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**Subject:** Business Licensing By-Law Review

**Report to:** Corporate Services Committee

**Report date:** Wednesday, August 11, 2021

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## Recommendations

1. That By-law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (taxicabs, transportation network company vehicles, specialty vehicles, auxiliary services vehicles, shuttle buses, sightseeing vehicles, caleche, tow trucks) and businesses (second-hand good stores and dealers, salvage yards, auto-wrecking yards and taxicab brokers), **BE REPEALED**;
2. That the draft by-laws contained in Appendices 1 to 5 of Report CSD 11-2021, **BE APPROVED**;
3. That By-law No. 2021-03, being a by-law to establish fees and charges for services and activities provided by The Regional Municipality of Niagara and for the use of its property, **BE AMENDED** to reflect the proposed fees and charges contained in Appendix 7 of Report CSD 11-2021, subject to confirmation that the required notice has been given under the Region's Public Notice Policy (PC-RC-005); and
4. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration.

## Key Facts

- The purpose of this report is to seek Council's approval to repeal the current Vehicles for Hire and Businesses By-Law and to approve, prepare and present the draft sector specific business licensing by-laws, attached as Appendices 1 to 5 of Report CSD 11-2021.
- The Regional Municipality of Niagara (the "Region") is authorized under Part II section 11 and Part IV of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, to pass by-laws for the licensing, regulating and governing of certain businesses. The Region's scope of authority as an upper-tier municipality is limited to certain types of businesses, such as tow trucks and taxicabs, as prescribed by the *Municipal Act, 2001*, whereas other types of businesses, such as restaurants, may be regulated by local area municipalities.
- Previously, Niagara Regional Police Services ("NRPS") had taken carriage of business licensing on behalf of the Region. On June 1, 2019, the Region assumed licensing responsibilities from NRPS, including the existing by-law structure with

limited housekeeping updates. After undertaking internal review and stakeholder engagement, staff recommend repealing the current by-law and replacing it with updated sector-specific by-laws reflective of stakeholder input, legislative changes (including the Towing and Storage Safety and Enforcement Act, 2021) and best practices based on a jurisdictional scan of other municipal business licensing by-laws.

- Governance and enforcement of the Adult Entertainment and Body Rub Parlour industries became the responsibility of Niagara Region as part of the transfer of business licensing from Niagara Regional Police.
- Subject to confirmation of the appropriate notice being given under the Region's Public Notice Policy (C-RC-005), it is proposed that the Fees and Charges by-law be amended to reflect changes in the new licensing by-laws.

## **Financial Considerations**

Revenue received from the issuance of business licences offsets the direct costs of the Business Licensing Division.

Since March 2020, licensing revenues have been on the decline due to the on-going impacts of the COVID-19 pandemic, including the Provincial Orders, and the associated measures imposed on the various industries licensed by the Region. Throughout the COVID-19 pandemic, and in light of the Provincial Orders, several businesses have ceased to operate and closed their doors permanently. Others have experienced an extreme reduction in their business operations, and subsequently closed for the season or reduced their service levels.

In the initial analysis of the transfer of business licensing responsibilities to Niagara Region from Niagara Regional Police, it was suggested that the division could operate on 100% cost recovery through licensing fees. This has not been the case since the transition of the responsibilities and has been further impacted by the COVID-19 restrictions on the businesses licensed by the division.

As COVID-19 restrictions ease, deferrals of up to 60 days will be allowed at the discretion of the Manager of Business Licensing for the 2021 licence fee renewals. This will allow businesses to financially prepare for returning to normal business operations.

The Fees and Charges by-law also requires amendment to reflect the proposed business licensing by-law changes. Updates to the fees are indicated in Appendix 7 of Report CSD 11-2021, column J, under the header "Change". With one exception, all

changes are administrative to consolidate, rename, and bring consistency to the fees. Fee CS-206 (formerly CS-114) Transportation Network Company Driver License – Initial Application is increasing from \$40.00 to \$60.00 to bring it in alignment with other similar driver license fees on the schedule. The cost recovery status of all fees is reviewed in full by Finance staff during the Region’s annual budget process.

