

Authority: Item 5, Planning Committee
Report: 17-010 (PED17019)
CM: June 14, 2017
Wards: City Wide
Bill No. 116

CITY OF HAMILTON

BY-LAW NO. 17-116

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 6 – Food Service Vehicles;

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

1. Schedule 6 of By-law No. 07-170 is deleted and replaced with Appendix “A” attached hereto.
2. Despite the repeal of Schedule 6 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, with all necessary modifications, and all the rules, requirements and regulations of this Schedule shall apply.
3. This By-law comes into force on the day it is passed.

PASSED this 14th day of June, 2017.

F. Eisenberger
Mayor

R. Caterini
City Clerk

SCHEDULE 6 FOOD SERVICE VEHICLES

DEFINITIONS

1. In this Schedule:

“certificate of inspection” means a certificate in a form approved by the City’s Medical Officer of Health which sets out the results of an inspection conducted under the *Health Protection and Promotion Act* or its regulations;

“charity” means a registered charity as defined in the *Income Tax Act* (Canada) which has a registration number issued by the Canada Revenue Agency, or a successor agency;

“Class A vehicle” means a motorized or non-motorized food service vehicle used as a non-travelling, site-specific food premises including but not limited to a catering truck, chip truck, or refreshment trailer;

“Class B vehicle” means a motorized or non-motorized food service vehicle that is used as a travelling food premises including but not limited to a catering truck, chip truck, ice cream truck, refreshment trailer or hot dog cart;

“Class C vehicle” means a non-motorized food service vehicle that is used as a travelling food premises from which pre-packaged frozen products exclusively are offered for sale including but not limited to an ice-cream cycle, yogurt cart or juice carts;

“food service vehicle” means any vehicle (Class A, B, C) from which refreshments are sold or offered for sale for consumption by the public and includes but is not limited to a cart, wagon, trailer, truck and bicycle, irrespective of the type of power employed to move the food service vehicle from one point to another;

“food service vehicle identifier” means a numbered sticker or similar document issued by the Director of Licensing to a food service vehicle operator;

“designated park” means Bayfront Park, Pier 4 Park, Confederation Beach Park, Heritage Green Community Sports Park, Turner Park, Sam Lawrence Park, Gage Park, and Valley Park;

“property” means a parcel of land which can be legally conveyed pursuant to the provisions of the *Planning Act* and does not include road allowance;

“public health inspector” means a public health inspector employed in the Public Health Services Department;

“refreshment” means food or drink;

“residential local road” means an Urban Residential Local Road as described in the City’s Transportation Master Plan; and,

“**special event**” means an event administered or approved by the City’s Special Event Advisory Team.

APPLICATION OF THE SCHEDULE

2. This Schedule does not apply to food service vehicles operated by a charity or an educational, religious or youth sports organization for the purpose of raising funds during an event.

GENERAL PROHIBITIONS

3. No person shall operate a food service vehicle without a licence.
4. No person shall operate or permit a Class A or Class B vehicle to be driven unless the driver has a current and valid Driver’s Licence issued under the *Highway Traffic Act*, by the Minister of Transportation and Communications for Ontario.
5. No person shall publish or permit to be published any representation that they are operating food service vehicle unless the person has a licence.

LICENSING

6. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall make the food service vehicle available for inspection as requested by the Director of Licensing and submit:
 - (a) a list of the types of refreshments to be sold or offered for sale, specifying the source supplying the refreshments and identifying refreshments that will be refrigerated or heated as part of the operation of the food service vehicle;
 - (b) a spill containment plan including a description of how and where grease and grey water will be disposed of;
 - (c) a photograph of the food service vehicle to be licensed;
 - (d) the location where the food service vehicle will be parked or stored when not in use;
 - (e) written approval from the property owner or owners where the food service vehicle will be located when selling or offering for sale refreshments;
 - (f) for a food service vehicle that is subject to the Director’s Orders FS-056-06 (issued under the *Technical Standards and Safety Act, 2000*) as amended or replaced from time to time, a completed inspection certificate and information fact sheet issued no more than 36 days before an application or renewal is submitted;
 - (g) for a Class A or B food service vehicle, proof of current and valid motor vehicle insurance satisfactory to the Director of Licensing with a third party liability limit of no less than \$2,000,000 per occurrence; and,

