

**POLICY REPORT
LICENSING**

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TO: Standing Committee on City Services and Budgets
FROM: General Manager of Engineering Services
SUBJECT: Street Vending By-law and License By-law - Mobile Ice Cream
Vending

CONSIDERATION

A. THAT Council approve amendments to Street Vending By-law No. 4781, generally as outlined or referred to in Appendix A to this report, which: require a company to obtain a business license prior to mobile ice cream vending permits being issued; require operators of mobile ice cream vending units to obtain an operator's permit; require operators of mobile ice cream vending units to undergo an annual criminal record check; revise Guidelines for Mobile Ice Cream Vending, as referred to in Appendix B, and replace all references to the City Engineer with General Manager of Engineering Services.

B. THAT Council approve the amendment to License By-law No. 4450 generally as set out in Appendix A to this report, to establish fees for mobile ice cream vending companies.

C. THAT Council authorize the Director of Legal Services to bring forward the appropriate by-law amendments to the Street Vending By-law and License By-law generally as set out in Appendix A and B.

COUNCIL POLICY

Council, by way of Street Vending By-law No. 4781, regulates the use of City streets for commercial gain.

Council, by way of License By-law No. 4450, regulates the payment of fees for business licenses in the City of Vancouver.

PURPOSE

This report proposes amendments to Street Vending By-law No. 4781 to clarify and strengthen the regulations for the Mobile Ice Cream Vending program and proposes amendments to License By-law No. 4450 with regard to companies operating as Mobile Ice Cream Vendors.

BACKGROUND

On September 18, 2002, a Mobile Ice Cream Vending Permit was suspended for thirty days and subsequently reported to Council on October 24, 2002, as required by Street Vending By-law No 4781. The report also identified the need to review the by-laws and administrative guidelines which regulate Mobile Ice Cream Vending with a report back to Council on recommended changes.

DISCUSSION

Business License and Operator's Permit

Mobile Ice Cream Vending Permits are currently issued under the authority of the Street Vending By-law to individual vending units (trucks or bicycles), but there is no license or permit governing the business as a whole or individual operators. When complaints are received or violations observed, City enforcement staff can issue warnings or suspend permits for individual vending units. Under the current licensing practice, it is possible for the operator to continue vending in a different unit not under suspension. This situation proves difficult when there are repeat or multiple offenders and the employer does not cooperate with City staff trying to get operators to follow the by-law. Requiring a company to have a business license and permits for both individual vending units and operators would give staff a wider range of solutions when dealing with problem situations. Staff would be able to take progressive enforcement action, beginning with the operator and moving to the vending unit and finally the business.

The new fees are recommended to be \$147 for a new business license and \$97 to renew that license in subsequent years. It is recommended that the operator's permit be issued free of charge as an annual fee of approximately \$50 will be required to undergo the proposed criminal record check. If Council does not approve the requirement to have a criminal record check, it is recommended that a fee of \$20 (GST included) be charged for an operator's permit.

Criminal Record Checks

Some jurisdictions in North America currently require a criminal record check for mobile ice cream vendors and it is recommended that Vancouver make this a requirement to ensure there is no history of sexual misconduct with children or other criminal activity, such as, break and enter convictions, that would be detrimental to a residential neighbourhood. There are procedures and staff resources in place to provide this service in a timely and confidential manner.

Mobile Ice Cream Vending Guidelines

In addition to by-laws which govern different activities, Council also approves guidelines which enable staff to administer these activities. The guidelines are not currently included in the by-law, but it is recommended that they be included to improve their enforceability. Minor changes, detailed in Appendix B, are recommended to clarify the meaning of the guidelines in order to reduce misunderstandings by vendors and improve staff's ability to enforce against violations. The revised guidelines better define where Mobile Ice Cream Vending is permitted and where it is prohibited, such as, the downtown peninsula and arterial streets.

Further, streets adjacent to schools have been added as a restricted area during the same time period as school parking restrictions, to ensure the safety of school children. The principals of three schools raised concerns in 2002 about ice cream vendors being outside the school at busy drop off and pick up times for the students. The presence of a large vehicle which blocks sight lines and encourages children to cross the street unnecessarily is not a welcome addition to the school environs. The School Traffic Working Group, comprised of staff from the Police, Engineering and the School Board, support this added restriction.

Housekeeping Item

A further amendment to the By-law seeks to bring references to the City Engineer in line with the current position title by replacing all references with General Manager of Engineering Services.

CONCLUSION

The Streets Administration Branch oversees several permit programs regulating the use of streets and sidewalks, one of which is ice cream vending. The value of these programs is recognized by staff, but staff must also ensure the safety and comfort of the public. The recommended changes to the Street Vending By-law are intended to clarify and strengthen regulations, and if approved by Council, will improve the ability of staff to administer the Ice Cream Vending Program.

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APPENDIX A

Proposed Amendments to Street Vending By-law No. 4781

- 1. Require companies to be issued a Business License prior to issuing Mobile Ice Cream Vending Permits.*
- 2. Require operators of vending units to obtain an operator's permit at a cost of \$20 per year (GST included).*
- 3. Require operators of Mobile Vending Units to undergo an annual criminal record check.*

4. Include guidelines as detailed in Appendix B.

5. Replace all references to the City Engineer with General Manager of Engineering Services.

Proposed Amendment to License By-law No. 4450

1. Establish fees for businesses engaged in mobile ice cream vending of \$147 for a new business license and \$97 to renew the license and amend Schedule "A" accordingly.

APPENDIX B

Current Guidelines for Mobile Ice Cream Vending:

- Mobile Ice Cream Vending is not permitted:

- in the downtown core;*
- on any park, beach or school grounds;*
- on any major thoroughfare.*

- Mobile vendors are permitted to stop only while actively engaged in making a sale. When all customers have been served, the mobile unit must move to a new location.

- Mobile vendors are not permitted to stop within 50 metres (165 feet) of a business selling a similar product.

- The mobile unit must be legally parked when stopped for a business transaction.

- The mobile unit must have someone in attendance at all times .

- The mobile unit must contain a high level of cleanliness and present a neat appearance.

- The amplified sound system:

- should not be played at a higher level than 65dBA measured at 15 metres (50 feet) directly in front of the mobile unit.

- should be set within the unit so that it cannot be adjusted to a higher level by the operator.

- must be shut off when the vehicle is stopped.

*Proposed Guidelines for Mobile Ice Cream Vending,
to be included in the Street Vending By-law:*

- Permits are issued for Mobile Ice Cream Vending on City streets and do not authorize Mobile Ice Cream Vending on or within the boundaries of any park, beach, school or private property.

- Mobile Ice Cream Vending is not permitted:

- on any street, west of Main Street, in the downtown peninsula, as set out in the map below;

- on any street adjacent to or within one City block of any school between the hours of 8:00 AM-5:00 PM, on any school day;

- on any roadway marked with longitudinal paint lines for the control of

traffic;

- within 50 metres (165 feet) of any business selling any same or similar product.

- Mobile Vending Units must:

- stop only while actively engaged in making a sale. When all customers have been served, the mobile unit must move to a new location;

- be legally parked when stopped;

- maintain clean work and storage areas, present a neat appearance and provide a garbage receptacle for the use of their customers;

- have someone in attendance at all times.

- Mobile Vending Unit Sound Systems must:

- be played at a level no higher than 65dBA when measured at 15 metres (50 feet) directly in front of the mobile unit;

- be set so the operator of the mobile unit cannot adjust it to a higher level;

- be shut off when the vehicle is stopped.