

March 27, 2012

Mayor Bob Bratina, Members of the Planning Committee
and all City Councillors
Hamilton City Hall
2nd floor - 71 Main St. West
Hamilton, ON L8P 4Y5

VIA EMAIL

Dear Mayor and Members of Council:

On behalf of The Ontario Restaurant Hotel & Motel Association, (ORHMA) I am writing in regard to the Planning Committee's outstanding business item DD as it relates to a Food Truck Pilot Project in the City of Hamilton. ORHMA is aware that the committee is considering this concept with a proposed due date of June 19, 2012.

The Ontario Restaurant Hotel & Motel Association (ORHMA) is the largest provincial hospitality Association in Canada. With over 4,000 members, representing more than 11,000 establishments across the province, the ORHMA is uniquely positioned to represent the industry's interests at both the Provincial and Municipal levels of government. Please consider our comments as provided herein.

Despite the rise in popularity of food trucks in American cities, the local restaurant groups there have spoken out on the unfair playing field and disadvantages of a food truck operation against the expense of running a brick and mortar restaurant. Debates on regulating food trucks have occurred in every city and are still occurring and this type of business seems to be succeeding. Restaurants contribute significantly to the culture and economy of a city, so it is imperative that regulation of this new mobile element of the industry is drafted with the intention of maintaining the confidence of restaurateurs that municipalities value the presence of a strong food service industry in the form of traditional brick and mortar establishments.

Data on the business of food trucks in Canada in particular is scarce. A Globe and Mail article in the fall of 2011 sites that food trucks typically bank a profit equivalent to about 40 per cent of sales. For a bricks-and-mortar restaurant, the average profit is closer to 4 per cent on the high end. The relatively low entry costs for food trucks are a motivating factor for these businesses and the mobility gives operators an edge over bricks-and-mortar restaurants. The notion that the trucks attract people to a certain location is arguable, as they tend to gravitate to where the people are—they're not stuck in a location that can't make money.

Food Truck operators are calling for loosened regulations and a reduction in the number of restrictions they are currently faced with when attempting to sell their wares on the streets of any given municipality. ORHMA contends that such restrictions and regulations are necessary for the safe and fair operation of any food service establishment – mobile or not. Any such



loosening of the laws must first consider the health and safety of the community as well as the unfair playing field that would be created for bricks and mortar food service establishments already operating at great expense within the community.

Significant Issues facing the Restaurant Sector must be considered if food trucks are to be regulated in Ontario Municipalities:

- Pressures from weakening economy have not been kind to the restaurant industry. The slim margins and increases to top line expenses that are currently seen will only continue to waiver by the competition from the food truck concept.
- Unpredictability of when and where a food truck may show up, creates an unfair disadvantage for brick and mortar restaurants – this level of competition must be addressed by permits and regulations guiding when and where a food truck can operate.
- Unfair playing field of start up and operational costs and permit burdens.
- Restaurants have contributed to cities economies for many years with fixed expenses and have been paying taxes.
- Municipalities need to consider the impact of mobile revenues wherein mobile units from “out of town” wheel in for a day, make their money and take their profits with them – where is the economic or social benefit for the municipality?
- Brick and mortar eateries concerned the trucks costing less to operate than traditional restaurants have an unfair edge over the restaurants that:
 - Pay high property taxes and premium rents;
 - Employ locals, including many youth and students;
 - Start up operational costs are much higher, including licensing, permitting and inspection compliance requirements;
 - A typical restaurant has the expense of marketing their location and drawing customers to the location;
 - Long term leasing/capital expenses.

Standard Health Inspections are mandated and routinely performed on general food business establishments, institutional food service establishments, mobile food premises and child nourishment programs for compliance with the Ontario Food Premises Regulations.(see Appendix A for copy of Provincial Regulations). ORHMA supports a strong Health Inspection presence for mobile food units.

In addition to the health regulations, the following regulatory considerations must be extended to food trucks in every municipality:

Food Safety

- City ordinances regulating class of trucks ranging from those which sell pre-packaged/prepared foods to those with chefs that prepare food directly inside the trucks.
- Standard rules and frequency of health inspections.

- Mobile eateries to adhere to inspection signage regulations.

Locations away from restaurant traffic blocks

- Keep food trucks at least 100 meters away from restaurants – otherwise require written consent of restaurant operator to locate within distance less than 100 meters.
- Limit how many food trucks can park per acre: One truck per half-acre or less, two trucks on lots between one-half and one acre and three for lots between one and two acres. There is no maximum on lots that are more than two acres, as in the case of a special event.
- Not allowed to occupy any parking spaces that are needed to meet the requirements for principal use of a property.
- Plan to tie food trucks with parking violations and permanently revoke permits.
- No commercial activity at a parking meter -parking meters are for customers as to allow commercial activity-it will directly compete with business needs of traditional inline business.
- Not allow in downtowns, entertainment districts and theme districts with high intensification of restaurants (ie: "Chinatown").
- Limit trucks to pre-approved vending spots that meet the aforementioned restrictions.

Hours of Operation in same location

- Hours of operation should be limited.
- Restriction on length of time trucks can stay in one place , how far these can move when time is up.
- Stay mobile and stay in one location no more than 15 minutes.
- Not allowed to move to a second location within same block or general vicinity.

Permits

- Municipalities are encouraged to make permitting a mandatory requirement for operators and permits should be conditional for period of time no greater than one year in order to allow the city to evaluate success of food truck presence and to address any concerns/problems stemming from imposition of guidelines. A mandatory review of the system is encouraged within a prescribed timeline of issuance of first permit.
- Permits approval process should be subject to all appropriate municipal inspections.
- By-laws requiring trucks to apply for fixed site permits - with rules referring to a specified location of business in permit issued.
- Compromise discussion in city development zones where trucks can have a one day at the park to lessen impact on restaurants.
- Property owner and vendor would have to obtain a zoning permit.

Prevent crowds and late night disturbances.

- Food trucks would not be allowed to have amplified sound or signs on sidewalks.
- Not allowed to set up outdoor seating areas.



- Since many of these are run by diesel emissions and are running all day and all night this will lead to unpleasant environment in smoke and vibrations - emissions must be minimized.
- Address requirements for garbage disposal, parking, safety and traffic.

We would ask that the Committee and Council please consider these issues in your deliberations over the scope of a food truck pilot project in the City of Hamilton. We would be happy to address any of the issues contained within this letter or any other questions you may have of the foodservice industry on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Elenis", is positioned below the word "Sincerely,".

Tony Elenis
President & CEO
Ontario Restaurant Hotel & Motel Association