

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE OCTOBER 4, 2017
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	PUBLIC PARTICIPATION MEETING BUSINESS LICENSING BY-LAW REVIEW – NEW AND REVISED REGULATIONS

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance Services and Chief Building Official, the Business Licensing By-law (attached) **BE INTRODUCED** at the Municipal Council meeting of October 17, 2017, it being noted that the new and revised regulations were developed with consideration of public comments received from seven public participation meetings .

PREVIOUS REPORTS

June 21, 2016	CPSC	Proposed new categories / existing by-law changes
November 15, 2016	CPSC	Putting Consumers First Act
December 13, 2016	CPSC	Status Update
January 24, 2017	CPSC/PPM	General Provisions, Payday Loans, Door to Door Sales
February 22, 2017	CPSC/PPM	Contractors, Donation Bins, Personal Service Establishments, Tobacco and Electronic Cigarette Retailers
April 25, 2017	CPSC/PPM	Commercial Parking, Pet Shops, Public Halls, Seasonal Sales Businesses
May 24, 2017	CPSC/PPM	Food Premises, Refreshment Vehicles, Auto Services
June 20, 2017	CPSC/PPM	Adult Entertainment Establishments
July 18, 2017	CPSC/PPM	Lodging houses, Second Hand Stores, Salvage Yards
September 12, 2017	CPSC/PPM	Adult Entertainment Establishments, Unsolicited Motor Vehicle Towing and Storage

BACKGROUND

In December 2016, Civic Administration presented a report to CPSC outlining proposed new categories of businesses to be licensed for a variety of different municipal purposes and identifying existing categories of businesses licensed under the City’s Business Licensing By-law which require updated regulations. A number of new business categories were proposed (i.e. payday loan lenders, donation bin operators) and a number of changes were proposed to existing regulations (i.e. adult entertainment, second-hand shops). The proposed new business categories and revised regulations can generally be categorized into the following municipal purposes:

- consumer protection,
- nuisance control,
- public health and safety,
- crime prevention,
- streamlining/consolidation.



A total of seven public participation meetings were held starting in January 2017 and concluding in September 2017. The purpose of this report is to summarize the new and revised business categories and associated regulations.

General Provisions

The general provisions of the Business Licensing By-law contain regulations on the following matters: prohibitions, exemptions, by-law administration, application process, licence issuance process, powers of the Licence Manager, delegated authority, hearings before the Hearings Officer and enforcement. Since the original public participation meeting, some minor changes were made to the regulations in the general provisions section which are mainly administrative in nature and do not materially impact the regulations found in the schedules to this by-law.

Throughout the proposed by-law, Civic Administration is proposing to utilize section 23 of the *Municipal Act* authorizing the delegation of legislative powers. The intent of this section is to streamline City Council's decision-making process and enable it to focus on larger issues in a more strategic manner. Section 23.2 of the *Municipal Act*, authorizes the delegation of legislative powers, provided that, in the opinion of the Council of the municipality, the power being delegated is of a minor nature. In determining whether or not a power is of a minor nature, the Council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power. This process was recently implemented in the Informal Residential Care Facility Licensing By-law and the Vehicle for Hire By-law. The process is efficient as it allows for the development and implementation of operational regulations by Civic Administration which otherwise would be required to be approved by Council by way of by-law amendments. The Licence Manager has a written Standard Operating Procedure on delegated authority of regulation development including public consultation and posting of the regulations on the City's web site.

Since the initial public participation meetings, operational regulations developed by Civic Administration were posted on the City web for comments. The regulations are of a minor nature and generally focused on operational matters specific to the business category. Since the by-law is applicable City wide, the regulations would impact all licensees throughout the geographic area of London for the full time period of the active licence.

Fees

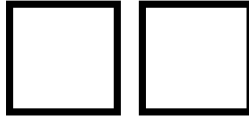
There is a nexus of the licensing fees collected and the costs of administration and enforcement of the Business Licensing By-law. The recommended by-law contains fees for both initial and renewal applications; the fees for both are the same. The recommended fees for each category of licence were determined by taking a five year average of the costs of administration and enforcement of the by-law. For example, the proposed annual fee for a nail salon is \$179. This fee takes into consideration the municipal costs of an initial inspection, administration costs and several yearly random inspections related to this business category. Since the original public participation meeting, the fee schedule was amended to include a reduced fee for registered charitable organizations who may require business licences.

