

Additional Recommendations for the Tow Truck Industry

Date: September 29, 2017

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing & Standards

Wards: All

SUMMARY

At its meeting of September 18, 2017, the Licensing and Standards Committee directed staff to review the deputations and submissions received, and report directly to City Council on any possible amendments to the original recommendations in *LS 21.1 Tow Truck Industry Review and Recommendations*. Specifically, staff were requested to give additional consideration to the proposed rates governing private property tows, the recovery rate, waiting times at collision reporting centres as part of the accident tow rate, and to consider adding a requirement for tow trucks to have reflective protective markings on their vehicles.

This report responds to the direction received from Committee, and proposes additional amendments to Toronto Municipal Code (TMC) Chapter 545, Licensing, Article VI, Owners and Drivers of Tow Trucks.

Staff are not making recommendations in respect to accident-related towing rates beyond those provided in the original report, but are presenting revised recommendations, which include:

- replacing the City's private property towing and storage rates with rates that align with the Toronto Police Service Towing and Storage Contract Rates; and
- making a technical amendment to align the language in the Bylaw around tow truck insurance with the requirements under the *Consumer Protection Act* (i.e., \$2,000,000 general liability insurance, \$100,000 consumer vehicle insurance and \$50,000 cargo insurance). This does not change the amount of insurance a tow truck owner is required to obtain.

Legal Services was consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing & Standards, recommends that:

Tow Truck Owners and Drivers

Private Property Towing Rate

1. City Council delete Licensing and Standards Committee recommendation 1 in LS21.1 and adopt instead the following:

City Council delete the current private property towing rate and replace it with the private property towing rates found in the Toronto Police Service Towing Contract.

2. City Council delete the current 'release on scene fee' of \$37.50, which permits tow truck owners and drivers to charge for releasing a vehicle on scene after it has been attached to a tow truck, and replace it with the 'release on scene fees' found in the Toronto Police Service Towing Contract.

Private Property Storage Rate

3. City Council delete the current 'storage fee' of \$20, which tow truck owners and drivers may charge per day, for storing a vehicle towed from private property, and replace it with the 'storage fees' found in the Toronto Police Service Storage Contract.

Automatic Annual Inflation Adjustment

4. City Council delete the words "private property and" from Licensing and Standards Committee recommendation 3 in LS21.1, so that private property towing rates stay consistent with the Toronto Police Service Towing Contract rates.

Vehicle Weight

5. City Council delete Licensing and Standards Committee recommendation 13 in LS21.1, so that the Toronto Police Service Towing and Storage Contract vehicle weights shall apply to the private property towing and storage rates, and adopt instead the following:

City Council increase the vehicle weight to which regulated accident towing rates apply from 6,000 lb to 3,175 kg (7,000 lb), to ensure that the majority of passenger vehicles involved in accidents are subject to regulated rates.

Insurance

6. City Council clarify the current tow truck insurance requirements, to align with provincial amendments to the *Consumer Protection Act*, by:

- a. requiring that tow truck owners obtain coverage in the amount of at least \$100,000 against liability for damage to a customer's vehicle; and
- b. deleting the requirement that tow truck owners obtain a separate comprehensive general liability insurance policy in the amount of \$100,000.

Implementation

7. City Council direct that these changes to Toronto Municipal Code Chapter 545, Licensing, Article VI, Owners and Drivers of Tow Trucks, come into force on November 1, 2017.

FINANCIAL IMPACT

There are no financial impacts beyond what has already been approved in the current year's budget.

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

DECISION HISTORY

At its meeting of September 18, 2017, Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards, to review the deputations and submissions received and report directly to the October 2, 2017 meeting of City Council on any possible amendments to [LS21.1 Tow Truck Industry Review and Recommendations](#), including giving additional consideration to: private property tows, the recovery rate, and waiting times at collision reporting centres (with a view to potentially recommending greater compensation); and requiring tow truck operators to have reflective protective measures on their vehicles.

COMMENTS

Recommended Change: Align City of Toronto Private Property Towing and Storage Rates with the Toronto Police Service Contracted Rates Based on Geography

At the September 18th meeting of Licensing and Standards Committee, staff presented a proposal to increase the private property towing rate from \$88 to \$108.

