

Business Licence Bylaw Renewal

Jurisdictional Review

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Introduction

The purpose of this jurisdictional review is to identify potential best practices that will both inform, and support future recommendations for a new Business Licence Bylaw. The researchers reviewed the business licensing legislation of ten Canadian municipalities and conducted telephone interviews with representatives from each municipality. This report is a comparative analysis of findings based on business-friendly and effectiveness metrics as they relate to the following four areas of a business licensing program:

1. Licence Administration
2. Business Classification
3. Fee Structure
4. Compliance and Remedial Action

This report does not introduce any specific recommendations for a new Business Licence Bylaw. Rather, it will be used in concert with public engagement, surveys, and stakeholder consultation to identify desirable criteria for a new bylaw.

Methodology

Jurisdictions Selected

Municipalities were selected for the analysis based on their experience with business licensing. Only Canadian municipalities were considered as the researchers deemed it impractical to interpret international legislative frameworks in a Canadian context. The following municipalities, including large and medium urban centres across Canada and four small cities in the Edmonton Metropolitan Region, were selected:

1. Toronto
2. ~~Vancouver~~ *
3. Calgary
4. Ottawa
5. Winnipeg
6. Saskatoon
7. Regina
8. St. Albert
9. Spruce Grove
10. Leduc
11. Fort Saskatchewan

** The researchers were unable to arrange an interview with representatives in Vancouver. Therefore Vancouver was not included in the jurisdictional review.*

Interviews

Although the researchers reviewed the relevant bylaws and municipal codes for each municipality, the interview method was selected to gain additional insight. By speaking directly with business licensing contacts in each municipality, the researchers were able to 1) avoid false assumptions about how the legislation is interpreted, 2) clarify how legislation is applied, and 3) understand what each municipality considers to be the strengths or limitations of their own business licensing legislation.

A semi-structured interview method was selected to establish a consistent line of questioning and a set of parameters for adapting to the unique practices of each municipality. This allowed the researchers to maintain a baseline for comparison while still exploring relevant areas of interest in more detail.

Each interview was conducted by two members of the research team: A lead interviewer and a secondary interviewer. The lead interviewer for each interview reviewed the relevant municipal business licensing legislation (bylaws or municipal codes).

Performance Metrics

The researchers established performance metrics to compare many of the municipalities' business licensing program elements based on effectiveness and business-friendly outcomes. This provided a consistent framework for evaluating each municipality in relation to the City of Edmonton's program priorities.

The following four key program areas were evaluated according to the effectiveness and business-friendly performance outcomes:

1. Licence Administration - General considerations including when and why licences are required, the purpose of licensing, application and renewal requirements.
2. Business Classification - Business-specific considerations including how different types of businesses are tracked / regulated.
3. Fees - Financial considerations including licence fees and fees for additional services.
4. Compliance and Remedies - Enforcement considerations including fines, penalties, and licensing restrictions.

Each program area was considered independently of the others.

Effectiveness Outcomes

Effectiveness outcomes represent the administrative (internal) and public perspectives with respect to business licensing policies and procedures. The researchers assessed each municipality's relevant business practices based on the potential impact if similar practices were applied in Edmonton. Practices that would improve the City's ability to manage the needs and expectations of stakeholders, coordinate with internal and external partners, or respond to problems with businesses when they occur were considered to be effective.

Business-Friendly Outcomes

Business-friendly outcomes represent the perspective of business owners and business associations with respect to licensing requirements and regulations. The researchers assessed each municipality's relevant business practices based on how the business community would likely perceive similar practices if they were applied in Edmonton. Practices that would remove procedural and financial barriers or improve flexibility and value for businesses were considered to be business-friendly.

Evaluation Questions and Relative Importance

The researchers developed a series of evaluation questions based on internal knowledge of the subject matter.

