



## REPORT

### Council

**Meeting Date: June 17, 2024**

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**FROM:** Municipal Enforcement Services Department

**DATE:** June 4, 2024

**SUBJECT:** **Business Licensing By-law Review – Draft By-law**

**LOCATION:** Town-wide

**WARD:** Town-wide

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#### **RECOMMENDATION:**

1. That the draft licensing by-law attached as Appendix A to the report from Municipal Enforcement Services dated June 4, 2024 be received for consideration, but not passed at this time.
2. That By-law 2024-101, a by-law to amend Licensing By-law 2015-075 attached as Appendix D to the report from Municipal Enforcement Services dated June 4, 2024 be passed.
3. That Municipal Enforcement Services circulate the draft licensing by-law for comment to currently licensed businesses and businesses that are captured under the new licensing classes.
4. That Municipal Enforcement Services report back with comments received from the business community and the final version of the licensing by-law in Q4 of 2024.

#### **KEY FACTS:**

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

- Licensing By-law 2015-075 is over 8 years old and requires review and update
- Appendix A to this report contains a draft licensing by-law for Council's consideration
- The following new licensing types are being recommended:
  - payday loan establishments

- private parking enforcement companies and private parking enforcement officers
- mobile motor vehicle services
- mobile personal services; and
- temporary vendors
- Bowling alley business licensing requirements are to be removed
- As a means of streamlining processes, reducing cost and improving customer service, staff is proposing to implement licensing endorsements for certain primary businesses as set out in Appendix B to this report
- Staff is proposing to add language to the draft licensing by-law to give the Licensing Commissioner (through the Director of Municipal Enforcement Services) delegated authority to extend business licences in the event of an emergency
- A Table of Changes proposed in the draft by-law is attached to this report as Appendix C
- By-law 2024-101, attached as Appendix D to this report, amends the current licensing by-law (By-law 2015-075) to delete references to the taxicab lottery
- Staff held public consultation sessions with licensees, as well as conducted a public questionnaire. On January 31, 2022, Municipal Enforcement Services (MES) presented an update report to Council and received comments for consideration. The 2022 report and questionnaire results are attached as Appendix E to this report
- The Short-term Accommodation By-law is being reviewed separately, with a report to Council planned in Q4 2024
- MES is conducting a comprehensive review of licensing fees
- On June 19, 2023, Council directed staff to review options to address the display and distribution of objectionable images as part of the Licensing By-law review. Staff is not recommending the approval of a by-law to regulate objectionable images until the legal challenge to the City of St. Catharines' graphic image by-law has been resolved.

**BACKGROUND:**

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.

While considering these goals, the following guiding principles in line with accountable governance were established:

- 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

MES presented a report to Council at its January 31, 2022 meeting to provide an update on the progress of the development of the new licensing by-law and to obtain Council's approval to continue preparation of the by-law in accordance with the report. This previous report is attached as Appendix E (the "2022 report"). Council passed the following resolution at the January 31, 2022 Council meeting:

1. 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.
2. 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, maintaining the priority of the property standards and noise by-law review.
3. That the Licensing By-law be updated to provide that consumer fireworks may only be sold 5 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.

### **COMMENT/OPTIONS:**

Staff is presenting the draft of a new licensing by-law for Council's consideration, attached as Appendix A to this report (the "draft by-law"), with the proposed changes to the current Licensing By-law (the "current by-law") shown in red text. This report outlines major changes that are proposed as a result of work done on the draft by-law since January 2022. Details of other proposed changes are available in the Table of Changes attached as Appendix C to this report.

The review of short-term accommodation licensing is not being conducted as part of this licensing by-law review. A report on short-term accommodation licensing is expected to be brought to Council in Q4 2024.

### **Review of Food Truck Licensing**

Recommendation 2 of Council's resolution of January 31, 2022 directed MES to undertake a review of food truck licensing, maintaining the priority of the Property Standards and Noise By-Law reviews. A new Property Standards By-law was

approved by Council on June 19, 2023 and a draft noise by-law was considered by Council on May 27, 2024 at which time staff was directed to report back with further information and the proposed by-law in the Fall.

A fulsome review of licensing opportunities for food trucks is a sizable undertaking and will impact, at a minimum, staff in Legal, Parks, Building and Transportation and Engineering. It will also require consultation with area BIAs and the industry. This work will impact staff resources as MES will have to second an officer to manage the project and backfill their position. It is anticipated that the project will take approximately 10 months to complete. The review would include a municipal scan, a review of private and public property opportunities, business and public consultation and consideration of current legislative requirements. This review may be considered as a new project through the 2026 budget process.

