Minute No. 244
Report – Executive Policy Committee – March 24, 2015

Item No. 1 Repeal of Public Health Licences - Doing Business in Winnipeg By-law No. 91/2008, and Consequential By-law Amendments

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 24, 2014, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That an amending by-law (draft attached as Appendix 1) be enacted to take effect April 1, 2015 which will:

   A. repeal Divisions of the Doing Business in Winnipeg By-law No. 91/2008 governing the licensing of businesses that require Public Health Inspection services and oversight, specifically:
      - Division One (pertaining to Body Modification Services);
      - Division Three (pertaining to Food Services); and
      - Division Eight (pertaining to Public and Semi-Public Swimming Pools and Whirlpools);

   B. amend the Food Service Establishment By-law No. 5160/89 and the Body Modification By-law No. 40/2005 to eliminate the requirement for compliance with the Doing Business in Winnipeg By-law No. 91/2008, but maintain requirements for applicable Permits and Certificates issued by the Province of Manitoba's Public Health Inspectors, to ensure safe operation of these businesses;

   C. amend the Body Modification By-law No. 40/2005 to permit the Province of Manitoba's Public Health Inspectors to approve the exclusive use of commercially-sterilized, pre-packaged instruments, which require no further sterilization prior to use, in place of the requirement for an on-site autoclave and monthly spore testing, to align with current industry standards;

   D. amend the Streets By-law No. 1481/77, the City of Winnipeg Traffic By-law No. 1573/77 and the Parking Meter By-law No. 6547/95 to
      - maintain the current restrictions on the location of mobile vendors through those by-laws instead of the Doing Business in Winnipeg By-law;
      - require food carts and other vendors operating on sidewalks to obtain Use of Street Permits, issued by Public Works;

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COUNCIL DECISION (continued):

- require food trucks and other vendors operating from the roadway to obtain a Mobile Vendor's Parking Permit, issued by the Winnipeg Parking Authority, which will exempt vendors from parking time limits and from the requirement to pay for parking;
- allow for the Winnipeg Parking Authority to limit the number of mobile vendors operating on particular blocks of a street.

2. That the application of existing Use of Street Permit fees be approved to facilitate seasonal operation of mobile vendors operating on sidewalks and boulevards. Permit would be valid for the entire year; however, monthly space rental fee would be reduced to equate to a half year rental in consideration of seasonal operation:

Sidewalk Carts (Public Works)

• Annual permit fee	$198.00
• Monthly space rental fee per m2 of sidewalk used (charged for half a year)	$4.20
• Administration fee	$32.00

3. That the following new fees be approved to the Fees and Charges Schedule for Mobile Vendor's Parking Permits on roadways, inclusive of administration charges:

Trucks and Trailers on Roadways (Winnipeg Parking Authority) (Apr 1 - Oct 31, no proration)

• High Demand Zone Permit (Vehicle under 22ft):	$ 1,706
• High Demand Zone Permit (Vehicle over 22ft):	$ 3,386
• Low Demand Zone Permit (Vehicle under 22ft):	$ 866
• Low Demand Zone Permit (Vehicle over 22ft):	$ 1,706
• Non-Metered Area Permit:	$ 306

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,
That the recommendation of the Executive Policy Committee be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 24, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **Repeal of Public Health Licences from the *Doing Business in Winnipeg By-law 91/2008,* and Consequential By-law Amendments.**

Critical Path: **Executive Policy Committee - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Fifer C. Stewart S. Chapman	C. Wightman R. Topolniski B. Sacher	M. Ruta	M. Jack A/CAO

RECOMMENDATIONS

1. That Council enact an amending by-law (draft attached as Appendix 1) to take effect April 1, 2015 which will:

(a) repeal Divisions of the *Doing Business in Winnipeg By-law 91/2008* governing the licensing of businesses that require Public Health Inspection services and oversight, specifically:
- Division One (pertaining to Body Modification Services);
- Division Three (pertaining to Food Services); and
- Division Eight (pertaining to Public and Semi-Public Swimming Pools and Whirlpools);

(b) make amendments to the *Food Service Establishment By-law No. 5160/89* and the *Body Modification By-law No. 40/2005* to eliminate the requirement for compliance with the *Doing Business in Winnipeg By-law 91/2008*, but maintain requirements for applicable Permits and Certificates issued by the Province of Manitoba's Public Health Inspectors, to ensure safe operation of these businesses;

(c) make amendments to the *Body Modification By-law No. 40/2005* to permit the Province of Manitoba's Public Health Inspectors to approve the exclusive use of commercially-sterilized, pre-packaged instruments, which require no further sterilization prior to use, in place of the requirement for an on-site autoclave and monthly spore testing, to align with current industry standards.