Scoring questions were used to identify and evaluate each municipality's licensing practices within the corresponding program area. The relative importance (weight) of each question was determined by consensus based on the magnitude of impact on its respective program area using a score of one (low impact) to five (high impact). Table 1 provides a summary of the weighting scores assigned to each question and relative weight as a percentage.

Non-scoring questions were also used during the interview for two reasons: 1) To identify specific licensing practices that are either innovative or very common; and 2) To consider each municipality's assessment of the strengths or limitations of their own licensing programs. Non-scoring questions are summarized in Table 2.

Table 1: Scoring questions with relative importance and weighting

Program Area	Interview Question	Effective (1-5)	Business Friendly (1-5)	Effective (%)	Business Friendly (%)
<i>Licence Administration</i>	1. When is a business licence required?	4	4	25%	22%
	2. What are the benefits of licensing to your stakeholders?	2	4	13%	22%
	3. How long are licences valid for?	2	2	13%	11%
	4. What are the general requirements to get a business licence?	4	4	25%	22%
	5. How do you manage licence renewals?	4	4	25%	22%
<i>Business Classification</i>	1. How do business licences consider (regulate) different types of businesses or industries?	5	4	36%	33%
	2. How do you license (categorize) businesses with multiple distinct business functions?	3	3	21%	25%
	3. How do you license businesses with accessory uses?	3	3	21%	25%
	4. How do you license businesses that do not align with an existing category?	3	2	21%	17%
<i>Fees</i>	1. Do licence fees vary based on the type of business?	3	5	33%	38%
	2. Do fees vary for new licences vs. renewals?	3	4	33%	31%
	3. In addition to the licence fee, what other fees do you charge?	3	4	33%	31%
<i>Compliance and Remedies</i>	1. What are the penalties for operating without a business licence?	4	2	22%	15%
	2. How do you address overdue / expired licences?	4	2	22%	15%
	3. Aside from enforcement, what other remedies are available if problems with a particular business occur?	4	3	22%	23%
	4. Are there any situations where you would automatically refuse, suspend, or cancel a business licence?	3	3	17%	23%
	5. How are past incidents of non-compliance or other problematic behaviour considered when a business applies for a new business licence?	3	3	17%	23%

Table 2: Non-scoring interview questions

Interview Question	
1. To what extent does business licensing consider the appropriateness of a business at a particular location?	7. Do your municipal business licensing bylaws include penalties for violating superior legislation (e.g. provincial acts)?
2. On average, how long does it take to get a business licence?	8. Who are violation tickets issued to?
3. How do you license businesses that offer passenger transportation services, but are not exclusively vehicles for hire?	9. Does your Business Licence bylaw(s) allow you to issue a stop work order?
4. Are any fees refundable?	10. Like most?
5. Are fee waivers or discounts available?	11. Like least / needs improvement?
6. Do licence fees get prorated for mid-cycle applications or changes?	

Evaluation

The researchers developed criteria for evaluating the responses to each scoring question (Table 3). Based on these criteria, each response was evaluated by consensus on both the effectiveness and business-friendly outcomes. Scores between zero and two were assigned according to the likely impact each practice would have if applied to Edmonton's business licensing program:

- 0 = Likely to have a negative impact
- 1 = Likely to have no meaningful impact
- 2 = Likely to have a positive impact

The scores were adjusted according to the weighting of each question. Within each program area, a total effectiveness score and a total business-friendly score was calculated for each municipality to aid in comparative analysis.

Lastly, the researchers identified and documented a number of promising practices from both the scoring and non-scoring questions based on their internal knowledge of the subject matter. Discussion of these practices is not within the scope of this report as this will be done by the Business Licence Bylaw Renewal project team when forming recommendations.

Limitations

The semi-structured interview format was somewhat limiting. The line of questioning was not entirely consistent from one interview to the next. The researchers were unable to utilize the same interview panel for each interview which may have impacted how the interviewees responded. The quality of responses varied from one municipality to the next. The accuracy of responses cannot be easily validated, so an assumption was made that the responses fully reflect the position of the municipalities rather than personal opinions of the interviewees.