In the meantime, the draft by-law includes the following reductions in licensing requirements for refreshment vehicles (food trucks):

- Refreshment vehicle operators are no longer required to be licensed; however, refreshment vehicle owners and special event refreshment vehicles will still require a licence;
- Employees are no longer required to provide criminal record checks. 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. Further, the draft by-law continues to prohibit ice cream trucks from operating in residential neighbourhoods where operators could come into contact with children; and
- The license renewal date has been changed from January 31 to May 31 to align with the time of year that refreshment vehicles generally operate.

### **Relationship between Special Event Permits and Special Event Licensing**

All events held on town property must obtain a special event permit, issued through the Recreation and Culture Department in consultation with Parks and Open Space. The current by-law requires that food vendors operating at a special event have a valid town of Oakville business licence as a food shop/restaurant or a refreshment vehicle. If the vendor does not have an annual business licence, they must obtain either a per event special event food shop licence or a per event special event refreshment vehicle licence.

The draft by-law provides that an event held under a town permit or if approved by Council will not require a business licence, as the process has been streamlined to align special event and licensing requirements.

### **Endorsements**

As mentioned in the 2022 report, MES has included endorsements in the draft by-law. This will allow certain primary businesses to engage in additional business

activities without the need to obtain a second or sometimes a third or subsequent licence. For example, a gas station would apply for their primary business licence (motor vehicle facility) and at the same time apply for an endorsement to sell tobacco and an endorsement to sell food. The applicant would have to submit all of the documentation for the endorsements when they apply for the primary licence and the endorsements would come up for renewal at the same time as the licence for the primary business. A list of endorsements is attached as Appendix B to this report.

### **Changes to the General Provisions:**

The information contained in the 2022 report regarding the following still applies to the draft by-law:

- Endorsements;
- Police records checks;
- Appeals;
- Nuisance abatement; and
- Discrimination.

The following additional changes are proposed:

#### *Increase in the Amount of Public Liability Insurance*

In the current by-law, applicants for a licence or renewal of a licence must carry two million dollars in public liability insurance. The draft by-law proposes to increase this coverage to five million dollars to bring licensing in line with town standards for insurance, including requirements under a special event permit and other purchasing requirements relating to insurance. These standards are set out in the town's [Insurance Requirements Procedure](#).

#### *Extension of Licences in the Event of an Emergency*

During the Coronavirus Covid-19 emergency, Council delegated authority to the Director of MES to extend the term of business licences until 30 days after the emergency was declared to be ended. To streamline licensing in the event of an emergency, staff is proposing to add similar language to the by-law to give the Director of MES (also known as the Licensing Commissioner) delegated authority to extend business licences for a 30-day period and thereafter in 30-day increments, if required. This delegated authority will necessitate an amendment to Municipal Powers and Duties By-law 2023-021.

#### *By-law's Effective Date*

The final version of the draft by-law will be presented to Council for consideration in Q4 of 2024. The effective date of the final version will be in Q4 of 2025. This will give staff time to update the online portal, AMANDA and the website, prepare enforcement documentation and complete other back-end work.

### New Schedules

The following information on new schedules contained in the 2022 report still applies to the draft by-law:

- Mobile motor vehicle service; and
- Private parking enforcement companies and private parking enforcement officers.

The following additional changes are proposed:

**Schedule 1 – Licensing Thresholds:** The description of the licensing thresholds in the 2022 report still applies, with the exception of thresholds for animal-related licences for convictions under the Dog Owners Liability Act (DOLA) and the Provincial Animal Welfare Service Act (PAWS). Under the draft by-law, applicants and licensees for animal-related licences will have to provide a self-declaration attesting to any convictions in the previous five years for animal abuse or neglect under PAWS, DOLA or any other federal or provincial statute; convictions under the Animal Control By-law’s provisions for standards of care; conviction(s) under licensing or other town by-laws or any other municipality’s by-laws respecting the keeping or care of animals; or any court orders, prohibitions or conditions set as part of a conviction that are currently in force. The criminal record check that applicants must provide will include convictions for animal offences under the Criminal Code.

**Schedule 6 – Attractions:** The current by-law has separate schedules for exhibitions and outdoor markets. The draft by-law proposes to roll the requirements for exhibitions, markets and other temporary events that are open to the public and intended to draw visitors into a new “attractions” schedule. Attractions like exhibitions, carnivals, art shows and festivals will require a per event licence while markets (farmers markets and flea markets) will require a multi-event licence if they are going to be held in the same location for multiple events during the term of the licence.

Under the current licensing system for exhibitions and outdoor markets, each food and refreshment vehicle vendor operating at the event must obtain a licence. To streamline this process, the draft by-law requires that the organizer or promoter of the attraction or the owner of the property where the attraction will be held obtain the licence and provide the required documentation for their vendors, including food vendors and refreshment vehicles, at the time of application for a licence. The organizer must also obtain health approval if food will be sold at the event. This umbrella licence covers all of the vendors operating at the attraction as long as they are named on the list of vendors submitted to the Licensing Commissioner at the time of licence application. The organizer must also ensure that their vendors have

valid insurance, comply with applicable Fire Code regulations, and that they comply with TSSA requirements if they are operating rides.

