

THE CORPORATION OF THE CORPORATION OF RICHMOND HILL

BY-LAW NO. 78-19

A by-law to provide for the licensing, regulating and governing of Tow Truck Drivers and Tow Truck Businesses, activities and undertakings in the City of Richmond Hill.

WHEREAS pursuant to section 151(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "*Municipal Act, 2001*") the Corporation of the City of Richmond Hill (the "City") is authorized to provide for a system of Licences with respect to a Business wholly or partly carried on within a municipality even if the Business is being carried on from a location outside the municipality;

AND WHEREAS pursuant to section 155 of the *Municipal Act, 2001* the City is authorized, in a by-law under section 151 with respect to Owners and Drivers of Tow Trucks and vehicles, other than Motor Vehicles, used for hire, may, (a) establish the rates or fares to be charged for the conveyance of property or passengers either wholly within the municipality or from any point in the municipality to any point outside the municipality; and (b) provide for the collection of the rates or fares charged for the conveyance;

AND WHEREAS pursuant to Part XIV of the *Municipal Act, 2001*, a municipality may pass by-laws relating to enforcement matters, including setting out offences and penalties for contravention of its by-laws;

AND WHEREAS on February 11, 2019, Council of the Corporation of the City of Richmond Hill ("Council") enacted an amendment to by-law no. 69-16 that established and administrative monetary penalty system (the "AMPS") for parking infractions, to expand the AMPS system so that it may also apply to promote compliance with any by-law passed pursuant to the *Municipal Act, 2001*;

AND WHEREAS public notice of the intention of Council for the Corporation of the City of Richmond Hill ("Council) to consider this by-law for the licensing and regulation of tow-trucks was provided in accordance with Notice by-law 170-07;

AND WHEREAS Council at its meeting on June 25, 2019 approved the recommendation of the Committee of the Whole at its meeting on June 18, 2019 contained in SRCS.19.16 regarding a new by-law for the licencing and regulation of tow-trucks;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CORPORATION OF RICHMOND HILL ENACTS AS FOLLOWS:

1. That this By-law No. 78-19 be effective upon enactment.
2. That upon the effective date of this By-law No. 78-19: By-law No. 54-13 and all subsequent amendments thereto be repealed.

Passed this 25th day of June, 2019.

Dave Barrow
Mayor

Stephen M.A. Huycke
City Clerk

ARTICLE 1 - SHORT TITLE

1.1 Citation

This by-law shall be known as the "Tow-Truck By-law".

ARTICLE 2 - DEFINITIONS

2.1 Definitions In this by-law, the following words shall have the following meanings:

- (a) **"Agent"** means an individual authorized to act on behalf of a Person in doing anything that can, pursuant to this by-law, be done by an agent.
- (b) **"Administrative Penalty By-law"** means the Corporation's By-law No. 69-16 establishing a system of administrative penalties.
- (c) **"Applicable Laws"** means all statutes, laws, by-laws, regulations, ordinances, orders and requirements of governmental or other public authorities having jurisdiction, and all amendments thereto, at any time and from time to time in force.
- (d) **"Applicant"** means a Person applying for a Licence or renewal of a Licence under this by-law.
- (e) **"Application"** means an Application for a Licence or a renewal of a Licence under this by-law.
- (f) **"Business"** includes a commercial or mercantile activity or undertaking engaged in as a means of livelihood and includes a trade, calling or occupation.
- (g) **"By-law Enforcement Officer"** means a Person authorized to enforce the provisions of this by-law and includes:
 - (i) a Licensing Enforcement Officer;
 - (ii) the Fire Chief;
 - (iii) a Police Officer;
 - (iv) the Medical Officer of Health; and
 - (v) any individual appointed from time to time as a municipal law enforcement officer by the Corporation's Commissioner of Community Services, or such successor office as the case may be, pursuant to section 15 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended or superseded.
- (h) **"Clerk"** means the Clerk or the Deputy Clerk of the Corporation.
- (i) **"Collision"** means the unintended contact resulting from the motion of a Motor Vehicle and/or its load;
- (j) **"Collision Scene"** means the general location or place where a Collision occurred;
- (k) **"Collision Towing"** means the towing of a vehicle disabled as the result of a Collision;
- (l) **"Corporation"** means the Corporation of the City of Richmond Hill.
- (m) **"Council"** means the Council of the Corporation.

- (n) **“Dolly”** means a four-wheeled carriage used in towing to support the trailing end of the towed Motor Vehicle;
- (o) **“Drop Fee”** means any fee or commission paid to the Owner or Driver of a Tow Truck or to a Tow Truck Broker in return for the towing or otherwise conveying of a Motor Vehicle to a particular place, which fee is in addition to the amount which the Owner or Driver of the Tow Truck is authorized to charge to the Hirer;
- (p) **“Driver”** means any individual who operates or has the care and control of a Motor Vehicle.
- (q) **“Gross Vehicle Weight Rating (GVWR)”** means the maximum total vehicle rated capacity, measured at the tire ground interface, as rated by the chassis manufacturer;
- (r) **“Hearing Officer”** means any individual appointed by Council from time to time to review decisions related to administrative penalties in accordance with the Corporation’s Screening and Hearing Officer By-law no. 70-16, as amended or superseded;
- (s) **“Highway”** has the meaning set out in section 26 of the Municipal Act, 2001, S.O. 2001, C.25.
- (t) **“Highway Traffic Act”** means the *Highway Traffic Act*, R.S.O. 1990, c. H.8,
- (u) **“Hirer”** means the Registered Owner of a Motor Vehicle, to be towed or being towed, his/her agent or any Person lawfully in possession of the Motor Vehicle to be towed or being towed;
- (v) **“Inspector”** means an individual appointed by the Corporation from time to time as an Inspector for the purpose of the administration and enforcement of this by-law.
- (w) **“Licence”** means the authorization to carry on a Business.
- (x) **“Licence Plate”** means the plate issued to an Applicant under this by-law.
- (y) **“Licensee”** means the holder of a Licence in good standing.
- (z) **“Licensing Enforcement Officer”** means a Person appointed by the Corporation from time to time to issue Licenses and his or her designate.
- (aa) **“Licensing Section”** means the By-law and Licensing Enforcement section of the Corporation, or such successor division or department as the case may be.
- (bb) **“Motor Vehicle”** means any vehicle powered by a motor and equipped to travel on roads and includes a Motor Vehicle being towed or transported that is damaged, incomplete or inoperable but shall not include a farm tractor, self-propelled implement of husbandry, road building machine, motorcycle, or motor assisted bicycle.
- (cc) **“Nuisance”** means:
 - (i) the obstruction or interference with Persons involved in a Motor Vehicle Collision or otherwise in need of the service of a Tow Truck,
 - (ii) the obstruction or interference with emergency services Personnel responding to a Motor Vehicle Collision, which Personnel would include, but not be limited to peace officers, members of a fire department and members of an ambulance service; and
 - (iii) the obstruction or interference with other Tow Truck Drivers or Owners and pedestrian or vehicular traffic;

- (dd) **“Operator”** means a Person who alone or with others operates, manages, supervises, runs or directs any Business, on an ongoing basis or from time to time, or who exercises control over that Business on behalf of the Owner.
- (ee) **“Owner”** means a Person who alone or with others owns, has the ultimate control over, or directs the operation of a Business carried on at any Premises and includes a lessee, tenant or Licensee of the Premises and the words “own”, “ownership” and words of like import or intent shall be given a corresponding meaning.
- (ff) **“Owner’s Licence”** means a valid and subsisting Licence issued under this by-law to an Owner as defined in this by-law.
- (gg) **“Owner’s Plate”** means a number plate issued to a Licensed Owner under this by-law.
- (hh) **“Penalty Notice”** means a notice in relation to a contravention of this by-law issued pursuant to the Administrative Penalty By-law;
- (ii) **“Permission-To-Tow-A-Vehicle Form”** means a form prescribed by the Licensing Section;
- (jj) **“Person”** means an individual, firm, corporation, association or partnership.
- (kk) **“Premises”** means any land, building or structure, location, place, branch, store, establishment or other Premises Licensed or required to be Licensed under this by-law and includes any Business required to be Licensed under this by-law carried on at the Premises.
- (ll) **“Provincial Offences Act”** means the *Provincial Offences Act*, R.S.O. 1990, c. P. 33
- (mm) **“Provincial Offences Officer”** means a Person appointed by by-law of the Corporation as a Provincial Offences Officer pursuant to the authority under s.15(1) of the Police Services Act, R.S.O. 1990, c. P.15 or designated in writing by a Minister of the Crown under subsection 1(3) of the Provincial Offences Act as a Provincial Offences Officer.
- (nn) **“Region” or “York Region”** means the Regional Municipality of York.
- (oo) **“Registered Owner”** means the Person shown to be the Owner of a Motor Vehicle according to the records maintained by the Registrar of Motor Vehicle for the Province of Ontario;
- (pp) **“Richmond Hill”** means the lands within the geographical boundaries of the municipality of the Corporation of Richmond Hill, in the Regional Municipality of York.
- (qq) **“Schedule of Rates”** means the Schedule of Rates filed pursuant to Section 6.1 of this by-law, which shall set out the rates to be charged to Hirers for the towing or other conveyance of Motor Vehicles and for other services offered or to be performed by a Driver, Operator or Owner for towing services other than those rates and services specified in Section 6.2 of this by-law.
- (rr) **“Tariff By-law”** means Chapter 684, Tariff of Fees, of the Corporation’s Municipal Code, as amended or superseded from time to time.
- (ss) **“Tow Bar”** means a device for positioning a towed Motor Vehicle behind a towing Motor Vehicle;
- (tt) **“Tow Sling”** means a device used for lifting and towing Motor Vehicles with a partial load supported on rubber belts;