Time was another limitation as only 90 minutes were available for each interview. A combination of broad core questions, probing questions, and follow-up emails were used to manage time effectively; however, certain areas of interest may not have been fully represented.

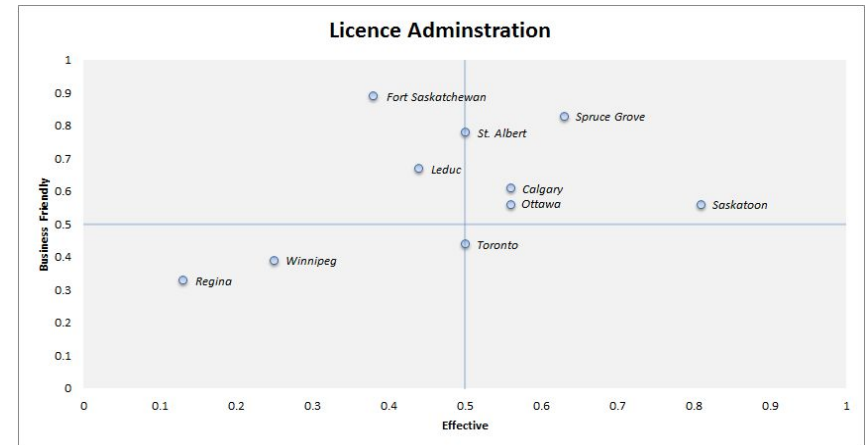
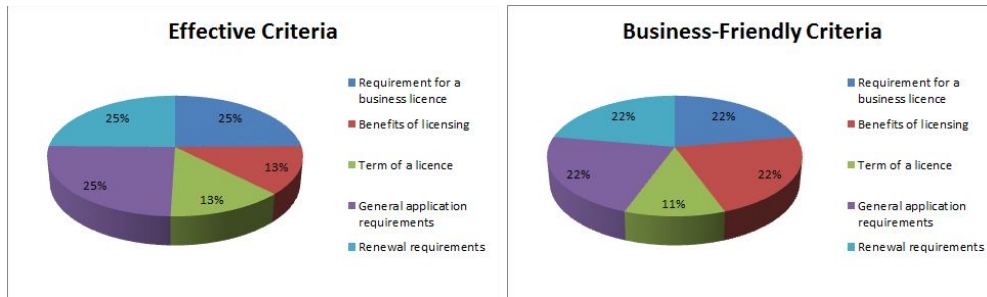
Lastly, the lack of established criteria made the responses difficult to measure objectively. The researchers relied on their collective subject matter expertise to develop weighting, metrics, and evaluation criteria internally and assess each municipality. However, this assessment is still somewhat subjective in nature. Therefore any recommendations informed by this research should be validated by other sources.

