

Certificate of Qualification for Barbers

Date:	October 4, 2012
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2012\Cluster B\MLS\LS12014

SUMMARY

The purpose of this report is to respond to a request from the Licensing and Standards Committee to consider eliminating the provisions in Toronto Municipal Code Chapter 545, Licensing, that require barbers to hold a Certificate of Qualification from the Province of Ontario.

The Ontario *Apprenticeship and Certification Act, 1998* requires that all individuals professionally practising a restricted skill set, such as barbers, hold a Certificate of Qualification. Regardless of any municipal licensing requirement, barbers practising their trade lawfully in Ontario must hold a Certificate of Qualification. Municipalities do not have the authority to exempt barbers from this provincial statute.

The Municipal Code Chapter 545, Licensing governing Barber shop licensing, does not require that barber shop business owners be subject to requirements regarding Certificates of Qualification if they do not practice the trade themselves.

The Ontario Ministry of Training, Colleges and Universities, and the City Solicitor were consulted in the preparation of this report.

Financial Impact

There are no financial impacts as a result of this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its June 28, 2012 meeting, the Licensing and Standards Committee requested that the Executive Director, Municipal Licensing and Standards, report back to the October 19, 2012 meeting of the Committee on eliminating the licensing requirement for barbers to hold a provincial Certificate of Qualification.

(Decision: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS14.4>)

ISSUE BACKGROUND

The City of Toronto licenses barber shops and hair salons for the purposes of maintaining consumer protection and public health and safety. The licensing regulations facilitate inspections and enforcement of these businesses, and ensures the operators' conducts are safe and in accordance with the law.

COMMENTS

Provincial Requirements

The Province of Ontario sets requirements for a number of trades, including barbers in *The Apprenticeship and Certification Act, 1998* ("the Act"). The Act supports and regulates the acquisition of skills for trades and other occupations through workplace-based apprenticeship programs that lead to formal certification.

Through *Ontario Regulation 565/99, Restricted Skill Set*, the Act established certain trades and occupations that require a Certificate of Qualification. Under the Act, it is illegal to perform a restricted trade without holding either a valid Certificate of Qualification or being a registered apprentice.

Despite the assertion by many barbers that they do not perform all of the procedures that fall under hairstyling, the Province does consider that barbers fall within the category of hairstylists and thereby requires them to obtain the same certification. In short, it is illegal for barbers to perform the trade if they do not hold a valid Certificate of Qualification or are a registered apprentice.

Municipal Requirements

The by-law does not require Barber Shop business owners to hold a Certificate of Qualification or be a registered apprentice if they do not practice the trade themselves.

One of the fundamental principles of the City's Licensing by-law is that licensees must comply with all relevant legislation. For example, all licensees that operate vehicles as part of the licensed business activity must have a valid provincial driver's licence and liability insurance. Similarly, barbers are required by the Province to hold a Certificate of Qualification or be registered apprentices to conduct their trade in Ontario. Removing this explicit requirement from the By-law would not lessen the onus on barbers to obtain

the appropriate certification, to carry on his or her trade in accordance with the law, and to operate the business with integrity and honesty.

As the Act and the Regulation governing the trade exists through provincial statute, municipalities do not have the jurisdiction to exempt individuals or organizations from provincial legislation.

Conclusion

The by-law provisions for barbers to comply with the requirement to hold a Certificate of Qualification or be a registered apprentice to practice their trade are reasonable, are in the public interest, and should not be removed from the by-law, for the following reasons:

- Barber Shop business owners are not required to hold a Certificate of Qualification or be a registered apprentice if they do not practice the trade themselves. Therefore the provision is not unnecessarily restrictive.
- Under *Ontario Apprenticeship and Certification Act, 1998* and *Ontario Regulation 565/99, Restricted Skill Sets*, barbers are considered a restricted skill set. Irrespective of any municipal licensing requirement, barbers lawfully practising their trade in Ontario must hold a Certificate of Qualification or be a registered apprentice.
- Municipalities do not have the jurisdiction to exempt individuals or organizations from Provincial legislation.
- The lack of certifications for a barber that practices the trade would violate the provincial regulation, and therefore be grounds for denial of a licence as set out in the general provisions of the By-law.

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SIGNATURE

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