

CITY OF MARKHAM
ONTARIO



BY-LAW 2012-92

**A BY-LAW TO PROVIDE FOR THE LICENSING
AND REGULATION OF
OWNERS, OPERATORS, DRIVERS AND BROKERS OF MOBILE
BUSINESSES IN THE *CITY* OF MARKHAM**

**This By-law is printed under and
by authority of the *Council* of
the *City* of Markham**

(Consolidated for convenience only to April 30, 2014)

(Schedules/attachments included)

Amended by:

By-law 2012-123 – May 29, 2012

By-law 2014-57 – April 30, 2014



BY-LAW 2012-92

To Provide for the Licensing and Regulation Of Owners, Operators, Owners and Brokers Of Mobile *Businesses*

WHEREAS Section 151 of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a local municipality may license, regulate and govern any business, wholly or partly carried on within the municipality even if the business, is being carried on from a location outside the municipality;

AND WHEREAS Council wishes to exercise its powers over businesses, the *persons* carrying on or involved in the operation of the businesses including the powers to impose conditions on the obtaining, holding or renewing of *licences* and for the suspension, denial and revocation of *licences*;

AND WHEREAS the regulation of the businesses, and the requirement for a licence and the imposition of conditions will aid in the administration and enforcement of this By-law and other laws, so as to identify and qualify the *persons* responsible for the operation of the business, identify the location of businesses, the regulation and inspection of equipment, vehicles, *premises* and other property used to carry on business, and allow for the protection of *persons* dealing with or affected by such businesses, and *persons*;

NOW THEREFORE the *council* of The Corporation of the City ENACTS the following:

1. DEFINITIONS AND INTERPRETATION

“*Additional Fee*” means a fee, in addition to the *licence* fee, imposed by the municipality on a *business* at any time during the term of the *licence* for cost incurred by the municipality attributable to the activities of the *business*.

“*Airport Taxicab*” means a *taxicab*, that has been licensed by the *city* as an *airport taxicab* and has been issued an *airport taxicab plate*, and bears a Greater Toronto Airport Authority (G.T.A.A.) *taxicab* permit to *operate* at Toronto Pearson International Airport as a *taxicab*.

“*Applicant*” means a *person* applying for a *licence* or renewal of a *licence* thereof under this By-law.

“*Appellant*” means a *licensee* that is *appealing* a decision of the *licensing officer* under the provisions of this By-law.

“*Business*” has the same meaning as provided for in Section 150 of the *Municipal Act, 2001* and includes.

- (a) *taxicab, tow truck and limousine* brokers;
- (b) *driving schools*;
- (c) *refreshment vehicles*.

“*Certificate Of Completion*” means a document issued as proof that the *licensee* attended and successfully completed a mandatory training program with a mark of at least seventy-five percent (75%).

“*Certificate Of Attendance*” means a document issued as proof that the *licensee* attended but did not successfully complete a mandatory training program with a mark of at least seventy-five percent (75%).

“*Clerk*” means the *clerk* of the *city* or his/her duly appointed Deputy.

“*Collision*” means unintended contact resulting from the motion of a *motor vehicle* and/or its load with another *motor vehicle* or other thing.

“*Collision Scene*” means the general location or place where a *collision* occurred.

“*Conveying*” means to hold oneself out for hire by actions, words or availability for the transport or *towing* of *vehicles* by means of a *tow truck* or *flatbed* whether or not the *vehicle* is intact or in an inoperative condition, from a point within the municipality of the *city* to either a point also within the municipality of the *city* or to any point beyond its limits and includes seeking to convey and having care and control of the *tow truck* whether it is in motion or not and whether it is engaged in the act of *towing* or not.

“*Conditions*” includes special *conditions* which are imposed upon a *business* in a class that have not been imposed on all of the *businesses* in that class, as a requirement of obtaining, continuing to hold or renewing a *licence*.

“*Corporation*” means the *corporation* of the *city*.

“*Council*” means the *council* for the *corporation* of the *city*.

“*Customer*” extends to any *person* with whom a *business* transacts, engages, or deals directly.

“*Customer Bill Of Rights*” is a statement of principles outlining the rights, responsibilities and expectations of *taxicab drivers* and *passengers* while engaged in the provision of *taxicab* service.

“*Dispatch*” means the communication of an *order* or information in any manner between a *taxicab broker* and a *taxicab driver*, and includes the act or service of sending or directing a *taxicab*, by electronic or any other means, to a *person* or *persons* who have requested *taxicab* service, but does not include a request made directly to a *taxicab driver*.

“*Driver*” means a *person* licensed to drive a *vehicle* regulated under this By-law.

“*Driving School*” means any establishment *operated* for the purpose of instructing *persons* to *operate* a *motor vehicle* or for preparing any *person* for any examination for a *driver’s licence*.

“*Driving School Instructor*” means a *person* who is licensed as a *driving school instructor* or is required to be licensed as such and who is *employed* or *self-employed* in the *business* of teaching *persons* to *operate motor vehicles*.

“*Driving School Licence Plate*” means the identification issued by the *licensing officer* to the *owner* or *lessee* of the *motor vehicles* utilized for driving instruction purposes.

“*Driving School Operator*” means a *person* who is licensed or is required to be licensed to carry on the *business* of teaching *persons* to *operate motor vehicles* and who *operates* and or owns a *driving school*.

“*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 *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 *customer* in accordance with the provisions of *schedule 7*.

“*Dues*” means any amount charged by a *taxicab broker* to a *taxicab owner* or to the *lessee* of a *taxicab*, to receive *orders* from the *taxicab broker*.

“*Employed*” includes any *business* relationship between an *operator* and *instructor*, whether on a salary, hourly wage, commission or independent contract or other basis, and the terms “employee” and “employment” have a corresponding meaning.

“*Exclusive Concession Agreement*” means an agreement which gives a *person* the sole right to provide *taxicab* service to or from any public transportation terminal, hotel, motel, *taxicab stand* or any other similar point of public assembly.

“*Fare*” means the amount displayed on the *taxicab meter* at the conclusion of a *trip*, or the flat rate allowed under *schedule 6* for the *trip*, together with any additional charges allowed under *schedule 6*.

“*Flatbed*” means a *vehicle* equipped with a platform body with a winch for loading and is required to be licensed as a *tow truck*.

“*Food Handler’s Certificate*” means a certificate issued by the York Region Health Department, to *persons* who complete the Proton Food Handling Training Program.

“*Hearing*” includes a *hearing* or an opportunity given for a *hearing*, where an *applicant* or *licensee* may show cause why the *licence* should be granted, or not refused, revoked or suspended, with or without *conditions*.

“*Highway*” includes a common and public *highway*, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of *vehicles* and includes the area between the lateral property lines thereof.

“*Illuminated Roof Light*” is a device containing a light and that is mounted on the roof of a *taxicab* for the purpose of identifying the *vehicle* as such, and which, when the *taxicab meter* is engaged, the light in the device is not illuminated indicating that the *taxicab* is not available for hire.

“*Individual*” means a *person* and does not include a *corporation*, partnership or association.

“*Lease*” means an agreement between an *owner* and a *driver*, under which the *owner* provides his *taxicab owner’s plate* or *licence* sticker to be used by the *taxicab driver* to operate a *vehicle* as a *taxicab*.

“*Lessee*” means a *person* who is in possession of a *taxicab licence plate* under a *lease* agreement with the *taxicab licence owner*.

“*Licence*” means the certificate issued by the *licensing officer* under this By-law.

Licence Appeal Committee” means a Committee of *council* duly appointed to conduct *hearings* under this By-law.

“*Licence Appeal Fee*” means the fee payable to the *city* prior to a *hearing* before the *licence appeal committee*.

“*Licensee*” means any *person* licensed under this By-law.

“*Licensing Officer*” means the supervisor within the Legislative Services Department and includes his or her designates.

“*Licence Renewal Sticker*” means an annual validation sticker issued to a *licensee* for the term of the *licence*.

“*Licensing Section*” means the Licensing Unit within the Legislative Services Department.

“*Limousine*” means a *motor vehicle* not equipped with a *taxicab meter*, with a seating capacity for not less than five (5) *passengers* and not more than eight (8) *passengers* including the *driver*. This definition includes *vehicles* which are recognized by the Automobile Industry as “Luxury *vehicles*” and which may have been altered from the original manufacturer’s length dimensions, and are *operated* by a uniformed *driver* used for hire for the purpose of the transportation of *passengers* for gain or reward. This definition includes luxury Sport Utility *vehicle* (S.U.V.) but does not include a panel truck, bus or van.

“*Mechanically Safe*” means that the *vehicle* has been inspected by a government-approved *motor vehicle* inspection station and is determined to meet the minimum safety requirements for *vehicles* in the Province of Ontario, and receives the Safety Standard Certificate.

“*Motor Vehicle*” includes an automobile and any other *vehicle* propelled or driven other than by muscular power, but does not include the cars of electric or steam railways or other *motor vehicles* running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, or road building machine within the meaning of the *Highway Traffic Act*.

“*Motor Vehicle Permit*” means a permit issued by Registrar of *motor vehicles* for a *vehicle* by the Ministry of Transportation.

“*Municipal Act, 2001*” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended and any regulations there under.

“*Municipal Law Enforcement Officer*” means an employee of the *City* that is appointed by By-law to enforce the provisions of the *City*’s By-laws.

“*Nuisance*” includes the obstruction or interference with:

- (a) *persons* involved in a *motor vehicle collision* or otherwise in need of the services of a *tow truck*;
- (b) *persons* responding to a *motor vehicle collision* including, but not limited to, police officers, members of a fire department, members of an ambulance service, and other *tow truck drivers* or owners; or

(c) Pedestrian or vehicular traffic.

“*Ontario Driver’s Licence*” means a *licence* issued under section 32 of the *Highway Traffic Act R.S.O. 1990, CHAPTER H.8* to drive a *motor vehicle* on a *highway*.

“*Operate*” means to drive a *vehicle* or to have care and control of a *vehicle* whether the *vehicle* is in motion or not and includes to hold oneself out for hire by action, words or availability for the transport, *towing* or conveyance of a *person* or *vehicle* and/or equipment.

“*Operator*” means the *person* directly or indirectly responsible for the operation of a *vehicle* including the conduct of the *driver* of the *vehicle* and the carriage of goods or *passengers*, if any, in the *vehicle*.

“*Order*” means a request for *taxicab* service received by a *taxicab broker*.

“*Owner*” means the *person* licensed under this By-law as the *owner* or *lessee* of a *taxicab*, *limousine*, *tow truck*, *driving school vehicle*, *refreshment vehicle* or a push cart from which *products* are sold.

“*Passenger*” means any *person* in a *limousine* or *taxicab* other than the *driver*.

“*Person*” includes a *corporation* and its directors and officers, and the heirs, executors, assignees and administrators or the other legal representatives of an *individual* and their respective successors and assignees.

“*Person With A Disability*” means a *person* who has a “disability” as defined in section 2 of the *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, CHAPTER 11*, as amended.

“*Plate*” means any *licence plate*, metal or otherwise, issued by the *City* for the purposes of this By-law.

“*Prearranged*” means a written or oral reservation made with a *limousine* company in advance of the service by a *person* requesting *limousine* service for a specified time.

“*Premises*” means any *premises* licensed or required to be licensed under this By-law and includes any trade or calling required to be so licensed.

“*Priority List*” means a list of *applicants* for a *taxicab owner’s licence* maintained by the *licensing section* with names set out there on in chronological order as to date and time of receipt of application.

“*Products*” include goods, wares, crafts, jewellery, *refreshments*, foodstuffs, merchandise or any other items whatsoever.

“*Proof Of Insurance*” means a certified copy of a policy of insurance or a Certificate of Insurance that shows the proof of liability coverage as required by the applicable SCHEDULE to this By-law issued by a company authorized to carry on the *business* of insurance in the Province of Ontario in accordance with the *Insurance Act*, R.S.O. 1990, c. I.8, as amended; such insurance policy shall contain an endorsement to provide the *licensing officer* with ten (10) days prior written notice of cancellation or of a material change that would diminish coverage.

“*Proof Of Ownership*” means:

- (a) A current *motor vehicle registration* for each *motor vehicle* to be used for any *business* purpose regulated by any *schedule* in this By-law, issued pursuant to the *Highway Traffic Act* in the name of the *applicant* for a *business licence*; or
- (b) A signed, certified copy of a leasing agreement, in the name of the *applicant* for the *owner’s licence*, for each *motor vehicle* to be used for a *business* purpose regulated by any *schedule* in this By-law.

“*Public Place*” means a place to which the public has access.

“*Refreshment*” means food and drink and includes sandwiches, cakes, doughnuts, hot dogs, ice cream, pies that have been prepared and packaged on the *vehicle* or a location other than on the *vehicle*.

“*Refreshment Vehicle*” means a *vehicle* which is used or is intended to be used for the sale of *refreshments* and includes a *refreshment vehicle type 1* and *refreshment vehicle type 2*.

“*Refreshment Vehicle Assistant*” – means a *person* licensed or required to be licensed who assists an *owner* or *driver of a refreshment vehicle – type “3”* but does not drive the *refreshment vehicle*;

(Amended by By-law 2012-123)

“*Refreshment Vehicle Operator*” means a *person* who *operates* a *refreshment vehicle* and includes *operators* carts or trailers for which a *provincial driver’s licence* is not required, who is licensed or required to be licensed under the provisions of this By-law.

“*Refreshment Vehicle Owner*” means the *owner* of a *refreshment vehicle* who is licensed or required to be licensed under the provisions of this By-law.

“*Refreshment Vehicle - Type 1*” means a *motor vehicle* that is licensed or required to be licensed and is designed for or intended to be used for the *selling*, offering for sale, serving, and/or dispensing of *refreshments*, and includes but is not limited to *vehicles* such as coffee trucks.

“*Refreshment Vehicle – Type 2*” means a trailer or cart that is licensed or required to be licensed and is designed for or intended to be used for the *selling*, offering for sale, serving, and/or dispensing of *refreshments*, and includes but is not limited to hot dog carts.

“*Refreshment Vehicle – Type “3”*” means a *vehicle* licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of ice cream;

(Amended by By-law 2012-123)

“*Registered Lessee*” means a *person* licensed as a *driver* and operating a licensed *taxicab*, under the terms of a *lease* which is filed with the *licensing section*.

“*Registered Owner*”, means the *person* shown to be the *owner* of a *motor vehicle* according to the records maintained by the Registrar of *vehicles* for the Province of Ontario.

“*Retail*” or “*Retail Sale*” means the sale of *products* or goods to the ultimate consumer, usually in small quantities, in the ordinary course of *business*.

“*Run Sheet*” means a record of tows made by a *tow truck driver* including the *driver’s* name, *tow truck* number, date, start and finish time of each tow, pick-up and drop location for each tow, the distance travelled a breakdown of the fees charged for each *trip*.

“*Safety Standard Certificate*” means a *safety standard certificate* issued pursuant to Sections 88 to 100 of the *Highway Traffic Act* R.S.O. 1990, c H. and is issued by a government-approved *motor vehicle* Inspection station (MVIS) after a *vehicle* passes an inspection which covers the minimum safety requirements for *vehicles* in the province of Ontario.

“*Schedule*” means one or all the *schedules* attached to this By-law.

“*Schedule Of Rates*” means the rates charged by a licensed *tow truck owner* or *operator* for service performed on behalf of a *customer*.

“*Secretary*” means the *secretary* of the *licence appeal committee*.

“*Sell*” means to *sell* for *retail*, offer for *retail* sale, display, and place or expose any *products* for *retail* sale.

“*Solicit*” means an *appeal* for *customers* by bell, horn, whistle, words or gestures directed at *individuals* or groups of *persons*.

“*Stage*” means stopping, parking or otherwise placing a *limousine* in a loading or curb side area, not including a parking lot, where the *limousine* is not engaged in a *prearranged trip*.

“*Standard Taxicab*” means a *taxicab* that has been licensed by the *City* as a *standard taxicab* and has been issued a *standard taxicab plate*.

“*Standard Taxicab Plate Holder*” means a *person* to whom a standard taxi *plate holder licence* and accompanying taxi *plate* have been issued pursuant to *schedule 6*.

“*Student Driver*” means a *person* that receives driving instruction from a *driving school instructor*.

“*Taxicab*” *Taxicab* means a *motor vehicle* as defined in the *Highway Traffic Act*, and includes any *Motor vehicle* used for hire in the conveyance of *Persons* from place to place within the *City* to any point inside or outside that area, but does not include a *limousine*.
(Amended by By-law 2014-57)

“*Taxicab Broker*” means any *person* who carries on the *business* of accepting orders for, or *dispatching taxicabs* in any manner.

“*Taxicab Driver Refresher Training Course*” means the *taxicab* training course provided to *taxicab drivers* that are renewing their *licences* in the *city*.

“*Taxicabdriver Training Course*” means the *taxicab* training course provided to new *taxicab drivers* in the *City*.

“*Taxicab Meter*” means a measuring device used in a *taxicab* to calculate the *fare* payable for a *trip*.

“*Taxicab Stand*” means the area set aside and designated by the *City* to be used by a *taxicab* while it is waiting for, or picking up, goods or *passengers*.

“*Three Year Driver Record Search*” means a three year snapshot of a *driver's* history containing the *driver's* name, *licence* number, class, expiry date, *conditions/restrictions*, height, date of birth, gender and status information, *driver's Highway Traffic Act* and *Criminal Code of Canada* convictions, suspensions reinstatements over the past 3 years as well as conviction dates, earliest licensed date available, demerit point total and medical due date for commercial *drivers*.

“*Tow Truck*” means a *motor vehicle* used for hire for *towing* or otherwise *conveying vehicles*.

“*Tow Truck Broker*” means a *person* who arranges for the provision for hire to a *customer* of the services of a *tow truck* not owned by such *person*.

"*Towed Vehicle*" means a *vehicle* or any part thereof towed or otherwise conveyed by a *tow truck*, under an agreement between the *owner* of the *vehicle* to be towed and the *driver* or *owner* of a *tow truck*.

"*Towing*" means the movement of a *vehicle* by a *tow truck*, whether such *vehicle* is picked up at, or delivered to, a location within the *City*.

"*City*" means The *Corporation* of the *City*.

"*Treasurer*" means the *treasurer* of the *City*.

"*Trip*" means the distance and time travelled or the distance and time to be travelled, measured from the time and point at which the *passenger* first enters the *taxicab* or when the *taxicab meter* is first engaged, whichever comes first, to the time and point at which the *passenger* finally leaves the *taxicab* or the *taxicab meter* is disengaged, whichever comes last.

"*Trip Sheet*" means a record of *trips* made by a *taxicab driver* including the *driver's* name, *taxicab* number, date, start and finish time of each *trip*, pick-up and drop location for each *trip* and the *fare* collected for each *trip*.

"*Vehicle*" means a *motor vehicle* that is *operated* for the purpose of driving instruction, as a *taxicab* or *limousine* for the conveyance of *passengers*, a *tow truck* used for either *towing* or otherwise *conveying vehicles*, or a *motor vehicle* from which *products* or *refreshments* are sold.

