

Committee of the Whole Report (2)

DATE: Tuesday, December 08, 2020

WARD(S): ALL

TITLE: TOW TRUCK REVIEW

FROM:

Gus Michaels, Acting Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This report proposes amendments to the Tow Truck regulations in Licensing By-law 315-2005, as amended.

Report Highlights

- Through the By-law Strategy, staff ensure the City's by-laws are municipally relevant, responsive to community needs and transparent to the public.
- Proposed changes to the Licensing By-law include an amendment to towing fees to reflect inflationary pressures, enhanced regulation of additional towing services, regulation of fees for heavy tows, changes in weight classification for the towed vehicles, requirement to post rates for services, and relief for towing companies under contract with police and other government authorities.

Recommendations

1. That the technical amendments to Licensing By-law 315-2005, as amended, in relation to Tow Trucks regulations, as provided in Attachment 1 of this report, be approved; and
2. That staff be authorized to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to other by-laws.

Background

In line with the By-law Strategy, By-law and Compliance, Licensing and Permit Services (BCLPS) is conducting a review of Tow Truck regulations in Vaughan. The scope of this review includes tow truck brokerages, owners and drivers, in order to address issues of municipal concern such as the health and safety of the public, consumer protection, and protection of property and persons.

There are currently 8 licensed tow truck brokerages, 356 licensed tow truck owners and 574 licensed tow truck drivers in the City of Vaughan. As of July 1, 2016, and January 1, 2017, new requirements were implemented as a result of *Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014* to address tow truck or vehicle storage services designed to increase transparency and strengthen consumer protection. Effectively, the City of Vaughan's Licensing By-law 315-2005 was amended by the [By-law 038-2017](#) to reflect these changes.

Key legislative changes as a result of the passing of the Bill were as follows:

The *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A was amended to require that tow truck and storage providers:

- disclose their business and contact information and get written authorization from a consumer (or someone acting on behalf of the consumer), before providing or charging for towing and storage services;
- provide an itemized invoice, listing services provided, the cost for each service and the total cost before demanding or receiving payment;
- not charge an amount more than 10% above the authorized estimated payment amount;
- accept credit card payments;
- allow a consumer access, at the consumer's request, to their vehicle to remove personal property, at no charge, ;
- disclose to a consumer the nature and extent of any interest, if any, in a particular storage or repair shop;
- maintain insurance coverage for prescribed kinds of liability in the prescribed amounts; and
- maintain authorization and disclosure records, invoices, copies of insurance policy, and statements of rates.

The *Highway Traffic Act*, R.S.O. 1990, C. H.8. was amended to:

- include tow trucks in the Ministry of Transportations (MTO) Commercial Vehicle Operators Registration (CVOR) system. This means all tow truck operators are to

hold a valid CVOR certificate and, under CVOR, tow truck owners are responsible for their drivers.

The *Repair and Storage Liens Acts* was amended by *Bill 15, Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014* and later by O. Reg. 427/15 to:

- require those that repair and store motor vehicles to provide written notice to the owner and any other interested parties (lease and finance companies) within 15 days (for Ontario registered vehicles), if a vehicle being stored is received from someone other than its owner. If the notice is not provided within the 15-day period, then the lien is limited to the unpaid amount owing for that period.
- refer the fair value to be determined in accordance with any applicable regulations in instances where no amount has been agreed upon for repair and storage costs.

Despite these legislative changes, there are still significant consumer complaints being lodged with respect to the tow truck industry, both at the municipal and provincial levels. Staff analyzed CTS complaint data from January 2004 to June 2019, which revealed that the total number of investigations during this period were 325, with the largest increase in incidents having taken place between 2011-2012. The average number of complaints per year for the 15-year period is 21. According to information from the Ministry of Government and Consumer Services' consumer protection data system, the total number of events relating to towing and vehicle repair for the City of Vaughan, from January 1, 2017 to July 22, 2019 is 28, or 11 events per year. In terms of business operation, current regulation of the industry falls under the domain of municipalities, who are responsible for mandating licences, establishing rates, setting safety requirements and protecting consumers. Ongoing concerns, persistent complaints, and inconsistent regulation across municipal boundaries, continues to spark calls for broader and more comprehensive provincial oversight.

