

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: September 17, 2013	
SUBJECT/REPORT NO: Business Licensing Fee Review (PD01104(h)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Marty Hazell (905) 546-2424 Ext. 4588
SIGNATURE:	

RECOMMENDATION

- (a) That the comprehensive staff report on business license fees be delayed until such time as the performance audit respecting "*License Revenue*" approved by Council on April 24, 2013, is complete and dealt with by the Audit, Finance and Administration Committee and Council;
- (b) That the second year of the five-year, cost recovery phase-in strategy for Business License Fees, as contained in Appendix "A" to Report PD01104(h), be approved.

EXECUTIVE SUMMARY

At the January 15, 2012 meeting, Planning Committee received Report PD01104(e) which recommended significant fee increases to most business license categories.

Planning Committee, and subsequently Council on January 23, 2013, approved the first year of the recommended five-year, phase-in strategy and directed staff to report back in detail on the justification for the license fee increases and to “...review legislative authority of municipalities to assign penalties (fines) regarding business licensing compliance and show cause hearings”.

While a comprehensive review of the licensing program is underway, staff feels it would be prudent to delay reporting to Committee until such time as the performance audit respecting “License Revenue” is complete and dealt with by Council.

Alternatives for Consideration – See Page 5

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The approved 2012 (and subsequently 2013) budget included a \$545,000 annual increase to licensing fee revenues to reflect full-cost recovery under current conditions. Council approved increasing licensing fees to reflect full-cost recovery for only some categories and approved only the first year of a recommended five-year, phase-in strategy for the other 67 license categories.

The result was an annual variance of approximately \$412,000 (2012) funded first from Departmental surplus, then Corporate surplus and then Tax Stabilization Reserve, if required.

Approval of the first year of the five-year, cost recovery phase-in strategy reduced the annual variance to approximately \$330,000 (2013), and approval of the second year of the five-year, cost recovery phase-in strategy, as contained in Appendix “A” to Report PD01104(h), would reduce the annual variance to approximately \$250,000 in 2014.

Staffing: N/A

Legal: In accordance with the provisions of the Municipal Act, 2001, a municipality may establish license fees to reflect cost recovery (or less) but cannot base fees solely on revenue generation or in an effort to discourage certain types of businesses.

HISTORICAL BACKGROUND

In approving Report PD01104(a) on July 10, 2001, Council endorsed a cost recovery approach to business licence fees for the newly amalgamated City, and established fees which represented full-cost recovery for license administration and enforcement.

Business license fees were increased annually as per the annual Corporate user fee increases. However, another comprehensive costing review was not undertaken until 2011 because significant operational and enforcement deficiencies were revealed in the

Municipal Law Enforcement Section in 2007, and staff felt it prudent to complete the workplace transformation before re-assessing the true costing of the program.

On March 7, 2012, Council approved increasing license fees to reflect cost recovery for some categories and partial cost recovery for others (a total of \$133,000 in new revenues), and directed staff to “*report back on a phase-in, cost recovery approach for 2013 and onward*”. However, approval of the 2012 budget included \$545,000 in new revenue for full-cost recovery for all license categories. Therefore, staff were directed to fund the \$412,000 variance first from Department surplus, then Corporate surplus and then Tax Stabilization Reserve, if required.

At the August 14, 2012 meeting, Planning Committee considered Report PD01104(f) which recommended a five-year, cost recovery phase-in strategy for business license fees. The matter was referred to the Open for Business Sub-Committee for comment. On December 4, 2012, staff were further directed to bring the matter back to Planning Committee as early as possible in January 2013.

Planning Committee dealt with the matter at its January 15, 2013 meeting. On January 23, 2013 City Council approved the Committee recommendation “*That 1-year of the 5-year phase-in proposed for Business Licensing Fee increases, be approved*”. Staff were further directed to “*...review legislative authority of municipalities to assign penalties (fines) regarding business licensing compliance and show cause hearings*”.

On April 24, 2013, City Council approved Report 13-004 of the Audit, Finance and Administration Committee which included the approval of Initial Performance Audit Projects included in Report AUD13015. One of the approved projects was “*License Revenue*” and is described as follows:

“Most businesses in Hamilton require a licence to operate legally. Additional revenue may be realized by identifying unlicensed businesses. This project will entail identifying unlicensed businesses and calculating the related license revenue.”

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

Long-standing Council policy has been to establish business license fees which reflect full-cost recovery for administration and enforcement.

RELEVANT CONSULTATION

Legal Services, Finance and Internal Audit were consulted in the preparation of this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

Research has shown that some municipalities establish business license fees on the basis of full-cost recovery, while others impose some or all of the costs on the general levy. In 2001, Council endorsed a cost recovery approach to business license fees for the newly amalgamated City, and established fees which represented full-cost recovery for license administration and enforcement.

