



OAKVILLE

REPORT

Council

Meeting Date: January 31, 2022

FROM: Municipal Enforcement Services Department

DATE: January 18, 2022

SUBJECT: **Business Licensing By-law Review Update**

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That the report dated January 18, 2022 from Municipal Enforcement Services regarding an update of the business licensing by-law review be received.
2. That comments from Council and the public with respect to the business licensing review, be received.
3. That the Director of Municipal Enforcement Services be authorized to continue by-law preparations in accordance with the direction set out within this report, considering any comments received and report back with a new licensing by-law at a future Council meeting.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Licensing By-law 2015-075 is over 6 years old and requires review and update
- Staff held public consultation with licensees to gather information
- A public survey was conducted, results are attached as Appendix A
- On September 23, 2019, Council requested that staff review opportunities to regulate a program for licensing payday loan businesses
- As a result of information gathered so far, the following new licensing types are currently being recommended
 - payday loan establishments
 - private parking enforcement contractors and private parking enforcement officers
 - mobile motor vehicle services

- mobile personal services and temporary vendors
- Staff are also recommending that bowling alley businesses no longer be licensed
- As a means of streamlining processes, reducing cost and improving customer service, staff is also proposing to implement licensing endorsements for certain primary businesses
- Stand-alone by-laws for tow trucks, transportation network companies and short-term accommodations are also being included in the proposed Licensing By-law
- A review of licensing and administration fees will be completed as part of the review process based on a full cost recovery model

BACKGROUND:

Licensing By-law 2015-075 is over 6 years old and requires review and update. This report sets out the direction that staff proposes for business licensing review.

On June 17, 2019, Community Services Committee directed staff to include the licensing and regulation of businesses selling vapour (vape, e-cigarette) products within Oakville as part of the licensing by-law housekeeping review, to be brought back to Council by the first quarter of 2020. On February 22, 2021, Council passed a by-law to amend the Licensing By-law to include electronic cigarette retailers. These regulations came into effect on March 1, 2021.

On September 23, 2019, Council directed staff to review opportunities to regulate the number and location of payday loan businesses as well as determine what other regulatory authority the Town might have to protect consumers from potentially onerous rates and predatory practices. Staff was asked to report back to Council with information and potential methods to regulate these businesses in the interest of consumer protection.

Review Goals and Principles

The primary goals of business licensing are to address issues related to:

- Public health and safety;
- Consumer protection;
- Nuisance control; and
- The general well-being of persons.

Considering these goals, staff have established the following guiding principles, which are in line with accountable governance, to further direct the review:

- Economic Development - reduce red tape for businesses, examine opportunities for fee reductions
- Financially responsible – leverage technology and streamline internal processes creating efficiencies

- Customer focused - create digital opportunities, simplify by-law format

Consultation with the public and businesses began with public open house sessions on February 18, 2020. In addition to the public meetings, staff worked with the Oakville Chamber of Commerce to develop and distribute a questionnaire that provided greater clarity and provided more opportunity for stakeholder input. General results are provided in Appendix A.

COMMENT/OPTIONS:

Licensing By-law 2015-075 was passed by Council on November 16, 2015 and has been amended a number of times since then. Over the intervening years, many industries have changed the way they do business and new business types have emerged. As such, staff recommends a complete review of the current licensing system with a view to adding new business classes, reducing duplication, simplifying administration and clarifying existing regulations. A list of the businesses that currently require a licence is attached as Appendix B.

The following additions and updates to the Licensing By-law's general provisions are being considered:

New Licensing Format - Endorsements

There is currently a licensing overlap for some businesses that provide more than one service, which results in the need for multiple licences. For example, a gas station that also sells food and cigarettes needs a motor vehicle facility licence to sell gas, a food shop licence to sell food and a tobacco retailer licence to sell cigarettes. The applicant in this example has to submit a separate application for each licence and in some cases submit the same documentation for each one. The applicant must also pay a separate fee for each licence. This need for multiple licensing creates a duplication of work for businesses and staff. In order to address this issue, staff is proposing the introduction of licensing endorsements for certain business classes.

Endorsements would be added to the main business license (the primary business) to create a single licence system. The gas station would apply for their primary licence (motor vehicle facility), submitting any additional documents required for the endorsed business classes at the same time (food shop and tobacco retailer). The application would be reviewed once and a single licence would be issued, permitting all approved uses. The applicant would pay for one licence with endorsements, rather than for three separate licences.

This single licence system will simplify the process for businesses. Business owners will only need to worry about a single license renewal each year as endorsements will expire at the same time as the primary business licence. Staff will conduct a process review and adjust fees to reflect any savings.

Should it be necessary to suspend or revoke a primary business license or an endorsement, the remaining business operations licensed or endorsed may continue to operate for the remainder of the licensing period, unless otherwise directed by the Licensing Commissioner.

Police Records Checks

Police records checks are searches of police databases conducted to screen a person to help determine their suitability for things like employment, volunteer positions, licensing, etc. A number of business classes require an applicant to submit a police records check.

The *Police Records Check Reform Act* standardizes police records checks in Ontario and provides for the following types of checks:

- **criminal record check** includes applicable criminal convictions and findings of guilt under the federal *Youth Criminal Justice Act*;
- **criminal record and judicial matters check** includes applicable criminal convictions, findings of guilt under the federal *Youth Criminal Justice Act*, absolute and conditional discharges, outstanding charges, arrest warrants, and certain judicial orders; and
- **vulnerable sector check** includes the same type of information that is disclosed in a criminal record and judicial matters check as well as applicable findings of not criminally responsible by reason of mental disorder, record suspensions (pardons) related to sexually-based offences and, in certain circumstances, non-conviction charge related information; when a strict test is met

Staff has included requirements for a criminal record check or a criminal record and judicial matters check for certain businesses classes based on the level of potential customer vulnerability.