## **Analysis**

The analysis section contains an overview for committee of activities since transition of responsibilities. In addition, the section provides industry information, on overview of the business licensing group and the public engagement processes undertaken to develop the by-laws.

## **History and COVID-19 Impacts**

On June 1, 2019, licensing of vehicles for hire (such as taxis, Transportation Network Companies, shuttles, specialty and sight-seeing vehicles) and businesses (including salvage/auto wrecking yards, second-hand shops and tow trucks) was transferred from Niagara Regional Police Services (NRPS) to Niagara Region as described in Confidential Report CAO 11-2018: Business Licensing Transition Project Update.

In order to provide a “seamless” transition of services, existing business licensing operations, including the by-law, were essentially assumed from NRPS with only minor necessary housekeeping changes, with the intention that the by-law would be repealed, with new by-laws being created, to achieve updates and efficiencies at a later date following stakeholder engagement and internal review.

Stakeholder and public engagement was conducted in 2019 and 2020 however, due to the ongoing staffing pressures of the COVID-19 pandemic and Provincial legislative changes directly impacting licenced industries, namely the tow truck industry, the drafting and review of these new by-laws was delayed.

In 2020 and 2021 Licensing Enforcement Officers have been providing regulatory enforcement response for the Emergency Measures and Civil Protection Act and the Reopening Ontario Act as well as assisting at the Mass Immunization Centers throughout Niagara Region since March 2021.

Five (5) sector-specific draft by-laws have been prepared and are recommended for Council approval. Sector specific information is contained in Appendix 9 of Report CSD 11-2021, which outlines the number and types of licenses.

### **Public and Stakeholder Outreach and Engagement**

As part of the process in drafting and reviewing new by-laws, public and industry stakeholder outreach and engagement has been paramount in gaining insight into the needs and wants of affected businesses and updates required to enhance consumer protection and public safety objectives.

Staff from Strategic Communications and Public Affairs, Corporate Strategy and Innovation and Business Licensing developed a formal outreach engagement plan in order to capture as many opinions and perspectives as possible. This strategy was employed for 5 months from December 2019 to April 2020. A Business Licensing By-law Update Workbook (Appendix 6 of Report CSD 11-2021) was provided on-line and in print copy to assist in the review and prompt discussion with the industries and the public.

#### **1. On-Line Survey**

On December 2, 2019, a public facing online video and public survey were posted on the Region's webpage. This was done in conjunction with a social media campaign through Twitter and radio advertisements directing listeners to the Region's webpage.

The webpage video provided information on the licensing by-law review process, including the link to the public survey and the upcoming Public Engagement session dates and locations. The online survey was open to the public until the end of April 2020.

The Region received 122 survey responses of which 38% were current business licence holders, the remaining 62% were members of the public or users of licensed industries.

The chart below outlines licensed industry response from the on-line survey broken down by sector:

Industry	Percent Participation
Vehicle for Hire Industry (Shuttle, Sight-Seeing, Specialty and Caleche)	30%
Taxi Industry	17%
Transportation Network Company Industry (TNC)	15%
Towing Industry	15%
Auto Wrecking Industry	9%
Salvage Yard Industry	9%
Second-Hand Shop Industry	2%
Adult Entertainment Industry (not part of current review)	2%

The respondents identified the following 5 key areas of interest:

1. Simplify the licence application process including an on-line option,
2. Clarify requirements for licencing,
3. Clarify inspection criteria for licence holders,
4. Review Licensing Fees,
5. Identify process to file a complaint about a licence holder.

## 2. Industry and Stakeholder Sessions

Stakeholder meetings were held on the following dates at Region HQ:

- February 24, 2020 – Local Area Municipalities, Towing, Taxi and TNC businesses
- February 25, 2020 – Salvage and Auto Wrecking businesses
- February 26, 2020 – Second-hand and Vehicle for Hire businesses

- February 27, 2020 – Internal Stakeholders and External Agencies (O.P.P., NRPS and MTO)

There was a high attendance rate for Taxi/TNC, Towing, Vehicles for Hire and Salvage industries with a lower attendance rate for the Second-Hand industry.