Regulation in Vaughan

The City of Vaughan through its Licensing By-Law 315-2005, as amended, is responsible for overseeing all major aspects of the tow truck industry in Vaughan. There are three types of licences pertaining to the tow truck industry: 1) broker licences; 2) owner licences, and 3) driver licences. This by-law contains public safety checks and balances, such as mandatory criminal record checks, and required safety certificates, as well as consumer protection measures, such as maximum tow rates.

Provincial Position

On June 29, 2020, the Province of Ontario [announced](#) that it was establishing the Ontario Towing Task Force to improve provincial oversight of the towing industry. The Provincial task force will help develop a regulatory model with the stated goals of

increasing safety and enforcement, clarifying protections for consumers and improving industry standards, and considering tougher penalties for violators.

On September 24, 2020, the City of Vaughan participated in the task force's municipal stakeholder consultation workshop on the future of the towing industry. The issues discussed included criminal issues and complaints from consumers, such as vehicle storage and soliciting at the scene. Also, the provincial towing task force described and discussed benefits and considerations of two potential approaches to regulation of the industry: 1) an enhanced existing regulatory model; or 2) new provincial legislation to create a regulatory body that would issue licences for tow truck drivers, tow services operators, and storage facility operators.

In either case, if a regulatory overhaul is implemented, staff do not expect such changes to be implemented within the next two years. As such, staff are recommending that the City continue to provide industry oversight and enhance its regulatory regime.

Stakeholder engagement

Staff conducted an internal and external stakeholder engagement process to develop a fulsome understanding of the current situation, and to formulate corresponding recommendations in regard to tow truck regulation in Vaughan.

Staff have consulted with a range of stakeholders to develop a fulsome understanding of issues and opportunities. A comprehensive stakeholder mapping exercise identified the following stakeholder groups:

- members of the public;
- tow truck companies, owners and drivers;
- insurance companies;
- Canadian Automobile Association (CAA);
- Provincial Towing Association Ontario;
- Insurance Bureau of Canada;
- Ontario Ministry of Government and Consumer Services;
- York Regional Police;
- Ontario Provincial Police;
- 407 Highway;
- City of Vaughan staff;
- other municipalities.

The engagement process included:

- Staff meetings
- Stakeholder meetings
- Online web survey
- Website
- Cross-jurisdictional research

Cross-jurisdictional scan

Staff reviewed existing regulations and conducted a cross-jurisdictional scan, comparing towing regulations in seven municipalities in Ontario, including those of Markham, Toronto, Richmond Hill, Brampton, Mississauga, London and Hamilton. This comparative review, in addition to identified needs and stakeholder and public input, identified additional areas of regulation that need to be strengthened and provided a cross-jurisdictional scale to be able to arrive at an average rate for various towing services.

Cost of towing

Vaughan current tow rates:

- Collision flat rate - \$250
- Collision off road recovery - \$100
- Collision mileage per km (outside of Vaughan boundaries) - \$3.58
- Non-collision tow rate - \$125
- Mileage per km (outside of Vaughan boundaries) - \$3.58
- Storage inside - \$60
- Storage outside - \$55
- Per hour rate/wait time after 1 hour at the Collision Reporting Centre - \$67

Comparison of collision tow rates:

Vaughan – \$250 (plus additional fee for off road recovery fee)

Richmond Hill - \$250 (plus additional fees for winching, wait times and distance)

Brampton - \$284 (plus yearly inflation increases)

Toronto – standard tow \$250 or \$285 for a medium tow (plus additional fee for recovery services)

Mississauga – \$290 (no additional fees)

London – regular tow - \$193, flatbed - \$231 (plus additional fees if requires dolly, second person, second vehicle, winching, waiting time)

Hamilton – \$225 for a light vehicle, \$410 for a heavy vehicle (plus additional fees for each half hour of waiting after the first hour, and \$120 for secondary tow)

Stakeholder engagement timeline:

