

Authority: Item 6, Planning Committee
Report 17-005 (PED17044)
CM: March 29, 2017
Wards: City Wide
Bill No. 056

CITY OF HAMILTON

BY-LAW NO. 17-056

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 deletes and replaces Schedule 27 – Tobacco Retailers;

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

1. Schedule 27 of By-law No. 07-170 is repealed and replaced with Appendix “A” attached hereto.
2. The General Provisions of By-law No.17-170 is amended by replacing:
 - (a) “Tobacco Retailers” with “Tobacco and Electronic Cigarette Retailers” in section 5(6).
 - (b) “Tobacco Retailers” with “Tobacco and Electronic Cigarette Retailers” in section 30.
3. Despite the repeal of Schedule 27 under section 1:
 - (a) the Schedule shall continue to apply to proceedings in respect of offences that occurred before its repeal; and,
 - (b) all licences issued under the Schedule that are in effect at the time of the repeal shall be deemed to be licences as issued under this Schedule, and all necessary modifications, and all the rules, requirements and regulations of this Schedule shall apply.

4. This By-law comes into force on the day it is passed.

PASSED this 29th day of March, 2017.

F. Eisenberger
Mayor

R. Caterini
City Clerk

SCHEDULE 27

TOBACCO AND ELECTRONIC CIGARETTE RETAILERS

DEFINITIONS

1. In this Schedule:
 - “**electronic cigarette**” has the same meaning as in the *Electronic Cigarettes Act, 2015*;
 - “**operator**” means a person who owns, operates, manages, supervises, controls or is responsible for premises selling tobacco, cigars, cigarettes, or electronic cigarettes at retail;
 - “**licence holder**” means an operator who holds a current and valid licence under this Schedule; and,
 - “**premises**” includes any building, booth, or stall, or a portion thereof where goods are exposed for sale such as a shop or store.

GENERAL PROHIBITIONS

2. No operator shall operate without a licence to do so.
3. No person shall sell tobacco, cigars, cigarettes or electronic cigarettes at retail from any premises without a licence to do so.

REQUIREMENTS

4. In addition to complying with the General Provisions of this By-law, an operator who applies for a licence shall provide proof satisfactory to the Director of Licensing that the premises are not subject to a prohibition imposed under section 16 of the *Smoke-Free Ontario Act*.
5. All operators selling tobacco, cigars or cigarettes at retail from any premises shall comply with all aspects of the *Smoke-Free Ontario Act*.
6. All operators selling electronic cigarettes at retail from any premises shall comply with all aspects of the *Electronic Cigarettes Act, 2015* that are in force.
7. A licence holder;
 - (a) shall keep their licence issued in respect of this Schedule posted in a conspicuous location on the premises, so as to be clearly visible to the public

and in a manner satisfactory to the Municipal Officer, at all times during the currency of the licence;

- (b) who sells tobacco, cigars or cigarettes, shall comply with the *Smoke-Free Ontario Act* legislation and regulations pertaining to the promotion, display and sale of tobacco products, including displaying the required signs;
 - (c) who sells electronic cigarettes, shall comply with the in force provisions of the *Electronic Cigarettes Act, 2015* respecting the promotion, display and sale of electronic cigarettes, including displaying the required signs;
 - (d) shall require employees of the premises to read the required signs prior to commencing work involving the sale of tobacco, cigars, cigarettes or electronic cigarettes, and instruct employees to bring any removal or defacement of the required signs to the immediate attention of the licence holder;
 - (e) shall replace with a new sign any required sign which has been removed or where the prescribed message or part thereof has been defaced; and,
 - (f) shall use as the required signs the provincially-legislated required signs available from the City or the Ontario Ministry of Health and Long-Term Care.
8. Where the operator has obtained a licence, no employee need obtain a separate licence.