

THE CORPORATION OF THE TOWN OF
NEW TECUMSETH

BY-LAW

Number 2014-013

**“BUSINESS LICENSING AND REGULATION
AMENDMENT #4 BY-LAW”**

A by-law to amend By-law No. 2008-119 being the
Business Licensing and Regulation By-law

WHEREAS pursuant to the provisions of Part IV of the *Municipal Act*, the Council of The Corporation of the Town of New Tecumseth may pass by-laws for licensing, regulating and governing businesses;

AND WHEREAS Section 151 of the *Municipal Act* authorizes municipalities to provide for a system of licences to license, regulate and govern any business wholly or partially carried on within the Municipality, even if the business is being carried on from a location outside the Municipality;

AND WHEREAS municipalities may pass by-laws for imposing fees to be charged for licensing a class of business;

AND WHEREAS pursuant to the *Municipal Act* the Council of the Corporation of the Town of New Tecumseth may exercise its licensing powers including imposing conditions, for the health, safety and well-being of persons; nuisance control; and/or consumer protection;

AND WHEREAS the Council of The Corporation of the Town of New Tecumseth passed By-law 2008-119 on the 14th day of July, 2008 being the Business Licensing and Regulation By-law;

AND WHEREAS the Council of The Corporation of the Town of New Tecumseth is desirous of amending By-law No. 2008-119 to provide for Tow Truck Licensing;

NOW THEREFORE the Council of The Corporation of the Town of New Tecumseth hereby enacts as follows:

1. That Schedule A-3 – Tow Truck Licensing Provisions be hereby added to By-law No. 2008-119 and form part thereof as referenced in Report #ADMIN-2014-06 dated February 3, 2014.
2. That this By-law shall be cited as the “Business Licensing and Regulation Amendment #4 By-law”.
3. That this By-law shall come into force and take effect on the date of final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10th DAY OF FEBRUARY, 2014.



MAYOR



D/ CLERK

TOW TRUCK LICENSING PROVISIONS

1. DEFINITIONS

For the purposes of this By-Law:

"applicant" means a person applying for a Licence under this By-Law;

"clerk" means the Clerk appointed by the Town of New Tecumseth under the authority of the *Municipal Act, 2001*;

"collision" means the contact resulting from the motion of a motor vehicle or its load that produces property damage, injury or death;

"collision/incident scene" means the general location or place where a collision/incident occurred and includes a two hundred (200) metre (approximately 656 foot) radius of the location or place of the collision/incident;

"collision towing" means the towing of a vehicle disabled as the result of a collision. Collision towing does not include the towing of a vehicle as a result of mechanical failure, an impairment, a police seizure, a vehicle fire not involving a collision, or other similar cause. The presence of a police officer at the scene of a tow does not define or classify the towing as "collision towing";

"Council" means the elected Council of The Corporation of the Town of New Tecumseth;

"Council Hearing Committee" means a committee comprised of members of Council of the municipality, appointed by Council to conduct hearings under this By-Law;

"dolly" means a four-wheeled carriage used in towing to support the trailing end of the towed vehicle;

"driver" means any person who drives or operates a Tow Truck for the purpose of collision towing or towing for the Vehicle Impoundment Program;

"drop fee" means a fee or commission paid to the Owner or Driver of a Tow Truck in return for the towing or otherwise conveying of a vehicle to a particular place;

"fire service" means the municipal fire department;

"flatbed carrier" means a platform body with a winch for loading;

"gross vehicle weight rating (GVWR)" means the maximum total vehicle rated capacity, measured at the tire ground interface, as rated by the chassis manufacturer;

"heavy towing" means any vehicle or combination of vehicles with a gross vehicle weight of at least eleven thousand (11,000) kilograms (approximately 24,200 pounds) or greater;

"highway" means a common and public highway which is intended for or used by the general public for the passage of vehicles as defined in the *Ontario Highway Traffic Act*; R.S.O. 1990, Chapter H.8;

"Highway Traffic Act" means the *Ontario Highway Traffic Act*, R.S.O. 1990, Chapter H.8, as amended and any successor legislation thereto;

"hirer" means the registered owner of a vehicle to be towed or being towed, his/her agent or any person lawfully in possession of the vehicle to be towed or being towed;

"impairment" includes any surrender or suspension of a driver's licence pursuant to the *Highway Traffic Act* or *Criminal Code*;

"incident commander" means the person responsible for all aspects of an emergency response, including quickly developing incident objectives, managing all incident operations, application of resources as well as responsibility for all persons involved;

"licence" means a licence issued under this By-Law;

"licencee" means any person licensed under this By-Law;