- (uu) **“Tow Truck”** means a Motor Vehicle used for towing or otherwise conveying Motor Vehicle(s).
- (vv) **“Tow Truck Broker”** means a Person who in pursuance of a trade, calling, Business or occupation arranges for the provision for hire to a Hirer of the services of a Tow Truck not owned by such Person;
- (ww) **“Underlift”** means a device used for towing Motor Vehicles by lifting one end of a Motor Vehicle being towed from under the axle or structural member of the Motor Vehicle;
- (xx) **“Vehicle Pound Facility”** means land, buildings or structures or part thereof, used for the temporary storage of impounded Motor Vehicles within a secure area which includes an office and which is fenced and gated or inside a building and where a storage fee is charged and may include property held under police or other government authority;
- (yy) **“Wheel Lift”** means a device used for towing Motor Vehicles by lifting one end of the Motor Vehicle being towed by the wheels;
- (zz) **“Work Order”** includes any form, order, invoice, written authorization or any other document that when signed by a Hirer provides authorization to any Person, Vehicle Pound Facility, or any other Business or Person, to carry out any work to the Hirer’s Motor Vehicle, which includes any repair or maintenance to the Motor Vehicle:
- (aaa) **“Wrecker Body”** means a manufacturer’s body assembly which is designed to be attached to the frame of a cab and chassis and used with an Underlift, Tow Bar or Tow Sling or Wheel Lift or flatbed carrier or other similar device and which is equipped and maintained in a manner to ensure the safe lifting and conveying of a Motor Vehicle to be towed;

ARTICLE 3 - REQUIREMENTS FOR LICENSE

3.1 Tow-Truck Owner – broker –Driver - License required

Every Owner, Operator and Driver of a Tow Truck engaged in the towing or conveyance of Motor Vehicles from any point within Richmond Hill to any point inside or outside Richmond Hill and every Person operating and/or carrying on the Business of a Tow Truck Broker shall procure after 90 days of the date of this By-law coming into effect, and maintain an Owner, Operator and/or Driver Licence or Licences from the Corporation in accordance with this by-law.

3.2 Owner – Driver – deemed to be carrying on Business in Corporation

For the purpose of this by-law, a Person shall be acting as the Driver or Owner of a Tow Truck 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 Motor Vehicle from a point within Richmond Hill to either a point also within Richmond Hill or to any point beyond its limits without consent of the Hirer, whether such conveyed Motor Vehicles are intact or inoperable. In the absence of any evidence to the contrary, a Tow Truck will be deemed to originate in Richmond Hill.

3.3 Licence required – tow-truck activities

No Person shall own, operate or drive a tow-truck or operate a tow-truck brokerage as set out in this by-law, wholly or partly in Richmond Hill, unless the Person has a valid, unexpired Owner, Operator and/or Driver Licence or Licences permitting the Person to do so.

3.4 Limitation - number of Owners’ or Operator’s Licences issued.

There will be an unlimited number of Tow Truck Owner’s or Operator’s Licences available and outstanding at any one time under this by-law.

3.5 Multiple Tow Trucks

Any Person who is the Owner or Operator of more than one Tow Truck shall take out a separate License for each Tow Truck owned or operated by him/her which is to be used in Richmond Hill.

ARTICLE 4 - TOW TRUCK LICENCEE DUTIES

4.1 Owner and Driver Duties

Every Licensed Owner and Driver shall:

- (a) take due care of all Motor Vehicles and property delivered or entrusted to him/her for towing;
- (b) comply with all reasonable instructions from the Hirer;
- (c) be civil and behave courteously;
- (d) keep a permanent daily record of work performed by the Tow Truck owned or operated by him/her on his/her behalf in a continuous log sheet or by consecutively numbered bills or invoices showing:
 - (i) the name and address of every Hirer;
 - (ii) a description of the Motor Vehicle towed or conveyed including the
 - (1) provincial Motor Vehicle permit number of any such Motor Vehicle;
 - (2) the rate charged, and,
 - (3) the total fee collected.
- (e) keep every Tow Truck and its equipment clean, in good repair, free from exterior body damage with a well maintained exterior paint finish;
- (f) before demanding payment for services, present to the Hirer an itemized bill for the services setting out the cost of all services and equipment provided or to be provided on the basis of the rate set out in the Schedule of Rates;
- (g) convey the Motor Vehicle to the Hirer's desired Vehicle Pound Facility or the Hirer's home and if the Hirer's desired Vehicle Pound Facility is closed, the Tow Truck Owner or Driver must take the Motor Vehicle to the Hirer's home, if desired by the Hirer, or to the Tow Truck Owner's or Driver's Vehicle Pound Facility and may only charge the general mileage rate as set out herein. The Vehicle Pound Facility must have a 24 hour a day, 7 day a week operation, and must have a land based telephone system. The facility must also be equipped with a computerized system for tracking vehicles entering the pound.
- (h) register with the Licensing Section the name of the Licensed Vehicle Pound Facility used by the Owner and Driver where a Motor Vehicle is towed when a Hirer has not directed or instructed the Owner and Driver to tow the Motor Vehicle to a specific vehicle pound facility, the Hirer's home or other location.

4.2 Additional Drivers Duties

In addition to those duties set out in Section 4.1, every Licensed Driver shall:

- (a) drive the Tow Truck which is towing or otherwise conveying a Motor 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;
- (b) clean up any debris, fragments of glass, Motor Vehicle parts or other materials (excluding loads 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;

- (c) be properly dressed, neat and clean in Personal appearance;
- (d) retain all Permission-To-Tow-A-Vehicle Forms for at least ninety (90) days from the tow date indicated on the Permission-To-Tow-A-Vehicle Form and make them available for inspection upon request by a police officer, the Licence enforcement officer or an Inspector; and
- (e) where the Hirer refuses to sign the Permission-To-Tow-A-Vehicle 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 Permission-To-Tow-A-Vehicle Form and make it available for inspection upon request by a police officer, Licence officer or an Inspector.

4.3 Owner Duties

In addition to those duties set out in Section 4.1, every Licensed Owner shall:

- (a) immediately notify the Licence officer in writing when he/she gives possession and control of the Tow Truck for which he/she is Licensed under this by-law to another Person or permits the use of said Tow Truck by another Person other than through a bone fide contract of hiring for a period greater than one day;
- (b) charge a flat rate for Collision Towing as set out in Section 6.3;
- (c) file with the Licensing Section the Schedule of Rates;
- (d) charge the rates, as set out in Section 6.2 to 6.3 and in the Schedule of Rates for towing and services other than Collision Towing;
- (e) keep in the Tow Truck and show to the Hirer a copy of a tariff card showing the applicable flat rate, the applicable Schedule of Rates of this schedule pursuant to this schedule and also showing, if applicable that the Hirer may be charged additional fees for storage by the Operator of any storage facility or Business to which the Hirer's vehicle is to be towed;
- (f) in the carrying out his/her Business use only stationery, forms, bills, invoices, statements and any other printed or written advertising material including any published advertisement in a newspaper, periodical, directory or other publication, which has printed therein in clearly legible figures and letters his/her name and address, and, if applicable, the name of any Tow Truck Broker offering the services of the said Tow Truck;
- (g) retain for a period of sixty (60) days copies of all advertising matter used by him/her and shall produce the same to the Licence officer if and when requested;
- (h) have attached to or painted on both sides of the body of the Tow Truck in a location approved by the Licence officer, in letters and figures not less than eight centimetres (approximately three 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;
- (i) only use the service of a Tow Truck Driver who is Licensed as a Driver under this by-law;
- (j) have affixed to the Tow Truck in a location approved by the Licence officer the Owner's Plate issued for that Tow Truck;
- (k) notify forthwith the Licence officer in writing of the particulars of such agreement or arrangement to transfer possession and control of a Tow Truck for which he/she has an Owner's Plate to another Person and where such agreement or arrangement is in writing shall file it with the Licence officer;
- (l) give written notice of the sale or other disposition of a Tow Truck to the Licence officer within seven (7) days of any such sale or disposition; and

4.4 Tow Truck – Mechanically Defective

When Tow Truck and its equipment have been examined by the Ministry of Transportation or Licensed mechanic and the Tow Truck or its equipment is found to be mechanically defective, the Owner shall not operate the truck or permit it to be operated, until the Tow Truck has been re-inspected and approved by the Ministry of Transportation or other inspecting authority.

