




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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2024
SUBJECT/REPORT NO:	Updates to the Licensing By-law No. 07-170 Towing and Storage Regulations in Response to the New Provincial Regulatory Framework (PED24103) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Gillian Barkovich (905) 546-2424 Ext. 2348
SUBMITTED BY:	Dan Smith Acting Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the draft by-law attached as Appendix “A” to Report PED24103 to amend the City of Hamilton’s Licensing By-law No. 07-170 by deleting Schedule 28 (Tow Trucks), amending Schedule 16 (Public Garages) and removing reference to towing and storage requirements, which has been prepared in a form satisfactory to the City Solicitor, be approved.

EXECUTIVE SUMMARY

The purpose of this report is to recommend updates to the Licensing By-law No. 07-170 towing and storage requirements as a result of a shift in regulatory responsibility from the City of Hamilton to Ontario’s Ministry of Transportation.

Historically, the towing sector (drivers, business operators and vehicle storage locations) has been regulated by the City of Hamilton Licensing By-law No. 07-170. Specifically, Schedule 28 (Tow Trucks) and Schedule 16 (Public Garages) speak to towing and storage requirements respectively.

However, on January 1, 2024, regulatory responsibility of the towing sector transitioned from municipalities to the Province of Ontario. All municipalities across Ontario were

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SUBJECT: Updates to the Licensing By-law No. 07-170 Towing and Storage Regulations in Response to the New Provincial Regulatory Framework (PED24103) (City Wide) - Page 2 of 5

required to transition to the provincial towing and storage regulatory regime established through the *Towing and Storage Safety and Enforcement Act, 2021*, S.O. 2021, c. 26, Sched. 3 (the “TSSEA”). As such, updates are required to the Licensing By-law No. 07-170 to repeal and/or amend regulations that are no longer of force or effect.

Specifically, this report proposes the following changes to the Licensing By-law No. 07-170 as detailed in the amending by-law attached as Appendix “A” to Report PED24103:

- Delete Schedule 28 (Tow Trucks) requiring tow truck drivers and operators to obtain a business licence;
- Amend Schedule 16 (Public Garages) to remove requirement for licensing of locations that are regulated by the *Towing and Storage Safety and Enforcement Act, 2021*, S.O. 2021, c. 26, Sched. 3; and,
- Remove references to towing and vehicle storage requirements.

Alternatives for Consideration – Not applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As the Ministry of Transportation is now responsible for the regulation of towing and storage requirements, the municipality is no longer authorized to regulate the industry or impose fees related to regulation of the towing industry. As a result, applicable business licences that were issued by Licensing staff under Schedule 28 and Schedule 16 of the Licensing By-law No. 07-170 that are valid beyond January 1, 2024 will require a pro-rated refund of licence fees for those months. Approximately 7 licences have been issued under Schedule 16 specific to the operation of a tow yard. Licences requiring a pro-rated refund would require an estimated overall refund of \$449. Based on the 2024 licence renewal fee (\$299) referenced in the User Fees and Charges By-law No. 24-036, staff estimate an annual overall loss of revenue of approximately \$2093.

Staffing: Not applicable.

Legal: Legal Services assisted with the preparation of the appended draft amending by-law attached as Appendix “A” to Report PED24103.

HISTORICAL BACKGROUND

In July 2006, through Report PED06208 – the Licensing By-law No. 07-170 was established to license, regulate and govern various classes of businesses. The new by-

SUBJECT: Updates to the Licensing By-law No. 07-170 Towing and Storage Regulations in Response to the New Provincial Regulatory Framework (PED24103) (City Wide) - Page 3 of 5

law included Schedule 16 (Public Garages “A”) which established requirements for licensing of locations where motor vehicles are stored (tow yards).

In May 2012, through Report PED0919(d) – Amendment to By-Law 07-170 to include Schedule (28) Tow Trucks, the Licensing By-law No. 07-170 was amended to add Schedule 28 Tow Trucks which established requirements for licensing of tow truck drivers and operators.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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

- *Municipal Act, 2001, S.O. 2001, c 25;*
- *Towing and Storage Safety Enforcement Act, 2021;*
- *Less Red Tape, Stronger Economy Act, 2021; and,*
- Municipal By-laws including Licensing and Administrative Penalty By-laws.

