

Update on the Comprehensive Review of Business Licensing

Date: December 31, 2018

To: General Government and Licensing Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

In 2015, Municipal Licensing and Standards (MLS) began modernizing business licensing to better reflect the current and evolving business environment, to provide tools that promote compliance, to develop efficiencies, and to reduce regulatory burden. This transition is rooted in the City's regulatory purpose of public safety and consumer protection and moves the City to a risk-based licensing framework.

Due to the changing nature of businesses and the number of existing business licence categories, the review of business licensing is being conducted in stages. Work completed to-date includes the removal of obsolete definitions in Chapter 545, Licensing (2015), the creation of Chapter 546, Licensing of Vehicles-for-Hire (2016), the review of Tow Truck regulations (2017), and the creation of Chapter 547, Licensing and Registration of Short-term Rentals (2017). It also includes the business transformation of licensing, such as the modernization of operational processes and technology.

Next phases include: update and review of the Vehicle-for-Hire bylaw; review of Payday Lending; review of licensing requirements for Bars, Restaurants, and Nightclubs; and review of Body Rub Parlours and Holistic Centres, expected throughout 2019. MLS will also review Chapter 545, Licensing to streamline and simplify processes, reduce duplication, modernize licence categories and requirements, and improve overall readability, with a report expected in the fourth quarter of 2019.

This report provides an overview of work completed to-date as well as next steps for the planned reviews. The work plan continues to:

- Streamline, simplify and modernize operational processes to reduce red tape and regulatory burden, while ensuring consumer protection and public health and safety objectives are met;
- Modernize business licensing requirements and processes to better meet and adapt to today's evolving and emerging businesses; and

- Move to risk-based approach to business licensing.

Staff have consulted with Legal Services in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. General Government and Licensing Committee receive this report for information.

FINANCIAL IMPACT

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

The comprehensive review of business licensing is expected to result in streamlining and modernization of licence categories and processes. Future proposals to amend related Municipal Code Chapters may result in financial implications, which will be provided in the reports expected throughout 2019.

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

DECISION HISTORY

On June 14, 2018, Licensing and Standards Committee adopted, with amendments, [LS26.3: Work Plan for the Review of Chapter 546, Vehicles-for-Hire](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS26.3) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS26.3>), which provided a timeline and scope of work for the completion of the review of Chapter 546, Licensing of Vehicles-for-Hire. This bylaw was implemented in 2016 and established new regulations for the vehicles-for-hire industry.

At its meeting on April 28, 2018, City Council adopted [LS24.3: Interim Regulations for Payday Loan Establishments and Consultation Plan](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.3) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.3>), which included amendments to Toronto Municipal Code, Chapter 545, Licensing, to create a new business licence category for payday loan establishments as an interim measure, pending a full review of licensing requirements for payday lenders.

At its meeting on April 24, 2018, City Council adopted [LS24.2: Workplan for Review of Chapter 545, Licensing, Body-Rub Parlours and Holistic Centres](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.2) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.2>), placing a moratorium on the issuance of new licences to holistic practitioner applicants associated with the five professional holistic associations (PHAs) linked to the most bylaw charges and convictions incurred by holistic practitioners.

At its meeting on December 5, 2017, City Council adopted [LS23.1: Licensing and Registration Regulations for Short-Term Rentals](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS23.1) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS23.1), establishing a separate Toronto Municipal Code Chapter for Short-term Rentals that would require companies to obtain a business licence and operators to be registered with the City.

At its meeting on November 7, 2017, City Council adopted [AU10.4: A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part Three: Eating Establishments and Nightclubs](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.4) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.4) directing the Executive Director, MLS, to review the existing licensing regime for eating establishments and nightclubs to strengthen the Division's inspection and enforcement efforts.

At its meeting on November 7, 2017, City Council adopted [AU10.3: A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part Two: Licensed Holistic Centres](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.3) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.3), directing the Executive Director, MLS, to review the existing licensing regime for Body-Rub Parlours and Holistic Centres and ensure effective oversight and enforcement.

At its meeting on October 21, 2016, the Liquor Licensing Issues Task Force adopted, with amendments, [LL2.1: Update on Liquor Licensing Issues](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LL2.1) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LL2.1), directing staff to report back on the legal feasibility of attaching conditions to new liquor licences at the Licence Appeal Tribunal; and to report back on the use of the Toronto Licensing Tribunal to secure additional conditions on licences with repeated violations of City bylaws and what thresholds could be used to appeal a licence to the Toronto Licensing Tribunal.

