

Bill No.
2015

By-law No. L-6-15____

A by-law to amend By-law No. L-6 entitled "A by-law to provide for the licensing and regulation of various businesses".

AND WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. The recitals in the Business Licensing By-law L-6 are hereby amended by adding the following new recitals:

"AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this by-law to the Licence Manager and the Hearings Officer including without limitation to the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

AND WHEREAS the Council for the City of London considers it necessary and desirable for the public to regulate the refreshment vehicles operating on City owned property for the purpose of enhancing the economic vitality and street life in London while ensuring compliance with health and safety food related regulations;"

2. Section 1.1 of the Business Licensing By-law L-6 is amended by deleting the definition "Community and Neighbourhoods Committee" in its entirety.

3. Section 1.1 of the Business Licensing By-law L-6 is amended by deleting in the definition of "City Engineer" the words "General Manager of Environmental & Engineering Services and City Engineer" and replacing them with "Managing Director and City Engineer Environmental and Engineering Services".

4. Section 1.1 of the Business Licensing By-law L-6 is amended by deleting in the definition of "Licence Manager" the words "Director of Building Controls" and replacing them with Chief Municipal Law Enforcement Officer.

5. Section 1.1 of the Business Licensing By-law L-6 is amended by deleting in the definition of "Manager of By-law Enforcement" the words "Manager of By-law Enforcement of the Corporation" and replacing them Chief Municipal Law Enforcement Officer.

6. Section 1.1 of the Business Licensing By-law L-6 by deleting in the definition of "Property Standards Officer" the words "By-law No. A.-5704-4" and replacing them with "By-law No. A.-5895-232".

7. Section 1.1 of the Business Licensing By-law L-6 is amended by adding the following new definitions:

"“Applicant” means a person applying for a licence under this by-law;

"“Hearings Officer” means a Hearings Officer appointed under the Corporation’s Hearings Officer By-law A.-6653-121, as amended;”

8. Part 2 of the Business Licensing By-law L-6 is amended by deleting Part 2 in its entirety and replacing it with the following:

2.1 GENERAL

All of the regulations contained in the Part of this by-law shall apply to all licenses required under this By-law in addition to any other regulation contained in any other part of this by-law.

2.2 PROHIBITIONS

- (1) No person holding a licence issued pursuant to this by-law shall fail to:
 - (a) With respect to premises, display the licence in a conspicuous place in or on the said premises; or
 - (b) With respect to a vehicle, display the licence in a conspicuous place in or on the said vehicle; or
 - (c) With respect to an individual, maintain the licence on their person while conducting the activity for which the licence was issued.
- (2) No person shall hold himself to be licensed under this by-law if they are not.
- (3) No person shall fail to keep any and all of the records required to be kept under the provisions of this by-law.
- (4) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law, including carrying out an inspection.

2.3 EXEMPTIONS

Notwithstanding any other provision of this by-law, any vendor selling products at special events only and not at any other location in the City, and who has paid the appropriate fees under the “City of London Special Event Policy” shall be exempt from the requirement to obtain a license under this by-law.

2.4 ADMINISTRATION

The administration of this by-law is assigned to the Licence Manager who shall generally perform all of the administrative functions conferred upon him or her by this by-law and without limitation may:

- (a) receive and process all applications for all licences and renewals of licences under this by-law;
- (b) issue licences in accordance with the provisions of this by-law;
- (c) impose terms and conditions on licences in accordance with this by-law; and
- (d) refuse to issue or renew a licence or revoke or suspend a licence in accordance with this by-law.