4.5 Tow Truck – Dangerous - Unsafe

When a Tow Truck is examined by the Ministry of Transportation or Licensed mechanic and a report states that the Tow Truck or equipment is dangerous or unsafe and or the Owner is unable to obtain a Safety Standard Certificate, the Owner shall remove and return the plate or validation sticker to the Licensing Section until such time as the Tow Truck and the equipment are certified to be safe by the Ministry of Transportation or Licensed mechanic.

ARTICLE 5 - LICENSEE PROHIBITIONS

5.1 Owner/Operator and Driver Prohibitions

No Licensed Owner, Operator or Driver shall:

- (a) operate or permit to be operated a Tow Truck which lacks any of the following equipment which is in a good state of repair:
 - (i) a winching or hoisting device of sufficient capacity to safely lift the motor vehicle to be towed;
 - (ii) Wheel Lift or an Underlift equipped and maintained in a manner to ensure the safe lifting and conveying of a Motor Vehicle to be towed;
 - (iii) one device for securing the steering wheel of a Motor Vehicle;
 - (iv) two dry chemical fire extinguishers having an effective total rating equivalent to at least 4-B C, and each weighing 2.27 kg (approximately 5 lbs);
 - (v) a minimum of two tow safety chains having a minimum length of 2.7432 metres (approximately 9 feet) each with links of at least 7.9375mm steel (5/16 inches);
 - (vi) four (4) safety pylons;
 - (vii) an intermittent amber warning light system consisting of at least one light which would be clearly visible in all directions for a distance of least 100 metres (approximately 328 feet);
 - (viii) a broom;
 - (ix) a shovel;
 - (x) a general purpose first aid kit;
 - (xi) a crowbar/pry bar at least 152.4 cm (60 inches) in length;
 - (xii) at least two wheel blocks
 - (xiii) flares or reflector kits;
 - (xiv) wheel wrenches;
 - (xv) light bar for a rear extension carrier and any other provision as may be required under the Highway Traffic Act; and
 - (xvi) a Dolly;

- (b) 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;
- (c) induce any Person to employ or hire a Tow Truck by making any false representation to any Person such as to the location of or distance to any place or any other matter;
- (d) 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;
- (e) demand or request payment for his/her services other than in accordance with the Schedule of Rates;
- (f) demand, request or receive a Drop Fee;
- (g) charge a Hirer for time lost through defects or inefficiency of the Tow Truck, or the incompetence of the Tow Truck Owner or Driver;
- (h) 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;
- (i) permit a Person to be a passenger in a Tow Truck, except under the following circumstances;
 - (i) the passenger is the Hirer of the Tow Truck; or
 - (ii) the passenger is either the spouse, son, daughter or parent or similar relation in law of the Tow Truck Driver and in such cases the Driver is not to solicit a tow, engage in any form of towing or have his or her Tow Truck within 200 metres (approximately 653 feet) of the scene of a Collision nor shall the Driver cause or permit his or her passenger to solicit a tow or take any actions to engage in any form of towing while the passenger is in the Tow Truck; or
 - (iii) the passenger has filed any Application with the Licensing Section for a Tow Truck Driver's Licence, or has recently been issued his or her initial Tow Truck Driver's License, and in either of these circumstances is receiving instructions on Driver training as to the operation of a Tow Truck while a passenger, but that Person being trained shall not be:
 - (1) trained for more than one (1) thirty (30) day period commencing from the date the Application for a Driver's License was submitted to the Licensing Section;
 - (2) permitted more than one (1) such thirty (30) day training session regardless of the number of Applications from a Driver's License Applicant may have made to the Licensing Section;
 - (3) a Nuisance, hindrance or create a disturbance while in the process of receiving such training.
- (j) operate or permit to be operated a Tow Truck with a Gross Vehicle Weight Rating of less than 4,536 kg (10,000 lbs);
- (k) operate or permit to be operated a Tow Truck without a wrecker body;
- (l) operate or permit to be operated a Tow Truck without an Owner's Plate;

- (m) operate or permit to be operated a Tow Truck without the Licence renewal sticker attached to the Owner's Plate;
- (n) keep any Work Orders in the Tow Truck;
- (o) provide any Work Order to a Hirer;
- (p) induce, pressure, suggest, recommend or in any way cause a Hirer to sign or agree to a Work Order or otherwise induce, pressure, suggest, recommend or in any way cause a Hirer, to agree to any work to the Hirer's vehicle, which work includes any repairs or maintenance.

5.2 Additional Driver Prohibition

In addition to the prohibitions in Section 5.1, no Licensed Driver shall:

- (a) commence to tow or otherwise convey or move any Motor Vehicle, or hook, lift or connect the Motor Vehicle to the Tow Truck, or perform any other services unless first requested so to do by a Hirer, or a police officer, or any member of a municipal fire department, or any Person appointed by the Corporation's Commissioner of Planning and Regulatory Services as a municipal by-law enforcement officer to enforce the provisions of the Corporation's traffic and parking by-law No. 402-89, being Chapter 1116 of the Corporation's Municipal Code, as amended or superseded;
- (b) where the request to tow a Motor Vehicle outlined in paragraph (a) and is from a Hirer, and where the tow is required as a result of a Motor Vehicle Collision, the Driver shall not commence to tow or otherwise convey or move any Motor Vehicles, hook, lift or connect the Motor Vehicle to the Tow Truck unless the Tow Truck Driver has a completed Permission-To-Tow-A-Vehicle Form and it has been dated and signed by the Hirer and he/she has provided a copy thereof to the Hirer;
- (c) alter or provide any information on the Permission-To-Tow-A-Vehicle Form;
- (d) stop, or park within 200 metres (approximately 653 feet) of a Collision location but this does not apply where the Tow Truck Driver has been summoned to the location of the Collision by one of the Persons referred to in paragraph (a) or where there are fewer Tow Trucks at the Collision location than vehicles apparently requiring the services of a Tow Truck;
- (e) ask or seek out a Hirer or allow or direct an agent to ask or seek out a Hirer, at a Collision location or within 200 metres (approximately 653 feet) of a Collision location, where the actions of the Driver or agent constitutes a Nuisance;
- (f) tow or otherwise convey or move any vehicle which is to be towed outside the boundary of Richmond Hill unless requested by the Owner or Operator of the vehicle or a police officer or member of the municipal fire department;
- (g) drive or act as a Driver unless the Registered Owner or where applicable, the lessee, of the Tow Truck is Licensed under this by-law and
- (h) commence to drive or act as a Driver for any Registered Owner or, where applicable, any lessee, without first providing the Licence officer with a letter from that Person stating that the Owner or, where applicable, the lessee consents to the Driver operating their Licensed Tow Truck(s).

5.3 Additional Owner/Operator Prohibition

In addition to the prohibitions in Section 5.1, no Licensed Owner or Operator shall:

- (a) 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;
- (b) operate a Tow Truck or permit a Tow Truck to be operated when the Tow Truck and its equipment have been examined by the Ministry of Transportation or Licensed mechanic and the Tow Truck or its equipment are found to be mechanically defective until the Tow Truck has been re-inspected and approved by the Ministry of Transportation or other inspecting authority; or
- (c) alter or amend the Schedule of Rates without first giving at least 30 days written notice to the Licensing Section.

ARTICLE 6 - TOWING RATES

6.1 Schedule of Rates

- (a) a Schedule of Rates shall be filed with the Licensing Section for all types of towing, except for those set out in Section 6.2 below, which shall be based only on the following factors or a combination thereof:
 - (i) time:
 - (1) time required to perform services;
 - (2) standby time;
 - (ii) distances:
 - (1) distance to travel to reach scene after hiring;
 - (2) distance vehicle is towed or conveyed;
 - (iii) additional services:
 - (1) changing more than one wheel;
 - (2) disconnecting drive shaft;
 - (3) moving vehicle to towing position;
 - (4) opening locked vehicles without keys;
 - (5) provision and use of Dolly;
 - (6) other specified services where a fee is charged.
- (b) Where rates vary according to time of day or geographical zones or a combination of different factors, the exact formula for determining the rate shall be set out in the Schedule of Rates.
- (c) Notwithstanding the provisions of any other section of this schedule, where an estimate is given to the Hirer of the cost of services or equipment to be provided by a Tow Truck Owner or Driver, the charge to the Hirer shall not exceed the charges indicated in the Schedule of Rates or the amount of the estimate, whichever is lower.
- (d) the provisions of Section 4.3 of this by-law do not prohibit the Owner of a Tow Truck from entering into a written agreement with a Tow Truck Broker, an automobile association, motor league, a government, government agency or local board thereof, or any limited corporation, for the provision of towing services provided that the Tow Truck Owner provides a copy of all such towing contracts to the Licensing Section prior to supplying any services there under.