- June-July 2019 - meetings with BCLPS staff and Licensing Enforcement Field Officers;
- July 22, 2019 - stakeholder consultation with the Ministry of Government and Consumer Services (representatives from Consumer Protection Ontario, Consumer Services Operations Division). These representatives provided us with quantitative complaint data that they have received relating to towing and vehicle repair for the City of Vaughan from January 1, 2017 to July 22, 2019;
- July 31, 2019 - stakeholder consultation with police services (OPP and YRP) and 407 ETR representatives;
- July-August 2019 – consultations with other municipalities (email inquiries to municipalities and City of Markham stakeholder meeting);
- August 28, 2019 – stakeholder consultation with insurance industry and Canadian Automobile Association;
- December 2019 – mailout to tow truck industry representatives in Vaughan (brokerages, owners and drivers);
- Webpage and survey launched in October 2019 and available up to March 15, 2020;
- February 20, 2020 - email inquiry to Provincial Towing Association of Ontario;
- September – October 2020 – launching the second survey on COVID-19 impact on the tow truck industry and collision rates (online survey, website, emails and phone calls to stakeholders – police, staff, tow truck industry, insurance companies).

What we have heard so far

From the input received, staff have identified the following concerns and suggestions:

Overcharging customers: There are concerns that some tow truck drivers have been overcharging their customers. Also, police representatives underscored the need for tow truck companies to have a price list, to be available in the tow truck upon request and be readily visible at all times.

Recommending mechanics, garages and car rentals: Tow trucks are prohibited from recommending garages, but there have been many confirmed examples of this happening. There is a need to educate customers of their options and that they are not obliged to use the services of the body shops suggested by the tow truck representatives. A lot of stakeholders asked for a government-run vehicle storage facility to reduce the complaints of overcharging or of keeping vehicles longer than needed. Staff continue to explore this option and will review it in the future.

Tow trucks missing important safety equipment: Tow trucks are often missing important safety equipment, which leads to potentially dangerous consequences. The Licensing By-law has a list of required safety equipment, but tow truck drivers and owners often disregard these requirements. During regular inspections, police officers often find that chains are not hooked up, brakes and tires are worn, and that there are issues with dollies.

More information about tow truck regulation for the public: There was a suggestion to provide more information to the public on tow truck regulations and consumer rights.

Review the tow truck rates: There is a high degree of variance in accident towing rates within municipalities across the province. However, the average collision flat rate across Ontario municipalities surveyed is \$280. The towing industry mostly agree that tow fees should be increased to an average rate of \$350 (or an increase of more than 70% compared to Vaughan's current rate). Not surprisingly, customers believe that tow rates should be decreased. Some members of the tow truck industry also recommended eliminating the non-collision fee and making it a negotiable amount between the customer and the towing provider, as it would depend on distance travelled, vehicle type, and services provided. The customer would always have the option to choose another towing provider if he or she did not like the price quoted. There were also calls for regulating the fees for heavier vehicles. Finally, the towing industry also requested that they be permitted to charge for dollies and other tow-related services.

Removal of authorization form: The towing industry mentioned that customers are reluctant to sign towing authorization forms because they either fear legal consequences or are advised so by their insurance provider.

Relief from some by-law requirements for companies under contract with government agencies: Tow truck businesses under the contract with government agencies (e.g., police services) often have more obligations and different requirements imposed by these agencies. Their work often requires more time and effort in such cases as recovering stolen vehicles, recovering vehicles in pieces, using specialized equipment to protect evidence, etc. Their rates are usually set by those agencies and may exceed the general collision rates set by the municipality.

Background checks: There was a suggestion that a vulnerable police check might be more appropriate than a standard check, given the nature of the tow truck business. Currently, the Licensing By-law requires "a complete Police Clearance Letter issued by the Chief of Police, dated not more than ninety (90) days prior to the date application for license is being made" for tow truck brokerages, owners and drivers. The difference between a regular Police Information Check and one requiring a Vulnerable Sector Check is that one with a Vulnerable Sector Check will

include a check of local police records to determine if a pattern of behaviour that would present a direct threat to the safety of vulnerable persons exists. A Vulnerable Sector check will also determine if the applicant has been a pardoned sex offender. Staff are planning to address this issue more holistically when they conduct a broader review of the Licensing By-law and its licensing threshold provisions, including type of criminal checks, in the future.

