




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

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | October 17, 2023 |
| SUBJECT/REPORT NO: | By-Law Enforcement Strategy Update (PED23195) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
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| SUBMITTED BY: | Monica Ciriello Director, Licensing & By-Law Service Planning & Economic Development Department |
| SIGNATURE: |  |

RECOMMENDATION

That the updated By-Law Enforcement Priority Framework, attached as Appendix “A” to Report PED23195 be approved.

EXECUTIVE SUMMARY

At a new term of Council, the Licensing and By-Law Services Division presents to Council a By-Law Enforcement Priority Framework, in order to confirm the prioritization of service levels for the various By-Laws that are enforced by the Division. The last report was presented in 2019. Report PED23195 provides an overview and recommendation of the By-Law Enforcement Priority Strategy effective 2023. It has been prepared in accordance with new initiatives and By-Laws approved by Council since the last revision in 2019.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The By-Law Enforcement Priority Framework is implemented based on existing staffing and budget resources.

Staffing: The By-Law Enforcement Priority Framework is implemented based on existing staffing and budget resources.

Legal: N/A

HISTORICAL BACKGROUND

On November 26, 2007, City Council approved a By-Law Enforcement Priority Strategy, which directed Licensing and By-law Services enforcement prioritization, impacting By-Law enforcement focus, efforts, and strategies, while restraining workload for lesser priority By-laws. The strategy is used to manage performance of the Division and focus staff on priority enforcement areas as deemed by City Council to be the most significant for the community.

The By-Law Enforcement Priority Strategy was previously updated by City Council on May 11, 2011, August 14, 2015, and April 30, 2019.

The priorities of Licensing and By-law Services enforcement shifted in March of 2020 with the declaration and subsequent province-wide lockdowns during the COVID-19 pandemic that persisted until January 5, 2022. The Licensing and By-law Services team saw a significant shift in priorities with the enforcement of provincial regulations and priority Municipal By-Laws (i.e., Face Covering By-Law and Physical Distancing By-Law). In 2021 alone, Licensing and By-law Services received 4,363 COVID-19 related calls and complaints and issued 1,094 related charges. In addition to enforcing COVID-19 regulations, Licensing and By-law Services has continued to ensure compliance with other Municipal initiatives and By-Laws.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Ongoing Pandemic Impacts

Despite the drastic shift in priorities for Licensing and By-law Services in 2020-2021 due to the COVID-19 pandemic and subsequent provincial regulations, Licensing and By-law Services has continued to maintain service levels and ensure compliance with Municipal initiatives, while balancing the residual effects of pandemic enforcement. In 2022, 387 provincial offence notices issued in 2020-2021 were returned to Licensing and By-law Services for prosecution in relation to enforcement of the *Emergency Management and Civil Protection Act, 1990* and the *Reopening Ontario Act (A Flexible Response to COVID-19), 2020*.

By-Law Enforcement Priority Framework

Currently, Licensing and By-law Services enforces a variety of By-Laws, through its three sections: Municipal Law Enforcement, Licensing Compliance and Animal Services as detailed in Appendix "A", as attached to Report PED23195.

Municipal Law Enforcement

Municipal Law Enforcement responds to and proactively enforces contraventions of By-laws such as property standards, yard maintenance, noise, nuisance party, site alteration and vital services. The team endeavours to keep the City safe and maintain its appeal while actively reducing negative impacts that can affect the community and its residents.

Primary priorities for Municipal Law Enforcement are property standards, site alteration, yard maintenance and zoning to ensure property owners maintain their properties and the activities occurring on them are permitted. In relation, the main duties of a Municipal Law Enforcement Officer include: interior and exterior inspections of dwellings, accessory buildings and yards to identify violations and issue orders to rectify/maintain all significant property issues, enforcement on non-compliant properties in relation to fill, grading and swales and identifying zoning violations.

Property standards and yard maintenance are enforced by requiring the removal of all refuse/debris, maintaining all components of dwellings and accessory buildings and the maintenance of long grass/weeds on the property. The Municipal Law Enforcement team also enforces interior deficiencies in rental units through property standards and vital services requirements.