"*Vehicle Identification Number*" means the unique number assigned to all *motor vehicles* that contains information about the *registered owner* of a *vehicle* as of a specific date and contains the owner's name, renewal date, *vehicle* description, class, status, empty weight for commercial *vehicles* and trailers, brand, *vehicle* declaration, *plate* details, validation sticker number, validation declaration, validation start and expiry dates, registered gross weight for commercial *vehicles*, permit number and date of issue.

"*Vehicle Pound*" means a lot or portion thereof used for the temporary storage and impounding of *vehicles* taken from a *collision scene* or otherwise towed and awaiting repair or demolition or retrieval.

"*Vending*" means the supplying of any good or service.

"*Vulnerable Sector Screen Report*" means a police reference check program for *applicants* seeking a *licence* to drive a *vehicle* for hire or conduct a certain class of *business* that may have for its clientele, that portion of the population that could be considered vulnerable.

“*Year Date*” means the figures appearing under the heading “year” in the current Ontario Ministry of Transportation *passenger motor vehicle permit* for the *vehicle*.

2. **ADMINISTRATION AND ENFORCEMENT**

2.1 In this By-law and attached *schedules*, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context requires.

2.2 Subject to the terms of this or other By-laws, or the directions of *council*:

- (a) Administration of this By-law shall be by the staff of *licensing section*, Legislative Services Department in the Corporate Services Commission of the *City*;
- (b) Enforcement of this By-law shall be by *persons* appointed by *council* for the purpose of enforcing the provisions of this By-law, which shall include the following:
 - (i) *municipal law enforcement officers*; and
 - (ii) any duly appointed police officer.

3. **SCHEDULES**

3.1 The following SCHEDULES form part of this By-law:

SCHEDULE 1	Term of License
SCHEDULE 2	Standard Character and Driving Record Criteria for Variable Terms, Conditional Issuance and Refusal of Mobile <i>licences</i> .
SCHEDULE 3	<i>Driving School Operators</i> and <i>Instructors</i>
SCHEDULE 4	<i>Limousine Owners and Drivers</i>
SCHEDULE 5	<i>Refreshment Vehicles</i>
SCHEDULE 6	Taxi Brokers, Owners and <i>Drivers</i>
SCHEDULE 7	<i>Tow Truck Owners and Drivers</i>

4. **LICENCE REQUIREMENT**

4.1 The following *persons* must be in possession of a *licence* authorizing them to carry on their *business* in the *City*, and shall pay to the *City* upon application for, or renewing the *licence* the required fee:

- (a) every *person* who owns or *operates* a *driving school*;

- (b) every *driving school instructor*;
- (c) every *person* who owns or *operates a limousine*;
- (d) every *person* who drives a *limousine*;
- (e) every *person* who owns or *operates a refreshment vehicle*;
- (f) every *person* who drives a *refreshment vehicle*;
- (g) every taxicab broker;
- (h) every *person* who owns or *operates a taxicab*;
- (i) every *person* who drives a *taxicab*;
- (j) every *person* who owns or *operates a tow truck*; and
- (k) every *person* who drives a *tow truck*.
- (l) every *person* who is a *refreshment vehicle assistant*.

(Amended by By-law 2012-123)

4.2 No *person* shall carry on, *operate* or engage in a *business* referred to in Section 4 unless a current and valid *licence* has been issued in their name by the *City* under this By-law.

5. COMPLIANCE WITH SCHEDULES

5.1 No *person* shall fail to comply with any regulation contained in the *schedules* attached to this By-law that regulates the *business* that they are licensed to carry on under this By-law.

6. REPRESENTATION OF LICENSING

6.1 No *person* shall hold himself out to be licensed if he is not.

7. DUTIES OF THE LICENSING OFFICER

7.1 The duties of the *licensing officer* include:

- (a) receiving and processing all applications for *licences* and renewals of *licences*;

- (b) ensuring that applications are complete and signed by the *applicant*, or where the application is from a partnership or *corporation* respectively, signed by a partner or the president or other authorized signing officer of the *corporation*;
- (c) ensuring that the *applicant* has paid the fees required for the term of the *licence*, prior to processing the application;
- (d) in the case of a *taxicab* and *limousine owner's licence*, ensuring that there is a *licence* available for issuance;
- (e) imposing special *conditions* on a *business* in a class that have not been imposed on all of the *businesses* in that class in order to obtain, continue to hold or renew a *licence*;
- (f) imposing special *conditions* as a requirement of continuing to hold a *licence* at any time during the term of the *licence* where the *licensing officer* is of the opinion that a term or condition of a *licence* should be imposed;
- (g) refusing to issue or renew a *licence*, or revoke or suspend a *licence* where the *licensing officer* is of the opinion that the *applicant* is not entitled to a *licence* under Section 16;
- (h) the maintenance and retention of all applications received and *licences* issued as provided for by the *City* Record Retention By-law and policies;
- (i) the prohibition of the carrying on or engaging in a *business* without a required *licence*;
- (j) generally performing all the administrative functions conferred upon the Officer by this By-law and the attached *schedules*; and
- (k) coordination and direction of the enforcement of this By-law and *schedules*.

8. GENERAL LICENSING APPLICATION REQUIREMENTS

8.1 Every *applicant* for a *licence* and for the renewal of a *licence* issued under this By-law shall:

- (a) submit a completed application for a *licence* or the renewal of a *licence* on the forms provided;
- (b) where the *applicant* is an *individual* or a partner of a partnership, file proof satisfactory to the *licensing officer* that they are eighteen (18) years of age or older, a citizen of Canada or a landed immigrant or produce a valid work permit

issued by the Government of Canada; to work in the occupation of the *licence* type that they are applying for,

- (c) submit to the taking of photographs, for the production of “Photo Identification” *licences* for general identification purposes;
- (d) if the *applicant* is a *corporation*, file a copy of the incorporating document and a copy of the last annual information return which has been filed with the appropriate government department;
- (e) if the *applicant* is a registered partnership, file a copy of the registered declaration of partnership;
- (f) any other document relating to the operation of the *business* requested by the *licensing officer* including but not limited to *provincial driver`s licence* statutory declarations, Vulnerable Sector Screening Search and Criminal Conviction Background Search issued by the Police Service in which the *applicant* resides, Harmonized Sales Tax number, proof of citizenship or landed immigrant status; Ontario Ministry of Transportation *vehicle* Ownership Permit, York Regional Health Department Inspection Certificate, Insurance Certificates, medical certificates, letters of employment, Ministry of Transportation *driver`s* Abstract, *vehicle lease* agreements;
- (g) be of good character as provided for in *schedule 2* of this By-law;
- (h) return with the application the *owner`s licence plate* in the case of a renewal of the *licence*,
- (i) pay the required fee in the Licensing Fees and Charges By-law;
- (j) pay any *additional fee* imposed under *City* Licensing Fees and Charges By-law,
- (k) pay any outstanding fine owed to the *City*.

9. ZONING BY-LAW COMPLIANCE

9.1 No *licence* shall be issued contrary to the provisions of any *City* Zoning By-law.

10. APPLICATION FORMS RETURNED

10.1 Where an *applicant* fails to comply with any requirements of Section 8, or instructions in that regard, or where no *licences* are available to be issued under Section 7.1 (d) the application shall be returned and not processed further.

10.2 Where the application is refused under Section 8, the *applicant* may be advised personally if present and the application returned, or may be advised by letter sent by regular or electronic mail or facsimile to the *applicant`s business* or electronic address as disclosed by the application, or previous last known address, if any.

11. ISSUE OF LICENCE OR RENEWAL OF LICENCE

- 11.1 When an application for a *licence* or for a renewal of a *licence* is in accordance with, and meets all the requirements of this By-law, the *licensing officer* shall issue a *licence*.
- 11.2 Unless provided otherwise, a *person*, who is the *owner* of more than one *vehicle*, shall obtain a separate *licence* for each *vehicle* which is to be *operated* as a part of a *business* licensed under this By-law.
- 11.3 Except where electronic internet applications for new licences and renewals are accepted by the *licensing officer*, or where renewals applications are accepted through postal or other methods, all applications for a *licence* or renewal of a *licence* shall be made by:
- (a) The *applicant*, as sole proprietor of the *business*, *personally* to the *licensing section*;
 - (b) If a *Corporation*, by an officer or director of the *Corporation*, to the *licensing section*; or
 - (c) If a Partnership, by one of the partners, to the *licensing section*.

12. TIME FOR RENEWAL

- 12.1 An application for renewal of a *licence* shall be delivered to the *licensing section* on or before the expiry date. An expired *licence* may be renewed without being subject to any new application requirements within one year of the *licence* expiry date providing all *licence* fees, including late fees, and charges are paid in full and where all required documentation is submitted.
- 12.2 When an application for renewal of a *licence* is delivered to the *licensing section* any time after one year after the expiry date of the *licence*, the *applicant* shall complete an application as a new *applicant*.

13. TERM OF LICENCE

- 13.1 Every *licence* expires on the expiry date as set out in *schedule 1* to this By-law.

14. LICENCE NOT TRANSFERABLE

- 14.1 No *licence* issued under this By-law is transferable except as specifically provided for within the attached *schedules*.

15. GROUNDINGS FOR REFUSAL TO ISSUE OR TO RENEW A LICENCE

- 15.1 An *applicant* whose application meets all the requirements of this By-law and its *schedules* is entitled to a *licence*, or renewal of a *licence*, except where:
- (a) there are reasonable grounds to believe that any application or other document provided contains a false statement or provides false information;
 - (b) the past or present conduct of the *applicant*, or of any partner, or any director, or officer of a *Corporation*, affords reasonable cause to believe that the *applicant*, partner, or officer will not carry on the activity for which the *licence* is to be issued, or to continue to be licensed in accordance with the law, or with honesty and integrity;
 - (c) the financial position of the *applicant* affords reasonable grounds to believe that the activity for which the *business* is to be licensed or to continue to be licensed, will not be carried on in a financially responsible manner;
 - (d) the issuance of the *licence* or renewal of the *licence* would be contrary to the public interest;
 - (e) the *applicant* has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of a By-law enacted by the *City*;
 - (f) the fee payable in respect of the *licence* applied for has not been paid;
 - (g) a complaint which, in the opinion of the *licensing officer*, is not frivolous or vexatious, has been received about the holder of a *driver's licence* relating to the *driver's* ability to transport a disabled *customer*, or to *operate* a licensed *vehicle* safely, or the *driver's* knowledge of the *City's* geography, or, in the case of a *driver's* ability to communicate in English;
 - (h) the *applicant* for a *licence* fails to produce a “*certificate of completion*” where mandatory training is required;
 - (i) the *applicant* for a renewal of a *licence* fails to produce a “*certificate of completion*” or a “*certificate of attendance*” where mandatory training is required;
 - (j) the *applicant* for a renewal of a *licence* produces a “*certificate of attendance*” and a *licence* was issued with an attached condition and the *licensee* failed to comply with the attached condition;
 - (k) the *licensee* failed to attend and complete any other training required by the *licensing officer*;

- (l) the *licensee* is carrying on activities that are, or would be in contravention of the By-law and, or *schedules*;
- (m) the *licensee* fails to comply with any requirement in the By-law and, or *schedules* to obtain or maintain or renew a *licence* under this By-law;
- (n) any *additional fee* imposed on a *licence* remains unpaid after the due date as indicated in the “Notice of *Additional Fee*”.

16. THE LICENSING OFFICER’S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE OR CANCEL, REVOKE OR SUSPEND OR TO ATTACH CONDITIONS TO A LICENCE

16.1 The administrative power and authority to refuse to issue a *licence*, to cancel, revoke or suspend a *licence*, or to impose *conditions* on a *licence*, are hereby delegated to the *licensing officer* and his or her delegates, pursuant to Section 23.2 of the *Municipal Act, 2001*, as amended.

16.2 Where the *licensing officer* is of the opinion that:

- (a) an application for a *licence* or renewal of a *licence* should be refused; or
- (b) a reinstatement should not be made; or
- (c) a *licence* should be revoked; or
- (d) a *licence* should be suspended; or
- (e) a *licence* should be cancelled; or
- (f) a condition should be imposed,

the *licensing officer* shall make that decision.

16.3 When making a decision pursuant to Subsection 16.2 the *licensing officer* shall consider among other matters the Standard Character and Driving Record Criteria in *schedule 2* of this By-law.

17. WRITTEN DECISION OF THE LICENSING OFFICER

17.1 The *licensing officer* shall provide written notice to the *applicant* or *licensee* of the decision with respect to the *licence* application, renewal, or its status.

17.2 The written notice under Subsection 17.1 shall:

- (a) set out the grounds for the decision;

- (b) give reasonable particulars of the grounds;
- (c) be signed by the *licensing officer*; and
- (d) state that the *applicant* or *licensee* is entitled to request a *hearing* to be conducted by the *licence appeal committee*.

18. APPEAL OF A DECISION OF THE LICENSING OFFICER

18.1 An *applicant* or *licensee* who is not satisfied with the decision, or any term or *condition* that has been imposed, may apply for an appeal to the *licence appeal committee* by sending by registered mail or personal service to the *licensing officer* a written notice of appeal along with the appeal fee, to the *secretary* of the *licence appeal committee*, Office of the *City clerk*, within ten (10) days of receipt of the decision.

19. APPEAL DOES NOT ACT AS A STAY OF DECISION

19.1 An appeal, under Section 18.1, of a decision does not act as a stay of that Decision.

20. REASONS FOR APPEAL

20.1 *Persons* may appeal the decision of the *licensing officer* if they believe that any of the following circumstances apply:

- (a) *the decision of the licensing officer* was wrong in law, fact, or both law and fact; or
- (b) there was a failure to observe a principle of natural justice.

21. CONFIRMATION OF A DECISION

21.1 A decision of the *licensing officer* that is not appealed within the time frame referred to in Section 18 shall be deemed to be confirmed.

22. LICENCE APPEAL COMMITTEE

22.1 A committee is hereby established pursuant to Section 23.5 of the *Municipal Act, 2001*, under the name “*City licence appeal committee*”, which shall be composed of not fewer than three members of *council*.

22.2 The *licence appeal committee* has the powers and authority to conduct appeals of decisions made by the *licensing officer*.

- 22.3 The *licence appeal committee* shall designate one of the members as chair and may designate one or more other members as vice-chairs of the licence appeal committee.
- 22.4 The Chair shall have general supervision and direction over the conduct of the affairs of the Committee. Three members of the *licence appeal committee* constitute a quorum.
- 22.5 In place of the *council*, the *licence appeal committee* shall hear the parties to a *hearing* or afford the parties an opportunity to be heard, and make decisions and recommendations from *hearings* so held.
- 22.6 The *licence appeal committee* shall apply the By-laws of the *council* and have the powers, duties and rights as applicable under the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S. 22.
- 22.7 There shall be a *secretary* to the *licence appeal committee*, who shall attend all meetings of the *licence appeal committee* and shall keep all necessary records and perform such other duties required by the *licence appeal committee*.
- 22.8 The *secretary* shall arrange the sittings of the *licence appeal committee* and assign members to panels to conduct *hearings* as circumstances require, except that no more than three members may sit on a panel.
- 22.9 The *licence appeal committee* shall require that parties submit disagreements to mechanisms of alternate dispute resolution before they are entitled to a *hearing* before the Committee on the subject matter of the disagreement.
- 22.10 The oral evidence given before the *licence appeal committee* at a *hearing* shall be recorded.
- 22.11 Where a *hearing* is conducted, an *appellant* must “show-cause” why the *licence* should be granted, or why it should not be cancelled, refused, revoked or suspended, with or without *conditions*.
- 22.12 Where the *licence appeal committee* is satisfied that the application for the *hearing* is frivolous or vexatious, the Committee may refuse to grant a *hearing* to the *appellant*.
- 22.13 Where Committee refuses to grant a *hearing*, the appeal fee is non-refundable.
- 22.14 The provisions of Sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act* R.S.O. 1990, c.S.22, as amended, shall apply to all *hearings* conducted by the *licence appeal committee* under this By-law.

23. DISCLOSURE OF DOCUMENTS AND THINGS

23.1 Each party to a *hearing* shall disclose to all other parties not less than ten (10) *business* days before the *hearing* or, as otherwise ordered by the *licence appeal committee*, the existence of every document or thing that it will refer to, or give in evidence at the *hearing*.

24. FAILURE TO ATTEND HEARING

24.1 When the *appellant* who has been given written notice of the *hearing* does not attend at the appointed time and place, the *licence appeal committee* may proceed with the *hearing* in the *appellant's* absence and the *appellant* shall not be entitled to any further notice of the proceedings.

25. DISMISSAL OF HEARING

25.1 After confirming the *appellant* received notice of the *hearing*, the *licence appeal committee* may;

- (a) where the *appellant* fails to appear, or fails to submit any material, dismiss the appeal; or
- (b) where the *appellant* appears and the *hearing* proceeds, dismiss the appeal at any time during the *hearing* if the Committee finds it without merit.

26. COSTS

26.1 The *licence appeal committee* may not make any order as to costs.

27. WRITTEN DECISION

27.1 At the conclusion of a *hearing*, the *licence appeal committee* may give its decision orally or reserve its decision, but in any case shall provide its decision in writing, with reasons, within fourteen (14) days of the *hearing* to the *appellant* and the *licensing officer*.

28. POWERS OF THE LICENCE APPEAL COMMITTEE

28.1 On an appeal, the *licence appeal committee* has all the powers and functions of the *licensing officer* who made the decision and may make any decision that the *licensing officer* was entitled to make in the first instance, and the *licence appeal committee* may do any of the following things if, in its opinion, doing so would maintain the general intent and purpose of the By-law:

- (a) modify or rescind the decision or any condition;

(b) extend any time for complying with a decision or any condition.

28.2 The *licence appeal committee*, after a *hearing*, may consider:

(a) a breach of the provisions of this By-law; and

(b) anything which may be in any way adverse to the public interest; and

(c) the belief that the *person* will not carry on, or engage in the *business* in accordance with applicable law, or with honesty and integrity; and

(d) if any *person* has made a false statement in the application for the *licence* or a renewal thereof; and

(e) any other matter which the *licence appeal committee* is authorized by law to consider.

28.2 The *licence appeal committee* shall send a copy of its final decision or order, including any reasons, to each party to a *hearing*, or to the *person* who represented the party by:

(a) regular mail;

(b) electronic mail, transmission of a facsimile; or

(c) such other method that the Committee specifies.

29. EFFECT OF DECISION

29.1 A decision that has been confirmed, modified or rescinded by the *licence appeal committee*, as the case may be, shall be final and binding upon the *appellant* who shall comply with the decision within the time specified and in the manner specified in the decision where applicable.

30. ADDITIONAL FEES ON A LICENCE

30.1 Notwithstanding any other provisions of the By-law, the *licensing officer* may impose *additional fees* on a *licence*, by way of a “Notice of *additional fee*” at any time during the term of the *licence* for costs incurred by the municipality attributable to the activities of the *business*.

