

8. Towing Services Regulatory Review and Licensing Regime

Services de remorquage: examen de la réglementation et régime des permis d'entreprise

COMMITTEE RECOMMENDATIONS

That Council approve:

- 1. Amendments to the City's Licensing By-law (No. 2002-189, as amended), as described in this report, to:
 - (a) establish regulations for the licensing of tow service operators, tow truck drivers, and vehicle storage facility operators by the addition of a new Schedule No. 35, as well as minor amendments relating to definitions and administrative provisions, in the general form as set out in Document 1;**
 - (b) add regulations related to storage of towed vehicles in Schedule 3 for public garages, in the general form as set out in Document 2; and**
 - (c) add towing-related provisions to revise regulations in Schedule 30 for private parking enforcement agencies in the general form as set out in Document 3;****
- 2. Delegated authority for the Chief License Inspector to adjust the recommended prescribed towing services rates yearly based on the Statistics Canada Consumer Price Index for Ottawa-Gatineau, as described in Section 14 of the proposed Document 1; and**
- 3. The addition of 2.5 full-time equivalents in By-law and Regulatory Services to administer and enforce the recommended licensing regime, to be funded on a cost-recovery basis from licensing fees, as further described in this report.**

4. direct Traffic Services to undertake a review of the City's Traffic and Parking By-law and the City's Parking Strategy to determine whether any specific traffic, parking and stopping rules for tow trucks may be feasible or necessary and to report to the Transportation Committee with any recommendations on same in Q2 of 2023.

RECOMMANDATIONS DU COMITÉ

Que le Conseil approuve :

1. Les modifications à apporter au Règlement sur les permis de la Ville (Règlement n° 2002-189, dans sa version modifiée), selon les modalités exposées dans ce rapport, afin :
 - (a) d'établir les règlements d'application pour la délivrance des permis destinés aux exploitants de services de remorquage, aux conducteurs de dépanneuses et aux exploitants des établissements d'entreposage des véhicules, en ajoutant dans le Règlement la nouvelle annexe n° 35, de même qu'en apportant de légères modifications aux définitions et aux dispositions administratives, selon les modalités générales exposées dans le document 1;
 - (b) d'ajouter, dans l'annexe n° 3, les règlements d'application se rapportant à l'entreposage des véhicules remorqués pour les garages publics, selon les modalités générales exposées dans le document 2;
 - (c) d'ajouter les dispositions liées au remorquage afin de réviser les règlements d'application de l'annexe n° 30 à l'intention des agences du contrôle du stationnement sur les propriétés privées (ACSPP), selon les modalités générales exposées dans le document 3;

2. Les pouvoirs délégués à l'inspecteur en chef des permis pour qu'il puisse rajuster les tarifs imposés et recommandés pour les services de remorquage d'après l'Indice des prix à la consommation de Statistique Canada pour Ottawa-Gatineau, selon les modalités décrites dans la section 14 du document 1 proposé;
3. L'ajout de deux virgule cinq (2,5) équivalents temps plein dans les Services des règlements municipaux pour administrer et faire appliquer le régime des permis d'entreprise recommandé, à financer selon le principe de la récupération des coûts à même les frais de délivrance des permis, selon les modalités exposées plus précisément dans ce rapport.
4. Demander aux Services de la circulation d'étudier le Règlement sur la circulation et le stationnement de la Ville d'Ottawa et la Stratégie municipale de gestion du stationnement afin de déterminer si la mise en place de règles particulières en matière de circulation, de stationnement et d'arrêt pour les dépanneuses est possible ou nécessaire, et de présenter au cours du deuxième trimestre de 2023 un rapport au Comité des transports comprenant des recommandations.

DOCUMENTATION/DOCUMENTATION

1. Anthony Di Monte, General Manager, Emergency and Protective Services, dated September 2, 2021 (ACS2021-EPS-PPD-0002).

Anthony Di Monte, Directeur Général, Services de protection et d'urgence, daté le 16 septembre 2021 ACS2021-EPS-PPD-0002
2. Extract of Draft Minutes, Community and Protective Services Committee, dated September 16, 2021.

Extrait de l'ébauche du procès-verbal, Comité des services communautaires et de protection, le 16 septembre 2021.

**COMMUNITY AND PROTECTIVE
SERVICES COMMITTEE
REPORT 21
SEPTEMBER 22, 2021**

**53 COMITÉ DES SERVICES
COMMUNAUTAIRES ET DE
PROTECTION RAPPORT 21
LE 22 SEPTEMBRE 2021**

SUBJECT: Towing Services Regulatory Review and Licensing Regime

File Number ACS2021-EPS-PPD-0002

Report to Community and Protective Services Committee on 16 September 2021

and Council 22 September 2021

**Submitted on September 2, 2021 by Anthony Di Monte, General Manager,
Emergency and Protective Services**

**Contact Person: Valérie Bietlot, Manager of Public Policy Development,
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE

**OBJET : Services de remorquage: examen de la réglementation et régime des
permis d'entreprise**

Dossier : ACS2021-EPS-PPD-0002

Rapport au Comité des services communautaires et de protection

le 16 septembre 2021

et au Conseil le 22 septembre 2021

**Soumis le 2 septembre 2021 par Anthony Di Monte, Directeur Général, Services
de protection et d'urgence**

**Personne ressource : Valérie Bietlot, Direction de l'élaboration de politiques
publiques, Services de protection et d'urgence**

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Quartier : CITY WIDE / À L'ÉCHELLE DE LA VILLE

REPORT RECOMMENDATIONS

That Community and Protective Services Committee recommend that Council approve:

- 1. Amendments to the City's Licensing By-law (No. 2002-189, as amended), as described in this report, to:
 - (a) establish regulations for the licensing of tow service operators, tow truck drivers, and vehicle storage facility operators by the addition of a new Schedule No. 35, as well as minor amendments relating to definitions and administrative provisions, in the general form as set out in Document 1;**
 - (b) add regulations related to storage of towed vehicles in Schedule 3 for public garages, in the general form as set out in Document 2; and**
 - (c) add towing-related provisions to revise regulations in Schedule 30 for private parking enforcement agencies in the general form as set out in Document 3;****
- 2. Delegated authority for the Chief License Inspector to adjust the recommended prescribed towing services rates yearly based on the Statistics Canada Consumer Price Index for Ottawa-Gatineau, as described in Section 14 of the proposed Document 1; and**
- 3. The addition of 2.5 full-time equivalents in By-law and Regulatory Services to administer and enforce the recommended licensing regime, to be funded on a cost-recovery basis from licensing fees, as further described in this report.**

RECOMMANDATIONS DU RAPPORT

Que le Conseil approuve :

- 1. Les modifications à apporter au Règlement sur les permis de la Ville (Règlement n° 2002-189, dans sa version modifiée), selon les modalités exposées dans ce rapport, afin :**

- (a) **d'établir les règlements d'application pour la délivrance des permis destinés aux exploitants de services de remorquage, aux conducteurs de dépanneuses et aux exploitants des établissements d'entreposage des véhicules, en ajoutant dans le Règlement la nouvelle annexe n° 35, de même qu'en apportant de légères modifications aux définitions et aux dispositions administratives, selon les modalités générales exposées dans le document 1;**
 - (b) **d'ajouter, dans l'annexe n° 3, les règlements d'application se rapportant à l'entreposage des véhicules remorqués pour les garages publics, selon les modalités générales exposées dans le document 2;**
 - (c) **d'ajouter les dispositions liées au remorquage afin de réviser les règlements d'application de l'annexe n° 30 à l'intention des agences du contrôle du stationnement sur les propriétés privées (ACSPP), selon les modalités générales exposées dans le document 3;**
- 2. Les pouvoirs délégués à l'inspecteur en chef des permis pour qu'il puisse rajuster les tarifs imposés et recommandés pour les services de remorquage d'après l'Indice des prix à la consommation de Statistique Canada pour Ottawa-Gatineau, selon les modalités décrites dans la section 14 du document 1 proposé;**

L'ajout de deux virgule cinq (2,5) équivalents temps plein dans les Services des règlements municipaux pour administrer et faire appliquer le régime des permis d'entreprise recommandé, à financer selon le principe de la récupération des coûts à même les frais de délivrance des permis, selon les modalités exposées plus précisément dans ce rapport.

