

CITY OF HAMILTON

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

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: May 15, 2012	
SUBJECT/REPORT NO: Amendment to By-Law 07-170 to include Schedule (28) Tow Trucks (PED09019(d)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Glyn Wide (905) 546-2424 Ext. 5413 Shawn De Jager (905) 546-2424 Ext. 4721
SIGNATURE:	

RECOMMENDATION

- (a) That the Licensing By-law 07-170 be amended to require the licensing of tow truck operators and drivers, subject to the approval of items (i) and (ii) below:
 - (i) an additional 0.8 FTE for enforcement and administration based on 100% full cost recovery with no additional levy impact;
 - (ii) addition of the following license fees to the User Fees and Charges By-law:
 - (1) tow truck business operator - \$491.00 per vehicle annually;
 - (2) tow truck driver - \$118.00 per driver annually;
- (b) That the draft by-law amendment which includes Schedule (28) Tow Trucks, attached as Appendix "A" to Report PED09019(d), prepared in a form satisfactory to the City Solicitor, be enacted.

SUBJECT: Amendment to By-Law 07-170 to include a Tow Truck Licensing Schedule (28) (PED09019(d)) (City Wide) - Page 2 of 5

- (c) That, staff be directed to conduct a four month public awareness and implementation campaign, with enforcement of tow truck licensing commencing on October 15, 2012.
- (d) That the item respecting Tow Truck Licences be considered complete and be removed from the Planning Committee's Outstanding Business List.

EXECUTIVE SUMMARY

Planning Committee has, since 2007, expressed interest in a comprehensive investigation into the need to license tow trucks in Hamilton. At the November 8, 2011 Planning Committee meeting, staff reported, through Report PED09019(c) a copy of which is attached as Appendix "B" to this Report, recommending that tow trucks be licensed because there are valid municipal purposes (i.e. consumer protection, public safety and nuisance control) to do so. Staff was directed to prepare a by-law amending Licensing By-Law 07-170 to add a Schedule for the licensing of tow trucks.

The Hamilton Police Service also strongly supports a tow truck licensing program, quoting Ken Leendertse, Deputy Chief of Police in correspondence with staff "*The licensing of tow trucks within the City of Hamilton should help prevent exorbitant costs to the public by some tow truck owners and drivers, it should help reduce chasing and protect the public from fraudulent charges. This is an excellent step towards protecting the public during their time of need.*"

Alternatives for Consideration – N/A

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing: As previously reported, an additional 0.60 FTE was originally identified for enforcement and administrative support of a tow truck license program. However, since then, it has been determined that a 0.8 FTE would more accurately reflect the staff resources required to effectively enforce and administer the recommended tow truck licensing program.

The fees recommended in this Report reflect full cost recovery (based on an estimate of approximately 100 tow trucks in the City), and correspond with existing taxicab and limousine licensing fees.

As set out in the current User Fee and Charges By-law, a one time \$59 administration fee for new license applications would also apply.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

Since the original direction from the former Economic Development and Planning Committee on November 22, 2007 to investigate if the City of Hamilton should license tow trucks, staff have reported back on four separate occasions as summarized below. The urls for the full reports are provided.

- (a) January 20, 2009 <http://www.hamilton.ca/Jan20PED09019.pdf>

Committee referred the matter back to staff *“for a Report on a process to undertake a thorough and comprehensive review of the tow truck industry”*.

- (b) January 19, 2010 <http://www.hamilton.ca/Jan19PED0919a.pdf>

Committee approved a comprehensive investigation including public and industry stakeholder consultation.

- (c) September 21, 2010 <http://www.hamilton.ca/PED09019b.pdf>

Staff informed the Committee that a Report would not be available until Q2 of 2011 due to the feedback received during the consultation process.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Consultation took place as set out in the earlier Reports, including consultation with stakeholders in May 2010.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Staff continue to conclude that there are valid municipal purposes (i.e. consumer protection, public safety and nuisance control as outlined in detail in Report PED09019(c), a copy of which is attached as Appendix “B” to this Report) to require that tow truck business operators and tow truck drivers be licensed by the Municipality.

