



Town of Newmarket
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Mobile Business Licence By-law Report.docx Staff Report to Council

Report Number: 2020-06

Department(s): Legislative Services

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

Meeting Date: February 3, 2020

Recommendations

1. That the report entitled Mobile Business Licence By-law dated February 3, 2020 be received; and,
2. That Council direct staff to waive Taxicab Company fees for a duration of 3 years (2020 – 2023 fees inclusive); and,
3. That Council approve a 12-month contract position for a new Municipal Law Enforcement Officer position; 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; and,
5. That Council approve the draft Mobile Business Licence By-law 2020-07; 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.

Executive Summary

A regulatory review was initiated in 2016 to ensure that the Town's by-laws continue to reflect the desired standards of both the community and Council. An information report was provided to Council on September 12, 2018 to identify the progress made in amending and introducing new by-laws to align with community and Council objectives. On March 25, 2019, a Regulatory Review Workshop was completed to receive Council direction on the project plan for the introduction of, and amendments to, regulations pertaining to a business licensing regime.

The purpose of this report is to introduce, for Council's consideration, Mobile Business Licence By-law. This by-law seeks to introduce new classifications of businesses requiring a licence within the Town, including Transportation Network Companies, Tow Trucks, and Limousine Companies. Amendments to current Taxicab regulations are also being proposed, as well as a recommendation to amalgamate the Driving School Instructors and Refreshment Vehicles by-laws into the Mobile Business Licence By-law due to meeting the definition of a mobile business.

Purpose

The purpose of this report is to present Council with next steps regarding the licensing of mobile businesses through the adoption of a Mobile Business Licence By-law.

Background

Legislative Authority

Under the Municipal Act, the Town may provide for a system of licences with respect to certain classifications of business by adopting a licensing by-law. As specified in the Municipal Act, a licensing by-law should relate to consumer protection, the economic and social well-being of the municipality, and the health, safety, and well-being of persons in the municipality. Conditions may be imposed on a licence to ensure a business is compliant with the regulations established to reflect community objectives.

Section 151.7 of the Municipal Act specifies that a municipality does not have the power to provide for a system of licences with respect to a courier business in which parcels, documents, or property are conveyed. For this rationale, mobile businesses that meet this definition have not been included for consideration.

Historical Reference

On March 25, 2019, a Regulatory Review Workshop with Council identified Transportation Network Companies (vehicles-for-hire) and Tow Trucks to move forward with new regulations by Q2 2020.

On November 28, 2019, a Public Information Centre (PIC) was held to present new classifications of businesses that were under consideration for proposed regulations within the Town of Newmarket. The event focused on regulations for businesses defined as a mobile business, which includes Transportation Network Companies (TNCs), Taxicabs, Limousine Services, Tow Trucks, Refreshment Vehicles, and Driving School Instructors.

In December 2019, a third party consultant (StrategyCorp) conducted an administrative and service delivery review for the Town of Newmarket. Their report to Council highlighted the Mobile Business Licence By-law as an alternative revenue initiative. Part

of this review also identified the Administrative Monetary Penalty System (AMPS) as a relevant tool for enforcement of newly proposed by-laws moving forward.

Discussion

The Town of Newmarket Legislative Services Department has undertaken a review of current and proposed business classifications to modernize business licensing with intent to:

- better reflect the current and evolving business environment;
- ensure safe and responsible business practices;
- provide tools that promote compliance;
- develop efficiencies; and
- reduce regulatory burden.

Due to the considerable number of known business classifications, this review of business licensing is being conducted in two stages: separating stationary businesses (e.g. storefronts) from mobile business classifications.

The regulatory review project plan pertaining to licensing intends to streamline, simplify, and modernize operational processes to reduce red tape and regulatory burden, while ensuring consumer protection and public health and safety objectives are met.

The by-law proposed defines a “mobile business” and presents general regulations and administrative processes to be adhered to by all businesses that meet this definition. Specific business classifications have also been identified where the industry and consumer base present unique regulatory needs. Such examples include Transportation Network Companies, Taxicab Brokers, Limousine Services, Tow Trucks, Driving School Instructors, and Refreshment Vehicles.

The Mobile Business Licence By-law proposes to shift away from prescriptive regulations to an approach based on accountability and monitored compliance through audit and enforcement. It also seeks to enable operational flexibility, including new licensing and enforcement processes, all with a focus on public safety and consumer protection.