EXECUTIVE SUMMARY

The purpose of this report is to provide staff recommendations for a business licensing regime for tow service operators (tow companies), tow truck drivers, and operators of vehicle storage facilities, attached as Document 1. In addition, staff recommend new rules for licensed public garages regarding storage of towed vehicles and licensed Private Parking Enforcement Agencies regarding towing of illegally parked vehicles,

attached as Document 2 and 3, respectively. This regulatory review forms part of the 2019-2022 By-law Review Work Plan.

Together, the regulations will focus on enhancing consumer protection, public safety, and protection of property, and will complement or align with existing provincial laws and regulations. The proposed licensing regime will:

- Require tow service operators, tow truck drivers, and vehicle storage facility operators to obtain a business license and comply with the regulations to operate in Ottawa
- Introduce minimum eligibility conditions to obtain a license, such as proof of a good driving record, submission of a police record check, and proof of insurance
- Improve conditions at an accident scene by creating conduct rules for tow truck drivers
- Create local transactional rules to enhance consumer protection, such as disclosure of towing rates to the consumer before a tow takes place, requiring appropriate documentation to assist with follow-up and investigations and providing timely notification of the vehicle storage location
- Prescribe, or set, flat rates for certain key services to ensure that consumers are not overbilled and to provide consistency and fairness for consumers and businesses alike
- Place accountability on tow companies for ensuring that all their drivers are properly licensed and meet provincial requirements, transaction records are maintained, and vehicles and equipment are safe

The recommended by-law includes offences and fines for non-compliance as well as the ability for the Chief License Inspector to review the licensing status of any non-complying licensee and to suspend or revoke a license in required cases.

Assumptions and Analysis

The licensing regime for the towing industry is designed to complement and align with existing provincial laws and regulations in the areas of consumer protection and highway and vehicle safety. Consultations with stakeholders have revealed that municipal regulations are desirable to fill gaps in consumer protections and to reinforce existing provincial regulatory approaches while providing additional local enforcement tools, as described further below.

Staff also note that the Province of Ontario enacted the [Towing and Storage Safety and Enforcement Act, 2021](#) as Schedule 3 of the *Moving Ontarians More Safely Act, 2021* to create a new system of provincial oversight for the towing industry by requiring tow service operators, tow truck drivers, and vehicle storage operators to be certified and meet applicable standards. The legislation appears to address similar issues as the municipal by-law proposed in this report and while this legislation received royal assent on June 3, 2021, it has not yet been proclaimed into force and is unlikely to be in force until fulsome regulations are developed under it. As a result, the full scope and extent of the provincial certification regime as well as the timelines for its implementation are currently unknown. Staff therefore recommend proceeding with the municipal towing regulations now to ensure that local rules are in place as soon as possible for consumer protection, public safety, and protection of property. Once provincial regulations are developed and the provincial model comes into force, staff will review its effects and recommend any required amendments to the municipal by-laws due to conflict or overlap.

Financial Implications

The proposed licensing regime will be implemented on a cost-recovery basis through licensing fees to offset the cost of administration and enforcement. The addition of 2.5 full-time equivalent positions for By-law and Enforcement Services are required to implement, administer, monitor, and enforce this new licensing regime and accompanying regulations.

Public Consultations and Input

The development of the proposed licensing regime was informed by consultations that occurred in 2020 and 2021. These included consultations with City staff as well as

Ottawa Police Service and Ontario Provincial Police representatives, municipal staff from other jurisdictions, and representatives from the Ministry of Transportation. An Engage Ottawa project page on ottawa.ca was launched in the spring of 2020 to provide information and updates to the public. This site has received approximately 6,000 unique visitors over the course of the review. A public survey and an industry survey were used to gather input and views on areas requiring regulation and concerns with towing services, and feedback received is summarized in a What We Heard document posted on ottawa.ca. Specific stakeholders such as tow service operators and tow truck drivers, insurance services representatives, a provincial towing association, and an auto club were consulted throughout the consultation period on potential regulatory approaches and options as well as a business licensing proposal. Staff also consulted specifically with Private Parking Enforcement Agencies and public garage licensees, as well as vehicle storage facilities on towing and storage related amendments.

In the majority, input received from these engagement and consultation activities reflected support for the implementation of a licensing regime with accompanying regulations to improve consumer protection and public safety. More detailed information on the consultation and engagement process and the input received can be found below in this report and in Document 4.

BACKGROUND

Committee and Council report history

City staff last studied towing regulations in 2013 and have been monitoring issues in the industry since that time. As a result of the 2013 report on the [Feasibility and Impacts of Licensing Tow Truck Companies](#), City Council petitioned the Province of Ontario for legislation to enhance consumer protection and road safety related to the towing industry. A further update on the towing industry was presented to Committee and Council with an [Information Previously Distributed Memo](#) in 2018, following legislative amendments made by the Province in 2017 which are noted below.

Current situation

Typically, consumers require towing services when they are unable to remove their vehicle from an accident, have a vehicle breakdown, or have their vehicle lawfully impounded. In the case of an accident or breakdown, the consumer may interact with several parties, including a tow service operator and an insurance provider or auto club by phone as well as a tow truck driver at the scene, in addition to the police and other first responders, depending on the circumstances. Once a tow truck is hired, the vehicle can be towed to various locations including a collision reporting centre, a repair facility, or a vehicle storage facility, or sometimes a combination of the above.

City staff have been made aware of complaints about towing services from the public through Ward Councillors, the Ottawa Police Service, and By-law and Regulatory Services in addition to specific feedback from consultations for this project. Matters that have been highlighted as areas of concern are the fees charged for towing and storage of vehicles, how transactions and agreements for towing and storage services occur, concerns about safety, such as aggressive sales tactics and accident chasing, and alleged situations of fraud and violence.

Currently, the City of Ottawa regulates towing in a limited fashion through the Traffic and Parking By-law (No. 2017-301, as amended). This by-law prohibits a tow truck driver from soliciting business or parking their vehicle within 100 metres of an accident scene unless they are requested by police, other first responders or the driver of a vehicle involved in the accident.

According to the Ministry of Transportation, there are approximately 40 towing service operators (companies) in the City of Ottawa, and other information received indicates that there are between 200 and 250 tow truck drivers operating in Ottawa. Tow service operators range from those having multiple vehicles and drivers to single operator companies. Some tow service operators have their own vehicle storage facilities and others are associated with separate storage facilities. There are also operators who are auto club associations. Some operators focus on non-accident service such as transporting vehicles to scrapyards or for non-profit organizations such as an educational facility or a charitable organization.