"licence issuer" means the person(s) authorized to issue licences by the municipality;

“municipal law enforcement officer” means an employee of the municipality charged with the enforcement of non-criminal municipal by-laws, rules, laws, codes and regulations enacted by the municipality;

“municipality” means The Corporation of the Town of New Tecumseth;

“officer” means an officer of the Ontario Ministry of Transportation;

“owner” means the owner of a Tow Truck used for the purpose of collision towing or towing for the Vehicle Impoundment Program and the holder of the plate portion of the permit for the Tow Truck issued under the *Highway Traffic Act*;

“owner’s plate” means the plate issued under this By-Law as proof of licensing under this By-Law;

“person” includes an individual, sole proprietorship, partnership, unincorporated cessation, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;

“police” or “police officer” means the Ontario Provincial Police;

“service area” means the area serviced by the Nottawasaga detachment of the Ontario Provincial Police being the municipalities of the Township of Adjala-Tosorontio, Township of Essa and Town of New Tecumseth;

“tow truck” means a vehicle used for collision towing or towing for the Vehicle Impoundment Program;

“underlift/wheel lift/sling” means a device used for towing vehicles by lifting one end of the towed vehicle from under the axle or structural member of the towed vehicle;

“Vehicle Impoundment Program (V.I.P.)” means a road safety program that requires police to immediately impound a vehicle being operated in contravention of the Vehicle Impoundment Program;

“vehicle storage compound” means a lot or portion thereof used for the temporary secure storage and impounding of vehicles taken from a collision scene or towed as part of the Vehicle Impoundment Program;

“wrecker body” means an after-market manufacturer’s wrecker unit designed to be attached to the frame of a cab and chassis and used with an underlift, tow bar, tow-sling or wheel lift or flatbed carrier or other similar device equipped and maintained in a manner to ensure the safe lifting and conveying of a vehicle to be towed.

2. GENERAL TOW TRUCK LICENSING PROVISIONS

- 2.1 A word interpreted in the singular has a corresponding meaning when used in the plural.
- 2.2 A reference in this By-Law to “he” and “she” or “his” and “her” or “they” shall be interpreted to be gender neutral and the provisions of this By-Law shall be interpreted to apply equally to both male and female persons.
- 2.3 For the purposes of this By-Law a person shall be acting as the Owner or Driver of a Tow Truck and subject to the provisions of this By-Law if that person conveys or seeks to convey for hire, or holds himself out, by his actions or words, as being available to convey for hire, a vehicle from a point within the Service Area to either a point also within the Service Area or to any point beyond its limits for the purpose of collision towing or towing required for the Vehicle Impoundment Program.
- 2.4 In the absence of any evidence to the contrary, collision towing or towing required for the Vehicle Impoundment Program will be deemed to have originated within the Municipality.

3. LICENCE REQUIREMENTS FOR OWNERS

- 3.1 No person shall own a Tow Truck used for collision towing or towing for the Vehicle Impoundment Program within the Service Area without a Licence to do so issued by the Town of New Tecumseth, subject to the exemption set out in section 5.

3.2 Prior to being licensed as an Owner, every Applicant shall:

- (1) complete and submit to the Licence Issuer an application in the form provided, along with the appropriate documentation and an annual fee as set out in the Fees & Charges By-Law;
- (2) provide the Licence Issuer a copy of the certificate of insurance for the Tow Truck for which the Applicant is the Owner including but not necessarily restricted to the following coverages and naming the Municipality as a co-insured where applicable:
 - (a) in respect to any one claim, in the amount of at least \$2,000,000 exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss or damage to property;
 - (b) in respect of any one claim, in the amount of at least \$100,000 against liability for damage to a customer's motor vehicle while in his/her care, custody or control and caused by collision, upset, fire, lightning, theft or attempt theft, malicious mischief, windstorm, hail, explosion, riot, civil commotion or rising water;
 - (c) in respect of any one claim, cargo liability insurance in the amount of at least \$50,000 to indemnify the applicant against loss by reason of his/her legal liability indirect physical loss or damage to vehicles and other items of property accepted by the applicant for towing or conveyance.
- (3) subject to section 3.2(4) below, operate or have a lease for the exclusive use of an enclosed vehicle storage compound, which is maintained in good repair, located within the Municipality and is in compliance with the local municipal's zoning by-law. The vehicle storage compound shall be secured by one of the following means:
 - (a) a minimum 1.8 metre (6 foot) high chain link fence,
 - (b) a minimum 1.8 metre (6 foot) high solid board fence,
 - (c) a minimum 1.8 metre (6 foot) high steel sheet fence, or
 - (d) a building with locking front doors or entrance gate.
- (4) existing Owners with a vehicle storage compound located outside of the Municipality shall be grandfathered and permitted to continue operating within the Service Area for no more than five (5) years from the passing of this By-Law provided that the vehicle storage compound:
 - (a) is within 10 kilometers of the Municipality's boundary;
 - (b) has been in existence and used by the Owner as a vehicle storage compound for more than five years prior to the passing of this By-Law;
 - (c) has been operated uninterrupted by the Owner at that location; and
 - (d) meets the remaining criteria set out in section 3.2(3) above.
- (5) acknowledge in writing to the Licence Issuer that the Owner does not share the vehicle storage compound with any other towing company.
- (6) acknowledge in writing to the Licence Issuer that the Owner is familiar with health and safety regulations and has ensured that each Tow Truck is equipped to ensure that all licensed Drivers are in compliance at all times while operating a Tow Truck licensed under this by-law.
- (7) acknowledge in writing to the Licence Issuer that the Owner has ensured that all Drivers licensed to operate their Tow Truck(s) are familiar with the provisions of this By-Law.
- (8) complete and submit to the Licence Issuer a current list of Drivers hired to drive on their behalf and verify that each of such Drivers are licenced by the Town of New Tecumseth.
- (9) provide to the Licence Issuer a copy of a Safety Standards Certificate or, alternatively, a valid Ontario Ministry of Transportation Annual Inspection Certificate issued under the *Highway Traffic Act*, dated no more than ten (10) months after acquiring the certificate.