RELEVANT CONSULTATION

In preparing the draft By-law appended to this report and crafting the recommendation highlighted herein, the following internal divisions were consulted:

- Corporate Services Department, Legal and Risk Management Services Division, Legal Services; and,
- Planning and Economic Development Department, Licensing & By-law Services Division.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Background – Municipal Regulation of Towing and Vehicle Storage

Since 2006, the City of Hamilton has regulated the towing and storage sector by requiring that locations where motor vehicles are stored (tow yards) obtain a licence under Schedule 16 (Public Garages “A”) of the City of Hamilton Licensing By-law No. 07-170. Since 2012, the City of Hamilton has regulated the towing and storage sector by further requiring that tow truck drivers and operators obtain a licence under Schedule 28 (Tow Trucks) of the City of Hamilton Licensing By-law No. 07-170.

Generally, the business licensing regime focusses on consumer protection and public safety and requires that all licensees be in compliance with the requirements of the Licensing By-law No. 07-170 at all times. In addition to issuing business licences

through the By-law, Licensing and By-law Services staff also intake and investigate related complaints, and issue charges where appropriate.

Towing and Storage Safety Enforcement Act, 2021

However, in June 2021, the *Towing and Storage Safety Enforcement Act, 2021* was passed by the Province of Ontario (the “Province”). The legislation established a new provincial regulatory framework which would utilize a phased approach to transition regulatory oversight of the towing sector from the municipality to the Province. In April 2023, the Province also passed the *Less Red Tape, Stronger Economy Act, 2021 (Bill 91)* which amended the *Municipal Act, 2001* to remove municipal authority to license the towing sector and impose associated fees. The amendments to the *Municipal Act, 2001* came into effect on January 1, 2024.

Under the *Towing and Storage Safety Enforcement Act, 2021*, all tow truck drivers, operators and vehicle storage operators must be certified to operate in Ontario. In addition to creating a certification process, the *Act* also introduces a framework of standards and regulations for the towing and storage industry, including:

- Establishing rules around rates for towing and vehicle storage services. Rate schedules (inclusive of services offered) must be submitted to the Ministry of Transportation;
- Prescribing methods of payment that must be accepted by towing and vehicle storage operators;
- Publishing the fees submitted by towing and vehicle storage operators on the Ministry of Transportation website and requiring that operators not charge in excess of published fees;
- Prohibiting charging customers for services that are ancillary to towing, including but not limited to; transportation of driver/passengers to the destination of the tow, allowing driver/passengers access to towed vehicle while providing service, preparation of invoices, etc;
- Establishes rules around release of vehicles.
- Requiring the tow truck driver tow the vehicle by the most direct route reasonably possible; and,
- Prohibiting charging customers for services that are ancillary to vehicle storage services, including but not limited to; cleaning storage spaces in a storage facility, moving a motor vehicle within or between facilities, preparing invoices, etc.

In July 2023, the Ministry of Transportation began application intake for certification by tow truck operators and vehicle storage operators. By July 1, 2024, all tow truck drivers must also be certified in order to operate in Ontario.

Enforcement

As of January 1, 2024, Licensing and By-law Services does not investigate complaints regarding towing drivers/operators and motor vehicle storage locations or enforce regulations related to the towing and storage sector. Enforcement is the responsibility of provincially appointed towing inspectors, Ministry of Transportation enforcement officers and/or police officers.

A provincial Director of Towing and Vehicle Storage Standards has been appointed by the Minister of Transportation and is responsible for overseeing the regulatory regime. The Director has a range of responsibilities including but not limited to;

- administration of certificate applications;
- issuance, renewal of certificates;
- revocation or suspension of certificates due to non-compliance; and,
- investigation of complaints received to confirm compliance with the *Towing and Storage Safety Enforcement Act, 2021*.

The Ministry of Transportation has developed an online complaints portal located at <https://www.clientfeedback.mto.gov.on.ca/tssea/contact-info>. Complaints received by the municipality will be redirected to the provincial complaints portal for response/investigation. The City of Hamilton business licensing website has been updated to reflect the changes in regulatory oversight.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED24103 – Draft Amending By-law to amend Licensing By-law No. 07-170