(d) amend the *Streets By-law No. 1481/77*, the *Traffic By-law No. 1573/77* and the *Parking Meter By-law No. 6547/95* to

- maintain the current restrictions on the location of mobile vendors through those by-laws instead of the *Doing Business in Winnipeg By-law*;
- require food carts and other vendors operating on sidewalks to obtain Use of Street Permits, issued by Public Works;
- require food trucks and other vendors operating from the roadway to obtain a Mobile Vendor's Parking Permit, issued by the Winnipeg Parking Authority, which will exempt vendors from parking time limits and from the requirement to pay for parking;
- allow for the Winnipeg Parking Authority to limit the number of mobile vendors operating on particular blocks of a street.

2. That Council approve the application of existing Use of Street Permit fees to facilitate seasonal operation of mobile vendors operating on sidewalks and boulevards. Permit would be valid for the entire year; however, monthly space rental fee would be reduced to equate to a half year rental in consideration of seasonal operation:

Sidewalk Carts (Public Works)

- Annual permit fee $198.00
- Monthly space rental fee per m2 of sidewalk used (charged for half a year) $4.20
- Administration fee $32.00

3. That Council approve the following new fees to the Fees and Charges Schedule for Mobile Vendor's Parking Permits on roadways, inclusive of administration charges:

Trucks and Trailers on Roadways (Winnipeg Parking Authority) (Apr 1 - Oct 31, no proration)

- High Demand Zone Permit (Vehicle under 22ft): $ 1,706
- High Demand Zone Permit (Vehicle over 22ft): $ 3,386
- Low Demand Zone Permit (Vehicle under 22ft): $ 866
- Low Demand Zone Permit (Vehicle over 22ft): $ 1,706
- Non-Metered Area Permit: $ 306

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

Council approval is required to amend by-laws and establish new fees.

A Memorandum of Understanding (MOU) with the Province resulting in the transfer of public health inspection services included a transition period which ends on March 31, 2015. At that point, it will no longer be necessary for the City to license body modification establishments, food handling establishments, or public or semi-public swimming pools and whirlpools.

Accordingly, this report recommends the repeal of these provisions effective April 1, 2015, and subsequent amendments to related by-laws, to permit for consistent oversight and enforcement of operating provisions for these businesses, in the absence of a City of Winnipeg licensing system.

IMPLICATIONS OF THE RECOMMENDATIONS

The Memorandum of Understanding (MOU) with the Province that resulted in the transfer of public health inspection services to the Province involved a three-year transition period during which time the City agreed to maintain its licensing provisions for business that require public health inspection services and oversight. That transition period ends on March 31, 2015. At that point, there will be no need for the City of Winnipeg to continue to license body modification establishments, food handling establishments, or public or semi-public swimming pools and whirlpools.

The Report authorizing this Agreement with the Province, approved by Council on June 22, 2011, anticipated the repeal of the licensing provisions affecting these businesses following the transition period. It stated:

> *After the transition period, the City of Winnipeg will no longer have any responsibility for public health inspection services. As well, public health related licensing services under the Doing Business in Winnipeg By-law, administered by the City would cease.*

In accordance with this intention, this report proposes the repeal of these provisions in the *Doing Business in Winnipeg By-law.*

The recommendation to repeal these provisions is being made despite the fact that the Province has approached the City within the past two weeks to request that the licencing system for food service establishments, body modification establishments and technicians, swimming pools and whirlpools be continued for a period of several years into the future. Although serious consideration was given to this request, the Public Service has concluded that continuity is simply not possible at this point. The Licencing Branch has made extensive efforts to communicate with licenced businesses that no City licence is necessary after April 1, 2015. It would be unfair if this messaging were to change in a matter of days and if businesses would be legally required to have a licence on April 1. In addition, staff and accommodation changes within the Licence Branch have already been arranged in anticipation of the end of licencing for these businesses on April 1, 2015. These changes cannot all be reversed at a moment's notice. In short, if the By-law continued to require licencing after April 1, neither businesses nor the City would be in a position to implement and enforce the law for some months.

The Public Service also concluded that the absence of licencing provisions should have no effect on discussions with the Province. If these discussions result in a satisfactory arrangement, this can be brought to Council for ratification and re-enactment of any necessary by-law provisions.

