



CITY OF HAMILTON

City Manager's Office
Audit Services

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	March 24, 2014
SUBJECT/REPORT NO:	Performance Audit Report 2013-14 - Unlicensed Businesses (Value for Money Audit) (AUD14008) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ann Pekaruk 905-546-2424 x4469
SUBMITTED BY:	Ann Pekaruk Director, Audit Services City Manager's Office
SIGNATURE:	

RECOMMENDATION

- (a) That the Management Action Plans, as detailed in Appendix "A" of Report AUD14008 be received; and
- (b) That the Acting General Manager of Planning and Economic Development be directed to instruct the appropriate staff to investigate and detail the costs of staff resources and technology improvements required to implement recommendations 1 and 2 of Appendix "A" of Report AUD14008 and report back to the Audit, Finance and Administration Committee for further consideration.

EXECUTIVE SUMMARY

The 2013 Performance Audit work plan approved by Council included a project to identify unlicensed businesses and the potential additional revenue that could be realized through proper licensing. The review of the top four Business and Establishment License categories (public garages, personal aesthetic services, eating establishments and food shops and cigarette and tobacco retailers) indicated opportunities to generate new revenue by enforcing the Licensing By-law to those businesses that do not possess a valid business license. Recommendations were also made to improve the efficiency and cost recovery of the licensing program.

The results of this project are presented in a formal Performance Audit Report (2013-14) containing findings, recommendations and management responses. Audit Report 2013-14 is attached as Appendix "A" to Report AUD14008.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: Approximately \$130,000 in gross license revenue plus an additional \$41,000 in New License Setup fees (totalling approximately \$171,000) could potentially be generated if all the unlicensed businesses identified in the review were to become licensed. As long as these businesses continue to operate legally in subsequent years, the \$130,000 of additional gross revenues could be realized year over year.

Staffing: Even though management has agreed in principle to some of the recommendations, the implementation is considered impractical without additional staffing to carry out the annual review and by-law enforcement activities.

Legal: Most businesses in the City of Hamilton require a proper license to operate legally and in compliance with Licensing By-law #07-170.

HISTORICAL BACKGROUND (Chronology of events)

This project was scheduled as part of the 2013 Performance Audit work plan approved by Council. The fieldwork was completed in October 2013. The results of this review are attached as Appendix “A” of Report AUD14008.

The Audit, Finance and Administration Committee receives and approves performance audit reports as part of its responsibilities for the oversight of governance.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Municipal Act, 2001 – Part IV

City of Hamilton Licensing By-law #07-170

RELEVANT CONSULTATION

Appendix “A” to Report AUD14008 includes action plans which reflect the responses of management responsible for the administration of the business licensing function, Parking and By-law Services in the Planning and Economic Development Department.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION
(Include Performance Measurement/Benchmarking Data if applicable)**

The City of Hamilton has a licensing by-law that provides the rules and regulations for various business categories operating within the City. The primary purpose of a license is “to protect the health and safety of the public who use the service. It also helps ensure consistency for business owners and customers”.

This Value for Money audit project sought to identify unlicensed businesses and determine the potential revenue that could be realized if these businesses complied with the established licensing by-law. Four of the top Business and Establishment License categories (public garages, personal aesthetic services, eating establishments and food shops and cigarette and tobacco retailers) were chosen for review. Keeping the categories in mind, other potential databases from other City operations that captured business names and addresses were identified for comparison against the Licensing database (Public Health, Fire, Taxation, Tobacco Information System). Businesses recorded on these databases but not found on the Licensing database for the category were further reviewed and analysed for potential reasons for the inconsistencies (e.g. known subsequent closure, possession of multi-establishment license).

The above work yielded **684** potentially unlicensed businesses in the categories noted earlier. Licensing these businesses at the current licensing rates could generate an additional **\$130,000** in gross revenue plus an additional **\$41,000** in New License setup fees. Further, there are opportunities to collect inspection fees by Fire Services and Public Health for these businesses requiring such but the amounts have not been calculated in this exercise. The \$130,000 would be an annual potential benefit to the City as long as the businesses continued to operate and renew their licenses. However, it should be noted that the City may not be able to issue licenses to all of the identified unlicensed businesses as there may be issues with zoning (related to whether the business is permitted to operate at its current location), building (whether a building permit exists to establish the use at the site), proper corporate papers, criminal checks, etc. In addition, any added costs to carry out these extra enforcement duties (e.g. staffing, technology upgrades) would have to offset the revenues to determine the net benefit.

The formal Performance Audit Report (2013-14) containing background information, audit objectives, scope, methodology, findings and recommendations was issued. Five recommendations were included in Performance Audit Report 2013-14 (attached as Appendix "A" to Report AUD14008). The recommendations made are as follows:

1. Licensing should investigate the business identified as a result of this project and initiate licensing of these businesses, as appropriate.
2. A similar analysis as carried out for this review should be performed annually using available software capabilities to uncover potentially unlicensed businesses.
3. A common address database should be developed in conjunction with Licensing, Public Health, Fire Services and Taxation requirements.
4. Full cost recovery in accordance with the provisions of the *Municipal Act, 2001* should be achieved through the completion of the Cost Recovery Analysis and license fees increases according to the Business Licensing Fee Review presented to Council in August, 2012. This will not only generate more revenue but the actions will help close the gap between the licensing expenses incurred and the revenue being received.

5. Elimination of the multiple establishment license and the requirement that businesses purchase a license for each type of business that operates should be considered. Currently, the practice is to charge the business the cost of most expensive license involved in the multiple establishment license. However, additional costs are incurred in managing and monitoring the establishments for each licensable activity performed by the business.

Even though Management has agreed in principle with recommendations 1 & 2, no action will be taken (due to resource limitations which have not been quantified in this report). Recommendation 3 has been disagreed with due to proprietary reasons although sharing of database information is currently ongoing between Public Health (Tobacco Program) and Licensing. Recommendations 4 & 5 will also have no action taken as Licensing management feel there is no appetite for Council to consider increasing business license fees or changing the multiple establishment licenses.

ALTERNATIVES FOR CONSIDERATION

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative)

Committee and Council may choose to simply accept management's responses to several recommendations as not doable under stated current resource limitations without further attempting to seek quantification of the additional costs and comparison to potential new revenue over the long term.

Council can decide to implement full cost recovery through business license fees. As well, Council can authorize the elimination of the multiple establishment license and require business to purchase separate licenses for each activity carried out.

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.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful to wards each other and that the community has confidence and trust in.

Strategic Objective

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report AUD14008.

ap:jg