



<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE Meeting on February 18, 2015</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>FOOD TRUCK AMENDMENTS TO BUSINESS LICENSING BY-LAW L-6 INCLUDING GENERAL PROVISIONS REPORT PUBLIC PARTICIPATION MEETING</b>

<b>RECOMMENDATION</b>
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That on the Recommendation of the Managing Director, Development & Compliance Services and the Chief Building Official, the following actions be taken:

- a) This report **BE RECEIVED** for information;
- b) That an amendment to By-law L6 Business Licensing (attached hereto) **BE INTRODUCED** at the Municipal Council Meeting on February 24, 2015 to provide regulations for a new category of refreshment vehicle licence , associated regulations and fee schedule for refreshment vehicles operating on City streets and parks; and to provide updated General Provisions for business licensing administration and enforcement;
- c) That Civic Administration **BE REQUESTED** to report back if the application demand for this category of food truck licenses exceeds eight (8) licences;
- d) That Civic Administration **BE REQUESTED** to report back in the fall of 2015 on the number of this category of food truck licenses issued during in 2015 and on any other associated matters.

<b>PREVIOUS REPORTS</b>
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February 25, 2013 – Food Truck Proposal Report – Community and Protective Services Committee (CPSC)

May 27, 2013 – Food Truck Proposal – CPSC Report – Public Participation Meeting

June 10, 2013 – Food Truck Proposal – CPSC Post Public Participation Report

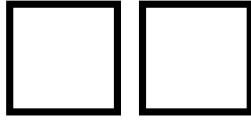
April 28, 2014 – Food Truck Proposal – CPSC Public Participation Meeting

May 5, 2014 – Food Truck Proposal – CPSC Post Public Participation Report

<b>BACKGROUND</b>
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The initiation of the food truck debate began in October 2012 when a meeting was initiated by Downtown London with Civic Administration and staff from the Middlesex London Heath Unit to discuss interest raised by existing restaurant owners in operating food trucks on City streets. This discussion resulted in the following five reports:

- The initial report presented to the CPSC on February 25, 2013 was in response to a delegation from a local restaurant operator interested in operating a food truck on City property. Civic Administration was directed to report back at a public participation meeting on Business Licensing By-law amendments to implement a pilot project to permit food trucks in the downtown area.
- The second report was presented to the CPSC on May 27, 2013 and included a public participation meeting on associated by-law amendments. The submission proposed



three locations for food trucks surrounding Victoria Park. The pilot program was referred to a special CPSC meeting with direction to increase the number of licences to be available, increase the locations and menu recommendations.

- The third report was presented to CPSC on June 10, 2013 and included locational criteria and associated by-law amendments to allow for a City wide food truck program. During this meeting, there was discussion on menu selection and how a municipality can regulate food variety and diversity within a menu under the parameters of a municipal by-law.
- The fourth report was presented to the CPSC on April 28, 2014 and included a public participation meeting on associated by-law amendments. The submission proposed amendments which would permit food trucks on City streets with associated regulations on separations distances from existing restaurants, schools, special events and residential uses. Menu content regulation was not recommended by Civic Administration. The proposal was referred to a special CPSC meeting with direction to limit the number of food trucks to 12; remove Richmond Street as a permitted location, and a program evaluation.
- The fifth report was presented to the CPSC on May 5, 2014 and included a by-law amendment with a limit of 12 permitted licenses with associated separation distances and regulations. The CPSC reduced the number of permitted licenses to 8 and increased separation distances.

Municipal Council did not approve a food truck program on May 6, 2014.

