

Committee of the Whole (2) Report

DATE: Monday, March 8, 2021

WARD(S): ALL

TITLE: COVID-19 RELIEF FOR BUSINESS LICENSEES

FROM:

Gus Michaels, Acting Deputy City Manager, Community Services

ACTION: DECISION

Purpose

The ongoing challenges for businesses as a result of the COVID-19 pandemic continue to necessitate relief efforts, while still maintaining the regulatory frameworks that protect the health and safety of the public, mitigate public nuisances and protect consumers. To this end, this report recommends temporary relief from a number of business licensing provisions.

Report Highlights

- On March 17, 2020, both the Province and the City declared a state of emergency arising from the COVID-19 pandemic and a number of measures, including the closing or restricting of businesses, were consequently implemented to limit the spread of the virus.
- Over the last twelve months, the City has taken steps to both ensure the health and safety of the public and provide some relief and support to businesses.
- The recommendations in this report are intended to provide some additional relief to struggling businesses, while recognizing the ongoing need to maintain the regulatory framework that protects the public.
- Although the foregone revenue from the relief proposed is expected to be approximately \$25,000, staff estimate that this amount can be fully offset if 5% or more of businesses, that might otherwise not have done so, renew their licences.

Recommendations

1. THAT Council approve the waiving of late fees for all businesses that have not yet renewed their business licences as of the approval date of this report;
2. THAT Council approve relief from Licensing By-law 315-2005 by allowing non-operating licensees to cancel their licences until they can begin operations again, at which time, assuming no ownership or other material changes have taken place with the businesses, and that such renewals take place within two years of cancellation, such licensees can renew their licences going forward; and
3. THAT Council approve these temporary provisions to be in place for a period not exceeding 14 days following the Head of Council's termination of the state of emergency in the City, or until the Director and Chief Licensing Officer seeks and receives approval from Council to terminate the relief measures at any time prior to the termination of the municipally declared emergency.

Background

On March 17, 2020 both the Province of Ontario and the City of Vaughan declared a state of emergency in response to the COVID-19 pandemic. Within a short time, the Province introduced extensive regulations aimed at mitigating the spread of the virus. These measures included the closing of many businesses and imposed significant operating restrictions on businesses that were considered essential and therefore allowed to remain open. Since then, businesses across the Province observed relaxed restrictions over the summer months, as the first wave of the virus lessened, only to have heavier restrictions imposed into the New Year due to increased record levels of daily infections. In mid-February of 2021, once again, some restrictions were lifted, as the second wave subsided; however, there is significant concern that new strains of the virus could result in a third wave peaking in late March.

Through the twelve months of the pandemic, the City has played a key role in ensuring the health and safety of the public while also trying to support local businesses through the challenges imposed by COVID-19 regulatory restrictions. To date, BCLPS has supported residents and businesses by:

- Deferring the payment of licensing fee renewals up to 180 days and the payment of disputed administrative penalties up to 90 days – these initiatives came to an end in autumn of 2020;
- Launching “Open for Business”, in conjunction with Economic Development and Corporate and Strategic Communications (with over 200 business submissions to date); and
- In conjunction with Development Planning, Building Standards and Fire and Rescue Services, providing regulatory relief for eating establishment owners to create or

expand existing patios on private property – this initiative is subject to the provincial regulations governing eating establishments.

Most recently, with the inability for some business to continue to operate either because of regulatory requirements or because restrictions do not make it economically viable to do so, there is a consensus that some level of regulatory relief is required. In addition, it is also recognized that even for businesses still operating, the regulatory volatility and uncertainty have created a need to be more flexible in the application of regulatory requirements – reasonably and with a maintained focus and commitment on public health and safety.

Previous Reports/Authority

[Communication C19](#) of Item 30, Report No. 20 of the Committee of the Whole (2) – Adopted by Vaughan City Council on May 27, 2020.

