

BY-LAW 2012-120

**BEING A BY-LAW OF THE CITY OF GREATER SUDBURY
TO AMEND BY-LAW 2004-350, A BY-LAW TO PROVIDE
FOR THE LICENSING AND REGULATION OF VARIOUS BUSINESSES**

WHEREAS By-law 2004-350 as amended, is a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses;

AND WHEREAS Council for the City of Greater Sudbury wishes to further amend the said By-law 2004-350, a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
ENACTS AS FOLLOWS:**

Replace Part III, Section 3

1. By-law 2004-350 as amended, a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, is further amended by repealing Part III - Street Sales Permits, Section 3, and enacting the following Part III - Street Sales Permits, Section 3, in its place and stead.

**"PART III
STREET SALE PERMITS**

Definitions

3.-(1) In this Part III:

"Designated Site" means the site assigned to the holder of a Street Sale Permit issued under the provisions of this Part of this By-law for the operation of a Refreshment Vehicle or Sales Cart;

"Refreshment Vehicle" shall mean any vehicle from which refreshments are sold for consumption by the public and includes, without limiting the generality of the foregoing, french fried potato vendors, mobile canteens, hot dog vendors, ice cream vendors, popcorn vendors, carts, wagons, trailers and trucks, irrespective of the type of motive power employed to move the refreshment vehicle from one point to another;

"Sales Cart" means any vehicle, cart or stand from which goods are displayed and sold to the public and includes without limiting the generality of the foregoing, vehicles, cart or stand for the display and sale of watches, jewelry,

sunglasses, hats, caps, clothing, toiletries, irrespective of the type of motive power employed to move the sales cart from one point to another;

"Waste" includes food, disposable eating utensils, paper, wood, cardboard, plastic, glass or metal products used in the storage, preparation, serving or consumption of the food or beverages offered for sale from a Refreshment Vehicle or packaging in association with a Sales Cart;

No Owner to Allow Operation w/o a Street Sale Permit

(2) No person being the owner of a Refreshment Vehicle or Sales Cart shall operate or authorize or permit the operation of the Refreshment Vehicle or Sales Cart owned by such person on a site located on a sidewalk or any other municipal property within the boundaries of the City without holding a current and valid Street Sale Permit issued under the provisions of this Part of this By-law.

No Operator to operate w/o a Street Sale Permit

(3) No person, whether or not the owner of a Refreshment Vehicle or Sales Cart shall operate the Refreshment Vehicle or Sales Cart on a site located on a sidewalk or any other municipal property within the boundaries of the City unless a current and valid Street Sale Permit has issued under the provisions of this Part of this By-law for the Refreshment Vehicle or Sales Cart.

Exemption

(4) Despite anything else herein, no Street Sale Permit is required for any activity or undertaking authorized under the Sidewalk Café Program of the City or other Road Occupancy Permit issued under the City's Road Occupancy Bylaw 2011-218, as amended or replaced, or for any activity or undertaking authorized under a Hawkers or Pedlar's licence under the City's Business Licencing By-law, 2004-350, as amended or replaced from time to time.

Application in Writing

(5) Any person being the owner of a Refreshment Vehicle or Sales Cart may apply in writing to the Issuer of Licences for a Street Sale Permit, using forms be provided by the Issuer of Licences.

One Permit per Refreshment Vehicle or Sales Cart

(6) An owner shall submit a separate application for a Street Sale Permit for each Refreshment Vehicle or Sales Cart owned by that person and a Street Sale Permit shall apply to only one Refreshment Cart or Sales Cart as the case may be.

Requirements - Application

(7) In addition to the provisions in Section 2 of this By-law, the following shall apply with respect to the application for a Street Sale Permit:

- (a) Every applicant for a Street Sale Permit, shall, in addition to the information required under Subsection 2(6), include with the application:
- (i) a sketch showing the proposed location for which the applicant wishes a Street Sale Permit. The Sketch shall:
 - be drawn to scale;
 - contain a directional arrow;
 - show the street name of the street to which the application applies, the nearest cross streets and the municipal address of the building closest to the proposed location;
 - the dimensions of the proposed location; and
 - in the case of a Street Sale Permit for a Refreshment Vehicle, show the location of any intersection or liquor licensed establishment within 50 metres of the proposed location and any eating establishment or place where foodstuffs are offered for sale within 8 metres of the proposed location;
 - (ii) particulars of any previous Street Sale Permit held by the applicant at the proposed or any other location; and
 - (iii) a certificate of insurance in the City's standard form, evidencing coverages identified in subsection 3(12);
 - (iv) where the operator of the Refreshment Vehicle or Sales Cart is not the same as the owner, the name and contact information of the operator;
 - (v) in the case of an application for a Street Sales Permit for a Refreshment Vehicle which uses propane for the preparation or heating of food products, a current safety certificate issued by a certified and registered gas fitter in accordance with the guidelines of the Technical and Safety Standards for the propane components of the Refreshment Vehicle; and

- (vii) such other information or documentation as the Issuer of Licences may require to assess the application.

Refusal to issue Street Sale Permit

- (8) In addition to any reason in Subsection 2(24) for which the Issuer of Licences may refuse to issue a licence, the Issuer of Licences may refuse to issue a Street Sale Permit if the proposed location for the Refreshment Vehicle or Sales Cart:
 - (i) is within 6 metres of an intersection with a Highway, including an open public lane;
 - (ii) would result in less than 1.5 metres of sidewalk between the proposed site and the adjoining building or sidewalk edge, as the case may be, being available for pedestrian movement;
 - (iii) is on an area of sidewalk which is less than 3 metres wide or 3.7 metres wide in those instances where there are curbside obstructions present;
 - (iv) may, in the opinion of the Issuer of Licences, interfere with access to Fire Department connections or to entrances to adjacent buildings; or
 - (v) in any other instance where the Issuer of Licences feels it is appropriate to refuse a Street Sales Permit, based on a consideration of public safety and public nuisance factors.

Refusal to Issue Street Sale Permit - Refreshment Vehicle

- (9) In addition to any reason in Subsection 2(24) for which the Issuer of Licences may refuse to issue a licence, and in addition to any reason in Subsection 3(8) for which the Issuer of Licences may refuse to issue a Street Sale Permit, the Issuer of Licences may refuse to issue a Street Sale Permit for a Refreshment Vehicle if the proposed location for the Refreshment Vehicle:
 - (i) is within 50 metres or less from the Designated Site of another Refreshment Vehicle;
 - (ii) is within 50 metres or less from the entrance to a liquor licensed establishment;

- (iii) is within 50 metres or less from a residential use; or
- (iv) is within a distance of 8 metres or less from the front entrance of an eating establishment or a place where foodstuffs are offered for sale, if the refreshment vehicle offers for sale the similar food products as does the eating establishment or the place where foodstuffs are offered for sale.

Multiple Applications

(10) In the event that more than one application is received for a proposed location for a Refreshment Stand or Sales Cart, the Licence Issuer shall issue the Street Sale Permit to the applicant who held a Street Sale Permit for that location in the prior year, if applicable, and if none of the applicants held Street Sale Permit for that proposed location in the prior year, the Licence Issuer shall issue the Street Sale Permit to the applicant who first submitted a fully completed application for a Street Sale Permit.

Street Sale Permit & Plate

(11) The Issuer of Licences shall issue a Street Sale Permit by inserting the Designated Site, the term of the Street Sales Permit, any conditions of use and by dating and signing. In addition to issuing the Street Sale Permit in the form of a paper certificate, the Issuer of Licences shall provide to the Permit holder, a Street Sale Permit Plate to affix to the Refreshment Vehicle or Sales Cart.

Indemnity - Condition of Street Sale Permit

- (12) Whether or not it is specified on the face of the Street Sale Permit, every Street Sale Permit is issued subject to the condition that the Permit Holder:
- (a) indemnify and save harmless the City, its elected and non-elected officials, agents and servants from all causes of action, loss, costs or damages arising from or related to the activity authorized by the Street Sale Permit, whether with or without negligence on the part of the Permit Holder or the officers, agents or servants of the Permit Holder; and
 - (b) place and maintain in good standing during the effective period of the Permit, a policy of comprehensive general liability insurance with an insurer licenced in Ontario :
 - (i) with limits of not less than Two Million (\$2,000,000) Dollars per occurrence for bodily injury, death and damage to property including loss of use thereof;
 - (ii) which names the City of Greater Sudbury as an additional insured or as its interest appears; and

- (iii) contains an endorsement to provide the City with thirty (30) days prior written notice of cancellation of the policy.