30.2 The “Notice of *additional fee*” shall be sent to the *licensee* by registered mail and shall provide the *licensee* with sixty (60) days from the date of the “Notice of *additional fee*” is deemed to have been made to pay the outstanding amount.

31. CANCELLATION OF A LICENCE

31.1 Any *licence* issued under this By-law may be cancelled by the *licensing officer* at any time upon the written request of the *licensee*.

32. RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION

32.1 When a *licence* has been revoked, cancelled or suspended, the holder of the *licence* shall return the *licence* to the *licensing section* within twenty-four (24) hours of service of “Written Notice” of the decision of the *licensing officer* or, where an *appeal* had been filed, the decision of the *licence appeal committee*, and the *licensing officer* may enter the *business premises* or *vehicle* belonging to the *licensee* for the purpose of receiving, taking, or removing the said *licence* or *licence plate*.

32.2 When a *person* has his or her *licence* revoked or suspended under this By-law, he or she shall deliver the *licence* to the *licensing officer* and in no way shall obstruct or prevent the *licensing officer* from obtaining the *licence*.

33. POSTING OF LICENCES

33.1 Each *licence* issued to a *driving school operator* or *taxicab broker* shall be posted in a conspicuous place on the *business premise* or *vehicle*.

34. LICENCE PRODUCTION

34.1 Every licensed *driver* shall carry his *licence* with him at all times while he is operating a *vehicle* and shall surrender the *licence* for reasonable inspection upon demand by the *licensing officer* or *municipal law enforcement officer*.

35. NOTIFICATION OF CHANGE OF INFORMATION

35.1 A *licensee* shall carry on *business* in the *City* in the name which is set out on the *licence* and shall not carry on *business* in *City* in any other name unless he has first notified the *licensing section*.

35.2 When a *licensee* changes his name or address or any information relating to his *licence*, he shall notify the *licensing section* within forty-eight (48) hours of the change, and shall return the *licence* immediately to the *licensing section* for amendment.

35.3 The *licensee* shall report any changes to the following information:

- (a) the names, addresses of officers and directors; or
- (b) the address of the corporate head office; or if a partnership,

- (c) names and addresses of all partners.

36. MEDICAL CERTIFICATE

36.1 The *licensing officer* may require a *driver* to provide him with a certificate prepared by a physician, attesting as to whether or not the *driver* is physically fit and able to *operate a motor vehicle*, at any time if he feels it may be in the public interest.

37. ONTARIO DRIVER'S LICENCE SUSPENDED

37.1 When a licensed *driver* has had his *Ontario driver's licence* cancelled, suspended or revoked or has expired, the *licence* issued under this By-law shall be deemed to be suspended as of the date of cancellation, suspension, revocation or expiry under the *Highway Traffic Act R.S.O.* and the *driver* shall immediately return the *licence* issued under this By-law to the *licensing section*.

38. RE-PHOTOGRAPHING OF DRIVERS

38.1 If at any time the *driver's* photograph required on the application for a *licence* is not a reasonable likeness of the *driver* for any reason, the *licensing officer* may require the *driver* to have another photograph taken.

39. INSURANCE CERTIFICATE

39.1 Every *applicant* for an *owner's plate* shall submit and file with the *licensing section* a certificate of insurance for the *vehicle* for which the *applicant* is the *owner* and the insurance policy shall:

- (a) be endorsed to provide the *licensing officer* with at least ten (10) days notice in writing of a proposed cancellation or expiration of the insurance policy, or of a variation in the amount of the policy; and
- (b) insure in respect to any one claim, a liability limit of at least two million dollars (\$2,000,000) and be endorsed to include all *persons* who have any interest in the *vehicle*.

40. INSURANCE CERTIFICATE RENEWALS

40.1 Every licensed *owner* shall file with the *licensing officer* at least five (5) days prior to the expiry date of the current insurance policy all insurance renewal policies or certificates of insurance.

41. FAIL TO HAVE INSURANCE

- 41.1 When a licensed *owner* ceases to have a current and valid Ontario standard automobile insurance policy in good standing and properly endorsed, the *licence* shall be deemed to be suspended and the *licence* shall only be reinstated by providing to the *licensing officer* written *proof of insurance* in accordance with the provisions of this By-law.
- 41.2 When the licensed *owner* has his *licence* suspended under Section 41.1, he shall forthwith remove the *owner's plate* and return the *plate* and the *licence* to the *licensing officer*.
- 41.3 When a licensed *owner* cancels his current insurance before the expiry date of the policy, he must produce a certificate of newly acquired insurance or return the *plate* to the *licensing officer* on the date and time of cancellation.

42. SERVICE OF NOTICE OR ORDER

- 42.1 Any notice or order required to be given or served under this By-law is sufficiently served if delivered personally or sent registered mail or by electronic mail or facsimile, addressed to the *person* to whom delivery or service is required to be made, at the last address for service appearing in the records of the *licensing section*.
- 42.2 When service is made by registered mail, the service shall be deemed to be made on the seventh day (7) after the date of mailing, unless the *person* on whom service is being made establishes he did not, through absence, accident, illness, or other cause beyond his control, receive the notice or order until a later date.

43. POWERS OF ENTRY (authorized under Sections 435, 436 and 438 of the Municipal Act, 2001, as amended S.O. 2006, C. 32, Sched. A, s. 184)

- 43.1 The *City* may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) The provisions of this By-law;
 - (b) An order issued under this By-law; or
 - (c) An order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- 43.2 Where an inspection is conducted by the *City*, the *person* conducting the inspection may,
- (a) require the production for inspection of documents or things relevant to the inspection;

- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any *person* concerning a matter related to the inspection including their name, address, phone number and identification; and
- (d) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

43.3 The *City* may undertake an inspection pursuant to an order issued under s.438 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

43.4 The *City's* power of entry may be exercised by an employee, officer or agent of the *City* or by a member of the York Regional Police Service, as well as by any *person* under his or her direction.

43.5 Every *driver* or *owner* licensed under this By-law shall on request of the Officer produce his *licence* issued under this By-law and such other documentation as is requested upon an inspection under Section 43.2.

44. ORDERS AND REMEDIAL ACTION (authorized under Sections 444, and 446 of the *Municipal Act, 2001* as amended S.O. 2006, C.32, Sched. A, s.184)

44.1 If a *person* contravenes any of the provisions of this By-law, the *City* may issue an order to the *person* to discontinue the contravening activity. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention and the date by which there must be compliance with the order. The order may be served in accordance with the service provisions contained in this By-law.

44.2 If a *person* has contravened a provision of this By-law, the *City* may issue a work order to the *person* who contravened or permitted the contravention of this By-law, as well as to the *owner* of the lot on which the contravention occurred, to do work to correct the contravention. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the order. The order may also provide that if the *Person* or *Owner* fails to correct the contravention, the *City* may do the work to correct the contravention at the expense of the *Person* and the *Owner*. The order may be served in accordance with the service provisions contained in this By-law.

44.3 If the *City* has issued an order directing or requiring a *person* or an *owner* to do a matter or thing to correct a contravention of this By-law, and the *person* or the

owner has failed to correct the contravention, the *City* may enter upon the lot between the hours of 9:00 am and 5:00 pm Monday to Friday to do all work necessary to correct the contravention, and the *City* may recover the cost of the doing the matter or thing from the *person* directed or required to do it by action or by adding the costs to the tax roll of the *owner* and collecting them in the same manner as property taxes.

- 44.4 An order issued under this By-law may be served personally or may be served by registered mail sent to the last known mailing address of the *person* as indicated on the *City's* assessment roll. If an order is served on a *person* by registered mail, it shall be deemed to have been served on the *person* on the 5th day after mailing of the order, which deemed service may be rebutted by the *person* proving, on a balance of probabilities, that they did not receive the order.
- 44.5 Upon an inspection under Section 43.2, the Officer or other *person* so authorized is entitled to request and have produced all relevant *licences* and permits and to have access to the invoices, vouchers, appointment books or *trip sheets* or like documents of the *person* being inspected, provided such documents are relevant for the purposes of the inspection and the *person* inspecting 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 two (2) *business* days of removal.
- 44.6 Every *driver* or *owner* licensed under this By-law shall on request of the Officer produce his *licence* issued under this By-law and such other documentation as is requested upon an inspection under Section 43.4.

45. **RIGHT OF INSPECTION OF LICENSED PREMISES OR VEHICLES/DUTY TO PRODUCE**

- 45.1 The *licensing officer*, *municipal law enforcement officer* or other *person* so authorized who is performing a duty or exercising a power under this By-law may at any reasonable time enter upon and inspect the *business premises* or *vehicle* of any *licensee* to insure that the provisions of this By-law have been complied with, and on completion of an inspection shall complete and file a written report on the inspection.
- 45.2 Upon an inspection under Section 43, the Officer or other *person* so authorized is entitled to request and have produced all relevant *licences* and permits and to have access to the invoices, vouchers, appointment books or *trip sheets* or like documents of the *person* being inspected, provided such documents are relevant for the purposes of the inspection and the *person* inspecting 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 two (2) *business* days of removal.

45.3 Every *driver* or *owner* licensed under this By-law shall on request of the Officer produce his *licence* issued under this By-law and such other documentation as is requested upon an inspection under Section 43.

46. VEHICLE INSPECTION

46.1 The *licensing officer* may require at any time an *owner* to submit his *vehicle* for inspection at an appointed place.

46.2 The *owner* shall submit his *vehicle* for inspection when required to do so by the *licence* Officer under Section 46.

47. OBSTRUCT INSPECTOR

47.1 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, the *licensing officer*, *municipal law enforcement officer* or other *person* so authorized who is performing a duty or exercising a power under this By-law pursuant to Section 426 of the *Municipal Act, 2001*.

48. PENALTY FOR CONTRAVENTION BY A PERSON

48.1 Every *person* who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.

48.2 If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

48.3 If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.

48.4 Every *person* who is guilty of an offence under this By-law shall be subject to the following penalties:

- (a) Upon a first conviction, to a fine of not less than \$300.00 and not more than \$50,000.00;
- (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00;
- (c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000.00 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00.

48.5 For the purposes of this By-law, “multiple offences” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

48.6 For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

49. PENALTY FOR CONTRAVENTION BY A CORPORATION

49.1 Despite Section 48, where a *Corporation* is convicted of an offence under the provisions of this By-law pursuant to Section 429 (1) of the *Municipal Act, 2001*, the *Corporation* is liable to a fine not less than \$300.00 and not exceeding \$100,000.00.

50. ORDER TO DISCONTINUE ACTIVITY

50.1 Pursuant to the provisions of Section 444 of the *Municipal Act, 2001*, in addition to any other remedy and to any penalty imposed, the *City* may make an order requiring the *person* who contravened the By-law or who caused or permitted the contravention, or the *owner* or occupier of the land on which the contravention occurred, to discontinue the contravening activity.

50.2 Any *person* who contravenes an order issued under Section 50.1 is guilty of an offence pursuant to Subsection 425 (1) of the *Municipal Act, 2001*.

51. STATEMENT OF THE CLERK

51.1 For the purposes of prosecution, under this By-law and pursuant to Subsection 447 (6) of the *Municipal Act, 2001*, a statement as to the licensing or non-licensing of any premise or *person*, signed by the *clerk* is, without proof of the office or signature, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein.

52. COURT ORDERS/BARRING OF ENTRY/CLOSING OF PREMISES

52.1 The provisions of Section 447 of the *Municipal Act, 2001* respecting the issuance of court orders, the banning of entry, and the closing of *premises* shall apply to this By-law where required.

53. COLLECTION OF UNPAID LICENSING FINES

53.1 Where any part of a fine for a contravention of this By-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P 3, including any extension of time for payment ordered under that section the *City* is hereby authorized, pursuant to Section 441 (2) of

the *Municipal Act, 2001*, to give the *person* against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that *person* at the *person's* residence or place of *business*.

54. DISTRESS FOR UNPAID FINES

54.1 Pursuant to Subsection 441 (3) of the *Municipal Act, 2001*, where a fine remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed to be unpaid taxes and, pursuant to Subsection 351 (1) of the *Municipal Act, 2001*, the *treasurer* of the *City*, or agent may seize the following to recover the taxes and costs of seizure, subject to the exemptions provided for in Subsection 351 (3) and (4) of the *Municipal Act, 2001*:

- (a) The personal property belonging to or in the possession of the *person* fined.
- (b) The interest of the *person* fined in any personal property including such *person's* right to the possession of any personal property under a contract for purchase or a contract to which the *person* fined becomes the *owner* of the property upon performance of any condition.
- (c) The personal property on the land and any interest therein, as described in Subsection (b) of this Section, of the *owner* of the land, even if the *owner's* name does not appear on the tax roll.
- (d) Any personal property on the land, title to which is claimed under any assignment or transfer made for the purpose of defeating the seizure.
- (e) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.

55. LEVY OF FINES UNDER WARRANT

55.1 Despite Section 54 of this By-law, the *treasurer* or an Officer of the *City* may seize personal property, pursuant to Subsection 351 (2) of the *Municipal Act, 2001*, after a tax bill has been sent but before the due date if:

- (a) the *treasurer* or an officer has good reason to believe that the personal property subject to the seizure is about to be removed from the *City* before its due date;
- (b) the *treasurer* or an Officer makes an affidavit to that effect before a Justice of the Peace or the head of *council* of the *City*; and

- (c) the Justice of the Peace or head of *council* of the *City* issues a warrant authorizing the *treasurer* or an Officer to levy for the fines and costs in the manner provided by this Section.
- (d) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.
- (e) No defect, error or omission in the form or substance of the notice required by this By-law invalidates any subsequent proceedings for the recovery of a fine.

56. PROCEEDS OF FINES

56.1 Pursuant to the provisions of Subsection 433 (1) of the *Municipal Act, 2001*, where a *person* has been convicted of any offence under this By-law, every fine imposed for a contravention of this By-law belongs to the *City*.

57. SEVERABILITY

57.1 Notwithstanding that any section, *schedule*, or any part or parts thereof, of this By-law may be found by any court of law to be invalid or beyond the power of the *council* to enact, such section, *schedule* or part or parts thereof shall be deemed to be severable, and all other sections and *schedules* of this By-law, or parts thereof, are separate and independent there from and enacted as such.

58. SCHEDULES

58.1 All *schedules* referred to in this By-law and attached to this By-law shall be deemed to be a part of the By-law.

59. CONFLICT

59.1 Where there is a conflict between this By-law and any other *City* By-law that regulates or governs the operation of Mobile *businesses*, this By-law shall prevail.

60. INTERPRETATION

60.1 The provisions of the *Legislation Act 2006*, R.S.O. 2006, c.21, Sch. F, shall apply to this By-law.

61. REPEAL

61.1 By-laws 2002-294, 2002-301, 2002-303, 2002-305, 2002-308, 2002-310, as amended, are hereby repealed effective May 1, 2012.

62. EFFECTIVE DATE

62.1 This By-law comes into force and takes effect on May 1, 2012.

63. SHORT TITLE

63.1 This By-law shall be known as the Mobile *Business* Licensing By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
1ST DAY OF MAY, 2012.

"Kimberley Kitteringham"

KIMBERLEY KITTERINGHAM
CITY CLERK

"Frank Scarpitti"

FRANK SCARPITTI
MAYOR

SCHEDULE 1

Relating to the Term, Issue, Expiry, and Prorating of Mobile *Business Licences*

1. TERM OF LICENCE

1.1 Every *licence* listed in this *schedule* is valid for the corresponding term of the *licence* unless:

- (a) the *licence* has been suspended or revoked;
- (b) the *licence* has been cancelled at the request of the *licencee*;
- (c) payment of the said *licence* has not been made.

2. TIME FOR RENEWAL

2.1 An application for renewal of a *licence* shall be delivered to the *licensing section* on or before the expiry date. An expired *licence* may be renewed without being subject to any new application requirements within one year of the *licence* expiry date providing all *licence* fees, including late fees, and charges are paid in full and where all required documentation is submitted.

2.2 When an application for renewal of a *licence* is delivered to the *licensing section* any time after one year after the expiry date of the *licence*, the *applicant* shall complete an application as a new *applicant*.

2.3 Except for Standard or *airport taxicab licence plates*, fees may be pro-rated by calculating the fee based upon the month in which the *application* is made to the *licensing section* to the expiry date of the *licence*.

LICENCE TYPE	EXPIRY DATE
<i>Driving School Operators and Instructors</i>	September 30 th
<i>Limousine Owners</i>	December 31 st
<i>Limousine Drivers</i>	Annual on Birthday
<i>Refreshment Vehicles</i>	March 31 st
Taxi Brokers	April 30 th
Taxi Owners	April 30 th
Taxi Drivers	Annual on Birthday
<i>Tow Truck Owners and Drivers</i>	June 30 th

SCHEDULE 2
Relating to the Standard Character and Driving Record Criteria
For Variable Terms, Conditional Issuance, Refusal, Suspension, Revocation of Mobile
Licences, Applications and Renewals

The fundamental purpose of any licence suspension, revocation and/or refusal to issue is to ensure that the licensee will carry on or engage in the business with honesty and integrity and in accordance with all law, particularly where public safety may be at risk.

Code	Conviction Type	For All New Applications
N-A	Criminal Code	Refuse licence if 2 or more Criminal Code convictions within 2 years of the application date.
N-B	Criminal Code	Refuse licence if 3 or more Criminal Code convictions within 5 years of the application date.
N-C	Criminal Code	Refuse licence if convicted of a Criminal Code offence where the sentence imposed was 5 years or longer.
N-D	Criminal Code	Refuse licence for any Criminal Code convictions and/ or pending charges for a sexual offence including pornography, at any time.
N-E	Highway Traffic Act	Refuse licence if 1 Criminal Negligence or Impaired Driving conviction within 1 year of application date.
N-F	Highway Traffic Act	Refuse licence if 2 Criminal Negligence or Impaired Driving convictions (or 1 of each) between 1 and 4 years old from application date.
N-G	Highway Traffic Act	Refuse licence if either 6 demerit points or 4 driving convictions within 1 year of application date.
N-H	Criminal Code	Issue Probationary licence for 1 year if convicted of 1 Criminal Code conviction within 5 years of application date.
N-I	Highway Traffic Act	Issue Probationary licence for 1 year if Criminal Negligence or Impaired Driving conviction, between 1 to 4 years from application date.
N-J	Highway Traffic Act	Issue Probationary licence for 3 to 6 months if 3 to 5 demerit points or 3 driving convictions within 1 year of application date.