At its meeting on October 2, 2017, City Council adopted [LS21.1: Tow Truck Industry Review and Recommendations](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS21.1) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS21.1), which included amendments to update the rules and rates for the tow truck industry.

At its meeting on May 3, 2016, City Council adopted [MM18.6: Openness and Transparency: Public Input at the Toronto Licensing Tribunal](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM18.6) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM18.6), directing staff to review the Toronto Licensing Tribunal Relationship Framework and any other relevant bylaws, policies and processes to provide opportunities for broader direct community input in Toronto Licensing Tribunal matters and to report back to Executive Committee.

At its meeting on June 10, 2015, City Council approved [LS4.2: Amendments to Chapter 545, Licensing -- Results of Phase 1 of the Comprehensive Review](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.2) (http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.2), making 34 changes to the Bylaw. Changes ranged from the removal of obsolete definitions and licence classes, to updating Bylaw language to reflect the Ontario Human Rights Code and Accessibility for Ontarians with Disabilities Act.

At its meeting on May 25, 2015, Licensing and Standards Committee approved [LS4.1: Framework for the Comprehensive Review and Modernization of Chapter 545,](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.1)

[Licensing](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.1) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.1>), requesting that the Executive Director, MLS report back to the Licensing and Standards Committee with recommendations on a comprehensive review of Chapter 545, Licensing.

At its meeting on April 18, 2013, Licensing and Standards Committee adopted, with amendments, [LS20.1: Toronto Licensing Tribunal - 2012 Annual Report](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.LS20.1) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.LS20.1>), which directed staff to report back on ways and means of evaluating the operational processes of the Toronto Licensing Tribunal as it pertains to taxis in order to maximize public safety.

COMMENTS

The City of Toronto issues licences and permits for 99 different businesses, trades and professions. Regulations for these businesses are predominantly laid out in Toronto Municipal Code, Chapter 545, Licensing. In 2015, MLS began a comprehensive review of business licensing as part of a broader customer service and business transformation effort. The review is ongoing and is being conducted in stages due to the size and scope of the undertaking, and to ensure effective stakeholder engagement and public consultation.

Since beginning the review, MLS has responded to changing business environments by deleting obsolete licence requirements, creating bylaws for the oversight of emerging and evolving industries, and modernizing licensing processes.

This report provides an overview of the work completed to-date and outlines next steps as MLS continues the comprehensive review of business licensing.

The objectives of the comprehensive review of business licensing are to:

- Streamline, simplify, and modernize administrative and operational processes to reduce red tape and regulatory burden, and enhance compliance;
- Modernize business licensing requirements and processes to better meet and adapt to today's evolving and emerging businesses, while ensuring public health and safety; and
- Move towards a risk-based approach to business licensing.

Approach Overview

Business Transformation

MLS is actively moving to meet City "Digital First and Modernization" goals. The transformation began in 2015 when MLS updated Chapter 545, Licensing and began streamlining business licensing processes. MLS transformed the licensing process for private transportation company (PTC) drivers in 2016 with the creation of Chapter 546, Licensing of Vehicles-for-Hire, and inception of electronic data sharing with PTC companies. These changes have enabled a high degree of compliance and supported enforcement within these industries.

Staff are undertaking modernization projects to improve business licensing system technology and processes to better support staff, enhance the customer experience, and make doing business with MLS faster and easier. This includes new and modern case management and business intelligence systems to enable data-driven enforcement. MLS is currently working with Information and Technology, 311 and other divisions to pilot modernization initiatives.

Through these initiatives, MLS will develop service improvements for customers. This includes online self-service and shorter wait times through improved queue management systems. As well, digitization and document management improvements will help staff access information from their mobile device, while in the field, and at any office location in the City, which will enhance licensing and enforcement efforts.

Risk-Based Licensing

Historically, MLS has taken a standard approach to business licensing, whereby all licence holders within any given category are issued a standard business licence. This structure works well for businesses where there is little deviation in the way that services are provided. However, there are circumstances where the current regulations do not allow for appropriate differentiation amongst business types, such as the difference between eating establishments that offer fast-food takeout and restaurants where alcohol is served. In addition, technology innovations and changing social and behavioural patterns have resulted in non-traditional service delivery. As such, more nuanced and dynamic regulations are needed to ensure that objectives related to risk mitigation, such as consumer protection, safety, and nuisance control, continue to be met.