Provincial legislation

Several provincial laws apply to the towing industry:

- The *Highway Traffic Act* regulates tow trucks as commercial vehicles requiring prescribed record-keeping, compliance with the rules of the road, and regular safety inspections, among other regulations
- The *Consumer Protection Act, 2004* requires tow service operators and tow truck drivers to disclose key information to non-commercial consumers including contact information of the tow provider, the location of the storage facility, applicable rates of service before tow and the tow service operator's interests with a storage/repair facility
- The *Repair and Storage Liens Act* contains prescribed notice regulations for storage providers when there is a lien on a vehicle

The Province enacted additional legislative requirements in January 2017 to increase consumer protections, address insurance fraud, and enhance service quality through the [Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014](#). These amendments included requirements for authorizations before towing or storing a vehicle, rate disclosure and provision of payment options, and notification to consumers of where vehicles were being towed. Despite these 2017 amendments, concerns have been raised regarding gaps in consumer protection and remedies for non-compliance, as further described in the Discussion section below.

Timing of Provincial Review and New Legislation

On June 29, 2020, the Province of Ontario announced the establishment of a task force to review provincial oversight of the towing industry, with the stated goals of increasing safety and enforcement, clarifying protections for consumers, improving industry standards, and implementing tougher penalties for violators. (See: [Ontario Increasing Oversight of Towing Industry, 29 June 2020](#)) On March 2, 2021, the Province of Ontario announced the launch of a Joint Forces Operation between the Ontario Provincial Police and municipal police services, as well as a Restricted Tow Zone Pilot, to improve the safety and enforcement of the towing industry in Ontario. (See: [Province to Launch Joint Forces Operation Team and Tow Zone Pilot](#))

The Province of Ontario has recently enacted the [Towing and Storage Safety and Enforcement Act, 2021](#) as part of the *Moving Ontarians More Safely Act, 2021*. While this legislation received royal assent on June 3, 2021, it is not yet in force and regulations under it have not yet been developed. The Province of Ontario's Towing Technical Advisory Group made up of several industry and government stakeholders, including City of Ottawa staff in the Public Policy Development Services branch, will continue to meet throughout 2021 to provide feedback on potential regulations and the implementation of a provincial regulatory model to support the new legislation.

The regulatory regime created under this new towing legislation will establish a certification requirement for tow service operators, tow truck drivers, and storage facility operators, under the administration of the Province of Ontario. It sets up a framework for potential requirements for driver training, vehicle and equipment standards, consumer protection provisions, and roadside behaviours, among other issues. Once in force, this legislation will replace current provincial rules in the *Consumer Protection Act, 2002*, and other laws pertaining to tow trucks. However, the scope and details of the requirements are to be determined in future regulations to be passed under the Act.

As noted above, staff recommend that the municipal by-laws proposed in this report be enacted and implemented to ensure that local rules are in place. The timing of the implementation of the provincial regime is unknown at this time, and the full scope of the Province's oversight of key regulatory areas and standards will only be known once the regulations are developed and passed. As such, staff have concluded that it is important for the City of Ottawa to implement a licensing regime now. Future adjustments to this regime can be made if necessary once the full extent and impact of the new provincial regulations are known and can be assessed.

DISCUSSION

Municipal Overview

The recommended business licensing regime for the towing industry are based on Council's authority to pass by-laws under the *Municipal Act, 2001*. Under Subsection 10(2) of this Act, City Council can enact by-laws to establish a business licensing regime, and to address issues of consumer protection and protection of property, and the health,

safety and well-being of persons. Under the business licensing authorities found in Part IV of the *Municipal Act, 2001*, City Council can require businesses to be licensed to operate in Ottawa and can impose conditions as a requirement of obtaining, continuing to hold, or renewing a license. The City can regulate property and equipment used for the business as well as the persons engaged in the business. Issues of non-compliance by licensees can be addressed through charges and fines, and licenses may also be suspended or revoked in serious circumstances of non-compliance. Finally, Section 155 of the *Municipal Act, 2001*, further authorizes Council to regulate the rates or fares to be charged for towing services as well as regulate how these fares and rates are collected.

Towing Regulation in Ontario Municipalities

To better understand the issues related to regulating towing services, City staff have studied towing by-laws in other municipalities in Ontario, particularly in terms of how they addressed areas such as consumer protection, public safety, and other issues of municipal concern. Of the 444 Ontario municipalities, approximately 25 regulate the towing industry, which includes 19 municipalities that have implemented business licensing regimes for this industry. Research indicates that a few municipalities, including the City of Ottawa currently, only have specific towing regulations within their parking and traffic by-laws to prohibit tow providers from being within a certain distance from an accident scene.

Most of the municipalities that have enacted business licensing requirements for the towing industry are located within the Greater Toronto Area. These by-laws typically require application requirements such as proof of insurance, driver's license, vehicle ownership, provincial vehicle inspections and driver abstracts. Other information required includes a criminal record check, providing a Commercial Vehicle Operator Registration certificate and a declaration of interest with a storage yard or public garage. Licensing fees must be paid, and some by-laws require a plate on each operator's tow truck. Most by-laws have operating criteria for tow service operators and drivers such as driver conduct and safety standards, consumer protection provisions such as disclosure of rates and fares and a requirement for a towing authorization and record-keeping, as well as regulations for vehicle standards and vehicle storage. Most by-laws prescribe one or several towing rates to reduce excessive billing. Some cities also license either

the tow truck or the vehicle storage lot and some municipalities require specific training for drivers.

Recommendation 1a – Licensing Regime

Staff recommend the establishment of a business licensing requirement for the towing services industry under the City’s Licensing By-law (No. 2002-189, as amended) as set out in Document 1. Through consultation, City staff have heard stories of excessive towing and storage rates and situations where vehicles have been towed to undisclosed locations, often where there is an arrangement between the tow truck driver and either the vehicle storage or repair facility. At times, consumers can be billed thousands of dollars more than expected for towing and storage services following an accident.

Input from the public and stakeholders has also indicated that relief for consumers who have been improperly billed or whose rights have been transgressed is not sufficient through existing provincial processes. Some respondents suggest that areas of consumer protection and protection of property are not adequately addressed through existing provincial complaint and enforcement mechanisms, or can be difficult to enforce by police, and therefore require enhancements through municipal regulations for greater efficacy and ease of enforcement.

Staff analysis has also determined that there are regulatory and enforcement gaps for this industry that can be addressed through a municipal business licensing regime that can be enforced locally by by-law officers or police officers as necessary. For example, the *Consumer Protection Act, 2002*, currently offers no protection for commercial entities such as car rental services as it only protects personal transactions. Similarly, there is no legislation currently in place to prescribe, or set, towing or storage fares and rates. In addition, detailed and standardized authorization requirements, as recommended in the draft by-law, can strengthen existing processes around towing authorizations currently found in Provincial legislation, as well as disclosure of applicable terms and conditions by the tow truck driver. Stakeholders also called for municipal regulations to better govern and enforce the conduct of tow service operators and drivers, and the lack of vehicle and equipment standards. All of these areas raise concerns about consumer protection, public safety, and protection of property.