6.2 General rates

Every Owner and Driver of a Tow Truck shall charge no more than the following tow rates where it is towing a passenger Motor Vehicle, light duty van or truck not exceeding six thousand (6000) pounds (2721 kg) in towing weight:

| | |
|--|--------------------|
| a) Collision Scene tow | \$250.00 |
| b) non-Collision Scene tow | \$125.00 |
| c) winch fee | \$103.00 |
| d) storage (indoor/outdoor) per day | \$60.00/55.00 |
| e) wait time (Collision reporting centre) (\$68/hour) | \$17.00/15 minutes |
| f) rate per km in tow (first 30km) | \$3.10/km |
| g) rate per km in tow (after first 30km) | \$1.55/km |

6.3 Collision Tow Rates

In the towing of a Motor Vehicle involved in a Collision:

- (a) every Owner and Driver of a Tow Truck who offers to tow or tows a passenger vehicle, light duty van or truck not exceeding six thousand (6000) pounds (2721 kg) in towing weight from a Collision Scene, shall only charge or cause to be charged an all-inclusive flat rate towing fee of two hundred and fifty dollars (\$250.00), with no other additional charges other than those described in 6.2 (d-g) and any applicable federal and provincial taxes.
- (b) Where a vehicle is requested by the Hirer to be towed to a location outside of the boundary of Richmond Hill, the Operator may charge a mileage fee as set out in 6.2 (f) and 6.2 (g) for the portion of the tow which falls outside the boundary of Richmond Hill.
- (c) Notwithstanding 6.3 (a), where a vehicle is located off the traveled portion of the Highway and must be winched to a towing position the Driver or Owner may charge a maximum fee of up to one hundred and three dollars (\$103.00) for the act of winching the vehicle to a towing position.
- (d) the fee described in paragraph (b) above shall not be charged or cause to be charged when the vehicles are damaged as a result of:
 - (i) mechanical failure, or
 - (ii) non-moving vehicle fires,unless in either case the damage to the vehicle is considered to be a reportable incident to the vehicle Owners insurance carrier.
- (e) where paragraph (d) of this Section 6.3 applies, an Owner and Driver of a Tow Truck may only charge or cause to be charged a fee in accordance with the Schedule of Rates.
- (f) Notwithstanding any other provision of this schedule, the collision tow rates as set out in Section 6.2 of this by-law shall be the rate charged for vehicles being towed from the Collision Scene.

ARTICLE 7 - ADMINISTRATION/ENFORCEMENT

7.1 Administration by Licensing Enforcement Officer

The Director of By-law and Licensing Enforcement for the Corporation, including any successor office, or his or her designate is a Licensing Enforcement Officer under this

by-law and are authorized to administer the provisions of this by-law on behalf of the Corporation.

7.2 Enforcement of By-law

All By-law Enforcement Officers are authorized to enforce the provisions of this by-law on behalf of the Corporation.

7.3 Licensing Enforcement Officer – duties and responsibilities

All By-law Enforcement Officers are authorized to enforce the provisions of this by-law on behalf of the Corporation and shall have the following duties and responsibilities:

- (a) receiving and processing all Applications for Licences and renewals of Licences;
- (b) maintaining and keeping records of all Applications received and all Licences issued, renewed, refused, revoked or suspended;
- (c) assisting with the enforcement of this by-law;
- (d) making or causing to be made a circulation respecting each Application, which shall include circulating Applications on an as needed basis to the Medical Officer of Health, the Chief of Police of the Region of York, Fire Chief and all other Corporation departments and provincial bodies or agencies whose input is required prior to approval;
- (e) making or causing to be made all investigations and inspections which the Licensing Enforcement Officer deems necessary to determine whether an Applicant meets the requirements of this by-law and all Applicable Laws;
- (f) issuing Licences to Persons who meet the requirements of this by-law;
- (g) renewing existing Licences of Persons who meet the requirements of this by-law;
- (h) issuing the summary suspension of any Licence pursuant to the requirements of this by-law;
- (i) with respect to any Person not meeting the requirements of this by-law, making recommendations to the Hearing Officer regarding the refusal of any Licence, or the suspension, revocation or cancellation of any Licence; and
- (j) performing all other functions incidental to the due administration and enforcement of this by-law.

ARTICLE 8 - APPLICATION FOR ISSUANCE/RENEWAL OF LICENCE

8.1 Application for Licence – who to make the Application on behalf of Applicant

Every Applicant shall appear in Person at the Corporation's licensing office and no Person other than the Applicant shall complete the prescribed Application forms, and:

- (a) where the Applicant is a corporation, the Application shall be completed by a duly authorized director or officer of that corporation; and
- (b) where a partnership is the Applicant, the Application shall be made by any one or more of the partners.

8.2 Application – form

Every Application form shall include a requirement that the Applicant provide at least the following information:

- (a) the name and address of the Applicant;

- (b) the address of the Applicant and of the intended Licensee, to which the Corporation or its Licensing Enforcement Officer may send or deliver any notice or other document required or authorized by law;
- (c) if applicable, the municipal address of each building, Premises or place in respect of which a Licence is sought and where the Tow Truck Business Licensed or required to be Licensed is or is intended to be carried on; and
- (d) the name, address and telephone number of the Owner of any building, Premises or place in which any such Tow Truck Business is to be carried on.

8.3 Application – documents required

Every Applicant shall submit the following:

- (a) a completed Application form including all information required for issuance of a License in respect of the Business which the Applicant wishes to conduct;
- (b) the applicable fee as set out in the Tariff By-law;
- (c) government-issued photo identification, of an officer authorized to bind the corporation where the Applicant is a corporation, or one of the partners where the Applicant is a partnership;
- (d) where the Applicant is an individual, proof, satisfactory to the Licensing Enforcement Officer, that the Applicant and/or every intended Driver is at least eighteen (18) years of age, which may be evidenced by the production of such of the following original documents as the Licensing Enforcement Officer may require, without limitation:
 - (i) a birth certificate, accompanied by a photo;
 - (ii) a valid Canadian Driver's Licence;
 - (iii) a valid Canadian passport;
 - (iv) any other documentation or information as may be required by the Licensing Enforcement Officer.
- (e) where the Applicant is a corporation:
 - (i) a copy of the articles of incorporation and a document duly certified by the Ministry of Government Services (or any successor ministry) verifying the status of the corporation, current corporate name, the head office address, the principal place or places of Business and the names and addresses of all directors and officers of the corporation, as at the time of the Application; and
 - (ii) a statutory declaration, in writing, signed by an officer of the corporation, which declaration shall state:
 - (1) the full name of every shareholder and director and the address of his or her ordinary residence;
 - (2) the name or names under which the corporation carries on, or intends to carry on Business;
 - (3) that the Persons therein named are the only shareholders and directors of the corporation;
 - (4) the mailing address for the corporation;
 - (5) the identity of all Persons or entities having an interest, direct or indirect, any trust arrangement, or any financial,

contractual or understood arrangement, with respect to the Ownership, operation or management of the Premises or in the Business to be carried on;

- (6) the identity of every Person having a beneficial interest, directly or indirectly, in the Premises or in the Business to be carried on and every Person having a right to receive income, revenue or benefit of any kind arising out of the operation of such Premises or Business, or any Person who in fact receives such income, revenue or benefit, and the terms upon such interest or right is conferred; and
 - (7) that the officer has the right to bind the corporation.
- (f) where the Applicant is a partnership:
- (i) a copy of the record of registration of the partnership under the Business Names Act, R.S.O. 1990, c. B.17, as amended and/or the Limited Partnerships Act, R.S.O. 1990, c. L.6, as amended; and
 - (ii) a statutory declaration, in writing, signed by all members of the partnership, which declaration shall state:
 - (1) the full name of every partner and the address of his or her ordinary residence;
 - (2) the name or names under which the partners carry on or intend to carry on Business;
 - (3) that the Persons therein named are the only members of the partnership;
 - (4) the mailing address for the partnership;
 - (5) the identity of all Persons or entities having an interest, direct or indirect, any trust arrangement, or any financial, contractual or understood arrangement, with respect to the Ownership, operation or management of the Premises or in the Business to be carried on; and
 - (6) the identity of every Person having a beneficial interest, directly or indirectly, in the Premises or in the Business to be carried on and every Person having a right to receive income, revenue or benefit of any kind arising out of the operation of such Premises or Business, or any Person who in fact receives such income, revenue or benefit, and the terms upon such interest or right is conferred.
- (g) evidence in the form of a certificate of insurance as prescribed by the Corporation of the following policies of insurance:
- (i) commercial general liability insurance in an amount of not less than five million (\$5,000,000) Canadian dollars per occurrence; and
 - (ii) automobile insurance in the amount of not less two million (\$2,000,000) Canadian dollars; and
- (h) the results of a Criminal Record and Judicial Matters Check that is dated not more than two (2) months prior to the date of the Application for the Applicant if the Applicant is an individual, for the partners of the Applicant if the Applicant is a partnership, and for the directors, shareholders and officers of a corporation, if the Applicant is a corporation;
- (i) for every Applicant for a Tow Truck Owner's License:

- (i) A copy of the Ownership or lease in relation to the Tow Truck; and
 - (ii) A vehicle inspection report issued by the Ministry of Transportation showing that the Tow Truck and all towing related equipment has been accepted within the previous sixty (60) days of this submission; or
 - (iii) a Safety Standard Certificate issued by the Ministry of Transportation within thirty-five (35) days of the date of the Application.
- (j) for all intended Tow Truck Drivers of an Owner or broker Applicant, or Tow Truck Drivers' License Applicants:
- (i) a valid Driver's License for the intended Tow Truck Drivers and the class of Motor Vehicle to which the Application relates issued by the Province of Ontario;
 - (ii) a Driver's abstract (MVR) and a commercial Driver Operators record (CVDR) outlining the intended Tow Truck Drivers' driving record(s) issued by the Ministry of Transportation (or any successor ministry of the Province) no more than one (1) month prior to the date of the Application, showing fewer than nine (9) accumulated demerit points as defined in O.Reg. 339/94 under the Highway Traffic Act;
 - (iii) proof satisfactory to the Licensing Enforcement Officer of being eligible to seek employment in Canada which may be evidenced by the production of such of the following original documents as the Licensing Enforcement Officer may require, without limitation:
 - (1) a Canadian birth certificate;
 - (2) a valid Canadian passport;
 - (3) a Canadian citizenship card;
 - (4) record of landing papers; and
 - (5) a Certificate of Indian status; and/or
 - (6) a letter of employment or potential employment from a Licensed Tow Truck Owner dated not more than forty-five (45) days prior to the date of the Application for all new Applicants, or upon demand from the Licensing Enforcement Officer at any time thereafter.