The ongoing and comprehensive review of business licensing is being undertaken with the lens of risk mitigation. Under this model, licensees with a higher risk level - as determined by their business activity - receive an increased level of regulatory and compliance oversight, whereas licensees with a lower risk level can benefit from reduced regulatory burden. Taking a risk-based approach to licensing categories enhances compliance and effective enforcement efforts by dedicating enforcement resources to higher risk businesses.

Overview of Work Completed To-Date

Responding to New and Evolving Industries

Independent reviews of certain licensing categories were completed where the industry and consumer base presented unique regulatory needs. Such examples include the vehicle-for-hire industry, the tow truck industry, and the short-term rental industry.

Vehicle-for-Hire

In May 2016, City Council adopted a new set of regulations for the vehicle-for-hire industry. Chapter 546, Licensing of Vehicles-for-Hire, regulates taxicabs, limousines and PTC such as Lyft and Uber. The new bylaw shifted away from prescriptive regulation to an approach based on accountability and monitored compliance through

audit and enforcement. It also enabled operational flexibility, including creating new digital licensing and enforcement processes, all with a focus on public safety and consumer protection.

Tow Trucks

In October 2014 and 2017, City Council adopted amendments to Chapter 545, Licensing related to the Tow Truck industry. Amendments adopted through this review included increased towing rates, enhanced consumer protection/awareness, and modernization of regulatory requirements (for example: digital record keeping and the use of credit cards for payment). The amendments responded to public complaints and issues raised by the industry and were designed to protect consumers and the public interest. The amendments also marked a shift towards a risk-based approach to business licensing by tightening regulations.

Short-Term Rentals

In December 2017, City Council adopted regulations for the short-term rental industry. This was in response to the increasing prevalence and use of short-term rentals driven by the emergence of online companies that host listings and facilitate bookings. To address the evolving accommodations industry, Chapter 547, Licensing and Registration of Short-term Rentals established rules to license short-term rental companies like Airbnb and Expedia and to register short-term rental operators. The City's short-term rental regulations are currently on hold as the City's zoning bylaw amendments that would permit short-term rental as a use, have been appealed to the Local Planning Appeal Tribunal (LPAT). The LPAT hearing is scheduled for August 2019.

Overview of Next Steps

Moving forward, MLS will continue to modernize business licensing by updating and reviewing licence categories and regulations. Below is an overview of the major business licensing reviews planned for 2019.

Update and Review of Chapter 546, Licensing of Vehicles-for-Hire

Since May 2016, MLS has been implementing the new vehicle-for-hire bylaw. The implementation of the bylaw has been a large and complex undertaking, requiring significant business transformation. There have been a number of directions from Committees and City Council to review specific issues and regulations affecting the vehicle-for-hire industry. MLS is currently undertaking a review of the vehicle-for-hire bylaw as well as responding to outstanding directives from City Council. A report on the results of the review will include:

- How to proceed with an accessibility strategy;
- Results of a congestion management study and an economic impact study; and
- Recommendations for addressing new and/or outstanding issues.

The report is expected at the General Government and Licensing Committee in Q2 2019.

Review of Bars, Restaurants, Nightclubs, and Venues

Through Chapter 545, Licensing, the City licenses Eating and Drinking Establishments and Entertainment Establishments/Nightclubs. The "Eating Establishment" licence category includes take-out restaurants, traditional table service restaurants, bars, and any other places for reception, refreshment, or entertainment of the public that also serve food. The Nightclub licence category captures establishments where the main use is to provide dance facilities for patrons. Currently there are 7,935 active Eating Establishment licences and 32 active Nightclub licences.

Consumer demand in this sector has changed in recent years, and the model of service delivery has changed with it. In addition to traditional Eating Establishments, where patrons sit down to consume a meal, Eating Establishments are now also places where a variety of other activities are available to patrons (for example, entertainment and dancing). In recognition of these changing patterns and activities, MLS has initiated a review of the Licensing Bylaw sections relating to Eating Establishments and Entertainment Establishments/Nightclubs. Other licensing categories where similar activities can sometimes take place, such as Public Halls, Billiard Halls and Places of Amusement, are also included in this review. The objectives of this review are to:

- Modernize existing licensing categories to better reflect the range of activity that occurs in Toronto's bars, restaurants, and entertainment venues;
- Better serve the community and help the City address community nuisance and public safety issues that can sometimes arise from these uses;
- Take a risk-based approach to business licence regulations; and
- Improve licensing clarity by making the rules easier to understand for businesses, residents, and enforcement.