The recommended Tow Truck Licensing By-law requirements provide a framework for consumer protection and an avenue for dealing with complaints, allegations, nuisance

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control and safety concerns from the general public. The following are highlights of the recommended Tow Truck By-law requirements recommended in this Report:

Tow Truck Driver must:

- posses a current, valid Ontario Motor Vehicle Driver's Licence;
- have successfully completed Ontario Traffic Book 7 training no more than three years before the date of the application;
- work for a licensed tow truck business operator;
- maintain a trip record showing:
 - the date and time that a call for tow truck service is received;
 - the location and the time the tow truck arrives ;
 - the time of pick-up, drop-off and the location where the vehicle is deposited; and,
 - the total cost of the tow truck services provided.

Tow Truck Business Operator to submit:

- each tow truck vehicle make, model, manufacturer and Vehicle Identification Number;
- a list of the rates for tow services (i.e. towing, battery boosting, tire changing, opening a locked vehicle without a key, etc.); and,
- contact information, address, telephone number, facsimile number, email address or cell phone text address.

Condition of Tow Truck includes:

- must be equipped with winch, hoist, tow cradle, a 4.5 kg fire extinguisher, secure steering device, safety vest, broom, shovel, waste container, absorption agent, first aid kit, pry bar, flares, rope, booster cable etc.;
- be equipped with dual rear wheels;
- have and submit a valid Ontario Ministry of Transport Vehicle Inspection Report or a current Safety Standards Certificate issued under the Highway Traffic Act at such time as prescribed by this Schedule or as requested by the Issuer of Licences; and,
- available for inspection, at the tow truck business operator's expense, as directed by the Issuer of Licences (i.e identified by pro-active enforcement or responding to a complaint).

Tow Services will:

- provide a tow service rate card to the customer prior to the tow, with each tow service checked off with cost, including applicable taxes;
- inform customer of location of storage yard; and,
- not request to be paid at a rate higher than listed on the tow services rate card.

Complaint Process:

Owners to keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:

- date and time complaint received;
- complainant's name and phone number, if provided;
- tow truck driver's name;
- details of complaint and complainant reviewer's name;
- action taken;
- date and time that the complainant is notified of the action taken; and,
- owners to report any complaint regarding safety immediately to the Issuer of Licences, retain complaint records for one year and make complainant records available to the Issuer of Licences.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

- **Healthy Community** – Public Safety is protected.
- **Growing our Economy** – Support and protection of the motoring public.

APPENDICES / SCHEDULES

Appendix "A" to Report PED09019(d) – Amending By-law No. 07-170.

Appendix "B" to Report PED09019(d) – Report PED09019(c)

GW/SDJ/dt

Authority: Item , Committee
Report (Staff report number)
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend By-law No. 07-170, a By-law to License and Regulate Various
Businesses**

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the addition of Schedule 28 to licence tow truck businesses;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. By-law No. 07-170 is amended by adding the new Schedule 28, entitled "Tow Trucks", attached as Appendix A to this By-law.
2. Subparagraph 6(1)(e)(ii) of the General Provisions of By-law No. 07-170 is amended by adding the title "Schedule 28 Tow Trucks".
3. Section 30 of the General Provisions of By-law No. 07-170 is amended by deleting the title "Schedule 28 (Reserved)" and replacing it with "Schedule 28 Tow Trucks".
4. Appendix "A" of the General Provisions of By-law No. 07-170 is amended by adding "28 (Tow Trucks)".
5. This By-law comes into force on October 15, 2012.

PASSED this day of , 20 .