As part of this regulatory review, staff consulted with the Ottawa Police Service and the Ontario Provincial Police. Feedback from accounts of their interactions with the industry included issues such as lack of transparency about the cost of towing services and the uneven quality of services for the consumer, towing providers making what appeared to be misleading or false representations to the consumer to solicit a tow, and aggressive sales tactics at accident scenes. Both agencies are in support of the need for licensing for these businesses as well as the accompanying enforcement tools. The proposed provisions will make it easier for by-law officers to investigate complaints and enforce regulations addressing consumer protection and public safety. The proposed regulations also provide additional enforcement tools for police, as required and when appropriate, in addition to provincial legislation.

Licensing approval conditions

The proposed regime will create business licensing categories for tow service operators, tow truck drivers, and vehicle storage facility operators with specific conditions to obtain or renew a license. These screening conditions are essential to ensure that operators and drivers meet minimum requirements to be licensed, including ensuring applicable provincial certifications, appropriate driving records and insurance is in place. In addition, the regulations will require proof of an acceptable Vulnerable Sector Check (Level 3) as a measure for enhanced public safety and consumer protection, given the direct relationship between operators or drivers and consumers, including where the consumer can be a passenger as part of the service. The Chief License Inspector would have the authority to require the provision of any additional information if it was necessary to determine eligibility or continuing eligibility for a license or compliance with the proposed by-law.

For tow service operators specifically, the conditions of issuance for a license would include submitting information on the towing company, its business and trade names, ownership details, and contact information including a place of business in Ontario where the licensee can be served documents. Applicants would also be required to provide a list of all tow truck drivers providing services for the company, information about every tow truck used in the business including vehicle ownership as well as Ministry of Transportation inspection records and proof of a Commercial Vehicle Operator

Registration certificate, among other relevant information. Where the vehicles are plated in the Province of Quebec, proof of equivalent certifications from Quebec authorities would be required, to the satisfaction of the Chief License Inspector. Operators would be required to file a schedule of towing rates and fares.

Tow truck drivers would also be required to provide proof of a valid driving licence with no driving restrictions, a statement of driving record, and the name of the tow company for which they are providing towing services. If a driver is not affiliated with a tow services operator, then he or she would be required to also obtain a tow services operator license under the by-law.

Vehicle storage facility operators would also have to submit business and ownership details, contact information including a business location in Ontario at which they can be served, location and other details of the storage facility, and proof of prescribed insurance. Provisions requiring tow service operators to disclose business relationships with storage facilities or repair facilities have also been included, as this assists enforcement staff to locate where vehicles are located when a vehicle is not found after a tow.

A separate license would be required for each tow service operator (company), driver, and storage operator, and licenses would not be transferrable. For all three licensing categories, the Chief License Inspector would have the authority to place conditions on a license as he or she deems necessary in the public interest, for public safety, or for consumer protection.

The recommended by-law also provides that the City-issued tow service operator or tow truck driver license is also automatically suspended if the licensee's Commercial Vehicle Operator Registration certificate, vehicle operator registration, or driver's license, as applicable, is expired, revoked, or suspended by the Province of Ontario or the Province of Quebec. In addition, the licensee must immediately inform the Chief License Inspector if this occurs. The effect of these provisions is that any tow service operator or driver will not be able to lawfully operate in Ottawa should the required provincial licenses and certifications not be in place.

Exemptions from licensing requirement

Exemptions from the business licensing requirement are recommended for operators or drivers who exclusively provide services for charitable or non-profit organizations, scrap yard transportation, or school boards. These activities do not engage the public because they are often administered through contracts or other non-monetary considerations. As a result, business licensing is not required for these entities as issues of consumer protection, public safety, and protection of property do not arise in the same way as they would for services that are paid for individually by the tow customer at accident scenes or roadside. It is noted that these exempted tow providers are still subject to the *Highway Traffic Act* when they transport vehicles.

Towing Service Operators – Standards

The proposed by-law includes standards for tow service operators to enhance consumer protection, public safety, and protection of property. Each tow service operator will be required to ensure that all tow truck drivers providing services for the company are duly licensed and meet all requirements of the by-law. They will also have to keep a copy of their City of Ottawa license as well as provincial permits in each tow truck. In addition, every tow service operator will be required to:

- Keep an updated list of drivers and tow trucks along with appropriate documentation and provide it to by-law officers when requested
- Keep their vehicles free from mechanical defects and comply with all vehicle standards and inspection requirements prescribed under the by-law and the *Highway Traffic Act*
- Ensure that each vehicle used to provide tow services bears the City-issued tow service plate required under the by-law as well as prominently display the company identification on both sides of each vehicle so that consumers and first responders can easily identify them
- For transparency, have a schedule of fares and rates in each vehicle and provide the schedule on request

- Maintain a record of each towing transaction with prescribed information, so that complaints and non-compliance can be investigated, and the by-law can be enforced
- Disclose to the Chief License Inspector and to consumers any ties to vehicle storage or repair facilities when requested

The by-law also requires each tow service operator to ensure that their drivers are aware of the regulations.

Tow Truck Drivers –Standards

Standards for tow truck drivers are included in the proposed by-law, including the basic rule that a vehicle cannot be towed unless the service has been specifically authorized by the tow customer (with lawful authority over the vehicle in question) or by an authorized official such as a police officer. When a vehicle is towed, specific transactional and documentation rules must be followed. These provisions are intended to regulate the conduct of drivers and increase accountability at the accident scene or elsewhere when providing tow services by minimizing any aggressive solicitation and providing protections for the consumer by enhancing transparency about the towing transaction.

In addition to obtaining authorization to tow, tow truck drivers will also be required to:

- Carry their City of Ottawa license and provincial driver's license at all times when providing tow services
- Respect driving rules and comply with setback rules to accident scenes
- Comply with instructions issued by the tow customer or by first responders, including towing the vehicle to the requested location and use the most direct route to do so
- Allow the tow customer access to the vehicle to retrieve personal possessions, unless directed otherwise by law enforcement personnel or if it is unsafe

- Not induce a person to hire the tow service by providing misleading information, or deceiving them as to the condition of the vehicle or any other matter pertaining to tow services
- Comply with all safety requirements, including wearing high visibility clothing when working on the highway

Vehicle Storage Facility Operators – Standards

Information received from the public and insurance companies during consultation and engagement for this project revealed stories of consumers who were not informed of where their vehicles were being stored and who felt that their vehicles were being held “hostage” by storage operators. Reports of escalating storage fees with no notice to the tow customer were also received. Some vehicle owners were denied access to their vehicles while in storage. In addition, a perceived lack of security around the storage site were also raised.

Staff have reviewed this input as well as regulations for vehicle storage in other municipalities and existing provincial legislation to design specific regulations for vehicle storage facility operators to impose minimum standards for consumer protection and safety. The proposed by-law creates obligations for the vehicle storage operator to:

- Notify tow customer where their vehicle is located and a procedure to release the vehicle within a reasonable time frame
- Hold standard operating hours and allow access to the towed vehicle to the owner and to law enforcement
- Comply with the Zoning By-law
- Ensure the facility is secure and well-lit
- Implement a log system for stored vehicles to ensure tracking of vehicle entry and egress

Compliance with other legislative requirements

The recommended by-law requires that tow service operators, tow truck drivers, and vehicle storage facility operators comply both with applicable City by-laws as well as all applicable provincial or federal laws and regulations. Compliance with the Traffic and Parking by-law has been noted by members of the public as being especially important, with complaints received about tow truck drivers parking or stopping in residential areas while waiting for calls or by being within 100 metres of an accident scene without being requested by a tow customer or police officer. Any repeated contraventions of Provincial legislation or City by-laws may cause the Chief License Inspector to review the licensing status of a particular licensee, which could lead to imposing a condition on the license to address the situation or to the suspension or revocation of the license in extreme cases.