- 3.3 Applications for Tow Truck Owner's Licences received after January 1st will be required to pay one half of the annual amount of the Owner's Licence Fee as set out in the Fees & Charges By-Law and the said Licence will expire on May 31st of the same year and renewable thereafter at the full amount as set out in the Fees & Charges By-Law.
- 3.4 No applicant who is under eighteen (18) years of age shall be granted a Tow Truck Owner's Licence under the By-Law.
- 3.5 A Tow Truck Owner's Licence is non-transferable.

4. LICENCE REQUIREMENTS FOR DRIVERS

- 4.1 No person shall operate or drive a Tow Truck used for collision towing or towing for the Vehicle Impoundment Program within the Service Area without a Licence to do so issued by the Town of New Tecumseth, subject to the exemption set out in section 5.
- 4.2 Prior to being licensed as a Driver, every applicant shall provide to the Licence Issuer:
- (1) proof of a valid Driver's Licence issued to them pursuant to the provisions of the *Highway Traffic Act*;
 - (2) a copy of his/her current driving abstract issued by the Ontario Ministry of Transportation no more than thirty (30) days before the date of application for a licence to drive a Tow Truck under the authority of this By-Law.
 - (3) a copy of his/her current Criminal Record Check issued by the police no more than thirty (30) days before the date of application for a licence to drive a Tow Truck under the authority of this By-Law.
- 4.3 Applications for Tow Truck Driver's Licences received after January 1st will be required to pay one half of the annual amount of the Owner's Licence Fee as set out in the Fees & Charges By-Law and the said Licence will expire on May 31st of the same year and renewable thereafter at the full amount as set out in the Fees & Charges By-Law.
- 4.4 A Tow Truck Driver's Licence is non-transferable. Furthermore, a Tow Truck Driver shall update their licence if there are changes in their employment from one tow truck company to another. **(By-law No. 2019-049)**

5. EXEMPTION

- 5.1 Owners and Drivers licensed by the Township of Adjala-Tosorontio or the Township of Essa are exempt from the requirements of this By-Law.
- 5.2 Heavy towing as defined herein is exempt from the requirements of this By-Law.

6. EXCEPTIONS

- 6.1 This By-Law does not apply to the following:
- (1) an owner, operator or driver of a Tow Truck where the Tow Truck is used for the purpose of towing a vehicle as a result of mechanical failure, a vehicle fire not involving a collision or other similar cause.
 - (2) an owner, operator or driver of a Tow Truck where the owner, operator or driver is in the process of towing a vehicle for the purpose of collision towing or towing required for the Vehicle Impoundment Program where that service originated outside the Service Area.