_____	_____
R. Bratina Mayor	R. Caterini City Clerk

Appendix A

SCHEDULE 28

TOW TRUCKS

DEFINITIONS

1. In this Schedule:

"compensation" means any form of payment;

"complaint record" means a record of each complaint received by a tow truck business operator or their employee or agent about a towing service they have provided;

"Highway Traffic Act" means the Highway Traffic Act and its regulations;

"registered owner" means the person shown to be the owner of a tow truck according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

"tow truck" means a motor vehicle which is designed, modified or used for pulling, towing, carrying, or lifting a motor vehicle or trailer, be it damaged, disabled, abandoned, or otherwise, with or without the assistance or use of lifts, winches, dollies, trailers, or similar equipment;

"tow truck driver" means an individual who drives a tow truck at any time when the tow truck is providing or available to provide a towing service;

"tow truck business operator" means a person who carries on the business of providing one or more towing service;

"tow truck plate" means a decal, issued by the Issuer Licences, to a tow truck business operator with a current and valid tow truck business operator licence;

"towing service" the provision or offer of provision of a tow truck for compensation including but not limited to:

- (a) assisting the owner, operator, driver or passenger of a motor vehicle or trailer through the use of the equipment on or used in conjunction with the tow truck for the pulling, towing, carrying, or lifting of a motor vehicle or trailer; or
- (b) conveying the owner, operator, driver or passenger of a motor vehicle or trailer in a tow truck;

"towing service rate card" means a rate card approved by the Issuer of Licences that includes a tow truck business operator's rates for towing services and contact information;

"trip record" means a record of each trip providing a towing service from the time:

- (a) a motor vehicle or trailer; or
- (b) an owner, operator, driver or passenger of a motor vehicle or trailer, is picked up to the time they are dropped off.

APPLICATION OF SCHEDULE

- 2. This Schedule does not apply to a tow truck service that consists only of dropping off in the City:
 - (a) a motor vehicle or trailer; or
 - (b) an owner, operator, driver or passenger of a motor vehicle.

GENERAL PROHIBITIONS

- 3.(1) No person shall act as or hold himself or herself out to be a tow truck driver or shall engage in the business of a tow truck driver unless he or she holds a current and valid tow truck driver licence under this Schedule.
- (2) No person shall act as or hold themselves out as a tow truck business operator unless they hold a current and valid tow truck business operator licence under this Schedule.
- (3) No tow truck business operator shall permit a person who does not hold current and valid tow truck driver licence under this Schedule to drive a tow truck under the tow truck business operator's power or control.

LICENSING

General

- 4. Every tow truck driver and tow truck business operator shall hold the applicable current and valid licence under this Schedule.
- 5. The Issuer of Licences is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

Drivers

- 6. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck driver licence, not including an

applicant for a licence renewal, shall provide proof satisfactory to the Issuer of Licences that the applicant:

- (a) holds a current and valid motor vehicle driver's licence for the tow truck being driven issued by the Province of Ontario;
- (b) has successfully completed Ontario Traffic Council Book 7 training no more than three years before the date of the application; and
- (c) will be working for a licensed tow truck business operator should the tow truck licence be issued.

Operators

7. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck business operator licence, not including an applicant for a licence renewal, shall
- (a) submit a list of each tow truck including the make, model, year of manufacture and Vehicle Identification Number;
 - (b) submit a list of the rates for tow truck services that includes but is not limited to setting out:
 - (i) the rates for:
 - 1. towing;
 - 2. boosting a battery;
 - 3. changing a tire;
 - 4. opening a locked vehicle without a key;
 - 5. righting an overturned vehicle or trailer;
 - 6. other services;
 - (ii) if applicable, how distance, time, weight or other variable factors are used to calculate a rate;
 - (c) submit contact information including but not limited to an address, telephone number and at least one of a facsimile number, e-mail address or cell phone text address;
 - (d) provide proof satisfactory to the Issuer of Licences that
 - (i) the applicant is the registered owner of all tow trucks to be used; and
 - (ii) all tow trucks to be used:
 - 1. are dual rear-wheeled trucks;
 - 2. have been issued either:

- a. an Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance; or
 - b. a Safety Standard Certificate issued under the Highway Traffic Act,
no more 36 days before the proof is provided; and
3. are insured in a manner satisfactory to the Issuer of Licences;
and
- (e) make all tow trucks available for inspection, at the tow truck business operator's expense, as directed by the Issuer of Licences.