Penalties: YRP had questions about what can be done if there is a number of infractions from Police Services on a licensee. The current Licensing By-law has [thresholds](#) in Schedule “I”, e.g., if a person has a certain number of infractions of a certain type, the licence can be denied, suspended, or revoked.

Concerns over “drop fees”: The Licensing By-law prohibits drop fees and defines them as: *“any fee or commission paid to the Owner or Operator of a Tow Truck or to a Tow Truck Brokerage in return for the towing or otherwise conveying of a vehicle to a particular place, other than or in addition to the amount to which the Owner or Operator of such Tow Truck is authorized to charge to the hirer in accordance with provisions of this By-law.”* However, despite the by-law prohibiting this, tow-truck drivers still charge drop fees. At the scene of an accident, consumers are often in vulnerable and stressful situations, combined with pressure from the police to clear the scene, they often succumb to pressure from tow truck drivers on where to take their vehicles. However, some insurance companies may not do business with these repair shops. There are accounts of consumers asking to be towed to the dealership but, for safety reasons, being towed to an impound lot instead (which allows the tow truck driver to secure a drop fee). If the insurance company refuses to do business with these lots or repair facilities, consumers are often left with the responsibility of covering any resulting fees. Applied as intended, drop fees allow tow operators to recover costs genuinely and honestly incurred. Some Ontario municipalities surveyed, including Toronto, permit drop fees.

Lack of centralized complaint system: Lately, there has been a decrease in complaints received through BCLPS (only 3 cases in 2019), which may be more a reflection of insurance companies not sharing complaints with public agencies, and more recently choosing to take tow truck operators to court, than of an actual decrease in offending behaviour. Complaints sometimes also are lodged with other agencies, such as Consumer Protection Ontario, as opposed to the City, thus underestimating the number of actual complaints. Some stakeholders suggested that there is a need for a centralized complaint system. Aside from the complaint process being fractured and inconsistent, there also appears to be a lack of specially trained individuals, with specific knowledge to deal with complaints pertaining to the tow industry.

Lack of formal training and certification for tow truck drivers: There was a suggestion that in order to obtain a licence, drivers should go through some form of training and/or testing. This, it was further suggested, would support greater

compliance within the industry. As it presently stands, tow truck drivers only require a “G” class driver’s licence and be at least 18 years of age. The insurance industry and the Canadian Automobile Association (CAA) have proposed a provincial certification requirement. Essentially, tow truck drivers would be certified in the same fashion as other trades or professions, in theory alleviating public safety concerns.

Towing weight: Some members of the towing industry asked for a change in the standard for weight classification, from simply towing weight, which is ambiguous, to the Gross Vehicle Weight Rating (“GVWR”). The former implies that the vehicle would have to be physically weighed. The GVWR, on the other hand, is specific for every vehicle and is marked on the vehicle certification label.

Waiting time: Some stakeholders stated that the waiting time of 1 hour should either be eliminated completely or reduced to half an hour. Waiting times pertain to instances when an owner or driver of a tow truck is ordered to tow or otherwise convey a vehicle from a collision scene to a Collision Reporting Centre. Under existing regulations, the tow truck owner or driver may charge a maximum of \$67 per hour, calculated in 15-minute increments, but only after the first hour of wait time, effectively providing that time free of charge.

Photocopied licences: Some concern was expressed with respect to the paper licences that are issued to tow truck drivers, as these can be easily more forged or altered than the picture cards formerly issued to drivers. Enforcement staff are able to look up a licensee’s information in the field through a mobile app installed on their in-field devices; however, other agencies such as YRP currently do not have such access. Staff will consider options to deal with this gap in its future licensing review, as the requirement could also affect other licence types.

Rotation rule: Some members of the tow truck industry inquired about the possibility of having a rotation contract with government agencies in the City. Towing businesses under such contract are called to accidents scenes by police services on a rotational basis.