Staff heard deputations from some members of the industry who indicated that the proposed rate was inadequate.

Tow truck owners and drivers explained that the proposed rate does not cover the costs involved in towing a vehicle from private property. As vehicles are typically towed from

private property without the knowledge or consent of the vehicle owner, tow truck owners and drivers are required (under the *Repair and Storage Liens Act (RSLA)*), to provide written notice to the vehicle owner and any other interested parties. In order to provide appropriate notification, tow truck owners and drivers conduct a lien search (for a fee). There are also costs associated with storing the vehicles, as under the RSLA, vehicles are required to be stored for a minimum period of 15 days (for vehicles registered in Ontario) and 60 days (for vehicles registered out-of-province). Often, a large number of these vehicles are inoperable and/or abandoned, leaving tow operators to deal with the costly disposal of these vehicles.

In the initial round of consultations, and again at Committee, staff heard suggestions from industry stakeholders that the City's private property towing rate should align with the Toronto Police Service's contracted towing and storage rates.

The Toronto Police Service (TPS) maintains contracts with specific tow truck operators/storage providers, who, through the normal tendering/request for quotation (RFQ) process, have successfully bid to tow/store vehicles on behalf of the police.

The RFQ established a formula for combining the pricing for various aspects of the towing and pound services into a single overall score based on the assignment of weighted values for each of the services. Contracts were awarded for the bids that resulted in the lowest towing and storage cost and were approved by the Toronto Police Services Board. The contracts are effective for a period of three years, with an option to extend for an additional year, at the discretion of the TPS.

Under the current contract, rates are valid until 2019. It includes five towing/storage companies, each responsible for servicing one of five TPS towing districts throughout the City of Toronto. Attachment 1 provides a map outlining the boundaries of each district.

Under the current contract, operators are compensated between \$110.00 to \$189.90 for a 'standard duty tow' and between \$120 to \$260 for a 'medium duty tow'.

The TPS classifies 'standard duty tows' as vehicles with a gross vehicle weight of less than 6,000 lb/2,722 kg and 'medium duty tows' as vehicles with a gross vehicle weight greater than 6,001 lb/2,723 kg and less than 13,200 lb/6,000 kg. This is different from the regulated vehicle weight of 7,000 lb/3,175 kg, proposed by staff, in which the regulated accident towing rate is to apply.

Also under the TPS contract, operators are permitted to charge a 'release on scene fee' when they are requested to release a vehicle on scene, after it has been attached to a tow truck. This fee ranges between \$55.00 to \$92.20 for a standard duty tow and between \$60 to \$130 for a medium duty tow. Under the City's current Tow Truck Bylaw, the 'release on scene fee' is set at \$37.50.

The TPS contract also specifies storage fees, ranging between \$16 to \$80 depending on location in the city. Under the City's current Tow Truck Bylaw, the storage is set at \$20 per day (of part thereof).

After further consideration of the industry feedback received on this item and to ensure consistency, staff propose replacing all the regulated rates for private property towing and storage, currently specified in the Bylaw, with the rates set out by the Toronto Police Service's Towing and Storage Contract Rates. A detailed list of all TPS rates can also be found in Attachment 1.

This would ensure that the City's regulated rates for private property towing and storage would align with the Toronto Police Service Towing and Storage Contract Rates, as they are updated. TPS posts and publishes these rates on their webpage (under the Traffic Services section, under the heading "Towing and Pound Information").

The TPS have been consulted on this proposal.

Recommended Change: Insurance Requirements

Under the City's Tow Truck Bylaw (TMC § 545-86), tow truck owners are currently required to carry prescribed types of liability insurance, specifically:

- 1) \$2,000,000 against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property;
- 2) \$25,000 against legal liability for damage to customers' vehicles;
- 3) \$100,000 in comprehensive general liability insurance; and
- 4) \$50,000 in cargo liability insurance.

Under the recently amended *Consumer Protection Act*, tow truck operators are now required to maintain the following insurance coverage:

- 1) \$2,000,000 against liability resulting from bodily injury to or the death of one or more persons and loss or damage to property;
- 2) \$100,000 against liability for damage to customers' vehicles; and
- 3) \$50,000 in cargo liability insurance.