Code	Conviction Type	For All Renewals
R-A	Criminal Code	Refuse <i>licence</i> if 2 or more Criminal Code convictions within 2 years of the annual renewal date.
R-B	Criminal Code	Refuse <i>licence</i> if 3 or more Criminal Code convictions within 5 years of the annual renewal date.
R-C	Criminal Code	Refuse <i>licence</i> for any Criminal Code convictions and/or pending charges for a sexual offence including pornography.
R-D	<i>Highway Traffic Act</i>	Refuse <i>licence</i> for any Impaired Driving convictions or DRIVER Suspensions
R-E	<i>Highway Traffic Act</i>	Refuse <i>licence</i> if either 6 demerit points or 4 driving convictions within 1 year of previous renewal date.
R-F	Criminal Code	Issue Probationary <i>licence</i> for 1 year if convicted of 1 Criminal Code conviction within 5 years of annual renewal date.
R-G	Criminal Code	Issue Conditional <i>licence</i> pending Criminal Code, Criminal Negligence or Impaired Driving charges trial outcome.
R-H	<i>Highway Traffic Act</i>	Issue Probationary <i>licence</i> for 3-6 months if 3-5 demerit points or 3 driving convictions within 1 year of previous renewal date.
R-I	<i>Highway Traffic Act</i>	Issue Conditional <i>licence</i> for pending HTA driving charges within 1 year of renewal date.

In assessing an application, a number of factors must be considered, including, but not limited to:

- Potential threat to the public
- Number of *individual* convictions versus multiple convictions during one incident
- Severity of the incident/offence, such as; sexual offences, physical assault, or weapons
- Any outstanding charges
- Findings of not guilty by reason of mental disorder
- Probation, prohibition and other judicial orders which are in effect

SUSPENSIONS

- 30-Day *licence* Suspension for First Occurrence
- 60-Day *licence* Suspension for Second Occurrence
- 90-Day *licence* Suspension for Third Occurrence

SCHEDULE 3

Relating to Driving Instructors and Operators of *Driving schools*

1. TYPES OF LICENCES

1.1 The *licensing officer* may issue the following types of *licences* in connection with the *business* of teaching persons to operate a vehicle:

- (a) a *driving school instructor's licence*;
- (b) a *driving school operator's licence*.

2. NUMBER OF LICENCES

2.1 A *driving school instructor* or a *driving school operator* who is the *owner* or *lessee* of more than one *vehicle* that is utilized for driving instruction shall be issued a *vehicle licence plate* for each *vehicle* that is owned or *leased* and *operated* for the purpose of driving instruction.

3. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER

3.1 No *driving school instructor* or *driving school operator* who is the *owner* or *lessee* of a *vehicle* that is utilized for driving instruction shall fail to affix in a secure and visible manner to the rear bumper of the *vehicle* the *driving school licence plate* issued by the *licensing officer*.

3.2 No *driving school instructor* or *driving school operator* who is the *owner* or *lessee* of a *vehicle* that is utilized for driving instruction shall fail to affix in a secure manner the *licence renewal sticker* to the *driving school licence plate* issued by the *licensing officer*.

4. LICENSING REQUIREMENTS FOR DRIVING SCHOOL INSTUCTORS

4.1 In addition to the general requirements for licensing established under the *City's Mobile business Licensing By-law*, every *applicant* for a *driving school instructor's licence* and for the renewal of a *driving school instructor's licence* shall:

- (a) be the holder of a current, valid full Class "G" Ontario *motor vehicle driver's licence* issued under the provisions of the *Highway Traffic Act R.S.C. 1990 c. H*;

- (b) be the holder of a current, valid *driving school instructor's licence* issued in the *applicant's* name by the Province of Ontario under the provisions of the *Highway Traffic Act* R.S.O. 1990. Ontario Regulation 473/07 as amended;
 - (c) file a letter of employment, or written contract from the *driving school operator* for the employment or services of the instructor;
 - (d) register, obtain and provide to the *licensing officer* a *harmonized sales tax* (HST) number where *self-employed* and where their services are subject to a written contract filed with the *City*;
 - (e) for each *vehicle* owned, or *leased* and to be *operated* as a *driving school vehicle* by a *driving school instructor*, produce a current valid motor vehicle permit issued by the Ontario Ministry of Transportation with the ownership portion in the *applicant's* name, or where the motor vehicle permit owner portion is in the name of a *person* other than the *applicant*, the *applicant* shall file a copy of a current and valid *vehicle lease* agreement between the *applicant* and the *person* or *corporation* shown on the *motor vehicle permit owner's* portion;
 - (f) provide any other document or thing that the *licensing officer* may require that will assist in the determination that the *applicant* satisfies the requirements of this *schedule* or any applicable law;
 - (g) within 48 hours of changing their address, *vehicle* or *driving school* affiliation, attend at the offices of the *licensing section* and inform the *licensing officer* of such changes and return their *licence* for amendment and replacement; and
 - (h) demonstrate that their past and present conduct and character complies with the criteria provided for in *schedule 2* being the *City's* Standard Character and Driving Record Criteria Policy.
- 4.2 Every *applicant* for a *driving school instructor's licence* shall provide a *vulnerable sector screen report* furnished by the Police Service having jurisdiction where they reside dated within thirty (30) days preceding the application date or at the request of the *licensing officer*.
- 4.3 Every *driving school instructor* upon renewal of their *licence* shall provide a Criminal Conviction Background Search dated within thirty (30) days preceding the renewal date.
- 4.4 Every *applicant* for a *driving school instructor's licence* and every *driving school instructor* upon renewal of their *licence* shall provide a *three year driver record search* (Abstract) from the Ministry of Transportation dated within thirty (30)

days preceding the application date or yearly renewal due date, or at the request of the *licensing officer*.

5. **LICENSING REQUIREMENTS FOR DRIVING SCHOOL OPERATORS**

5.1 In addition to the general requirements for licensing established under the By-law every *applicant* for a *driving school operator licence* or for the renewal of a *driving school operator licence* shall:

- (a) provide a “Criminal Conviction Background Search” dated not later than thirty (30) days preceding the date of the application or yearly renewal due date or at the request of the *licensing officer*;
- (b) in the case of a partnership, the “Criminal Conviction Background Search” shall be of each partner;
- (c) in the case of a Corporation the "Criminal Conviction Background Search" shall be of each officer and director;
- (d) provide the Harmonized Sales Tax (H.S.T.) number registered to the *applicant* or *licensee*;
- (e) within 48 hours of any change in address, incorporating or partnership documents or other *individual* information, furnish the *licensing section* with the particulars of the new information, and return the *licence* for replacement if required;
- (f) provide a list of each *vehicle* to be *operated* as a *driving school vehicle* in the *driving school business*, identifying the make, model year, provincial *licence plate* number and *vehicle identification number* (V.I.N.);
- (g) submit all *vehicles* to be *operated* in the *driving school business* for inspection on the date and at the time scheduled by the *licensing officer*;
- (h) for each *vehicle*, owned, or *leased* and to be *operated* as a *driving school vehicle* submit a current valid *motor vehicle permit* issued by the Ontario Ministry of Transportation with the ownership portion in the *applicant's* name, or if the motor vehicle permit owner's portion is in another *person* or *Corporation* name; provide a copy of the *lease* agreement for the *motor vehicle*;
- (i) for each *vehicle* owned, or *leased* and *operated* as a *driving school vehicle* by a *driving school operator*, produce a current valid *motor vehicle permit* issued by the Ontario Ministry of Transportation with the *applicant's* name shown on the *motor vehicle permit plate* portion;

- (j) for each *vehicle* owned, or *leased* and to be *operated* as a *Driving school vehicle* file a *safety standard certificate* within thirty (30) days of application for a *licence* or for renewal of the *licence*;
- (k) for each *vehicle* owned, or *leased* and to be *operated* as a *driving school vehicle*, file proof of valid insurance for *motor vehicle* liability, endorsed to include Ontario Policy Change Form (OPCF) for “*driver Training School*” operations, in the amount of not less than Two Million Dollars (\$2,000,000) inclusive, per occurrence for bodily injuries, property damage and accident benefits, and including damage occasioned by any accident arising out of the operation of any *motor vehicle* to be used in the *business* in respect of which a *licence* is applied for; such insurance policy shall contain an endorsement to provide the *licensing officer* with thirty (10) days prior written notice of cancellation of a material change that would diminish coverage;
- (l) advise the *licensing section* immediately when the use of any *vehicle* listed under Subsection (k) has been discontinued and when additional *vehicles* are proposed or intended for use, and return to the *licensing section* all licence plates issued pursuant to *vehicles* which are no longer *operated* as a *driving school vehicle* in the *operator’s business*;
- (m) upon being ordered so to do by the *licensing officer*, or his or her designate, cease to publish, display or circulate any poster, handbill, card, novelty, notice, newspaper advertisement or other matter used to advertise his or her *business*;
- (n) provide, in every *vehicle* used in the *business*, a frame or other device for holding the *photo identification card* of the *person* giving instruction to a *student driver*;
- (o) keep a permanent record of the name and address of each student, the date of the commencement of instruction, the date, time and name of the instructor for each lesson and the number of the student’s motor vehicle operator’s temporary instruction permit or a motor vehicle operator’s licence, or, in the case of a *student driver* who has not resided in Ontario for more than sixty (60) days, the number, date and place of issue, and the date of expiry of the student’s subsisting *driver’s licence* in accordance with the laws of the province, country or state in which he or she was a resident immediately before becoming a resident of Ontario;
- (p) provide a statement on the form provided by the *licensing section*, giving particulars as to the location of the *driving school premises* together with such other information as may be required to determine the compliance of the use with all applicable By-laws and regulations;

- (q) be required to demonstrate that their past and present conduct and character complies with the criteria provided for in *schedule 2* being the *licensing section's* Standard Character and Driving Record Criteria Policy;

6. VEHICLE REQUIREMENTS

- 6.1 Every licensed *driving school operator* and every *driving instructor* who owns or *leases* a *vehicle* shall ensure that every *vehicle* used and or *operated* as a *driving school vehicle* in their *business* is:
 - (a) maintained in good repair so that it is *mechanically safe*;
 - (b) maintained so that the exterior is clean and it does not have body damage, paint damage, holes in floorboards, unserviceable tires, doors that do not close or lock properly, broken cracked or chipped windshield or windows, or any other mechanical defect that would render the *vehicle* unsafe;
 - (c) that the interior is clean, dry and free from litter, and the interior upholstery is not torn, worn or soiled;
 - (d) equipped with a dual control braking system in good working order placed in a position for ready use by the instructor seated beside the *student driver*;
 - (e) cleared of any article left by *passengers* after every instructions session; and
 - (f) equipped with a plastic roof sign that shall have the name of the *driving school* on the front and back of the sign, be at least twenty (20) centimeters high by sixty-five (65) centimeters wide, and be securely affixed to the roof of the *vehicle* except when the *vehicle* is not being used for the purpose of *driving school* instruction, or as otherwise approved by the *licensing officer*.

7. PROHIBITIONS

- 7.1 No *driving school instructor* shall use a *vehicle* for teaching a *person* to *operate* a *motor vehicle* that does not comply with the *vehicle* requirements contained in this *schedule*.
- 7.2 No *driving school operator* shall permit, allow or cause the use a *vehicle* for teaching a *person* to *operate* a *motor vehicle* that does not comply with the *vehicle* requirements contained in this *schedule*.

8. DUTIES OF DRIVING SCHOOL INSTUCTORS

- 8.1 Every licensed *driving school instructor* shall:
- (a) be properly dressed, neat and clean, civil and well behaved when giving driving instruction;
 - (b) advise the *licensing section* of all *vehicles* which he or she proposes to use to give instruction, identifying such *vehicles* by the makes and serial numbers thereof before giving instruction to any student;
 - (c) submit any such *vehicle* for inspection by the *licensing section* or by a mechanic designated by the *licensing officer* on the date and time specified by the *licensing officer*;
 - (d) place the photo ID card in the *vehicle*, in such a location that it is plainly visible when giving instruction to any *STUDENT DRIVER*;
 - (e) ensure that the *vehicle* is equipped with an extra rear view mirror for the use of the instructor when giving driving instruction;
 - (f) ensure that every *student driver* is the holder of a current Ontario Class G 1, G2 or G *driver's licence*;
 - (g) ensure that any *vehicle* being used for instruction bears all signs and *plates* required by this *schedule*;
 - (h) refuse driving instruction to any *student driver* whose driving ability appears to be impaired by alcohol or drugs;
 - (i) refuse to provide driving instruction in any *vehicle* until the *vehicle* has been inspected, and approved for use by the *licensing officer*, and the *licence plate* issued for the *vehicle* has been attached to the rear bumper of the *vehicle*;
 - (j) refuse driving instruction to any *student driver* who is not registered as a student at the *driving school* where the driving instructor is *employed* or under contract;
 - (k) not give driving instruction without a Driving Instructor's *licence* issued and in his possession while instructing, pursuant to the *Highway Traffic Act* R.S.O. 1990, as amended;
 - (l) refuse to provide instruction on any primary traffic artery, main *highway* route or heavily travelled thoroughfare, during the first hour of any student's training period;

(m) not permit the use of cell phones or other communications devices by any *person* in the *vehicle* during the instruction period.

8.2 No *driving school instructor* shall enter into an agreement to provide driving instruction in the *City* unless the *driving school operator* is currently licensed by the *City* as a *driving school operator*.

9. **DUTIES OF DRIVING SCHOOL OPERATORS**

9.1 Every licensed *driving school operator* shall advise the *licensing officer* forthwith:

- (a) when any licensed *vehicle* ceases to be used; and
- (b) when any additional *vehicle* is used in the *business*, and
- (c) return to the *licensing officer* all *plates* issued in respect of *vehicles* that have ceased to be used in the *business*.

9.2 Every licensed *driving school operator* shall:

- (a) allow the *licensing officer* to have access to all *premises, vehicles, equipment, books and records* used in the *business* and submit any such *vehicle* for inspection whenever required.
- (b) notify the *licensing officer*, in writing, of the name and address of each *driving school instructor employed* by him and of the date of commencement of such employment, such notification to be given not later than seventy-two (72) hours after the employment has commenced.
- (c) notify the *licensing officer*, in writing, of the name and address of each *driving school instructor* whose employment by him has terminated, and of the date of the termination of such employment, such notification to be given not later than seventy-two (72) hours after the employment has terminated.
- (d) furnish each student with a written statement of all rates and charges for services provided by the school before instruction is given.
- (e) file with the *licensing officer* a statement of rates and charges for services provided by the school. The statement shall be in a form approved by the *licensing officer* and shall commence with the words, "The following is a complete *schedule of rates and Charges* for all services provided by (name of *driving school*) and no other rates or charges shall be demanded or received by the school or by any of its instructors."

- (f) adhere to the rates and charges indicated in the published statement and give fifteen (15) days advance notice to the *licensing officer* of any new statement of rates and charges.

9.3 No *driving school operator* shall permit, cause or allow a *driving school instructor* to act as a *driving school instructor* in the *City* without first ensuring that the instructor has a current and valid instructor's *licence* issued by the *City*.

10. **RESTRICTED AREAS**

10.1 No *driving school instructor* shall give driving instructions:

- (a) in any public park; or
- (b) upon any street abutting a school or playground, which, together with the adjoining streets, forms the block in which such school or play ground is situated.

11. **CANCELLATION**

11.1 A *licence* issued to a *driving school instructor* or a *driving school operator* may be cancelled by the *licensing officer* at any time if the *licensee* fails to actively *operate* for a continuous period of sixty (90) days the *vehicle* for which the *driving school licence plate* has been issued unless the *owner* can show to the satisfaction of the *licensing officer* just cause for such failure.

SCHEDULE 4

Relating to the Licensing and Regulation of Owners and Drivers of *Limousines*

1. TYPES OF LICENCES

1.1 The *licensing officer* may issue the following types of *licences* in connection with the *business* of owning and operating a *limousine* for the conveyance of the travelling public:

- (a) a *limousine owner's licence*; and
- (b) a *limousine driver's licence*;

2. NUMBER OF LICENCES

2.1 A *limousine owner* shall be required to apply for, and obtain a *limousine vehicle licence plate* for each *limousine* that is owned and *operated* for the purpose of the conveyance of the travelling public. The maximum number of operating *limousine vehicle licence plates* in the *City* at any time shall not exceed fifty (50).

3. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER

3.1 No *owner* of a *limousine* shall fail to affix in a secure and visible manner to the exterior front *passenger* side of the *limousine* the *licence plate* issued by the *licensing officer*, or as otherwise approved by the *licensing officer*.

3.2 No *limousine owner* shall fail to affix in a secure manner the *licence renewal sticker* to the *limousine licence plate* issued by the *licensing officer*.

4. LICENSING REQUIREMENTS FOR LIMOUSINE OWNER'S LICENCE

4.1 In addition to the general requirements for licensing established in the *City's* *Mobile business Licensing By-law*, every *applicant* for a *limousine owner's licence* and for the renewal of a *limousine owner's licence* shall produce with his application:

- (a) a copy of the current *passenger motor vehicle permit* for the *limousine*, in good standing issued by the Ministry of Transportation, in the *owner's* name;
- (b) a policy of insurance endorsed to the effect that the *licensing officer* will be given at least ten (10) days notice in writing of any cancellation, expiry or variation in the amount of the policy. The insurance shall be in at least the amount of two million dollars (\$2,000,000), exclusive of bodily injury to,

or death of one or more *persons*, or from loss or damage to property resulting from any one accident. The insurance policy shall make provision for *passenger* hazard in an amount not less than the foregoing. A copy or certificate of such insurance shall be deposited with the *licensing officer*;

- (c) a current, valid Ministry of Transportation *safety standard certificate* issued within thirty days (30) of the application, and where the *vehicle* is powered by propane fuel, a certificate of fitness endorsed by a qualified propane *inspector*;
- (d) proof of Harmonized Sales Tax (HST) registration; and
- (e) submit the *vehicle* to be licensed for an inspection and approval by the *licensing officer*.

4.2 Where a *limousine owner* does not actively drive a *limousine*, upon swearing of an affidavit in a form approved by the *City*, he or she may produce a Criminal Background Check as an alternative to the licensing requirement to produce a current and valid *vulnerable sector screening report*.

5. **LICENSING REQUIREMENTS FOR LIMOUSINE DRIVER'S LICENCE**

5.1 In addition to the general requirements for licensing established in the *City's* Mobile *business* Licensing By-law, every *applicant* for a *limousine driver's licence* shall produce with his application:

- (a) a current, valid full Class "G" Ontario *motor vehicle driver's licence* issued in the *applicant's* name.
- (b) an original *driver's* Abstract obtained from the Ministry of Transportation, dated within thirty (30) days of the date of the application.
- (c) an original *vulnerable sector screening report* issued by the Police Service having jurisdiction in the *applicant's* resident municipality.
- (d) A certificate prepared by a Physician which states that the *applicant* is fit and able to *operate* a *motor vehicle* carrying *passengers* for hire, dated within thirty (30) days of application; and
- (e) A letter of employment from the licensed *limousine plate owner*.

6. **OWNER PROHIBITIONS**

6.1 No *owner* shall:

- (a) permit or allow any *person* other than a *driver employed* by him, and licensed under this *schedule*, to *operate* the *limousine*;
- (b) enter into any *lease* agreement pertaining to the *owner's limousine licence plate*;
- (c) attach to any *vehicle*, the *limousine vehicle licence plate*, other than to the *vehicle* for which the *licence plate* was issued; and
- (d) where an *owner* has been found to have contravened Section 6.1 (c) above, the *licence* shall be immediately cancelled by the *licensing officer*, and the *owner* is prohibited from making a subsequent application for a *limousine vehicle licence plate* for a period of two (2) years following the date of such cancellation.