On January 27, 2015 Municipal Council resolved:

Recommendation: That the following actions be taken with respect to Food Trucks:

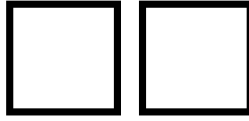
a) the Civic Administration BE REQUESTED to submit to the February 18, 2015 meeting of the Community and Protective Services Committee (CPSC), proposed amendments to By-law L-6, Business Licensing By-law to provide for the following:

- i) updated general provisions for business licensing administration and enforcement;
- ii) regulations and a fee schedule for a new category of refreshment vehicles operating on City property, including regulations for separation distances from restaurants, residential areas, special events and schools; and,
- iii) operational conditions related to health and safety, signage, waste collection and parking space payment;

b) subject to the approval of a), above, the Civic Administration BE REQUESTED to establish an initial pilot program to implement the establishment of Food Trucks through Licensing By-law L-6 and report back in the Fall of 2015 on the number of licenses issued during this initial pilot program and on any other associated matters; and,

c) subject to approval of a), above, the Civic Administration BE REQUESTED to consult with the Downtown London Business Association, Richmond Row Merchants Association and any applicable stakeholders, prior to preparation of the proposed amendments to Licensing By-law L-6 noted in a), above;

it being noted that the CPSC reviewed and received a communication dated January 6, 2015, from Mayor M. Brown and Councillor J Morgan, with respect to this matter.



### **How are refreshment vehicles currently addressed in the Business Licensing By-law?**

The current Business Licensing By-law requirements for refreshment vehicles are outdated as they were originally drafted to deal with catering trucks, hot dog vendors and pedal powered ice cream vendors. The food service industry has diversified and in many municipalities, consumer demand for a greater variety of food products, specifically in downtown areas, has resulted in numerous reviews and amendments of municipal business licences.

London's Business Licensing By-law regulates a number of classes of refreshment vehicles including stationary and mobile vehicles. Refreshment vehicles are permitted to set up on private and public property. For example, food vendors (hot dog carts) are allocated public locations (i.e. entrances to Victoria Park) by way of a lottery. Additional refreshment vehicles are located on private property (food trucks - stationary or mobile). Joint inspections are undertaken by the Health Unit, Fire Prevention and Municipal Law Enforcement to ensure that all respective regulations are in full compliance.

### **Was there stakeholder and community engagement as part of this review?**

The food truck industry has seen a significant rise in popularity across North America. There has been a growing trend towards promoting healthy, innovative and diverse food choices from food trucks parked on city streets and off-street lots. Celebrity chefs, social media and reality television shows have all added to the increased interest in the evolving food service industry. Food truck festivals (Hamilton, 2014) have been organized by BIAs to promote this eatery option.

For the most part, municipalities in Canada have approached and/or regulated this type of food vendor in a variety of ways – hours of operation, controlled menu's, setbacks from restaurants, fees and other locational criteria. One of the key findings from the municipal scan is the consistent use of a buffer zone or setback regulation from existing "bricks and mortar" restaurants.

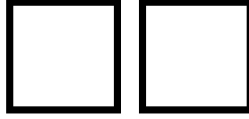
Over the past two years, Civic Administration has consulted with the local stakeholders including: restaurateurs, business associations, business owners, and regulatory agencies. The following provides a summary of the discussions.

The most common opinion from Downtown restaurateurs was a concern about cost/benefit equity between operating a "bricks and mortar" restaurant (taxes, employee cost, maintenance, health and safety, utilities etc.) versus a food truck which has little or no perceived overhead and low staffing costs. Restaurants in close proximity to the Downtown or even in the outskirts of the Downtown were not completely opposed and noted food truck as a sign of progress; if food trucks are going to come to London then the business community should be engaged in the decision making (selection panel) to ensure a unique food experience and that negative impacts are minimized. Other responses included proximity to existing restaurants, garbage, health and safety standards for food, patrons and employees, washrooms for patrons and staff, accessibility for all, noise, hours of operation.

Responses from other stakeholders mainly outside the restaurant industry were positive, suggesting the food industry is changing and people should have a choice. Several suggested the influx of food truck and food alternatives will bring new people to the downtown, put feet on the street and draw-out existing downtown workers and residents creating energy and increased commerce.

The Ontario Hotel Motel Restaurant Association (ORHMA) was also consulted. Their feedback indicated food trucks are likely here to stay however regard must be given to existing restaurateurs noting the cost of operating a food truck differs significantly to that of a "bricks and mortar" restaurant.