8.4 Partner - a corporation - conditions

If any member of a partnership applying for a Licence is a corporation, such corporation shall be deemed to be applying for an Owner's Licence and the Applicant shall comply with the requirements of this by-law with respect to a corporate Applicant, as well as those relating to a partnership Application.

8.5 Fees –pro-rated

The fees required to be paid for a new Application pursuant to the Tariff By-law shall be pro-rated on a monthly basis, provided the Applicant or employee of the Applicant was not operating in Richmond Hill prior to receiving a License from the Corporation.

8.6 Yearly renewal of Licences

All Licences issued under this by-law must be renewed by June 30th of each calendar year. Any Licence not renewed by the required renewal date shall be deemed to have lapsed, and the Person, whose name the original Licence was issued under, if such Person is continuing to operate the Business, shall be deemed to be operating without a Licence.

8.7 Annual fees – renewal fee

In addition to the fees paid pursuant to paragraph (b) of Section 8.3 of this by-law, on or by June 30th of each year thereafter in which the Licence continues or is renewed, every Applicant and Licensee shall pay to the Corporation the fee set forth in the Tariff By-law.

8.8 Application for renewal - additional requirements

An Application that is for the renewal of a Licence shall only be renewed after the documentation required pursuant to Section 8.3 of this by-law has been approved by the Licensing Enforcement Officer and:

- (a) if the Ontario Driver's Licence issued to a Tow Truck Driver/Owner Licensed under this by-law expires prior to June 30th, then the Licence under this by-law shall expire on the same date, provided that upon submission by the Licensee in Person to the Licensing Enforcement Officer of proof that the Driver's/Owner's Ontario Driver's Licence has been renewed, the Operator's or Owner's Licence under this by-law shall be reinstated for the balance of the calendar year;
- (b) if the automobile insurance on a Tow Truck Licensed under this by-law expires prior to June 30th, then the Licence under this by-law shall expire on the same date, provided that upon submission by the Owner or Operator in Person to the Licensing Enforcement Officer of proof that the insurance on the Tow Truck has been reinstated or renewed, the Tow Truck's Licence under this by-law shall be reinstated for the balance of the calendar year; and
- (c) if any government work permit of any Person Licensed under this by-law expires prior to June 30th, then that Person's Licence under this by-law shall expire on the same date, provided that upon submission by the Licensee in Person to the Licensing Enforcement Officer of proof that the government work permit has been extended, the Person's Licence under this by-law shall be reinstated for the balance of the calendar year.

8.9 New and Replacement Tow Truck Approval

An Applicant or Owner Licensed under this by-law who disposes of the Tow Truck or otherwise ceases to use his/her Tow Truck for the purpose permitted under this by-law shall, before using the newly acquired Tow Truck;

- (a) attend at the Licensing Section and produce a copy of the current Motor Vehicle permit in good standing issued by the Ontario Ministry of Transportation issued in the plate Owner's name, Owner's Licence, a copy of the current Motor Vehicle liability insurance card endorsed to show the change of vehicle;
- (b) if an Applicant, submit the newly acquired Tow Truck for inspection and approval by the Licensing Section forthwith;
- (c) if a Licensed Owner, submit the newly acquired Tow Truck for inspection by the Licensing Section within 24 hours of replacement;
- (d) produce and file with the Licensing Section either:
 - (i) an Ontario Ministry of Transportation vehicle inspection report showing that the Tow Truck has been accepted within the previous sixty (60) days, or
 - (ii) a safety standard certificate issued under the Highway Traffic Act within sixty (60) days of this submission.
- (e) before using the newly acquired Tow Truck, and immediately after obtaining approval from the Licensing Section, file with the Licensing Section all documents required to report the change.

ARTICLE 9 - ISSUANCE OR REFUSAL OF A LICENCE/RENEWAL OF A LICENCE

9.1 Application not approval

Receipt of the Application and/or submission of the Licence fee shall not constitute approval of the Application, nor shall it obligate the Corporation to issue or renew any such Licence.

9.2 Circulation of Application

Prior to the issuance of a Licence or a renewal thereof, a copy of the Application may be forwarded for a report or comments to the Medical Officer of Health, the Fire Chief, the Chief Building Official, other Corporation departments or any other public authority(ies) who may have an interest in the Application, or for such information as may be required under this by-law or any other Applicable Laws.

9.3 Licence – issued – plate – License sticker

Provided that the Licensing Enforcement Officer does not have any grounds for refusal as set out in Article 13 of this by-law, the Licensing Enforcement Officer shall issue the Licence, License plate and validation sticker to the Applicant. If, after issuance and prior to any expiry date of the License, such License plate and/or validation sticker is defaced, destroyed or lost, the Licensee shall apply to the Licensing Section for a replacement, and such replacement shall be issued subject to payment of any applicable fees.

9.4 Licence not issued – notification to Applicant

In the event that there are grounds for refusal as set out in Article 13 of this by-law, the Licensing Enforcement Officer shall not issue the Licence and shall forthwith notify the Applicant in writing of the deficiencies in the Application at the address shown on the Application form or at the last address for delivery appearing in the Corporation's records.

9.5 Corrections of deficiencies in Application

Where the Applicant is notified of deficiencies in its Application under Section 9.4 of this by-law, the Applicant shall be given twenty-one (21) calendar days from the date of mailing of such notification to contact the Licensing Enforcement Officer to advise of the steps taken or being taken by the Applicant to correct the deficiencies. If the Applicant does not contact the Licensing Enforcement Officer within twenty-one (21) calendar days of the date of mailing of the notification in Section 9.4 of this by-law, the Licensing Enforcement Officer shall forward a recommendation to the Hearing Officer for the cancellation or refusal of the Application. If the Applicant contacts the Licensing Enforcement Officer within twenty-one (21) calendar days of the mailing of the notification in Section 9.4 of this by-law, the Applicant shall have a further period of thirty (30) calendar days from the date of contacting the Licensing Enforcement Officer to correct any outstanding deficiencies and, if at the end of the thirty (30) calendar days the Applicant has failed to correct any or all of the outstanding deficiencies, the Licensing Enforcement Officer may forward a recommendation to the Hearing Officer for the cancellation or refusal of the Application.

9.6 Referral to Hearing Officer

If, following the notification to the Applicant under Section 9.4 of this by-law and the expiry of time to correct the deficiencies under Section 9.5 of this by-law, the Licensing Enforcement Officer still believes that the Applicant is not entitled to the Licence based on any of the grounds referred to in Article 13 of this by-law, the Licensing Enforcement Officer shall refer the matter to the Hearing Officer to hold a hearing.

9.7 Issuance of a Licence on Terms and Conditions

Notwithstanding any other provision of this by-law, Council may issue a Licence or renew a Licence subject to such terms and conditions as are necessary to give effect to this by-law or, if recommended by the Hearing Officer after a hearing as provided for in Article 14 of this by-law.

9.8 Licence – refusal of Application

Where a Person has made an Application for the issuance or the renewal of a Licence and submitted the applicable fee and such Application is refused or the Person terminates the Application prior to the issuance or renewal of the Licence, the Applicant may apply to the Licensing Enforcement Officer for a refund of up to fifty (50%) percent of the applicable fee.

ARTICLE 10 - LICENCE TERMS AND CONDITIONS

10.1 Production of documents - information

Every Person to whom a Licence has been issued under this by-law shall produce all documents, certificates, cards or any other information issued by the Corporation in relation to the Licence upon demand by any Person authorized to enforce the provisions of this by-law.

10.2 Posting – display of Licence

Upon receipt of a Licence under this by-law, a Licensee shall forthwith permanently affix and maintain the original Licence issued under this by-law at all times on the exterior rear of the Tow Truck for which it was granted and ensure that the original or the identification card related to the Licence is maintained at all times in the Motor Vehicle for which it was issued and further, that the Licensed Owner or Operator shall produce the identification card immediately upon the request of any Person authorized to administer or enforce the provisions of this by-law.