Staff has also recognized a loophole in criminal record checks requested for business owners where only a single owner/director was required to provide a check. This enabled any person with a qualifying record to put forward the criminal record check for a disqualified person. As such, staff are proposing to add language that a copy of a criminal record check or criminal record and judicial matters check is required to be provided for officers or directors of a corporation or for each partner of a partnership upon request by the Licensing Commissioner. This language is in line with that used by the City of Toronto.

Appeals

Some business classes are required to have a licence/permit issued by the Province. For example, a payday loan establishment applicant requires a current and valid lender or broker licence issued by the Province. Similarly, a driving instructor requires a current and valid driving instructor permit issued by the Province and a current and valid Ontario driver's licence. This Provincial documentation must be submitted at the time of application for a business licence or renewal of a licence. Whether or not a licence is issued or renewed is predicated on the applicant having current and valid Provincial documentation.

Language is proposed that will clarify that a licensee cannot appeal the suspension or revocation of a business licence if the Province suspends or revokes a licence/permit that is required for licensing. For example: if the Province suspends or revokes a driving instructor's permit or their Ontario driver's licence, the Town's business licence is also suspended or revoked until the Province reinstates the driving instructor's permit/driver's licence. The driving instructor cannot appeal the Licensing Commissioner's revocation or suspension of their business licence to the Appeals Committee.

Language has also been added to the By-law to clarify that the Licensing Commissioner may suspend or revoke a licence if a licensee fails to maintain current and valid automobile insurance, if required. Again, a licensee would be unable to appeal this decision to the Appeals Committee.

Nuisance Abatement: New Section to By-law

Staff are proposing a new section to the By-law that adds general language regarding health and safety and "nuisance" activities that apply to all business classes. This language would address nuisance issues including obstruction of rights-of-way, compliance with the Noise By-law, dust, etc.

Additional nuisance issues that are specific to certain business classes will be captured within the Schedule for that business class. For example: an arboriculture company must ensure that properties they are working on function with respect to drainage and a pool installation contractor is prohibited from creating flooding or ponding on parkland.

Discrimination: New Section to By-law

To support accountable government, inclusion and the livability of Oakville for all members of our community, staff is proposing the addition of language that prohibits discrimination. This section will require all licensed businesses to carry out the delivery of service free from discrimination based on race, ancestry, place of origin,

colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. In addition, this section will address discrimination against any person being accompanied by a guide dog or service animal.

New By-law Schedules

Staff is proposing to add the following new schedules to the Licensing By-law:

Licensing Thresholds

Licensing thresholds identify offences under various federal and provincial legislation and the frequency with which an applicant may be convicted of the specified offences. When an applicant fails to meet the threshold, a licence application will be denied or a licence will not be renewed. In this case, the applicant or licensee may appeal the Licensing Commissioner's decision to the Appeals Committee.

Currently, of the 39 business classes that require a licence, 26 require a criminal record check or a criminal record and judicial matters check, with only 9 of those classes currently containing licensing thresholds. Should a violation occur involving one of the remaining 17 classes that require a criminal record/criminal record and judicial matters check but do not contain thresholds, the Licensing Commissioner can only consider the impact to public safety and whether the business is adverse to the public interest when determining whether or not to licence the business. These considerations can be very subjective.

Staff is proposing to institute licensing thresholds for all business classes where an applicant is required to provide a criminal record check/criminal record and judicial matters check. This will create a level playing field and ensure that the applicant/licensee has a clear understanding of how their criminal record relates to their licensing status. It will also ensure consistency when the Licensing Commissioner reviews criminal record checks/criminal record and judicial matters checks.

Staff is recommending that applicable convictions are those that directly affect the applicant or licensee's ability to competently and responsibly carry on the business that is the subject of their licence or those that compromise their ability to comply with the provisions of the By-law. Thresholds will not apply to an offence for which a pardon has been granted.

Thresholds will include convictions under the following legislation:

- Criminal Code
- Highway Traffic Act

- Controlled Drugs and Substances Act
- Bankruptcy and Insolvency Act
- Dog Owners Liability Act (DOLA) - animal related licenses only
- Provincial Animal Welfare Service Act (PAWS) - animal related licenses only

Staff is also proposing to include overdue fines, any other amounts owing to the Town and any outstanding orders issued by the Town as part of the thresholds.

Employees of certain businesses classes must also meet the licensing thresholds in order to be approved to work in Oakville. As with applicants/licensees, applicable convictions are those that directly affect the employee's ability to competently and responsibly carry out their duties or those that compromise their ability to comply with the provisions of the By-law.

Mobile Motor Vehicle Service and Mobile Personal Services

The past year has highlighted some changing business trends as services become more mobile and are provided at a residence rather than at a brick and mortar premises. In recognition of these changes, staff want to ensure the same principals of licensing are applied to all licensed services, whether mobile or stationary.

New language is proposed to include mobile motor vehicle service and mobile personal service operations, defined as:

Mobile Motor Vehicle Service: a business that is operated from place to place, offering or providing a motor vehicle facility product or service. ie. oil changes, tire changes, glass repair. Excludes tow trucks

Mobile Personal Service: a personal services establishment that is operated from place to place, offering or providing a personal services product or service. ie. hair dressing and barbering, manicures, pedicures

A motor vehicle facility with a current and valid licence would not need a separate licence to provide mobile motor vehicle services. An automobile association would not need a mobile motor vehicle service licence for providing roadside assistance, but it does require a licence for providing services such as seasonal tire changes.