Transactional Rules

Input from members of the public, law enforcement agencies and stakeholders in the insurance industry as well as some tow service operators indicated concerns about lack of transparency for towing rates and fares, the identity of the towing provider, as well as lack of information about where the towed vehicle was going to be stored. As a result, staff recommend regulations to specifically require the tow service operator or tow truck driver to be more transparent while undertaking the towing transaction and to not mislead or withhold important information from the tow customer. The recommended transactional rules align with the consumer protection provisions that already exist in provincial legislation but will provide local oversight as part of the licensing regime as well as enforcement tools that can be applied by by-law officers and police officers as required for non-compliance.

The proposed by-law requires that a written authorization form, which provides for more details than an invoice, must be completed for every tow service prior to the service being provided or payment being received, except for tows occurring for police or by-law investigation and those that are pre-arranged by membership in an auto club or through other agreements. Important details will be included on the form such as correct contact information for both the operator and the tow customer, tow truck driver's licence, towing service plate number, information about the towed vehicle, location where the tow originated as well as the destination of the tow, and an itemized bill including all

projected costs for the tow service, including the storage service. Police officers can assist in the process where the vehicle driver is incapacitated. One copy of the authorization form must be provided to the tow customer and another must be kept by the tow service operators and kept on file for at least two years after the tow service has been provided. Tow service operators must make these forms available to the Chief License Inspector for purposes of investigating complaints or compliance with the by-law.

Tow service operators and drivers will be prohibited from receiving a drop fee from a vehicle storage or a repair facility. This will reduce incentives that can lead to aggressive sales tactics at the accident scene or lack of transparency for the tow customer about applicable fares and rates.

Vehicle Standards and Inspections

Vehicle standards for tow trucks are an important regulatory tool that enhance the safety of the tow customer, the tow truck driver, and others who may be present at the accident scene, as well as the overall safety of the general public. The Province of Ontario currently has regulations addressing vehicle safety in the *Highway Traffic Act*, including requirements for regular vehicle inspections. Staff expect that these safety requirements will be reviewed by the Province as part of its development of provincial regulations, as noted above. However, staff assess that it is also necessary to have municipal regulations in place for this area as part of the proposed licensing regime to enhance safety and to allow for streamlined inspection and enforcement processes as part of the complete municipal regulatory regime. It is noted that many of the municipal towing licensing by-laws reviewed by staff include some vehicle standards provisions in varying degrees.

It is therefore recommended that every tow service operator be required to ensure that each vehicle used in the towing business is appropriately sized and purpose-built for the tow service that is being provided, in proper condition and free of mechanical defects, with the necessary industry and safety equipment on the vehicle such as appropriate lifting and securement equipment, warning devices for reversing, flares and other items. The standards being proposed in this regard have been informed by input provided in consultations with industry participants such as tow service operators and drivers.

In addition, and in line with most municipal towing regulations that were reviewed, the Chief License Inspector will be authorized to require any vehicle used for the licensed business that is unsafe or suspected to be unsafe to be inspected by by-law officers or a licensed third-party mechanic, as appropriate. Should it be necessary, the Chief License Inspector may also impose a condition on a business license that a vehicle not be used by the business until proof of remediation or repair has been provided.

Prescribed Towing Service Rates and Fares

Based on comments received from the public, industry participants, and insurance companies, high towing and storage fares and rates are issues of concern that respondents felt needed to be specifically regulated through new rules. Specific concerns raised noted extra fees in addition to the basic tow rate, with examples cited of additional fees for administration, mileage, wait times, securement of the vehicle, battery disconnect and storage. These additional fees could add hundreds of dollars to the final amount with the total bill being double or triple the expected amount. It was also noted that fares and rates throughout the industry lacked consistency. Further comments from stakeholders on towing rates are mentioned in Document 4.

Provincial consumer protection legislation does not directly regulate this aspect of towing services, and it is not yet known if the new *Towing and Storage Safety and Enforcement Act, 2021* will prescribe rates and fares and if so, to what extent. Municipalities have this ability to prescribe rates though Section 155 of the *Municipal Act, 2001*.

Comments from other municipalities that license the towing industry reflected that prescribed rates can:

- Provide more consistency for transactions
- Reduce conflict at accident scenes and aggressive solicitation
- Reduce the number of trucks at an accident scene
- Reduce chasing to an accident scene

Staff have therefore concluded that prescribing rates and fares for certain key towing services is an effective municipal tool. Under the proposed regime, a tow service

operator or tow truck driver can only charge the rate prescribed by the City for that particular service. Any rate that is not prescribed in the proposed by-law would be determined by the tow service operator on a case by case basis. However, as noted above, all rates to be charged for tow services would need to be disclosed to the tow customer and must be listed in the schedule of rates filed with the Chief License Inspector at the time of application or renewal for a business license.

The prescribed rates and fares found in Appendix A of Document 1 mainly focus on services that are used at accident tows, where much of the overcharging has been reported to take place. These prescribed rates were compiled by staff based on comparison with those prescribed by other municipal regulators in Ontario as well as specific feedback and recommendations received from the towing industry and representatives of insurance companies. Staff were able to review examples of invoices for towing and storage services that were submitted as part of the consultation process to determine examples of high or excessive rates. It was noted however that rates and fares charged by the heavy towing industry (towing vehicles above 4,500 GVWR) were not an issue as most of the stakeholders agreed that this segment of the industry is well self-regulated.

The rates and fares recommended by staff are flat rates and break down between different types of collision tows depending on vehicle weight. Prescribed rates for a separate flat bed tow and a non-collision tow are included. Other flat rates are also established for typical additional secondary service rates such as mileage beyond 20 kilometres, recovery services, clean up, waiting time and a re-tow rate from the Collision Reporting Centre, where necessary. Activities such as the use of securement devices are included in the prescribed flat tow service rates proposed in the by-law to prevent overcharging. In addition, any recovery activities, such as winching or moving a vehicle, will need to be documented with proof of service through photos.

To ensure that the prescribed rates are economically viable for licensees, staff recommend that they be adjusted automatically yearly based on the Statistics Canada Consumer Price Index, as more fully described in Recommendation 2, below.

Insurance requirements

Proof of the required insurance will be a condition of licensing. Tow service and vehicle storage facility operators will be required to obtain and maintain commercial general liability insurance for bodily injury or death of a person and damage to property subject to a limit of not less than \$2 million, as well as automobile liability insurance with an inclusive limit of not less than \$2 million, and cargo liability insurance with a limit of not less than \$50,000. Coverage against liability for damage to the vehicle of a consumer while in the licensee's care, custody, and control of at least \$100,000 will also be required. These recommended insurance provisions mirror those that are currently prescribed under the *Consumer Protection Act, 2002*, for tow service operators and provide consumer protection.

To recognize flexibility in the manner that insurance coverages are procured, the proposed by-law provides that the City Solicitor is authorized to approve alternative and equivalent insurance coverage. In each case, proof of acceptable insurance coverage will be required as a condition of issuance and renewal of a license.

Should the Province of Ontario's new towing and storage legislation require different amounts or coverage, staff will review the matter and recommend any necessary amendments to Committee and Council.

