

REPORT

Council

Meeting Date: December 18, 2023

FROM: Municipal Enforcement Services Department

DATE: December 5, 2023

SUBJECT: Provincial Towing Program and Regulatory Update

LOCATION:

WARD: Town-wide

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RECOMMENDATION:

1. That By-law 2023-167, a by-law to repeal Tow Truck Licensing By-law 2019-060, as amended and amend Licensing By-law 2015-075, as amended to delete references to motor vehicle storage yards, attached as Appendix A to the report from Municipal Enforcement Services dated December 5, 2023, be passed.
2. That the Rates and Fees Schedule for Municipal Enforcement Services – Licensing be amended to delete fees for tow truck/heavy tow truck owners, motor vehicle storage yards and inspection/re-inspection of a tow truck, as of January 1, 2024.

KEY FACTS:

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

- The tow truck sector operating in Oakville is currently regulated by Tow Truck Licensing By-law 2019-060, as amended
- Motor vehicle storage yards are currently regulated by Licensing By-law 2015-075, as amended
- The Towing and Storage Safety and Enforcement Act (TSSEA) provides for provincial oversight of the towing and vehicle storage sectors
- As of January 1, 2024, oversight of the towing and vehicle storage sectors will transfer to the Province of Ontario and municipal authority to regulate these sectors will end
- By-law 2023-167, attached as Appendix A to this report, repeals the Town's Tow Truck Licensing By-law 2019-060, and subsequent amendments, and

deletes the portions of Licensing By-law 2015-075 that regulate motor vehicle storage yards, as of January 1, 2024

- The rates and fees schedule must be amended to delete licensing fees for tow truck/heavy tow truck owners, inspection/re-inspection of a tow truck, and motor vehicle storage yards, as of January 1, 2024

BACKGROUND:

The Town of Oakville has required that tow truck owners obtain a business licence and comply with the Tow Truck Licensing By-law since January 1, 2020. Similarly, the Town has regulated motor vehicle storage yards through the Licensing By-law since January 1, 2020.

The following sets out the timeline for the transition of oversight of the towing and vehicle storage sectors to the Province:

- | | |
|-----------------|--|
| June 3, 2021 | <ul style="list-style-type: none">• TSSEA was passed to establish a framework to transition municipal oversight of the towing and vehicle storage sectors to the Province. On June 8, 2023, the Province passed further amendments to TSSEA and amendments to the Municipal Act. |
| July 4, 2023 | <ul style="list-style-type: none">• the Province began accepting applications for TSSEA certification by tow operators (a person or company that offers towing services), tow truck drivers and vehicle storage operators (a person or company that receives and holds vehicles that have been towed). |
| January 1, 2024 | <ul style="list-style-type: none">• tow operators and vehicle storage operators must hold a TSSEA certificate in order to operate in Ontario.• TSSEA comes into full force and effect, including requirements for customer protection, and industry standards.• amendments to the Municipal Act come into force removing municipal authority to license tow trucks and establish fees for service.• municipal oversight of the towing and vehicle storage sectors ends.• the Province will launch an online portal for complaints from the public, municipalities, police and other ministries.• enforcement of TSSEA by the Province begins. |
| July 1, 2024 | <ul style="list-style-type: none">• tow truck drivers must hold a TSSEA certificate in order to operate in Ontario.• tow truck drivers applying for certification after July 1, 2024 must complete approved training prior to receiving a certificate.• certificate fees for tow operators, vehicle storage operators and tow truck drivers come into effect. |

[Ontario Regulation 167/23](#) under TSSEA establishes qualifications for certification, including that applicants:

- have not been refused the comparable municipal licence or had their municipal licence suspended, revoked or cancelled;
- for tow operator or tow truck driver certification, have always provided towing services competently and safely, and that applicants for vehicle storage certification have delivered their services competently and safely; and
- are fit and proper persons, having regard to the applicant's character, integrity and past conduct.

The Province has asked municipalities to share information related to non-issuance or non-renewal of a licence, or where licences have been suspended or revoked for tow operators, tow truck drivers and vehicle storage operators. Where appropriate, the Director of Towing and Vehicle Storage Standards will rely on this information when evaluating applications for certification under TSSEA.

COMMENT/OPTIONS:

Municipal Enforcement Services (MES) will continue to license and regulate towing and motor vehicle storage businesses until December 31, 2023, when oversight of these sectors will transfer to the Province. In order to align the Town's by-laws with TSSEA and amendments to the Municipal Act, staff must:

- repeal Tow Truck Licensing By-law 2019-060 and delete references to motor vehicle storage yards in Licensing By-law 2015-075, to come into force on January 1, 2024 (see By-law 2023-167, attached as Appendix A to this report); and
- remove licensing fees for tow truck/heavy tow truck owners, motor vehicle storage yards and inspection/re-inspection of a tow truck from the rates and fees schedule as of January 1, 2024.

Parking or Leaving Motor Vehicles on Private Parking Lots (Predatory Towing)

As towing from private property, often termed predatory towing, continues to be a significant issue at locations in Oakville, staff will continue to educate the public on this issue through social media posts. In addition, for certain special events, staff may consider placing community mobile signs to alert residents and visitors of appropriate parking options and inappropriate parking implications.