A properly licensed personal service business would not need a separate licence to provide mobile personal services, however, each employee who provides a mobile personal service must register with the Licensing Commissioner annually and provide a criminal record & judicial matters check. These employees may be entering a dwelling to provide a service and/or may be dealing with vulnerable people. These employees will have to meet the licensing thresholds in order to work in Oakville. A registration fee will be established as part of the licensing fee review

The regulations for both mobile business types include:

- the business name and telephone number must be displayed on vehicles used in the mobile business
- licensees must provide invoices to customers and have their business name and contact information on all business forms, invoices and stationary
- licensees are prohibited from providing services on a municipal right-of-way or on a vacant property, advertising or inviting customers to attend a location for service and erecting advertising/signs at a time other than when services are being provided. Signs must comply with the Sign By-law
- licensees must obtain the permission of the property owner or authorized tenant before providing mobile services

Payday Loan Establishments

On September 23, 2019, Council requested that staff review opportunities to regulate the number and location of payday loan businesses as well as determine what other regulatory authority the Town might have to protect consumers from potentially usurious rates and predatory practices. Staff was directed to report back to Council with information and potential methods to regulate these businesses in the interest of consumer protection.

Subsection 154.1(1) of the *Municipal Act* provides that a local municipality may define the area of the municipality in which a payday loan establishment may or may not operate and limit the number of payday loan establishments in any defined area in which they are permitted. Subsection 154.1(2) of the Act provides that a municipality may not prohibit the operation of all payday loan establishments in the municipality. There are currently 3 payday loan businesses operating in Ward 2 and 1 operating in Ward 5. These businesses have obtained the necessary licences from the Province.

The *Payday Loans Act* and Regulations covers, among other things: requirements for licences, regulation of licensees, borrower's rights and remedies, complaints, inspections and enforcement and prohibited practices. Considering these regulations, staff are proposing a payday loan establishment licensing program that would include:

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- a maximum of 1 payday loan establishment licence issued per Ward
 - existing locations will be grandfathered and specifically named in the By-law
 - licensees must comply with the *Payday Loans Act*
 - in order to be licensed by the Town, applicants must provide proof of a current and valid licence as a lender or loan broker issued under the *Payday Loans Act*
 - applicants must provide a criminal record check
 - the Town licence will be suspended or revoked if the licence issued under the *Payday Loans Act* is suspended, revoked, expires or ceases to be valid. The Licensing Commissioner's decision to suspend or revoke the Town licence cannot be appealed to the Appeals Committee
 - licensees must provide credit counselling information, approved in advance by the Licensing Commissioner, to a person who expresses an interest in a payday loan
 - specifications for a credit counselling poster, which must be visible to persons entering the payday loan establishment, are contained in the Schedule

Private Parking Enforcement Contractor and Private Parking Enforcement Officer

Private parking enforcement contractors and private parking enforcement officers do not currently require a licence but are approved and appointed by by-law. Private parking enforcement officers are currently appointed for the purpose of enforcing parking on private property. Said officers must submit an application form and a criminal record check in order to be appointed. There is currently no fee for this appointment process or any requirement to renew the appointment annually.

Staff is proposing to add private parking enforcement contractors and private parking enforcement officers as business classes that require licensing. Including these businesses in the licensing system will ensure that the program is restricted to qualified companies and individuals, streamline the approval process, allow for the enforcement of standards for parking on private property, provide standards for the conduct of officers, allow for cost recovery, as well as simplify the management of the program for staff.

The licensing program for private parking enforcement contractors and private parking enforcement officers will include:

- private parking enforcement contractors must provide: an annual criminal record check, insurance certificate, a list of properties the company enforces, proof of the property owner's consent to parking enforcement on their property and a list of the officers they employ
- private parking enforcement officers must provide: an annual criminal record check, a photograph and a letter of employment from the parking enforcement contractor

- regulations prohibiting a private parking officer's uniform or vehicle from displaying terms or identifiers that could reasonably lead a person to believe the officer is a police officer or an employee of the Town have been added
- regulations prohibiting a private parking officer from carrying bear spray or a firearm have been added, as well as carrying restraints, batons, knives, etc. unless the officer is also providing security services
- in addition to the By-law's general provisions, a parking enforcement contractor's licence may be revoked or suspended if they fail to file penalty notices for parking violations within 3 business days of the issuance of a penalty notice or as otherwise required by the Licensing Commissioner. The Licensing Commissioner's decision may be appealed to the Appeals Committee
- in addition to the By-law's general provisions, a parking enforcement officer's licence may be revoked or suspended if the Licensing Commissioner believes that the officer cannot carry out their duties on an impartial and objective basis due to a conflict of interest or the officer is engaging in fraudulent behavior or behavior that constitutes a breach of trust with the Town such as illegally obtaining money, falsifying records, circumventing Town procedure, etc. The Licensing Commissioner's decision may be appealed to the Appeals Committee
- applicants for a parking enforcement officer licence must complete and pass a training session administered by the Licensing Commissioner
- the Schedule includes requirements for signage at the parking lot entrance and exit

Temporary Vendors, Market, Special Sale, Transient Merchants

Staff is proposing a licensing program for temporary vendors. Market ("outdoor market" in the current By-law) and special sales have been rolled into the new temporary vendor schedule.

The 5 proposed classes of temporary vendors are as follows:

- Class 1 – Day Sales (flags, flowers, etc.);
- Class 2 – Seasonal Sales (gardening products, Christmas trees, etc.);
- Class 3 – Special Sales (liquidation, bankruptcy, fire damage, etc.);
- Class 4 – Transient Merchants (temporary warehouse sale, bridal/golf equipment sale at a hotel, etc.)
- Class 5 – Market (flea market, farmers market)

Temporary vendors would not include exhibitions, second-hand goods shops or fireworks vendors. These businesses have their own licensing requirements.

The following would be exempt from requiring a temporary vendor licence:

- persons who operate or promote trade shows;
- licensed refreshment vehicles, food shop/restaurants or special event food shops that are operating at a licensed Class 5 – Market
- Town organized special events

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- a Class 5 - Market that is operating pursuant to an approved minor variance that predates this By-law
 - local retailers if their temporary vending activity is an extension of the existing retail business at that location (ie. IKEA selling Christmas trees, garden centre at a grocery store)
 - farmers located in Oakville, if the goods or produce they are selling is being sold from their own property and has been grown, produced and harvested by them;
 - receivers, trustees or liquidators under any Act such as the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, or the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, a court or receiver appointed by the court, a bailiff, sheriff, executor or administrator

For ease of licensing, the person operating a Class 1 - Day Sale, Class 2 – Seasonal Sale or Class 3 – Special Sale business is required to obtain the necessary licence from the Licensing Commissioner. For Class 4 – Transient Merchants and Class 5 - Market, the event organizer or property owner must obtain the necessary licence from the Licensing Commissioner.

