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## **Amended Mobile Business Licence By-law Staff Report to Council**

Report Number: 2020-17

Department(s): Legislative Services

Author(s): Flynn Scott, Manager of Regulatory Services

Meeting Date: February 24, 2020

### **Recommendations**

1. That the reports entitled Mobile Business Licence By-law dated February 3, 2020 (deferred) and Amended Mobile Business Licence By-law dated February 24, 2020 be received; and,
2. That Council direct staff to waive Taxicab Company fees for a duration of 3 years (2020 – 2023 fees inclusive) for previously licensed companies only; and,
3. That Council approve a 12-month contract position for a new Municipal Law Enforcement Officer position subject to approval of the Chief Administrative Officer and Commissioner of Corporate Services; and,
4. That Council approve a 12-month contract for conversion of part-time hours into full-time hours for the existing permanent Legislative Services Associate position subject to approval of the Chief Administrative Officer and Commissioner of Corporate Services; and,
5. That Council approve the draft amended Mobile Business Licence By-law 2020-07, with option #3 for a tow truck company licensing fee structure and the addition of Schedule B for criminal conviction thresholds; and,
6. That Council repeal Taxi By-law 2016-44, Refreshment Vehicles By-law 2016-52, and Driving School Instructors By-law 2017-32, as amended; and,
7. That Council amend the AMPS By-law 2019-62 and Fees and Charges By-law 2019-52; and,
8. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

## **Purpose**

The purpose of this report is to present Council with additional information and proposed amendments to the Mobile Business Licence By-law in relation to the tow truck licensing classification, as directed at the regular Council meeting, held February 10, 2020.

## **Background**

During the February 10, 2020 regular Council meeting, Town staff was directed to review the Mobile Business Licence By-law in relation to the tow truck industry, with a specific focus on the criminal record requirement and annual licensing fee structure. Clarification surrounding the means to identify tow trucks without a Town licence plate being issued was also requested.

## **Discussion**

Following the February 10, 2020 Council meeting, Town staff initiated a comprehensive review of other municipalities which impose criminal record requirements on the tow truck industry. Staff also had an opportunity to further consult with the Superintendent of District 1 of York Regional Police to receive his feedback on the regulations proposed and respond to comments and questions raised during the Council meeting.

## **Regulatory Review of Other Municipalities**

Upon further review of licensing regimes throughout other municipalities, the following corrections and clarifications have been made:

- Staff previously reported that the five (5) year criminal record check for convictions clause was standard throughout York Region. However, it is relevant to note that Richmond Hill's 2019 Tow Truck By-law (78-19) includes an attached Schedule, which specifies conviction thresholds based on the type of conviction received; and
- Similarly, Vaughan has also implemented a 'Threshold Policy' for criminal convictions which has been attached as a Schedule to their Licensing By-law.
- Upon review of Mississauga's model, a clean criminal record from any offence for a duration of five (5) years is required, however, they also include a threshold policy for varying offences to be considered after the five (5) mark.
- Further review and consultation into Toronto's criminal conviction requirements determined a "Screening Criteria" process used internally by City staff, which outlines a threshold for criminal convictions to be considered eligible or ineligible for a municipal business licence.
- Similarly, both Brampton and Markham have threshold policies used within their respective municipalities.

In researching or speaking directly with municipal staff at Brampton, Markham, Mississauga, Richmond Hill, Toronto, and Vaughan, Town staff has been able to confirm

that all municipalities have some form of conviction threshold, ranging from 3 – 10 years for most criminal conviction offences, and certain criminal convictions identified as prohibited with no threshold permitted.

## **York Regional Police Feedback**

In consulting directly with the Superintendent of District 1, a strong recommendation was received to align Newmarket's tow truck regulations with the southern municipalities of York Region. The Superintendent advised that YRP's Organized Crime Unit has a strong focus on the tow truck industry due to the presence of criminal activity within this classification, which is escalating significantly as neighbouring municipalities impose regulations. Should Newmarket choose to not align its by-laws with other municipalities, there is a concern that businesses being refused a licence in other municipalities will turn to Newmarket to obtain a licence to operate. This could have an unintended consequence of subjecting Newmarket residents to increased criminal activity that is imbedded within this industry.

## **Amended Regulations Proposed – Criminal Convictions**

Staff are recommending that the criminal conviction clause for tow trucks be changed from a five (5) year threshold to the standards identified in Schedule "B" of this by-law. Schedule "B" is specific in defining and outlining criminal convictions and their respective timelines for licensing conditions within the Town. It is relevant to note that these thresholds align with Toronto and Richmond Hill due to their recent review within their respective municipalities. City of Toronto advised that they have had a "Screening Criteria" for criminal convictions in place since the early 2000's and recently underwent a comprehensive review with their Legal and Municipal Licensing Divisions to reaffirm the thresholds implemented. Similarly, Richmond Hill updated their Tow Truck By-law in 2019 and had no changes to the thresholds established, advising that they referred to both Toronto and Vaughan in developing their conviction threshold schedule.

By proposing to establish a criminal conviction threshold, staff are further recommending that all classifications of mobile businesses be subjected to the same standards of criminal conviction requirements, as set forth in Schedule "B" of the Mobile Business Licence By-law. This would affirm consistency throughout the Town's licensing standards and processes. Classifications affected within the Mobile Business Licence By-law would include Driving School Instructors, Limousines, Refreshment Vehicles, Taxicabs, and TNCs. It is relevant to note that the criminal conviction requirements for Driving School Instructors, Refreshment Vehicles, and Taxicabs currently require having no criminal convictions within the past five (5) years. By changing to a threshold structure, businesses and their drivers may be impacted either positively or negatively, depending on the type of charge a person may have and the thresholds being proposed.