Impact of COVID-19 on the towing industry

The industry was highly affected by the COVID-19 pandemic. Some members of the tow truck industry estimated a decline of up to 70% of revenue as a result of fewer cars on the road and fewer accidents. Both police and insurance companies confirmed the decline in the number of collisions. According to YRP, collisions are down approximately 50%-60%, while insurance companies estimate it as 30%. 407 ETR has currently 40% less traffic than usual (it was down 80% in April-May) and more than 50% fewer collisions for 2020 in comparison to 2019. At the same time, police mentioned more vehicles have been impounded for stunt driving and impaired offences. Protective equipment has also added cost to businesses, including the tow industry. Distancing and disinfection measures have also meant that tow truck drivers are no longer allowing

customers to ride along in their cabs, and according to some insurance company representatives, some public garages are now imposing additional fees related to cleaning.

Previous Reports/Authority

- [Item 1, Report No. 32](#) of the June 18, 2013 Committee of the Whole: *Tow Truck Licensing – Towing and Storage Rates* (approved by Council on June 25, 2013).
- [Item 9, Report No. 13](#) of the April 4, 2017 Committee of the Whole: *Technical Amendments to the Licensing By-law* (approved by Council on April 19, 2017).
- [Item 1, Report No. 53](#) of the November 29, 2011 Committee of the Whole (Working Session): *Tow Truck Industry – General Licensing By-law Review* (approved by Council on November 29, 2011).
- [Item 19, Report No. 30](#) of the June 7, 2011 Committee of the Whole: *General Licensing By-law Review* (approved by Council on September 13, 2011).
- [Report No. 53](#) of the November 22, 2011 Committee of the Whole (Working Session): *Tow Truck Industry – General Licensing By-law Review* (approved by Council on November 29, 2011).

Analysis and Options

No	Current State	Recommendation	Reasoning
1.	The Licensing By-law differentiates the towing fees on the basis of the towing weight, which requires the vehicle to be physically weighed.	Change the standard of measure for the weight classification of the towed vehicle to GVWR (Gross Vehicle Weight Rating) in the Licensing By-law, as it is specific for every vehicle and is marked on the vehicle certification label.	This proposed standard of measure can be easily checked and does not require physical weighting. It is also often used by MTO.
2.	The Licensing By-law regulates the maximum collision flat rate for the towing of vehicle not exceeding a weight of 2271 kg to be \$250.	Amend the Licensing By-law by changing the collision flat rate for the towing of vehicle with a GVWR not exceeding 2271 kg to \$280.	This rate is in line with the rates in other Ontario municipalities. It will benefit the tow truck business.

No	Current State	Recommendation	Reasoning
3.	The Licensing By-law states that a non-collision flat rate shall be no more than \$125.	Amend the Licensing By-law by deleting the non-collision flat rate and stating that a tow truck driver or owner shall provide the hirer with an estimate of the total cost of towing or any other additional services prior to providing such services. The final cost of towing shall be no more than 10% higher than the initially provided estimate.	This amendment will provide more clarification for the citizens. Such towing rate is negotiable between the customer and the tow truck owner or driver and depends on the different circumstances (distance, situation, etc).
4.	The Licensing By-law does not provide enough additional fees for many services. The only additional fee is \$100 for an off-road recovery.	Amend the Licensing By-law by adding such additional fees for the towing of vehicles not exceeding GVWR of 2271kg: • If vehicle requires use of dollies - \$45.00 • If vehicle requires use of second truck - \$150.00 • Winch fees per 1/4 hour - \$45.00 • Tarping - if required - \$20.00 • Absorbant material (oil dry) - \$10.00/bag Any other additional fees shall be approved by the Chief Licensing Officer.	This amendment is intended to provide tow truck operators to recover legitimate additional expenses.
5.	The Licensing By-law does not specify the rates for the towing of vehicles over 2271kg but less than 11794kg.	Amend the Licensing By-law by adding the following fees for the towing of vehicles with GVWR over 2271kg but less than 11794kg: • Collision flat rate \$373	This amendment is intended to differentiate heavy from regular tows, providing greater

