2. With the current taxes the merchants pay and the value they add to the City's Entertainment and Tourist industry, policing cost should be covered under the current HPS or City Budgets.
3. The license holders are supportive of Paid Duty Policing in Hess Village, and the designation of being an Entertainment District, but the additional \$50,000 Paid Duty Policing costs should be part of the HPS or City Budgets.
4. If Paid Duty Policing Fees are required to be paid then all business license holders, including those who do not serve alcohol, should share the cost based on a pro-rated basis.
5. If Paid Duty Policing Fees are to be shared and items 3 and 4 above are not considered, then the fee must be pro-rated amongst all licensed establishments that serve alcohol regardless of time of operation or seating capacity.

All other business license holders, who currently do not serve alcohol, were invited to attend a Public Consultation on March 2, 2018. Of the additional four licensed businesses that are included in the Hess Village Entertainment District, no establishment attended this meeting.

### **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

A change in the Business Licensing By-law 07-170, "Food Premise" (Schedule 21) would close any exemptions for an Alcohol and Gaming Commission (AGCO) licensed premise from seeking an exclusion from paying the Paid Duty Policing Fees as pro-rated.

## **RELEVANT CONSULTATION**

Hamilton Police Services and Business Licence Holders in the Hess Village Entertainment District were consulted in the preparation of this Report. Legal Services has been consulted in relation to the preparation of the draft by-law.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

In 2010, there were 17 establishments sharing the cost of Paid Duty Policing Fees in Hess Village. This slowly declined with a reduction to 15 in 2012 and a further reduction to 13 in 2016. In 2017, there were nine businesses sharing the cost of the Paid Duty Policing Program at Hess Village as several businesses increased their seating capacity to be classified as a restaurant, while others closed early to be excluded from the fees.

Over the period of the past eight years, more restaurants have come into Hess Village and similar entertainment districts have developed throughout the City including areas such as Augusta Street, King William Street and James Street North. Although these locations are not designated by Zoning as an Entertainment District, the impact has caused a decline in attendance for Hess Village creating financial hardship for the merchants to pay additional policing fees.

Recognizing the impact on Hess Village, Council approved a cost sharing pilot project in 2015 to assist the Hess Village business licence holders with the Paid Duty Policing Fees. Further, working with HPS, Council was further able to reduce the amount of the policing costs by reducing mandatory hours and Officer staffing numbers to better reflect the current policing deployment at Hess Village. It is now believed the additional yearly cost to be approximately \$50,000.

In addition to reducing the Paid Duty Policing Fees, Council also requested a solution to close the perceived loop-hole in the By-law that allowed businesses to increase their seating or close early to be excluded from paying the policing fees.

The proposed model would be inclusive of all restaurants / bars / nightclubs that currently are licensed under the AGCO and under the City's Business Licensing By-law. The following chart depicts the approximate costs per year based on their liquor license capacity.

Business	Address	Capacity- Liquor (Indoor)	%	Approx. Cost at \$50,000
Masque	13 Hess St. S.	179	4%	\$ 2,000
Trust	15 Hess St. S.	446	10%	\$ 5,000
Ora	18 Hess St. S.	381	9%	\$ 4,500
Lazy Flamingo	19 Hess St. S.	237	5%	\$ 2,500
Gown and Gavel	24 Hess St. S.	543	12%	\$ 6,000
Sizzle	25 Hess St. S.	1,363	32%	\$ 16,000
Koi	27 Hess St. S.	see Sizzle		
Kitchen Bleu	32 Hess St. S.	234	5%	\$ 2,500
Agave Mex-I-Can	34 Hess St. S.	150	3%	\$ 1,500
Che Burrito	38 Hess St. S.	143	3%	\$ 1,500
Side Bar	96 George St.	97	2%	\$ 1,000
Moody's	107 George St.	278	7%	\$ 3,500
Big Tobacco	109 George St.	80	2%	\$ 1,000
Lou Dawg's	116 George St.	250	6%	\$ 3,000
		<b>4,381</b>	<b>100%</b>	<b>\$ 50,000</b>

## **ALTERNATIVES FOR CONSIDERATION**

### **Option 1**

#### **Increase Police Services Budget by \$50,000**

This option would increase the HPS Budget in the amount of revenue anticipated by Paid Duty Policing Fees, but would put the deployment of resources and the monitoring of the Paid Duty Program directly back onto HPS. The Paid Duty Policing Program would not be eliminated, but the fee collection process for Paid Duty Policing would no longer be necessary and City staff and the Business Licensing process would not be used as a collection mechanism.

The cost for City staff to administer the current Paid Duty Policing Program exceeds the costs paid by the Hess Village Entertainment District license holders. The administrative functions from HPS, Corporate Services (Finance), Legal Services, Licensing and By-Law Services (enforcement, suspensions and tribunal preparation) and Councillors on the Tribunal would no longer be focused on the collection of fees for Paid Duty Policing.

This option would ensure the Paid Duty Policing Program continues to ensure public safety, while eliminating the significant time and resources required in administering the current Paid Duty Policing Program and would create fairness for this Entertainment District.

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**Option 2****Share Cost of Paid Duty Policing with all Business License Holders**

Although citizens that attend Hess Village are mostly drawn by the business license holders that sell alcohol, the remaining businesses in the Entertainment District benefit from the additional consumers and policing. There is justification in sharing the costs with all business license holders based on their current fire code capacity. This would further spread out the costs for policing to additional merchants and lessen the impact of Paid Duty Policing Fees. Although never included in paying for the additional policing, all the business license holders who do not sell alcohol do benefit from additional policing. The following chart depicts the cost sharing for this option including both establishments licensed under the AGCO and also under the City's Business Licensing By-law without liquor sales based on seating capacity under the Fire Code.

Businesses that have no occupancy load are assigned 1% contribution as recognition of receiving benefits from additional policing.

Business	Address	Seating Capacity- Fire	Approx. % Pro-rated	Approx. Cost At \$50,000
Hamilton Tattoo	32 Hess St. S.	No occupant load established	1%	\$ 500
Laser Spa Group	34 Hess St. S.	No occupant load established	1%	\$ 500
Smoke's Pouteniere	112 George St.	20	1%	\$ 500
Tim Horton's	235 King St. W.	No file	1%	\$ 500
Big Bee	215 King St. W.	No occupant load established	1%	\$ 500
Masque	13 Hess St. S.	24	1%	\$ 500
Trust	15 Hess St. S.	476	18%	\$ 9,000
Ora	18 Hess St. S.	277	10%	\$ 5,000
Lazy Flamingo	19 Hess St. S.	92	4%	\$ 2,000
Gown and Gavel	24 Hess St. S.	191	8%	\$ 4,000
Sizzle	25 Hess St. S.	568	20%	\$ 10,000
Koi	27 Hess St. S.	325	12%	\$ 6,000
Kitchen Bleu	32 Hess St. S.	100	4%	\$ 2,000
Agave Mex-I-Can	34 Hess St. S.	66	3%	\$ 1,000
Che Burrito	38 Hess St. S.	93	4%	\$ 2,000
Side Bar	96 George St.	58	2%	\$ 1,000
Moody's	107 George St.	161	5%	\$ 3,000
Big Tobacco	109 George St.	40	2%	\$ 1,000
Lou Dawg's	116 George St.	40	2%	\$ 1,000
		<b>2,531</b>	<b>100%</b>	<b>\$50,000</b>

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**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**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”: Amending By-law Replacing Schedule 21 (Food Premises)

KL:st