The stakeholder meetings echoed feedback received from the on-line survey results and also provided some industry specific discussion points below:

- Taxi/TNC – elimination of the taxi plate waiting list and market saturation,
- Vehicles for Hire – renting larger vehicles when needed and seasonal fees,
- Salvage/Auto Wrecking – record keeping, insurance and licence classes,
- Second-hand – record keeping, insurance and licence classes,
- Towing – tow rotation, enforcement, inspections and tariff fees.

### 3. Public Engagement Sessions

The Public Engagement sessions were held late afternoon on the following dates and locations:

- March 2, 2020 – Central Area, Thorold (Region HQ)
- March 3, 2020 – East Area, Niagara Falls (NRPS HQ)
- March 4, 2020 – Southwest Area, Welland (Public Health Building)

These sessions, although advertised and promoted, were not well attended with total attendance over the 3 day period being 19. The only attendees were existing licence holders that had already completed the on-line survey.

No new information was gathered at these sessions.

### 4. Draft By-law Review with Industry Stakeholders 2021

The draft by-laws were shared with, and reviewed by representatives of the licensed industries throughout May and June of 2021. These meetings provided an opportunity to present the draft by-laws to each industry and answer any questions or concerns.

## 5. Outreach and Information Review

Staff began the review of the public surveys and information gathered from all the industry and public outreach sessions and the current licensing by-law between March and December 2020.

From this information staff were able to ascertain that the current consolidated by-law was difficult for licence holders to interpret and required greater clarity on items such as:

- specific licence requirements;
- business requirements;
- specific insurance requirements;
- vehicle requirements;
- fees that could be charged for services they provide;
- other licences or approvals required from other agencies;
- enforcement provisions;
- appeal or hearing requirements.

Staff also noted the by-laws would benefit from enhancements related to enforcement and inspection provisions, authorities for the licensing officer and established criteria for licence approval, denial, suspension or revocation.

## 6. Jurisdictional Scan

Staff reviewed by-laws from Region of Waterloo, City of London, City of Toronto and City of Hamilton as these municipalities provide similar licencing governance and had recently amended or modernized their by-laws. No single by-law provided the “best fit” for Niagara Region. Staff adapted best practices from each by-law scan to the draft by-laws for Niagara Region.

## Summary of Findings

Based on the review process, staff are recommending that the current licensing by-law No. 2018-75 be repealed and that five (5) new industry specific by-laws be approved and enacted by Regional Council:

1. Taxi and TNC By-law (Transportation Network Company)
2. Vehicles Used for Hire By-law (Shuttle, Specialty, Sight-Seeing and Caleche)
3. Salvage Yards By-law (includes provision for yards and shops)

4. Second Hand Shops By-law (includes provisions for shops and dealers)
5. Tow Trucks By-law (includes provisions for tow truck yards)

This expansion into five (5) by-laws allows for specific by-laws that address individual industry concerns. It allows for greater ease and responsiveness in making sector specific changes from time to time, and be more user friendly. The five (5) by-laws were also drafted to provide a consistent format with standardized provisions to the extent possible making it easier to navigate licence requirements.

### **Overall By-law Updating**

In order to be responsive to feedback from the industry, each new draft by-law follows a similar format making it easier to read and follow and outlines the following main parts:

- Definitions;
- Licence Classes;
- Licence Class Requirements and Prohibitions;
- General Licence Requirements;
- Discrimination Prohibitions;
- Inspections;
- Powers of the Licensing Officer;
- Appeal Process;
- Orders;
- Administration and Enforcement.