7. **DRIVER PROHIBITIONS**

7.1 No *driver* shall:

- (a) drive a *limousine* in the *City* without first obtaining a *licence* for that purpose, issued by the *City*;
- (b) be the *driver* of any *limousine*, unless the *owner* of such *limousine* is licensed under this *schedule* as a *limousine owner*, in relation to such *vehicle*;
- (c) use a cell phone or any other device while operating a *limousine*, for the purpose of contracting for the conveyance of *persons* by *limousine* except by pre-arrangement through the place of *business* of the *owner* or broker of such *limousine*.

8. **DRIVER/OWNER PROHIBITIONS**

8.1 No *driver* or *owner* shall:

- (a) *operate* or permit to be *operated*, any *limousine* unless it is equipped with a *licence plate*, or other means of identification supplied by the *City* securely affixed to the exterior front side of the *vehicle*;
- (b) *solicit* any *person* to hire the *limousine* or hold out the *limousine* as being available for hire by any *person* at or in any *public place*;
- (c) *stage* the *limousine* so as to *solicit* any *person* to hire the *limousine* without a *prearranged* service agreement;

- (d) smoke, or permit the smoking of any cigar, cigarette or other tobacco product in the *limousine*.

9. DUTIES OF DRIVER

- 9.1 Every *driver* while *conveying passengers* in a *limousine* shall be attired in a *business* suit, including a necktie, or a uniform supplied by the *owner* of the *limousine*, and such apparel shall be kept in a neat and tidy condition at all times.
- 9.2 Every *driver* shall file a letter of employment, or where self-*employed*, a written contract between the *driver* and *owner* for the employment or services of the *driver* to drive the *limousine*.

10. DUTIES OF OWNER

- 10.1 Owners are required to actively *operate* their *limousine*, and failure to do so for a period of six (6) months will result in the cancellation of the *licence*.
- 10.2 When a *limousine licence owner* ceases to have a current and valid Ontario standard automobile insurance policy properly endorsed in accordance with the provisions of this By-law, the *limousine vehicle licence plate* shall be deemed to be suspended as of the date of the cessation of the insurance, and shall only be reinstated upon submitting written *proof of insurance* in the form of a certificate of insurance issued by the insurer, to the satisfaction of the *licensing officer*.
- 10.3 When the licensed *owner* has his *licence* suspended under this By-law, he shall forthwith remove the *limousine vehicle licence plate* from the *vehicle* and return it to the *licensing officer*.
- 10.4 *limousine licence* owners shall file a list of all *City* licensed *drivers* who *operate* the *limousine* in the *City*.

11. DUTIES OF DRIVERS/OWNERS

- 11.1 Every *limousine driver* or *owner* shall:
 - (a) only provide *limousine* service on a pre-arranged basis, and *persons* contracting for conveyance by *limousine* shall be informed of the rates to be charged at the time of contracting such conveyance, and no greater amount shall be demanded or received;
 - (b) keep on file with the *licensing officer* the current hourly tariff rate charged;
 - (c) file with the *licensing officer* at least seventy-two (72) hours prior to the effective date, any and all changes in tariff rates;

- (d) only charge for services in accordance with the tariff rates filed, such rates shall provide for minimum one (1) hour duration at a rate not less than fifty dollars (\$50.00) for the first hour;
- (e) keep in the *vehicle* a card showing the *schedule of rates*, and provide a copy on request to any *passenger* or licensing *inspector*;
- (f) employ or use only the services of a *limousine driver* licensed by the *City*; and
- (g) upon receipt of notice of inspection, attend with the *limousine operated* by him at the licensing office at a time and date appointed by the *licensing officer* or *inspector*.

12. **VEHICLE REQUIREMENTS**

12.1 Every *limousine owner* and *driver* shall ensure that every *vehicle operated* as a *limousine* is:

- (a) maintained in good repair so that it is *mechanically safe*;
- (b) maintained so that it does not have body damage, paint damage, holes in floorboards, unserviceable tires, doors that do not close or lock properly, broken cracked or chipped windshield or windows or any other mechanical defect that would render the *vehicle* unsafe, and the exterior is clean;
- (c) maintained so that the interior is clean, dry and free from litter, interior upholstery that is free of tears, wear or soil; and
- (d) cleared of any article left by *passengers* after every conveyance.

13. **EQUIPMENT PROHIBITIONS**

13.1 No *limousine* shall:

- (a) be equipped with a taxicab meter or other device registering distance travelled or computing FARES to be paid; or
- (b) be equipped with *illuminated roof lights* or other advertising devices.

SCHEDULE 5

**Relating to the Licensing, Regulation and
Governing of *Refreshment vehicles***

1. TYPES OF LICENCES

1.1 The *licensing officer* may issue the following types of licenses in connection with the *business* of *selling products* from a *refreshment vehicle* by going place to place or in a particular place;

- (a) *refreshment vehicle owner*;
- (b) *refreshment vehicle operator*; and
- (c) *refreshment vehicle attendant*.

(Amended by By-law 2012-123)

2. NUMBER OF LICENCES

2.1 A *refreshment vehicle owner* who is the *owner* or *lessee* of more than one *vehicle* that is utilized for *selling refreshments* is required to apply for a *refreshment vehicle licence plate* for each *vehicle* that is owned or *leased* and *operated* for the purpose of *VENDING*.

3. REFRESHMENT VEHICLE OWNERS – TYPE 1 REQUIREMENTS

3.1 Every *refreshment vehicle owner – type 1* shall:

- (a) ensure the body, doors and windows of such four-wheeled commercial *motor vehicles* are sufficiently sound construction to provide reasonable protection against dust, dirt, flies and other nuisances;
- (b) ensure the floor of such *refreshment vehicle – type 1* shall be a suitable material, free of holes, cracks or crevices, and the surface shall be readily washable and shall be kept clean and in good condition;
- (c) ensure the storage shelves therein shall be painted or covered with suitable impervious materials;
- (d) ensure the *refreshment vehicle– type 1* shall have painted in contrasting colour on both side panels in letters and figures at least 4 inches high, the name and *business* address of the *owner* thereof;
- (e) ensure all condiments, milk, cream and sugar shall be dispensed from containers approved by the *licensing officer*;

- (f) ensure only single service disposable cups, *plates*, containers, forks, spoons and serviettes provided in dispensers approved by the *licensing officer* or *individually* wrapped shall be used in the sale of all *refreshments*;
- (g) ensure the *refreshment vehicle type 1* is equipped with either;
 - (i) a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily; or
 - (ii) a disposable litter container which shall be replaced daily;
- (h) ensure that every *person selling* or handling *refreshments*:
 - (i) have clean clothes, appropriate headwear that confines their hair,
 - (ii) be clean and neat in appearance,
 - (iii) have clean hands; and
 - (iv) have a current *food handler's certificate* issued by the *york region health department* and shall keep with him and produce for inspection by the *licensing officer* such *food handler's certificate* at all times.
 - (v) ensure the *refreshment vehicle— type 1* and all parts and equipment thereof for use in the dispensing of *refreshments* shall at all times be kept in a clean and sanitary condition and in good repair;
 - (vi) ensure all milk sold from the *refreshment vehicle* shall be kept in dry storage at a temperature no higher than 40 degrees Fahrenheit and shall be sold only in *individual*, disposable containers;
 - (vii) ensure all sandwiches, cakes, doughnuts, hot dogs, hamburgers, pies and other similar foods shall be wrapped and sold in *individual* servings;
 - (viii) ensure the date of preparation shall be clearly marked as such on or affixed to the wrapper of all sandwiches sold from the *refreshment vehicle*;
 - (ix) ensure no prepared foods other than those kept in unopened cans shall be sold more than twenty-four hours after their preparation;

- (x) ensure adequate refrigeration at a temperature no higher than 5 degrees Celsius shall be provided for perishable foodstuffs which shall be kept so refrigerated;
- (xi) ensure the *refreshment vehicle* shall be equipped so as to maintain hot, prepared foods at a temperature of not less than 66 degrees Celsius, and such foods shall be kept so heated;
- (xii) shall not park on any lot, *highway*, or other location, while carrying on the *business* for which it is licensed, for a period of time exceeding two hours, during any twenty-four (24) hour period;
- (xiii) where the *vehicle* is powered by or uses propane in file annually with the *City*, a propane inspection certificate signed by a certified propane inspector, confirming that the inspection has been done in accordance with the National Standard of Canada CSA-B149.5-05, and further, all companies performing this task shall be a registered contractor under the *Technical Standards and Safety Act* under the direction of the Ministry of Consumer Services.

4. **REFRESHMENT VEHICLE OWNERS – TYPE 2 REQUIREMENTS**

4.1 Every *refreshment vehicle owner – type 1* shall:

- (a) provide a statement on the form provided by the *City* giving particulars as to the location of the *premises* together with such other information as may be required to determine the compliance of the use with all applicable By-laws and regulations;
- (b) ensure the *refreshment vehicle type 2* is equipped with either;
 - (i) a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily; or
 - (ii) a disposable litter container which shall be replaced daily; and such containers shall be used for the disposal of all refuse.
- (c) ensure that every *person selling* or handling *refreshments*:
 - (i) have clean clothes, appropriate headwear that confines their hair,
 - (ii) be clean and neat in appearance,
 - (iii) have clean hands; and

- (iv) have a current *food handler's certificate* issued by the *york region health department* and shall keep with him and produce for inspection by the *licensing officer* such *food handler's certificate* at all times.
- (d) ensure the *refreshment vehicle– type 2* and all parts and equipment thereof for use in the dispensing of *refreshments* shall at all times be kept in a clean and sanitary condition and in good repair;
- (e) ensure adequate refrigeration shall be provided for perishable foodstuffs which shall be kept so refrigerated;
- (f) where the *vehicle* is powered by or uses propane in file annually with the *City*, a propane inspection certificate signed by a certified propane inspector, confirming that the inspection has been done in accordance with the National Standard of Canada CSA-B149.5-05, and further, all companies performing this task shall be a registered contractor under the *Technical Standards and Safety Act* under the direction of the Ministry of Consumer Services

4.A) REFRESHMENT VEHICLE OWNERS – TYPE 3

(Added in entirety by By-law 2012-123)

4.A)1. Every *refreshment vehicle – type “3” owner* shall:

- (1) ensure that the vehicle shall be of an enclosed commercial type so designed that the cab is entirely separated and partitioned from, and has no direct access to, the body of the vehicle used for the storage and dispensing of refreshments;
- (2) ensure that a refreshment vehicle licensed and used as such prior to January 1, 1966, may be of a type in which there is direct access from the cab to the body of the vehicle used for storage and dispensing, provided such vehicle is equipped with a device approved by the *licensing officer*, whereby the serving windows must be locked and unlocked from the outside only and the engine of the vehicle cannot be started or operated while the serving windows remain open;
- (3) ensure that vehicles shall be equipped with a properly maintained and operational device by which the engine of the vehicle cannot be started or operated while the serving windows of the vehicle are open;
- (4) ensure that all vehicles shall be equipped with a properly maintained and operational audible sound-emitting warning device which is activated when the vehicle is operating in reverse;

- (5) ensure that the body, doors and windows of such vehicle shall be of sufficiently sound construction to provide reasonable protection against dust, dirt, flies and other injurious matter or things;
- (6) ensure that the interior of the vehicle shall be of a light colour and shall be repainted or refinished as often as required by the *licensing officer*;
- (7) ensure that the floor of such vehicle shall be of a suitable impervious material, free of holes, cracks or crevices, and the surface thereof shall be readily washable and shall be kept clean and in good condition;
- (8) ensure that the storage shelves in the vehicle shall be painted or shall consist of a suitable impervious material;
- (9) ensure that the vehicle shall be equipped with either a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily, or a disposable litter container which shall be replaced daily; and such containers shall be used for the disposal of all refuse;
- (10) ensure that the storage area of vehicles from which hard ice cream and related products are sold shall be maintained at a temperature no higher than minus-fifteen (- 15) degrees Celsius and such area shall be equipped with an accurate, indicating thermometer;
- (11) ensure that all vehicles where soft ice cream and related products are sold shall have:
 - (a) two (2) sinks of adequate size and of non-corrodible material equipped with hot running water;
 - (b) a tank to receive sink wastes;
 - (c) a refrigerated cabinet for storage of ice cream mix and other milk products which cabinet shall be maintained at a temperature no higher than five (5) degrees Celsius and shall be equipped with an accurate, indicating thermometer;
 - (d) storage for dry products, sundae toppings, and syrups, which storage shall be easily cleanable and where necessary of a type readily dismantled for cleaning;
 - (e) all dispensing equipment, whether for dry cones, single service containers, ice cream, syrups or toppings, of sanitary design;
 - (f) mechanical air-conditioning in the vending and dispensing part of the vehicle;

- (g) adequate insulation to prevent fumes from the engine or engines from reaching the vending and dispensing section of the vehicle; and,
 - (h) Screens or other devices to ensure adequate protection against flies and dust.
- (12) ensure that every vehicle shall have attached thereto at the top or near the highest point thereof at least two (2) amber lights visible by a person one-point-five-two (1.52) metres in height at a distance of not more than one-point-two (1.2) metres in front of or behind the vehicle, and the vehicle shall be equipped with a mechanical device causing such amber lights to flash alternately at all times when the vehicle is stopped for the sale of ice cream products and other frozen confections, and such device shall be so operated at all such times;
- (13) ensure that every vehicle shall have conspicuously displayed on the rear thereof in black letters on a yellow background “watch for children” in letters at least fifteen centimetres (15) centimetres high, and such background shall be at least twenty-two-point-eight (22.8) centimetres high;
- (14) ensure that every vehicle shall have a cover over each of its bumpers which cover shall be on a curve or angle to the rear of the vehicle;
- (15) ensure that every refreshment vehicle to which this section relates shall have painted in contrasting colour on both side panels in letters and figures at least ten (10) centimetres high the name and *business* address of the owner thereof; and below such name and address in letters at least six-point-three (6.3) centimetres high the words “Markham Licence” followed by the *licence* number of such vehicle in figures at least fifteen (15) centimetres high;
- (16) ensure that every refreshment vehicle to which this section relates shall:
- (a) at the time he or she receives his or her *licence*, specify to the *licensing officer* the source of supply of all refreshments to be sold from the vehicle;
 - (b) notify the *licensing officer* forthwith of any change in such source of supply; and,
 - (c) refrain from selling or permitting to be sold from the vehicle any refreshments from a source of supply other than that specified by him or her to the *licensing officer*.
- (17) ensure that no vehicle licensed under this section shall be used for the sale of products other than those to which this section relates;
- (18) ensure that none of the products mentioned in this section shall be sold from a vehicle other than a *motor vehicle*;

- (19) ensure that no person to whom this section relates shall sell any products to which this section relates not prepared, assembled and wrapped in premises and under *conditions* complying entirely with the requirements of the Ontario Medical Officer of Health; and
- (20) ensure that whenever required so to do by the *licensing officer* bring such vehicle to any person designated by the *licensing officer* for inspection at the place and time indicated by the *licensing officer*.

REFRESHMENT VEHICLE – TYPE 3 PROHIBITIONS

(Added in entirety by By-law 2012-123)

4.A)2. No *refreshment vehicle – type “3” owner* shall:

- (1) permit or allow any person other than a licensed driver or assistant to operate the refreshment vehicle or any person other than a licensed driver or licensed assistant to assist in the sale of refreshments from the vehicle;

4.A)3. No *refreshment vehicle owner, driver or assistant* shall:

- (1) serve any customer standing on the travelled portion of a highway; and
- (2) ring bells or chimes or making any other recognizable sounds more frequently than at five-minute intervals or for more than five seconds at a time in one place, or after sunset.

5. REFRESHMENT VEHICLE OWNERS and OPERATOR PROHIBITIONS

5.1 No *refreshment vehicle owner or operator* shall:

- (a) park or stop such *vehicle*, for the purpose of carrying on the *business* at a distance less than fifty (50) feet from any intersection, or less than one hundred (100) feet from the entrance to any park, or less than fifteen hundred (1,500) feet from any school ground;
- (b) shall park or stop such *vehicle*, on any road within a Residential Plan of Subdivision, unless such subdivision is still in the process of development and houses thereon are still in the process of construction; and

5.2 No *refreshment vehicle owner* shall:

- (a) permit any *refreshment vehicle operator* to *sell* or offer to *sell refreshments* from a *refreshment vehicle* without first obtaining a *licence*.

SCHEDULE 6
Relating to the Licensing, Regulation and
Governing of *Taxicab* Brokers, Owner and Drivers

PART ONE

ADMINISTRATION AND GENERAL PROVISIONS

1. TYPES OF LICENCES

1.1 The *licensing officer* may issue the following types of licences in connection with the *business* of providing ‘On Demand For Hire’ Transportation to the travelling public:

- (a) a *taxicab broker’s licence*;
- (b) a *taxicab owner’s licence*;
- (c) an *airport taxicab owner’s licence*;
- (d) a *taxicab driver’s licence*;

2. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER

2.1 A *taxicab broker, owner or driver* who is the *owner or lessee* of a *vehicle* that is utilized as a *taxicab* shall affix a *plate*, issued by the *licensing officer*, to each *vehicle* that is owned or *leased* and *operated* as a *taxicab*.

2.2 No *owner or lessee* of a *vehicle* that is utilized as a *taxicab* shall fail to affix in a secure manner the *licence renewal sticker* to the *plate* issued by the *licensing officer*.

3. ADMINISTRATION AND DUTIES

3.1 The *licensing section* shall:

- (a) receive and process all applications for licences and for renewal of licences to be issued under this *schedule*;
- (b) issue *licences* to, and renew *licences* for *persons* who meet the requirements of this *schedule*;
- (c) enforce the provisions of this *schedule*;
- (d) provide every *owner* with a tariff card and a copy of the *schedule*;

- (e) generally perform all of the administrative functions conferred upon it by this *schedule*, and the Mobile *business* Licensing By-law.

3.2 When an *owner's plate*, sticker, tariff card or *licence* is defaced, destroyed or lost, the *licensee* shall apply to the *licensing section* for a replacement and shall pay the appropriate fee as required under the Licensing Fees and Charges By-law and the *licensing section* shall issue a replacement.

4. **EXEMPTIONS**

4.1 Where a *taxicab owner* or a *taxicab broker* is licensed by the *City* and ceases to actively drive or *operate* a *taxicab*, upon swearing of an affidavit in a form approved by the *City*, he may be exempted by the *licensing officer* of the requirement to attend and complete the *City* "Refresher *Taxi driver*" training course".

4.2 Where a *taxicab owner* or *taxicab broker* is exempted under Section 4.1, they are required to attend and complete the *City* "Refresher *taxi owner*" training course.