INSPECTIONS AND APPROVED TOW TRUCKS

8. The Issuer of Licences:
 - (a) may specify the establishments where an inspection of a tow truck is to be carried out; and
 - (b) shall specify what the inspection is to consist of, which may include but is not limited to:
 - (i) a visual exterior and interior inspection of the tow truck;
 - (ii) an assessment of mechanical fitness and safety of the tow truck.
9. For so long as:
 - (a) a tow truck business operator's tow truck is on the list submitted under subsection 7(a):
 - (b) a tow truck business operator complies with subsections 11(e) to 11(k); and
 - (c) all inspections, reports and certificates show that a tow truck business operator's tow truck complies with this Schedule,the tow truck shall be deemed to be approved by the Issuer of Licences.

REQUIREMENTS

Drivers

10. A tow truck driver shall:

General

- (a) not drive a tow truck unless:
 - (i) the registered owner of the tow truck is a tow truck business operator licence holder; and

- (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;
- (b) carry and produce upon request of an Officer, the tow truck driver's tow truck driver licence and vehicle driver's licence issued by the Province of Ontario;
- (c) comply with all applicable statutes, regulations and by-laws with respect to traffic and parking including but not limited to the Highway Traffic Act and the City's traffic and parking by-laws and with the Hamilton Highway Non-Solicitation By-law;

Condition of Tow Truck

- (d) not drive a tow truck unless it is equipped with:
 - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
 - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
 - (iii) a device for securing the steering wheel of a motor vehicle;
 - (iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
 - (v) a safety vest;
 - (vi) a broom;
 - (vii) a shovel;
 - (viii) a waste container at least 75 litres in volume;
 - (ix) a first aid kit;
 - (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
 - (xi) a pry bar of no less than 1.5 metres in length;
 - (xii) two wheel blocks;
 - (xiii) flares or reflector kits;
 - (xiv) flashlight;
 - (xv) wheel wrenches;
 - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
 - (xvii) rope;

- (xviii) booster cables;
 - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and
 - (xx) at least 9 kilograms of absorbent material.
- (e) maintain:
 - (i) the interior of the tow truck in a clean, tidy and dry condition; and
 - (ii) the exterior of the tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;
 - (f) ensure the tow truck plate is:
 - (i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and
 - (ii) plainly visible in its entirety at all times;
 - (g) obtain a photo identification card issued by the Issuer of Licences and keep the photo identification card and the towing service rate card displayed in the holder provided for this purpose;
 - (h) not display a photo identification card other than that issued by the Issuer of Licences or a towing service rate card other than that approved by the Issuer of Licences;
 - (i) each shift before starting and after finishing the shift, examine the tow truck for mechanical defects, interior or exterior damage and report any defects immediately to the tow truck business operator;
 - (j) not drive a tow truck unless the tow truck:
 - (i) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;
 - (ii) is maintained in accordance with subsection 7(b); and
 - (i) is free from mechanical defect;
 - (k) report any incidents involving damage or injury during a trip immediately to the tow truck business operator and the Issuer of Licences;

Tow Services

- (l) not provide any tow service to an individual who has care, charge or control of a motor vehicle or trailer unless the driver has first:
 - (i) given to the individual a towing service rate card with:
 - 1. each tow truck service offered checked off;
 - 2. the total estimated cost of the tow truck services offered, including applicable taxes, entered;
 - 3. if applicable, the location of the storage yard where the motor vehicle or trailer will be dropped off; and
 - (ii) received from the individual a signed and dated copy of the towing service rate card under paragraph 9(l)(i) authorizing the driver to provide the checked off tow truck services.
- (m) not request or be paid a rate
 - (i) which is greater than a rate listed on the tow service rate card; or
 - (ii) arising from a failure of the tow truck or the tow truck driver;
- (n) keep a trip record for each trip in a form satisfactory to the Issuer of Licences that includes:
 - (i) the date;
 - (ii) the time the call for tow truck services is received;
 - (iii) the time the tow truck arrives and the location;
 - (iv) the time of pick-up;
 - (v) the time of drop-off and the location;
 - (vi) the total cost of the tow truck services provided; and
- (o) behave courteously.