All applicants for a temporary vendor licence would be required to provide the Licensing Commissioner with:

- a list of vendors and a description of the merchandise, goods or services being offered for sale. Licensees are prohibited from allowing any person who is not on the list of vendors to sell any merchandise, goods or services and only the merchandise, goods or services included on the list may be sold.
- an accurate drawing showing the location of the temporary vendors on the property, if applicable. This drawing is required to ensure that traffic circulation at the site will be sufficient and that roadways will not be impacted by those attending the sales event.
- a parking management plan for a Class 5 - Market
- written permission from the property owner for the sales event, if applicable
- proof of a building permit, if applicable (ie. for a temporary tent)

Staff is also proposing that temporary vendors be prohibited from operating in a BIA without permission from the BIA and the Town.

The By-law contains language that limits the number of sales events held from the same location in a calendar year as follows:

- Day Sales – maximum of 4 sales events for up to 3 consecutive days
- Transient Merchants – maximum of 4 sales events for up to 3 consecutive days
- Seasonal Sales – maximum of 2 sales of up to 3 months each
- Markets - occurs on a regular weekly basis, but no more than 3 days in a 7 day period. This limit is included in the current licensing by-law.

Licences for special sales are valid for 30 days from the date of issuance and may be extended for one additional 30 day period. New merchandise or goods are not permitted to be sold under the extension of the licence.

Existing By-law Schedules with Major Changes

Bowling Alley

Currently only one business is operating under this business class. Staff has reviewed the history and believe that this is a low risk class of business and recommend its removal from the licensing program.

Animals for Entertainment

The current schedule for animals for entertainment will be enhanced as follows:

- language will be added to identify the types of businesses that require an animals for entertainment licence:
 - businesses that have a premises located in Oakville where animals used for entertainment are kept
 - businesses that provide animals to special events such as carnivals, circuses, parades
 - businesses that use animals in travelling presentations at, including but not limited to, schools, daycares, camps, workshops
 - businesses that provide animals to private functions that are not open to the public including, but not limited to, birthdays, weddings, corporate events
- additional licensing thresholds for applicants and licensees have been added to this schedule under the *Dog Owners' Liability Act*, the *Ontario Society for the Prevention of Cruelty to Animals Act*, the *Provincial Animal Welfare Services Act, 2019* and the *Animal Control By-law*
- added language that the Licensing Commissioner may advise the Oakville & Milton Humane Society of an event using animals for entertainment and an Animal Control Officer may inspect the event
- added regulations for animals for entertainment that are kept in a premises located in Oakville (ie. enclosures, environment, sanitation, veterinary care)
- added regulations for animals for entertainment kept temporarily in Oakville (ie. animals that are tethered or tied at a premises, animals in motor vehicles)
- added prohibitions against keeping animals that carry or produce a toxin known to be dangerous to humans and domestic animals or the keeping of any animal, excluding fish, that is not commonly domesticated

The Oakville & Milton Humane Society continues to provide feedback on the regulations contained in this Schedule.

Arborist Consulting Companies, Arboriculture Companies, Tree Companies

The landscaping/tree company business class currently contained in the By-law will be removed and replaced with a “tree company” class. The “landscaping” portion of the old landscaping/tree company class is captured by the landscaping contractor business class. This amendment will reduce duplication and confusion.

The following additions/amendments are proposed regarding licensing of arborist-type businesses:

- at the time of initial licensing, applicants must provide proof of qualification for their employees. Under the current By-law, this proof must be submitted to the Licensing Commissioner annually. Staff is proposing to amend the By-law to require that, upon licence renewal, licensees obtain and keep proof of qualifications rather than submitting the same documents annually. If a new employee is hired, the licensee must provide the Licensing Commissioner with proof of qualifications. The Licensing Commissioner may request that the licensee produce the proof of qualifications for inspection
- language to clarify that any sub-contractors retained by an arborist consulting company licensee or a tree company licensee must obtain their own licence from the Town, if required.

Billiard Hall

The definition of “billiard hall” has been amended to clarify that a business with 2 or more billiard, pool or bagatelle tables requires a business licence.

Commercial Parking Lot

The following additions/amendments are proposed regarding licensing of commercial parking lots:

- the current By-law provides for the licensing of the commercial parking lot operator. Staff propose to change this to license the commercial parking lot itself
- the current definition of “commercial parking lot operator” has been amended to apply to the parking lot, rather than the operator. As part of this amendment, reference to the temporary parking of vehicles has been deleted. The new definition of “commercial parking lot” does not contain a timeframe for parking a vehicle
- a prohibition that no licensee/person shall permit any person to conduct parking enforcement services at the commercial parking lot unless that person holds a private parking officer licence for that commercial parking lot
- added a requirement that the Licensing Commissioner must be notified in writing of a change to the consent provided by the property owner to permit the operation of a commercial parking lot on their property

- a requirement to provide for the posting of the owner's business name, the municipal address of the commercial parking lot and the business hours of the lot at the commercial parking lot. Said information must be posted in a conspicuous place in accordance with the Sign By-law
- a requirement for the licensee to notify the Halton Regional Police Service if a motor vehicle is left at the commercial parking lot for longer than 48 consecutive hours without appropriate payment

Contractors

The current Licensing By-law contains separate schedules for contractor-type businesses. Staff propose to roll these businesses into 1 schedule since many of the regulations are the same. Therefore, the contractor business class will be comprised of a base licence with the following sub-types available:

- building renovators
- drain laying contractors
- HVAC contractors
- landscaping contractors (includes property maintenance contractors)
- lawn care contractors
- plumbing contractors and
- pool installation contractors