Business Licence Categories

Adult Live Entertainment Parlour and Adult Entertainment Body- Rub Parlour

The *Municipal Act* gives municipalities powers to pass by-laws with respect to business licensing. In addition to this broad power, the *Municipal Act*, also grants municipalities the authority to have particular control over adult entertainment establishments. Under section 154 of the *Act*, adult entertainment establishments include goods, entertainment, and body rubs that are designed to appeal to erotic or sexual appetites or inclinations.

The two adult entertainment categories are licensed for the municipal purposes of protecting the health and safety of the patrons, to ensure the business is not a nuisance to the surrounding properties and neighbourhood, and consumer protection of those individuals who attend and partake in the services provided in the establishment.



There have been two previous public participation meetings on this matter. Staff previously met with the adult entertainment industry and their agents and have reviewed draft regulations. Since the original public participation meetings, the definitions were refined and consolidated to clarify the types of services provided in adult entertainment establishments. The schedules were also refined for locations with multiple addresses to clarify the defined area where a parlour can be located.

The following are the key regulations:

- The two adult entertainment categories (live and body-rub) are defined and regulated separately.
- Each of the individual categories contain the same locational requirements in terms of distance separations from incompatible land uses (places of worship, day cares, residential land uses and schools).
- Both categories require licensed operators. The role of the licensed operator is to ensure compliance with the by-law regulations and for operational oversight of the facility.
- The “no touch” regulations pertaining to adult live entertainment parlours remain.

Automotive Service Establishments

The current Business Licensing by-law regulates public garages for the purposes of health and safety, consumer protection and nuisance control.

The by-law categorizes public garages into several categories: vehicle rental establishments; vehicle sales establishments within a building; vehicle sales establishments on an open lot; gasoline sales; vehicle repair shops; vehicle washing/detailing; and automobile service stations (minor running repairs).

In order to simplify the application process and continue to meet the municipal purpose, the categories were summarized into one definition:

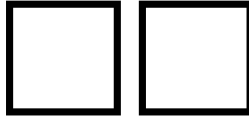
- “AUTOMOTIVE SERVICE ESTABLISHMENT” means the business of providing services involving motor vehicles including but not limited to automobile body shop, repair garage, sales and service establishments, gas bar, car detailing, car wash, window tinting, glass repair, electronic product installation, and motor vehicle rentals.

Commercial Parking Facilities

Commercial parking facilities are currently licensed under the Business Licensing By-law for the purpose of consumer protection such that the consumer will know who to contact in the case of fee disputes, malfunctioning parking meters or any other difficulties faced by consumers in the parking lot. Since the original public participation meeting, the regulations were clarified to exempt lots which are used for exclusive parking associated with a land use.

The key regulations are:

- Form and content of signage to be posted.
- Information on the fare charged, parking lot management contact information and fine/notice amounts.
- Maintenance standards with respect to debris removal and snow storage.



Contractors

Trades are generally referred to businesses that involve manual work in a particular trade or craft requiring skill. The City ought to regulate specified trades for the purpose of consumer protection against unfair or potentially unfair business practices. Since the original public participation meeting, plumbing contractors and drain layers were added back and roofers were added as a new contractor category. Consumer protection was the key determinant to make these changes.

The contractors recommended for licensing include:

- driveway contractors (new installation and maintenance),
- roofers,
- pool installers,
- mobile sign installation contractors,
- plumbing and drain layer contractors.

Since mobile sign installation contractors are proposed to be licensed under the Business Licensing by-law, the current Mobile Sign Business Licensing By-law L 128-117 is recommended to be repealed.

The key regulations are:

- Requirement for written quotations.
- Liability insurance.
- Compliance with municipal by-laws.

Donation Bins

Donation bins are generally considered to be any receptacle located outdoors for the purpose of collecting items including, but not limited to, clothing, shoes, books, toys, electronics, and other household items that are donated by the public for re-use. The bins are operated by either for-profit or not-for-profit organizations.

The City ought to regulate donation bins for the purpose of prohibiting public nuisances on adjoining properties or the surrounding area as a result of the accumulation of garbage and debris around the bins.

The key regulations are:

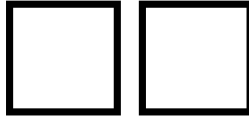
- Permission of property owner.
- Standards around cleanliness and refuse control.
- Posted bin identification.