Tow Truck Business Operators

11. A tow truck business operator shall:

General

- (a) not permit their tow truck to be driven unless:
 - (i) the driver is a tow truck driver licence holder; and
 - (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;
- (b) ensure that a tow truck driver driving their tow truck complies with all applicable provisions of this Schedule and By-law;

- (c) keep at all times in their tow truck an original or copy of:
 - (i) the tow truck's motor vehicle registration issued under the Highway Traffic Act and the current Ontario Ministry of Transportation passenger Motor Vehicle Permit;
 - (ii) the tow truck owner licence; and
 - (iii) proof of the insurance required under this Schedule;
- (d) ensure that their tow truck is at all times during the term of tow truck business owner licence insured in a manner satisfactory to the Issuer of Licences;

Condition of Tow Truck

- (e) ensure their tow truck is equipped with:
 - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
 - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
 - (iii) a device for securing the steering wheel of a motor vehicle;
 - (iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
 - (v) a safety vest;
 - (vi) a broom;
 - (vii) a shovel;
 - (viii) a waste container at least 74 litres in volume;
 - (ix) a first aid kit;
 - (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
 - (xi) a pry bar of no less than 1.5 metres in length;
 - (xii) two wheel blocks;
 - (xiii) flares or reflector kits;
 - (xiv) flashlight;
 - (xv) wheel wrenches;
 - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
 - (xvii) rope;

- (xviii) booster cables;
 - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and
 - (xx) at least 9 kilograms of absorbent material.
- (f) maintain:
- (i) the interior of their tow truck in a clean, tidy and dry condition; and
 - (ii) the exterior of their tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;
- (g) ensure the tow truck plate is:
- (i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and
 - (ii) plainly visible in its entirety at all times;
- (h) display the name and telephone number of the tow truck business and tow truck plate number:
- (i) on both sides of the tow truck or on another location as approved in advance by the Issuer of Licences;
 - (ii) in letters and numbers at least 18 centimetres in height;
 - (iii) in a colour that contrasts with the background colour; and
 - (iv) so as to be plainly visible in their entirety at all times;
- (i) ensure that at all times when their tow truck is being used or is available for use it is free from mechanical defects;
- (i) when reported by a tow truck driver licence holder; or
 - (ii) as directed by an Officer;
- (j) report any incidents of damage or injury involving their tow truck immediately to the Issuer of Licences;
- (k) provide a current Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance or a current Safety Standards Certificate issued under the Highway Traffic Act for the tow truck at such time as prescribed by this Schedule or as requested by the Issuer of Licences;

Towing Services

- (l)(i) retain trip records and the signed and dated copies of the towing service rate cards under paragraph 9(k)(ii) for at least one year; and

- (ii) make trip records and the signed and dated copies of the towing service rate cards under paragraph 9(k)(ii) available to the Issuer of Licences upon request;
- (m)(i) keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:
 - 1. the date and time the complaint is received;
 - 2. the complainant's name and telephone number, if provided;
 - 3. the employee's name;
 - 4. the complaint reviewer's name;
 - 5. the details of the complaint;
 - 6. the action taken in response to the complaint; and
 - 7. the date and time the complainant is notified of the action taken;
- (ii) report any complaint concerning the safety of an individual immediately to the Issuer of Licences;
- (iii) retain complaint records for at least one year; and
- (iv) make complaint records available to the Issuer of Licences upon request.



Hamilton

CITY OF HAMILTON

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

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: November 8, 2011	
SUBJECT/REPORT NO: Tow Truck Licensing (PED09019(c)) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Bill Young 905-546-2424 Ext. 2469 Glyn Wide 905-546-2424 Ext. 5413
SIGNATURE:	

RECOMMENDATION

- a) That staff be directed to prepare a comprehensive by-law amendment to the City's Licensing By-Law 07-170 to include provisions for the licensing of tow trucks and tow truck drivers;
- b) That recommendation a) above be subject to the approval of an additional 0.60 FTE (on a full cost recovery basis) for enforcement and administrative support to the licensing of tow trucks and tow truck drivers: and,
- c) That roadside assistance providers not be included as a licensing category.