Refusing, restricting, suspending, or revoking licenses

As is the case with other businesses regulated under the City's Licensing By-law, the Chief License Inspector will have the authority to refuse to issue or renew a license based on enforcement history or if the conditions of issuance of the license have not been met. The Chief License Inspector will also be able to place restrictions on a license to address specific concerns about a licensee, as required, or to respond to particular recurring situations of non-compliance. The Chief License Inspector has the discretion to suspend a license for any violation of the by-law until the violation is corrected. Finally, a license may also be revoked for violations of the by-law, if false or misleading information was provided by the applicant, or if the Chief License Inspector determines that the ongoing operation of the licensee is adverse to the public interest.

The Chief License Inspector's decision to impose a condition on a license, to refuse to issue or renew a license, or to suspend or revoke a license are appealable to the City's

established Property Standards and License Appeal Committee, as is the case with all of the City's business license categories.

Licensing Fees

Licensing fees are established to cover the City's costs of enforcement and inspections, and additional administrative work for the proposed licensing regime. These fees are further detailed in the draft amending by-law found in Document 1.

The recommended annual fee for a tow service operator license is \$1,300. There will be an additional annual surcharge required of \$550 for every tow truck in the operator's fleet, which includes the original tow vehicle plate. This method was chosen instead of having a higher standard operator fee, which would disproportionately affect those companies with only a few vehicles. The amount has been assessed as providing cost recovery given the small number of operators estimated to require a license in the Ottawa area in comparison to larger cities.

The recommended annual fee for the tow truck driver license is \$450. It is comparable to other municipal licensing regimes. This amount is lower than other licenses for tow companies or storage providers to encourage tow truck drivers to participate and comply with the proposed licensing regime.

The recommended annual fee for a vehicle storage facility operator is \$1,300 to achieve cost recovery for the enforcement expected with this sector of the industry. On-site investigations by by-law officers may be required to address complaints and inspections may be required to ensure that the facilities comply with the different operational standards in the requirements.

Finally, there will be one-time fees recommended for either a replacement plate or sticker, which are \$30 and \$20, respectively. All licensing applications will also have a standard administrative fee of \$57, which is the current cost for all City license applications.

Recommendation 1b - Public garage schedule amendment

As part of the towing cycle, towed vehicles can be brought to businesses that are licensed as a public garage under the City's Licensing By-law. A public garage includes automotive related uses, including but not limited to a motor vehicle repair or body shops, and parking lots. Vehicles are often towed directly to a public garage where they may have to wait days before assessment or repair. Although not universal, staff have heard from stakeholders that fees for storage of towed vehicles at some public garages can reach excessive amounts should the vehicle be there for several days.

To enhance consumer protection and to provide consistency across regulations for towed vehicles, staff are recommending amendments to Schedule 3 of the Licensing By-law (No. 2002-189, as amended, regarding public garages, that would enhance the transparency of transactions for vehicle storage at these facilities (see Document 2). The provisions would require a licensee to file applicable rates with the Chief License Inspector and disclose them to the vehicle owner/agent if requested. Other provisions would require obtaining the authorization of the vehicle owner for storing vehicles and allowing access at no charge to the vehicle when requested.

Staff also recommend prescribing the storage rate for towed vehicles at public garages to a maximum of \$60 a day as part of the prescribed fees noted above in this report, to protect the consumer from excessive rates. This amount is based on a review of storage rates prescribed by other municipalities. In addition, the provisions prohibit a public garage licensee from demanding, requesting or receiving a drop fee, and charging a storage rate in excess of the schedule of rates filed with the Chief License Inspector.

Recommendation 1c – Private parking enforcement agency schedule amendment

An amendment is proposed to Schedule 30 of the Licensing By-law (see Document 3) respecting licensed private parking enforcement agencies. Officers appointed by private parking enforcement agencies are deputized by the City of Ottawa and are intended to be parking enforcement agents on behalf of the City's By-law and Regulatory Services. They are deputized to specifically enforce Traffic and Parking By-law provisions pertaining to illegally parked vehicles on private property and as such, are mandated to

follow strict procedures regarding the charging of offences, the use of City provincial offence notices (tickets), and the removal of cars that are illegally parked on private property.

Staff have heard concerns from the public, law enforcement, and licensees about private parking enforcement agencies that enforce traffic and parking regulations but use their own tow service to remove a parked car from a private property at significant expense to the vehicle owner. This raises a concern about actual or perceived conflict of interest where a private parking enforcement agency may benefit from providing towing services on the properties they enforce, where their role as enforcement officers is to focus on parking infractions. Similarly, this type of dual activity may undermine the public's confidence in the enforcement role of a private parking enforcement agency. As a result, staff recommend a by-law amendment that prohibits a private parking enforcement agency from holding a towing service operator license or a tow truck driver license. This would prohibit private parking enforcement agencies from receiving any monetary or personal gain while representing the City as a deputized officer.

In addition, staff also recommend by-law amendments to permanently adopt a pilot program aimed at making authorized tows from private property more efficient and streamlined. These amendments are based on a pilot program introduced by By-law and Regulatory Services in April 2019 that allows private parking enforcement agencies to initiate the towing of illegally parked vehicles from private properties using the City's towing contractor without the need to have a by-law officer on-site, provided specific conditions are met. Conditions include requiring consent of the property owner on which the vehicle was illegally parked, confirmation that parking infractions have occurred, and compliance with specific procedures to initiate the tow through By-law and Regulatory Services Dispatch in accordance with the protocol set out and communicated by the Chief License Inspector. The pilot program proved to be a success, with improved procedures, shorter wait times for towing and proper documentation for towing services. This proposal was reviewed with licensees in September 2020. Feedback received indicated overall support for the changes.

Regulatory options not pursued

Non-licensing regulatory model

A non-licensing regulation model was reviewed as part of this project but is not being recommended by staff. It was concluded that a licensing regime provides a full set of regulatory and enforcement tools that are well suited for the towing industry and provide cost-recovery for administration and enforcement costs through licensing fees, and therefore is more advantageous than a non-licensing regulatory approach.

Mandatory driver training

Tow truck driver training was also noted as an area to explore for municipal regulation. While staff agree that training standards for tow truck drivers would be beneficial for public safety and consumer protection, it was concluded that such a training regime for tow truck drivers would be difficult for the municipality to develop, administer and manage, even through a third-party provider. Given that this area is being reviewed by the Province of Ontario and may be the subject of provincial regulations, staff recommend that tow truck driver training not be contemplated at the municipal level at this time.

Towing Dispatch

Though our consultation process, staff heard from both the public and industry stakeholders that issues at the accident scene such as aggressive solicitation by tow service providers, confusion for tow customers, and lack of consistent processes for towing transactions can result in difficulties during the towing process. Tow trucks can arrive at the scene through a variety of means, including a direct call from the tow customer or by the use of scanners, but there is no centralized or consistent method of dispatching a tow truck to the scene.

Issues related to the dispatching of tow trucks to the accident scene were the most common area of concern from the perspective of industry respondents during the consultation period. One of the issues raised by tow service operators and drivers was

the way police officers direct or dispatch tow trucks at accident scenes, with tow truck drivers alleging that they are not given a chance to tow because towing opportunities are often directed by officers to the police towing contractor.

The Ottawa Police Service has advised that further to Ottawa Police Service policy No. 8.09 on Traffic Investigations, police officers at an accident scene are instructed to leave it up to the tow customer to hire a tow service. In addition, a police officer at the scene may choose to use the Ottawa Police Service contractor when it is essential to clear an obstructed roadway, or if the consumer is unable or unwilling to call for a tow truck. Otherwise, police officers are prohibited from providing recommendations to a tow customer regarding a tow service operator. The Ottawa Police Service has also advised that that officers at the scene use an Ottawa Police Service contracted tow service operator when there is a need to seize a vehicle as evidence, remove an abandoned vehicle or for other police related matters.