In addition, staff continues to work with and supply information to the office of the Director of Towing and Vehicle Storage Standards. While TSSEA regulations do not specifically address predatory towing, representatives of the Director's office have indicated they will be able to take action, up to and including prohibiting some

operators from obtaining a provincial licence, which would in effect prohibit their operation in Oakville. The Director's action at the outset of the new regulations is tied to previous municipal legal actions, as such staff continues to work closely with the Director's office to ensure those operators that have convictions in Oakville are appropriately dealt with during the transition.

Oversight by the Province

The Ministry of Transportation's (MTO) Towing and Vehicle Storage Oversight Office will be responsible for the oversight of certificate holders in accordance with TSSEA. The Director of Towing and Vehicle Storage Standards (the "Director") will:

- determine who can enter and operate in the tow and vehicle storage sectors by overseeing the application, issuance, renewal and revocation of certificates;
- respond to complaints and investigate compliance with industry standards and customer protection requirements under TSSEA;
- confirm compliance and complete audits of certificate holders;
- as of January 1, 2024, provide an online complaint portal where the public, municipalities, police and other ministries can report non-compliance with TSSEA; and
- appoint inspectors with authority to inspect tow trucks and premises to ensure compliance with TSSEA and its regulations.

Rates for Towing and Vehicle Storage Services under TSSEA

[Ontario Regulation 162/23](#) provides for rates that tow operators and vehicle storage operators may charge. The Regulation:

- requires that tow operators and vehicle storage operators submit their rates on a maximum rate schedule form provided on the MTO's website and submit the form to the Director via the online portal;
- sets out the services to be included on the form;
- requires that tow operators and vehicle storage operators accept payment by credit card, debit card and contactless payment using mobile devices; and
- states that the Director will publish the fees submitted by tow operators and vehicle storage operators on the government's website and operators may not charge more than the published fees.

While tow operators and vehicle storage operators set their own rates, the Director may intervene if the rates are unreasonable. The determination of unreasonableness will be made by considering factors included in the Regulation. If

the fees are deemed to be unreasonable, the Director may require that the operator submit a lower fee, or they could specify the amount to be charged by the operator.

The Regulation provides that the following services that are ancillary to or related to towing services shall not be subject to a charge:

- transporting the driver and any passengers of a towed motor vehicle in the tow truck to the destination of the tow or other drop-off location;
- allowing the driver or any passenger of a towed motor vehicle to have access to it while providing towing services;
- changing the destination of a tow, other than an amount related to the change in distance that a motor vehicle is towed if the destination is changed;
- any towing services in respect of time spent by a tow truck driver on stand-by at the scene of a collision, a collision reporting centre or truck inspection station, if the operator charges for these services in respect of the motor vehicle at these locations; and
- preparing invoices, consents or other administrative services related to the towing services.

Towing to Vehicle Storage Facilities and Release of Vehicles under TSSEA

TSSEA requires that tow truck drivers tow a vehicle to the location specified by the person giving consent for the tow or the person who directed the removal of the vehicle. The tow truck driver must tow the vehicle by the most direct route reasonably possible in the circumstances and in the most efficient manner. If circumstances require that a vehicle be towed to a location other than the one specified by the person giving consent/the person who directed the removal of the vehicle, the tow truck driver or tow operator must inform the person where the motor vehicle will be towed and the reasons for towing it to that location.

Vehicle storage operators must make reasonable efforts to promptly release a stored vehicle when the facility is open for business. If the storage facility is not open for business, the vehicle storage operator must make reasonable efforts to facilitate the release of a stored vehicle as soon as practicable.

[Ontario Regulation 162/23](#) provides that the following services that are ancillary to or related to vehicle storage services shall not be subject to a charge:

- preparing or cleaning storage spaces in a vehicle storage facility;
- moving a motor vehicle within a vehicle storage facility or between facilities, unless the move is requested by the owner or operator of the vehicle; and
- preparing invoices, consents or other administrative services related to vehicle storage services.

Conclusion

MES will continue to license the towing and motor vehicle storage sectors and investigate and enforce non-compliance with the Tow Truck Licensing By-law and the Licensing By-law until December 31, 2023. Active investigations, screenings and hearings initiated prior to January 1, 2024 will continue to be reviewed and/or investigated under the existing by-laws.

CONSIDERATIONS:

(A) PUBLIC

As of January 1, 2024, MES will no longer investigate complaints regarding towing and motor vehicle storage yards, including the release of stored vehicles and the rates imposed by tow and storage yard operators. Complainants will be directed to the MTO's online complaints portal. Staff will update the Town's licensing webpage to provide a link to MTO's portal when the portal goes live.

The Province has also communicated information regarding the transfer of oversight through various channels, and MES has forwarded email communications from MTO to tow and storage yard licensees.

(B) FINANCIAL

Starting on January 1, 2024, the Town will no longer have authority to license the tow truck and motor vehicle storage sectors, resulting in a loss of revenue associated with these licensing fees and an impact to revenue for fines/administrative penalties for non-compliance with licensing by-laws. The town's draft 2024 budget already reflects the removal of licensing and penalty revenue of \$16,500.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Municipal Enforcement Services and Legal have been involved in the review process.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses the corporate strategic goal(s) to:
Be an Accountable Government, by continuing to review by-laws and policies that impact Oakville residents.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A - By-law 2023-167 By-law to repeal Tow Truck Licensing By-law 2019-060, By-law 2019-109, By-law 2019-133, and By-law 2020-024, and to amend Licensing By-law 2015-075 to delete references to motor vehicle storage yards and to repeal By-law 2019-110

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