




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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 14, 2023
SUBJECT/REPORT NO:	Industrial/Commercial Proactive By-law Pilot Project (PED23236) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Gillian Barkovich (905) 546-2424 Ext. 2348
SUBMITTED BY:	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Licensing and By-law Services create a one year Industrial/Commercial Proactive By-law Pilot Project to review existing and potential new by-laws and provincial regulation as it relates to impacts on residential areas by industrial and commercial operations, subject to the approval of the staffing and resourcing outlined in Recommendation (b);
- (b) That the Director of Licensing and By-law Services be directed to create the following temporary positions for creation and implementation of the Industrial/Commercial Proactive By-law Pilot Project funded first from the departmental operating budget surplus and second from the Tax Stabilization Reserve (110046) should the final 2024 departmental budget surplus be insufficient;
 - (i) One temporary full-time (1.0) Project Manager in the Licensing and By-law Services Division at an estimated total cost of \$144,018 annually;

- (ii) One temporary full-time (1.0) Municipal Law Enforcement officer in the Licensing and By-law Services Division at an estimated total cost of \$110,204 annually;
 - (iii) One vehicle for Licensing and By-law Services, at an estimated cost of \$54,525 and \$9,000 for vehicle maintenance costs for investigation and enforcement;
- (e) That staff report back to the Planning Committee (Q3 2025) at the conclusion of the Industrial/Commercial Proactive By-law Pilot Project, with an update on the outcomes and future recommendations;
- (f) That Item 23E respecting the establishment of a proactive team to work with industrial and commercial partners city wide be identified as complete and removed from the Planning Committee's Outstanding Business List.

EXECUTIVE SUMMARY

The purpose of this report is to respond to the motion passed at the March 29, 2023, Council meeting, which directed staff to report back to the Planning Committee by Q4 2023, in advance of the 2024 Budget deliberations, on the scope, budget and resourcing for a 2024 pilot project that would review existing and identify potential new by-laws or amendments to existing by-laws related to the impacts of commercial and industrial operations in the City-wide industrial and commercial areas of Hamilton on adjacent residential areas and secondly establish a proactive by-law team.

This report proposes the creation of a one-year Industrial/Commercial Proactive By-law Pilot Project to:

- Respond to by-law complaints proactively and reactively relating to industrial and commercial properties city wide;
- Review the jurisdictional boundaries of current provincial legislation and current municipal by-laws; and,
- Explore and prepare new processes and by-laws to reduce negative impacts on and improve relationships between commercial/industrial partners and the surrounding community.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The total estimated cost of administering a one-year Pilot Project is \$317,747, with a net levy impact of \$317,747. Costs include 2.0 temporary

FTEs (\$254,222), and a one-time purchase of a vehicle (\$54,525) including maintenance costs (\$9,000).

Staffing: The Pilot Project will require an additional 2.0 temporary Full-time Equivalents (FTEs) in the Licensing and By-law Services Division consisting of:

- 1.0 FTE Project Manager to research existing and potential new by-laws and track measurables; and,
- 1.0 FTE MLE Officer to investigate and enforce complaints received at commercial/industrial properties city wide.

Legal: Not applicable

HISTORICAL BACKGROUND

The City of Hamilton is a hub for major commercial and industrial business, which may result in nuisances to the surrounding residential community, including noise and dust concerns. Historically, the Ontario Provincial Government under the Ministry of the Environment, Conservation and Parks has been responsible for receiving complaints, conducting investigations, and creating processes to regulate behaviours in this area. The enforcement and regulation of these types of nuisances is outside of the jurisdictional authority of the municipality. However, both City Council and residents have raised concerns with the application and effectiveness of existing provincial regulation and have requested that Licensing and By-law Services staff review provincial procedures, seek opportunities to collaborate with the Ministry on the resolution of complaints, and close gaps in Municipal and Provincial authority and regulation.

On March 29, 2023, City Council passed a motion which directed that Licensing and By-law Services staff be directed to report back on the scope, budget and resourcing for a 2024 pilot project that would review existing and potential new by-laws related to the impacts of commercial and industrial operations in industrial and commercial areas of Hamilton and establish a proactive by-law team.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Staff's review considered the following applicable Municipal and Provincial legislation:

- *Municipal Act, 2001, S.O. 2001, c.25;*
- *Ontario Building Code Act, 1992, S.O. 1992, c.23;*
- Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning, Ministry Publication NPC-300, August 2013; and,

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- Municipal By-laws including Licensing, Zoning, Property Standards, Yard Maintenance, Parking, Noise and Nuisance By-laws.

RELEVANT CONSULTATION

Staff in the City's Legal Services, Finance and Administration, and Information Technology were consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Throughout the City of Hamilton, commercial and industrial businesses often operate on properties that border residential areas. While the operation of commercial and industrial businesses are integral to the economic success of many municipalities, there can often be negative impacts that are felt by area residents as a result of proximity to those businesses (E.g. concerns related to noise, air quality, yard maintenance, etc.).

Overall, the Ministry of the Environment, Conservation and Parks is responsible for investigation of provincially regulated noise concerns, including noise from industrial or renewable energy sources. The Ministry of the Environment, Conservation and Parks is also responsible for investigating odour related concerns where "a discharge released into air from an industrial, commercial or other source exceeds a standard...set out in Ontario Regulation 419/05 – Local Air Quality" or may inspect where an industrial facility requires an Environmental Compliance Approval.

Historically, Licensing and By-law Services staff have referred residents with noise and/or air quality complaints from an industrial/commercial source to the Ministry of the Environment, Conservation and Parks office. That being said, officers continue to investigate other by-law complaints related to industrial/commercial areas including; garbage/debris or long grass/weeds, on-street parking, fencing/visual barriers, property standards and zoning concerns at a given property, but officers are constrained where authority for enforcement lies with the provincial government.

Notwithstanding the jurisdictional restrictions noted above, staff recognize that negative impacts continue to be experienced by residents as a result of industrial/commercial operations. A jurisdictional review of like municipalities did not produce any substantively different by-laws or processes in place as it relates to industrial/commercial areas but the historical pattern of development is different in Hamilton, with residential areas in close proximity to heavy industrial activities. Thus, staff are proposing a one-year pilot program, with additional staff and resourcing to undertake this new scope of work.

This report proposes a one-year pilot project to assign dedicated staff to:

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- Respond to complaints received at industrial/commercial properties;
- Conduct investigations and issues charges are applicable;
- Engage with community members;
- Work with industrial/commercial partners;
- Research new/existing by-laws;
- Develop process for working with provincial partners; and,
- Explore the creation of new service standards for complaints of this nature.

The Pilot Project is not presented as a cost recovery program, as there are no significant sources of revenues (e.g. Licensing/fees/fines). Revenues to offset a portion of the pilot project *may* be generated from charges and fees that are issued in response to non-compliance with current City by-laws.

Monitoring and Performance Measurement:

Staff will monitor overall impacts and effectiveness of the program and report back to Planning Committee at the end of the pilot. Key metrics considered for assessment include:

- Number and location of complaints;
- Compliance rates for municipal by-laws;
- Enforcement – Resulting charges and revenues generated; and,
- Budget and service impacts.

ALTERNATIVES FOR CONSIDERATION

Staff can establish a tracking mechanism related to complaints about industrial and commercial properties (i.e., tracking all complaints inclusive of those immediately referred to the Ministry of the Environment, Conservation and Parks). Council may consider deferring their decision on the Pilot Project and directing staff to report back to Council with more comprehensive data to determine future need for a pilot project.

APPENDICES AND SCHEDULES ATTACHED

Not applicable.