10.3 Notification – change in information

When a Licensee changes his or her name or address or any information relating to his or her Licence, he or she shall notify the Licensing Section within seventy-two (72) hours of the change of information relating to the Licence and shall return the Licence immediately to the Licensing Section for amendment. A Licensee that is a corporation shall also report any change of the name or address of any officer or director, the location of the corporate head office or the Ownership of shares to the Licensing Section within seven (7) days of the change and if required by the Licensing Enforcement Officer, the Licensee shall return his or her Licence immediately to the Licensing Section for amendment. A Licensee shall carry on Business in the Corporation in the name which is set out in the Licence and shall not carry on Business in the Corporation under any other name unless he or she has first notified the Licensing Section.

10.4 Investigation of Licence

Every Owner or Operator of a Tow Truck that is Licensed or required to be Licensed under the provisions of this by-law shall attend at a designated location forthwith upon the request of a Licensing Enforcement Officer or other Person authorized to administer or enforce the provisions of this by-law who is conducting an investigation.

10.5 Signs - advertisements

Any signs or advertisements relating to any Tow Truck Business may only be maintained or erected in accordance with the any applicable by-laws of the Corporation.

10.6 Advertising - carrying on Business - name other than Licensed - prohibited

No Person Licensed to carry on Business under this by-law shall advertise, promote or carry on such Business under any name other than the name endorsed on the Licence.

10.7 Licence - transfer - prohibited

Every Licence is Personal to the Person to whom it was issued, and cannot be transferred or assigned to any other Person.

10.8 Licence - privilege - property of Corporation

No Person shall enjoy a vested right in the continuance or renewal of a Licence and the value of a Licence shall be the property of the Corporation and shall remain so irrespective of the issue, renewal or revocation thereof.

10.9 Facts - misrepresentation of - deemed violation

No Person carrying on or engaged in any Business to which this by-law relates shall make a false or intentionally misleading recital of fact, statement or representation,

orally or in any agreement, statutory declaration or Application form required by this by-law, to the Council, any committee of Council, the Clerk, a By-law Enforcement Officer, Medical Officer of Health or a public health Inspector and the making of such a false or intentionally misleading recital of fact, statement or representation constitutes an offence.

10.10 Compliance - applicable provisions - all Persons

Every Person, including an Owner and/or Operator, shall comply with the provisions of this by-law applicable to such Person, whether or not such Person is Licensed or required to be Licensed under this by-law or any applicable law. Every Applicant and every other Person Licensed or required to be Licensed under this by-law shall, ensure that any of its employees who are involved in the Business to which the Licence applies, comply with every provision, regulation and requirement contained in this by-law relating to such Person and such Business, whether or not such Person is Licensed or whether or not a Licence issued to such Person is valid and subsisting.

ARTICLE 11 - INSPECTIONS

11.1 Inspection - authorization

All By-law Enforcement Officers may:

- (a) inspect:
 - (i) as much of any Premises as is used for the carrying on of the Business;
 - (ii) any books, records or other documents of or relating to any such Business; and/or
 - (iii) each Tow Truck operated, provided or used in the Business;
- (b) require that each Tow Truck operated, provided or used in the Business be submitted for inspection; and
- (c) ensure that each Licensee produces his or her Tow Truck for inspection at the time and place designated by a By-law Enforcement Officer.

11.2 Inspection of Premises

Any Tow Truck, at all times may be entered and inspected by a By-law Enforcement Officer to ensure compliance with the requirements of this by-law.

11.3 Random inspections

All Tow Trucks Licensed or required to be Licensed under this by-law shall be subject to random inspections to ensure compliance with the requirements of this by-law from time to time throughout the term of a Licence or any renewal of the Licence upon the demand of a Licensing Enforcement Officer or a By-law Enforcement Officer and every Owner and Operator of a Tow Truck that is Licensed or required to be Licensed under this by-law, upon the demand of the Licensing Enforcement Officer or a By-law Enforcement Officer shall provide free and unobstructed access to such Tow Truck for inspection.

11.4 Inspection of Driver's Licence - permit

Every Driver of a Tow Truck that is Licensed or required to be Licensed under this by-law shall keep at all times and, upon the demand of a By-law Enforcement Officer, surrender for reasonable inspection, his or her Driver's Licence issued under section 32 of the Highway Traffic Act or under the law of another jurisdiction and the permit for the Tow Truck issued under section 7 of the Highway Traffic Act, as amended, or under the law of another jurisdiction.

11.5 Identification - information - produced on demand

A By-law Enforcement Officer may, where there are reasonable and probable grounds that an offence under this by-law has been committed, request any Person believed to have committed such offence to provide suitable identification and information and

where such Person is Licensed by the Corporation or any other municipality, to produce all relevant Licences or permits and such Person shall immediately produce such Licences or permits for inspection.

11.6 Prohibition – obstructing inspection

No Person shall hinder or obstruct any Person authorized to enforce the provisions of this by-law from entering or inspecting any Tow Truck or Premises or part thereof for the purposes of enforcing the provisions of this by-law.

ARTICLE 12 - LICENCE SUSPENSION, REVOCATION & CANCELLATION

12.1 Notices – compliance with by-law

In the event of non-compliance with any of the provisions of this by-law by any Person, an order to comply may be issued and served by a By-law Enforcement Officer. Such order shall set out the time for compliance. Every Person to whom an order to comply is issued, or upon whom an order to comply is served, shall, forthwith, take such steps as are necessary to comply with the order to comply within the time provided for compliance.

12.2 Request to inspect – non-compliance with Licence - suspension

Where any holder of a Licence fails to comply with a request to inspect or fails to comply with any of the provisions of the Licence, the Licensing Enforcement Officer shall immediately suspend their Licence and may recommend the revocation of the Licence to Council.

12.3 Request for status hearing by Licensing Enforcement Officer

The Licensing Enforcement Officer may, where there have been any breaches by a Licensee of this by-law, report to the Hearing Officer with a request that the Hearing Officer hold a hearing to consider the status of the Licence or the suspension or revocation of the Licence.

12.4 Licence - revoked

A Licence granted under this by-law may be revoked by Council, upon recommendation of the Licensing Enforcement Officer where such Licence has been issued by the Corporation through error, fraud, impersonation, or false documents contrary to the provisions of this by-law or any other applicable law.

12.5 Cancellation of a Licence

Any Licence issued under this by-law may be cancelled by the Licensing Enforcement Officer at any time, upon the written request of the Licensee.

12.6 Licence – suspension – production for inspection

Notwithstanding any provision of this by-law respecting the suspension or revocation of a Licence, the Licence issued to the Owner or Operator of a Tow Truck that is required to be Licensed under this by-law shall be suspended immediately in accordance with Section 12.7 of this by-law for the period of time until such Motor Vehicle is produced for an inspection as provided under Article 11 of this by-law and passes such inspection, as approved by the Licensing Enforcement Officer.

12.7 Summary suspensions

The Licensing Enforcement Officer may affect a temporary or summary suspension of any Licence for a minimum period of twelve (12) hours and a maximum period of fourteen (14) calendar days in the following circumstances:

- (a) a Tow Truck is deemed to be mechanically unsafe, including but not limited to body damage with sharp edges, holes in floorboards, significantly worn or unserviceable tires, doors failing to close properly, wire protruding from any seat or any other mechanical or physical defect that would render the Tow Truck unsafe;
- (b) a Licensee's liability insurance has expired and he or she continues to carry on Business;

- (c) an inspection has been performed on a Tow Truck for transfer of a Licence and the Licensee fails to effect the transfer but the Operator or Licensee carries on Business with the replacement Tow Truck;
- (d) there is misuse of a Licence by a Licensee, where the Licensee has taken a Licence Plate or decal from one Tow Truck and affixed it to another Tow Truck that is not approved under the Licence;
- (e) a lease agreement has expired and the lessee fails to renew it with the Licensee, but the lessor or Licensee continues to work while the leasing agreement is expired;
- (f) a cheque is returned marked Non Sufficient Funds ("NSF") for the payment of a Licence fee;
- (g) a Licensee has failed to attend the Licensing Office as per the directions of the Licensing Enforcement Officer or anyone authorized to enforce the provisions of this by-law;
- (h) a Licensee fails to comply with a request to inspect; or
- (i) a Licensee fails to comply with any of the provisions of this by-law.

12.8 Suspension - conditions

A suspension under Section 12.7 of this by-law shall take effect upon delivery or service of written notice thereof to the Licensee at the Business Premises of the Licensee or at the last address shown or appearing on records of the Corporation. The suspension shall remain in effect for no more than fourteen (14) days from the date of service of the notice. If the violation is corrected during or after the twelve (12) hour period, the Licence may be reinstated at the first opportunity following the end of the twelve hour period.

12.9 Recommendation to Council by Licensing Enforcement Officer – revocation - suspension

Where an Applicant is not entitled to continue to be Licensed based on any of the grounds set out in Article 13 of this by-law, the Licensing Enforcement Officer shall recommend to Council that Council shall suspend or revoke the Licence, or, subject to Section 9.7 of this by-law, that Council attach terms and conditions to the Licence.