Street Sale Permit Expiry

(13) A Street Sale Permit, if not earlier revoked, shall expire at midnight on November 30th in the year in which it is issued, whether or not the expiry date is specified on the Street Sale Permit.

Street Sale Permit - Not Transferable

(14) No person may transfer a Street Sale Permit.

Temporary Alternate Designated Site - for Municipal Purposes

(15) Despite anything herein to the contrary, the Issuer of Licences may, in writing, assign an alternate Designated Site to the holder of a Street Sale Permit for a fixed period of time in the event that the Designated Site is required for municipal purposes and during such period the Street Sale Permit shall be deemed to refer to the specified alternate Designated Site. The Issuer of Licences shall provide notice in writing to the holder of the Street Sale Permit at the address for service shown in the application for the Permit. The notice shall advise the holder of the Street Sale Permit of the particulars of the temporary alternate Designated Site, the period of time during which the temporary alternate Designated Site is in effect, and the reason for the temporary relocation of the Designated Site.

Prohibitions / Offences

- (16) No person being the holder of a Street Sale Permit and no person operating a Refreshment Vehicle or Sales Cart under the authority of Street Sale Permit, whether or not the holder of the Street Sale Permit shall:
 - (a) operate or authorize or permit the operation of a Refreshment Vehicle or Sales Cart on a site other than the Designated Site specified in the Street Sale Permit;
 - (b) operate or permit or authorize the operation of a Refreshment Vehicle or Sales Cart during the period from and including December 1st of one year up to and including March 31st of the following year;

- (c) fail to ensure that the name of the Permit Holder is displayed on each side of the Refreshment Vehicle or Sales Cart in letters at least 10 centimetres in height;
- (d) fail to affix or cause to be affixed the Street Sale Permit plate issued under the provisions of this Part of this By-law in a conspicuous place on the Refreshment Vehicle or Sales Cart for which it was issued;
- (e) fail to provide or cause to be provided, an appropriate waste container at the Designated Site to which the Street Sale Permit applies, while the Refreshment Vehicle or Sales Cart is being operated, for the use of the operator, patrons and others;
- (f) fail to remove or cause to be removed, the waste container and all waste from the Designated Site to which that Street Sale Permit applies, by the end of each day of operation at the Designated Site;
- (g) store equipment or supplies or allow or permit equipment or supplies to be stored in contravention of any traffic or parking regulation or By-law;
- (h) fail to maintain in place throughout the term of the Street Sale Permit, a policy of insurance consistent with Subsection 3(12);
- (i) fail to provide to the Issuer of Licences from time to time, as required, a new certificate of insurance, to evidence continuing compliance with the insurance obligations in Paragraph 3(12).

Safety Certification - Propane Components

(17) No person being the owner or operator of a Refreshment Vehicle for which a Street Sale Permit has issued and which uses propane for the preparation or heating of food products, shall operate or authorize or permit the operation of the Refreshment Vehicle without an safety certification of such propane components of the vehicle by a certified and registered gas fitter in accordance with the guidelines of the Technical and Safety Standards Authority, issued within the previous 365 days."

Hearing Committee

2. Subsections 2(22) , 2(23), 2(24), 2(26), 2(27) are amended by replacing references to "Council" in each such subsection with "Hearing Committee" where for the purposes of these subsections, "Hearing Committee" refers to the Hearing Committee authorized pursuant to the City's Procedure By-law in effect from time to time.

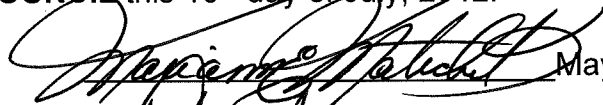
Effective Date

3. This By-law shall come into effect upon passage.

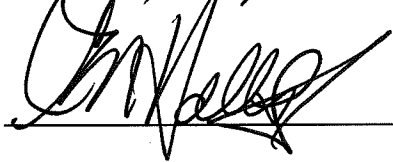
Transition

4. Any Street Sale Permit issued prior to the passage of this amending By-law shall be deemed to have been issued in accordance with this amending By-law.

READ AND PASSED IN OPEN COUNCIL this 10th day of July, 2012.



Mayor



Clerk