Although not part of a regulatory system, staff did investigate how towing dispatch is conducted in other areas of Ontario. Depending on the situation, vehicles can be towed through several options such as first truck to the scene, rotational dispatch, tow customer's preference, police officer discretion at the scene, or using auto club memberships. The Halton Regional Police Service operates a rotational dispatch system used where the tow customer involved in the accident needs assistance to hire a tow truck. Under this program, tow operators are approved through a set of criteria and tow rates are capped depending on being an accident or non accident tow. A portion of the rates goes to the Halton Regional Police Service to administer the rotational system. This system can provide more consistency with the removal of vehicles, but it can limit the number of operators eligible to be included in the program based on the approval criteria. Information collected by staff on the dispatch service administered by Halton Regional Police Service has been shared with the Ottawa Police Service for their information and review.

City staff also investigated the option of a towing application ("app") to be administered by the City for dispatching tow trucks to the scene. It was concluded that this type of technology was better suited to be used by the industry rather than a municipality as it

may conflict with existing dispatch “apps” or programs already being utilized by the towing industry.

Further to the Province’s task force on the towing industry, the Province will be introducing a [Tow Zone Pilot Program](#) in the Greater Toronto and Hamilton areas this fall. It will involve four separate zones on 400 series highways where an approved towing contractor will handle the towing services for that specific zone for a two-year term. As part of the Province’s oversight model under the *Towing and Storage Safety and Enforcement Act, 2021*, the legislation provides for the potential designation of highways as restricted towing zones, in which only authorized certificate holders may provide towing services. The legislation also provides that one or more dispatch services may be designated by the regulations for the purposes of governing the dispatching of tow trucks. The details of these provisions and how they may impact the industry will be determined once the regulations are finalized. The City will continue to monitor the success of the tow zone pilot and how dispatching regulations may work in the future.

At this time, staff do not recommend that the City regulate or implement a towing dispatch system for the Ottawa area. The proposed consumer protection and prescribed rates recommended in the licensing regime will assist in many of the issues addressed from this review. In addition, there may be other dispatch options available to the City once the provincial oversight and tow zone pilot are concluded.

Recommendation 2 – Delegated authority for indexing fares and rates

Further to the recommendation noted above that fares and rates for key towing services be prescribed by the City, staff also recommend that the Chief License Inspector be delegated the authority to index those rates on a yearly basis based on Statistics Canada’s Consumer Price Index. The Consumer Price Index is measured by Statistics Canada and reflects the changes in prices for goods and services over time based on relevant economic factors. Staff recommend that the prescribed fares and rates for towing services therefore be automatically adjusted to reflect the fluctuations in price experienced by towing providers, and that the specific Consumer Price Index rates for Ottawa-Gatineau be applied, as calculated by Statistics Canada. This will ensure that

the fares and rates prescribed by the City will keep up with relevant economic factors faced by the industry to provide fair and viable rates for both the consumer and the industry.

Based on the above, the Chief License Inspector would work with the Financial Services Department of the City to adjust the prescribed fares and rates in the proposed regulations at the end of January on a yearly basis in accordance with the “All Items” previous year’s rate published by Statistics Canada in Table 18-10-0005-01 for Ottawa-Gatineau (*Statistics Canada, Table 18-10-0005-01, Consumer Price Index, annual average, not seasonally adjusted*), and any successor table. The Chief License Inspector would ensure that the required by-law amendment is made to update the fares as well as provide notice of the adjusted rates to all licensees as soon as possible after publication by means of an official email and would also subsequently publish the rates on ottawa.ca to provide general awareness for consumers. The adjusted rates would apply for the subsequent year until they are adjusted again based on CPI the following year, using the same process. It is noted that this process to adjust the prescribed towing rate has been used in the City of Toronto since their licensing by-law was amended in 2017. City of Toronto staff have advised that this indexing method and approach have not faced any significant concerns or challenges from the industry.

Recommendation 3 – Staff requirements

It is anticipated that there will be significant investigative and administrative work involved in support of the regulatory framework. Individual investigations are anticipated to require more staff time to complete given the mobile nature of these businesses and the anticipated requirements for evidence collection.

Typical enforcement complaints will be on issues such as towing rates and fares charged by the industry, non-compliance of required record keeping and tow transactional forms, tow truck driver conduct, vehicle standards violations, and consumer protection infractions. Further to previous concerns raised by the public and members of Council, it is anticipated that there will be several hundred service requests annually. The revenues from fees collected will have to provide for some level of unforeseen enforcement such as potential proactive enforcement and inspections

supported by By-law and Regulatory Services for the Ottawa Police Service and Ministry of Transportation efforts. Based on the anticipated workload, it is recommended to add two enforcement officers to the Licensing Administration and Enforcement Branch of By-law and Regulatory Services.

Work for the review and approval of applications for the three different licensing categories will be extensive, especially for tow service operators. Staff will need to review and verify information submitted such as vulnerable service checks, ownership details, vehicle records, provincial approvals, inspection records and driver abstracts. Based on the anticipated workload, it is recommended to have one-half of a full-time equivalent position for a Licensing Assistant for this program.

Financial Requirements

The total budget for the first two years is anticipated to be:

- FY 2022: \$307,000
- FY 2023: \$283,000

These figures assume hiring staff for an effective date of January 1, 2022. The budget includes all staffing, training and equipment costs as well as staff hotelling costs. One-time costs of approximately \$28,000 will be incurred in year one for the initial purchase of officer equipment and the required inventory of vehicle plates and stickers. Staff anticipate that licensing fees will generate approximately \$299,000 annually. Revenue calculations are based on information obtained from industry stakeholders and law enforcement on possible numbers of operators, vehicles, and drivers. It is estimated that there are 40 tow service operators, 200 tow truck vehicles, 225 tow truck drivers and 20 vehicle storage facility operators.

A risk management exercise was further conducted to assess the likely range and probability of revenue scenarios for each license category to inform staff's recommendations for licensing fees. As such, the recommended licensing fees found in Document 1 are projected to achieve cost-recovery for the new licensing regime.

Implementation

To provide time for education and outreach to potential licensees and to the public, staff recommend an in-force date of January 1, 2022 for the proposed licensing regime and associated regulations. This will also allow staff from By-law and Regulatory Services to develop required administrative forms and intake processes as well as educational material for posting on ottawa.ca, in consultation with other relevant branches and departments.

Next Steps

Should Council approve the staff recommendations, staff from Emergency and Protective Services will communicate with towing industry participants and existing affected licensees to provide information about the new regulations and implementation timeline as well as license applications and requirements. Information for the industry and for the public will be made available on ottawa.ca for education and awareness.

Staff will continue to monitor the progress of the *Towing and Storage Safety and Enforcement Act, 2021* to determine when it will come into force and when regulations under it will be introduced. Staff will also continue to participate in the Province of Ontario's Towing Technical Advisory Group. Once the legislation is in force and regulations are known, staff will review any conflicts or duplication with the recommended business licensing regime and make recommendations for any necessary amendments to Committee and Council. Finally, staff will also monitor the success of the Province's tow zone pilot and determine whether there is opportunity to implement similar restricted tow zones in Ottawa.