Under this new licencing class applicants for an attraction licence must provide the following in addition to the requirements identified above:

- Event details including the date, time and location of the event
- 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 event in relation to surrounding properties and a parking management plan. 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 event. MES will circulate the drawing and parking management plan to Transportation and Engineering for their sign off
- Written permission from the property owner for the event, if applicable
- A valid TSSA licence and permit if the event will include rides
- A copy of the applicant's communication with the Health Department for an inspection, if applicable
- A valid propane certificate, if applicable, and
- Proof of a building permit, if applicable (e.g. for a temporary tent)

Further licensing requirements for attractions are:

- The applicant may be required to obtain a noise exemption permit when directed to do so by the Licensing Commissioner, or as may be necessary under the Noise By-law.
- Attractions, other than markets, may be held for up to three consecutive days. A market with a multi-event licence may be held on a regular weekly basis, but on no more than three days in a seven-day period, for a maximum of six months
- Licensees must advertise the location of appropriate parking for persons attending the event
- Attractions may not be held in residential zones or in areas with residential uses unless permitted by the Licensing Commissioner and the Licensing Commissioner may impose conditions for a separation distance between the attraction and a residential zone/use, and
- Attractions may not be held in a BIA without approval from the BIA and the Town.

The following do not require an attraction licence:

- Educational facilities holding an event for the purpose of education or fundraising where such facilities are under the direct sponsorship of a school board, or the Ministry of Education where homemade or home baked items are sold; or
- Religious institutions where homemade or home baked items are sold.
- Not-for-profit organizations and registered charities require an attraction licence. This will allow the Licensing Commissioner to ensure that all necessary inspections and permits have been obtained, but the licence fee for these organizations will be reduced by 50%.

Schedule 23 – Payday Loan Establishments: The majority of the description of payday loan establishments in the 2022 report still apply. The limitation of one licence per Ward is included in the draft by-law as well as the grandfathering of existing businesses that are licensed by the Province and in operation at the time the by-law comes into force. However, language has been added to clarify that no new licences will be issued in Wards with grandfathered businesses until the existing businesses cease operation. New licences will be issued according to one licence per Ward on a first come first served basis.

Schedule 24 – Mobile Personal Services: the majority of the description of mobile personal services in the 2022 report still apply. The following requirements have been added:

- Rather than having employees who provide a mobile personal service register with the Licensing Commissioner, the draft by-law requires that at the time of initial application for a licence and at licence renewal, the applicant/licensee must provide a self-declaration that confirms that they have obtained a criminal record and judicial matters check for their employees and have ensured that their employees meet the licensing thresholds contained in Schedule 1 of the draft by-law insofar as the conviction directly affects the employee's ability to competently and responsibly perform their job. The self-declaration will also stipulate that the applicant/licensee must obtain a criminal record and judicial matters check for employees hired during the licensing period and ensure that these employees comply with Schedule 1.
- The failure of an applicant/licensee to meet licensing thresholds contained in Schedule 1 has been added as an additional ground for refusal to issue, renew, suspend or revoke a licence.

Schedule 32 – Temporary Vendors: The majority of the description of temporary vendors in the 2022 report still applies, with the exception of the following:

- Markets such as farmers markets and flea markets have been included in the attractions schedule rather than the temporary vendors schedule.



- Seasonal sales (garden products, Christmas trees, pumpkins, etc.) are no longer proposed to be licensed as they may be regulated by zoning, depending on the type and duration of the use.

#### Current By-law Schedules with Major Changes

The following information on current by-law schedules with major changes contained in the 2022 report still applies to the draft by-law:

- Bowling Alleys;
- Billiard Hall;
- Donation Box Operators;
- Kennels;
- Motor Vehicle Facility;
- Nightclub;
- Personal Services Establishments;
- Pet Shops;
- Transportation Network Company.

The following changes in addition to the 2022 report are proposed:

#### *Employees' Criminal Record Checks and Proof of Qualifications*

The town does not license the employees of contractors; the arborist business classes or motor vehicle facilities. However, these employees may be required to enter a dwelling to provide services (contractors) or require certification or other qualifications in order to provide services (contractors, arborist classes, some motor vehicle facilities). Since these employees are not licensed, they are not submitting criminal record checks or proof of qualifications to the Licensing Commissioner.