Early in 2015 additional consultation was held with Downtown London (including the expanded BIA in the Richmond Row area) and other interested parties. Similar comments were relayed regarding the need for separation distances from existing restaurants. Previous reports including separation distance mapping was available for discussion purposes.



### **What is the municipal purpose of the by-law amendment?**

The rationale of the recommended amendment is to regulate refreshment vehicles on City owned property in an effort to enhance the economic vitality and vibrant street life in London while ensuring compliance with regulations regarding food health and safety. The municipal purpose of the by-law aligns with two of Council's strategic priorities: "A Strong Economy that encourages jobs, talent, ideas and innovation" and "A Vibrant and Diverse Community that is livable, exciting, cultural and friendly".

Many municipalities which have embraced the food truck trend have implemented regulations which encourage the introduction of refreshment vehicles on City property in an effort to recognize the entrepreneurial spirit and innovation associated with this format of delivering food services to customers. Furthermore, a vibrant food truck "scene" in other cities has provided an increase in culinary tourism and the diversity of food options throughout the City. These economic and cultural priorities are coupled with the goals of food health and safety which are standard with any format of food service delivery.

### **What is the process for licence approval?**

London has had a licensing approval process for food carts and refreshment vehicles operating on private and public property for many years. With a focus on health and safety, numerous mobile vendors are approved on a yearly basis. A joint inspection program is in place with partner agencies to ensure consumer and food safety. The standard vehicle approval process will be administered for the proposed Class 7 Refreshment vehicle category.

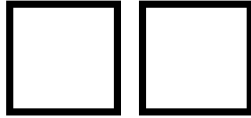
There has been some previous discussion on municipal menu approval. As noted in previous reports, staff consulted with local food industry experts, municipalities with food truck programs, food truck operators in other jurisdictions and a province-wide food truck association representative in discussing 'best practices'. Several municipalities have implemented review panels with a focus on menu diversity. Staff does not recommend such an approach as it is time consuming, subjective, exhibits enforcement challenges and is overly regulatory. Civic Administration maintains this same opinion on regulating menu selection as was expressed the June 2013 report to CPSC.

Applicants for a Category 7 refreshment vehicle will be required to submit an operational plan outlining plans for signage, waste management including the disposal of grease and grey water and a list of items to be sold or offered for sale. The operational plan is not a condition to obtain a licence but will be reviewed during the inspection process. The information regarding food products will not be considered in approving or refusing certain menu choices but rather will be used during the inspection process as food products have specific storage and cooking regulations as per requirements of the *Health Protection and Promotion Act*. Existing licensed refreshment vehicles operating on private property will be required to submit an operational plan should the licensee wish to operate on City owned property under a Category 7 licence.

### **How will the locations permitting Category 7 Refreshment vehicles be determined?**

The Licence Manager will have the authority to identify locations permitting Category 7 Refreshment vehicles. The permitted locations have been chosen based on proximity to existing restaurants (25 m setback) , schools (100 m setback) , special events (100 m setback), residential land uses (25 m setback); and street classification (Official Plan - arterial, primary collector or secondary collector roadway classifications). The setbacks are reasonable to address any possible nuisance concerns (noise, smell) from existing land uses. The setbacks from "bricks and mortar" restaurants are generally consistent with other municipalities which have been regulating food trucks for several years. Previous draft by-law amendments included a setback from residential uses of 100 m. Upon further review, this setback is unnecessarily large and would greatly reduce the number of on-street parking opportunities for food trucks. Increasing the distance separations from those presented in the attached by-law amendment would reduce the number of permitted locations.

A record of all permitted locations will be available in the City Clerks service area (third floor City Hall and the front lobby – Service London). This list may be amended for time to time by the Licence Manager to add or delete locations. Situations where a location might be deleted could



include a new “bricks and mortar” restaurant opening which would result in a separation distance by-law infraction. Similarly, situations where a new on-street location may be introduced would be the closing of a restaurant located within the separation distance.