Community Feedback

On November 28, 2019, a Public Information Centre (PIC) was held to engage Town of Newmarket residents and stakeholders. The PIC included a formal, interactive presentation that allowed attendees an opportunity to provide input throughout the presentation. A total of 28 residents and stakeholders participated in the interactive presentation and the results are summarized as follows:

- 44% of participants were from the tow truck industry, 21% were members of the public, and the remaining were part of the various mobile classifications presented;
- 83% support the Town regulating TNCs for driver safety certifications, vehicle and insurance requirements;
- 53% believe the Town should only regulate taxicab companies and not individual drivers;
- 67% believe the Town should remove set rates and tariffs for taxicabs to allow for competitive pricing models;
- 81% feel the Town should place a capped price on tow truck rates; and
- 93% support regulations on tow trucks to provide estimates within 10% to customers, require vehicle safety certifications, and obtain consent to tow an owner's vehicle.

A survey was also promoted online to receive public input. A total of 18 participants completed the survey and the results are summarized as follows:

- 100% of participants were members of the public and not a stakeholder for any classification of a mobile business;
- 89% stated to use TNCs (Uber/Lyft) a minimum of several times per year;
- 72% expressed very high satisfaction with TNC (Uber/Lyft) services;
- 40% expressed dissatisfaction with taxicab services, with another 40% expressing satisfaction (20% did not select either way);
- 55% find TNCs enjoyable due to easy booking, convenience, method of payment, and low cost;
- 67% do not have an opinion on whether or not the Town licences individual drivers vs companies;
- 72% believe the Town should remove set rates and tariffs for taxicabs to allow for competitive pricing models;
- 89% would like to see driver security checks and vehicle safety inspections maintained on TNCs and taxicabs;
- 56% believe the Town should regulate tow trucks;
- 83% would like to see a price cap on tow truck rates; and
- 94% feel the Town should regulate tow truck pricing, insurance/vehicle requirements, and drivers being required to obtain consent prior to towing any vehicle.

Transportation Network Companies (TNCs)

Town staff has reviewed TNC regulations implemented by communities such as Vaughan, Hamilton, Toronto, Mississauga, London, Brampton, Oshawa, Oakville, Niagara Region, and Waterloo Region to understand best practices throughout Ontario. Town staff also had an opportunity to consult directly with Hamilton, London, and Mississauga's City staff to discuss program improvements and amendments made (or

being proposed in the near future) after piloting the regulations imposed. For example, the City of Mississauga piloted TNC regulations in 2017 and City staff performed an 80-page line-by-line review of the regulations imposed for suggested amendments to improve their processes – a document that Town staff has extensively reviewed and referenced when proposing regulations for the Town of Newmarket.

Town staff also consulted with known TNC operators within Newmarket for the purpose of gathering information and statistics, as well as receiving feedback on best practices that reflect and capture their business models.

Taxicab Companies

An extensive review of current regulations pertaining to licensing taxi drivers, brokers, and vehicle plates within Newmarket has been completed to improve current processes and streamline regulatory consistencies between the taxi industry and TNC operators. While both taxicabs and TNCs share similarities pertaining to the type of services offered and the consumers that are utilizing their services, it is important to understand distinct differences between each respective business model. For this rationale, it is equally important to recognize the need for both consistencies and discrepancies between specific regulations imposed.

Town staff met with Newmarket taxi drivers and brokers to review current regulations and to discuss what impact proposed regulations may have on their respective industry. Two meetings were held in Q3 2019 and feedback received is as follows:

- stronger regulations are being requested for TNCs to “level the playing field”;
- support for lowering or removing taxi driver licensing standards;
- support for transferring inspection requirements to a third party practice;
- general openness to consider removing set meters;
- a recommendation from taxi brokers to wave licensing fees for a duration of 3-5 years; and
- a recommendation from taxi brokers and drivers for the Town to reimburse plate values.

Similar to the TNC review process, Town staff conducted a thorough review of Taxicab regulations throughout various municipalities in Ontario to better understand best practices and improvement processes that have been undertaken since initial implementation. Various communities have shifted regulatory requirements onto businesses directly, while monitoring and enforcing through an auditing system. This is primarily the result of staff resource limitations and the heavy administrative burden in regulating specific classifications of business. A growing support to regulate through an auditing process is noted throughout Ontario.

Town staff has identified variations in regulatory requirements pertaining to whom is required to be licensed. For example, some municipalities have removed individual licensing of taxi drivers, while others have maintained this requirement. It is relevant to

note that all municipalities researched (with the exception of Toronto) do not require TNC drivers to be individually licensed. In an effort to “level the playing field” for the taxi industry, Town staff is recommending the removal individual taxi driver licensing requirements.

It is also critically important that regulations maintain consumer protection and ensure safe business practices. For this rationale, it is relevant to note that while Town staff propose to deregulate the licensing fees and application process of taxicab drivers and vehicle plates, regulations surrounding the standards of safety and consumer protection are not being removed nor compromised. The regulations being proposed impose the robust conditions of individual taxicab drivers onto taxicab companies as a condition of the company’s licence.