ARTICLE 13 - GROUNDS FOR REFUSAL TO ISSUE/RENEW OR REVOKE/SUSPEND A LICENCE

13.1 Issuance/renewal of Licence – revocation/suspension/cancellation - grounds

The Licensing Enforcement Officer shall refuse to issue or renew a Licence and recommend that Council revoke, suspend or cancel a Licence where:

- (a) having regard to the Applicant's financial position, the Applicant cannot reasonably be expected to be financially responsible in the conduct of the Tow Truck Business;
- (b) the past conduct of the Applicant, or that of its officers or directors if the Applicant is a corporation affords reasonable grounds for the belief that the Applicant will not carry on the activity for which he is to be Licensed, in accordance with Applicable Laws, including anything described in Schedule "A" of this by-law;
- (c) results of a Criminal Record and Judicial Matters Check or Driver's abstract provided with any Application, or of a search conducted by the Corporation, identifies a serious conviction or convictions in accordance with the thresholds set out in Schedule "A" of this by-law;

- (d) for reasons which may include, but are not limited to those set out in paragraphs (b) and (c) of Section 13.1 of this by-law, the issuance of the Licence or renewal of the Licence would be contrary to the public interest;
- (e) the Applicant is carrying on activities that are, or will be, if the Applicant is Licensed, in contravention of this by-law;
- (f) there are reasonable grounds for the belief that the nature, condition or use of any equipment, Tow Truck or other Personal property used or to be used by the Applicant in the carrying on or engaging of the Business would involve non-compliance with any provision of this by-law or any other applicable law;
- (g) there are reasonable grounds for belief that any document or information provided to the Corporation by or on behalf of the Applicant, contains a false statement or provides false information;
- (h) the information provided to the Corporation by or on behalf of the Applicant, whether oral or in writing, has ceased to be accurate, and the Applicant or Licensee has not provided up-to-date accurate information to allow the conclusion that the Licence should be granted or maintained as valid and subsisting;
- (i) the fee payable in respect of the Licence applied for has not been paid;
- (j) any fine, penalty or fee in connection with a by-law of the Corporation, including, without limitation, this by-law, the Tariff of Fees by-law and the Administrative Penalty By-law, is outstanding at the time of the Application, until such time as the Applicant provides the Corporation with proof of payment of such fine, penalty or fee;
- (k) an adverse report is received from any of the Persons to whom the Application is circulated under Section 9.2 of this by-law;
- (l) the Driver's abstract required to be submitted pursuant to subsection 8.3(k) show nine (9) or more accumulated demerit points as defined in O.Reg. 339/94 under the Highway Traffic Act;
- (m) the Applicant, the Tow Truck that is the subject of the Application, or other Businesses of the Applicant within Richmond Hill required to be Licensed have been the subject of six or more convictions in the case of a new Application or four or more convictions in the case of a renewal Application in relation to a breach of a Corporation by-law within the twelve (12) month period preceding the date of the Application; or
- (n) the Applicant is not in compliance with a condition or conditions imposed under this by-law and/or pursuant to Section 9.7 of this by-law, upon the Business or upon the Licensee, as a requirement of obtaining, continuing to hold or renewing a Licence.

ARTICLE 14 - HEARINGS

14.1 Council's power to refuse to issue or renew or to revoke, suspend or cancel a Licence

Council may refuse to issue or renew a Licence or may revoke, suspend or cancel a Licence where the Applicant or Licensee would be disentitled to a Licence based on any of the grounds set out in Article 13 of this by-law.

14.2 Notice of recommendation

Before Council refuses to issue or to renew a Licence, or revokes, suspends or cancels a Licence, a written notice advising the Applicant or Licensee of the recommendation being made by the Licensing Enforcement Officer to Council with respect to the Licence, shall be given to the Applicant by the Licensing Enforcement Officer.

14.3 Notice - contents

The written notice to be given under Section 14.2 of this by-law, shall:

- (a) set out the grounds for the recommendation;
- (b) give particulars of the grounds;
- (c) set out the applicable appeal fee included in the Tariff By-law;
- (d) be signed by the Licensing Enforcement Officer; and
- (e) inform the Applicant or Licensee that he or she is entitled to a hearing before the Hearing Officer, if he or she delivers, within seven (7) days after the date of service of the written notice, or the date of Personal service of the written notice, whichever is later, a written request for a hearing before the Hearing Officer.

14.4 Notice of hearing

On receipt of a written request for a hearing from an Applicant or a Licensee, the Licensing Enforcement Officer shall require that the Clerk convene a meeting of the Hearing Officer and shall give the Applicant or Licensee reasonable written notice thereof.

14.5 Hearing before the Hearing Officer

The Hearing Officer may proceed with the hearing regardless of whether or not the Applicant or Licensee who has been given written notice of the hearing attends at the proper time and place, and an absent Applicant or Licensee shall not be entitled to any further notice of the proceedings. Such hearing shall be held in accordance with the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 and any hearing procedure by-law of the Corporation in effect at the time of the hearing. At the conclusion of a hearing, the Hearing Officer shall provide its recommendations to Council, after which Council shall make the decision.

14.6 Council Decision - Final

Council may accept or vary the recommendations of the Hearing Officer or do any act or make any decision that it might have done if it had conducted the hearing itself and the Applicant or Licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

14.7 Return of Licence

When a Licence has not been renewed or has been revoked or suspended, the holder of the Licence shall return the Licence, and any License plate issued with the License, to the Licensing Enforcement Officer within twenty-four (24) hours of service of the written notice.

ARTICLE 15 - OFFENCES AND PENALTIES

15.1 Contravention of by-law - offence

Every Person who contravenes any of the provisions of this by-law and every director or officer of a corporation who concurs in such contravention by a corporation, is guilty of an offence and upon conviction is liable to the maximum penalty applicable pursuant to the provisions of the *Provincial Offences Act*.

15.2 Conviction – fine - imprisonment

Every Person who is convicted of an offence under this by-law is liable to a fine not exceeding twenty-five thousand (\$25,000.00) dollars or to imprisonment for a term not exceeding one year, or to both.

15.3 Conviction – corporation

Where a corporation is convicted of an offence under this by-law, the maximum penalty that may be imposed on the corporation is \$50,000.00.

15.4 Order – continuation - repetition

Where a Person has been convicted of an offence under this by-law, a court of competent jurisdiction may, in addition to any other penalty imposed on the Person convicted, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

ARTICLE 16 - ADMINISTRATIVE PENALTIES

16.1 Administrative Penalty – Alternative to Charge

In lieu of laying a charge under the *Provincial Offences Act* for a breach of any provision of this by-law, a By-law Enforcement Officer may issue a Penalty Notice to the Person who has contravened this by-law in accordance with the service requirements of the Administrative Penalty By-law. For greater certainty, the By-law Enforcement Officer has the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act* provided that if an administrative penalty is issued to a Person for the breach, no charge shall be laid against that same Person for the same breach.

16.2 Administrative Penalty – Amount - Payment

A Person served with a Penalty Notice shall be liable to pay to the Corporation an administrative penalty in the amount specified in Schedule “A” of the Administrative Penalty By-law. An administrative penalty for a contravention of this by-law that is not paid within 15 days after the day it becomes due and payable, constitutes a debt of the Person to the Corporation and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

16.3 Administrative Penalty - Procedures

A Person who is issued a Penalty Notice shall be subject to the procedures as provided for in the Administrative Penalty By-law.

ARTICLE 17 - INTERPRETATION

17.1 Genders

In this by-law words expressed in one gender shall include both genders.

17.2 Severability

Where a court of competent jurisdiction declares any Article of this by-law invalid or of no force and effect, the remainder of this by-law shall continue in force, unless the court makes an order to the contrary.

17.3 Transition

After the date of the enactment of this by-law, all Licenses issued and licensing conditions under by-law 54-13 shall remain valid for the issued License period, or until otherwise revoked, suspended or cancelled under any section of this by-law.

17.4 Notice - sufficiency

Any notice or other information required or authorized to be forwarded, given or served under this by-law is sufficiently given if delivered Personally or sent by first-class prepaid mail addressed to the Person to whom delivery is required to be made at the address shown on the Application or at the last address shown or appearing on the records of the Corporation. Where service is effected by mail, it shall be deemed to be made on the fifth day after the date of mailing, unless the Person on whom service is being made establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the notice or order until a later date.

17.5 Legislative References

A reference to any other legislation or regulation of any other public authority shall be deemed to be to a reference to that legislation or regulation as amended or superseded.

17.6 Conflict in By-laws – Restrictive Provisions Prevail

In the event of any conflict between the provisions of this by-law and the provisions of any other By-law, the provisions that are the most restrictive shall prevail.

