



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 5, 2016
SUBJECT/REPORT NO:	Business Licensing By-law 07-170 – Review and Rewrite Building Exterior Cleaners (Schedule 5) Mobile Homes and Mobile Home Parks (Schedule 10) Sign Posters and Bill Distributors, Etc. (Schedule 24) (PED16075) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext. 6656
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Business Licensing By-law 07-170 be amended in accordance with the draft By-law attached as Appendix “A” to Report PED16075, which has been prepared in a form satisfactory to the City Solicitor, by deleting the following licensing categories:

- (a) Building Exterior Cleaners (Schedule 5);
- (b) Mobile Homes and Mobile Home Parks (Schedule 10);
- (c) Sign Poster and Bill Distributors, Etc. (Schedule 24).

EXECUTIVE SUMMARY

The primary objective of reviewing and rewriting the City’s Business Licensing By-law 07-170 (“Licensing By-law”) is to delete duplication, increase clarity and ease of understanding, clarify intent, remove unnecessary regulation, and improve overall readability. The Licensing By-law review and rewrite is being undertaken as part of the City’s Open for Business Initiative.

To ensure that these objectives are met, this Report seeks approval to remove three categories in the Licensing By-law: Building Exterior Cleaners (Schedule 5), Mobile Homes and Mobile Home Parks (Schedule 10) and Sign Posters and Bill Distributors, Etc. (Schedule 24) from the Licensing By-law.

Alternatives for Consideration - Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The removal of the three licensing categories will result in minimal revenue loss of \$2,494.64 total per year as seen in Table 1. The Mobile Homes and Mobile Home Parks category did not earn any revenue in 2015 and, in fact, has not earned any revenue since 2001 as no licences have been issued.

Table 1:

Class Recommended for Removal	# Licences*	2015 License Fee	Total Revenue Loss
Building Exterior Cleaners	8	\$275.08	\$2,200.64
Mobile Homes and Mobile Home Parks	0	\$3349.78	0
Sign Posters and Bill Distributors, Etc.	1	\$294.00	294.00

*Data as at December 31, 2015

Staffing: The removal of the three licensing categories will have little to no impact on staff time, as minimal administration and inspection resources were required for these licenses in recent years.

Legal: N/A

HISTORICAL BACKGROUND

The *Municipal Act, 2001* provides Council with the authority to license, regulate and govern any business, wholly or partly, carried out within its jurisdiction. The justifications for licensing certain types of businesses generally relates to the health and safety of the municipality and the public, consumer protection and nuisance control.

In 2000, a Licensing Implementation Team comprised of representatives from the Cities of Hamilton and Stoney Creek and the Towns of Flamborough, Dundas and Glanbrook and the Regional Health Unit were tasked with reviewing the existing Licensing By-laws and incorporating them into one comprehensive By-law for the new amalgamated municipality. There has been no comprehensive Licensing By-law review since amalgamation. The current Licensing By-law is a compilation of amendments passed by

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Council over many years and currently contains licensing categories and requirements that no longer serve a municipal purpose.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

- Planning and Economic Development Department:
 - Director of Licensing
 - Supervisor of Zoning
 - Manager, Policy Planning and Zoning By-law Reform

- Hamilton Fire Department
 - Assistant Chief Fire Prevention

- Public Works Department
 - Traffic Technologist

- Legal Services Division

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Licensing Section began a comprehensive review of the Licensing By-law in late 2015 and it is being undertaken as part of the City's Open for Business Initiative. The review will remove licensing requirements that are no longer applicable and ensure that each remaining licensing category serves a municipal purpose. The review will also update and encompass the new types of businesses within the City that do not fit into the current By-law. Through this preliminary review, three licensing categories are being recommended to be deleted, as follows:

Building Exterior Cleaners (Schedule 5)

Prior to municipal amalgamation Building Exterior Cleaners were licensed only in the City of Hamilton.

Appendix "B" attached to Report PED16075 shows that the number of Building Exterior Cleaners licences held each year in the City of Hamilton from 2001 to 2015 ranged between a high of 11 to a low of 0.