Under the new licensing provisions for taxicab companies, any business operating within Newmarket’s borders will be required to obtain a Town business licence. This will include any taxicab companies located in a different municipality but offering pick-up services within Newmarket.

Tow Trucks

New regulations are being proposed pertaining to Tow Trucks in an effort to ensure consumer protection and establish a fair pricing model for services performed across the industry within Newmarket. Town staff had an opportunity to receive input from tow truck operators during the PIC held on November 28, 2019. Town staff also consulted with neighbouring municipalities such as Richmond Hill, Markham, Oshawa, Toronto, and Brampton to review current regulations for each respective community. The by-law provisions proposed for tow trucks are consistent with practices currently implemented or under consideration with municipalities throughout York Region.

Limousine Services

Identified as a classification of a mobile business, Limousine Companies will also require a business licence to operate within the Town of Newmarket. The regulations proposed mirror those of TNC or taxicab companies to align with the requirements proposed in this by-law.

Driving School Instructors and Refreshment Vehicles

The Town of Newmarket currently regulates both Driving School Instructors and Refreshment Vehicles. After a review of current regulations, Town staff are proposing only one significant change to Driving School Instructors by imposing a requirement to affix the vehicle roof sign at all times while the vehicle is within the Town of Newmarket. Current regulations only require the roof sign to be affixed while providing instruction to a student. The rationale for this change is due to significant challenges in regulations and enforcement. For example, Town staff has documented that instructors will remove their sign while conducting lessons within Newmarket. This is a challenge when also enforcing the restricted area. Despite laying charges for these types of violations, staff

have not been successful in obtaining a conviction due to the requirement to prove they were instructing students at that time. By requiring the roof sign remain affixed at all times while within Newmarket, a licensing officer will be able to ensure compliance with the by-law as it was intended to be regulated. This change will also require any instructors from other municipalities to be marked and appropriately licensed if using the Town's infrastructure for the purpose of conducting business.

With the exception of the above, Town staff have only minor housekeeping and clerical changes throughout both by-laws. Staff recommends the repeal of both by-laws for the purpose of introducing these classifications under the Mobile Business Licence By-law.

AMPS By-law 2019-62

With the introduction of Mobile Business Licence By-law 20-07, staff are also recommending an amendment to AMPS By-law 2019-62 to include regulations for the purpose of enforcement. This change will allow staff to enforce through AMPS under the administrative penalties set by Council.

Conclusion

Town staff are recommending the adoption of Mobile Business Licence By-law 2020-07 with an amendment to AMPS By-law 2019-62 for enforcement purposes.

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

Consultation with the public, applicable stakeholders and neighbouring municipalities has been undertaken in the development of the proposed regulations put forth for Council's consideration. Town staff also conducted a Public Information Centre on November 28, 2019 and offered further opportunities for input via an online survey.

Town staff notified and invited the Accessibility Advisory Committee to attend the PIC and further provide input through the online survey. As a second phase for transportation services, Town staff will engage with stakeholders to determine best practices for ensuring accessible transportation is provided within the Town of Newmarket.

The Town of Newmarket Legal Department has also reviewed the proposed by-law prior to this report coming forward.

Human Resource Considerations

With the introduction of three new mobile business classifications and licensing regulations being enforced under AMPS By-law 2019-62, staff are requesting Council approval of additional staff resources for the purpose of ensuring compliance with new regulations. Upon review of the current licensing classifications and upcoming changes proposed, staff are requesting one full-time licensing officer be piloted as a twelve month contract. The cost of the proposed position would be offset through revenues received from the licensing regime imposed on the new classifications of businesses being regulated.

Staff are also requesting Council approval to change the current part-time Legislative Services Associate position into a full-time position for the duration of twelve months via contract. The rationale for this change would include the anticipated influx of administration for issuing business licences to new classifications, as well as processing enforcement tickets, which, under the new AMPS model, will be an in-house process rather than through the court system. The Legislative Services Associate would also be responsible for the scheduling and administration of the AMPS Hearing Review process for ticket disputes within the Town of Newmarket. The cost to change this position from part-time to full-time for a twelve month duration would also be offset by the projected surplus of revenue in licensing fees, as well as anticipated revenue for parking and licensing infractions issued under the new AMPS model.

Budget Impact

Projected Revenues: Transportation Network Companies

During the consultation period throughout July 2019, Town staff were able to confirm a total average of 32,000 trips originate from, and are conducted within, Newmarket by Transportation Network Companies not currently licensed. Should Council adopt this by-law as presented, this classification of business will provide a surplus of \$155,200.00 in revenue over a twelve (12) month period. This projection has been calculated as follows:

- 32,000 trips per month at a 0.30 cents per trip fee = \$9,600.00 revenue per month;
- \$9,600.00 per month x 12 months = \$115,200.00 revenue per year; and
- \$20,000.00 annual business licence fee for TNCs x2 confirmed to obtain a licence = \$40,000.00.