The following additions/amendments are proposed regarding licensing of contractors:

- amending the definition of "pool installation contractor" to include persons providing pool maintenance services as well as persons installing pools
- the definition of "drain laying contractor" to include persons who install, replace, repair or maintain sewage disposal systems
- the licence renewal date for the various contractors is currently not consistent. Staff is proposing to set the renewal date of April 30 for all of this business class
- employees of building renovators, drain laying contractors, HVAC contractors and plumbing contractors have to register with the Licensing Commissioner annually and provide a criminal record check. These employees must meet the licensing thresholds in order to be approved to work in Oakville. A registration fee will be established as part of the licensing fee review

Donation Box Operators

The following additions/amendments are proposed regarding licensing of donation box operators:

- applicants/licensees must sign a self-declaration that confirms their understanding that their donation box will be removed by the Town, at the operator's expense, if the donation box contravenes the By-law

- applicants/licensees currently pay for a licence and a \$25 bin fee for each donation box they operate. Staff is proposing that a charity, religious institution or community organization may have 1 donation box on land which is primarily used for the operations or activities of the charity, religious institution or community organization without paying the bin fee. They would pay the bin fee for any additional donation boxes located at the site
- language to limit the number of donation boxes to a maximum of 2 per municipal address, at the discretion of the Licensing Commissioner
- in an effort to address recent deaths and injuries due to the design of donation boxes, a new requirement that donation boxes be designed to allow for egress from the box. The applicant/licensee must provide proof of the design upon request by the Licensing Commissioner

Driving School

The current By-law requires that driving schools and driving school vehicles obtain a licence. Staff is proposing to no longer license driving schools as off-road instruction is now generally held on-line or virtually rather than in a classroom. Driving instructors and the owners of vehicles used to provide driving instruction will require a licence.

The following additions/amendments are proposed regarding licensing of driving instructors and owners of vehicles used to provide driving instruction:

- the 10 year age limit on vehicles used for driving instruction to be deleted. Upon the vehicle reaching 10 years of age, the owner of the vehicle must provide an additional safety certificate. This is consistent with taxis and limousines
- the owner of the vehicle used to provide driving instruction to provide the Licensing Commissioner with a list of the individuals who will be using the vehicle for driving instruction
- the driving instructor's licence to be suspended or revoked if their Ontario driver's licence or their permit issued by the Province is suspended, revoked, expires or ceases to be valid. The Licensing Commissioner's decision to suspend or revoke the instructor's licence cannot be appealed to the Appeals Committee. The vehicle owner's licence may also be suspended or revoked by the Licensing Commissioner if the licensee fails to have proper vehicle insurance. This decision may be appealed to the Appeals Committee
- language added to require that vehicles used to provide driving instruction are equipped with: a properly functioning service brake actuator that may be operated by the driving instructor; dual mirrors which are in good working order and are positioned for ready use by the driving instructor when seated beside the student driver and a plastic roof sign, to be illuminated while providing driving instruction

Exhibition

The current schedule for exhibitions will be enhanced as follows:

- the definition of “exhibition” updated to include temporary public events that have a theme or general subject such as rides (ferris wheels, carousels), mechanical or electronic games, food and other vendors. This definition excludes markets
- applicants will be required to provide exhibition details and a list of vendors to the Licensing Commissioner when applying for a licence
- the organizer of the exhibition or the operator of the exhibition will be required to obtain the licence. Each vendor included on the list provided to the Licensing Commissioner does not need to be separately licensed
- applicants to provide notice to the Oakville Fire Department, the Health Department and the Halton Regional Police Service of the date(s) of the exhibition and provide proof of notice to the Licensing Commissioner, upon request

Firework Vendors

In Oakville, the discharge of fireworks is regulated by Fireworks By-law 2009-056 and the sale of fireworks is regulated by Licensing By-law 2015-075. Proposed changes to the current schedule for fireworks vendors are as follows:

- language added to clarify that a licensee can only sell consumer fireworks (low-hazard fireworks). However, display fireworks (high-hazard fireworks) and special event pyrotechnics may be sold if the vendor has the required licence under the Explosives Act
- the current Licensing By-law provides that consumer fireworks may only be sold 7 days prior to Victoria Day, Canada Day, New Year’s Day and any religious or cultural celebrations where fireworks are used to celebrate the religious or cultural event. Staff is proposing to increase the time consumer fireworks may be sold to 10 days prior to Victoria Day, Canada Day, New Year’s Day and any religious or cultural celebrations where fireworks are used to celebrate the religious or cultural event.
- the current Licensing By-Law provides that every licensee or person shall notify the Licensing Commissioner of their intention to sell consumer fireworks at least 10 days prior to any religious or cultural celebrations where fireworks are used to celebrate the religious or cultural event. Staff is proposing to increase the time to 21 days prior to any religious or cultural celebrations where fireworks are used to celebrate the religious or cultural event. This will provide more time for staff to review the application and for the Fire Department to conduct a fire safety audit
- language to be added limiting advertising of fireworks sales to the timeframe set out in bullet 2 above and that signage must comply with the Sign By-law
- the licence renewal date for fireworks vendors is currently January 31. Staff is proposing to change the renewal date to March 31 as it is closer to the first date consumer fireworks may be sold (10 days before Victoria Day)

Food Shops

The following additions/amendments are proposed regarding licensing of food shops:

- the current food shop categories are food shop/restaurant, food shop/ancillary use and special event food shop. Instead of using the term “food shop/ancillary use”, staff proposes to use the term “food shop convenience” as it is more descriptive of the types of businesses that require this food shop licence
- cafeterias that are operated directly by a municipal, provincial or federal government, university, college, public school, separate school or board of education, not-for-profit organizations such as food banks, a registered charity or a religious organization; or a refreshment vehicle Class A or B will no longer need a food shop licence
- an additional ground for the suspension of a licence by the Licensing Commissioner will be added to provide that if the Medical Officer of Health finds that the operation and maintenance of the business does not conform to the requirements of the Health Protection and Promotion Act and Ontario Regulation 493/17 Food Premises, the food shop licence may be suspended until the situation has been rectified to the satisfaction of the Medical Officer of Health. This decision may be appealed to the Appeals Committee. In a situation that poses immediate danger to the health or safety of any person, property or animal, the Municipal Act provides that a licence may be suspended for not more than 14 days without a hearing (ie. without an appeal to the Appeals Committee)

