



STAFF REPORT ACTION REQUIRED

Street Food Vending Review – Status Update and Elimination of Refreshment Vehicle Assistant Licence

Date:	October 11, 2013
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2013\Cluster B\MLS\LS13020

SUMMARY

The purpose of this report is to provide an update on staff's review of the City of Toronto's street food vending by-laws. At the direction of City Council, staff are conducting this review, in consultation with the Street Food Working Group, to assess the potential for expanded vending opportunities and to harmonize the regulatory framework across the city.

In phase one of the review, Council adopted recommendations from the Working Group to amend applicable by-laws and permit vendors to sell an expanded menu. Phase two of the review is proceeding with the development of a harmonized, city-wide, street food vending by-law.

Because the City's street food vending by-laws impact not only the vendors directly regulated by them, but also neighbouring businesses, residents and the general public, there are many competing views on the future of street food vending in Toronto and on how the industry should be regulated going forward. Importantly, as the city continues to grow, there are an increasing number of competing uses for the public right of way, particularly in the downtown core, where opportunities to vend are most attractive.

To appropriately manage the right of way, protect the health and safety of the public and balance the views of all stakeholders, the Working Group has identified key issues or considerations that must be addressed in the development of a harmonized by-law.

These considerations will form the core of public consultations held in October and November 2013, where members of the industry and the public will have an opportunity

to provide staff with input about how the current regulations, and any potential changes to them, may impact their life and work. In concert with the Working Group, staff will analyze the results of the public consultations and draft a harmonized by-law in December 2013.

In January 2014, staff will hold a second round of consultations to hear from members of the public and the industry on the proposed regulations. Staff will report to the Licensing and Standards Committee in March 2014 on recommendations for a harmonized street food vending by-law.

At this time, staff are recommending the elimination of the Refreshment Vehicle Assistant Licence, based on consultations with the Working Group and ML&S enforcement staff. It has been determined that this licence is unnecessary for enforcement purposes and that the fee impacts street food vendors' small business operations.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council approve the elimination of the Refreshment Vehicle Assistant Licence (T14).

Financial Impact

In 2013, the fee for the Refreshment Vehicle Assistant Licence (T14) was \$347.00 for a first time application and \$252.78 for a renewal. Total revenue collected in 2013 was \$72,917.56.

Table 1: Revenue Collected from T14 2010-2013

Year	Application		Renewal		Total	
	#	\$	#	\$	#	\$
2010	134	46,495.32	213	50,199.95	347	96,695.27
2011	91	30,694.47	226	54,939.06	317	85,633.53
2012	97	33,293.73	214	53,196.08	311	86,489.81
2013	71	24,636.93	191	48,280.63	262	72,917.56

The recommendation to eliminate the Refreshment Vehicle Assistant Licence will result in a reduction of revenues of approximately \$72,000 in 2014 and future year operating budgets. There is no impact to the 2013 operating budget for ML&S. This reduction in revenues will be absorbed in the operating budget. ML&S will be conducting a full user fee review in 2014.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its May 17, 2011 meeting, City Council directed staff to form a working group to review the current licensing, regulatory and inspection framework for street food vending, with the objective of permitting licensed food vendors to offer a wider range of food items and to address issues associated with harmonizing the licensing and regulatory framework.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX5.2>

At its May 24, 2012 meeting, the Licensing and Standards Committee directed staff to report on amending Municipal Code 545, Section 269G, to allow food cart, truck and refreshment vendors to be allowed to park and operate, for the purpose of serving food or refreshments, on licensed premises such as parking lots.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS13.7>

At its June 12, 2012 meeting, Executive Committee directed the Executive Director, Municipal Licensing and Standards, in consultation with City Planning, to consider the impacts and recommendations of any necessary zoning amendments to allow commercial parking lots to accommodate food trucks and vending stalls where they front onto public streets in commercial zones.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX21.37>

At its July 11, 2012 meeting, City Council adopted a report from the Executive Director, Municipal Licensing and Standards to amend applicable street food vending by-laws to allow existing vendors to expand their menu choices.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS14.2>

ISSUE BACKGROUND

In March 2002, City Council implemented a moratorium in wards 20, 27 and 28, which prohibits the issuance of any new street food vending permits on the public right of way in the downtown core. The moratorium was initially implemented in response to concerns about the high concentration of vendors downtown, and was to stay in place until such time as a harmonized vending by-law was approved.

Toronto's street food industry remains governed by regulations established in the vending by-laws of the five former municipalities. While many of the provisions in these by-laws are similar, some contain unique regulations that govern the industry differently across the city. The moratorium remains in place.