Theoretically, comprehensive general liability insurance covers damage to customers' vehicles, but given that the current City Bylaw requires specific damage insurance in the amount of \$25,000, damage to customers' vehicles is carved out of a tow truck owner's general liability policy by an insurer. Clarity is needed to ensure tow truck owners hold a full \$100,000 in insurance against liability for damage to customers' vehicles.

To achieve this, staff propose an amendment to the City's Tow Truck Bylaw to: (1) increase the amount of insurance required for damage to customers' vehicles from \$25,000 to \$100,000 (TMC § 545-86 A. (2)) and (2) delete the requirement to obtain a separate comprehensive general liability insurance policy in the amount of \$100,000 (TMC § 545-86 A. (3)).

Maintain Recommendation of \$100 Fee for Recovery Services

In the principal report, staff proposed the establishment of a recovery fee of \$100, in order to compensate tow truck owners and drivers for services performed to relocate or reposition a vehicle, beyond a standard tow.

Staff heard depositions from some members of the industry who indicated that the proposed rate was inadequate to cover the amount of labour required in extreme situations where a tow truck owner or driver would need to winch a vehicle out of a ditch, body of water, etc.

In light of these concerns, staff again reviewed the feasibility of establishing a time-based fee. However, staff conclude that it would be difficult for a consumer to understand and validate the time spent by a tow truck owner or driver to perform recovery.

Further, it is staff's understanding that there are limited circumstances in which a tow truck owner or driver, not under contract with the TPS, would be required to perform extensive recovery services. In most cases, damage to the highway or public property is often involved, in which case the TPS would attend the scene and have recovery and towing services undertaken by their contracted tow operators.

Staff maintain that \$100 is a reasonable amount to compensate tow truck owners and drivers for the performance of simple, relatively straight-forward recovery services. This amount is comparable to other municipalities that permit a similar recovery charge (i.e., Vaughan, Richmond Hill, and Caledon, which range between \$100 to \$120).

Fee for Waiting Time at Collision Reporting Centres

As part of the depositions, some tow truck owners and drivers indicated that they can spend a significant amount of time waiting at the collision reporting centres. Some expressed that compared to other jurisdictions, wait times at Toronto's CRCs can be excessive and particularly when there is inclement weather. Some tow truck operators feel that they should be compensated for this waiting time, as they could otherwise be servicing other consumers/vehicles.

Staff do not recommend allowing or regulating an additional fee for waiting time.

Many of the comments made on the amount of time spent at the collision reporting centres has been anecdotal. There are no statistics or data currently available that can substantiate the amount of time it typically takes a tow truck owner or driver to drop a towed vehicle and be paid by CRC staff, from the point of arrival.

Further, CRCs indicate that on average, it only takes tow truck owners and drivers between 15-20 minutes from the point of arrival to drop a vehicle and receive payment from CRC staff.

Reflective Markings on Tow Trucks

As directed by Licensing and Standards Committee, staff reviewed the feasibility of requiring tow truck owners and drivers to have reflective markings on their tow trucks.

Under the City's current Bylaw, tow trucks are required to have markings, in contrasting colour, for the purpose of identification (TMC § 545-90), as well as "an audible warning system connected to the tow truck's backup lamps that is automatically activated when

the tow truck is in reverse gear", and, "a lamp that produces intermittent flashes of amber light installed on the roof of the tow truck" (TMC § 545-92 A. (5) and (6)), for safety and visibility.

Under *Bill 38, the Highway Traffic Amendment Act (Roadside Assistance Vehicles), 2012*, similar legislation has been introduced to require tow trucks to "carry one or more lamps that display an intermittent amber warning light, where at least one lamp is permanently mounted on the top of the vehicle and is clearly visible from all directions for a distance of at least 100 metres".

Additionally, with the recent inclusion of tow trucks in the Ministry of Transportation's Commercial Vehicle Operators Registration (CVOR) system, staff understand that there will be further amendments to the *Highway Traffic Act*, specific to tow truck equipment and lighting requirements.

As such, at this time, staff do not recommend the addition of further requirements around reflective markings. Adding additional requirements for reflective markings, at the same time that the Province is considering further amendments to the *Highway Traffic Act*, may result in conflicting requirements, as well as may place an undue burden on tow truck owners.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Toronto Police Service Towing and Storage Contract Rates and Boundaries