Kennels

The current By-law provides regulations for pet shops and kennels in the same schedule. Staff proposes to separate pet shops and kennels into their own schedules. The following additions/amendments are proposed regarding licensing kennels:

- the definition of “kennel” will be amended to be consistent with the Zoning By-law and to clarify that kennels provide services on an overnight basis
- additional licensing thresholds for applicants and licensees to be added to this Schedule under the *Dog Owners’ Liability Act*, the *Ontario Society for the Prevention of Cruelty to Animals Act*, the *Provincial Animal Welfare Services Act, 2019* and the Animal Control By-law
- language added to provide that the Licensing Commissioner may close a kennel forthwith and suspend the kennel licence if a veterinarian has reasonable grounds to believe that a kennel has an outbreak of distemper, hepatitis, rabies, parvo virus or any infectious or contagious disease. The kennel may reopen and have its licence reinstated upon a written report from the veterinarian that they have

reasonable grounds to believe that the risk of new infections has passed. The Licensing Commissioner's decision may be appealed to the Appeals Committee. In a situation that poses immediate danger to the health or safety of any person, property or animal, the Municipal Act provides that a licence may be suspended for not more than 14 days without a hearing (ie. without an appeal to the Appeals Committee)

- standards for kennels and for animals kept in kennels (ie. enclosures, environment, sanitation, veterinary care) to be enhanced
- regulations regarding kennels used for breeding purposes to be added

The Oakville & Milton Humane Society continues to provide feedback on the regulations contained in this schedule.

Limousines

The current By-law provides licensing for 3 classes of limousines: Class A (seating for a maximum of 15 passengers), Class B (seating for 5-8 passengers) and Class C (vintage, classic, luxurious cars). To simplify this Schedule, staff proposes to amend the By-law to provide for "limousines" and "historic limousines" (vehicles 30 years of age and older), rather licensing 3 classes of limousine. The following additions/amendments are proposed regarding licensing limousines:

- the model year restriction for limousines (was 10 years old for Class A and 6 years old for Class B) will be deleted. Upon the limousine reaching 10 years of age, the owner of the vehicle must provide an additional safety certificate. This is consistent with taxis and vehicles used to provide driving instruction and does not apply to historic limousines
- the limousine driver's licence will be suspended or revoked if their Ontario driver's licence is suspended, revoked, expires or ceases to be valid. The Licensing Commissioner's decision to suspend or revoke the Town licence cannot be appealed to the Appeals Committee. The limousine owner's licence may be suspended or revoked by the Licensing Commissioner if the licensee fails to have proper vehicle insurance. This decision may be appealed to the Appeals Committee
- currently there is a 2 tier structure for limousine tariffs: Class A and C limousines – minimum 2 hours duration at a minimum \$50 for the first hour and \$30 for each additional hour. Class B limousines – minimum \$60 for the first hour or any part thereof and \$30 for each additional hour. In order to make limousine tariffs consistent with those of taxis, staff is proposing that limousine owners file their list of tariffs with the Licensing Commissioner at the time of licence application or renewal, rather than having the Town set the tariffs. The owner must provide the Licensing Commissioner with 1 month's notice if they want to make a change to any of the tariffs. Passengers must be advised of the cost of the trip when they book and they must be provided with a receipt, upon request.

Motor Vehicle Facility

The motor vehicle facility licence encompasses a broad range of businesses in the automotive sector including: dealerships, body shops, service stations and car rentals. The addition of mobile motor vehicle service licensing has been previously described in this report. Further additions to the licensing requirements for motor vehicle facilities will include:

- language added, similar to contractors, that the licensee must provide customers with a written contract and itemized invoices. Licensees require their business name and contact information on all business forms, invoices and stationary
- a prohibition against dumping or disposing of gasoline, oil, lubricants, tires or hazardous materials except in accordance with relevant by-laws and/or legislation has been added.

Motor Vehicle Storage Yard

The current By-law provides regulations for motor vehicle storage yards and salvage yards in the same schedule. Staff proposes to separate motor vehicle storage yards and salvage yards into their own schedules. The following amendment is proposed regarding licensing of motor vehicle storage yards:

- the By-law currently provides that a motor vehicle storage yard licensee must reply to a phone call from the owner of a vehicle being stored at the yard within 10 minutes of the call if the office is closed during the business hours set out in the Schedule. New language will be added to provide that if the storage yard is closed during these business hours, the licensee must, in addition to replying to the phone call, book an appointment with the vehicle's owner as soon as possible, or no longer than 7 days from the date of the phone call. No call-in fees, storage charges or any other fees may be charged to the owner from the date of the phone call to the date of the appointment. Storage fees may only be charged from the date of the phone call if the owner is unable to attend at the storage yard within 7 days of their phone call

Nightclub

The following additions/amendments are proposed regarding licensing of nightclubs:

- amending the definition of "nightclub" and removing the current requirement that the primary function of a nightclub is to provide a dance floor
- adding the requirement for the licensee to provide security staff, who are licensed under the *Private Security and Investigative Securities Act*, to regulate line-ups, prevent obstruction of exit doors, roadways, etc.
- adding language that licensees must ensure that at least 1 designated person of authority, as identified to the Licensing Commissioner, is in attendance at all times when the nightclub is open and operating

- in addition to the general nuisance provisions of the By-law, licensees must keep the premises suitably lighted and ventilated during business hours, install and maintain suitable storage facilities and garbage containers and keep the means of egress from the premises free from snow or ice