Projected Revenues: Taxicab Companies

By shifting regulatory requirements onto taxicab companies directly, staff anticipate an increased revenue stream through licensing taxicab companies that may be operating within Newmarket but located outside of Town borders. In 2018, the Town received \$1,225 in revenue from taxicab broker licensing fees. Additional revenue through

licensing fees will be acquired from any company outside of Newmarket that will now require a licence to operate with our borders.

Staff propose to impose a scaled licensing fee for taxicab companies as follows:

1-9 taxicabs: \$1,000 annual fee;

10-19 taxicabs: \$2,000 annual fee; and

20+ taxicabs: \$3,000 annual fee.

Staff also require Council direction to support or deny the industry's request to exempt taxicab companies from paying an annual licence fee for a duration of 3-5 years to serve as compensation for losses the industry feels they have incurred due to a lack of regulation on transportation network companies.

Projected Losses: Taxicab Plates

By removing the requirement to licence taxi drivers and vehicle plates, a revenue loss of approximately \$33,000 is anticipated. However, it is relevant to note that the Town currently holds a supply of available vehicle plates that have not been required and a priority list no longer exists, demonstrating a decline in demand. Regardless of removing these licensing requirements, staff anticipate a gradual loss of revenue in subsequent years to follow.

Projected Revenues: Tow Trucks

Town staff propose to license Tow Truck Companies with a requirement to identify all associated drivers and vehicles in use for services. A review surrounding municipalities identified variations in tow truck licensing fees, ranging from \$250 to \$2,200 as an initial fee, and an annual renewal fee ranging from \$200 to \$1,500. These numbers are dependent on the number of drivers a tow truck company identifies. Staff are proposing to introduce a one-time licensing fee of \$2,000 for tow truck companies, with an annual renewal fee of \$750.00 thereafter. The fees proposed are higher than the average researched to incorporate and recognize there is only one fee in Newmarket, in contrast to several fees within other municipalities.

Based on the above information, an extremely conservative projection for licensing 10 tow truck companies is anticipated within Newmarket, resulting in an initial increase in revenue of \$20,000 for 2020, with \$7,500 expected in subsequent years for renewal applications.

Projected Revenues: Limousine Services

A review of limousine companies in Newmarket has determined three or four known companies in operation. Establishing licensing fees varies from municipality to municipality throughout York Region and Ontario, alike. Staff has reviewed the average fees charged within our surrounding area and propose to impose a \$1,000 initial application fee, with an annual renewal fee of \$500 thereafter. Again, this amount takes

into consideration the total fee amounts charged by other municipalities, with Newmarket proposing one set fee for the companies, themselves.

Based on the above information, a conservative projection for licensing three limousine companies is \$3,000 for 2020, with \$1,500 expected in subsequent years for renewal applications. Staff also anticipate an increase in this revenue to incorporate limousine services that are not located within Newmarket but that provide services within our borders that will require a licence.

Projected Revenues: Driving School Instructors

In 2019, the Town of Newmarket introduced a by-law to regulate Driving School Instructors. Total revenue collected for licensing fees and administrative costs equaled \$39,971.00. This revenue was not accounted for in previous budget years due to being a recent licensing requirement. A formal review was necessary to determine revenue accuracy.

Total New Revenue Projections for 2020 (including calculated losses):

Total projected revenues through a formal licensing regime of the above classifications total approximately **\$187,000 for 2020**. This amount will be generated from licensing fees recovered by the Town for administration and enforcement purposes.

It is relevant to note that this projection does not include revenue expected for violation tickets issued under the new AMPS model. Town staff anticipate that, with the application of AMPS for business licensing related offences, ticket revenue targets will reach (or exceed) the Town's 2020 budget projections of **\$160,375**.

Human Resource Considerations

Town staff are requesting Council approval of additional staff resources for the purpose of ensuring compliance with new regulations and to assist with the administration of the licensing process. Should Council approve a twelve month contract for a licensing officer, costs associated to this position would be \$101,925. Costs for changing the current Legislative Services Associate from permanent part-time into a twelve month contract full-time position would be an additional \$31,000.

It is relevant to note that the approval of these two positions would also expand across all licensing program requirements and any licensing by-laws presented to Council at a later date.

Attachments

Attachment 1 – Draft Mobile Business Licence By-law

Attachment 2 – Amended AMPS By-law

Attachment 3 – Amended Fees and Charges By-law

Approval

Lisa Lyons, Director of Legislative Services/Town Clerk

Esther Armchuk, Commissioner of Corporate Services

Contact

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