FINANCIAL IMPLICATIONS

All Financial implications are as reflected previously in this report. The proposed licensing regime will be implemented on a cost-recovery basis through licensing fees to offset the cost of administration and enforcement. The addition of 2.5 full-time equivalent positions for By-law and Regulatory Services are required for implementing, administering, monitoring, and enforcement of this new licensing

regime and accompanying regulations. The FSU shall be responsible for any required adjustments to the operating budgets.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations set out in this report.

With respect to the proposed by-law regulations set out under Recommendation 1 to this report, the *Municipal Act, 2001* provides municipalities with the authority to enact by-laws to address a variety of licensing and regulatory matters. More particularly, Subsection 10(2) of the Act lists 11 spheres in respect of which a municipal council can pass by-laws, including the following:

- the health, safety and well-being of persons (s. 10(2).6)
- protection of persons and property
- consumer protection (s. 10(2).8)
- business licensing (s. 10(2).11)

Specifically, Part IV of the *Municipal Act, 2001*, provides for broad powers for Council to impose conditions as a requirement of obtaining, continuing to hold or renewing a license. Furthermore, by way of Bill 130 2006, the Act was amended to specifically reference licensing of tow trucks under Section 155, and that a licensing by-law may establish the rates or fares relating to such business activity. Moreover, it is noted that the powers given to a municipality under the *Municipal Act, 2001* are to be interpreted broadly to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

As detailed in the report, the Province of Ontario has enacted legislation with respect to the towing and storage industry. The *Towing and Storage Safety and Enforcement Act, 2021*, being Schedule 3 to Bill 282, *Moving Ontarians More Safely Act, 2021*, received Royal Assent on June 3, 2021. As explained in the Report, the *Towing and Storage Safety and Enforcement Act, 2021* has not yet been proclaimed into force. Considering

the current and anticipated provincial scheme over the towing industry the statutory rules and legal doctrines relating to conflict should be monitored as noted in the Report. If an actual conflict was to occur between the by-law and provincial law, Section 14 of the *Municipal Act, 2001* provides that a by-law is without effect to the extent to any conflict with a provincial (or federal) Act or regulation. Generally, a by-law will not conflict with the provincial laws if it does not contradict the provincial law or if it does not frustrate the purpose of the provincial law. As such, municipal by-laws may be validly enacted notwithstanding that provincial and/or federal laws may have also been enacted with respect to the subject matter. As noted in the Report, the regulations under the provincial towing scheme are not yet available to assess whether Section 14 may be triggered. To date, there is no indication that the Province intends to exclusively occupy the field with respect to towing regulations and related consumer protection objectives that municipalities currently regulate through various mechanisms, as described in the report.

Recommendation 2 to the report seeks to delegate to the Chief License Inspector the ability to adjust the recommended prescribed towing services rates yearly based on the Statistics Canada Consumer Price Index for Ottawa-Gatineau. Such delegation is authorized by Council's powers to delegate pursuant to Sections 23.1 and 23.2 of the *Municipal Act, 2001*. The Act permits delegation to an individual who is an employee of the municipality and that the nature of the power being delegated, as in this case, relates to conditions on a license and is of such a nature that Council considers the delegation to be minor or administrative in nature.

COMMENTS BY THE WARD COUNCILLOR(S)

This report has City-wide implications.

CONSULTATION

The consultation process for this review began in early 2020 and has included engagement with internal departments as well as consultation with representatives of the Ottawa Police Service and the Ontario Provincial Police. In May 2020, the City launched the Engage Ottawa site on ottawa.ca for the Towing Services Regulatory

Review that included access to a public survey to obtain input on the towing experience in Ottawa and identify issues of concern, to which 891 responses were received. A separate survey for industry participants was also used and garnered 25 responses. This feedback is summarized in a What We Heard document that is posted on ottawa.ca and summarized in Document 4.

A first Discussion Paper was sent to industry stakeholders for comments in September 2020. It provided a summary of potential regulatory options for the towing services industry. Most of the feedback supported a business licensing regime and specific comments were provided regarding operational regulations. In June 2021, staff sent a Regulatory Recommendations Paper to key industry stakeholders that outlined potential regulations related to a business licensing regime. Feedback received has been used to finalize Staff's recommendations found in Document 1.

During the consultation phase, the emerging themes identified were concerns related to consumer protection, accident scene management, lack of regulations surrounding storage and towing fees, and the inability for tow customers to retrieve vehicles at storage facilities. Many of the comments received by email, through the public and industry survey, and from one-on-one virtual discussions with stakeholders revealed high support for towing regulations in the City of Ottawa.

ACCESSIBILITY IMPACTS

This report recommends a licensing regime for tow service operators, tow truck drivers and vehicle storage facility operators, along with related regulations. As part of this regime, licensees will be required to comply with both Provincial and Federal laws and regulations. This includes the *Accessibility for Ontarians with Disabilities Act, 2005*, and the Integrated Accessibility Standards Regulation that is passed under it. Any licensee that is considered to be a small or large organization under the legislation may therefore be subject to specific obligations including those relating to information and communications standards for tow customers.

While By-law and Regulatory Services has no authority to enforce the *Accessibility for Ontarians with Disabilities Act, 2005* itself, information can be provided to members of the public upon request on how to provide feedback or make a complaint to the

appropriate provincial authority should concerns be raised about compliance with the legislation. In addition, confirmed violations of provincial legislation may result in the review of the license status of any licensee under the proposed by-law, and would be addressed on a case-by-case basis by the City's Chief License Inspector.

Staff confirm that all information that will be made available to the public or to prospective licensees about the proposed licensing regime and related regulations on ottawa.ca will be compliant with the City's obligations under the legislation and will be provided in French and English. In accordance with City policy, alternative formats and supports will also be available upon request.

RISK MANAGEMENT IMPLICATIONS

There are risk implications related to the uncertain timing of the *Towing and Storage Safety and Enforcement Act, 2021*, and lack of specific details as to its full scope and effect. These risks have been identified and explained in the report and are being managed by the appropriate Emergency and Protective Services staff.

RURAL IMPLICATIONS

The recommended licensing regime for the towing industry and related by-law amendments will apply City-wide and improve consumer protections, public safety, and protection of property for all residents of the City.

TERM OF COUNCIL PRIORITIES

This report supports the Term of Council priorities for Economic Growth and Diversification and Thriving Communities. For economic growth, the new regulations will ensure that businesses who provide outstanding service, appropriate consumer protection measures, and maintain safe equipment will thrive in this regulatory environment. The recommended by-law amendments will further support thriving communities by protecting residents and visitors with enhanced consumer protection and allowing them to enjoy a good quality of life, protection of property and a sense of community well-being by having safe and secure towing services in Ottawa.

SUPPORTING DOCUMENTATION

Document 1 – Draft By-law to license towing industry and regulate vehicle storage

Document 2 – Draft By-law to amend Schedule 3 of the Licensing By-law respecting public garages

Document 3 – Draft By-law to amend Schedule 30 of the Licensing By-law respecting Private Parking Enforcement Agencies

Document 4 – Summary of Public Consultation

DISPOSITION

Upon approval, Emergency and Projective Services together with the City Clerk and Legal Services will prepare the required by-laws for enactment by Council. Staff from Emergency and Protective Services will also take necessary steps to apply for and obtain set fines in relation to offences in the recommended by-laws, and to undertake public awareness and related initiatives in conjunction with other relevant City departments.