In May 2011, City Council directed staff to form a working group to assess opportunities for vendors to sell an expanded menu and to address issues associated with harmonizing the by-laws.

In July 2012, City Council adopted the Working Group's recommendations to amend applicable by-laws to allow food cart vendors to expand their menu choices.

In April 2013, the Working Group reconvened to continue addressing issues associated with harmonizing the by-laws.

COMMENTS

The Street Food Working Group

The Working Group is currently comprised of members from the Toronto Street Food Vendors Association, the Ontario Food Trucks Association, the Ontario Restaurant, Hotel and Motel Association (ORHMA), the Toronto Association of Business Improvement Areas (TABIA), and staff from Toronto Public Health, Parks Forestry and Recreation, Economic Development and Culture, Transportation Services and Municipal Licensing and Standards.

Representing a broad number of industry stakeholders and relevant city divisions, the reconvened Working Group has met monthly since April 2013 to discuss the current street food vending regulations and to identify key issues to be considered in developing a harmonized by-law.

These issues include the right of way space that vendors may occupy on the sidewalk; the proximity of food carts and trucks to established restaurants; how permits are issued, including the role of Business Improvement Areas (BIAs) in the process; the current moratorium and/or capping the number of permits issued; opportunities and regulations for street food vendors on public and private property; and mobile vending opportunities for food trucks.

In June 2013, the Working Group approved a plan to address these issues and develop a harmonized by-law ahead of the spring 2014 vending season. The work plan is proceeding in three stages:

1. Staff research and analysis of street food vending regulations in other municipalities (July and August 2013)
2. Stakeholder consultations (September to November 2013)
3. Drafting of the by-law and final staff report (December 2013 to March 2014)

Research on Other Municipalities

Staff have researched street food vending by-laws and consulted with officials in a number of Canadian and American municipalities. Staff selected cities such as Montreal, Los Angeles and Chicago that have populations similar to Toronto's, and smaller cities,

including Vancouver, Calgary and Seattle, which have recently updated their street food vending regulations to address the increasing number and popularity of food trucks.

The research shows that several key issues have been considered in most municipalities. These include:

- Managing competing uses for the public right of way, including pedestrian and vehicular traffic flow;
- Economic and aesthetic impacts of street food vendors on neighbouring restaurants, businesses and local communities;
- The need to update regulations to address the growth in popularity of food trucks;
- Distinguishing between the operations of food carts, as stationary vendors, and food trucks, as mobile vendors;
- Clearly developed by-law enforcement strategies, particularly for mobile vendors.

While no city compares perfectly to Toronto, the challenges and best practices experienced in other jurisdictions provide a useful context for reviewing Toronto's regulations and the key issues identified by the Working Group. Going forward, this research will be used to inform the public consultations and to assess potential regulations to be included in the harmonized by-law.

Food Truck Pilot Program

Like many North American cities over the past three years, Toronto has experienced a growth in the number of food trucks licensed to operate in the city.

To understand some of the impacts these businesses can have on the neighbourhoods where they locate and to generate public interest in the review, staff initiated a food truck pilot program in City of Toronto parks. In lieu of locations on the public right of way, due to the moratorium downtown, staff selected park locations in consultation with the Working Group, where both visibility and pedestrian traffic are high.

From August 1, 2013 to September 30, 2013, trucks operated in Roundhouse Park, Canoe Landing, Sherbourne Commons and Allan Gardens. In total, more than 25 licensed food trucks participated.

The program provided a valuable opportunity to obtain public feedback on Toronto's street food vending industry and the operation of food trucks. This feedback was solicited through a public survey that was advertised on food trucks at park locations and posted online.

As of September 30, 2013, staff received 733 responses to the survey, with generally favourable commentary on food trucks and in favour of improving Toronto's street food experience. Results showed that:

- 82% of respondents who have eaten at a food truck in Toronto rate their experience as excellent or good;
- 81% of respondents believe that the City's street food industry is too regulated;
- 83% of respondents want a greater variety of street food;

- 81% of respondents want more opportunities for food trucks to operate.

Through survey comments and correspondence from the public, staff also heard concerns about the operations of food trucks. These included:

- Concerns about the noise created by the trucks' generators;
- Concerns about the impact of the trucks on the physical space where they operate, including reports of grease spills, impeding the right of way and the trucks' visual impact on the streetscape;
- Safety concerns about the size of the propane tanks used.

Due to the limited scope of the program, the public's response to food trucks in City parks must be considered as one piece of a much broader review exercise.