A number of the changes specifically responded to requests made by stakeholders as part of the extensive consultation that took place. In addition to housekeeping amendments, some of the major changes to the by-laws are listed below:

- Adding the requirement to have a business address within Niagara Region;
- Adding a provision in the by-laws allowing the Licensing Officer to pro-rate licence renewals only. As an example this will allow licence holders to correlate Region issued licences to other agency licence renewal dates such as Ontario issued Driver Licences;
- Adding the requirement of a Business Licence for all businesses. Some businesses only had provisions for vehicles and drivers but not the business;
- Adding a new licence for a Salvage Shop and merging the Salvage Yard and Auto Wrecking Yard licence into one category of Salvage Yard Licence;



- Adding a Tow Yard licence;
- Providing delegated authority for the Manager of Business Licensing to establish a Towing Rate Fee Tariff and Taxi Meter Rate Tariff; the current proposed draft is attached to this report as *Appendix 8*;
- Adding the provision in the Vehicles Used for Hire draft by-law to allow for 1 month, 6 month or 12 month licences to better align with tourism operations. This will only be applicable to the vehicle and the driver licence not the business licence;
- Enhancing and clarifying specific insurance requirements for businesses and vehicles based on the specific industry;
- Adding specific language for vehicle age and mileage combined requiring annual or semi-annual vehicle safety inspections;
- Adding defined criteria for obtaining a licence, or having one revoked or denied;
- Adding language for age of Criminal Records and Judicial Matters Checks and Driver Abstracts to be no older than 60 days at the time of application;
- Adding provisions for proof of ability to work in Canada if not a Canadian Citizen, Landed Immigrant or Refugee;
- Updating the items deemed to be salvage and items deemed to be second-hand and modernize the list based on market trends;
- Allowing all licence holders to come into compliance with the new by-laws within 12 months from the date the draft by-laws are enacted or on their licence renewal date.
- Delegating Authority to the Licensing Officer (Manager of Business Licensing) to develop any forms and procedures required to implement the by-law.

In addition to the above noted changes and as a matter of procedure, staff will be eliminating the taxi plate waiting list and offering those on the list an option to either accept their plate or receive a refund of their initial fee less \$100.00. Many persons on the list have been there for over 10 years. There is funding available in the budget that was established as part of the transfer from NRPS to fund this.

Staff will be researching and establishing a new quota limit for taxi plates in future.

Staff will make an application for a Short Form Wording and Set Fine Order to the Ministry of the Attorney General and Chief Justice once the by-laws are approved. This will allow for tickets (Part I charges pursuant to the Provincial Offences Act) to be issued for contraventions of the by-laws.

Business Licensing and Legal Services staff have drafted the five (5) new by-laws and they are attached to this report as Appendices 1 to 5.

## **Alternatives Reviewed**

A possible alternative to the creation of five (5) new sector-specific by-laws would be to retain the existing Business Licensing By-law No. 2018-75. Given Staff review and external stakeholder engagement identifying the need for updates, Staff do not recommend this alternative.

## **Relationship to Council Strategic Priorities**

The Business Licensing Division provides the regulatory oversight and governance of various licenced industries within Niagara Region. A primary role for the Business Licensing Division is to provide consumer protection, safety and security within licensed industries, and for Niagara residents and users of these industries. The sector specific by-laws have been updated with consumer protection, safety and security at the forefront.

By modernizing and providing for industry specific licensing by-laws and an open dialogue between the Region and the licenced industries this supports the following Niagara Region Council 2019-2022 Strategic Priorities:

- Supporting Businesses and Economic Growth
- Healthy and Vibrant Community
- Sustainable and Engaging Government

## **Other Pertinent Reports**

- Confidential CAO 21-2017 - Review of Contracted Services from the Region of Niagara to Niagara Regional Police Services
- Confidential CAO 11-2018 – Business Licensing Transition Project Update
- CSC-C 17-2018 – Memorandum: Next Steps for Business Licensing Unit Transition

- CSD 4-2020 – Appointments to the Licensing Appeals Committee

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**Appendices**

Appendix 1	Draft Taxi and TNC By-law
Appendix 2	Draft Vehicles Used for Hire By-law
Appendix 3	Draft Salvage Yards By-law
Appendix 4	Draft Second Hand Shops By-law
Appendix 5	Draft Tow Truck By-law
Appendix 6	Business Licensing By-law Update Workbook
Appendix 7	Draft Amendments to 2021 Schedule of Fees and Charges
Appendix 8	Towing and Taxi Rate Fees Tariff
Appendix 9	Industry Information