Hamilton's current license fee structure includes all direct costs associated with administering and enforcing the Business Licensing Program, but does not include supplementary costs such as the Licensing Tribunal Hearings, Licensing By-law updates, technology updates, management and financial support staff, etc.

At the January 15, 2012 meeting, Planning Committee received Report PD01104(e) which recommended significant fee increases to most business license categories because:

- a review has not been undertaken for ten years;
- more resources have been assigned to licensing since 2007;
- much more attention is now being assigned to monitoring businesses where the public risk is higher (i.e. Adult Services, Accommodation Services, Mobile Businesses, Service Industry Businesses, Used Goods Businesses and Trades); and,
- Council approved increased levels of enforcement and/or administration for such categories areas as Residential Care Facilities, Taxicabs and Lodging Homes.

As noted earlier, Planning Committee, and subsequently, Council did not approve the recommended fee increases but instead approved the first year of a five-year, phase-in strategy and among other things, directed staff to report back in detail on the justification for the license fee increases.

While staff are undertaking a comprehensive review of the Business Licensing Program, one of the fundamental conclusions already reached is that an inordinate amount of staff time and effort is being spent on license renewals and maintaining compliance with by-law requirements for establishments already licensed. As such, little time is available for proactive enforcement and identifying the many businesses which require licences.

In 2001, staff estimated (PD01104(a)) the total number of licences for the amalgamated City to be "... approximately 9,000 to 10,000, which will generate revenue in the range of \$1,500,000". However, even though additional resources and some proactive enforcement has generated 1,000 more business licences in recent years, records

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indicate that there are currently only approximately 8,000 business licences issued. Again, this is attributed to the fact that much of Enforcement staff's time is being spent on license renewals and maintaining compliance with by-law requirements for establishments already licensed.

Earlier this year Council approved increasing the late fee for renewing a business licence from \$60 to \$250 and there has been a marked reduction in late renewals and the corresponding staff time. However, enforcement of licensed establishments not in compliance with by-law requirements continues to be a drain on resources.

In view of the foregoing, staff feel it prudent to await the outcome and consideration of any recommendations of the Council approved performance audit with respect to unlicensed businesses before reporting back in detail on the justification for the license fee increases.

ALTERNATIVES FOR CONSIDERATION

Council could delay the comprehensive report without approving the second year of the cost recovery phase-in strategy. However, this is not recommended because of the many pressures on the Tax Stabilization Reserve.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

APPENDICES / SCHEDULES

Appendix "A" to Report PD01104(h) - Second Step Approval Business License Fees

MH/dt

Department: Planning & Economic Development
 Division: Parking & By-Law Services - Municipal Law - Licenses