7. LICENCES

- 7.1 The Clerk may refuse to issue or renew a licence or may revoke or suspend a licence on the following grounds:
- (a) the past conduct of the Applicant or Licensee, or where a corporation, an officer and/or director of the corporation, affords reasonable grounds for the belief that the Applicant or Licensee will not carry on the activity for which he is to be licensed in accordance with the By-Law and with integrity and honesty;
 - (b) there are reasonable grounds to believe that an application or other documents provided to the Licence Issuer by or on behalf of the Applicant or Licensee contains a false statement; or

- (c) the Applicant or Licensee has failed to provide all of the information or documentation required by this By-Law, or has failed to meet and comply with all other licensing prerequisites as set forth in this By-Law.
- (2) Any Licence issued under this By-Law shall expire annually on the 31st day of May.
- (3) Any Applicant or Licensee applying for a renewal of any Licence under this By-Law must produce to the Licence Issuer a current criminal record check by the Ontario Provincial Police at the expense of the applicant.
- (4) No Licensee shall enjoy a vested right in the continuance of a Licence.

8. APPEAL PROCESS

8.1 Notwithstanding the appeal process contained in Business Licensing and Regulation By-Law No. 2008-119, the following appeal process shall apply to Tow Truck Licensing.

(1) **Recommendation – Council Hearing Committee– Refuse to issue, refuse to renew, suspension, place conditions, revocation – notice – hearing request**

Where the Clerk intends to recommend to the Council Hearing Committee that it refuse to issue, refuse to renew, place conditions, revoke or suspend a licence, he/she shall give notice of his/her intended recommendation to the applicant or licence holder, together with the reason for his/her intended recommendation, as well as to such other persons, civic departments, boards, commissions, authorities or agencies as appear to have an interest in the recommendation.

(2) **Suspension - interim - pending - during meeting**

The Clerk, without holding a hearing, may suspend a licence for not more than two weeks if the licensee has been convicted of a criminal offence, provided that the suspension is made within thirty days of the conviction, and notwithstanding that an appeal of the conviction has been commenced.

(3) **Refusal - suspension - revocation – notice of hearing – content**

(a) Where the Clerk has recommended to the Council Hearing Committee that a licence not be issued or renewed or that a licence be suspended, revoked or conditions imposed on the licence, the Clerk shall refer the application and his/her reasons for her/his recommendation to the Council Hearing Committee and shall give the Applicant notice, in writing, of such action, said notice to be served personally or by registered mail to the Applicant at the address shown on the application.

(b) The notice of the hearing shall:

- (i) contain a reference to section 150 of the *Municipal Act*, under which the hearing will be held;
- (ii) contain a reason or reasons for the proposed refusal, suspension or revocation;
- (iii) specify the time, place and purpose of the hearing at which the proposed refusal, suspension or revocation will be considered;
- (iv) inform the affected Applicant or the affected holder of the licence that he is entitled to attend the hearing and make submissions regarding the proposal and that, in his absence, the Council Hearing Committee may proceed to consider the proposal, and the Applicant or affected holder of the licence will not be entitled to any further notice in the proceeding;
- (v) afford the affected Applicant or the affected holder of the licence a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the licence; and
- (vi) be given at least 7 days notice prior to the date of the Hearing.

(4) **Refusal - suspension - revocation - by Council Hearing Committee – hearing**

- (a) At the hearing, the Council Hearing Committee may suspend, revoke or refuse to issue any licence under this by-law:
- (i) for any reason that would disentitle the holder to a licence if he/she were an Applicant;
 - (ii) where the holder of the licence or Applicant is in breach of a condition of the licence or of this by-law;
 - (iii) if there are reasonable grounds to believe that the statements on the licence application are false;
 - (iv) if a report is filed subsequent to the date of the issuance of the licence by any department or agency which provided its approval originally to the issuance of the licence which indicates that a licensed premise no longer complies with any of the provisions of this by-law;
 - (v) upon such grounds as are set out in this by-law;
 - (vi) if the Applicant has outstanding fines or penalties owing to the municipality or has not paid the required licence application fee;
 - (vii) if the conduct or character of the Applicant or Licensee affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity;
 - (viii) if the geographic location of the business does not meet land use requirements;
 - (ix) if, in the case of a corporate Applicant or Licensee, the conduct of its officers, directors, employees or agents affords reasonable cause to believe that the business will not be engaged in or carried on in accordance with the law or with honesty and integrity; or
 - (x) if issuing a licence is not in the public interest.

(5) **Council Hearing Committee – proceedings** - All members to participate electronically and be counted as quorum when a declaration of emergency has been declared by the Province of Ontario or the Town of New Tecumseth.