Site alteration calls are received through Growth Management Division once a contravention has been discovered and/or there has been non-compliance with an

issued order. The enforcement of site alteration violations is often onerous, requires extensive evidence collection, proper tracking and documentation of vehicles transporting fill entering and exiting the properties and often require exhaustive actions to achieve compliance, such as obtaining injunctive relief through the Superior Court.

Zoning violations require understanding of various zoning By-laws (currently seven applicable zoning By-laws), connecting with Zoning staff to determine interpretation of specific provisions and what activities are permitted or prohibited, confirming property owners, seeking voluntary compliance from property owners to bring the property into compliance through actions such as obtaining a minor/major variance and engaging in enforcement action if required.

Enforcement under these By-laws is often complex and time consuming, frequently requiring extensive evidence collection by Municipal Law Enforcement Officers, navigating multiple By-laws (e.g. various zoning By-laws and private trees), communicating and collaborating with multiple departments, establishing the requirement that an offence took place on reasonable and probable grounds while still maintaining an “Open for Business” approach and seeking voluntary compliance and providing education to residents prior to engaging in progressive enforcement actions.

In addition, Municipal Law Enforcement utilizes its co-op and summer student program which allows post-secondary students to engage in enforcement activities to provide enforcement-specific experience, cultivate mentorship relationships and build personal confidence. During the summer months, students focus on Graffiti Enforcement, Long Grass and Weeds calls and Waterfalls and Waterfront Enforcement to provide students with the opportunity to learn about the City and how the Division operates.

Early trends of 2023 have revealed an increased number of complaints and investigations focused on rental properties and property standards.

Licensing

The Licensing section ensures the health and safety of various business establishments and promotes business growth through consumer protection and nuisance control. The Licensing section enforces both proactively and reactively the licensing of applicable establishments, both stationary and mobile, including but not limited to: taxis, driving schools, restaurants, fireworks sellers and public halls. Most recently, Licensing has overseen the rollout of the Short-Term Rental licensing schedule and the Rental Housing Pilot program with the intent of protecting the long-term housing market and ensuring rental properties meet the appropriate health and safety standards.

Primary priorities for Licensing are the licensing and inspection of new establishments to ensure they meet City standards, ensuring licensed businesses comply with the appropriate licensing schedule (currently thirty-two schedules), certificate of compliance inspections and respond to public complaints related to areas such as driving schools, lottery licensing and signs. The Rental Housing Licensing Pilot Program has a dedicated set of staff to ensure this new schedule is maintained as a high priority item for Licensing through the full duration of the pilot, which ends in December 2025. The Rental Housing Pilot Program also increases the frequency of property inspections and monitoring of properties within Wards 1, 8 and part of 14 through additional support and enforcement of the Property Standards and Yard Maintenance By-laws.

Licensing investigations are often onerous, require extensive evidence collection, confirming property owners (often corporations) and ensuring they comply with the applicable Licensing By-law schedule. Furthermore, inspections often lead to the discovery of other contraventions in terms of building, fire and zoning violations, necessitating the involvement of other City departments to achieve compliance prior to the issuance of a licence. Licensing often balances the health and safety requirements with the need for customer service to aid business owners through the business licensing process.

Other areas of priority focus on nuisance complaints, such as signs without a permit, election signs and signs on public property. The process of locating and charging companies for using nuisance signs can be time consuming and requires in-depth investigations. When charges are laid, the courts determine the fines for offences on a case by case basis.

Animal Services

Animal Services responds proactively and reactively to animal and wildlife matters. Within their portfolio, Animal Services is required to carry out numerous legislated duties as prescribed by the, *Dog Owners' Liability Act, 1990*. Moreover, Animal Services duties display a clear divide in relation to animal health and welfare through areas such as animal care, dog licensing, adoptions and community education campaigns, while enforcement actions such as addressing nuisance or non-permitted animals, assessment of dangerous dogs and having them designated as well as carrying out the wildlife strategy.