Table 3: Scoring question evaluation criteria

Program Area	Interview Question	Evaluation Criteria (Effective)	Evaluation Criteria (Business-Friendly)
<i>Licence Administration</i>	1. When is a business licence required?	Requirements are based on objective criteria. Exemptions are considered where municipal oversight does not add value.	Requirements are easily understood by businesses. Exemptions are considered where there is hardship to businesses.
	2. What are the benefits of licensing to your stakeholders?	Business licensing has a clear mandate. Business licences have a measurable impact on the municipality.	Business licences have perceived and/or actual value to business owners.
	3. How long are licences valid for?	Licence terms consider the needs of Administration.	Licence terms meet the needs of various businesses. Flexible options for seasonal and periodic operations are available.
	4. What are the general requirements to get a business licence?	Licensing requirements are commensurate with the nature of the businesses. Licensing requirements support other municipal, provincial, and/or federal requirements.	Licensing requirements are easy for businesses to understand. Licensing requirements are easy for businesses to comply with.
	5. How do you manage licence renewals?	Renewal process considers how business activities change over time. Renewal process considers re inspection and/or recertification requirements.	Renewals are expedited / simplified.
<i>Business Classification</i>	1. How do business licences consider (regulate) different types of businesses or industries?	Licence requirements and regulations vary based on the type of business / industry.	Licence requirements are fair and equitable. Licence requirements consider the needs of individual businesses. Businesses are not over or under regulated.
	2. How do you license (categorize) businesses with multiple distinct business functions?	Licensing can identify and distinguish between all of a business' relevant business activities.	Licensed activities are reflected on the licence. Business owners do not require separate licensing for each activity.
	3. How do you license businesses with accessory uses?	Licensing can distinguish between a business' primary and accessory functions.	Licensing considers the overall contribution of each activity.
	4. How do you license businesses that do not align with an existing category?	Licensing can adapt to emerging business trends and categories.	Licensing can respond quickly to unique businesses or businesses that are difficult to categorize.
<i>Fees</i>	1. Do licence fees vary based on the type of business?	Fee schedule is clear and simple to administer / maintain.	Fee schedule is clear and simple to understand. Fees are equitable from one business to another.
	2. Do fees vary for new licences vs. renewals?	Fees reflect the difference between new licence applications and renewals.	Renewal fee is lower.
	3. In addition to the licence fee, what other fees do you charge?	Licence fees include related services.	Few or no additional fees.
<i>Compliance and Remedies</i>	1. What are the penalties for operating without a business licence?	Monetary fines and/or court appearances deter unlicensed businesses. Offences for unlicensed businesses can be applied under various circumstances (e.g. missing category, suspended / cancelled licence, etc.).	Education-based approach (compliance before enforcement). Municipality works with business owners to address issues.
	2. How do you address overdue / expired licences?	Monetary fines and/or court appearances deter unlicensed businesses. Alternative measures are considered to promote voluntary compliance.	Education-based approach (compliance before enforcement). Municipality works with business owners to address issues.
	3. Aside from enforcement, what other remedies are available if problems with a particular business occur?	Municipality has authority to cancel, suspend, refuse, or impose conditions on a licence. Grounds and process for a licence review are clear.	Criteria is clearly-defined. Licensee / applicant has an opportunity to respond / appeal decision to refuse, cancel, or impose conditions.
	4. Are there any situations where you would automatically refuse, suspend, or cancel a business licence?	Municipality has authority to automatically suspend, refuse, or cancel a licence due to concerns for public safety.	Criteria is clearly-defined. Licensee / applicant has an opportunity to appeal decision.
	5. How are past incidents of non-compliance or other problematic behaviour considered when a business applies for a new business licence?	Municipality has authority to consider the past conduct of an individual or business to refuse or impose conditions on a licence.	Criteria is clearly-defined. Licensee / applicant has an opportunity to appeal decision.

Results

Licence Administration



Top Four Municipalities

1. Spruce Grove (0.63, 0.83)
2. Saskatoon (0.81, 0.56)
3. St. Albert (0.5, 0.78)
4. Calgary (0.56, 0.61)

Key Observations

- Most require many, or most businesses to be licensed. Exemptions are common, but vary widely in application (e.g. non-profit organizations, provincially-licensed businesses, low-income earners, businesses regulated or licensed by statute, fringe enterprises, etc.). Some exempt any business not specifically listed in their bylaws.
- Most consider licensing beneficial to the public interest (i.e. consumer protection, public safety, regulatory compliance, etc.). Some have well articulated positions on why licences are required. Some offer tangible benefits (e.g. annual reports, public directories, statistics, etc.).
- Half issue licences for a year from the date of issue, while the other half issue licences by calendar year. Few offer seasonal licences.
- Most require (to varying degrees) land use, building, and fire approval. Most will consult with or notify other regulatory agencies for certain types of businesses.
- All distinguish between new applications and renewals. Most expedite the renewal process (to varying degrees). Most require at least some degree of annual review.