ARTICLE 18 - SCHEDULES

18.1 Schedules

The following Schedules attached to this by-law form part of this by-law:

Schedule "A" – Conviction Thresholds

SCHEDULE A – CONVICTION THRESHOLDS

18.2 Definitions

For the purpose of this schedule:

- (a) “code 01 conviction” means a conviction for a sexual offence that involved a minor pursuant to Section 151 (Sexual interference), Section 152 (Invitation to sexual touching), Section 153 (Sexual exploitation), Section 155 (Incest), Sections 170 (Parent or guardian procuring sexual activity), 171 (Householder permitting sexual activity), 172.1 (Luring a child) or subsection 173(2) (Exposure) of Part V of the Criminal Code;
- (b) “code 02 conviction” means a conviction for:
 - (i) financing of terrorism pursuant to Section 83.02 (Providing or collecting property for certain activities), Section 83.03 (Providing, making available, etc.) or Section 83.04 (Using or possessing property for terrorist purposes) of Part II.1 of the Criminal Code;
 - (ii) homicide pursuant to any of Sections 222 through 228 of Part VIII of the Criminal Code; or
 - (iii) murder, manslaughter and infanticide pursuant to any of Sections 229 through 240 of Part VIII of the Criminal Code.
- (c) “code 03 conviction” means a conviction for:
 - (i) a major assault or sexual assault pursuant to Section 267 (Assault with a weapon or causing bodily harm), Section 268 (Aggravated assault) or Section 272 (Sexual assault with a weapon, threats to third party or causing bodily harm) of Part VIII of the Criminal Code;
 - (ii) sexual offences not involving a minor pursuant to Section 153.1 (Sexual exploitation of Person with disability), Section 155 (Incest), Section Section 173 (Indecent acts) or 271 (Sexual assault) of Parts V and VIII of the Criminal Code;
 - (iii) confinement pursuant to Section 279 (Kidnapping), Section 279.1 (Hostage taking), Section 280 (Abduction of Person under sixteen), Section 281 (Abduction of Person under fourteen), Section 282 (Abduction in contravention of custody order or Section 283 (Abduction) of Part VIII of the Criminal Code;
 - (iv) hate propaganda pursuant to Section 318 (Advocating genocide) or Section 319 (Public incitement of hatred) of Part VIII of the Criminal Code;
 - (v) robbery or extortion pursuant to Section 98.1 (Robbery to steal a firearm) or any of Sections 343 through 346 of Parts III and IX of the Criminal Code;
 - (vi) participation in criminal organization activities pursuant to Section 167.11 (Participation in activities of criminal organization) of Part XIII of the Criminal Code;
 - (vii) trafficking of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;
 - (viii) importing or exporting of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or

- (ix) production of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act, save and except for the production of marijuana;
- (d) “code 04 conviction” means a conviction for:
- (i) negligence pursuant to any of Sections 219 through 221 of Part XIII of the Criminal Code;
 - (ii) assault pursuant to Section 270 (Assaulting a peace officer), Section 270.01 (Assaulting a peace officer with a weapon or causing bodily harm) or Section 270.02 (Aggravated assault of a peace officer) of Part XIII of the Criminal Code;
 - (iii) administering a noxious thing to harm pursuant to subsection 245(a) of Part XIII of the Criminal Code;
 - (iv) criminal harassment pursuant to Section 264 of Part XIII of the Criminal Code;
 - (v) uttering a threat pursuant to Section 264.1 of Part XIII of the Criminal Code;
 - (vi) using and possession explosives pursuant to Section 81 (Using explosives) and Section 82 (Possession without lawful excuse) of Part II of the Criminal Code;
 - (vii) using, possessing or trafficking weapons pursuant to any of Section 85 through 101 of Part III of the Criminal Code;
 - (viii) theft pursuant to any of Sections 322 through 342.2 of Part IX of the Criminal Code;
 - (ix) forgery pursuant to any of Section 366 through 378 of Part IX of the Criminal Code;
 - (x) breaking and entering pursuant to Section 348 of Part IX of the Criminal Code;
 - (xi) possession of property obtained by crime pursuant to Section 354 of Part IX of the Criminal Code;
 - (xii) fraud pursuant to any of Sections 380 through 402 of Part X of the Criminal Code;
 - (xiii) falsification of books and documents pursuant to any of Sections 397 through 402 of Part X of the Criminal Code;
 - (xiv) arson pursuant to any of Sections 433 through 436.1 of Part XI of the Criminal Code;
 - (xv) uttering, advertising and dealing in counterfeit money pursuant to Section 452 (Uttering, etc., counterfeit money), Section 458 (Making, having or dealing in instruments for counterfeiting) and Section 460 (Advertising and dealing in counterfeit money, etc.) pursuant to Part XII of the Criminal Code;
 - (xvi) laundering proceeds of crime pursuant to Section 462.31 of Part XII.2 of the Criminal Code;
 - (xvii) trafficking of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;

- (xviii) importing or exporting of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or
 - (xix) production of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act;
- (e) “code 05 conviction” means a conviction for:
- (i) trap setting pursuant to subparagraph 247(1)(a) of Part XIII of the Criminal Code;
 - (ii) administering a noxious thing to annoy or aggrieve pursuant to subsection 245(b) of Part XIII of the Criminal Code;
 - (iii) mischief, pursuant to Section 140 (Public Mischief) and any of Sections 430 through 432 of Parts IV and XI of the Criminal Code;
 - (iv) conspiracy to commit an indictable offence pursuant to subparagraphs 465(1)(a)(b) and (c) of Part XIII of the Criminal Code;
 - (v) an offence in relation to prostitution pursuant to Section 213 of Part VII of the Criminal Code;
 - (vi) keeping, transporting to, and procuring to or at, bawdy houses pursuant to Sections 210 through 212 of Part VII of the Criminal Code;
 - (vii) possession of a substance listed in the schedules to the Controlled Drugs and Substances Act pursuant to Section 4 of the Controlled Drugs and Substances Act;
 - (viii) trafficking of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;
 - (ix) importing or exporting of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or
 - (x) production of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act;
- (f) “code 06 conviction” means a conviction for:
- (i) Motor Vehicle, vessel or aircraft related matters pursuant to Section 249 (Dangerous operation of Motor Vehicles, vessels and aircraft), Section 252 (Failure to stop at scene of accident) or Section 253 (Operation while impaired), subsection 259(4) (Operation while disqualified) of Part VIII of the Criminal Code;
 - (ii) driving when Driver’s License is suspended pursuant to Section 43(1) of the Highway Traffic Act;
 - (iii) exceeding speed limit by 50km/hr or more pursuant to Section 128 of the Highway Traffic Act; subsection 13 (3) of Regulation 829 of the Revised Regulations of Ontario, 1990; any provision of the National Capital Commission Traffic and Property Regulations CRC 1978, c. 1044 made under the *National Capital Act* (Canada) fixing maximum rates of speed and any municipal by-law fixing maximum rates of speed;
 - (iv) careless driving pursuant to Section 130 of the Highway Traffic Act;

- (v) failing to remain at the scene of an accident pursuant to Section 200 of the Highway Traffic Act;
 - (vi) failing to stop when signalled or requested to stop by police officer pursuant to Section 216 of the Highway Traffic Act;
 - (vii) racing pursuant to Section 172 of the Highway Traffic Act; or
 - (viii) failing to stop for a school bus pursuant to subsections 175 (11) and (12) of the Highway Traffic Act.
- (g) “code 07 conviction” means:
- (i) any conviction under the Criminal Code other than those set out in paragraphs (a) to (f) of Section 1 of this Schedule O; or
 - (ii) driving while Driver’s License is suspended pursuant to Section 36 of the Highway Traffic Act.
- (h) “Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C., 1996, c.19; and
- (i) “Criminal Code” means the *Criminal Code*, R.S.C., 1985, c. C-46.
- (j) “Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8;

Any section set out to in (a) to (g) above includes any section that amends it or supersedes it.

18.3 Refusal of issuance – renewal - suspension of Application for Tow Truck License

In the event that a criminal background check or a vulnerable sector screening identifies the following convictions in the timeframes indicated below, a licensing officer shall refuse to issue or renew an Application for a License, or shall suspend an existing License, for a Tow Truck:

- (a) any code 01 conviction;
- (b) any code 02 conviction within the last 10 years;
- (c) any code 03 conviction within the last 5 years;
- (d) two or more code 03 convictions within the last 10 years;
- (e) any code 04 convictions within the last three years;
- (f) two or more code 04 convictions within the last 5 years;
- (g) any code 05 or code 07 conviction within the last year; or
- (h) any code 06 conviction within the last 3 years.

18.4 Convictions no longer leading to refusal to issue or renew to suspension

The licensing officer shall issue, renew or reinstate any License refused or suspended pursuant to Section 2 provided that:

- (a) in the case of a code 02 conviction, the conviction is more than 10 years old;
- (b) in the case of a code 03 conviction, the conviction is more than 5 years old;
- (c) in the case of two or more code 03 convictions, no more than one of the code 03 convictions is less than 10 years old, provided that it is not less than 5 years old;
- (d) in the case of a code 04 conviction described, the conviction is more than 3 years old;

- (e) in the case of two or more code 04 convictions, no more than one of the code 04 convictions is less than 5 years old, provided that it is not less than 3 years old;
- (f) in the case of a code 05 or a code 07 conviction or convictions, the conviction is more than a year old; and
- (g) the case of a code 06 conviction, the conviction is more than 3 years old.