67 Partial Cost Recovery Licence Fees	2012 Original Proposed Full Cost Recovery Fee	2013 Approved Fee	Step # 2 2014 FCR
<u>Accommodations</u>			
Bed and Breakfast	\$ 277.00	\$ 187.00	\$ 23.37
Recreational Camping Establishment	\$ 424.00	\$ 217.00	\$ 52.77
<u>Mobile</u>			
Hawker/Peddler (motorized vehicle)	\$ 424.00	\$ 217.00	\$ 52.77
Seasonal Food Vendor	\$ 424.00	\$ 264.00	\$ 41.12
Sign Posters and Bill Distributor	\$ 366.00	\$ 253.00	\$ 29.52
Limousines (owner)	\$ 624.00	\$ 532.00	\$ 25.79
Limousines (driver)	\$ 224.00	\$ 141.00	\$ 21.30
Taxi cab owner (private) (Renewal)	\$ 624.00	\$ 529.00	\$ 26.62
Taxi cab owner (private) (New)	\$ 4,200.00	\$ 4,138.00	\$ 38.58
Taxi cab owner (transfer)	\$ 724.00	\$ 739.00	\$ 0.24
Taxi cab Broker	\$ 1,224.00	\$ 766.00	\$ 118.13
Taxi cab Driver	\$ 224.00	\$ 141.00	\$ 21.30
Building Exterior Cleaner	\$ 277.00	\$ 235.00	\$ 11.72
<u>Refreshment Vehicles:</u>			
Class A	\$ 424.00	\$ 264.00	\$ 41.12
Class B	\$ 424.00	\$ 264.00	\$ 41.12
Class C	\$ 374.00	\$ 254.00	\$ 31.12
Transient Trader (3 month period)	\$ 635.00	\$ 609.00	\$ 9.90
<u>Services</u>			
<u>Eating Establishments:</u>			
Bars and Nightclubs	\$ 366.00	\$ 205.00	\$ 41.17
Food Premises	\$ 161.00	\$ 164.00	\$ 0.17
Restaurant with Liquor Service	\$ 236.00	\$ 179.00	\$ 15.17
<u>Public Garage:</u>			
(A) Buying, Selling, Storing	\$ 277.00	\$ 187.00	\$ 23.37
(B1) Combined Engine & Body Work	\$ 277.00	\$ 187.00	\$ 23.37
(B2) Engine Work	\$ 277.00	\$ 187.00	\$ 23.37
(B3) Body Work	\$ 277.00	\$ 187.00	\$ 23.37
(C) Service Station	\$ 277.00	\$ 187.00	\$ 23.37
(D) Parking Lot	\$ 277.00	\$ 187.00	\$ 23.37
(E) Car Wash Only	\$ 277.00	\$ 187.00	\$ 23.37
Public Halls	\$ 435.00	\$ 219.00	\$ 54.97
<u>Places of Amusement</u>			
Amusement Arcade	\$ 277.00	\$ 187.00	\$ 23.37
Amusement Rides	\$ 277.00	\$ 187.00	\$ 23.37
Billiard / Bagatelle Tables	\$ 277.00	\$ 187.00	\$ 23.37
Bingo Parlour	\$ 277.00	\$ 187.00	\$ 23.37
Bowling Alley	\$ 277.00	\$ 187.00	\$ 23.37
Carnival	\$ 277.00	\$ 187.00	\$ 23.37
Circus	\$ 277.00	\$ 187.00	\$ 23.37
Motor Vehicle Race Track	\$ 277.00	\$ 187.00	\$ 23.37
Other	\$ 277.00	\$ 187.00	\$ 23.37
Proprietary Club	\$ 277.00	\$ 187.00	\$ 23.37
Roller Skating Rink	\$ 277.00	\$ 187.00	\$ 23.37
Skateboarding, BMX bikes	\$ 277.00	\$ 187.00	\$ 23.37
Kennels, Pet Shops	\$ 266.00	\$ 185.00	\$ 23.37
Personal Aesthetic Services Facility	\$ 166.00	\$ 165.00	\$ 1.17
Personal Wellness Services Establishment	\$ 166.00	\$ 165.00	\$ 1.17
<u>Used Goods Services</u>			
Antique Market/Flea Market	\$ 277.00	\$ 187.00	\$ 23.37
Auctioneer	\$ 277.00	\$ 235.00	\$ 11.72
Pawn Broker	\$ 435.10	\$ 340.00	\$ 25.42
Precious Metals & Jewellery Dealers	\$ 435.10	\$ 340.00	\$ 25.42
Salvage Yard	\$ 435.10	\$ 340.00	\$ 25.42
Second-hand Shop	\$ 635.00	\$ 259.00	\$ 94.97

Second Step Approval Business Licence Fees

Department: Planning & Economic DevelopmentDivision: Parking & By-Law Services - Municipal Law - Licenses

<u>Trade Licence Contractor</u>			
Building Repair	\$ 277.00	\$ 218.00	\$ 15.88
Plumber	\$ 277.00	\$ 218.00	\$ 15.88
Heating, Ventilation & Air Conditioning	\$ 277.00	\$ 218.00	\$ 15.88
Drainage	\$ 277.00	\$ 218.00	\$ 15.88
Sprinkler and Fire Protection Installer	\$ 277.00	\$ 218.00	\$ 15.88
<u>Trade Licence Masters</u>			
Building Repair	\$ 177.00	\$ 116.00	\$ 15.85
Plumber	\$ 177.00	\$ 116.00	\$ 15.85
Heating, Ventilation & Air Conditioning	\$ 177.00	\$ 116.00	\$ 15.85
Drainage	\$ 177.00	\$ 116.00	\$ 15.85
Sprinkler and Fire Protection Installer	\$ 177.00	\$ 116.00	\$ 15.85
<u>Other Fees</u>			
Taxi cab Priority list (prior to Sept 30th)	\$ 95.00	\$ 81.00	\$ 4.02
Exam/Processing Fee	\$ 50.00	\$ 49.00	\$ 0.43
Wheel chair accessible Taxi cab	\$ 10.00	\$ 7.00	\$ 0.54
Photo ID Card	\$ 15.00	\$ 14.00	\$ 0.30
Licence certificate replacement	\$ 15.00	\$ 14.00	\$ 0.30
Licence plate replacement	\$ 65.00	\$ 66.00	\$ 0.10
Appeal to Licencing committee	\$ 150.00	\$ 126.00	\$ 5.46
Daily fee for spare taxicabs	\$ 25.00	\$ 22.00	\$ 0.63