- (a) At a hearing, the Council Hearing Committee:
- (i) shall afford the affected Applicant or the holder of the licence an opportunity to make submissions in respect of the matter that is the subject of the Council Hearing Committee's proceedings;
 - (ii) shall afford any person, civic department, board, commission, authority or agency given notice under this by-law and in attendance at the hearing, or any other person in the discretion of the Council Hearing Committee an opportunity to make submissions in respect of the matter that is the subject of the Council's proceedings;
 - (iii) the hearing shall be open to the public but the Council Hearing Committee may close a portion of the hearing for the purposes of receiving confidential legal information pertaining to the affected Applicant or licence holder;
 - (iv) the hearing shall be open to the public but the Council Hearing Committee may close all or a portion of the hearing to the public if the Committee is of the opinion that intimate financial or personal matters may be disclosed of such a nature, having regards to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the hearing be open to the public;

- (v) shall give due consideration to the submissions made to it;
- (vi) shall take such action to refuse, suspend or revoke the application or licence, or not to refuse, suspend or revoke the application or licence, as the Council Hearing Committee considers proper in the circumstances; and
- (vii) the Hearing Committee's decision shall be delivered by the Clerk to the Applicant or to the licence holder, and to any person, civic department, board, commission, authority or agency in attendance at the hearing, together with the reasons for its decision.

(6) Council Hearing Committee – decision – immediate effect – notice of decision

- (a) A decision of the Council Hearing Committee refusing, suspending or revoking an application or licence takes effect upon the rendering of such decision by the Council Hearing Committee. No Licensee shall operate or carry on the activity for which the licence was issued while his licence is under suspension.
- (b) The decision of the Council Hearing Committee shall be given within seven (7) days of the hearing.
- (c) The Clerk shall forthwith notify the Applicant in writing of such decision by serving a copy personally or by registered mail to the Applicant at his/her address as shown on his application. Where a notice is sent by registered mail, the date of service upon the person to whom it is sent will be deemed to be the day next following the date of mailing.
- (d) Upon receipt of a notice of the decision of the Council Hearing Committee suspending or revoking a licence, the Licensee shall, within twenty-four (24) hours of service of notice by certified mail or immediately if the notice is personally served, return the licence to the Clerk or Licence Issuer and any plates issued with a reference to the licence and the Clerk or Licence Issuer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the same.
- (e) No person shall refuse to deliver the licence and any plates relative to a suspended or revoked licence to the Clerk or Licence Issuer or shall in any way prevent or hinder the Clerk or Licence Issuer from receiving or taking the same.
- (f) Where a licence is revoked, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted, such refund to be prorated on a monthly basis.

(7) Council Hearing Committee - Decision – Complete Licensing

Where the Council Hearing Committee renders a decision granting the Applicant the licence applied for, the licence shall be issued upon the Applicant complying with the terms of this By-Law and the conditions of the licence, if any, and the Applicant shall, within fourteen (14) days of the service upon him/her of a copy of the decision of the Council Hearing Committee complete his application.

(8) Hearing Committee

The Hearing Committee of Council shall be comprised of four (4) members of Council.

- (9) The decision of the Hearing Committee is final.

9. INSPECTION

- 9.1 For the purposes of sections 9 and 10, an Inspection Officer means a police officer, municipal law enforcement officer or an officer of the Ontario Ministry of Transportation.

- 9.2 An Inspection Officer may require an Owner to submit his/her Tow Truck for inspection at any time and at an appointed place and the Owner shall submit each licensed Tow Truck for inspection when required to do so by a Inspection Officer.
- 9.3 When a Tow Truck and its equipment have been examined by an Inspection Officer or licensed mechanic and the Tow Truck or its equipment is found to be mechanically defective, neither the Owner nor the Driver shall operate the Tow Truck and the Owner shall not permit the Tow Truck to be operated, until the Tow Truck has been re-inspected and approved by an Inspection Officer or a licensed mechanic.
- 9.4 When a Tow Truck is examined by an Inspection Officer or a licensed mechanic and a report states that the Tow Truck or equipment is dangerous or unsafe, the Owner or Driver shall remove and return to the Licence Issuer the Owner's Plate to be held until the Owner delivers to the Licence Issuer either an Annual Inspection Certificate or a Safety Standards Certificate and the Tow Truck and the equipment are certified to be safe by an Officer, police officer or licensed mechanic.
- 9.5 When an Owner is unable to obtain a Safety Standards Certificate or an Annual Inspection Certificate issued under the *Highway Traffic Act* for the Tow Truck following an inspection, the Owner shall remove and return to the Licence Issuer the Owner's Plate and the Owner shall not operate the Tow Truck or permit the Tow Truck to be operated until he obtains and produces a Safety Standards Certificate or an Annual Inspection Certificate and the Tow Truck and equipment are certified to be safe by an Officer, police officer or licensed mechanic.
- 9.6 Where the provisions of this By-Law require an Owner or Driver of a Tow Truck to remove and deliver a licence and/or Owner's Plate to a Licence Issuer and the Owner or Driver fails to do so, an Officer or police officer may remove the licence and/or Owner's Plate.
- 9.7 Where an Officer or police officer has removed the permit and/or number plate issued by the Ontario Ministry of Transportation in respect of a Tow Truck, the Officer or police officer shall also remove the Owner's Plate.
- 9.8 An Inspection Officer may at any reasonable time enter upon and inspect the business premises or vehicles of any licensee to ensure that the provisions of this By-Law have been complied with and an Inspection Officer on completion of an inspection shall complete a written report on the inspection.
- 9.9 An Inspection Officer may be accompanied by such other person or persons as deemed necessary to properly carry out their duties under this By-Law.
- 9.10 Upon an inspection, the Inspection Officer is entitled access to the invoices, vouchers, appointment books or trip sheets or like documents of the Licensee being inspected provided such documents are relevant for the purposes of the inspection and the Inspection Officer may remove any of the aforementioned documents for the purpose of photocopying provided a receipt is given to the Licensee and the documents are returned to the Licensee within seventy-two (72) hours of removal.