Rather than having employees register with the Licensing Commissioner, the draft by-law requires that at the time of initial application for a licence and at licence renewal, the applicant/licensee must provide a self-declaration that confirms that they have obtained a criminal record check from their employees, where required. The applicant/licensee must also ensure that their employees meet the licensing thresholds contained in Schedule 1 of the draft by-law insofar as the conviction directly affects the employee's ability to competently and responsibly perform their job. The self-declaration will also stipulate that the applicant/licensee must obtain a criminal record check for employees hired during the licensing period and ensure that these employees comply with Schedule 1.

The draft by-law also provides that applicants/licensees obtain and keep employees' proof of qualifications where required as well as their employees' consent to share their proof of qualifications with the Licensing Commissioner or an Officer, upon

request, for administration and enforcement purposes. This information must also be obtained when employees are hired during the term of the licence.

#### Vehicle Age

Model year restrictions for driving instruction vehicles, limousines and taxicabs will be deleted, however, when these vehicles reach ten years of age, the licensee must submit a safety standards certificate six months into the term of the licence. The draft by-law also provides that the Licensing Commissioner may deny a request to operate these vehicles if they are over ten years of age. This decision may be appealed to the Appeals Committee.

#### Automatic Suspension of a Business Licence

Provision has been added for the automatic suspension of a business licence when the licensee's Ontario driver's licence is suspended, revoked, expires, ceases to be valid or becomes invalid for any reason. Similarly, a business licence will be automatically suspended if the licensee fails to have proper vehicle insurance. These decisions may not be appealed to the Appeals Committee. The automatic suspension of a business licence in these cases applies to driving instructors, driving instruction vehicle owners, limousine owners and drivers, taxicab owners and drivers and refreshment vehicles.

#### Schedules:

Schedule 3 – Adult Entertainment Video Store – Class A and Class B: The grandfathering provision for the adult entertainment video store class A that is included in the current by-law has been added to the draft by-law. Language has been added to the draft by-law to provide that the owner of the grandfathered class A video store must maintain their licence in order for the class A video store use to continue. This is consistent with the Payday Loan Schedule.

Schedule 4 – Animals for Entertainment: The majority of the information regarding the animals for entertainment schedule included in the 2022 report still applies. A list of the animals that may be used as part of an animals for entertainment business has been included in the draft by-law for clarity.

Schedule 5 – Arborist Consulting Companies, Arboriculture Companies, Tree Companies: The majority of the information regarding the Arborist Consulting Company, Arboriculture Company and Tree Company schedule included in the 2022 report still applies, with the addition of the following:

- A table of licensing sub-types has been added to the schedule to clarify the services each sub-type provides.
- A prohibition has been added for failing to install or maintain required tree protection measures.

Schedule 7- Auctioneer, Auction House: MES has licensed auctioneers for many years, but brick and mortar auction houses have not been licensed. MES is proposing to include regulations in the draft by-law requiring that auction houses located in Oakville be licensed. Applicants for an auction house licence will have to provide a zoning occupancy certificate and a criminal record check.

Schedule 9 – Body-Rub Establishment: Halton Regional Public Health has advised that they will not conduct routine compliance inspections of massage only businesses such as body-rub establishments. Inspections will only occur at personal service establishments (hairdressing, barbering, manicure, pedicure, etc.) as required by the Infection Prevention and Control Protocol, or when massage is provided along with personal services.

The town's licensing regime only provides for massages in a personal services setting when they are performed by persons who are authorized members of a self-regulating health profession (as provided for in Schedule 1 to the Regulated Health Professionals Act), such as registered massage therapists. In Oakville, massages provided by persons not authorized under Schedule 1 of the Regulated Health Professionals Act are considered to be body-rubs and the body-rub regulations would apply. Staff has removed the requirement for a health inspection from the licensing requirements for a body-rub establishment.

Schedule 10 – Commercial Parking Lot: The description of the commercial parking lot schedule in the 2022 report still applies, with the addition of the following:

- Language has been added to clarify that an applicant for a commercial parking lot licence must contact Zoning staff to ensure that the commercial parking lot use is permitted. If the use is permitted, the applicant must attend a pre-consultation meeting with Planning and other staff prior to submitting an application for a business licence. This will allow Planning to determine whether full site plan approval is required. If site plan approval is required, the applicant must obtain approval prior to submitting their application for a licence. If site plan approval is not required, the applicant may submit their application for a licence. The applicant may apply for re-zoning if the commercial parking lot use is not permitted.
- Requirements for signage at the entrances to the commercial parking lot and at pay machines have also been added. The signage will provide contact information for the licensee/property manager, hours of operation, methods of payment for parking and the parking rates.