Analysis and Options

For purposes of COVID-19 regulatory relief, staff have identified two types of eligible businesses. The first type of business (Type 1) has been considered “essential” throughout all or most of the pandemic; these businesses include eating establishments, supermarkets, and hardware stores, among others. Many of these businesses require a municipal business license, in accordance with the City’s Licensing By-law 315-2005, and have largely continued to operate, albeit at time through a modified business model. Business licences are a way for the City to ensure that those businesses are operating, not just in accordance with municipal regulations, but are also complying with Public Health directives and Provincial Orders. Licensing not only protects consumers and the public, but also licensed businesses by ensuring that those not licensed or not in compliance, who may be seeking an unfair competitive advantage, are identified, brought into compliance or become subject to enforcement for continued non-compliance. The second type of business (Type 2) includes those that have largely been required to shut their doors to the public and have not been able to provide services through pick-up or delivery; these businesses include personal care services, like hair dressers and cosmeticians. This second type may also include businesses that may be so constrained by regulations or may be experiencing such a collapse in global demand that operation, while technically permitted, may not be viable; these businesses may cut across a wide variety of industries, including taxis and tow trucks. Some of these businesses, if they have managed to survive, have not operated much or at all since the start of the pandemic and may continue to be closed for some time. Staff have therefore considered how to best provide some relief, from the

perspective of municipal business licensing, to these two types of businesses while continuing to uphold the mandate and ensure the integrity of the regulatory regime.

For Type 1 businesses (i.e., those that are still operating), staff are recommending that late renewal fees be waived. Although licensing should continue to be required, staff acknowledge that the last twelve months have not only wreaked economic havoc, but have also been uncertain and confusing from a regulatory standpoint. Aside from the financial pressures felt by businesses, evolving Provincial Regulations in conjunction with different local regulations have also created an environment where businesses are overwhelmed with information (and sometimes, lack thereof). The result has been a much smaller number of renewing businesses. Thus, in considering this option, staff feel worthwhile reiterating that the mandate of licensing is to protect the public. Late renewal fees were intended, under normal circumstances, to incentivize licensees to renew on time; however, at this time those very fees may be having the opposite effect as they create an additional burden. If the goal of licensing is to protect the public, consumers and businesses then it is reasonable to take actions that maximize the number of operating businesses licensed. Staff believe that eliminating the late renewal fee may assist in this regard. The financial impact of this option is covered in the Financial Impact section of this report.

Operating businesses would still be required to be licensed; operating otherwise would still constitute an offence subject to penalties and other legal action. However, for businesses that renew, all late renewal fees otherwise applicable would be waived. The suspension of late fees would only be applicable as of the date of Council approval; any late fees charged prior to the approval of the Licensing Relief Initiative would not be eligible for a refund or credit. It is worth noting that businesses that are required to be licensed, but have not previously held a licence, must still apply and pay full fees. Again, failure to obtain a licence when required is a by-law violation and subject to penalties and other legal action.

For Type 2 businesses (i.e., those that have not been operating), staff are recommending that they be given the option to cancel their licences (and thus no longer be required to renew) with the ability to then renew (for the period going forward) once they restart operation. Although licensing is integral to the health, safety and wellbeing of the public, if a business is not operating, it does not pose any risk (from a licensing perspective); there is, therefore, no need to be licensed. Staff recognize that many of these businesses are on the edge of financial survival and that licensing fees, despite being minimal in many cases, add to that precariousness. In addition, holding a licence can sometimes have other implications. For example, in the taxicab industry all licensed taxicabs must have commercial insurance. This insurance tends to be significantly more expensive than private vehicle insurance and is required by most insurers if the vehicle is licensed as a taxicab. Therefore, if taxicab owners wish to stop operation, they may

not be able to discontinue their higher insurance as long as the vehicles continue to be licensed as taxicabs (which infers that such vehicles can operate as taxicabs at any time). The City's current Licensing By-law provisions do not allow for non-operating taxicab owners to continue to hold their licences, unless they pay the renewal fee. Also, under the Licensing By-law, a cancellation of a licence means that the licence is forgone and that a future application must be processed as a new application subject to all of the new application prescribed requirements. This puts licensees in a position where they need to choose to keep holding a licence at the risk of business failure, or cancel their licence to avoid costs and risk not being able to restart their business (or to do so at a more onerous cost). Staff believe that by granting non-operating licensees the option to cancel their licences and renew them at a later time provides for much needed flexibility. The financial impact of this option is covered in the Financial Impact section of this report.