EXECUTIVE SUMMARY

In 2007, staff were directed to investigate if the City should license tow trucks. Subsequently, Council approved a staff suggestion to also include roadside service providers in the review.

SUBJECT: Tow Truck Licensing (PED09019(c)) (City Wide) - Page 2 of 6

Staff have undertaken a comprehensive investigation including stakeholder consultation and conclude that there is a valid public interest to requiring that tow trucks and tow truck drivers be licensed. Staff recommend that the licensing of tow trucks and tow truck drivers be endorsed, subject to the approval of an additional 0.60 FTE for enforcement and administrative support, before undertaking to prepare the necessary by-law amendments. Further, staff recommend no action with respect to licensing roadside assistance providers.

Alternatives for Consideration - N/A

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing: An additional 0.60 FTE is required for enforcement and administrative support to the licensing of tow trucks and tow truck drivers. Staff estimates that there are approximately 100 tow trucks in Hamilton. The licensing program could be full cost recovery with an annual license fee of \$350.00 per vehicle licence and \$90.00 for each tow truck driver.

The recommended fees are in line with taxi plate renewal and City issued operator licences. Taxi drivers pay an annual fee of \$75.00 while taxi plate renewals cost \$461.00 per year after the initial issuance costs of \$3,770.00. The recommended annual tow truck license fee is slightly lower as less work would be involved.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

On November 22, 2007 the former Economic Development and Planning Committee directed staff to investigate if the City should license tow trucks to prevent tow truck drivers from taking vehicles to repair businesses outside of Hamilton.

Staff reported back on January 20, 2009 recommending no action be taken with respect to establishing a tow truck licensing program because, while municipal by-laws may be passed for valid municipal purposes, the Courts have indicated that economic objectives may not be valid municipal purposes, and that a by-law passed with the primary objective of conferring a competitive advantage in relation to private enterprise would not likely survive a legal challenge. Committee referred the matter back to staff *"for a Report on a process to undertake a thorough and comprehensive review of the tow truck industry"*.

On January 19, 2010, the former Economic Development and Planning Committee dealt with Report PED09019(a) and approved the following:

SUBJECT: Tow Truck Licensing (PED09019(c)) (City Wide) - Page 3 of 6

- "a) That staff be directed to undertake a comprehensive investigation including stakeholder consultation and report back to the Economic Development and Planning Committee respecting the necessity and financial viability of licensing tow trucks and other roadside service providers in the City of Hamilton (City).*
- b) That stakeholder consultation associated with investigating the necessity and financial viability of licensing tow trucks and other roadside service providers include:*
- staff arranged meetings with the Hamilton Police Services (HPS), the Collision Repair Trade Association, the Provincial Towing Association of Ontario, Canadian Automobile Association, local tow truck manufacturing businesses, the Insurance Industry and individual local tow truck owners/operators; and,*
 - publicizing through advertisements in The Hamilton Spectator, The Brabant Publications and on the City's web site, that the City is accepting public written submissions respecting the need to license tow trucks and other roadside service providers in the City of Hamilton."*

Staff informed the Planning Committee on September 21, 2010 that a Report would not be available until the 2nd quarter of 2011 as additional work was required to address the large divide on stakeholder opinion about the need for licensing and the concern that licensing requirements would be redundant for those that provide service to the Hamilton Police Services because they are already audited heavily by the HPS.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Legal Services and the HPS were consulted in the preparation of this Report. Staff conducted public meetings on May 19th 2010 at the Riverdale Recreation Centre and on May 26th 2010 at Michaelangelos Banquet Centre. Both sessions were attended by representatives of the Canadian Automobile Association, police-contracted tow operators, independent tow truck owners/drivers and local auto body shops. As directed, staff also consulted with the Provincial Towing Association of Ontario.