Category 7 Refreshment vehicles will be permitted in City parks under the authority of the Managing Director of Parks and Recreation or his designate. Category 7 Refreshment vehicles will be permitted in parking lots in City parks and arenas with exceptions to be developed by parks staff to ensure the necessary amount of parking remains available to park users for the intended use of the park amenities and recreational facilities. For example, a food truck may be permitted to locate in a park during the weekend of a major baseball or soccer tournament. Parks staff would coordinate the location within the park and/or parking area. This is common in many municipalities which host larger sporting events.

**Will there be a limit on the number of licenses issued in 2015?**

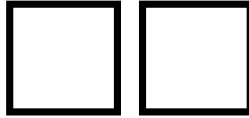
Previously, Civic Administration did not originally recommend a limit on the number of licences issued for Category 7 Refreshment vehicles. When asked to suggest a reasonable cap on the number of Category 7 licences, Civic Administration referenced other municipalities who annually release new food truck licences (Vancouver 12, Ottawa 10). Reference was also made to the number of licensed food trucks located on private property in London (May 2014 – 27 licenses). It was a Council decision to limit the number of annual licenses issued to twelve (12) (April 28, 2014 – CPSC). Similarity, it was a Council decision to reduce the limit to eight (8) (May 5, 2014 – CPSC).

It is clear from the most recent Council Resolution that it is Council’s intent to consider an “initial pilot program” for 2015. In this regard, based on the number of food trucks licensed in other municipalities on a yearly basis and based on the number of Category 5 Refreshment Vehicles (located on private property), Civic Administration can support a limit of 8 licences issued in 2015. However, should there be a demand for more than 8 food trucks, Civic Administration will report to the CPSC to seek direction on if the limit should be increased or eliminated. A public meeting would be required to make any changes to the cap on the number of licences. If Council did not make any reference to an “initial pilot program”, no limit on the number of licences would be recommended by Civic Administration.

Should Council approve a food truck program, Civic Administration will report back in the fall of 2015 on the number of licences issued during this initial pilot program and on any other associated matters. Should Council wish to make any amendments to the by-law including changing the number of permitted licences or eliminating a licence cap, a public participation meeting will be required.

**What amendments are proposed to the general provisions section of the Business Licensing by-law?**

As part of the amendment, changes to the general provision regulations of the Business Licensing by-law are recommended. The amendments address: exemptions, administration, applications and renewals, issuance of licences, powers of the licence manager, hearings before the hearings officer and enforcement. The amendments greatly improve the provisions for administering the by-law and allow for enforcement actions to be taken in situations of non-compliance. Introducing options for appeals to be heard before a hearings officer add efficiency to the business licensing process. The amendment is in line with other recently approved City By-laws (Residential Rental Units Licensing; Taxi/Limousine Licensing) with respect to general provisions.



**What are the regulations of operating a Category 7 Refreshment vehicle?**

Every holder of a Category 7 Refreshment vehicle must adhere to the following regulations set out in the by-law amendment:

1. when carrying on business, sell, serve or offer food products only from or through a service window or opening on the refreshment vehicle towards the City boulevard and/or sidewalk and not facing the road ;

This regulation restricts the sale of food products towards the sidewalk / boulevard to reduce the potential for vehicular and /or pedestrian accidents and traffic flow obstruction. This is a standard clause in many municipal food truck regulations.

2. overhead canopies, doors or awnings must not obstruct or hinder pedestrian traffic;

This regulation is necessary to ensure the safety of the public in using City boulevards and sidewalks.

3. provide for waste and recycling receptacles and ensure all waste associated with the refreshment vehicle operations is removed within a 10 metre radius when the refreshment vehicle leaves subject location;

This regulation provides for litter control in specifying the requirement for garbage cans and recycling boxes and the requirement for the refreshment vehicle operator to ensure a litter free area within a 10 metre radius of the vehicle.