Promising Practices (Top Four)

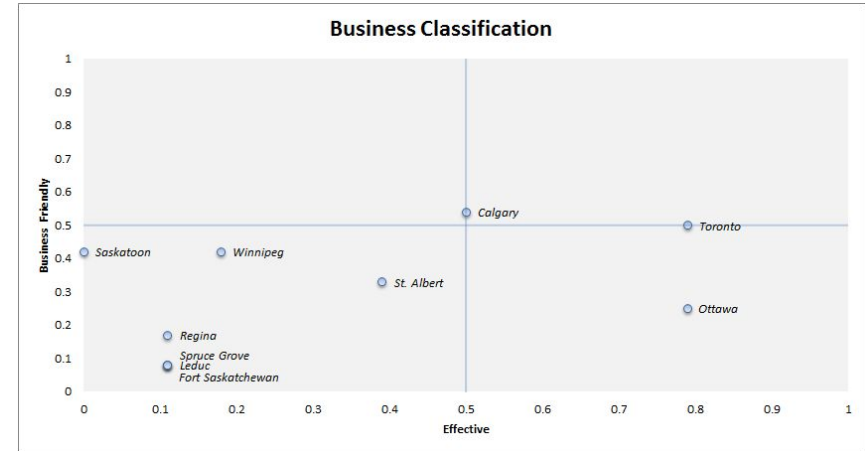
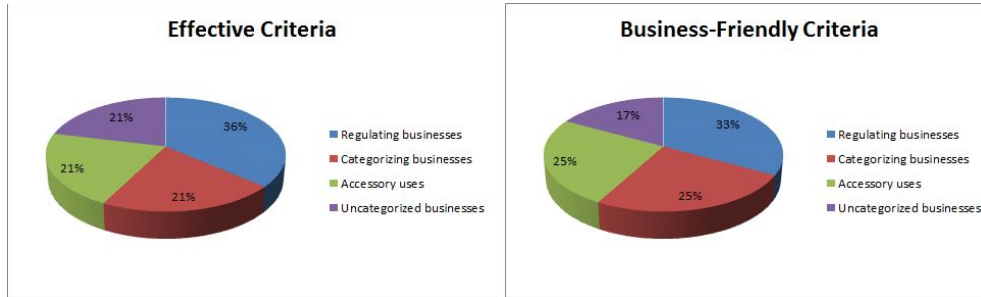
- Spruce Grove - Public business directory. Customer can renew online and print off own business licence.
- Saskatoon - Work permit or passport required for adult entertainment. Notifications are managed by distributing a monthly report to agencies. Licensing data is used to public an annual economic report. Licences are required to secure contracts with the City (including the sale of City land).
- St. Albert - Licensing data is shared with other City departments for reports / decision-making and to notify affected businesses of emergencies or service disruptions (e.g. road construction, etc.). Licences are required before bidding on City contracts.
- Calgary - Well-defined value proposition (6 clear reasons for licensing). Requires photo identification for bars. Licences are required to secure contracts with the City. Ability to waive or add a licence requirement on a case-by-case basis.

Promising Practices (Other)

- Toronto - Photo ID and work permit or Canadian passport required for all applications. Police Information Checks and other licensing requirements are re-checked every few years.
- Regina - Income threshold for licensing exemption (<\$5,000 in revenue). *Note: Regina considers this problematic - easily abused; underperforming businesses often request refunds.*
- Leduc - Public business directory.
- Fort Saskatchewan - Unlicensed businesses are not eligible to apply for grants.