10. OBSTRUCTION

- 10.1 Failure to comply with a request to inspect the business premises or vehicles of any Licensee may result in the suspension of the respective licence(s) until such time as the inspection has been completed.
- 10.2 Every person who hinders, disturbs or obstructs any Inspection Officer in the carrying out of their duties as defined in Section 426(1) of the *Municipal Act, 2001*, c.25, as amended or contravenes any provision of this by-law unless otherwise provided herein is guilty of an offence and, upon conviction, is liable to a fine pursuant to the *Provincial Offences Act*.

11. OWNER DUTIES

- 11.1 A licensed Owner shall:
- (1) charge the rates for services permitted by the provisions of this By-Law;
 - (2) keep in the Tow Truck and show to the hirer a copy of a tariff card showing the approved rates in accordance with this By-Law, and also showing, if applicable

that the hirer may be charged additional fees for storage by the operator of any vehicle storage compound or business to which the hirer's vehicle is to be towed;

- (3) keep a permanent daily record of work performed by the Tow Truck owned or operated by him or on his behalf either in a continuous log sheet or by consecutively numbered bills or invoices showing:
 - (a) the name and address of every hirer;
 - (b) a description of the vehicle towed or conveyed including the Provincial Motor Vehicle Permit number of any such vehicle;
 - (c) the rate charged, and
 - (d) the total fee collected;
- (4) keep every Tow Truck and its equipment clean, in good repair, free from exterior body damage and with a well maintained exterior paint finish;
- (5) present to the hirer, before demanding payment for services, an itemized bill for the services setting out the cost of all services and equipment provided based on the rate set out in Schedule "B" under this By-Law, such bill to be clearly legible and include the Owner's business name and address;
- (6) have attached to or painted on both sides of the body of the Tow Truck in a location approved by the Licence Issuer, in letters and figures not less than eight (8) centimeters (approximately three (3) inches) in height the name and telephone number of the business as shown on the Owner's licence, and where the owner owns more than one truck a number identifying each Tow Truck;
- (7) only use the service of a Tow Truck Driver who is licensed as a Driver under this By-Law;
- (8) have affixed to the Tow Truck in a location approved by a Licence Issuer the Owner's Plate issued for that Tow Truck;
- (9) give written notice of the sale or other disposition of a Tow Truck to the Licence Issuer within seven (7) days of any such sale or disposition;
- (10) ensure that all information and requirements of this By-Law are made known to and adhered to by any Driver or other employee of the Owner;
- (11) accept full responsibility for the acts and omissions of any Driver or other employee to the extent that any such acts or omissions do not comply with the provisions of this By-Law.

12. OWNER PROHIBITION

- 12.1 A licensed Owner shall not permit any Owner's Plate issued to him/her under this By-Law to be affixed to any Tow Truck, other than the Tow Truck for which the licence was issued under this By-Law.

13. DRIVER'S DUTIES

- 13.1 A licensed Driver shall:
 - (1) drive the Tow Truck which is towing or otherwise conveying a vehicle by the most direct route to the destination requested by the hirer, and in the most expeditious manner, unless otherwise directed by the hirer;
 - (2) take due care of all vehicles and property delivered or entrusted to him/her for towing;
 - (3) comply with all reasonable instructions from the hirer;
 - (4) be civil and behave courteously;
 - (5) wear a reflective safety vest when working on a highway;
 - (6) clean up any debris, fragments of glass, vehicle parts or other materials, excluding loads or any hazardous material dumped during the collision, and which may be a danger to the public from any highway or roadway prior to towing the vehicle from the collision scene;
 - (7) be properly dressed in identifiable company attire, display municipally issued photo identification and wear CSA approved footwear;

- (8) comply with health and safety regulations and shall not smoke within 200 metres of a collision scene;
- (9) (a) retain all Towing Authorization Forms for at least ninety (90) days from the tow date indicated on the Towing Authorization Form and make them available for inspection upon request by a police officer or Licence Issuer;
- (b) where the hirer refuses to sign the Towing Authorization Form, the Driver must indicate such on the form and retain this form for at least ninety (90) days from the tow date indicated on the Towing Authorization Form and make it available for inspection upon request by a police officer or Licence Issuer.