Summary of Issues Identified and Key Considerations for a Harmonized By-law

Through staff's research, meetings with the Working Group, and feedback gathered through the food truck program, staff have identified the following key considerations that will form the core of public consultations on the development of a harmonized by-law.

1. The footprint

The footprint is the designated area on the sidewalk within which food cart vendors are required to maintain their cart and supplies. Vendors are currently permitted to occupy a maximum of 2.32 square metres of the sidewalk and must also allow 3.66 metres of passable space between the designated area and the curb, or the designated area and any obstruction to pedestrian passage.

Street food business representatives believe that this space is too restrictive, particularly to accommodate a windscreen and the necessary equipment to sell an expanded menu. Transportation Services has expressed concerns about the impacts of a wider footprint on other competing uses of the right of way.

2. Proximity requirements

The current by-laws contain minimum distances which street food vendors are required to operate from existing restaurants, other vendors, intersections, parks and schools. The most contentious of these provisions is that which stipulates that street food vendors must operate a minimum of 25 metres from another restaurant or business that sells similar products.

Brick and mortar business representatives have expressed concerns that the current distance requirements are insufficient to protect established restaurants from unfair competition from street food vendors; they believe vendors should be required to operate a minimum of 200 metres from any restaurant. Street food business representatives believe that the current 25 metre requirement is too restrictive, and that it should be lowered to 15 metres.

3. The permit issuance process, including the role of BIAs in the approval process

Under Chapter 315, which governs street food vending downtown, regulations stipulate that for an application to be accepted for a new designated vending location within a BIA, the written consent of the BIA's Board of Management is required.

Street food vending business representatives expressed concerns that this provision could allow BIAs to arbitrarily exclude vendors from the area, without recourse for a prospective vendor to appeal. Brick and mortar business representatives have expressed strong support for retaining the BIAs' veto over vending applications because they believe that BIAs, as agencies of the City, are empowered to manage the public space within their areas. They also indicated that, while some BIAs are opposed to new vendors, some are supportive of the idea, and each BIA should be permitted to determine whether vendors are appropriate.

4. The current moratorium on street food vending downtown/limiting the number of vendor permits that are issued

The current moratorium in wards 20, 27 and 28, implemented in 2002, prohibits the issuance of any new vending permits on the public right of way in these areas. As a result, this has dramatically reduced the number of food carts downtown, and has restricted opportunities for new types of vendors, such as food trucks, to enter the industry.

Street food business representatives believe that the moratorium is unfair to current and prospective vendors and that it should be lifted to improve opportunities for vending on the right of way. Several downtown brick and mortar business representatives have expressed opposition to the moratorium being lifted, due to concerns about the increased density downtown, and the impacts vendors can have on neighbouring businesses.

5. Opportunities for vending on private property (e.g. parking lots)

Currently, Chapter 545 prohibits vendors from stopping in licensed parking lots for more than ten minutes, if their purpose is to vend. Vendors may also be prohibited on private property due to zoning restrictions on the use of space. Two Committee motions have requested that staff assess the feasibility of amending the licensing and zoning by-laws to expand permission for food carts and trucks to sell in designated locations in commercial parking lots.

Street food business representatives believe that they should be able to enter freely into agreements with owners to vend on private property. Brick and mortar business representatives believe that the same regulations, namely proximity requirements and permissions from the local BIA, should apply to vending on both public and private property.

6. *Opportunities for vending on public property (e.g. city parks, public spaces, right-of-way)*

Through the food truck pilot program, staff heard from members of the public who believe vending in parks is a positive use of the space, and from others who believe parks are no place for commercial vendors. As with any public space, there are many competing uses for the City's parks, sidewalks and streets and proper consultation is required to ensure that these spaces are properly managed.

7. *Opportunities for undesignated vending permits for mobile food vendors*

One option for increasing opportunities for food trucks is for the City to allow mobile vendors to obtain undesignated vending permits. Under this model, vendors would be free to vend from various locations around the City, by stopping at available Toronto Parking Authority spaces and paying the required fee.

One important challenge with this model is ensuring that inspectors from ML&S and TPH know where vendors are operating in order to carry out routine inspections and to respond to complaints.

8. *Neighbourhood impacts*

There are competing views about the impacts street food vendors can have on the neighbourhoods where they locate. Through the food truck pilot program, staff heard concerns about the safety of the propane tanks on some food trucks and concerns about the level of noise created by some of the trucks' generators. And while brick and mortar business representatives have raised strong concerns about the negative economic impact street food vendors may have on established restaurants, some local businesses and members of the public believe new vendors can draw people to an area and have a positive impact on the local community.