4. post a menu on the side of the vehicle containing the service window when stopped for the purpose of preparing or offering food for sale;

This regulation is based on consumer protection and public safety specifying where on the vehicle the menu board should be posted.

5. keep a location log for each day the refreshment vehicle is operating that includes the following information about each location on City property the refreshment vehicle stops for the purpose of preparing or offering food for sale: date, time of stop, duration of stop, and location on City street;

This regulation is common among many food truck by-law / ordinances. The rationale of this regulation is to ensure adherence to locational regulations by recording certain relevant information including date, time of stop, duration of stop, and location on City street and/or City park.

6. the location log shall be kept for one year;

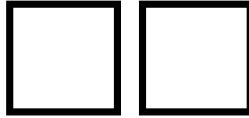
This regulation complements the above regulation in requiring the location log be kept for one year.

7. the location log shall be made available to the Licence Manager or a Municipal Law Enforcement Officer upon request;

This regulation allows for the inspection of the location log for law enforcement purposes. The log may become evidence in the laying of a charge if the information in the location log does not coincide with noted enforcement based observations.

8. shall not operate a Refreshment vehicle on a City street between the hours of 3:00 a.m. and 7:00 a.m.

For purposes of City road maintenance and nuisance control, Class 7 refreshment vehicles will not be permitted to remain in one on-street location for a 24 hour period. A food truck is considered a commercial vehicle and would not be permitted to remain on a City street during the 3 am – 5 am parking regulation exemption period.



9. Maintain a fully-operational Global Positioning System (GPS) as provided for by the Licence Manager

For purposes of efficiency and enforcement effectiveness, the Licence Manager will provide a GPS to the licensee. The GPS must remain operational during the period of the approved licence. The GPS will assist in determining food truck locations for purposes of by-law compliance.

10. 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.

As refreshment vehicles will be occupying parking spaces on City streets, they will be responsible for paying for the use of the parking spaces. Violations of non-payment for the use of a parking space will be subject to Part 2 fines. The Parking By-law will be amended in early 2015 to address a number of technical and housekeeping issues. Exempting Category 7 Refreshment Vehicles from time limit parking regulations (2 hour maximum per parking space) will be included as part of the Parking By-law amendment.

**What is the license fee for a Category 7 refreshment vehicle?**

The proposed fee is \$3,565 for a new application and \$3,320 if the refreshment vehicle is currently licensed under another refreshment vehicle category. The licensing fees represent the cost of by-law administration, enforcement for this category of refreshment vehicle, the GPS module and monthly wireless fees. Installation of the GPS will be the responsibility of the licensee. On average, each food truck will be inspected twice monthly to confirm compliance with the regulations of the business licensing by-law. Initial inspections will include Health Unit and Technical Standards and Safety (propane).

As noted above, the cost of parking a food truck in a metered parking spot will not be waived. For example, assuming a food truck utilizes two parking spaces for 5 hours for 5 days for 40 weeks, the annual parking cost would be \$3, 000. This cost would be in addition to the license fee.

**Acknowledgements**

This report was prepared with the assistance of Ethan Ling, Development Policy Coordinator, Business Liaison Services.

**CONCLUSION**

The initiation of the food truck debate began in October 2012 when a meeting was initiated by Downtown London with City Administration and staff from the Middlesex London Health Unit to discuss interest by existing restaurants in operating food trucks on City streets. This issue is not specific to London. Municipalities across North America have addressed the market demand for food trucks on City property in a variety of ways.

Civic Administration has over the past two years submitted a variety of reports and draft by-law regulations on this matter as requested by Council. Civic Administration believes licensing regulations addressing menu content are time consuming, subjective and exhibit enforcement challenges. Success of a refreshment vehicle will be determined by business acumen and the marketplace. With a focus on a seamless application process, the proposed by-law amendments provide for fair and balanced regulations to support program success. Civic Administration will report back in the fall of 2015 on the number of licences issued and any other related matters.

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<b>PREPARED BY:</b>	<b>REVIEWED AND CONCURRED BY:</b>
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cc. City Solicitors Office