14. DRIVER PROHIBITION

14.1 A licensed Driver shall not:

- (1) commence to tow or otherwise convey or move any vehicle, or hook, lift or connect the vehicle to the Tow Truck, or perform any other services unless first requested to do so by a hirer, the Incident Commander or a police officer or any member of a municipal fire department, or any person authorized by law to direct the removal of the vehicle from private or public property;
- (2) where the tow is required as a result of a collision, commence to tow or otherwise convey or move any vehicles, hook, lift or connect the vehicle to the Tow Truck unless the Tow Truck Driver has completed a Towing Authorization Form, provided the form to the hirer, and it has been dated and signed by the hirer and the Driver has provided a copy thereof to the hirer;
- (3) remove any vehicle from an Incident Scene or immediate vicinity of an Incident Scene of which a report is required by law to be made to a Police Officer, until such report has been made and the investigating Police Officer has completed his/her investigation in respect of such vehicle, or has stated that the presence of such vehicle is no longer required for the investigation;
- (4) alter the Towing Authorization Form without written consent of the hirer;
- (5) stop, or park within two hundred (200) metres (approximately 656 feet) of a collision scene but this does not apply where the Tow Truck Driver has been summoned to the collision scene by one of the persons referred to in subsection (a) or where there are fewer Tow Trucks at the collision scene than vehicles apparently requiring the services of a Tow Truck;
- (6) tow or otherwise convey or move any vehicle which is to be towed outside the Service Area unless requested by the hirer or by one of the persons referred to in subsection (1);
- (7) remain at the scene of a tow after the Incident Commander at the scene has requested that the Driver leave the scene immediately;
- (8) charge mileage to the Owner's vehicle storage compound;
- (9) where the use of a dolly is required, leave the scene until the vehicle to be towed is secured using the appropriate safety device including but not limited to safety chains or straps;
- (10) cause or permit passengers to occupy the vehicle to be towed while connected to the Tow Truck.

15. OWNER AND DRIVER PROHIBITIONS

15.1 A licensed Owner or Driver shall not:

- (1) interfere with any contract for hiring of a Tow Truck where a person has hired or has indicated his/her intention to hire a Tow Truck;
- (2) induce any person to employ or hire a Tow Truck by making any false representation to any person, including representations regarding the location of, or distance to, any place;
- (3) use, or permit to be used, a Tow Truck which has been found to be unsafe or defective after examination and inspection as required under this By-Law;

- (4) demand or request payment for his/her services other than in accordance with the schedule of rates set out in Schedule "B" under this By-Law;
- (5) demand, request or receive a drop fee or administration fee;
- (6) charge a hirer for time lost through defects or inefficiency of the Tow Truck, or the incompetence of the Tow Truck Owner or Driver;
- (7) suggest or recommend to any hirer that any motor vehicle in respect of which his/her services are to be given or requested, be towed, conveyed, driven or delivered to any particular salvage yard, body shop, storage yard or any other public garage, building or place, unless he/she has been requested to do so by the hirer;
- (8) permit a person to be a passenger in a Tow Truck, except under the following circumstances:
 - (a) the passenger is the hirer of the Tow Truck;
 - (b) the passenger is the spouse, son, daughter, parent or similar relation in-law of the Tow Truck Driver;
 - (c) the passenger has been issued a temporary driver's licence and is receiving instructions on driver training as to the operation of a Tow Truck while a passenger.
- (9) make representation in any form that the towing company, Tow Truck Owner or Tow Truck Driver has the endorsement of the municipality, the Ontario Provincial Police or any other government agency except with written permission from the municipality, the Ontario Provincial Police or any other government agency.

15.2 Every licensed Owner or Driver shall only operate or permit to be operated a Tow Truck with a Gross Vehicle Weight Rating of at least 4,536 kilograms (10,000 pounds) and a wrecker body that is registered with the Ministry of Transportation as a Tow Truck or flat bed.