By-Law Enforcement Priority Framework

The By-Law Enforcement Priority Framework is developed, and priorities are established based on a variety of factors. These factors include:

- Historical community trends as reflected in previous iterations of the Prioritization Framework;
- Previous City Council directions, including the results from the Terms of Council Priorities;
- Call or complaint volume;
- Existing officer resources;
- Alignment with the City of Hamilton’s 2016-2025 Strategic Plan and its priorities such as Healthy & Safe Communities and Clean & Green; and,
- Potential health and safety risks.

Licensing and By-law Services additionally takes into consideration available staffing resources and the level of enforcement required for By-laws. Certain By-laws, such as Site Alteration demand significant time and human resources, requires specialized enforcement teams. Further, details of calls for service and enforcement details throughout 2022 are detailed in Appendix “B” to Report PED23195.

As outlined below, Licensing and By-law Services received a total of **43,441** calls or complaints in 2022. Appendix “B” to Report PED23195 outlines further details of the complaints for investigation by By-Law and by Ward.

| Section | Call Total |
|---------------------------|-------------------|
| Municipal Law Enforcement | 19439 |
| Animal Services | 20754 |
| Licensing | 3248 |
| Grand Total | 43441 |

These calls and complaints led to the issuance of **3,685** Administrative Penalties, resulting in **\$452,645** in penalties.

However, due to the number and scope of By-Laws and regulations enforced, a proactive enforcement approach is not always sustainable. As such, it is imperative to establish a prioritization strategy to allow staff to focus on enforcement areas most needed as deemed by Council.

Since 2019 when the last Bylaw Enforcement Priority Report went before Council, Licensing and By-law Services has enacted a variety of new By-Laws, pilot projects and initiatives including:

- Coordinated Response Team (encampment protocol);
- Nuisance Party By-Law;
- Off-Road Vehicles pilot project;
- Rental Housing pilot project;
- Site Alteration By-Law;
- Short Term Rental By-law; and,
- Waterfalls Enforcement pilot project.

As Licensing and By-law Services continues to evolve, it is essential to routinely renew enforcement priorities to reflect these changes.

However, it is important to note the level of effort required for the enforcement of certain By-Laws. While investigation and enforcement can be linear for By-laws, others are more complex and require considerable Municipal Law Enforcement Officers time for monitoring, evidence collection and to engage in enforcement actions. Outlined below is a ranking of the level of effort required for specific By-Laws based on the outlined factors.

| Ranking of Enforcement Effort by By-Law | |
|--|---------------------------------|
| 1. | Site Alteration 19-286 |
| 2. | Zoning (seven By-laws) |
| 3. | Licensing 07-170 |
| 4. | Nuisance Party 22-235 |
| 5. | Property Standards 10-221 |
| 6. | Yard Maintenance 10-118 |
| 7. | Animal Ownership 12-031 |
| 8. | Snow and Ice 03-296 |
| 9. | Noise 11-285 |
| 10. | Streets 86-77 |
| 11. | Sign 10-197 |
| 12. | Vacant Building Registry 17-127 |

While Council has the authority to make policy decisions regarding enforcement priorities for Licensing and By-law Services, it is important to note that the day-to-day enforcement, inspections, and investigations are left to the officers and prosecutors to manage, free from political interference – including the appearance of political interference. As per the *Provincial Offences Act, 1990, R.S.O. 1990, c. P.33*, Officers

must believe on **reasonable and probable** grounds that an offence has been committed before laying charges or risk bringing the administration of justice into disrepute.

ALTERNATIVES FOR CONSIDERATION

City Council may direct changes to the prioritization framework, recognizing that, from a resourcing perspective, any increase in priority for a specific By-Law may necessitate a reduction in priority for other By-Law enforcement responses.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23195 – By-Law Enforcement Priority Framework
Appendix "B" to Report PED23195 – Calls for Service and Enforcement (2022)