Results

Business Classification



Top Four Municipalities

1. Toronto (0.79, 0.5)
2. Calgary (0.5, 0.54)
3. Ottawa (0.79, 0.25)
4. St. Albert (0.39, 0.33)

Key Observations

- Most have different regulations for different types of businesses; however, the number of regulated businesses varies significantly. Regulated businesses generally have some elevated perception of risk.
- Many have some method of categorizing or tracking businesses, although the application varies significantly (e.g. NAICS codes, bylaw-prescribed categories, policy-driven categories, etc.). Some require separate licences for each activity. Some apply multiple categories to a licence. Some license only one business activity (most restrictive, based on how business self-identifies, etc.).
- Only two (Ottawa and Toronto) consider accessory uses - otherwise this is typically left to zoning.
- Some do not licence businesses that do not align with an existing category. Some have a general category or do not use categories at all. Some use NAICS codes for tracking.

Promising Practices (Top Four)

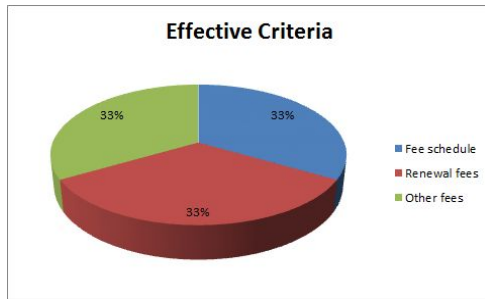
- Toronto - Licence has a main category and if applicable, additional activities are added as “endorsements” at no charge. Toronto suggests charging a fee for high-risk endorsements.
- Calgary - Licence can have multiple categories if applicable. Highest category fee applies, with a \$35 charge for each incremental category. An exempt business with additional activities that are not exempt requires a licence for those activities.
- Ottawa - Businesses with multiple activities require separate licences; however, there is a separate licence fee for “Incidental uses”.
- St. Albert - New categories can be added through policy using NAICS codes for tracking.

Promising Practices (Other)

- Regina - Most businesses are exempt; however, exempt businesses are still entered into a database.
- Winnipeg - Only high-risk businesses (15 types) are licensed.

Results

Fees



Top Municipalities

1. Spruce Grove, Saskatoon (1,1)
2. Fort Saskatchewan, Calgary, St. Albert, Leduc (0.83, 0.85)

Key Observations

- Most have either a single licence fee or less variation in the number of licence fees than Edmonton (Edmonton has 12 different fees excluding non-resident and non-profit). Most have lower non-resident licence fees than Edmonton.
- Many have a lower renewal fee for at least some licence types; several municipalities noted that lower fees encourage voluntary compliance.
- Many do not charge additional administrative fees, or charge fewer additional fees than Edmonton (e.g. non-critical updates, consultations, etc.).

Promising Practices (Top)

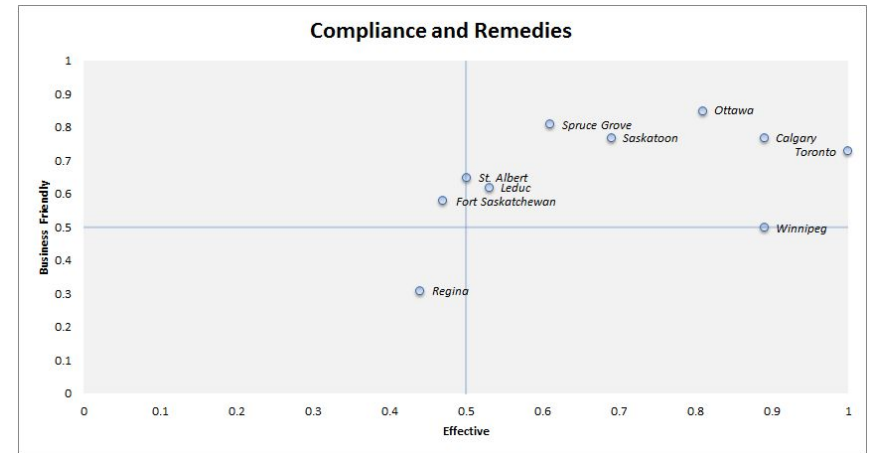
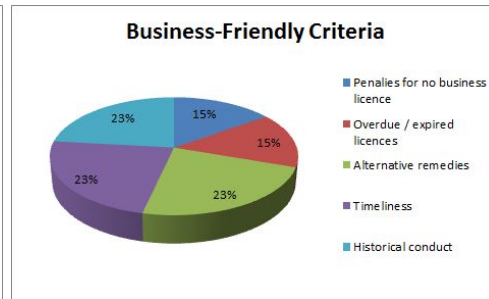
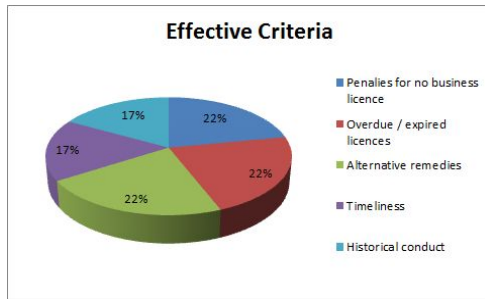
- Spruce Grove - No charge for licence renewal (except non-resident). Tri-municipal licence option for Parkland county.
- Saskatoon - No additional fees are charged. Most licence fees are \$125; \$85 for renewal.
- Fort Saskatchewan - No additional fees are charged. Most licence fees are \$95. Discount for online renewal.
- Calgary - Most licence fees are \$191, \$140 for renewal.
- St. Albert - No additional fees are charged. Most licence fees are \$140.
- Leduc - Most licence fees are \$150.