Personal Service Establishments

The addition of mobile personal services licensing has been previously described in this report. The following additions/amendments are proposed regarding licensing of personal service establishments:

- language added to clarify that persons who provide a personal service in their capacity as a duly authorized member of a self-regulating health profession, as provided for in Schedule 1 to the Regulated Health Professionals Act, do not require a licence
- language added to prohibit the tattooing or piercing of any person under 18 without the prior written consent of a parent or guardian of the person to be tattooed or pierced

Pet Shops

The current By-law provides regulations for pet shops and kennels in the same schedule. Staff proposes to separate pet shops and kennels into their own schedules. The following additions/amendments are proposed regarding licensing of pet shops:

- additional licensing thresholds for applicants and licensees have been added to this Schedule under the *Dog Owners' Liability Act*, the *Ontario Society for the Prevention of Cruelty to Animals Act*, the *Provincial Animal Welfare Services Act, 2019* and the *Animal Control By-law*
- language added to provide that the Licensing Commissioner may close a pet shop forthwith and suspend the pet shop licence if a veterinarian has reasonable grounds to believe that a pet shop has an outbreak of distemper, hepatitis, rabies, parvo virus or any infectious or contagious disease. The pet shop may reopen and have its licence reinstated upon a written report from the veterinarian that they have reasonable grounds to believe that the risk of new infections has passed. The Licensing Commissioner's decision may be appealed to the Appeals Committee. In a situation that poses immediate danger to the health or safety of any person, property or animal, the Municipal Act provides that a licence may be suspended for not more than 14 days without a hearing (ie. without an appeal to the Appeals Committee)
- a new exemption to licensing for pet shops that only sell live fish
- standards for pet shops (ie. enclosures, environment, sanitation, employee training) will be enhanced

The Oakville & Milton Humane Society continues to provide feedback on the

regulations contained in this schedule.

Public Halls

The current schedule for public halls will be enhanced as follows:

- language added to provide that no licence fee is required to be paid by any religious organization where they do not receive any remuneration for the use of their public hall; or any municipal, provincial or federal government, university, public school, separate school or Board of Education that does not charge a fee for the use of their public hall
- a requirement that the maximum occupancy load must be displayed in a prominent place at the entrance of the public hall and that no more people than that listed be allowed in the public hall
- language added that the licensee must ensure that every vendor operating from the public hall has a valid licence from the Town, if applicable

Refreshment Vehicles

The current By-law provides for the licensing of 3 classes of refreshment vehicles: Class A (food truck, coffee truck, ice cream truck), Class B (chip wagon) and Class C (ice cream bicycle). To simplify this schedule, staff proposes to amend the By-law to provide for Class A (previous Class A and B) and Class B (previous Class C) refreshment vehicles rather than for 3 classes of refreshment vehicles. The following additions/amendments are proposed regarding licensing of refreshment vehicles:

- staff is proposing to delete the requirement for employees operating refreshment vehicles to provide a criminal record check. Staff has heard from the industry that the provision of criminal record checks by employees is onerous and limits the movement of employees between restaurants and refreshment vehicles. Ice cream trucks are not permitted to operate in residential neighbourhoods where operators could come into contact with children. Refreshment vehicle owners and special event refreshment vehicle owners will still have to provide a criminal record check upon initial licensing or licence renewal
- the requirement for refreshment vehicle operators to be licensed will be deleted. Refreshment vehicle owners and special event refreshment vehicles will continue to require a licence
- the current licence renewal date for refreshment vehicles is January 31. Staff propose to change this date to May 31 since it is closer to the time of year that refreshment vehicles generally operate
- language will be added to provide that refreshment vehicles are prohibited from operating in a BIA without permission from the BIA and the Town

- a prohibition against dumping or disposing of litter, cooking oil or hazardous materials except in accordance with relevant by-laws and/or legislation will be added

Staff has been approached by members of the industry requesting that refreshment vehicles be permitted to operate on roadways and in parks. Some municipalities do permit this, with various regulations, including:

- the requirement to obtain permits in addition to a business licence;
- operating only in designated areas, on specific days of the week and at specific times of day;
- limiting the number of refreshment vehicles per block;
- limiting the number of hours a refreshment vehicle may be operated from the same location at any one time; and
- payment of a parking permit fee in advance when vending from a metered parking space

Staff are not recommending this change but direction can be added to the recommendations should Council wish a full review undertaken.

- **That Municipal Enforcement undertake a full food truck licensing review, including consultation with the industry, residents and BIAs, to develop a strategy framework for future licensing opportunities and report back to Council at a later date.**

Salvage Yard

The current By-law provides regulations for motor vehicle storage yards and salvage yards in the same schedule. Staff proposes to separate motor vehicle storage yards and salvage yards into their own schedules. The following additions/amendments are proposed regarding licensing of salvage yards:

- the definition of “salvage yard” amended to mean a premises or part thereof used for receiving, storing or dealing in scrap, salvage material (ie. used or wrecked motor vehicles or used or wrecked motor vehicle parts) or recyclable material
- language added to require an inspection of a salvage yard by the Fire Department prior to licensing
- new salvage yard prohibitions prohibiting the storage of materials in such a way that permits standing or stagnant water, failing to take all reasonable efforts to deal with rodents, vermin and odours and failing to clean debris and materials from properties abutting the salvage yard

Second-Hand Goods Shop

The following additions/amendments are proposed regarding licensing of second-hand goods shops:

- a definition of “second-hand goods” that includes examples of the types of goods captured by the Schedule
- exemptions to licensing for salvage yards, motor vehicle facilities, temporary vendor Class 5 – Market and auctioneers as long as they have a current and valid business licence
- an exemption for stores like the Apple Store, that take in goods they have produced or manufactured, refurbishes the item and then offers it for sale. A corner store selling refurbished phones would need a second-hand goods licence
- prohibitions regarding entering false or inaccurate information in the register they are required to keep and failing to advise the Halton Regional Police Service if the applicant/licensee is keeping second-hand goods in a location other than the licensed premises