Schedule 11 – Contractors: The description of the contractor schedule in the 2022 report still applies, with the addition of the following:

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- A definition for “driveway work” has been added, which applies to the landscaping contractor sub-class. Driveway work includes laying asphalt, concrete, interlocking stone or similar materials, driveway sealing, driveway/walkway maintenance and repair and expanding/altering driveways/walkways, all on private property. Also included is installing curb cuts and restoring sidewalks and roads that are damaged as part of the driveway work.
  - The definition of Drain Laying Contractor has been updated to Servicing and Road Cut Contractor. This class will include work on servicing pipes and drainage systems, as well as work on sewage disposal systems and service lateral connections outside of a building. Also included is performing curb cuts and restoring sidewalks, curbs and roads that are damaged as part of the servicing work.
  - Language has been added to exempt persons performing capital projects for the Town, Region of Halton and utility agencies performing work in Oakville from the requirement to obtain a servicing and road cut contractor or landscaping contractor licence (for driveway work). As well, persons hired by a developer to perform the work of a servicing and road cut contractor under a subdivision agreement are not required to license as a servicing and road cut contractor. The work performed in these instances is regulated through permitting by Transportation and Engineering.

Schedule 13 – Driving Instructor, Driving Instruction Vehicle: The description of the driving instructor schedule in the 2022 report still applies, with the addition of the following:

- Provision has been added for the automatic suspension of a driving instructor’s licence if their Provincial instructor licence is suspended, revoked, expires or ceases to be valid. This decision may not be appealed to the Appeals Committee.
- Language has been added to clarify that a driving instructor who is coming to Oakville to drop off a student at the DriveTest Centre for a road test does not require a licence.

Schedule 15 – Fireworks Vendor: The description of the fireworks vendor schedule in the 2022 report still applies, with the exception of the following:

- In accordance with Council’s January 31, 2022 resolution, the draft by-law provides that consumer fireworks may be sold on the day of and for five days prior to Victoria Day, Canada Day, New Year’s Day and religious or cultural celebrations where fireworks are used to celebrate the event.
- The draft by-law no longer requires that persons selling consumer fireworks for religious or cultural events notify MES of their intention to sell the fireworks at least 10 days prior to the event.

- The draft by-law requires an applicant/licensee to submit proof that they have requested a fire inspection and provide the inspection report to the Licensing Commissioner within five business days of the inspection.

Schedule 16 – Food Shops: The description of the food shop schedule in the 2022 report still applies, with the addition of the following:

- The definition of “food shop/restaurant” has been amended to include a stationary refreshment vehicle like a chip truck that is permitted by the zoning by-law or has zoning by-law relief such as a minor variance. These stationary vehicles will be classed as a restaurant in the draft by-law rather than a refreshment vehicle.
- Food shops or refreshment vehicles must operate in connection with a special event unless they have zoning approval. If a refreshment vehicle has zoning approval, it will be treated as a food shop/restaurant.
- If a food shop/restaurant is operating a refreshment vehicle at a special event, they may obtain a refreshment vehicle endorsement rather than having to obtain a separate refreshment vehicle/special event refreshment vehicle licence.
- Food shop/restaurants with an annual licence or a special event food shop licence may operate at up to four special events per location in a calendar year.

Schedule 18 – Limousines: The description of the limousine schedule in the 2022 report still applies, with the addition of the following:

- Language has been added to clarify that a limousine that is only entering Oakville to drop-off a passenger is not required to be licensed. Limousines picking-up passengers in Oakville are required to be licensed.
- The “Special Occasion Limousine” class has been deleted. It is likely that the fee for the annual limousine owner licence will be reduced which will encourage limousine owners to apply for an annual licence rather than a per event special occasion licence each time they are operating in Oakville.

Schedule 19 – Lodging House Keeper: The following major changes to the current regulations for lodging houses are proposed:

- The current by-law draft by-law requires that the applicant provide a fire inspection report upon initial application for a licence. Language has been added to clarify that at licence renewal, the licensee must submit a fire inspection report completed within the previous year and request a fire inspection to be performed prior to the expiry of the term of the renewed licence. The licensee must provide a copy of this fire inspection report within five business days of issuance by the Fire Department.
- A requirement has been added that the applicant provide a WETT (Wood Energy Technology Transfer) inspection report at the time of initial application for a

licence if the lodging house has a wood-burning appliance such as a wood-stove or fireplace. WETT certified inspectors review the components of wood-burning systems to ensure their safety, as well as reviewing the clearances between the components and walls, floors and anything near-by that could catch fire. There are a number of WETT certified inspectors who service the Oakville area.

- A provision has been added to require that in the event a licensee's licence is suspended or revoked by the Licensing Commissioner for any reason, including a failed fire inspection, the licensee must send a notice in writing to their lodgers and post a notice at the entrance to the lodging house to advise of the licence suspension or revocation.