- (h) for a Class B or C food service vehicle proof of current and valid liability insurance satisfactory to the Director of Licensing naming the City as an additional insured with a third party liability limit of no less than \$2,000,000 per occurrence.
- 7. A separate licence shall be issued for each food service vehicle and shall list each property, if any, where the food service vehicle will be located.
- 8. A licence to operate a food service vehicle shall not be issued until a public health inspector has informed the Director of Licensing that all requirements under the *Health Protection and Promotion Act* and its regulations have been fully complied with.
- 9. A licence to operate a food service vehicle may be issued for a term of one year or for a term of four consecutive days. In addition a licence for Class B or Class C food service vehicle may include permission to access designated parks, upon payment of an additional fee.

REQUIREMENTS

Duty of All Operators

- 10. Every person operating a food service vehicle shall ensure that:
 - (a) only the food service vehicle and property, if any, for which the licence has been issued are used;
 - (b) the food service vehicle is equipped and maintained with:
 - (i) a clean compartment for the storage of food, and in the case of a food service vehicle selling or offering for sale ice cream, frozen desserts or other frozen confections, the compartment shall be refrigerated; and,
 - (ii) at least one suitable waste container.
 - (c) the food service vehicle is kept in a clean and orderly condition and maintained in all respects in a condition suitable of the purpose for which it is used;
 - (d) the food service vehicle is adequately lighted and ventilated;
 - (e) the food service vehicle identifier is on the rear exterior of the food service vehicle or to another location on the food service vehicle approved in advance by the Director of Licensing and is prominently displayed while the food service vehicle is in operation;
 - (f) only the refreshments listed in section 6(a) are sold or offered for sale;
 - (g) no internal combustion engine associated with the operation of the food service vehicle idles for more than 3 minutes within 3 metres of a habitable room's door, window or other opening measured from the nearest point of the exhaust venting to the nearest point of the habitable room's door, window or other opening;

- (h) no accessory generator associated with the operation of the food service vehicle is used outside of the food service vehicle;
- (i) waste receptacles are available for use when the food service vehicle is selling or offering for sale refreshments and removed together with all waste collected in the waste receptacles or accumulated in the surrounding area upon leaving or closing;
- (j) a public health inspector is not obstructed when:
 - (i) posting a Certificate of Inspection in a clearly visible and conspicuous location on the food service vehicle, in a location satisfactory to the public health inspector; and,
 - (ii) removing a Certificate of Inspection which has been posted on the food service vehicle; and,
- (k) no one other than a public health inspector or Municipal Officer posts or removes a Certificate of Inspection on the food service vehicle; and
- (l) the food service vehicle does not operate within a park unless it is a designated park and the food service vehicle has a permit.

Class A Vehicle Operators

11. Every person operating a Class A food service vehicle shall ensure that:

- (a) the food service vehicle is at least 1.5 metres from any property line;
- (b) in the Hess Village Entertainment District, the food service vehicle does not operate between 2:30am and 8am; and,
- (c) the food service vehicle is equipped with an operational fire extinguisher.

Classes B and C Vehicle Operators

12. Every person operating a Class B food service vehicle shall ensure that the food service vehicle is equipped with an operational fire extinguisher.

13. Every person operating a Class B or Class C food service vehicle shall ensure that:

- (a) the food service vehicle is in a safe and mechanical condition before it is driven;
- (b) the food service vehicle is not driven if it is in an unsafe mechanical condition;
- (c) all statutes, regulations and by-laws governing driving, parking or stopping the food service vehicle are complied with at all times;
- (d) the business name of the food service vehicle operator is displayed:
 - (i) on both sides of the food service vehicle or on another location as approved in advance by the Director of Licensing; and,
 - (ii) plainly visible in its entirety at all times.

