

Authority: Item 1, Committee of the Whole
Report 09-015 (PED09127)
CM: May 27, 2009

Bill No. 111

CITY OF HAMILTON

BY-LAW NO. 09-111

To Repeal By-law No. 06-234, a By-law to Regulate Restaurant and Public Halls in the Hess Village Entertainment District and to Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for a technical amendment to the General Provisions of City of Hamilton By-law No. 07-170 respecting the circulation applications for licences and for the incorporation of City of Hamilton By-law No. 06-234 to regulate Restaurants and Public Halls in the Hess Village Entertainment District into City of Hamilton By-law No. 07-170;

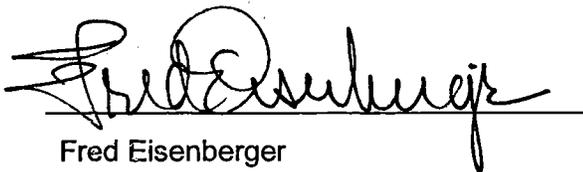
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Section 11 of the General Provisions of By-law No. 07-170 is deleted and replaced by the following new section 11:
 - 11.(1)The Issuer of Licences upon receipt of a proper, completed application and payment of fees for a new licence under this By-law:
 - (a) shall circulate the application to the departments as marked in the affirmative in Appendix "A" to this By-law; and
 - (b) may, in addition, circulate the application to such City or provincial departments or agencies as the Issuer of Licences deems necessary, or as directed by Council.

- (2) The Issuer of Licences upon receipt of a proper, completed application and payment of fees for the renewal of a licence under this By-law:
 - (a) shall circulate the application to the departments as marked in the affirmative in Appendix "B" to this By-law; and
 - (b) may, in addition, circulate the application to such City or provincial departments or agencies as the Issuer of Licences deems necessary, or as directed by Council.
 - (3) Departments or agencies to which the application is provided under subsections (1) or (2), shall review obtainable information and provide the Issuer of Licences with comments or compliance reports on whether the information indicates non-compliance with an applicable law which the department or agency enforces and which applies to the proposed business, and where an inspection is made, shall provide the Issuer of Licences with a report on any non-compliance found as a result of that inspection.
 - (4) Where, under this By-law an applicant or licensee is to be tested, the City department responsible for the testing shall conduct the test or provide an opportunity for taking the test, and provide the Issuer of Licences with the test results.
 - (5) Applicants and licensees, as a condition of obtaining or continuing to hold a licence, shall permit inspections or inquiries by representatives of the departments or agencies circulated under subsections (1) and (2) as may be reasonably requested, and shall undertake the tests referred to in subsection (4).
 - (6) Fees which are required to be paid for the making of an inspection or the conducting of a test under subsections (4) and (5) as prescribed in Schedule 31 or the City's User Fees and Charges By-law may be collected by the Issuer of Licences before a licence is issued or renewed.
 - (7) The Issuer of Licences may send notice of the comments or other response from the departments or agencies received under this section to the applicant or licensee.
2. Paragraph 12(1)(b) of the General Provisions of By-law No. 07-170 is amended by deleting ", By-law 06-234".

3. Section 31 of the General Provisions of By-law No. 07-170 is amended by deleting the sentence "City of Hamilton By-law No. 06-234 is not repealed."
4. The General Provisions of By-law No. 07-170 are amended by adding the following new section 32 after section 31 and renumbering the subsequent sections accordingly:
 32. City of Hamilton By-law No. 06-234 is repealed.
5. By-law No. 07-170 is amended by adding the new Schedule 21.1, entitled "Hess Village Entertainment District", attached as Appendix A to this By-law after Schedule 21, entitled "Restaurant and Food Shops".
6. All decisions made by the Chief of Hamilton Police Services under By-law No. 06-234 shall continue to be current and valid under the new Schedule 21.1 until changed by him or her under the new Schedule.
7. All fees owed under By-law No. 06-234 shall continue to be owed under the new Schedule 21.1 and are subject to all of the applicable provisions of By-law No. 07-170 and the new Schedule.
8. This By-law comes into force on the day it is passed.

PASSED and ENACTED this 27th day of May, 2009.



Fred Eisenberger

Mayor



Rose Caterini

Acting City Clerk

APPENDIX A

SCHEDULE 21.1

HESS VILLAGE ENTERTAINMENT DISTRICT

PART I: DEFINITIONS

1. In this Schedule:
 - (a) **“food shop”** means a food shop under Schedule 21 of this By-law;
 - (b) **“Hess Village Entertainment District”** means the geographic area in the City bordered by Caroline Street to the East, Main Street to the South, Queen Street to the West and King Street to North as shown in the map attached as Appendix A to this Schedule;
 - (c) **“place of amusement”** means a place of amusement under Schedule 17 of this By-law;
 - (d) **“public hall”** means a public hall under Schedule 17 of this By-law;
 - (e) **“restaurant”** means a restaurant under Schedule 21 of this By-law; and
 - (f) **“Special Duty Police Officer”** means a police officer who is a member of Hamilton Police Services.

PART II: SCOPE

2. This Schedule applies food shop, place of amusement, public halls and restaurant licence holders whose establishments are located in the Hess Village Entertainment District:
 - (a) which has the highest concentration, in terms capacity, of bars and nightclubs, many with outdoor patios, in the City; and
 - (b) where, from April 15 to October 31 each year there are a large number of individuals attending such bars and nightclubs resulting in:

- (i) significant noise, litter and other nuisances, such as urination in public places in and around the Hess Village Entertainment District;
- (ii) line-ups to enter the bars and nightclubs that pose a safety risk to pedestrian and vehicular traffic, including inhibiting the flow of traffic along Hess Street; and
- (iii) additional issues related to nuisance and safety resulting from the large number of individuals in attendance and the consumption of alcohol, in particular when such bars and nightclubs close and these individuals exit en masse.

PART III: DUTIES OF LICENCE HOLDERS

3. Food shop, place of amusement, public halls and restaurant licence holders shall retain a minimum of ten (10) Special Duty Police Officers for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending October 31 each calendar year.
4. Notwithstanding section 3, the Chief of Hamilton Police Services, or his or her designate, may:
 - (a) change the commencement date of April 15 or the ending date October 31 by giving forty-eight (48) hours prior notice to each food shop, place of amusement, public halls and restaurant licence holder;
 - (b) suspend the requirement to retain Special Duty Police Officers for any day or time period where he or she decides that such Special Duty Police Officers are not required for public safety, nuisance control or public protection or where such Special Duty Police Officers are not available;
 - (c) after consultation with the Issuer of Licences, increase or decrease the number of Special Duty Police Officers by giving thirty (30) days prior written notice to each food shop, place of amusement, public halls and restaurant licence holder.
5. Every food shop, place of amusement, public halls and restaurant licence holder shall contribute a pro rated share, based on the total capacity of their establishment under their liquor licence, to the cost of the Special Duty Police Officers required under section 3, as may

be changed under section 4, and their licence shall be conditional on such contribution being paid in full in a timely fashion.

6. Every food shop, place of amusement, public halls and restaurant licence holder shall submit to the Issuer of Licences, when submitting an application to renew their licence or at such other times as the Issuer of Licences may require, a certificate from Hamilton Police Services evidencing their compliance with section 5.



Legend
 BOUNDARIES
 NORTH - KING ST W
 EAST - CAROLINE ST S
 SOUTH - MAIN ST W
 WEST - QUEEN ST S

Appendix A to Schedule 21.1
 to By-Law 07-170

HESS VILLAGE
 ENTERTAINMENT DISTRICT

Date:
 April 3, 2009



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
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