Door to Door Sales Business

The City of London currently regulates door-to-door sales alongside other hawkers and peddlers for the purpose of ensuring the vendor is following all federal and provincial laws as well as health regulations; ensuring the business is not a hazard, nuisance or has a negative aesthetic impact on the municipality; and to protect the consumer who is purchasing the product being sold. Since the original public participation meeting, the regulations were revised to clarify the requirements for police record checks for employees involved in door to door sales.

The key regulations are:

- Require businesses conducting door-to-door sales of products or services to maintain a registry of employees who through door-to-door solicitation, sell, offer or attempt to sell, takes orders for, or solicit orders for goods, services, or any other thing. This registry must be maintained by such business and be available for viewing by a Municipal Law



Enforcement Officer or Police Officer. Contents of the registry as well as the format of an approved licence will be delegated to the Licence Manager by way of regulation.

- Require businesses to maintain and submit upon request police record checks of all employees who's duties include door-to-door solicitation.

Electronic Cigarette and Tobacco Retailers

Tobacco retailers are generally referred to as a person or company engaged in the business of selling tobacco products. Electronic cigarettes, also known as e-cigarettes, are any vaporizer or inhalant-type device, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user.

The City of London ought to regulate tobacco and e-cigarette retailers to ensure compliance with federal and provincial laws regarding the sale and use of tobacco products.

The use and sale of tobacco products are clearly indicated in federal legislation (Tobacco Act) and provincial legislation (The Smoke-Free Ontario Act). Both Acts lay out regulations for the production, sale, marketing and use of tobacco products. However, Health Units across Canada have asked their local municipalities to create their own additional licensing regulations regarding tobacco vendors, to help ensure compliance and enforcement of provincial and federal laws. Since the original public participation meeting, the definition was refined for clarification purposes.

The key regulation is:

- Compliance with Federal and Provincial health related regulations.

Food Premise

The current Business Licensing by-law regulates eating establishments and food shops for the purposes of the health and safety of the consumers and for consumer protection.

From a customer service perspective, it makes sense to consolidate the two definitions into one definition for a food premise and apply the appropriate fire prevention, health unit and property standards regulations accordingly.

The key regulation is:

- Compliance with municipal and provincial regulations.

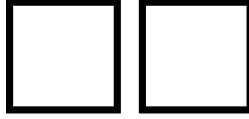
Lodging Houses

Lodging houses are currently licensed for purpose of protecting the health and safety of the persons residing in the house by ensuring that the fire code regulations are met, the required essentials such as plumbing and water are provided, for ensuring that the lodging house does not create a nuisance to the adjoining property or surrounding lands, and for consumer protection such that the persons residing in the house know who to contact in the case of a problem or emergency within building.

As this is an existing business category, the focus of the review was on consolidation of regulations. The general provisions of the Business Licensing by-law cover off compliance with other applicable legislation such as the Property Standards by-law and the Fire Code.

Payday loan Business

Payday loans are defined in the Ontario *Payday Loans Act, 2008* as “an advancement of money in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature but not for any guarantee, overdraft protection or security on property and not through a margin loan, pawnbroking, a line of credit or a credit card”.



Payday loan lenders ought to be regulated for the purpose of consumer protection so as to protect vulnerable individuals from unfair business practices and to ensure compliance with federal and provincial legislation on this type of business.

The key regulations are:

- Require payday loan businesses to post interest rate information. Specifics of the display of the poster (i.e. location of poster, size, font) and poster information (i.e. payday loan interest rate, price ceiling that lenders can charge for loans) will be delegated to the Licence Manager by way of regulation.
- Require payday loan lenders to maintain information regarding money management support and debt counselling in a form of a brochure made immediately available to any person expressing an interest in a payday loan. Specifics of the information on money management and debt counselling (form of brochure) and information (list of debt counselling associations, contact information) will be delegated to the Licence Manager by way of regulation.

Personal Service Establishments

Personal Service Establishments is a catch-all term generally used to describe a premise which provides services related to activities or treatments related to a person's physical appearance.

The City ought to regulate personal service establishments for the purpose of ensuring that any activity or undertaking does not affect or could possibly adversely affect the health and safety of consumers or workers or result in illness, hazardous conditions, injury, or harm to any of these individuals, and for the purpose of consumer protection against unfair or potentially unfair business practices that could result in loss on the part of the consumer.

This proposed new category of business licence will include, but is not limited to, body modification, hairstyling shops, nail salons, and tanning bed operators. Since the original public participation meeting, the definition was refined to clarify the types of services requiring a licence.

The key regulations are:

- Common health-related regulations regarding cleanliness.
- Compliance with any applicable age-related provincial regulations.