Schedule 28 – Refreshment Vehicles: The majority of the information contained in the 2022 report still applies with the addition of the following:

- Stationary refreshment vehicles that are permitted by zoning or have zoning relief, like a chip truck, have been moved out of the refreshment vehicle schedule and into the food shop schedule. These vehicles will be considered to be a restaurant in the draft by-law.
- Language has been added that a refreshment vehicle class A, B or special event refreshment vehicle licensee must provide a copy of the inspection of the vehicle's exhaust/suppression system, if applicable, to the Fire Chief upon request. This inspection is required under the Fire Code and the NFPA 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. Provisions have been added to the draft by-law to permit the Licensing Commissioner to automatically suspend a licence until the exhaust/suppression system inspection is provided to the Fire Chief. This suspension may not be appealed to the Appeals Committee.
- Requirements have been added to permit the operation of a refreshment vehicle at an event on private property (such as at a wedding or birthday) in a residential area. The refreshment vehicle must be operated entirely on private property, in compliance with parking and noise regulations and no ringing bells, playing music or other amplified sound is permitted.

Schedule 29 – Salvage Yards: The majority of the information contained in the 2022 report still applies with the addition of the following:

- A definition of "salvage material" has been added which includes but is not limited to recyclable material, scrap metal and used or wrecked vehicles or vehicle parts.
- A definition for "recyclable material" has been added which includes but is not limited to glass, metal, plastic, rubber and paper products.
- A requirement has been added that applicants must provide proof that the business has all applicable approvals under the Environmental Protection Act and that the approvals are current and valid, if required.

- A person who is selling used or wrecked vehicle parts or used tires and has a current and valid motor vehicle facility licence or second-hand goods shop licence does not require a salvage yard licence.
- The requirements for fencing the salvage yard have been updated to state that the fence must comply with the Fence By-law, however, fencing has been grandfathered for a licensed salvage yard operating prior to the date the final version of the by-law comes into force. If the grandfathered fence is replaced, the replacement fence must comply with the Fence By-law.
- A salvage yard is permitted to have metal or other non-combustible drop-off containers with self-closing covers outside of the salvage yard fence. These containers must be emptied, and the contents disposed of immediately at the close of business each day.

The requirement for a fire inspection included in the 2022 report has not been carried forward into the draft by-law as the general provisions of the by-law state that all licensees must comply with applicable provincial and federal legislation and that the Fire Chief, among other officials, may inspect a premises at any reasonable time to ensure compliance with the by-law.

Schedule 30 – Second-Hand Goods Shop: The information contained in the 2022 report still applies with the addition of the following:

- Additional exemptions to licensing have been included for currently and validly licensed motor vehicle facilities, salvage yards, auctioneers and markets (under the attractions schedule).
- The current by-law requires that goods purchased or taken in exchange by the licensee be kept on the premises and separate from previously purchased goods for seven days. The draft by-law increases this retention period to fifteen days. The additional days provide Officers and the Police with more time to investigate potential stolen goods. The draft by-law also provides that the Police may request that an item be kept beyond fifteen days. The current by-law's exemption to the retention period regulations for items that come exclusively from donations to charitable organizations has been included in the draft by-law.
- Record keeping requirements in the draft by-law have been enhanced to include a sequential acquisition number, photographs of the items obtained, the price paid for the item and the municipal address where the goods are being kept for fifteen days. Licensees buying in bulk must maintain a record that contains a general description of the items purchased and the purchase price.

Schedule 31 – Taxicabs: The information contained in the 2022 report still applies with the addition of the following:

- A requirement has been added for taxicab drivers to advise the Licensing Commissioner when they accumulate 6, 8 or 10 demerit points.

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- A taxicab owner will often request that their taxicab be taken out of service for a period of time. This could be for many reasons including vacations or illness. The current by-law's regulations regarding inactive taxicabs have been expanded in the draft by-law. In the draft by-law, a taxicab may be taken out of service (deemed to be inactive) once during the owner's licensing period, unless otherwise permitted by the Licensing Commissioner. The taxicab must be reinstated to active status when the owner's licence must be renewed. The draft by-law also provides that accessible taxicabs may not be taken out of service in this manner.
  - As discussed in the 2022 report, the draft by-law eliminates the current ratio of 1 taxi owner's licence per 1,500 population.
  - Regulations for the transfer of a taxicab owner's licence in the current by-law have not been included in the draft by-law since the taxi ratio will no longer exist and any person interested in applying for a taxicab owner's licence will be able to do so.
  - Requirements for accessible taxicabs included in Ontario Regulation 191/11 of the Accessibility for Ontarians with Disabilities Act, 2005 have been included in the draft by-law, namely:
    - Prohibiting charging a higher or additional fare for persons with disabilities or charging for the storage of mobility aids or mobility assistive devices;
    - Municipal plates must be located on the rear bumper of the taxicab; and
    - Taxicab owners and drivers to make vehicle registration and identification available in an accessible format to persons with disabilities who are passengers.

