



**STAFF REPORT
ACTION REQUIRED**

**Toronto Street Food Pilot – Proposed By-law
Amendments**

Date:	October 27, 2008
To:	Executive Committee
From:	Medical Officer of Health
Wards:	All
Reference Number:	

SUMMARY

This report requests authority to enact the required by-law amendments to implement the recommendations in the joint report (October 17, 2008) of the Medical Officer of Health and the Acting Director, Purchasing and Materials Management entitled “Toronto Street Food Pilot”. It is therefore recommended that a new Municipal Code Chapter entitled “Healthier Street Food Choices” be established. The implementation of this program also requires that minor amendments be made to include new fees under Chapter 441, Fees and Charges, and amend Chapter 545, Licensing, and the various City by-laws currently regulating street vending, in order to permit a wider variety of foods to be sold from carts operating as part of the City’s Toronto Street Food pilot programs.

To ensure sufficient lead time for a spring 2009 launch of the pilot programs, City Council approval of this proposed by-law regime must be given by December 2008.

RECOMMENDATIONS

The Medical Officer of Health recommends that:

1. Authority be granted to the City Solicitor to submit the bills required to:
 - a. enact a new Municipal Code Chapter entitled “Healthier Street Food Choices” substantially in the form as set out in Attachment A to this report, subject to any technical or stylistic adjustments as may be required;

- b. amend Chapter 441, Fees, to include new fees for the processing of applications, issuance of endorsements, removal and storage charges for cart seizures and annual license fees for the use of Toronto a la Cart vending locations as set out in Attachment B of this report, subject to any technical or stylistic adjustments as may be required; and
- c. amend the following to permit the sale of a wider variety of street foods from carts operating as part of the City's Toronto Street Food pilot programs:
 - i. Chapter 545, Licensing;
 - ii. By-law No. 18-97 of the former Borough of East York, "To establish removal zones and regulate vending on Borough roads";
 - iii. Chapter 231, Streets and Sidewalks, of the Municipal Code of the former City of Etobicoke;
 - iv. By-law No. 32-95 of the former Municipality of Metropolitan Toronto, "To establish removal zones and regulate vending on Metro roads";
 - v. By-law No. 32100 of the former City of North York, "Respecting vending on sidewalks and untravelled portions of roads of the City of North York"; and
 - vi. Chapter 315, Street Vending, of the Municipal Code of the former City of Toronto,

all subject to any technical or stylistic adjustments as may be required.

Financial Impact

The financial impact of the recommended pilot program has been discussed in the joint report (October 17, 2008) of the Medical Officer of Health and Acting Director, Purchasing and Materials Management. There are no additional financial implications stemming from the adoption of the recommendations in this report.

DECISION HISTORY

At its meeting of October 22, 2008, the Board of Health considered and adopted with minor amendment the joint report (October 17, 2008) of the Medical Officer of Health and the Acting Director, Purchasing and Materials Management recommending the award of a cart supply agreement and outlining the criteria and recommendations for the establishment and implementation of the Toronto Street Food Pilot program in order to encourage the consumption of healthier street food choices in the City of Toronto.

Among the recommendations in that report adopted by the Board of Health was the direction that the Medical Officer of Health, in consultation with the City Solicitor, be authorized to report to the next Executive Committee meeting respecting any necessary amendments to City by-laws and the Municipal Code as required to implement and regulate the operation of the pilot programs as proposed in the report.

COMMENTS

Establishment of New Municipal Code Chapter

Attachment “A” to this report contains a draft by-law to establish a new municipal code chapter entitled “Healthier Street Food Choices”. The proposed new chapter shall:

1. Establish an application system for the granting of endorsements which may be obtained by up to 15 of the existing licensed hot dog/sausage street vendors operating on City property under City by-law in order to allow them to serve an expanded menu for one year for evaluation as part of the pilot process.
2. Establish a framework for implementation of the proposed “Toronto a la Cart” program which contemplates a staff-managed application and selection process, the award of licence agreements and the terms and conditions governing the use of up to 15 selected locations on City property (i.e. parks, squares and public highway) for a three-year pilot program.
3. Reserve an Article to include by-law provisions respecting a not-for-profit pilot proposal in the event that staff are able to bring forward such a proposal in the future.
4. Establish a Street Food Pilot Appeals Committee to be made up of the Chair of the Board of Health, Chair of the Licensing & Standards Committee and the appropriate Ward Councillor solely for the purpose of considering recommendations and conducting hearings respecting any appeal of a notice to revoke an endorsement or terminate a Toronto a la Cart licence agreement.