That being said, this Report is recommending that Council maintain in place the *Food Service Establishment By-law* and the *Body Modification By-law* even though the licence provisions with

respect to these businesses are being repealed. This is consistent with commitments made by the City in both the original MOU and a Supplementary Agreement, subject to Council's authority to repeal or amend these by-laws, to keep these by-laws in place for a further five (5) years after the transition period if requested by the Province, and to authorize the Province to enforce these by-laws during that time. A formal request to the City from the Deputy Minister of Health, Healthy Living and Seniors to this effect has now been received (copy attached as Appendix 2).

This Report is also recommending that Council enact amendments to the *Body Modification By-law* to approve the exclusive use of commercially-sterilized, pre-packaged instruments, which require no further sterilization prior to use, in place of the requirement for an on-site autoclave and monthly spore testing, to align with current industry standards. This amendment was requested by the Province, which will continue to rely on this By-law in order to carry out its responsibility for the delivery of public health inspections throughout Winnipeg.

Public Works

Until now, because they were licensed under the *Doing Business in Winnipeg By-law*, the *Streets By-law* has exempted licensed mobile food vendors from having to obtain a Use-of-Street Permit. The recommendations proposed in this Report will result in those food vendor carts that are located on sidewalks or boulevards now having to obtain a Use-of-Street Permit under the *Streets By-law*, the same as with other sidewalk vendors. Because their exemption would be removed, the permit fee for these food carts would then be the same as that currently paid by non-food vendors: $198.00 per year plus a fee of $4.20 per month per square meter or sidewalk or boulevard used, plus a $32.00 administration fee and applicable GST. Although their permits will entitle them to operate year-round most vendors only operate for six months of the year. Accordingly, it is proposed that the space rental portion of the fees should only be charged for six months.

A typical small food cart uses about 6 square meters of space. It will therefore pay:

- Annual permit fee $198.00
- Monthly space rental fee per m2 of sidewalk used (multiplied by six months) $151.20
- Administration fee $32.00
- Total (plus GST) $381.20

This compares with the fees of $391.00 imposed for a licence under the *Doing Business in Winnipeg By-law* for 2014. The projected 2015 financial impact for Public Works is $15,248 per year, increasing by inflation each year thereafter.

Winnipeg Parking Authority

Mobile vendors operating out of trucks or trailers on roadways will also have to obtain permits. These are proposed to be issued by the Winnipeg Parking Authority (WPA) and would exempt the permit holder from both parking time limits and the obligation to pay for parking at meters. Permits would also be available for vehicle used to transport a sidewalk mobile vendor that has been issued a Use of Street Permit by Public Works.

The recommendations in this report will mean that, for the first time, permits for vendors operating out of trucks or trailers would now be available for all vendors of goods or services, not just those selling food.

This report proposes Mobile Vendor Parking Permit fees based on the zones in which permit holders want to operate:

- High Demand Zone Permit – allows parking at metered locations in both high demand ($2 per hour) and low demand ($1 per hour) zones without payment and to exceed posted time restrictions at metered spaces anywhere in the City;
- Low Demand Zone Permit – allows parking at metered locations only in low demand zones without payment and to exceed posted time restrictions with respect to parking in low demand zones; and
- Non-Metered Area Permit – only allows vehicle to exceed posted time restrictions with respect to parking at non-metered spaces.

Vehicles under 22 feet in length and those used to transport sidewalk vending carts would pay base fees depending on the zone in which they park. Vehicles in excess of 22 feet in length would be charged at twice the rate because they would be taking up two parking spaces. The base fees have been calculated based on the meter fee for the zone multiplied by the time during which most vendors will be using the metered parking space (9 a.m. to 3 p.m.). So, for example, the weekly fee for a high demand zone in which the hourly rate is $2 is based on six hours per day of free parking.

The vast majority of permits will be sold for the period of April 1 to October 31 (approximately 28 weeks when holidays are considered). It is proposed to require payment for this entire period to be made prior to issuance of the permit. For 2015 and until changed by Council, the fees for Mobile Vendor Parking Permits are proposed to be:

- High Demand Zone Permit (Vehicle under 22ft): $60 per week, $26 admin fee; $1706 total
- High Demand Zone Permit (Vehicle over 22ft): $120 per week, $26 admin fee; $3386 total
- Low Demand Zone Permit (Vehicle under 22ft): $30 per week, $26 admin fee; $866 total
- Low Demand Zone Permit (Vehicle over 22ft): $60 per week, $26 admin fee; $1706 total
- Non-Metered Area Permit: $40 per month, $26 admin fee; $306 total

Where a vendor wishes to obtain a permit for the months outside the April through October timeframe, the permit cost would be based on the weekly or monthly rate and payable in advance for the entire November through April period.