By-law 2024-101, attached as Appendix D to this report, amends the current licensing by-law to delete references to the taxicab lottery. The lottery is currently held whenever the number of taxi owner licences falls below the ratio of 1:1,500 population. Staff does not anticipate a need to hold the lottery in 2024 and the elimination of the taxi ratio when the final version of the by-law comes into force in 2025 will mean that the lottery will no longer be required.

Schedule 33 – Tobacco Retailer & Schedule 35 Vape Shop: The current by-law contains regulations for tobacco retailers and vape shops in the same schedule. Staff propose to separate these businesses into separate schedules in the draft by-law.

The following changes are proposed for tobacco retailers:

- Clarification of the instances where a tobacco retailer licence may be suspended by the Licensing Commissioner:
  - A warning will be sent to the licensee on their first conviction of a tobacco sales offence under the Smoke Free Ontario Act to advise that their tobacco retailer licence will be suspended upon further convictions.



- Upon a second conviction of a tobacco sales offence in the same premises during the five years preceding the date of the second conviction, the tobacco retailer licence shall be suspended for six months following the date of the automatic prohibition issued for the second conviction.
- Upon a third conviction of a tobacco sales offence in the same premises during the five years preceding the date of the third conviction, the tobacco retailer licence shall be suspended for nine months following the date of the automatic prohibition issued for the third conviction.
- Upon a fourth or subsequent conviction of a tobacco sales offence in the same premises during the five years preceding the date of the fourth or subsequent conviction, the tobacco retailer licence shall be suspended for twelve months following the date of the automatic prohibition issued for the fourth conviction.

The suspension of a tobacco retailer's licence by the Licensing Commissioner in the situations above may not be appealed to the Appeals Committee.

The following changes are proposed for vape shops:

- Update the title of the schedule from “electronic cigarette retailer” to “vape shop” as “vape shop” is the more recognizable term for this type of business.
- Clarification of the instances where a vape shop licence may be suspended by the Licensing Commissioner:
  - A warning will be sent to the licensee on their first conviction of a vapour product sales offence under the Smoke Free Ontario Act to advise that their vape shop licence will be suspended upon further convictions.
  - Upon a second conviction of a vapour product sales offence in the same premises during the five years preceding the date of the second conviction, the Licensing Commissioner may provide notice to the licensee that their vape shop licence shall be suspended for six months following the date the notice is deemed to be served.
  - Upon a third conviction of a vapour produce sales offence in the same premises during the five years preceding the date of the third conviction, the Licensing Commissioner may provide notice to the licensee that their vape shop licence shall be suspended for nine months following the date the notice is deemed to be served.
  - Upon a fourth or subsequent conviction of a vapour produce sales offence in the same premises during the five years preceding the date of the fourth conviction, the Licensing Commissioner may provide notice to the licensee that their vape shop licence shall be suspended for twelve months following the date the notice is deemed to be served.

It should be noted that the Smoke Free Ontario Act (the “Act”) is enforced by the Halton Health Department. The Act contains specific penalties for tobacco sales

offences in the form of automatic prohibitions but does not provide for automatic prohibitions for the improper sale of vapour products. As such, the suspension of a vape shop licence by the Licensing Commissioner in the above situations may be appealed to the Appeals Committee.

### **By-law Schedules: Existing Schedules with NO Major Changes**

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

- Adult Entertainment Establishment
- Dry Cleaner/Laundromat
- Mobile Sign Lessor

### **Distribution of Graphic Images**

At its meeting of June 19, 2023, Council adopted the following resolution:

That staff be directed to include options to address this matter as part of the Licensing By-law review in Fall 2023.

#### Background:

- Bill 259, Viewer Discretion Act (Images of Fetuses), 2021, was introduced in the Legislative Assembly of Ontario on March 8, 2021, and provided that no one shall send a graphic image of a fetus by mail or otherwise distribute such an image unless the image is contained in an opaque envelope. The exterior of the envelope shall clearly identify the sender and include a description of the contents within. Bill 259 did not move past first reading and was reintroduced as Bill 80, Viewer's Discretion Act (Images of Fetuses), 2023, on March 20, 2023. The Bill was ordered for second reading on March 20, 2023 but it has not moved beyond this stage.
- The Canada Charter of Rights and Freedoms allows for freedom of expression and any limitation needs to be reasonable.
- Oakville's Licensing By-law previously regulated distributors of "handbills," which was defined to include "flyers or any advertising material." However, handbill distributors were removed from the Licensing By-law in 2015 primarily because small business owners raised concerns about not being able to comply with the requirement that handbills be placed in mail slots or like receptacles due to the virtual elimination of private mail slots. Staff was also concerned that continuing to license such distributors would foster public expectation that the town could regulate the content of flyers and enforcement of such regulations being difficult as it is often hard to trace back to the deliverer of the flyers.
- Canada Post delivers flyers to community mail boxes. The municipalities that have passed graphic images by-laws include an exemption for mail delivered by Canada Post.