Non-operating businesses that have their licences cancelled would not be subject to a renewal fee, subject to no goods or services being provided or offered to the public, including on-line or by phone. Staff would not be concerned with a non-operating business maintaining a web site, as long as such a site were not being used to actively sell or offer to sell goods or services. Prior to starting operations again, the business would be required to renew its licence for the coming year; there would be no need to pay any previous renewals or associated administrative fees. However, such renewal would be subject to it taking place within two years of the date of cancellation. This time frame is in line with current by-law provisions that require any lapsed licence to be permanently cancelled after two years. Where the business is a stationary business, the address of the business must have remained the same and no modifications requiring a building permit could have been made to the location. If otherwise, a new application would be required to ensure clearances such as police checks and zoning are satisfactory. Where a business is a mobile business, the vehicle must be the same vehicle at the time of cancellation and must be compliant with the by-law and thus subject to a no-charge inspection. A renewed licence under this relief initiative would amend the renewal date of the licence to the date of issuance of the renewal (irrespective of the previous term). All renewals would have to take place prior to operating. Again, it is important to reiterate that operating without a licence is a by-law violation and subject to penalties and other legal action.

Financial Impact

When staff estimated the impact of COVID-19 on licensing rates for 2020, a shortfall of \$819,000 was expected; a temporary shortfall of \$729,000 from the deferral of renewal fees and \$90,000 in forgone revenue from a loss of new licensing. The actual shortfall from licensing, as at the end of 2020 was \$725,985. Of this amount, staff believe that up

to \$646,000 may be recoverable and that 50% of this amount is likely to be recoverable over time with or without the initiative; however, the actual recovery rate will be influenced by many factors, of which most are beyond the control of the City. Although the current rate of infection appears to be stabilizing, with restrictions being loosened in many parts of the province, the possibility of a third wave looms ominously and could result in more restrictive conditions for businesses. It is also difficult to know how long and how severe conditions could get. The City expects late renewal fees to amount to approximately \$25,000 annually; the waiving of the fees would forego this revenue. However, it is expected that license renewals (that may have otherwise not occurred), will more than offset this revenue. Table 1, below, summarizes some possible scenarios, assuming the initiative is in place for the rest of 2021.

Rate of Incremental Renewal Recovery	Renewal Recovery	Revenue Forgone	Net Impact
5%	\$ 32,300	(\$ 25,000)	\$ 7,300
10%	\$ 64,600	(\$ 25,000)	\$ 39,600
20%	\$ 129,200	(\$ 25,000)	\$ 104,200
30%	\$ 193,800	(\$ 25,000)	\$ 168,800
40%	\$ 258,400	(\$ 25,000)	\$ 233,400

Thus, unless the incremental recovery rate falls below 5%, staff expect the impact of this initiative to be fiscally positive. More importantly, the initiative is expected to ensure that businesses continue to be licensed in the interest of the broader public.

Broader Regional Impacts/Considerations

There are no broader regional implications as a result of the recommendations of this report; however, where appropriate, staff continue to coordinate initiatives and enforcement efforts with the Region (primarily Public Health and York Regional Police), provincial agencies (such as the Ministry of Labour), and other municipalities.

Conclusion

COVID-19 has resulted in great challenges for most businesses. In some cases, these difficulties have been untenable. Staff have, and continue to, support businesses through a wide variety of initiatives; however, these must be balanced against the City's other priorities. The mandate of the business licensing program is to protect the health, safety and wellbeing of the public, control nuisances and protect consumers. In order to achieve this, businesses that operate in the City need to be licensed. The licensing

relief initiatives being proposed by staff aim to support businesses while maintaining the integrity of the business licensing program's mandate.

For more information, please contact Gus Michaels, Interim Deputy City Manager, Community Services and Director and Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services, ext. 8735.

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Jim Harnum, City Manager