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Appendix “C” attached to Report PED16075 compares the licensing best practices amongst 31 Ontario municipalities regarding Building Exterior Cleaners, and it shows that Toronto is the only other municipality to license Building Exterior Cleaners. Currently, the Municipal Licensing and Standards Department in Toronto is undergoing amendments to Chapter 545 and re-examining the municipal purpose of licensing Building Cleaners.

The City’s original purpose of licensing Building Exterior Cleaners was to protect the pedestrian traffic in the vicinity of the work area, as well as the particulars of the cleanser being used. Currently, there is a duplication of regulation as any request for occupancy of a lane or a sidewalk requires a permit approved by the City from Corridor Management. Depending on the extent of the request, the permit may be a Road Occupancy or a Full Road Closure to ensure the safety of both the drivers and pedestrians in the work area. In addition, Building Exterior Cleaners and the like must adhere to the *Environmental Protection Act* (“EPA”) and more specifically, Section 14 of the *EPA* states which states as follows:

“a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.”

In addition, since 2001, there have been no complaints, investigations, charges or convictions under this license category involving Building Exterior Cleaners.

Given this information, it is staff’s opinion that there is no longer a municipal purpose to license Building Exterior Cleaners. It is recommended that this licensing category be removed to help modernize the Licensing By-law, reduce its length and enhance its readability.

Mobile Homes and Mobile Home Parks (Schedule 10)

Prior to municipal amalgamation Mobile Homes and Mobile Home Parks were licensed only in the Town of Flamborough.

Appendix “B” attached to Report PED16075 shows that there have been no Mobile Homes and Mobile Home Parks licences issued in recent years.

Appendix “C” attached to Report PED16075 compares the licensing best practices amongst 31 Ontario municipalities regarding Mobile Homes and Mobile Home Parks. It shows that none of the other municipalities considered having a similar licensing category.

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Currently, there is duplication of the regulation within Schedule 10 as Mobile Homes and Mobile Home Parks must be approved by Planning staff and must adhere to the Greenbelt Plan and the Rural Hamilton Official Plan. Moving forward, Zoning cannot approve the establishment of any new Mobile Home Parks due to the Greenbelt Plan and the Rural Hamilton Official Plan, as well as servicing issues.

In addition, since 2001, there have been no complaints, investigations, charges or convictions under this license category involving Mobile Homes and Mobile Home Parks.

Given this information, it is staff's opinion that there is no longer a municipal purpose to license Mobile Homes and Mobile Homes Parks. It is therefore recommended that this licensing category be removed to help modernize the Licensing By-law, reduce its length and enhance its readability.

Sign Posters and Bill Distributors (Schedule 24)

Prior to municipal amalgamation, Sign Posters and Bill Distributors, Etc. were licensed in the Cities of Hamilton and Stoney Creek, and the Town of Ancaster.

Appendix "B" attached to Report PED16075 shows that the number of Sign Posters and Bill Distributors, Etc. licences held each year in the City from 2001 to 2015 ranged between a high of two to a low of one.

Appendix "C" attached to Report PED16075 compares the licensing best practices amongst 31 Ontario municipalities regarding Sign Posters and Bill Distributors, Etc. It shows that only four other municipalities considered have similar licensing categories.

The original purpose of the "Sign, Posters and Bill Distributors, Etc." category was to regulate the time and location of the distribution of posters, pictures or handbills, and prevent the exposure of indecent or morally-corrupt content. The *Trespass to Property Act* ("Act") would allow landlords and tenants the ability to deal with this type of distribution through a "No Flyer". Section 3(1) of the *Act* indicates, "entry on premises may be prohibited by notice to that effect..." and Section 5(1) defines notice under this *Act* as:

- (a) Orally or in writing;
- (b) By means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies; or,
- (c) By means of the marking system set out in Section 7 of the *Act*.

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The content of the poster, picture or bill would be addressed through the Canadian Charter of Rights and Freedoms and through the Criminal Code. In addition, since 2001, there have been no complaints, investigations, charges or convictions under this licensing category involving Sign Posters and Bill Distributors, Etc.

It is staff's opinion that this duplicative regulation does not justify a current municipal purpose, and therefore it is recommended that this licensing category be removed to help modernize the Licensing By-law, reduce its length and enhance its readability.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Priority #3

Leadership & Governance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Draft By-law

Appendix B: Total Number of Licences: 2001 to 2015

Appendix C: Best Practices in Ontario Municipalities