5. **FLAT RATE**

5.2 The *fare* provisions of this *schedule* may not apply to *taxicabs* while:

- (a) being used for the transportation of children to and from school, or to *taxicabs* operating under contract to any government agency, for the transportation of *persons* with disabilities;
- (b) the *trip* destination is outside Markham, and the *driver* and *passenger* have, before the commencement of the *trip*, agreed on a flat rate;
- (c) the *driver* of the *taxicab* under subsection (b) shall engage the *taxicab meter* while the *taxicab* is within the bounds; or
- (d) the *taxi broker* has a contract with the *City* to provide *taxicab* service for either the York Region Mobility Bus or cab services.

6. **LICENSING PREREQUISITES**

6.1 No *person* shall be licensed unless he is at least eighteen (18) years of age and a citizen of Canada, or a landed immigrant, or produces a valid work permit issued by the Government of Canada to work as a *driver*.

6.2 No *person* shall be licensed as a *driver* unless:

- (a) he submits a certificate by a duly qualified medical practitioner which states that he is fit and is able to *OPERATE* a *motor vehicle*;
- (b) he provides a letter of potential employment from the licensed *owner*, licensed *taxicab broker* or *vehicle lessee* for whom he will be driving;
- (c) he provides a *three year driver record search* issued by the Ministry of Transportation, dated within thirty (30) days preceding the date of the application or yearly renewal due date, or at the request of the *licensing officer*;
- (d) he attends and completes the applicable *City* training programs as required by the *licensing officer*;
- (e) he holds in his name, a current, valid, Class 'G' *driver's licence* issued by the Province of Ontario;
- (f) he provides a current and valid *vulnerable sector screening report* issued by the Police Service having jurisdiction where he is resident, and which is to the satisfaction of the *licensing officer*.
- (g) Notwithstanding subsection (f) above, every *taxicab driver* and *taxicab owner licensee* seeking to renew their *licence* shall produce a current and valid Criminal Background Check, issued within thirty (30) days of the application for renewal and which is to the satisfaction of the *licensing officer*.

6.3 No *person* shall be licensed as a *taxicab owner* unless:

- (a) he holds a current *taxicab driver's licence* issued by the *City*;
- (b) he holds a current *passenger motor vehicle permit* which is in good standing and was issued by the Ministry of Transportation in the *applicant's* name for the *motor vehicle* of which he is the *owner*;
- (c) he produces and files with the *licensing section* a copy of a current Ontario Standard Automobile Insurance policy, for the *vehicle* for which he is the *owner*, and the policy shall be endorsed to provide that the *licensing officer* will be given at least ten (10) days notice in writing prior to any cancellation, expiration or change in the amount of the policy; and the policy should insure, in respect to any one accident, a third party liability limit of at least two million dollars (\$2,000,000), exclusive of interest and cost; and
- (d) the *vehicle* to be licensed as a *taxicab* meets the requirements of this *schedule*.

- 6.4 If the *applicant* for a *taxicab owner's licence* is a *Corporation*, the *person* holding the shares carrying at least fifty-one per cent (51%) of the voting rights attached to all shares of the *Corporation* for the time being issued and outstanding, shall be a *driver* licensed under this By-law. If no one *person* holds at least fifty-one per-cent (51%) of the voting rights of the *Corporation*, then the *Corporation* shall designate one *person* to be the licensed *driver*.
- 6.5 No *person* shall be licensed as a taxicab broker unless he is a *driver* licensed under this By-law, or if the *applicant* is a *Corporation*, the *person* holding shares carrying at least fifty-one per-cent (51%) of the voting rights attached to all shares of the *Corporation* for the time being issued and outstanding, shall be a *driver* licensed under this By-law. If no one *person* holds at least fifty-one per-cent (51%) of the voting rights of the *Corporation*, then the *Corporation* shall designate one *person* to be the licensed *driver*.
- 6.6 When more than one *driver* holds shares in a *taxicab brokerage* which is a *Corporation*, the *Corporation* shall designate one of the *drivers* as manager, or as the *person* in control of the brokerage.

7. LIMITATION ON THE NUMBER OF LICENCES ISSUED

- 7.1 One hundred and ninety-two (192) *taxicab owner licences* are issued and operated under this *schedule*.
- 7.2 The number of *taxicab owner licences*, issued in accordance with Section 7.1, shall include fifty-two (52) *airport taxicab licences* bearing current and valid *licence plates* issued by the Department of Transportation under the Government Airport Concessions Operations Regulations, with respect to the operation of such *TAXICABS* at the Toronto Pearson International Airport, and the "*conditions of Permit for taxicabs*," issued by the Department of Transportation.
- 7.3 To determine the proportion of *taxicabs* required in the community, the *licensing officer* shall recommend to *council* that additional *taxicab owner's licences* be issued using a "Ratio to Population" formula relying on increases in the official population of the *City* based on Statistics Canada population figures, and such additional *licences* shall be issued from the *priority list* in accordance with the provisions of Part Five of this *schedule*.
- 7.4 No *person*, by virtue of the submission of an application for a *taxicab owner plate*, shall enjoy a vested right to such *plate*, or where issued, to the continuance of such *owner plate* and, upon issuance, renewal, cancellation, or suspension, the *owner plate* remains the property of the *City*, and the *licensing officer* may refuse to issue or renew and may suspend, revoke or cancel any *owner plate* or *licence* issued under this *schedule*. *Council* reserves the right to amend or repeal this *schedule* and any successor *schedules* and to place further or additional requirements or

restrictions on such *applicants, persons* or *licences* at any time or from time to time.

8. REPRESENTATION OF LICENSING

8.1 No *person* shall publish or cause to be published any representation that he is licensed, if he is not.

9. APPLICATION FOR A LICENCE AND FOR THE RENEWAL OF A LICENCE

9.1 An application for a *taxicab driver's, taxicab owner's, or taxicab broker's licence* and the application for the renewal of such *licences* shall be completed on the forms provided by the *licensing section*.

10. SUBMISSION OF LICENCE APPLICATION TO LICENSING SECTION

10.1 A completed application for a *licence* or for renewal of a *licence* shall be delivered to the *licensing section* and shall be accompanied by:

- (a) the fee in the appropriate amount as set out in the *City Licensing Fees and Charges By-law*;
- (b) if the applicant is a *Corporation*, a copy of the incorporating document and a copy of the last annual information return which has been filed with the appropriate government department;
- (c) the *licence* issued for the year immediately prior to renewal; and, when required by the *licensing officer*, the *owner plate* shall be returned to the *licensing section*, with the application for renewal.

11. ISSUE OF LICENCE

11.1 When an application for a *taxicab driver, taxicab owner, or taxicab broker licence* is made in accordance with the provisions of this *schedule* and the *applicant* meets all of the requirements of this *schedule*, the *licensing officer* shall issue a *licence* which shall set out the expiry date in accordance with *schedule 1* of the *City's Mobile business Licensing By-law*, and the *applicant* shall be licensed.

11.2 Unless provided otherwise in this *schedule*, a *person* who is the *owner* of more than one *taxicab* shall take out a separate *taxicab licence* for each *vehicle* owned by him.

11.3 All applications shall be delivered personally by the *applicant* to the *licensing section*.

14. RENEWAL OF LICENCE

- 14.1 Every application for renewal of a *taxicab driver's licence*, a *taxicab owner's licence* or a *taxicab broker's licence* shall be delivered to the *licensing section* before the expiry date of the *licence* as set out in *schedule 1* of the *City's Mobile business Licensing By-law*.
- 14.2 When a *licence* can be renewed because it meets the requirements of this *schedule*, the *licensing officer* shall issue a *licence* which shall set out the expiry date as set out in *schedule 1* of the *City's Mobile business Licensing By-law*.

15. FAILURE TO RENEW BY END OF TERM OF LICENCE

- 15.1 Failure to renew a *taxicab driver's licence* by that *licensee's* birth date will result in a late penalty charge as provided for in the *City Licensing Fees and Charges By-law*.
- 15.2 A *driver* who fails to renew his *licence* within one (1) year of the date of expiry shall be treated as a new *applicant* and subject to all the licensing requirements of a new *applicant*.
- 15.3 Failure to renew either a *taxicab owner's licence* or a *taxicab broker's licence* by April 30th in each year will result in a late penalty charge as provided for in the *City Licensing Fees and Charges By-law*.

16. GROUNDS FOR REFUSAL TO ISSUE OR TRANSFER A LICENCE

- 16.1 An *applicant* is entitled to be licensed and a *licensee* is entitled to have his *licence* renewed, except where:
- (a) having regard to his financial position, the *applicant* or *licensee* cannot reasonably be expected to be financially responsible in the conduct of the *business* which is to be licensed or is licensed;
 - (b) the past conduct of the *applicant* or *licensee* affords reasonable grounds for the belief that the *applicant* or *licensee* will not carry on the activity for which he is to be licensed or to continue to be licensed, in accordance with law and with integrity and honesty;
 - (c) the issuance of the *licence* or renewal of the *licence* would be contrary to the public interest;
 - (d) the *applicant* or *licensee* is carrying on activities that are, or will be, if the *applicant* is licensed, in contravention of this By-law; or
 - (e) if the *applicant* or *licensee* is a *Corporation*,

- (f) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the *business* for which it is to be licensed;
- (g) the past conduct of the officers or directors affords reasonable grounds for the belief that the *applicant* or *licensee* will not carry on the activity for which he is to be licensed or continue to be licensed in accordance with law; or
- (h) the issuance of the *licence* or renewal of the *licence* would be contrary to the public interest.

17. REFUND OF FEE ON REFUSAL TO ISSUE OR RENEW A LICENCE

17.1 When an application for a *licence* or renewal of a *licence* is refused, the *licence* fee paid shall be fully refunded and any other administrative fees as provided for in the *City* Licensing fees and Charges By-law paid shall not be refunded.

18. REFUND OF FEE ON REVOCATION OF A LICENCE

18.1 When a *licence* is revoked, the *licensee* is entitled to apply to the *licensing officer* for a refund of that part of the *licence* fee which is proportionate to the unexpired part of the term for which the *licence* was issued.

18.2 The provisions of Section 18.1 do not apply when the unexpired part of the term is less than four (4) months.

19. CANCELLATION OF A LICENCE

19.1 A *licence* issued to a *taxicab owner* may be cancelled by the *licensing officer* at any time if the *taxicab owner* fails to actively *operate* for a continuous period of ninety (90) days, the *vehicle* for which the owner's *taxicab plate* has been issued. The decision of the *licensing officer* may be *appealed* to the *licence appeal committee* upon payment of the *licence appeal fees* as established in the *City* Licensing Fees and Charges By-law.

19.2 A *licence* issued to a *taxicab broker* may be cancelled by the *licensing officer* at any time, if the *taxicab broker* fails to actively *operate* for a continuous period of ninety (90) days, the *taxicab brokerage business* for which the *licence* has been issued. The decision of the *licensing officer* may be *appealed* to the *licence appeal committee* upon payment of the *licence appeal fees* as established in the *City's* Licensing Fees and Charges By-law.

19.3 Any *licence* may be cancelled by the *licensing officer* at any time, upon the written request of the *licensee*.

20. RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION

- 20.1 When a *licence* has been revoked or suspended, the holder of the *licence* shall return the *licence* and if applicable, owner's *plate* or *licence* sticker to the *licensing officer* within twenty-four (24) hours of service of written notice of the *licensing officer*. The *licensing officer* may enter upon the *business premises* or *vehicles* of the *licensee* for the purpose of receiving, taking or removing the said *licence*, owner's *plate* or *licence* sticker.
- 20.2 When a *person* has had his *licence* revoked or suspended he shall not refuse to deliver up or in any way obstruct or prevent the *licensing officer* from obtaining the *licence*, the owner's *plate* and *licence* sticker in accordance with Section 22.1 of this *schedule*.

21. RIGHT OF INSPECTION OF PREMISES OR VEHICLES

- 21.1 The *licensing officer* may at any reasonable time enter upon and inspect the *business premises* or *vehicle* of any *licensee* to insure that the provisions of this *schedule* have been complied with, and on completion of such inspection shall complete and file a written report on the inspection.
- 21.2 Upon an inspection under Section 21.1 the *licensing officer* inspecting is entitled to request and have produced all relevant *licences* and permits, and to have access to all invoices, vouchers, appointment books and *trip sheets* or like documents of the *person* being inspected, provided such documents are relevant for the purposes of the inspection and the *licensing officer* inspecting 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 forty-eight (48) hours of removal.
- 21.3 Every licensed *driver* or *owner* shall, on request of the *licensing officer*, produce his *licence* and such other documentation as is requested upon an inspection under Section 21.1.

22. VEHICLE INSPECTION

- 22.1 The *licensing officer* may require at any time that an *owner*, *lessee* or *driver* submit his *vehicle* for inspection at a specified location.
- 22.2 The *owner*, *lessee* or *driver* shall submit his *vehicle* for inspection when required to do so by the *licensing officer* under Section 22.1.

23. LICENCE PRODUCTION

23.1 Every licensed *taxicab driver*, *taxicab owner* and *taxicab broker*, when requested by the *licensing officer*, an *inspector* or a police officer, shall produce his *licence*, photograph and other relevant documents required under this *schedule*.

24. STANDS FOR TAXICABS

24.1 No *taxicab driver*, while waiting for hire or engagement, shall park the *taxicab* that he is operating on private property except at a stand authorized and assigned for *taxicabs* and marked as a *taxicab stand* by authorized signs.

24.2 No *vehicle*, other than a *taxicab* licensed under this *schedule* which is waiting for hire or engagement, shall be parked at any *taxicab stand* referred to in Section 24.1.

24.3 The *taxicab stands* locations are set out in Part Seven of this *schedule* and include the number of *taxicabs* permitted and their hours of operation.

PART TWO
TAXICAB DRIVER REGULATIONS

25. TAXICAB DRIVER DUTIES:

25.1 Every licensed DRIVER shall:

- (a) each day, before commencing the operation of the *taxicab*, examine the *vehicle* for mechanical defects or interior or exterior damage and shall report forthwith any defects found, to the *owner* or *registered lessee* of the *taxicab*;
- (b) each day, upon completion of the operation of the *taxicab*, return the *vehicle* to his employer and report all defects in the *taxicab* and all accidents to the *owner* or *registered lessee*;
- (c) carry the *taxicab driver's licence* and his *Ontario driver's licence* with him at all times when operating a *taxicab*;
- (d) have available at all times and produce on request of the *licensing officer*, or a *passenger*, the following:
 - (i) a current tariff card;
 - (ii) a current *taxicab driver's photo identification card*, issued by the *licensing officer*;
- (e) have mounted and displayed at all times, in a location approved by the *licensing officer*, an information decal approved by the *licensing officer* containing the *City "customer bill of rights"* including a complaint telephone number and *driver* photograph;
- (f) Notwithstanding Subsection (e), where the *passenger* is a *person* with disabilities, provide the "*customer bill of rights*" in an alternate format where requested to do so that meets the needs of the particular *passenger*;
- (g) keep a daily *trip sheet* showing:
 - (i) the name of the *driver*, the date and the *taxicab owner's plate* number;
 - (ii) the location and the time of the beginning and end of every *trip* made;
 - (iii) the amount of the *fare* collected for each *trip*.

- (h) retain all *trip sheets* for at least twelve (12) months and make them available for inspection at the request of the *licensing officer*;
- (i) be civil and behave courteously;
- (j) be properly dressed, well groomed, neat and clean in personal appearance;
- (k) give a *passenger* a receipt on an authorized form, showing the *driver's* name and *licence* number and an identifying number for the *vehicle*, and amount for the conveyance when requested, or whenever there is a dispute over the *fare*;
- (l) where a *driver* is required to produce a receipt under Subsection (k) the receipt shall comply with Section 223(1) of the *Excise Tax Act S.C.* by stipulating on the receipt that the amount paid or payable by the *passenger* for the conveyance includes the tax payable in respect of the conveyance;
- (m) where the *passenger* is a *person with a disability*, make the receipt available in an “alternate format” suited to the specific needs of the *passenger*;
- (n) subject to Section 28, and except when he has a previous *order* or engagement, serve the first *person* requiring the service of his *vehicle* at any place within Markham, at any time by day or night, except when the *person*:
 - (i) is intoxicated or disorderly; or,
 - (ii) refuses to state his destination; or,
 - (iii) is in possession of an animal other than a personal assistance animal; or,
 - (iv) is eating or drinking any food or beverage; or
 - (v) has not paid a previous *fare* or cancellation fee; or,
 - (vi) is, in the opinion of the *driver*, unable or unwilling to pay the *fare* and has been unable or unwilling to satisfy the *driver* that he has the funds to pay the *fare*;
- (o) punctually keep all his hiring engagements, and shall not make any further engagement or *order* if a previous engagement would prevent him from fulfilling it;

- (p) take due care of all property delivered or entrusted to him for conveyance or safekeeping, and immediately on the termination of any hiring engagement, examine the interior of his *vehicle* for any property lost or left therein, and all property or money left in his *vehicle* shall be forthwith delivered to the *person* owning the property or money and if the *owner* of the property or money cannot at once be found, the *driver* shall deliver the property or money to the nearest police station, with all information in his possession regarding the property or money;
- (q) when a *passenger* enters the *vehicle* and gives the *driver* the desired destination, take the shortest possible route to the destination desired, unless the *passenger* designates otherwise;
- (r) when a dispute arises with a *passenger* about the *fare*, refer the dispute to the nearest *licensing officer* for arbitration;
- (s) only enter a taxicab stand by taking his position at the end of any line formed by the *taxicabs* already on the stand;
- (t) while waiting at a *taxicab stand* or at any other *public place*:
 - (i) not obstruct or interfere in any way with the normal use of the *taxicab stand* or *public place*, or interfere with the surrounding traffic patterns;
 - (ii) not make any loud noise or disturbance;
 - (iii) be sufficiently close to his *taxicab* to have it under observation at all times;
 - (iv) not wash the *taxicab*; or
 - (v) not make repairs to his *taxicab*, unless the repairs are immediately necessary.
- (u) not pick up any *passenger* within sixty (60) meters of a *taxicab stand* when there are one or more *taxicabs* upon the stand:
 - (i) unless an arrangement has been previously made with the *passenger* to pick him up at that location; or
 - (ii) unless the *passenger* exhibits a preference for that *taxicab*, and the chosen *taxicab driver* notifies the *driver* of the first *taxicab* on the *taxicab stand*.

- (v) subject to Subsections (w) and (x) engage the *taxicab meter* at the commencement of the *trip* and keep it engaged throughout the *trip*, except where Section 30.1 is applicable;
- (w) be allowed to engage the *taxicab meter* before the *passenger* enters the *vehicle*, only after the taxicab driver has notified the *passenger* of his arrival and has waited a reasonable time after the due time of the *order*;
- (x) at the conclusion of the *trip*, place the *taxicab meter* in the time-off status and after payment, place in the vacant status;
- (y) keep in his *taxicab* a current street guide or map and surrounding area, which is of a type approved by the *licensing officer*; and
- (z) turn off any radio, tape player or any other sound producing mechanical device in his *taxicab* and turn down the volume on the two-way radio upon being requested to do so by any *passenger*, and having done so, shall leave such devices in the off or turned down position until termination of the *trip* with that *passenger*.