2.5 APPLICATIONS FOR A LICENCE AND RENEWAL OF LICENCE

- (1) Every application for a licence and renewal licence shall be made to the Licence Manager on the forms provided by the Licence Manager. Without limitation, every application for a licence or a renewal shall include the following information:
 - (a) the name, municipal address, email address and telephone number of each Applicant;
 - (b) if the Applicant is a partnership, the name, address and telephone number of each partner;
 - (c) if the Applicant is a corporation, the address of its head office, the name, address, email address and telephone number of each director and officer;

- (d) the municipal address of the premises in which the business is located;
- (e) a sworn statement by the Applicant certifying the accuracy, truthfulness and completeness of the application;
- (f) if the Applicant is a partnership, a sworn statement by each partner certifying the accuracy, truthfulness and completeness of the application;
- (g) if the Applicant is a corporation, a sworn statement by an officer of the corporation duly authorized for that purpose certifying the accuracy, truthfulness and completeness of the application.

(2) Every person applying for a licence or a renewal of a licence shall provide in full at the time the application is submitted all of the information requested on the application form as well as:

- (a) payment of the prescribed fee as set out in Schedule "A" of the by-law;
- (b) proof satisfactory to the Licence Manager that the Applicant or Licensee has a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the Applicant or Licensee to carry on the business;
- (c) if the Applicant or Licensee is a corporation, a copy of the incorporating documentation, a copy of the last initial notice or notice of change which has been filed with the provincial or federal government and a Certificate of Status issued by the Ministry of Government and Consumer Services dated no later than fifteen (15) days prior to the date of the application;
- (d) if the Applicant or Licensee is a partnership, details of each partner's interest in the partnership; and
- (e) any other documentation or information as may be required in any other part of this by-law and by the Licence Manager.

(3) The Licence Manager may require affidavits in support of an application for or a renewal of a licence.

(4) Every application may be subject to investigations by and comments or recommendations for the municipal or provincial department or agencies as the Licence Manager deems necessary including but not limited to:

- (a) the Chief Building Official;
- (b) the Manager of Licensing & Municipal Law Enforcement;
- (c) the Fire Chief; and
- (d) the Medical Officer of Health.

2.6 ISSUANCE OF LICENCES

(1) Every licence issued under this by-law shall be in the form and manner as provided by the Licence Manager and without limitation shall include on its face the following information:

- (a) the licence number;
- (b) the name and address of the Licensee;
- (c) the date the licence was issued and the date it expires; and
- (d) where applicable, the municipal address of the premises in which the business is located.

(2) Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- (a) the Applicant or Licensee shall pay all licence fees related to this by-law;
- (b) the Applicant or Licensee shall pay all fees and fines owed by the Applicant or Licensee to the Corporation;
- (c) the Applicant or Licensee shall allow the Corporation to inspect places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying out of the business;
- (d) the Applicant or Licensee shall ensure that the places and premises used for the business are not constructed or equipped so as to hinder the enforcement of this by-law;
- (e) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, shall not afford reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the business in accordance with the law or with honesty or integrity;
- (f) the premises in which the business is located shall be in accordance with the requirements of the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the Corporation's Property Standards By-law CP-16;
- (g) where the premises in which the business is located is altered and a building permit is required to carry out the alterations, the business premises, as altered, shall be in accordance with the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the Corporation's Property Standards By-law CP-16;
- (h) the use of the premises in which the business is located is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- (i) the Applicant or Licensee shall have a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the Applicant or Licensee to carry on the business;
- (j) the Applicant or Licensee shall meet all of the requirements of this by-law.

(3) A licence issued under this by-law shall be valid only for the period of time for which it is issued. All licences issued under this by-law shall expire annually on December 31 at 11:59 pm. An application for a renewal shall be delivered to the Licence Manager on or before the expiry date of the licence being renewed.

(4) The issuance of a licence or renewal thereof under this by-law is not intended and shall not be construed as permission or consent by the Corporation for the Licensee to contravene or fail to observe or comply with any law of Canada, Ontario or any by-law of the Corporation.

(5) Every licence, at all times, is owned by and is the property of the Corporation and is valid only in respect of the person and the premises or of the person named therein and for the business stated therein. A separate licence shall be required for each business location.

(6) No licence issued under this by-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

(7) The Licensee shall notify the Licence Manager of any change in his name, business or home address or any other information relating to his licence within five(5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return his Licence to the Licence Manager for amendment.