Consultation Plan

During upcoming public consultations and the development of a harmonized by-law, staff will continue to consider carefully the competing viewpoints and interests of the various stakeholders. The goal is to create a regulatory framework that is fair and balanced, protects the health and safety of the public, and appropriately manages the use of the public right of way and the impact of the street food vending industry on local communities.

In late October and early November 2013, ML&S policy staff will be holding public meetings to discuss the street food experience in Toronto and the key considerations for a harmonized by-law.

The purpose of these meetings is to provide an opportunity for staff to inform the public and members of the industry about the review process and the potential changes being considered. It is also an opportunity for staff to learn from members of the industry and the public about the impact of the current regulations on their life and work and about how potential changes might affect them. An open forum provides all stakeholders with an opportunity to hear directly from one another.

Public meetings will be held on:

- Monday October 21, 2013 – 2:00pm to 4:00pm – Etobicoke Civic Centre, Council Chambers
- Tuesday October 22, 2013 – 10:00am to 12:00pm – City Hall, Committee Room 3
- Tuesday October 22, 2013 – 6:00pm to 8:00pm – City Hall, Committee Room 3
- Monday October 28, 2013 – 10:00am to 12:00pm – Scarborough Civic Centre, Council Chambers
- Monday November 4, 2013 – 2:00pm to 4:00pm – North York Civic Centre, Council Chambers
- Tuesday November 5, 2013 – 10:00am to 12:00pm – East York Civic Centre, Council Chambers

These consultations will be supplemented by questionnaires, handed out at the meetings and posted online. Members of the Working Group will advertise the meetings to their respective associations and staff will advertise the meetings through social media, the press and the ML&S webpage. Staff will also mail notifications to licensed street food vendors directly regulated by the by-laws under review.

Following the public meetings in early November, staff will hold individual meetings with industry stakeholders, including street food vendors, restaurant owners and Business Improvement Areas. The purpose of these meetings is to provide individuals and businesses most impacted by the street food vending by-laws with an opportunity to respond to the comments and concerns generated at the public meetings.

Once the by-law has been drafted, a second round of public consultations will be held for stakeholders to consider potential changes.

Eliminating the Refreshment Vehicle Assistant Licence

At its July 2013 meeting, members of the Working Group agreed that ML&S staff should assess the enforcement purposes of the Refreshment Vehicle Assistant Licence (T14) and consider deleting it.

Current system

Currently, motorized and non-motorized refreshment vehicle owners are required to obtain a business licence. Any individuals these owners wish to hire to assist in their operations must obtain a Refreshment Vehicle Assistant Licence (T14). In addition to these licences, owners and assistants are required to obtain a food handler certificate through Toronto Public Health.

Concerns about the licence

Street food vendors raised two concerns about the assistant licence. One, they believe that the licence is unfairly required of street food vendors compared with other members of the service industry. Whereas bartenders operating in licensed eating establishments, for example, are required to have a smartserve certificate to serve alcohol (similar to the food handler certificate), they are not required to obtain a licence from the City.

Second, vendors believe that the licence fees impose significant and unfair costs on assistants. In 2013, a new issue Refreshment Vehicle Assistant Licence cost \$347.00, with a renewal fee of \$252.78. Because these licences are renewed annually, and most assistants operate in a seasonal capacity, vendors believe the fee calculation is disproportionate.

In addition, all charges by Toronto Public Health food inspectors, including failure to protect food from contamination, failure to properly wash utensils and failure to protect from insect infestation, are laid against the owner. Food inspectors never charge the licensed assistant.

Enforcement staff from ML&S and TPH agree that the assistant licence is unnecessary for the purposes of enforcing the public health and safety regulations in the street food vending by-laws. These charges are more properly laid against the owner of the business, who is the individual primarily responsible for ensuring its operations, and anyone assisting them, are in accordance with all by-laws.

While assistants will no longer be required to obtain a licence, they will still be required to obtain a food handlers certificate through TPH.

Next Steps: Drafting the Harmonized By-law and Further Consultations

In late 2013, staff will analyze the feedback from the public consultations and draft a harmonized, city-wide street food vending by-law, including appropriate regulations to address the operation of food trucks.

Once the by-law has been drafted, staff will consult with the Working Group and hold a second round of public consultations on the proposed changes in January 2014.

Staff will report back to the Licensing and Standards Committee in March 2014 on a harmonized by-law.

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