Promising Practices (Other)

- Ottawa - Licence fee includes inspections and approvals.
- Regina - Initial licence fee is \$112.50 (however, renewal is higher at \$225).
- Winnipeg - Licence fee includes all inspections and approvals.

Results

Compliance and Remedies



Top Four Municipalities

1. Toronto (1, 0.73)
2. Calgary (0.89, 0.77), Ottawa (0.81, 0.85)
3. Saskatoon (0.69, 0.77)

Key Observations

- Half have maximum penalties of \$25,000 or \$50,000. Some have separate penalties for unlicensed corporations that are higher than fines for individuals. Some can issue fines for a missing category. Some have separate penalties for operating under a suspended or cancelled licence.
- Many have a late payment penalty for overdue renewals; a few are considering adding a late penalty.
- Many rely on soft approaches (to varying degrees) before resorting to enforcement action. Some do not proactively enforce expired licences.
- Most can immediately suspend a licence and some can immediately refuse or cancel a licence (circumstances vary). Many can refuse a licence due to past criminal convictions and/or violations of city bylaws or federal / provincial legislation, etc.).
- Some consider past licensing history and can use as grounds for refusal or conditions.

Promising Practices (Top Four)

- Toronto - Maximum penalty is \$25,000 for individual, \$50,000 for corporation. Fine can be issued for missing endorsement. Renewals are subject to a late fee. Past bylaw complaints and criminal history can be grounds for refusal of a licence. Refusals under prescribed circumstances are immediate (but can be appealed).
- Calgary - Fine can be issued for a missing licence category. Five times the specified penalty for operating with a suspended or cancelled licence. Incomplete applications escalated to enforcement after 90 days for assistance / education; fines are a last resort. Ability to suspend for 10 days pending a hearing. Licence review is by an internal review board; can be appealed to a separate board made up of private citizens. Decisions are by default effective during the appeal process. If there are problems with an owner, conditions may be applied to other licences with the same owner. Conditions
- Ottawa - Maximum penalty is \$25,000 for individual, \$50,000 for corporation. Can suspend a licence in an emergency situation.
- Saskatoon - Maximum penalty is \$10,000 for individual, \$25,000 for corporation. All penalties are referred to the court system - prosecutor will determine what fine amount to request. Can cancel a licence for violating the licensing or another City bylaw - decision can be done without notice (but can be appealed). Automatic cancellation or refusal for specific criminal convictions within the last two years. Cancellation of a licence is in effect for one year.