(8) Where the Licensee is a corporation, the Licensee shall notify the Licence Manager of any changes in the names or addresses of officers or directors, the location of the corporate head office, in the ownership of shares or any other information relating to the corporation's licence within five (5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return his licence to the Licence Manager for amendment.

(9) Where the Licensee is a partnership, the Licensee shall notify the Licence Manager of any changes in the names or addresses of the partners, the composition of the partnership, the address for the partnership or any other information relating the partnership's licence within five (5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return his licence to the Licence Manager for amendment.

(10) All licence fees related to this by-law shall be non-refundable.

2.7 POWERS OF THE LICENCE MANAGER

(1) The power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions, on a licence, are delegated to the Licence Manager.

(a) The Licence Manager shall issue a licence or renew a licence where the requirements or conditions of this by-law have been met.

(b) The Licence Manager may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:

(i) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the business in accordance with the law or with honesty or integrity;

(ii) an Applicant or Licensee is carrying on activities that are in contravention of this by-law;

- (iii) there are reasonable grounds to believe that an application or other documents provided to the Licence Manager by or on behalf of the Applicant or a Licensee contains a false statement;
- (iv) any information contained in the original application form or any other information provided to the Licence Manager, has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licence Manager to conclude that the licence should continue;
- (v) an Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a licence, or
- (vi) an Applicant or Licensee is not in compliance with any federal, provincial law or City By-law, including this By-law.

(2) Notwithstanding any other provision of this by-law, the Licence Manager may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the Licence Manager to give effect to this by-law.

(3) Where the Licence Manager is of the opinion that:

- (a) an application for a licence or renewal of a licence should be refused;
- (b) a reinstatement should not be made;
- (c) a licence should be revoked;
- (d) a licence should be suspended, or,
- (e) a term or condition of a licence should be imposed;

the Licence Manager shall make that decision.

(4) Where the Licence Manager has made a decision under subsection 2.7(3) the Licence Manager's written notice of that decision shall be given to the Applicant or the Licensee by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the address of the corporation's registered head office.

(5) The written notice to be given under subsection 2.7(4) shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licence Manager; and,
- (d) state that the Applicant or Licensee is entitled to a hearing by the Hearings Officer if the Applicant or Licensee delivers to the City Clerk, within ten (10) days after the notice in subsection 2.7 (4) is served, and the appeal fee as set out in Schedule "A" of this by-law.

(6) Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.

(7) Despite subsection 2.7(4) where a licence is voluntarily surrendered by the Licensee for revocation, the Licence Manager may revoke the licence without notice to the Licensee.

2.26 HEARINGS BEFORE THE HEARINGS OFFICER

(1) The power and authority to conduct hearings of appeals under this by-law are hereby delegated to the Hearings Officer.

(2) The provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, except sections 17, 17.1 and 19, applies to all hearings conducted by the Hearings Officer under this by-law.

(3) When the Applicant or Licensee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Hearings Officer may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceeding.

(4) At the conclusion of the hearing, the Hearings Officer may give its decision orally or in writing but in each case it shall provide its decision in writing, with reasons, within thirty (30) days of the hearing to the Applicant or Licensee and the Licence Manager.

(5) The Hearings Officer may uphold or vary the decision of the Licence Manager or make any decision that the Licence Manager was entitled to make in the first instance.

(6) The decision of the Hearings Officer is final.

2.33 ENFORCEMENT

This by-law may be enforced by a municipal law enforcement officer appointed by the Council or a police officer with the London Police Services.”

9. The Business Licensing By-law L-6 is amended by deleting all references to “Community and Neighbourhoods Committee and replacing them with “Community and Protective Services Committee”.

10. The Business Licensing By-law L-6 is amended by deleting all references to “Built and Natural Environment Committee and replacing them with “Planning and Environment Committee”.