16. VEHICLE REQUIREMENTS

- 16.1 Every licensed Owner or Driver shall operate or permit to be operated only a Tow Truck that clearly displays the company name which has all of the following equipment in a good state of repair:
- (1) a winching or hoisting device of sufficient capacity to lift safely the vehicle to be towed;
 - (2) wheel lift, underlift or sling equipped and maintained in a manner to ensure the safe lifting and conveying of a vehicle to be towed;
 - (3) one (1) device for securing the steering wheel of a vehicle;
 - (4) one (1) charged, dry chemical fire extinguisher having an effective total rating equivalent to at least ABC, and weighing at least 2.27 kilograms (approximately 5 pounds);
 - (5) a minimum of two (2) devices used for securing a vehicle such as chains or straps having a minimum length of 2.7432 metres (approximately 9 feet). All such devices must have working load limit tags;
 - (6) four (4) safety pylons, reflector kits or four (4) thirty (30) minute flares;
 - (7) an intermittent amber warning light system consisting of at least one light which would be clearly visible in all directions for a distance of at least 100 metres (approximately 328 feet);
 - (8) a broom;
 - (9) a shovel;
 - (10) a general purpose first aid kit;
 - (11) a crowbar/pry bar at least 152.4 centimetres (60 inches) in length;
 - (12) at least two (2) wheel blocks;

- (13) wheel wrenches;
- (14) light bar/tow lights for a rear extension carrier;
- (15) a reverse warning system;
- (16) a dolly, including tie-down strap;
- (17) a reflective safety vest;
- (18) absorbent material;
- (19) any other equipment as may be required under the *Highway Traffic Act*.

17. SCHEDULE OF RATES

- 17.1 Collision Tow Rates and Vehicle Impoundment Program Rates shall be charged in accordance with Schedule "B" attached hereto and the Owner and Driver shall not charge any other service fee except applicable federal and provincial taxes.

18. PENALTY

- 18.1 Every person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.

19. VOLUNTARY PAYMENT

- 19.1 Notwithstanding all other provisions of this By-Law in respect of penalties for violations, any person may, upon presentation of a violation tag issued alleging commission of such an offence under this By-Law, pay out of Court at the Administration Centre of the Municipality that issued the violation tag, in person or by mail, within fifteen (15) days from the date of said violation tag, a penalty of a set fine of one hundred and fifty dollars (\$150.00), and upon such payment no further proceedings shall be taken under this By-Law in respect of the said offence alleged in the violation tag.

20. COMPLAINT

- 20.1 Any hirer who is not satisfied with the service provided or who believes a tow company has contravened any section of this By-Law shall submit the complaint in writing to the municipality that issued the licence for investigation and response.

21. SEVERABILITY

- 21.1 Should any section, subsection, clause, paragraph or provision of this By-Law, including any part of schedules be declared by a court of competent jurisdiction to be ultra vires, invalid or illegal for any reason, the same shall not affect the validity of the By-Law as a whole.

SCHEDULE "B"

COLLISION AND VEHICLE IMPOUNDMENT PROGRAM (V.I.P.) TOW RATES

1.	Where the vehicle is towed to an Owner's vehicle storage compound, an Owner or Driver of a Tow Truck hired to tow a passenger vehicle, light van or truck not exceeding 3,000 kilograms (approximately 6,000 pounds) in towing weight, including dollies, for collision towing or Vehicle Impoundment Towing shall charge:	\$350.00 to the vehicle storage compound
2.	Where a hirer requests the vehicle to be towed to a location other than the Owner's vehicle storage compound, the Owner or Driver shall charge the following towing fee and mileage charges, being the standard rate accepted by insurance companies or CAA:	\$350.00 plus \$3.00/kilometer for any distance towed in excess of distance to the Owner's vehicle storage compound
2.	Where the vehicle to be towed is off the traveled portion of the roadway and off the shoulder and is located within fifteen (15) meters (50 feet) of same, the Owner or Driver of a Tow Truck may charge an additional fee of:	\$120.00
3.	Where the vehicle to be towed is not on the traveled portion of the roadway or shoulder and recorded measurement evidences that it is in excess of 15 metres (50 feet) of same, the Owner or Driver of a Tow Truck may charge an additional fee of:	\$6.00 per metre (3.28 feet)
4.	Where it is necessary to have a second Tow Truck to assist in removing the vehicle as determined by a police officer, the Owner or Driver of the Tow Truck may charge an additional fee of:	\$150.00
7.	Upright overturned vehicle	\$200.00
8.	Impound/storage fees where vehicle involved in a collision.	\$60.00 per day
9.	Impound/storage fees where vehicle is impounded under the VIP program: a) Up to and including seven (7) days not to exceed b) After seven (7) days not to exceed unless VIP impound.	\$60.00 per day \$30.00 per day