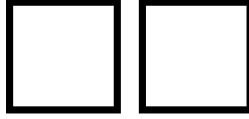
Pet Shops

The municipal purpose of licensing pet shops is for the health and safety of the animals being displayed or sold as well as the health and safety of all the patrons and occupants of the store, and for the purpose of consumer protection and ensuring that such pet stores operate legally in accordance with other municipal and provincial legislation.

Over the last decade, animal welfare associations have lobbied municipalities to not only regulate pet shops that sell animals for retail sale, but also ban certain industry practices, most notably the sale of animals which originated from commercial sources other than humane societies and shelters. Since the original public participation meeting, regulations were refined to clarify the source of companion dogs and cats to be sold at pet stores.

The key regulations are:

- Sale of animals from the following sources: London Animal Care Centre; the London Humane Society and City approved rescue groups.
- Licence Manager will maintain a list of permitted animals to be sold in pet stores.



Public Halls

Public halls are currently licensed for the purposes of health and safety of persons who enter the public hall and to ensure nuisance control. The definition was revised for clarification purposes.

Key regulation is:

- Compliance with municipal by-laws

Refreshment Vehicles

The current Business Licensing by-law regulates refreshment vehicles for the purposes of the health and safety of the consumers, to ensure that the vendors are not hindering pedestrian or vehicular traffic and for nuisance control.

In order to simplify the application process and continue to meet the municipal purpose, the categories were consolidated to three classes:

- Class 1 - A motorized Refreshment Vehicle from which prepackaged food products are sold or offered for sale, from place to place on public and/or private property (i.e. canteen truck) ;
- Class 2 - A non-motorized Refreshment Vehicle where food products, either pre-packaged or prepared on site, are sold or offered for sale at one location on public and/or private property (i.e. hot dog cart) ;
- Class 3 – A motorized Refreshment Vehicle where food products are prepared on site, and sold or offered for sale from place to place on public and/or private property (i.e. food truck).

Since the original public participation meeting, the classes were slightly refined for clarification purposes.

Seasonal Sales Businesses

The municipal purpose of regulating this form of business is to ensure the vendor is following all health related regulations related to the products being sold, to ensure that the business is not causing a nuisance by hindering vehicles or pedestrian traffic or causing a hazard in any way, and to protect the consumer who is purchasing the products being sold. Since the original public participation meeting, regulations were amended to add fireworks as a seasonal sales product.

The key regulations are:

- Signage.
- Selling from City property.
- Pedestrian or vehicular obstruction.

Second Hand Stores and Salvage Yards

Second hand stores and salvage yards are currently licensed for the purposes of protecting the consumer purchasing items and to ensure that the building/yard is safe and healthy for the persons who enter. An additional municipal purpose is deterring crime. Regulations will focus on preventing the acquisition of alleged stolen products. Since the original public participation meeting, changes to the regulations were made to exempt certain types of second hand stores (i.e. donation stores, second hand clothing stores).

The key regulations are:

- Operators will be required to verify the identity of the person disposing of a product.
- Record of all transactions.

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- Daily electronic submission.
- Certain products (jewelry) to be photographed.
- Five day hold for sales of product.

Unsolicited Motor Vehicle Towing and Storage

The municipal purpose of licensing motor vehicle towing and storage operators, who perform tows and storage of vehicles without the consent of the vehicle owner or operator, is for consumer protection such that a consumer will know who to contact in the case their vehicle has been towed and/or stored to allow them to retrieve their vehicle.

The regulations for this category apply to all private parking lots which are signed advising patrons of the option of towing as a consequence of illegal parking. The Licence Manager may make regulations on the following:

- Required signage.
- Information a Towing Business must provide to London Police Service prior to towing.
- Prescribing the format of the log book.

It is important to note that the City's Private Parking Enforcement Program provides an effective enforcement tool to property owners who wish to address allegedly illegally parked vehicles on their property.

Transition to New By-law

As with the adoption of any new or amended by-law, the initial focus will be on education. This will be rolled out immediately after the Council decision on the new by-law. Existing licensees as well as new prospective licensees will be advised of the new by-law regulations. Existing pamphlets will be revised as well as web and social media sources. Existing licensees will have their current licence expiry date extended to allow for the transition. Once the by-law is in full force and effect, the education protocol will continue and focus on the application process. The new by-law contains a regulation for the Licence Manager to waive renewal fees for new businesses who were licensed during the transition period.

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