The following elements of the proposed program should also be noted:

Separate Process: In recognition of the unique nature of this Pilot program, the ability to sell healthier foods is being set up for a specific term as a separate program with a separate class of permission (i.e. by endorsement or licence agreement). It is intended that this program not have any effect upon persons holding existing street vending permits and any reform/harmonization of the existing street vending by-laws which may take place. However, it should be noted that possession and use of an endorsement shall be contingent upon the vendor maintaining the base vending permit in good standing.

Business Licence Requirement: All participants in the pilot program shall continue to be required to have the required business licence (i.e. refreshment vehicle owner or

assistant) as issued by Municipal Licensing & Standards under Chapter 545, Licensing. Loss of that licence will result in termination from the Pilot program.

Delegation of Authority: The proposal is that final decision-making authority shall be delegated to staff (in respect of soliciting and processing applications and the issuance of endorsements and licence agreements) and the Appeals Committee (in respect of hearing appeals of a notice of revocation or termination) for the length of the Pilot. The effectiveness of this streamlined process will be evaluated as part of the Pilot.

Selection Process: The criteria for the issuance of endorsements are as set out in Article II of the draft by-law. It is recommended that staff be delegated the ability to define criteria for the Toronto a la Cart applications process in addition to those set out in the by-law. In the event that demand by qualified applicants exceeds the number of endorsements available, staff shall be authorized to undertake a process of selection by lottery, provided that every attempt shall be made to ensure the distribution of endorsements across the City in proportion to the number of licensed existing vendors. Where there are competing demands by qualified applicants for the use of particular Toronto a la Cart locations, locations shall be awarded based upon the need to achieve a diversity of food in a given area and the need to ensure there is no direct competition with existing restaurants selling similar food. Where more than one applicant satisfies these criteria, the location will be assigned to the applicant with the highest evaluation scores from the selection process.

Sole Proprietor/One Permit: As with the existing vending permit regime, there is concern that no person be permitted to directly or indirectly own or control more than one endorsement or Toronto a la Cart location. Applicants for a Toronto a la Cart location must be sole proprietors and shall not be considered if they have an interest in an existing street vending permit.

Operation by Owner: In order to ensure that quality and accountability are maintained, Toronto a la Cart vendors shall be required to personally operate the cart at least 70% of the time (measured on a weekly basis) and may not employ more than three assistants in the operation of the cart. All assistants shall be identified on a list to be provided to the City and no other person shall be permitted to vend from the location.

Protection of the “Toronto a la Cart” Brand: While the proposed arrangement is not a “franchise” in the full commercial sense, strict measures are proposed in order to protect the use of the Toronto a la Cart brand and logos. In particular, applicants shall be required to agree that any marketing materials, signs, awnings, etc. bearing the brand/logo shall be deemed to be the property of the City to be turned over to the City at the end of the Pilot, if not extended, or forfeited in the event of suspension or termination of the agreement.

Healthier Food Defined: Included in the by-law is a specific definition of “healthier foods” which emphasizes requirements for the nutritional content of food (e.g. rather than attempting to list types or categories of food). This means that specific food offerings by Toronto a la Cart applicants would be subject to evaluation on these criteria along with

the others outlined in my previous report.

Seizure of Carts: As with the current vending regime, the City shall have the explicit authority to seize carts, vehicles or objects placed in violation of the requirements of the by-law.

New Issues

As a result of the opportunity to further this proposal, staff are also recommending that the adopted by-law include the addition of pretzels to the list of foods which may be permitted under endorsements issued to existing vendors.

Amendments to Chapter 441, Fees

The fees as listed in Attachment B to this report shall be added to Chapter 441, Fees. In addition to the fees as discussed in the previous joint report, Attachment B also contains a cart retrieval fee of \$500 and a storage fee of \$10 per day which a cart owner will be required to pay in order to recover a confiscated cart. These amounts are identical to those currently charged in respect of the seizure of vending carts.

Amendment of Existing Licensing/Vending By-laws

In 2007, changes to Regulation 562 of the Health Protection and Promotions Act were brought in by the Provincial government to expand the types of foods which could be safely sold from street vending carts. At that time, City Council approved a motion to amend the City's street vending by-laws and Chapter 545, Licensing, to prevent the sale of expanded street food items until City Council had the opportunity to consider how such changes should be implemented in the City of Toronto. In light of this proposal, it is necessary now to amend those by-laws to allow for the sale of additional menu items for vendors operating as part of the new Pilot program.

CONCLUSION

This report recommends by-law amendments required for the purpose of implementing and regulating the proposed healthier street food vending pilot program.

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SIGNATURE

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ATTACHMENTS

Attachment A: Draft By-law – Municipal Code Chapter XXX, Healthier Street Food Choices
Attachment B: Proposed Fees