SUBJECT: Tow Truck Licensing (PED09019(c)) (City Wide) - Page 4 of 6

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Currently, the City does not regulate the tow truck industry, except to prohibit anyone from soliciting for towing and/or repair services within 200 metres of accident scenes or collision repair centres (see By-Law 08-174).²

From 1992 through to 2002, Hamilton licensed tow trucks primarily to control "chasers" and aggressive solicitation by tow truck drivers and auto body repair operators at motor vehicle accident scenes. However, with the adoption of the "Anti-Solicitation By-Law to Prevent Accident Scene Solicitation" in 2002 the City's tow truck licensing requirement was repealed as it was felt that the anti-solicitation by-law more effectively addressed concerns respecting solicitation at accident scenes.

Enforcement of the "Anti-Solicitation By-Law to Prevent Accident Scene Solicitation" was to be a joint effort by the Hamilton Police Service (HPS) and Municipal Law Enforcement. However, to-date, the Police advise that no charges have been laid under this by-law, and it is concluded that it is too difficult to align HPS and Municipal Law Enforcement priorities to arrange for joint enforcement.

On reporting to the former Economic Development and Planning Committee in early 2009, staff felt it prudent to await the disposition of the Private Member's Bill 87, entitled the Towing Industry Act, 2008 which, if approved, would create a self-regulating body for the towing industry called the Towing Industry Council of Ontario to administer a Province wide registration system and to otherwise regulate the towing industry. However, staff is advised that the proposed legislation has died on the legislative table.

There are no regulations that apply to the towing industry in general in Hamilton. While the HPS approve, through a tender process, tow truck owners who are used for Police Security Towing this does not apply to all tow truck owners in Hamilton.

Staff conclude that there are valid municipal purposes to require that tow trucks and tow truck drivers be licensed by the Municipality, as follows:

Consumer Protection: In terms of consumer protection, there is currently no municipal complaint process for dealing with allegations of unscrupulous drivers. There have been many reports of persons feeling that they were taken advantage of and intimidated during a time of confusion and crisis (at a motor vehicle collision).

Public Safety: Concerns regarding personal safety have been expressed when stranded consumers are approached by unknown individuals and in isolated locations at all hours, and in some cases by an unmarked or poorly marked tow truck. Further,

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there are no vehicle standards for tow trucks or equipment and no driver's licence abstracts or criminal record history checks for tow truck drivers.

Nuisance Control: Complaints have been received from the motoring public when their vehicles have been towed to unregulated compounds. Without knowing who towed their vehicle and where it is being stored, the Police are receiving calls regarding location of towed vehicles. In addition, some tow truck drivers are not following the "Anti-Solicitation By-law".

Staff recommends that the principle of creating a Tow Truck Licensing category be endorsed, such that staff can undertake to prepare the necessary by-law amendments for Committee and Council consideration. The general basis of a tow truck licensing category would be as follows:

- each tow truck and tow truck driver would be licensed;
- an annual inspection of vehicle and equipment, providing a copy of the annual Safety Standards Certificate is submitted;
- a complaint process for the public;
- the use of "show cause" hearings of the Licensing Tribunal to address non-compliance issues;
- requiring vehicles to be identified with legible markings posted on each side of the tow truck including a Municipal Tow Truck Operator license plate;
- tariffs (rate card) requirements;
- requirements for written estimates;
- requirements for identifying the location of storage yard;
- requirements for identifying name and contact number of owner; and,
- requirements tow truck owners to manage their employees.

Staff have reviewed the concerns of the tow truck industry relating to the duplication of requirements for owners approved for the HPS security tow list and it is staffs intention to streamline the license application to allow for the Safety Standards Certificate to be used for the mobile tow truck owner licence. Not all tow truck owners apply for, or perform security tows, for the Police, as it is an individual tow truck owner's business decision to meet all requirements. There is no additional cost associated with the security tow process that is duplicated in a licensing process, they are two separate processes and serve separate functions. This is similar to how licensing trade contractors who also apply to tenders put out by the City.

With respect to licensing roadside service providers, (i.e. battery boosting, tire repairs, ceased doors and locks, etc.) staff concludes that most of these operations are associated in some way with tow truck operations or an existing public garage licence, and therefore, a separate license category would not be required.

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ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

- **Healthy Community** – Public Safety is protected.
- **Growing our Economy** – Support and protection of the motoring public.

APPENDICES / SCHEDULES

N/A

GW/dt