26. **DRIVER PROHIBITIONS**

26.1 No licensed *driver* shall:

- (a) carry in any *taxicab* a greater number of *passengers* than is set out in the manufacturer's rating of seating *capacity* for such *vehicle*;
- (b) *operate a taxicab* with luggage or any object placed in, hung on or attached to the *vehicle* in such a manner as will obstruct the *driver's* view of the *highway*;
- (c) take, consume or have in his possession any alcohol, drugs or intoxicants while operating a *taxicab* for which he is the *driver*;
- (d) use any tariff card, other than that obtained from the *licensing section*, or remove, exchange, lend or otherwise dispose of the tariff card;
- (e) take on any additional *passengers* after the *taxicab* has departed with one or more *passengers* from any one starting point, except under the following circumstances:
 - (i) when done at the request of a *passenger* already in the *vehicle*;
 - (ii) in an emergency situation; or

- (iii) when operating a *vehicle* which is being used exclusively for the transportation of children to and from school, or for the transportation of *persons* with disabilities provided for in Section 5.2 of this *schedule*;
- (f) *operate a taxicab* which does not have an owner's *plate* affixed thereto;
- (g) *operate a taxicab* whose *owner* is not a licensed taxicab owner;
- (h) permit a *passenger* to stand in a *taxicab* while the *vehicle* is in motion;
- (i) be required to accept any *order* when the expenditure of money by the licensed *taxicab driver* is required on behalf of the *passenger*;
- (j) recommend hotels, restaurants or other like facilities unless requested to do so by the *passenger*;
- (k) be required to provide change for any note larger than fifty dollars (\$50.00) unless the *fare* is at least one-half (1/2) of the value of the said note;
- (l) *operate a taxicab* when the meter has not been adjusted in accordance with the existing current rates set out in this By-law, or when the operation has not been approved by the *licensing officer*;
- (m) *operate a taxicab* when the *taxicab meter* does not *operate* properly;
- (n) *operate a taxicab* when the *taxicab meter* seal is improperly affixed;
- (o) *operate a taxicab* without an owner's *plate*, side numbers and roof light, provided in accordance with the provisions of Section 34.1;
- (p) *operate a taxicab*, unless such *vehicle*:
 - (i) is equipped with an extra tire wheel and jack, ready for use for that *vehicle*;
 - (ii) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation *vehicle* Inspection report, or meets the standards for the issue of a Safety Standard Certificate of mechanical fitness;
 - (iii) is clean, dry and in good repair as to its interior; and
 - (iv) is clean and in good repair as to its exterior, free from exterior body damage and with a well maintained exterior paint finish.

- (q) induce any *person* to engage his *vehicle* by any misleading or deceiving statement or representation to that *person* about the location or distance of any destination named by that *person*;
- (r) subject to Section 30.1, and except for a tip, gratuity or credit card service charge, recover or receive any *fare* or charge from any *passengers* or *persons* who had demanded his services, less than the *fare* or charge authorized by this *schedule*;
- (s) recover or receive any *fare* or charge from any *person* to whom he has refused to show the tariff card;
- (t) make any charge for time lost through defects or inefficiency of the *vehicle* or the incompetence of the *driver*;
- (u) make any charge for the time elapsed due to early arrival of the *vehicle* in response to a call for the *vehicle* to arrive at a fixed time;
- (v) enter into or become a party to an *exclusive concession agreement*;
- (w) agree to pay, accept a fee or consideration or do any other act or thing pursuant to an *exclusive concession agreement*;
- (x) charge a tariff which is not in accordance with the tariff approved by the *City* as set out in Part Six;
- (y) use or permit to be used a two-way radio or monitoring device in his *taxicab* which enables him to transmit and/or receive any frequency of a *taxicab broker* licensed under this By-law, with whom he is not affiliated;
- (z) be actively affiliated with more than one licensed *taxicab broker* at any one time;
- (aa) smoke or permit the smoking of any cigar, cigarette or tobacco produce in the *taxicab*; and
- (bb) text, email or talk on a handheld device while driving.

27. TRANSPORTATION OF CHILDREN TO AND FROM SCHOOL

- 27. No *driver* shall *operate* a *taxicab* for the purpose of transporting children to or from school except where;
 - (a) the *vehicle* used for the transportation of children to or from school is licensed as a *taxicab* by the *City*;

- (b) the *taxicab* carries on the front and rear, signs not less than 275 mm by 350 mm in size, clearly visibly displaying the words ‘*school vehicle*’ in black letters on a white or yellow background; and
- (c) signs referred to in Subsection (b) shall be carried only when the *taxicab* is actually engaged in transporting children to and from school, and shall be removed when the *taxicab* is engaged in any other *business*.
- (d)

28. EXEMPTIONS

28.1 The provisions of Section 26.1(n) do not apply to a licensed *taxicab driver* who has a disability, impairment or allergy and has filed with the *licensing officer* a certificate from his doctor evidencing such disability, impairment or allergy and is unable to service the *fare* by reason of the disability, impairment or allergy.

28.2 When a licensed *taxicab driver* is unable to service a *fare* for the reasons set out in Section 28.1, he shall make proper arrangements for the servicing of that *fare* before proceeding to his next engagement.

29. MEDICAL CERTIFICATE

29.1 The *licensing officer* may require a *driver* at any time, if he feels it may be in the public interest, to provide him with a certificate, prepared by a duly qualified medical practitioner, attesting as to whether or not the *licensee* is physically fit and able to *operate a taxicab*.

30. FLAT RATE

30.1 When a taxi *driver* picks up a *passenger* within the *City*, with the destination outside the *City*, the *driver* and the *passenger* may agree before the commencement of the *trip*, on a flat rate.

30.2 The *driver* of the *taxicab* under section 30.1 shall engage the *taxicab meter* while the *taxicab* is within the bounds of the *City*.

30.3 Notwithstanding sections 30.1 and 30.2 above, any taxi broker having a contract with York Region Transportation Services to provide *accessible taxicab* service for York Region Mobility Plus will be permitted to *operate* their *taxicabs* on a flat rate wholly within the municipality.

31. ONTARIO DRIVER’S LICENCE SUSPENDED

31.1 When a licensed *taxicab driver* has had his Province of *Ontario driver’s licence* cancelled, suspended or revoked, or where the *licence* has expired, the *licence* issued under this By-law shall be deemed to be suspended as of the date of

cancellation, suspension or revocation of the Province of *Ontario driver's licence* and the *driver* shall immediately return to the *licensing section*, the *licence* issued under this *schedule*.

32. EXAMINATION REQUIREMENTS

32.1 Subject to the “Grounds for Refusal to Issue or to Renew” provisions contained in the *City Mobile business Licensing By-law*, no *person* shall be licensed as a *taxicab driver* and no *person* shall have his *taxicab driver's licence* renewed unless he attends and completes a prerequisite training course administered by the *licensing officer* including but not limited to the *taxicab driver training course* and or *taxicab driver Challenge Exam* and the “*taxicab driver refresher course*”.

32.2 On an application for renewal of a *taxicab driver's licence*, where a proven *customer* complaint has been received relating to the DRIVER'S knowledge of the geography of the municipality and surrounding area, or at any other time that such a proven complaint is received, and if required by the *licensing officer*, the *licensee* shall attempt and successfully complete, with a mark of at least seventy-five percent (75%), a written test approved and set by the *licensing section*, prior to having his *licence* renewed.

33. TAXICAB DRIVER LEAVES TAXICAB BROKER

- 33.1 Every licensed *taxicab driver* who ceases to deal through a *taxicab broker* shall:
- (a) remove from his *vehicle* the roof light, radio crystals and telephone number of the *taxicab broker* he is leaving;
 - (b) change and remove from the *vehicle* the colour scheme and all decals or other taxicab brokerage markings on the *vehicle*;
 - (c) return to the *taxicab broker* he is leaving all *business* cards and other equipment belonging to that broker; and
 - (d) within seventy-two (72) hours notify the *licensing officer* of a change of an affiliated *taxicab brokerage*.

PART THREE

TAXICAB OWNER REGULATIONS

34. TAXICAB OWNER DUTIES:

34.1 Every licensed *taxicab owner* or *registered lessee* shall:

- (a) keep at all times in the *vehicle* of which he is the *owner* or *registered lessee*, the original, or a photocopy of the original, of each of the following documents:
 - (i) the current Ontario Ministry of Transportation *passenger motor vehicle permit* issued for that licensed *vehicle*;
 - (ii) the current *taxicab owner's licence* issued under this By-law; and
 - (iii) the certificate of liability insurance for the *vehicle*, in accordance with this By-law;
- (b) have in or on his *vehicle*:
 - (i) the owner's *plate* firmly affixed to the rear bumper, or at a location and in a manner approved by the *licensing officer*;
 - (ii) the owner's *plate* number for that *taxicab* in letters of at least 10 cm affixed on both front fenders, on the top rear of the fender, not more than 8cm below the top of the fender, or at a location and in a manner approved by the *licensing officer*; this owner's PLATE number shall be preceded by the letter "M" in identical, sized lettering;
 - (iii) affixed to the rear of the front seat, in a holder, or at a location and in a manner approved by the *licensing officer*, the current tariff card and *plate* number;
 - (iv) a *taxicab meter* of the type approved, sealed and mounted in a position approved by the *licensing officer* so that it is clearly visible to the *passengers* in the front and rear seats of the *taxicab*;
 - (v) an electrically illuminated roof sign which is securely attached to the top of the *taxicab* in a manner approved by the *licensing officer* and wired to the *taxicab meter* and working in

conjunction with the *taxicab meter* so that it is illuminated when the headlights are on and the meter is in the vacant status; and

- (vi) a sleeve inside the *vehicle* facing the backseat displaying the *City* complaint telephone number and a photograph of the *driver*.
- (c) employ or use only the services of licensed *taxicab drivers*;
- (d) provide the *licensing section* and, where applicable, any licensed *taxicab broker* with whom he may be associated, with the name of the licensed DRIVER operating his *vehicle*, within seventy-two (72) hours of the time when the licensed *driver* has commenced to *operate* the said *vehicle*, and , where applicable, file with the *licensing section* a copy of the *lease* with the licensed *driver* and pay the appropriate filing fee in accordance with the *City Licensing Fees and Charges By-law*;
- (e) repair any mechanical defect in the *vehicle*, reported to him by a licensed *driver*;
- (f) current list of *City* licensed *taxicab drivers* operating the *taxicab*.

34.2 Every licensed *taxicab owner* or *registered lessee* who ceases to deal through a *taxicab broker* shall:

- (a) remove from his *vehicle* the roof light, radio crystals and telephone number of the *taxicab broker* he is leaving;
- (b) change and remove from the *vehicle* the colour scheme and all decals or other *taxicab brokerage* markings on the *vehicle*;
- (c) return to the *taxicab broker* he is leaving all *business* cards and other equipment belonging to that broker;
- (d) within seventy-two (72) hours notify the *licensing officer* of a change of an affiliated *taxicab brokerage*.

35. TAXICAB OWNER PROHIBITIONS

35.1 No Licensed *taxicab owner* or *registered lessee* shall:

- (a) in any manner, permit a *taxicab* not owned or *leased* by him, to be *operated* under the authority of his owner's *plate*, unless he has entered into a *lease* or sub-*lease* agreement and a copy of the *lease* or sub-*lease* has

been filed with the *licensing section* in accordance with Section 62(5) of this *schedule*;

- (b) permit a *taxicab* of which he is the *owner* or *registered lessee*, to be *operated* with mechanical defects of which he is aware;
- (c) *operate* a *taxicab* or permit a *taxicab* to be *operated* under this *schedule*, without the owner's *plate* or sticker for that *taxicab* attached thereto;
- (d) *operate* a *taxicab* or permit a *taxicab* to be *operated* which is not registered;
- (e) on any *taxicab* licensed under this By-law, display any owner's *plate*, decal or sticker, issued by the licensing authority of any other municipality;
- (f) allow or permit his *taxicab* to be *operated* when it has exterior body damage or rust;
- (g) put any name, address or telephone number or identification other than that of himself or the *taxicab broker* with whom he is affiliated, on his *taxicab* or roof sign;
- (h) use or permit to be used on his *taxicab*, any emblem, decal, roof sign or other markings which are the same shape and/or colour or similar to any distinctive emblem, decal, roof sign or other markings being used by any *taxicab broker* with whom he is not affiliated;
- (i) *operate* a *taxicab* which has the same distinctive colour scheme being used by any *taxicab broker* with whom he is not affiliated;
- (j) *operate* or permit his *taxicab* to be *operated* in affiliation with a *taxicab broker* who is not licensed under this *schedule*;
- (k) permit his owner's *licence* to be *operated* under a *lease* which restricts the movement of the said *licence* into or out of any licensed *taxicab brokerage*, unless the *owner* is a *taxicab broker* and wishes to keep the owner's *plate* in his own *taxicab brokerage*;
- (l) display or permit the display of any sign, emblem, decal, ornament or advertisement, on or in his *taxicab*, except is a form approved by the *licensing officer*;
- (m) *operate* or permit his *taxicab* to be *operated*, unless the *taxicab meter* is an approved type, listed with the *licensing section*, and has been tested and sealed by an *inspector*;

- (n) *operate* or permit his *taxicab* to be *operated* for the purpose of transporting children to or from schools, except in compliance with the provisions of Section 49.

36. INSURANCE

- 36.1 When a licensed *owner* ceases to have a current and valid Ontario standard automobile insurance policy in good standing, the *licence* shall be deemed to be suspended as of the date on which the cessation of insurance came to the attention of the *licensing officer*, and the *licence* shall only be reinstated on there being delivered to the *licensing officer*, written *proof of insurance* in accordance with the provisions of this *schedule*.
- 36.2 When the licensed *owner* has his *licence* suspended under section 36.1 he shall forthwith remove the owner's *plate* and return the owner's *plate* and the *licence* to the *licensing officer*.
- 36.3 When a licensed *owner* cancels his current insurance before the expiry date of the policy, he must produce a certificate of newly acquired insurance, or return the *taxicab* owner's *plate* to the *licensing officer* on the date and time of the cancellation.
- 36.4 All insurance renewal policies or certificates of insurance shall be filed with the *licensing officer* ten (10) days prior to the expiry date of the current insurance policy.

37. VEHICLE APPROVAL

- 37.1 An *owner* or *lessee* shall, before using any *vehicle* as a *taxicab*:
 - (a) attend at the *licensing section* and produce a copy of the current *passenger motor vehicle permit* in good standing, issued by the Ministry of Transportation, a copy of the current Ontario Standard Automobile Insurance Policy for the *vehicle* being registered, and the owner's Taxi Owner's *licence*;
 - (b) submit the *vehicle* to be registered for inspection and approval by the *licensing section*;
 - (c) pay the fee set out in *City Licensing Fees and Charges By-law*;
 - (d) produce and file with the *licensing section*, either:
 - (i) an Ontario Ministry of Transportation *vehicle* Inspection Report, showing that the *taxicab* has been accepted, within the previous thirty (30) days; or

- (ii) a Safety Standard Certificate, issued under the *Highway Traffic Act*, within thirty (30) days of the application;
- (e) file with the *licensing section*, all documents relating to the *vehicle*, including, if applicable, a leasing agreement or similar documentation relating to ownership, or *vehicle* operation;
- (f) file annually with the *City*, for every *vehicle* which is *operated* by propane, an inspection certificate signed by a propane inspector, confirming that the inspection has been done in accordance with the National Standard of Canada CSA-b149.5-05, and under the *Technical Standards and Safety Act* under the direction of the Ministry of Consumer Services.

38. TAXICAB REPLACEMENT AND ACQUISITION

38.1 A licensed *taxicab owner* who disposes of his *taxicab* or otherwise ceases to use his *taxicab* and acquires another *taxicab* for the purposes permitted under this *schedule*, before using the *vehicle* as a *taxicab*, shall:

- (a) attend at the *licence Office* and produce a copy of the current *passenger motor vehicle permit* in good standing issued by the Ontario Ministry of Transportation in the *plate owner's name*, owner's *licence*, and a copy of the current Ontario Standard Automobile Insurance Policy, endorsed to show the *vehicle* being registered;
- (b) produce and file with the *licensing section*, either;
 - (i) a Ministry of Transportation *vehicle* Inspection Report showing that the *taxicab* has been accepted within the previous thirty (30) days, or
 - (ii) a Safety Standard Certificate issued under the *Highway Traffic Act* within thirty (30) days of the application.
- (c) file with the *licensing section*, all documents required to report the change, including, if applicable, a leasing arrangement or similar documentation relating to ownership, or *vehicle* operation;
- (d) in addition to the provisions of this Section the *vehicle* to be used shall be submitted for inspection by the *licensing section* during normal *business* hours and shall not be used until the inspection has taken place, the approval given;
- (e) If the inspection and approval cannot be completed during normal *business* hours, the *vehicle* can be used, provided the *taxicab owner* returns the

vehicle for inspection on the date and time specified by the *licensing section*;

- (f) When the licensed *taxicab owner* meets all the requirements of this Section, the *vehicle* shall be deemed to be registered.

39. DISPOSAL OF TAXICAB

39.1 When the licensed *taxicab owner* or licensed *taxicab driver* disposes of or otherwise ceases to use as a *taxicab*, the *vehicle* registered, he shall immediately remove from the said *vehicle* being disposed of:

- (a) the roof light,
- (b) the taxicab meter,
- (c) all identifying decals or markings,
- (d) fender numbers,
- (e) and all other items which make the *vehicle* appear to the public to be a *taxicab*.

40. MODEL YEAR RESTRICTION

40.1 No *person* shall *operate* or permit to be *operated* under his owner's *licence*, a *vehicle* which is of a model year older than five (5) years calculated from and including the current calendar year.

40.2 Notwithstanding the provisions of Section 40.1, an *owner* may, on written request to the *licensing section* and on payment of the appropriate fee set out in The *City Licensing Fees and Charges By-law*, obtain an extension on the model year to a maximum of 7 years of age subject to the approval of the *licensing officer* based upon an inspection of the *vehicle*.

41. TAXICAB METER SEALING

41.1 When a *licensing officer* is not available to seal the *taxicab meter* as required under Section 35.1(m), the licensed *taxicab owner*, *lessee*, or the licensed *taxicab driver* who has had the *taxicab meter* altered, repaired or replaced in the *taxicab*, may *operate* the *taxicab* on a weekend for a period of up to seventy two (72) hours and during the week for a period of up to forty eight (48) hours, provided that the licensed *taxicab driver* has in his possession a certificate or receipt for the repair or installation of the *taxicab meter*, signed by the *person* who made the repairs or installation, and the receipt sets out the date, time, and nature of the repairs or installation.