A central focus of this review will be to mitigate community nuisance and limit the impact of restaurants and nightclubs on residents. Using a risk-based approach will mean appropriate and proportionate regulatory oversight based on business activity. For example, lower-risk Eating and Drinking establishments, like a small coffee shop that operates during regular business hours, may not need the same level of oversight as a bar that operates later and mainly serves alcohol.

A report on this is expected at the General Government and Licensing Committee in Q2 2019.

Review of Body-Rub Parlours (BRPs) and Holistic Centres

Through Chapter 545, Licensing, the City licenses BRPs and Holistic Centres. Holistic Centres are businesses that offer services for therapeutic and wellness purposes while BRPs are businesses that offer services which include "kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body ... but does not include medical or therapeutic treatment". There are currently 25 licensed BRPs, which is the cap on the number of BRPs permitted. There are currently 410 licensed Holistic Centres, the majority of which are believed to offer unauthorized services.

This review will address the continued regulatory and enforcement challenges with these industries. It will also address the compliance issues identified in the Auditor General's (2017) Report; namely, a high number of holistic centres are providing unauthorized services and the lack of oversight over Professional Holistic Associations.

Through this review, staff will recommend changes to enhance safety, increase compliance, mitigate nuisances, and promote public health and safety through improved oversight.

A report on the review of BRPs and Holistic Centres is expected at the General Government and Licensing Committee in Q2 2019.

Review of Payday Loan Establishments

In January 2018, the Province of Ontario amended the *Municipal Act* and the *City of Toronto Act* to allow municipalities and the City of Toronto to limit the number and location of payday loan establishments through business licensing. In April 2018, Toronto City Council created a business licence for payday loan establishments and restricted the number of establishments permitted to operate to the number of provincially licensed payday loan establishments that existed at the ward level as of May 1, 2018. This was an interim approach, pending a full review and consultation on the issue.

Currently, payday loan establishments are licensed both provincially and municipally. The Province of Ontario regulates and enforces the terms and conditions of payday loans through the *Payday Loans Act*, while municipalities may license the number and location of payday loan establishments through business licensing. As payday lending is provincially regulated, MLS determined that the best approach to mitigate risks associated with payday loan establishments is through limiting the number of establishments, which have been capped at 212 as of May 1st, 2018.

MLS is currently implementing the payday loan licence. In the coming months, staff will conduct additional research and consultations to review the payday loan industry in Toronto and examine the impact of the licence.

A report with recommendations on regulations for the payday loan industry is expected at the General Government and Licensing Committee in Q3 2019.

Amendments to Chapter 545, Licensing

In 2015, MLS began a comprehensive review of Chapter 545, Licensing, which includes an overall update to the general bylaw structure and various provisions. The initial work plan consisted of several phases, the first of which was completed after 34 changes to Chapter 545 were adopted by City Council on June 10, 2015. This phase also involved delegating approval authority to the Executive Director for the harmonization of licence renewal dates and multi-year business licence renewals.

In continuation of this comprehensive review of Chapter 545, Licensing, staff will work with other divisions, including Legal Services, Toronto Public Health, City Planning, and

Economic Development and Culture to review the Bylaw, identify opportunities for improvements, and propose amendments that would enhance the efficiency and effectiveness of licensing and enforcement. Applying a risk-based lens, this review would involve evaluating licensing categories and identifying what can be streamlined or removed.

A report on this is expected at the General Government and Licensing Committee in Q4 2019.

Review of Toronto Licensing Tribunal

In addition to business licensing reviews, MLS is undertaking a review of the Toronto Licensing Tribunal (TLT). The TLT, whose powers are set out in Chapter 545-3, operates as an independent quasi-judicial body that conducts hearings and has the authority to approve, refuse, suspend, revoke, or place conditions on business licences. The review will include identifying opportunities for modernization and improving the TLT and its processes.

A report on this is expected at the General Government and Licensing Committee in Q4 2019.

Staff will conduct research, consultations, and jurisdictional scans to complete these business licensing reviews. The aim will be to identify opportunities to improve and update licensing and administrative and enforcement processes. Staff will report to Council throughout 2019 with recommendations resulting from these reviews.

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