- Planning & Development Council passed a resolution on August 7, 2018 requiring that the Mayor write to the Attorney General to urge the Province to limit and regulate the display and distribution of posters, signs and leaflets that contain disturbing images. In addition, the resolution required that the Mayor write to the Minister of Justice of Canada urging consideration of amendments to Section 163(8) – Obscene Publication of the Criminal Code.
- Section 163(8) of the Criminal Code states “...any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.”
- A separate confidential report from the Legal Department also appears on this agenda on this subject.

#### Recommendation on Regulating the Delivery of Graphic Images:

The City of London adopted a graphic image delivery by-law on May 3, 2022. The cities of Burlington, St. Catharines, and Woodstock and the towns of Ingersoll and Blandford-Blenheim have adopted similar by-laws to that of London. The Alberta municipalities of Calgary, Airdrie, and Okotoks have also passed by-laws regulating the delivery of graphic images.

The Ontario by-laws state that the delivery of graphic images is being regulated for the protection of the health, safety, and well-being of persons. These by-laws define a “graphic image” as an image or photograph showing or purporting to show a fetus or any part of a fetus. Generally, these by-laws require that graphic images delivered to residences be fully concealed in a sealed envelope or package that is marked with the name and address of the person or organization responsible for the delivery and a warning that the envelope/package contains a graphic image that may be offensive or disturbing to some people.

Enforcing a graphic image delivery by-law would be challenging. If a graphic image is delivered anonymously, enforcement staff would be unable to prove who delivered the image, so issuing a charge would be unlikely.

In February, 2024 The Association of Reformed Political Action (ARPA) Canada initiated litigation against the City of St. Catharines’ graphic image delivery by-law. MES and Legal will monitor the progress of this legal challenge.

Due to enforcement challenges and the ongoing litigation against St. Catharines, MES does not recommend that Council adopt a graphic image delivery by-law at this time. MES recommends waiting on the outcome of the legal challenge before considering whether or not to adopt a by-law to regulate the delivery of graphic images.

Residents may also consider Canada Post's [Consumer Choice Program](#) to stop receiving unaddressed advertising mail delivered by Canada Post. Under this program, residents can place a note on their mailbox, community mailbox, group mailbox, or postal box, stating that they do not wish to receive unaddressed mail.

**CONSIDERATIONS:**

**(A) PUBLIC**

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. The results of the questionnaire are attached as Appendix E.

In November 2022 staff held virtual meetings with private parking enforcement companies that the town has appointed to provide parking enforcement on private property. Proposed licensing requirements were presented by MES and good feedback from the companies was received. MES also contacted existing payday loan businesses in November 2022 to advise that this class of business will be licensed under the new by-law, to provide details on licensing requirements and regulations and to provide an opportunity for the businesses to provide feedback. Staff did not receive any feedback from payday loan businesses.

Staff is recommending that the draft by-law be circulated to licensees and new business classes prior to being brought to Council for approval in Q4 2024.

**(B) FINANCIAL**

MES is working with Finance on a comprehensive review of licensing and administration fees based on a full cost recovery model. The final version of the licensing by-law will include administrative penalties, which will encourage compliance and assist with cost recovery.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Municipal Enforcement Services, Legal, Planning, Transportation and Engineering, Zoning, the Fire Department, the town's Special Events Team, the Oakville & Milton Humane Society and the Halton Health Department have been involved in the review process for this draft by-law.

**(D) COUNCIL STRATEGIC PRIORITIES**

This report addresses Council's strategic priority/priorities: Growth Management and Accountable Government.

**(E) CLIMATE CHANGE/ACTION**

Enforcement Services considered environmental impacts with the development of licensing regulations.

**APPENDICES:**

Appendix A - Draft By-law 2024-XXX, a by-law to provide for the licensing and regulation of various businesses in the Town of Oakville and to repeal By-law 2015-075, By-law 2016-025, By-law 2016-083, By-law 2017-053, By-law 2018-005, By-law 2018-051, By-law 2019-061, By-law 2020-025, By-law 2020-128, and By-law 2021-028

Appendix B - List of Endorsements

Appendix C - Table of Changes

Appendix D – By-law 2024-101, a by-law to amend Licensing By-law 2015-075 with respect to Schedule 34 - Taxicabs

Appendix E - Staff report and appendices from January 31, 2022 Council meeting

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