- (e) the food service vehicle is moved at the verbal or written request of the Director of Licensing or a Municipal Officer appointed or assigned to enforce this Schedule, if, in the opinion of the Director of Licensing or an officer the location:
 - (i) is or may become undesirable for safety reasons; or,
 - (ii) interferes with normal access to any property.
- (f) the food service vehicle does not stop on road allowance to sell or offer for sale refreshments:
 - (i) within 30 metres along any abutting road allowance, measured from the point of intersection of the perpendicular projection of the limits of the food premises (including any outdoor patio) and the road allowance to the nearest point of the food service vehicle;
 - (ii) within 6 metres of an intersection;
 - (iii) within 100 metres of any school or hospital, measured along the most direct road allowance route from the nearest point of the school or hospital boundary to the nearest point on the food service vehicle;
 - (iv) within 100 metres of the boundary of a special event measured along the most direct road allowance route from the nearest point of the special event boundary to the nearest point on the food service vehicle, except when approved as part of a special event;
 - (v) for more than 15 minutes at any one location on a residential local road; or,
 - (vi) to a customer who is standing on the travelled portion of a road allowance, not including a sidewalk.
- (g) the food service vehicle does not stop on property to sell or offer for sale refreshments unless:
 - (i) the food service vehicle is otherwise authorized by the City to sell or offer for sale refreshments on the property;
 - (ii) the food service vehicle is not within 6 metres of an intersection;
 - (iii) the food service vehicle is not within 100 metres of any school or hospital, measured along the most direct road allowance route from the nearest point of the school or hospital boundary to the nearest point of the property;
 - (iv) the food service vehicle is not within 100 metres of the boundary of a special event measured along the most direct road allowance route from the nearest point of the special event boundary to the nearest point of the property, except when approved as part of a special event;
 - (v) the property is zoned to permit a restaurant use or an industrial use;
 - (vi) the property owner, owners, or occupiers have given written approval for the food service vehicle to be on the property; or,

- (vii) the food service vehicle is on the property for 8 hours or less on any one day.
 - (h) subsections h(iii) and (vi) do not apply to property used as a place of worship or a school if the sale of refreshments:
 - (i) has been organized by and for the benefit of the place of worship or the school located on the property; and,
 - (ii) occurs no more than 20 days in a calendar year;
 - (i) subsection h(iii) does not apply to a food service vehicle operating in compliance with a licence that includes permission to access designated parks;
 - (j) the food service vehicle does not operate:
 - (i) on a residential road between 8 p.m. on one day and 8 a.m. on the next day; or,
 - (ii) on any other road between 1 a.m. and 8 a.m.;
 - (k) a location log is kept for each day the food service vehicle is operated in a form satisfactory to the Director of Licensing that includes:
 - (i) each location (event, street name) that refreshment sales were made; and,
 - (ii) each time of arrival and departure;
 - (l) the location log under subsection 13(k) must be kept for a rolling 1 year window from the current date created;
 - (m) the location log shall be made available upon written request from the Director of Licensing within 2 business days; and,
 - (n) the food service vehicle is not washed or repaired while on a road allowance except, in the case of repair, when repair is necessary to move the food service vehicle off the road allowance.
14. In addition to otherwise complying with this Schedule, every person operating a Class B or Class C food service vehicle with a licence that includes permission to access designated parks shall ensure that:
- (a) a park endorsement application is submitted to the Licensing Division;
 - (b) the food service vehicle does not operate if three food service vehicles are parked in the designed park upon their arrival;
 - (c) the food service vehicle does not operate between 11pm and 7am; and
 - (d) the food service vehicle parks in parking spaces as specified by the Licensing Division.