Although these fees appear to be much higher than the $391 license fee food trucks and trailers paid in 2014, it must be remembered that in 2014 mobile food vendors were required to pay for parking in metered spaces. Once payment for parking is taken into account, the costs to mobile vendors located on roadways should not be significantly different. There is a net projected financial impact of zero to the Winnipeg Parking Authority.

The *Doing Business in Winnipeg By-law* currently contains a number of restrictions on the location and operation of mobile food vendors. These restrictions include prohibitions on mobile food carts and trucks locating on high-speed streets or near bus stops, building entrances, park entrances or food service establishments. This report recommends that all of these location restrictions should be retained and should be incorporated into the *Streets By-law* and the *Traffic By-law*.

This Report proposes that the Winnipeg Parking Authority be authorized to limit the number of truck or trailer vendors that can set up at specific locations. This is necessary to prevent a situation where numerous mobile vendors locate on a single block face of a street, causing congestion for vehicular and pedestrian traffic and a lack of parking for motorists. The WPA would exercise this authority, at least initially, to limit the number of truck or trailer food vendors to two per block face on Broadway and other popular areas. The number of sidewalk and boulevard vendors would not be restricted.

HISTORY

The *Doing Business in Winnipeg By-law* was passed by Council on April 23, 2008, and implemented on June 1, 2008. The By-law has three key principles for licensing businesses in Winnipeg: 1) Public Health Protection; 2) Fire Safety; and 3) Crime Prevention.

On June 22, 2011, Council authorized the CAO to negotiate and approve agreements for the transfer of responsibility for public health inspection services from the City of Winnipeg to the Province, beginning April, 2012, and that the transition be completed no later than March 31, 2015. In the Memorandum of Understanding and Supplemental Agreement that were entered into pursuant to that authorization the City agreed, subject to Council's authority to repeal or amend these by-laws, to allow the Province to continue to enforce the *Food Service Establishment By-law* and the *Body Modification By-law* after the transition period, if the Province asked in writing for this authority.

In December, 2014, the CAO's office received a written request from the Deputy Minister of Health, Healthy Living and Seniors (attached as Appendix 2), formally asking for authorization to continue to enforce both the *Food Service Establishment By-law No. 5160/89* and the *Body Modification By-law No. 40/2005* beyond the end of the Transition Period, to March 31, 2020, in accordance with section 2.2 of the Supplemental Agreement.

The City of Winnipeg has communicated with our business clients, to advise them of the cessation of public health-related business licensing, as a result of the transfer of public health inspection services (Appendix 3).

FINANCIAL IMPACT

Financial Impact Statement **Date:** February 24, 2015

Project Name: **First Year of Program** **2015**

Repeal of Public Health Licences from the Doing Business in Winnipeg By-law 91/2008.

	2015	2016	2017	2018	2019
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	15,248	15,553	15,864	16,181	16,505
Net Cost/(Benefit)	$ (15,248)	$ (15,553)	$ (15,864)	$ (16,181)	$ (16,505)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (15,248)	$ (15,553)	$ (15,864)	$ (16,181)	$ (16,505)

Additional Comments: There is no financial impact associated with repealing or amending those sections of the Doing Business in Winnipeg By-law 91/2008 that govern the licensing of businesses that require Public Health Inspection services and oversight.

With the application of the existing Use of Street permit fees for mobile vendors, the projected 2015 financial impact for Public Works is $15,248 per year, increasing by inflation each year thereafter - as shown above.

The new fees for the Winnipeg Parking Authority to allow mobile vendor parking on roadways will have a zero net revenue impact as compared to the current parking rate charges.

original signed by
Cindy Fernandes, CMA
Manager of Finance and Administration
Community Services Department

CONSULTATION

In preparing this report there was consultation with:

Province of Manitoba – Public Health
Legal Services Department
Downtown Winnipeg Biz

SUBMITTED BY

Department:	Community Services
Division:	Community By-law Enforcement Services
Prepared by:	Marcia Fifer, Administrative Coordinator - Licensing
Date:	February 27, 2015
File No.:	

APPENDICES

Appendix 1: Draft amending By-law



food service and body mod delicencing

Appendix 2: Request to enforce from Deputy Minister of Health, Healthy Living and Seniors



Letter from Province to Enforce City By-law

Appendix 3: Letter of Communication



Licensing Communication Feb 2

Appendix 4: Jurisdictional Comparison



Jurisdictional Comparison -Permit.xl