11. Section 18.2 of the Business Licensing By-law L-6 is amended by adding the following new category of refreshment vehicle:

”Category 7 shall include a vehicle or trailer, which is no greater than 10 metres (33 feet) in length, and 2.6 metres (8.5 feet) in width, from which food products are sold from a location on City owned property and where the food products are prepared on the vehicle or trailer.”

12. Part 18 of the Business Licensing By-law L-6 is amended by adding the following new sections: 18.17 – 18.22 inclusive.

18.17 Category 7 Refreshment Vehicle Licence – permitted locations

(a) The Licence Manager is authorized to designate locations where a Category 7 Refreshment Vehicle may carry on business.

(b) The City Clerk shall maintain a record of all locations designated by the Licence Manager where a Category 7 Refreshment Vehicle may carry on business. The record shall be available for public inspection at the office of the Licence Manager and the office of the City Clerk during normal business hours.

18.18 Category 7 Refreshment Vehicle Licence – other permitted locations – determination

In addition to any other locational and licensing requirements under this By-law, the Licence Manager may add or delete a location to the record maintained by the City Clerk as set out in section 18.17 where Category 7 Refreshment Vehicles may carry on business. In order for a location to be designated by the Licence Manager, it must conform to the following criteria:

(a) A Category 7 Refreshment Vehicle shall be permitted to locate only on streets assumed as public highways and in designated locations in City Parks.

- (b) A Category 7 Refreshment Vehicle shall be permitted to locate only on a street classified as an arterial, primary collector or secondary collector roadway in Schedule C – Transportation Corridors of the City’s Official Plan.
- (c) A Category 7 Refreshment Vehicle shall not be permitted to locate within 25 metres of an eating establishment, as defined in Part 7 of this By-law, measured along the most direct road allowance route from nearest point of the refreshment vehicle and the nearest point of intersection of the perpendicular projection of the limits of the eating establishment property and the road allowance.
- (d) A Category 7 Refreshment Vehicle shall not be permitted to locate on a street within 25 metres of property used for residential purposes measured along the most direct road allowance route from the nearest point of the property boundary to the nearest point of the refreshment vehicle.
- (e) A Category 7 Refreshment Vehicle shall not be permitted to locate where, in the opinion of the Licence Manager, it may impede the movement of vehicles or pedestrians along a street, boulevard or sidewalk, or create a public safety hazard.

18.19 Category 7 Refreshment Vehicles - Prohibitions

In addition to the prohibitions contained in this By-law, no person shall:

- (a) Operate a Category 7 Refreshment Vehicle at a location that is not designated by the Licence Manager.
- (b) Operate a Category 7 Refreshment Vehicle within 100 metres of the boundary of a Special Event as defined in the City’s Special Event Policy measured along the most direct road allowance route from the nearest point of the Special Event boundary to the nearest point of the refreshment vehicle, except where the refreshment vehicle is approved as part of the Special Event.
- (c) Operate a Category 7 Refreshment Vehicle between the hours of 7:00a.m. and 5:00 p.m. on any school day within 100 metres of any school under the jurisdiction of the Thames Valley District School Board or the London and Middlesex Roman Catholic School Board measured along the most direct road allowance route from the nearest point of the school property boundary to the nearest point of the refreshment vehicle.
- (d) Operate a Category 7 Refreshment Vehicle between the hours of 3:00a.m. and 7:00 a.m.

18.20 Category 7 Refreshment Vehicle Licence – application

Every applicant for a Category 7 Refreshment vehicle licence shall file with the Licence Manager:

- (a) proof of insurance in respect of the Category 7 Refreshment Vehicle in the amount of \$2,000,000.00 and comprehensive general liability insurance in the amount \$5,000,000.00 which insurance shall be satisfactory to the Licence Manager who shall be notified within 60 days of its cancellation or expiry; and
- (b) an operational plan indicating plans for signage, waste management including disposal of grease and grey water, and list of types of food products to be sold or offered for sale.