Promising Practices (Other)

- Regina - All penalties are referred to the court system. Fine amounts are determined by the judge; however, may negotiate before it goes to trial.
- Spruce Grove - Late renewals must pay full licence fee; otherwise renewal is discounted or free.
- St. Albert - Can suspend or cancel a licence if business does not comply with other bylaws or provincial / federal legislation.

Results

Other Findings

Appropriateness of a Particular Business

Generally speaking, none of the municipalities studied consider the appropriateness of a business with respect to its location within their business licensing programs. Factors such as the business mix, occupancy load, noise, traffic, operating hours, and separation distances are considered by these municipalities to be mainly land use issues. However, two municipalities indicated that they may consider some of these factors on a case-by-case basis if there are problems with an established business. In cases like this conditions could be imposed on a business licence.

Licence Processing Timeline and Bottlenecks

Of those municipalities that were able to provide licence processing timelines, the time ranged from immediate to a few weeks. However, most could not clearly articulate the length of time required to obtain a business licence. This is mainly due to the complexity of the process which often depends on other approvals that can cause delays. The most common bottlenecks identified were land use approvals and building permits. Calgary offered the most consistent performance metric of 86-90% of licences issued within 90 days, which also accounts for land use and building approvals.

Calgary has also established an expedited process that allows low-risk business licences to be issued without a building permit. Safety codes officers and inspectors receive notifications so they can follow up with these businesses in due course.

Business Licensing and Vehicle for Hire Overlap

None of the municipalities studied license passenger transportation businesses under both business licensing and vehicle for hire. Where municipalities have both business licensing and vehicle for hire programs, the legislation and corresponding regulations are distinct from one another. Some municipalities indicated that they will issue a business licence to businesses that offer passenger transportation without specifically being vehicles for hire, while others indicated that if there is no corresponding licence category then no licence is required.

Refunds, Fee Waivers, and Discounts

Most municipalities do not refund licence fees. However, a few will offer refunds if a licence is not issued, or for extenuating circumstances. Aside from the lower renewal fees offered by some municipalities, discounts and fee waivers are not typically given. The only common exception is for non-profit organizations - roughly half of the municipalities studied either discount or waive the licence fee, or exempt them from licensing altogether.

Regina will issue refunds to licensees who generate less than \$5,000 per year in revenue (because a licence is not required for low earners). However, they are considering doing away with this licence exemption because it is problematic to enforce and is easily misused.

Penalties for Violating Superior Legislation

The majority of municipalities studied do not have any provisions in their respective business licensing legislation for enforcing violations of relevant provincial or federal legislation. However, Calgary can issue violation tickets to a licensee (but not to any other individual) for violating a provincial or federal act. The ticket is issued under Calgary's licensing bylaw and the other regulatory body serves as a witness to the offence. A common example is a violation of the Public Health Act - both Alberta Health Services and the City of Calgary can issue their respective fines for the same offence.

Issuing Violation Tickets

Most municipalities studied can issue violation tickets to the corporation or any representative of the business who is responsible for the violation - owners, directors, managers, employees, or agents. Ottawa can also issue tickets to the owner of the property where the business resides. In practice, most tickets are issued to the corporation, the owner, or the directors.

Stop Order

Although many of the municipalities studied can immediately suspend or cancel a licence, none have the power to issue a stop order within their respective business licensing legislation. This authority comes from other sources - e.g. The Municipal Government Act (or provincial equivalents), land use bylaws, safety codes, etc.

Conclusion

Generally speaking, Calgary emerged as a leading municipality with respect to effective and business-friendly business licensing practices in all four program areas. However, by examining individual business practices along two distinct program outcomes, there is clear and compelling evidence that almost all municipalities studied have adopted at least some practices that should be considered. Therefore this report does not advocate for Edmonton to simply adopt a “leading” program’s practices. Rather, the Business Licence Bylaw Renewal project team should selectively consider the promising best practices identified in this report and consult with internal stakeholders, partner agencies, and business owners to identify the practices that are best for Edmonton.