Short-Term Accommodation

The following additions/amendments are proposed regarding licensing of short-term accommodations:

- the stand-alone Short-term Accommodation By-law, which has been in force since 2018, to be rolled into the general licensing by-law
- the current definition of “short-term accommodation (STA)” means the provision of a dwelling unit for temporary lodging to a maximum of 28 consecutive days. This definition includes a bed & breakfast establishment (B&B). The Zoning By-law provides that the rental of a house is considered to be a STA. The rental of units in a house is a B&B. In order to more closely align with the Zoning By-law, staff is proposing to amend the definition of STA to separate out B&Bs and provide regulations for both STAs and B&Bs
- language regarding the remittance of the Municipal Accommodation Tax
- language to clarify that only 1 STA/B&B licence will be issued per person since persons can have only 1 principal residence
- in an effort to manage “party houses”, staff is proposing to add language that no STA or B&B be used to host weddings, receptions or other commercial activities. This would not apply if a homeowner wanted to host a family wedding or reception at their home, as long as the homeowner complied with zoning requirements and obtained any other permissions or permits such as a building permit if a tent was being used

Taxicabs

The licensing provisions for taxi owners, brokers and drivers were amended in 2018, which relaxed some of the previous taxi regulations. For example, the Town no longer sets tariff rates; rather the taxi broker or independent operator provides a list

of their rates to the Licensing Commissioner. Staff is proposing to further reduce red tape by eliminating the current ratio of 1 taxi owner's licence per 1,500 population.

The following considerations apply:

- since at least 1983, the number of taxi owners' licences has been regulated; either by way of a ratio or by the use of a waiting list;
- there are currently 2 ways for a person to obtain a taxi owners' licence. They can enter the lottery when the ratio of 1:1,500 allows for new licences to be issued, or an existing licensee can transfer their licence to a qualified person;
- currently 130 taxi owners' licences have been issued;
- 68 of the 130 licensed taxi owners currently have an inactive plate status.
- a person must obtain a separate taxi owner's licence for each vehicle they want to operate as a taxi;
- a ratio on the number of accessible taxis will still apply. Staff are proposing that brokers with 5 or more taxis in their fleet have at least 1 accessible taxi in service at all times.

Limiting the number of taxi owners' licences artificially creates a shortage, which leads to licences becoming valuable commodities. This is the case even though the By-law states that licences are vested with the Town.

Placing a limit on the number of taxi owners' licences is arguably the most restrictive regulation found in the entire Licensing By-law, as the By-law does not limit the number of licences issued in any other business class. Removing the ratio will increase competition and allow anyone who satisfies the By-law's requirements to obtain a licence. Limiting the number of licences reduces the number of service providers that consumers have to choose from.

Eliminating the ratio will have a trickle-down effect. The lottery regulations and regulations regarding transferring a taxi owner's licence will no longer be required. The administration of these provisions and the resulting fees charged to taxi owners will also no longer apply.

The following additional amendments are proposed regarding licensing of taxi owners, brokers and drivers:

- the 10 year age limit on taxis to be deleted. Upon the taxi reaching 10 years of age, the owner must provide an additional safety certificate. This is consistent with limousines and with vehicles used to provide driving instruction
- language added regarding the provision of taxi services to persons with disabilities

Tow Trucks and Heavy Tow Trucks

The following additions/amendments are proposed regarding licensing of tow trucks and heavy tow trucks:

- the stand-alone Tow Truck Licensing By-law, which has been in force since 2019, to be rolled into the general licensing by-law
- tow truck drivers are not required to obtain a licence. Tow truck and heavy tow truck owners currently sign a self-declaration confirming that their drivers have provided them with a criminal record check. In order to ensure that tow truck drivers meet the new licensing thresholds, staff is proposing that each tow truck driver register with the Licensing Commissioner annually and provide a criminal record check. Drivers will have to meet the licensing thresholds in order to operate a tow truck or a heavy tow truck in Oakville. A registration fee will be established as part of the licensing fee review.
- language added to exempt Town owned or leased parking lots from the signage requirements respecting towing from private parking lots. Language has also been added to exempt parking lots from signage requirements where there is no presumption of public parking (ie. tenant parking, private driveways)

Transportation Network Company

The following additions/amendments are proposed regarding licensing of transportation network companies:

- the stand-alone Transportation Network Company By-law, which has been in force since 2016, to be rolled into the general licensing by-law
- language added to prohibit a TNC driver from commencing a trip until the passenger has provided electronic acceptance of the fare and charging a passenger any fare other than the one communicated to and accepted by the passenger
- language added to require a TNC driver to provide a passenger with an electronic receipt at the conclusion of the trip

By-law Schedules: Existing Schedules with NO Major Changes

The following schedules have no significant changes proposed at this time:

- Adult Entertainment Establishment
- Adult Entertainment Video Store
- Auctioneer
- Body-rub Establishment
- Dry Cleaner/Laundromat
- Lodging Houses
- Mobile Sign Lessor
- Tobacco Retailers/Electronic Cigarette Retailers

CONSIDERATIONS:

(A) PUBLIC

Public meetings were held on February 18, 2020. Staff reached out to businesses with the assistance of the Oakville Chamber of Commerce and the BIA's for information and comment through an online survey in December 2020.

(B) FINANCIAL

There are no financial impacts as a result of this report. A fee review will be completed as part of the review process based on a full cost recovery model.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Multiple departments including Enforcement Services and Legal have been involved in this by-law review. Enforcement Services will continue to engage impacted departments in the development and review of a new licensing by-law. Communications will be engaged to update the website assist with public notices.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- enhance our economic environment
- continuously improve our programs and services
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be the most livable town in Canada

(E) CLIMATE CHANGE/ACTION

Enforcement Services will consider environmental impacts with the development of licensing regulations.

APPENDICES:

Appendix A – Survey results

Appendix B – List of Businesses Currently Requiring a Licence

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