18.20.1 The following regulations apply for determining the allocation of Category 7 Refreshment Vehicle Licences issued in 2015:

- (a) A limitation is imposed on the number of Category 7 Refreshment Vehicle Licences. The maximum number of licences in 2015 shall be eight (8).

- (b) The Licence Manager is to begin accepting applications from persons interested in obtaining a Category 7 Refreshment Vehicle Licence for the 2015 year on March 2 , 2015 at 8:30 am.
- (c) Every applicant for a Category 7 Refreshment Vehicle shall:
 - (i) if the Applicant is an individual, attend at the office of the Licence Manager in person and complete a written application for such Licence;
 - (ii) if the Applicant is partnership, have a partner attend at the office of the Licence Manager in person and complete a written application for such Licence;
 - (iii) if the Applicant is a corporation, have an officer or director of the corporation having signing authority attend at the office of the Licence Manager in person and complete a written application for such Licence.
- (d) All applicants shall submit proof that the vehicle to be used as a Category 7 Refreshment Vehicle is registered in the applicants name or leased by the Applicant.
- (e) An applicant may submit only one application for a Category 7 Refreshment Vehicle Licence.

All 2015 licencees may renew their licences for 2016.

18.21 Category 7 Refreshment Vehicle Licence – conditions to obtain and hold licence

In addition to all of the requirements set out in this by-law, every holder of a Category 7 refreshment vehicle licence is subject to the following conditions of obtaining and continuing to hold the licence;

- (a) maintain insurance as required under section 18.20;
- (b) file with the Licence Manager at least 5 days prior to the expiry date of any current insurance policy an insurance renewal policy or certificate of insurance

18.22 Category 7 Refreshment Vehicle Licence – operational conditions – City Streets

Every holder of a Category 7 refreshment vehicle Licence shall:

- (a) when carrying on business, sell, serve or offer food products only from or through a service window or opening on the refreshment vehicle facing the City boulevard and/or sidewalk and not facing the travelled portion of the road;
- (b) ensure that any overhead canopies, doors or awnings do not obstruct or hinder pedestrian or vehicular traffic;
- (c) provide for waste and recycling receptacles;
- (d) ensure all waste associated with the refreshment vehicle operations is removed within a 10 metre radius when the refreshment vehicle leaves subject location;
- (e) post a menu on the on the side of the vehicle containing the service window when preparing or offering food for sale;
- (f) ensure that no food products are served to or consumed by customers inside the refreshment vehicle;
- (g) keep a location log for each day the refreshment vehicle is operating that includes for each stop made by the refreshment vehicle for the purpose of preparing or offering food for sale, the date, time, duration, and location of the stop;

- (h) retain the location log required in subsection 18.22 (g) for at least 12 months and have the current and previous month's location log in the refreshment vehicle when it is being used for preparing or offering food for sale;
- (i) produce the location log required in subsection 18.22(g) to the Licence Manager or any person authorized to enforce this By-law upon request;
- (j) operate a Refreshment vehicle at all times in compliance with the City's Traffic and Parking By-Law PS-111, including paying for the use of a parking space or spaces.

13. Section 19.4 of the Business Licensing By-law L-6 is amended by deleting the word "Council" and replacing it with "Licence Manager".

14. Section 20.6 of the Business Licensing By-law L-6 is amended by deleting section 20.6 in its entirety and replacing it with the following:

"20.6 Continuation – repetition – prohibited – by order

If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order;

- (a) Prohibiting the continuation or repetition of the offence by the person convicted; and;
- (b) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate."

15. Schedule "A" to the Business Licensing By-law L-6 is amended by adding the following rows:

D	Refreshment Vehicle (Category 7)	\$1,225 (new)	\$760 (in association with existing refreshment vehicle licence)
All	All Categories - Request for Appeal of Decision of Licence Manager	\$100	

4. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on February 24, 2015.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – February 24, 2015
Second Reading – February 24, 2015
Third Reading – February 24, 2015