No	Current State	Recommendation	Reasoning
		• If vehicle requires driveshaft pulled - \$45.00 • If vehicle requires use of second truck - \$250.00 • Winch fees per 1/4 hour - \$75.00 • Tarping - if required - \$20.00 • Absorbant material (oil dry) - \$10.00/bag Any other additional fees shall be approved by the Chief Licensing Officer.	clarification for the citizens.
6.	The Licensing By-law does not specify the rates for the towing of vehicles over 11794kg.	Amend the Licensing By-law by stating that, when applying for a licence, a tow truck driver or owner shall file with the Licensing Officer a schedule of rates for the towing of vehicles with GVWR over 11794kg. Any other additional fees shall be approved by the Chief Licensing Officer.	This amendment is intended to differentiate heavy tows from medium tows, providing greater clarification for the citizens.
7.	The Licensing By-law requires a copy of schedule of rates to be present in the tow truck at all times and be available upon request, but does not state that it should posted.	Amend the Licensing By-law by adding a requirement for tow truck owners and drivers to have a price list, provided in the format filed with the City, posted in a conspicuous place.	This amendment will provide greater transparency to consumers and make it easier for other enforcement agencies, such as YRP, to carry out enforcement.
8.	The Licensing By-law regulates the maximum fee for the wait time at a Collision Reporting Centre. The	Amend the Licensing By-law by stating that the first hour or part thereof for the wait time at a Collision Reporting Centre shall be \$68 and every 15 minutes	This amendment is intended to provide a fairer compensation

No	Current State	Recommendation	Reasoning
	owner or driver may charge a maximum of \$67 per hour, calculated in 15minute increments after the first hour of wait time.	after the first hour, or part thereof, of wait time shall cost \$17.	structure to tow truck drivers.
9.	The Licensing By-law does not provide any exemption for towing companies, which are under contract with police services or other government agencies, and that therefore might be subject to different towing rates under such contracts.	Add a provision to the Licensing By-law, which provides an exemption from the applicable fee schedule to towing companies under a contract with YRP.	This amendment will allow agencies like YRP to apply their rates consistently across the Region, without being in conflict with the City's by-law.
10.	The Licensing By-law states the no hirer of a tow truck shall be required or requested to pay any drop fee.	Amend the Licensing By-law by eliminating the prohibition of drop fees and stating that the maximum drop fee shall be no more than \$100.	This amendment recognizes the costs to operators, but also places a cap on drop fees.
11.	The Licensing By-law states how many convictions a licensee is allowed to have in order to get or renew a licence.	Amend Schedule I in the Licensing By-law by decreasing the allowed number of by-law related convictions from 6 to 3 within the last year and also. making these restrictions applicable to both POA convictions and confirmed penalties under AMPs.	This amendment will provide enhanced safety for the public, ensure more protection of consumer rights, and encourage greater compliance with the by-law.

Other Regulations

Municipal Act, 2001, S.O. 2001, c. 25 gives authority to local municipalities to establish the rates to be charged for the conveyance of property either wholly within the municipality or from any point in the municipality to any point outside the municipality and to provide for the collection of the rates charged for such conveyance. *Consumer*

Protection Act, 2002, S.O. 2002, c. 30 sets requirements for towing and storage providers to protect Ontario drivers. *Highway Traffic Act, R.S.O. 1990, c. H.8* regulates towing on Ontario highways. *Highway 407 Act* states that, for the purposes of respective provisions of the *Highway Traffic Act*, *Highway 407* shall be deemed to be part of the King's Highway.

Financial Impact

There are no anticipated budgetary impacts to the City as a result of the recommendations of this report.

Broader Regional Impacts/Considerations

This amendment will benefit and affect the work of York Regional Police, as they are authorized to enforce these regulations. Many of the amendments were taken after consultation with police services.

Conclusion

In accordance with City of Vaughan's By-law Strategy, and in order to achieve greater efficiency in the administration of tow truck regulations in the City, staff are making a number of recommendations, including increasing towing fees, adding fees for additional towing services, regulating heavy tows, changing weight classifications for towed vehicles, requiring the posting of price lists, and providing a rate exemption for towing companies under contract with YRP. Development, growth, inflation and legislative changes have created a strong need for a review of the City's current tow truck regulations. The proposed regulatory changes are in line with Term of Council Strategic Priorities, including supporting active, safe and diverse communities.

For more information, please contact: Gus Michaels, Acting Deputy City Manager of Community Services, ext. 8735.

Attachment

1. Proposed amendments

Prepared by

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Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels,
Acting Deputy City Manager of
Community Services

Reviewed by

A handwritten signature in black ink, appearing to read "Jim Harnum".

Jim Harnum, City Manager