## **Amended Regulations Proposed – Tow Truck Vehicle Requirements**

Questions were raised by Council during the February 10, 2020 meeting regarding the ability for lawful tow truck businesses to be identified within the community without individual vehicle licensing requirements. Tow truck vehicles are required to be marked with the tow truck company's name on both sides of the vehicle. This is a requirement also imposed on the taxicab industry.

Additionally, as part of the application process for tow trucks, all tow truck companies are required to provide a list of tow truck vehicles (VIN, make, model, year, MTO plate) in use and registered as part of their company and a list of all associated drivers. As part of the administrative process during an initial and renewal application, staff developed a procedure to issue a numbered sticker to each registered tow truck vehicle, which would identify that vehicle as being affiliated to a specific tow truck company holding a valid Town business licence. Rather than making this an administrative process, section 8.6(8)(b) has now been added to the Mobile Business Licence By-law for clarification purposes and to ensure compliance with this provision. This section reiterates the requirement for a tow truck vehicle to be registered to a company and a sticker will need to be visibly displayed on the front of the vehicle. This sticker will capture the intent of a Town plate being issued, which will allow the community, Licensing Officer, and YRP to recognize a lawful tow truck company.

## **Amended Regulations Proposed – Tow Truck Licensing Fees**

### **Option #1**

Town staff initially proposed a one-time licensing fee of \$2,000 and a \$750 renewal fee thereafter, which was based on tow truck company fees throughout various municipalities, including Brampton, Markham, Mississauga, Richmond Hill, Toronto, and Vaughan. This proposed fee structure did not include driver or vehicle-related licensing fees. In this option, Council may choose the flat-rate fee structure, as originally proposed.

### **Option #2**

When considering a tiered licensing fee structure for tow truck companies, a comprehensive review of all fees charged by other municipalities was conducted, which included company, driver, and vehicle licensing fees. Attached to this report is a table which outlines the varying fee structures for the tow truck industry from Richmond Hill, Toronto, and Vaughan. When totaling all three (3) municipalities' rates for a calculated average, a tiered licensing fee structure would be higher than the initial recommendation from Town staff.

### **Option #3 – Recommended option by Town staff**

Alternatively, Council may choose to establish its own tiered licensing fee structure without the consideration of other municipalities' licensing fees. In this option, staff would recommend:

- a one-time licensing fee of \$1,000 for tow truck companies operating with 1-3 tow truck vehicles, with \$750 renewal thereafter;
- a one-time licensing fee of \$2,000 for tow truck companies operating with 4-6 tow truck vehicles, with \$1,500 renewal thereafter;
- a one-time licensing fee of \$3,000 for tow truck companies operating with 7-9 tow truck vehicles, with \$2,250 renewal thereafter; and
- a one-time licensing fee of \$4,000 for tow truck companies operating with 10+ tow truck vehicles, with \$3,000 renewal thereafter.

### **Clarification on Driving School Instructors**

Driving school instructors are a unique classification within the Mobile Business Licence By-law, which requires drivers and vehicles to be licensed, rather than the companies, themselves. This structure of licensing is primarily due the fact that the Town of Newmarket is exclusive in having the only drive-test centre within an immediate area of neighbouring municipalities. As a result, the majority of driving school instructors operating within Newmarket are not businesses located directly in Town. Additionally, the Town has established a restricted area, prohibiting driving school instructors from practicing on certain residential streets within the Town. For this rationale, it is important that drivers and vehicles remain licensed and marked to ensure compliance and unlicensed drivers and vehicles be held accountable by enforcement action taken directly on the registered owner of a MTO (provincial) licence plate.

### **Conclusion**

After receiving Council direction to review and report back on the tow truck industry, Town staff are proposing amendments to the criminal conviction requirements by including Schedule "B", which mirrors the requirements established in neighbouring municipalities. Staff also recommend the tow truck licensing fees as presented in Option #3 and reflected in the Fees and Charges By-law, which has been attached for Council's consideration.

### **Business Plan and Strategic Plan Linkages**

This report aligns with the Strategic Priority of Safe Transportation (Streets). This report also aligns with the Rev-it-up recommendations for improving administration and service levels within the Town of Newmarket.

### **Consultation**

Further consultation with Richmond Hill, Toronto, and Vaughan has been conducted in reference to criminal record requirements and a tow truck licensing fee structure. The

Town's Legal Department was also consulted. Further written notification has been provided to all stakeholders, with over 1,000 letters or e-mails sent to notify stakeholders of the February 24 and March 2 meetings scheduled to discuss the Mobile Business Licence By-law.

## **Human Resource Considerations**

Please refer to Report 2020-06: Mobile Business Licence By-law Report.

## **Budget Impact**

Please refer to Report 2020-06: Mobile Business Licence By-law Report.

## **Attachments**

**Attachment 1** – Mobile Business Licence By-law Report (January 23, 2020)

**Attachment 2** – Draft Mobile Business Licence By-law

**Attachment 3** – Amended AMPS By-law

**Attachment 4** – Amended Fees and Charges By-law

**Attachment 5** – Tow Truck Licensing Fees Comparison Chart

## **Approval**

Lisa Lyons, Director of Legislative Services/Town Clerk

Esther Armchuk, Commissioner of Corporate Services

## **Contact**

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