42. MANDATORY TAXICAB INSPECTIONS

- 42.1 The *licensing officer* shall give notice to the licensed *taxicab owner* or *registered lessee* of two mandatory inspections a year for each *taxicab* he owns or *leases*.
- 42.2 Upon receipt of a notice of inspection under section 42.1, each licensed *owner* or *lessee* or his agent shall attend with his *vehicle* at the appointed time and place and shall bring with him either:
- (a) An Ontario Ministry of Transportation *vehicle* Inspection report, showing that the *taxicab* has been accepted within the past thirty (30) days; or
 - (b) A Safety Standard Certificate issued under the *Highway Traffic Act*, within thirty (30) days of the inspection date.
- 42.3 When a *taxicab* has been inspected under Section 38.1(d) within thirty (30) days of the date set out in the notice of mandatory inspection referred to in section 42.2 of this section, the *taxicab owner* or *lessee* shall not be required to have the *vehicle* re-inspected as required by the notice, but this section does not affect any inspection required under Section 22 of this *schedule*.
- 42.4 On receipt of a notice of inspection under section 42.1, each licensed *owner* or *lessee* who fails to attend with his *vehicle* at the appointed time and place for a mandatory inspection as outlined under section 42.1 shall be required to pay a late penalty charge as provided for in *City Licensing Fees and Charges By-law*.

43. TRANSFER OF TAXICAB OWNER'S LICENCE

- 43.1 No *taxicab owner* shall transfer or otherwise dispose of a *licence*, unless:
- (a) he has held that *licence* as a *taxicab owner* for at least three (3) years, except when the owner's *licence* has been issued from the *priority list*, it must be held for a minimum of five (5) years, and
 - (b) he completes the transfer documents provided by the *licensing officer* for this purpose.
- 43.2 Notwithstanding the provisions of section. 43.1, the holder of a *taxicab owner's licence* may petition the *licensing officer* to permit a transfer or other disposition of the *taxicab owner's licence*, within three (3) years of the date of issuance.
- 43.3 When at least fifty-one percent (51%) of the voting rights attached to all shares of a *Corporation* which is duly licensed under this *schedule* as a *taxicab owner*, are sold or otherwise disposed of, it shall be deemed to be a transfer of a *taxicab owner's licence* and the provisions of sections 43.1 and 43.2 shall apply.

43.4 When a transfer is approved by the *licensing officer*, the new *taxicab owner* must submit his *vehicle* for examination in accordance with Section 22 of this *schedule*, before the *licence* and owner's *plate* or sticker, is issued.

44. TRANSFER OF TAXICAB OWNER'S LICENCE TO ESTATE

44.1 The provisions of Section 43.1 do not apply where the *taxicab owner's licence* becomes an asset of the estate of a deceased *owner*.

44.2 Where the *owner* of a *taxicab licence* dies, the heirs, executors or other legal representative shall notify the *licensing officer* forthwith of the death. The *taxicab plate* shall be deemed to be suspended and shall be removed from the *taxicab* and returned to the *licensing officer*.

44.3 Upon filing documentation sufficient to prove that the *licence* is an asset of the estate, the *licence* may be transferred to the estate of the deceased *owner* and held in the name of the estate for a period of one (1) year. The heirs, executors, or other legal representative shall have a period of six (6) months within which to arrange for such change or transfer without the *licence* being revoked, provided that the death of the *owner* was reported to the *licensing officer* within thirty (30) days of the death.

44.4 If the *licence* expires within the aforementioned period of six (6) months, the heirs, executors, or other legal representative may renew the *licence* on the condition that it will expire on the termination of the aforementioned period of six (6) months.

44.5 To effect transfer of a *licence* to the estate of a deceased *owner*, the following must be filed with the *licensing section*:

- (a) proof that the *persons* disposing of the property have legal status to effect the transfer;
- (b) *proof of insurance* in the name of the estate;
- (c) certified copy of the Death Certificate;
- (d) any other supporting document required by the *licensing officer*.

44.6 Notwithstanding subsections 41.2 to 42.5 of this section, where a *lease* existed between the deceased *owner* and a *lessee*, a copy of which had be filed with the *licensing officer*, the *lease* shall be, for the purposes of the continuous operation of the *licence plate* by the *lessee*, to continue to be in force and effect until a new *lease* can be completed between the estate of the deceased *owner* and the *lessee*.

PART FOUR

TAXICAB BROKER REGULATIONS

45. TAXICAB BROKER DUTIES

45.1 Every licensed *taxicab broker* shall:

- (a) require all *taxicab* owners who have entered into arrangements with him for the provisions of *taxicab brokerage* services, to use the same design, shape and colour scheme of roof sign, and to attach to each front door of the *taxicab* an identifying decal which shall include the name of the *taxicab broker*, in a form approved by the *licensing officer*, and shall produce and file a sample of the roof sign and identifying decal with the *licensing section*;
- (b) provide the *licensing section* with a list, showing in numerical order by *owner's plate* number, the name of every *driver* operating any *taxicab* with which he has entered into any arrangement for the provision of *taxicab brokerage* services;
- (c) notify the *licensing section*, in writing, within ten (10) days of any additions or deletions from the list provided under Subsection (b);
- (d) carry on the *taxicab brokerage business* twenty-four (24) hours a day during the term of his *licence*, unless otherwise directed by the *licensing officer*;
- (e) keep a record of each *taxicab* dispatched on a *trip*, the time and date of receipt of the *order*, and the pick-up location and retain these records for a period of at least three (3) months;
- (f) supply the *licensing section* with a copy of his Federal Radio *licence* call sign and frequency number, if any;
- (g) upon request, inform any *customer* of the anticipated length of time required for a *taxicab* to arrive at the pick-up location;
- (g) when volume of *business* is such that service will be delayed to a prospective *customer*, the broker shall inform the *customer* of the approximate length of the delay, before accepting the *order*;
- (i) *dispatch* a *taxicab* to the first *person* requesting service within the municipality, unless the *person* requesting service has not paid for a previous *trip* and these facts are verified by the broker;

- (j) file a list of the *taxicab brokerage* rules and procedures, including the terms and *conditions* of payment of *drivers*, with the *licensing section*, and abide by them, and display the same list prominently in the *taxicab brokerage* office;
- (k) carry on *business* only in the name in which he is licensed;
- (l) on instructions of the *licensing officer*, not *dispatch* calls to any *taxicab*, if the licensed *owner* or licensed *driver*, in the opinion of the *licensing officer*, may have contravened any section of this By-law, which substantially affects the public;
- (m) at the request of the *licensing officer*, provide a list showing the number of *taxicabs* available for service to the public on any particular day, including the times when each such *taxicab* went on the road and the time when it was last available for service on that day and also including the number of *dispatched* calls serviced by each such *taxicab*; and
- (n) employ or use only the services of an *owner* or *driver* licensed as such by the *City*.

46. **TAXICAB BROKER PROHIBITIONS**

46.1 No licensed *taxicab broker* shall:

- (a) charge *dues*, or increase his *dues* unless he has first:
 - (i) submitted in writing, a notice of intent, to the *licensing officer*, at least one (1) month prior to the proposed effective date of any increase; and
 - (ii) prominently display in the brokerage office, a copy of the notice of intent for at least one (1) month prior to the proposed effective date of any increase;
- (b) implement any changes in the rules and procedures outlined in Subsection 45.1(j), until the said change is filed with the *licensing section* and displayed prominently in the brokerage office;
- (c) accept *orders* for, or in any way *dispatch* or direct *orders* to a *taxicab*, licensed under this By-law:
 - (i) when the activity would be illegal under another municipal By-law, or provincial statute;

- (ii) where the *fare* is less than that permitted under this By-law;
- (d) accept *orders* for, or in any way *dispatch* or direct *orders* for a pick-up location within the boundaries of the *City* to a *taxicab*, the *owner* of which is not licensed under this By-law;
- (e) *dispatch* or direct *orders* for a parcel delivery to a *taxicab driver* unless the *taxicab driver* first consents to make the parcel delivery;
- (f) be permitted to have exclusive rights to any *taxicab stand* in the municipality, or enter into or become a party to any *exclusive concession agreement*;
- (g) require any *driver* to accept any *order* necessitating the expenditure of money, by the *driver*, on behalf of the *customer*;
- (h) enter into an agreement for the provision of brokerage services with a taxicab driver or taxicab owner who is already affiliated with another taxicab broker;
- (i) make any charge or financial demand, directly or indirectly, of a *taxicab owner, lessee* or sub-*lessee* of a *taxicab*, other than *dues*;
- (j) *dispatch* to any *person* within the *City*, a *taxicab* which is not on the list provided under Subsection 45.1(b).
- (k) charge a tariff or enter into any agreement to charge a tariff which is not in accordance with the appropriate tariff set out in Part Six (6) to this *schedule*.

PART FIVE

THE PRIORITY LIST

47. PRIORITY LIST

47.1 When a completed application for a *taxicab owner's licence* is received by the *licensing section* and it meets all of the requirements of this *schedule* but a *licence* cannot be issued because of the limitation on the number of *licences* set out in this *schedule*, the *applicant's* name shall be placed on the *priority list* by the *licensing officer* for the issuance of a *taxicab owner's plate* if the *applicant*:

- (a) has been licensed by the *City* as a *driver* for at least twenty-four (24) months prior to the date that the application for a *taxicab owner's licence* is filed with the *City*;
- (b) files proof that he has been driving a *taxicab* in the *City* for an average of at least thirty-five (35) hours per week for forty-four (44) weeks of the twelve (12) month period immediately before the date the application with the *City* by providing *trip sheets* or other documentation as required by the *licensing officer*;
- (c) files proof of Harmonized Sales Tax account registration;
- (d) files a statutory declaration in a form approved by the *licensing officer*, and any other documentation required to verify the qualification of the *applicant* to remain on the *priority list*;
- (e) pays the fee as provided for in the *City Licensing Fees and Charges By-law*; and
- (f) is not already a *taxicab owner* licensed by the *City*.

48. STAYING ON PRIORITY LIST

48.1 The *applicant's* name shall appear only once on the *priority list* at any one time.

48.2 The *applicant's* name shall remain on the *priority list* so long as he complies with the following provisions:

- (a) he continues to be licensed by the *City* as a *driver*;
- (b) has been driving a *taxicab* in the *City* on an average of at least thirty-five (35) hours per week during at least forty-four (44)

weeks per year and files annually a statutory declaration confirming that fact in a form approved by the *licensing officer*;

- (c) he has not received a *taxicab owners plate* the *City priority list* subsequent to his placement on the *priority list*; and
- (d) pays the fee as provided for in the Markham Licensing Fees and Charges By-law.

48.3 If a *driver*, who's name appears on the *priority list* has been, on account of illness, injury or other medical reasons, unable to drive a *taxicab* for the time required under Section 48.2(b), his name shall stay on the *priority list* if he files forthwith, a current doctor's certificate attesting to the *applicant's* inability to *operate* the *taxicab*, and shall state the date of loss of ability to *operate* a *taxicab* and the expected date of the *applicant's* return to work and the doctor's certificate shall cover the entire time period of the medical treatment and provided that the period of medical treatment does not exceed two (2) years out of the total time that his name has been on the list.

48.4 Where the *applicant* was unable to *operate* a *taxicab* for the period referred to in section 48.3, and such period exceeds two (2) years, his name shall be removed from the *priority list*. Where an *applicant's* name has been removed from the *priority list* pursuant to this Section, the *applicant* may ask for a *hearing* before the *licensing appeal committee* within fifteen (15) days of the date that the *applicant* received notice of the decision, and upon payment of the Appeal Fee as provided in the *City Licensing Fees and Charges By-law*.

48.5 Notwithstanding Paragraph 48.2(b), where an *applicant's* name has been on the *priority list* for four (4) years, his name shall remain on the list if he works as a *taxicab dispatcher* or a *taxicab* fleet manager for a licensed *taxicab broker*, and has worked in that capacity or any combination thereof for at least thirty-five (35) hours per week for a period of at least forty-four (44) weeks per year.

48.6 Section 48.7 shall only apply if the *applicant*:

- (a) gives written notification to the *licensing officer* of the particulars of his employment, including proof of employment with the *taxicab broker*;
- (b) carries on no other employment except for that provided in section 48.5 of this *schedule*.

48.7 Notwithstanding section 48.2(b) of this *schedule*, where an *applicant's* name has been on the *priority list* for at least five (5) years, he may apply in writing to the *licensing officer* for permission to take a leave of absence not to exceed a one (1) year period for the sole purposes of seeking alternate employment, such leave of

absence to be allowed only once and such leave of absence to include any vacation entitlement permitted under this *schedule*.

48.8 Where an *applicant* takes a leave of absence pursuant to Section 48.7 of this *schedule* his seniority position on the *priority list* shall be moved back by the same period of time which he was on such leave of absence.

48.9 When an *applicant* fails to renew his *licence* in accordance with the provisions of Part Two of this *schedule*, the *licensing officer* shall remove his name from the *priority list*. The *applicant* may ask for a *hearing* before the *licensing appeal committee* within fifteen (15) days of the date that the *applicant* received notice of the decision, and upon payment of the Appeal Fee as provided in the City Licensing Fees and Charges By-law.

48.10 Where an *applicant* has had his *Ontario driver's licence* or Markham *taxicab driver's licence* suspended, his seniority position on the *priority list* shall be moved back by the same number of days for which the *licence* had been suspended.

48.11 Where an *applicant* , whose *licence* has been suspended as set out in Section 48.8, secures and maintains employment pursuant to one of the non-driving qualifying occupations referred to in section 48.5 of this *schedule*, for the entire *licence* suspension period, he shall be permitted to maintain his seniority position on the *priority list*.

49. INSPECTION OF PRIORITY LIST

49.1 The *priority list* shall be available for inspection during normal *business* hours at the office of the *licensing section*.

50. ISSUANCE OF TAXICAB OWNER'S PLATES FROM PRIORITY LIST

50.1 When an *applicant's* name has been placed on, and remains on, the *priority list*, and a *plate* becomes available to be issued, the *licensing officer* shall issue the *plate* to that *person* whose name appears first on the *priority list*.

51. NOTICE

51.1 Prior to issuing a *plate* from the *priority list*, the *licensing officer* shall first publish "Notice of the Intention to Issue *taxicab plates*" and shall publish the names of the *persons* entitled to the issuance of a *licence* according to the *priority list*.

52. PUBLICATION OF NOTICE

52.1 The notice, referred to in Section 51 shall be published once in a newspaper of general circulation in the *City* and posted on the *City's* Internet Portal and in the Licensing Office with a copy sent to all licensed taxicab brokers.

53. OBJECTION

53.1 The notice shall state that any *person* objecting to the issuance must file their written objection and a request for a *hearing* with the *licensing officer* no later than ten (10) days following the date of publication of the notice in accordance with the service requirements of the *City Mobile business* Licensing By-law.

54. HEARING

54.1 Where an objection and a request for a *hearing* is received under Section 53, the *licensing officer* shall give the *applicant* and the *person* objecting to the issuance of the license reasonable written notice of the *hearing* by registered mail, addressed to the *person* to whom service is required to be made according to the *licensing section* records.

54.2 The *licensing officer* will hear the objection as soon as possible, and the provisions of the *City Mobile business* Licensing By-law relating to *hearings* shall apply.

54.3 Where an objection and a request for a *hearing* is received under section 53, the *licensing officer* shall request that the *secretary* of the *licensing appeal committee* convene a meeting of the *committee* and shall give the *applicant* and the *person* objecting to the issuance of the *licence* reasonable written notice thereof.

55. REMOVAL FROM THE LIST

55.1 The *licensing officer* shall review the *priority list* at regular intervals to determine that the listed *persons* are in compliance with the provisions of Part Five, and any *person* whose name is on the *priority list* who fails to comply with Part Five shall be notified by the *licensing officer* that his name is to be removed from the *priority list* and such *person* may appeal this decision.

55.2 A *person* who has been notified that his name has been removed from the *priority list* shall have thirty (30) days from the date of such notification, to file a written request with the *licensing officer* for a *hearing* before the *appeal committee*. Such request shall state the grounds for appeal and be accompanied by the prescribed appeal fee.

55.3 Such appeal *hearing* shall be heard as soon as possible by the *appeal committee* and the provisions of the *City Mobile business* Licensing By-law relating to appeal *hearings* shall apply.

- 55.4 Where the *person* requesting the *hearing* fails to meet any of the requirements of Part Five, the onus of proving compliance with Part Five before the *licensing appeal committee* shall rest with the *person* requesting the *hearing*.
- 55.5 When a *plate* is issued to an *applicant* whose name is on the *priority list*, the name of that *person* shall be removed from the *priority list* and all names shall be moved forward one position.
- 55.6 When a *taxicab driver*, whose name appears on the *priority list*, purchases a *taxicab owner licence* issued by the *City* from a licensed *taxicab owner* through a private transaction, his name shall be removed from the *priority list*.
- 55.7 When a *taxicab owner* *sells*, transfers or otherwise disposes of his *taxicab owners licence*, he shall not be entitled to have his name entered on the *priority list* for a period of three (3) years from the date upon which he sold, transferred or otherwise disposed of his owner's *licence*.
- 55.8 Where an appeal or an objection has been received, the *licensing officer* shall note beside the name(s) on the *priority list* that an appeal or objection has been received.

56. ISSUE FROM PRIORITY LIST

- 56.1 When a *taxicab owner's plate* is issued from the *priority list*, the *taxicab owner* who has been approved for the issuance shall, within one month of the date of issuance of the *plate*, affix the *plate* to a *vehicle* which shall be *operated* as a *taxicab*.
- 56.2 An owner's *licence* issued to a *person* on the *priority list* shall be issued on a probationary basis for a period of five (5) years, during which period the *licensee* shall:
- (a) *Operate* the *taxicab* on a regular shift basis;
 - (b) maintain a good operating record;
 - (c) not *sell*, transfer or otherwise dispose of his *taxicab owner's licence*, except for reasons satisfactory to the *licensing officer*.

57. NO VESTED INTEREST

- 57.1 No *person* by virtue of his name being placed on the *priority list* shall obtain a vested right to obtain a *taxicab owner licence*, or to remain on the *priority list*. *Council* reserves the right to amend or repeal this *schedule* and Consolidated Mobile *business* By-law and any successor By-laws and to place further or

additional requirements or restrictions on such applications or *persons* at any time.

PART SIX

TARIFF RATES

BY DISTANCE: (One to four *passengers*)

First 143 metres or part thereof	\$4.25
Each additional 143 metres or part thereof	\$0.25
Waiting time while under engagement - each 29 seconds	\$0.25
Each additional <i>passenger</i> in excess of four (4) <i>persons</i>	\$2.25
Delivery charge - no <i>passenger</i> :	\$10.75

BAGGAGE:

Senior citizens and physically disabled *persons* are not subject to the following charges for baggage:

Each trunk \$0.75
(Any item with content of more than three (3) cubic feet, shall be deemed a trunk.)

Hand baggage - per item \$0.25
(if not carried by *passenger*, inside *vehicle*.)

(Brief cases and parcels of comparable size shall be deemed hand baggage.)

Bags and cartons containing groceries,
if loaded and unloaded by *driver*:

per bag	\$0.25
Maximum	\$1.00

WHEELCHAIRS WILL BE CARRIED FREE

Senior citizens or physically disabled *persons* are not subject to the above charges for baggage.

PART SEVEN

AUTHORIZED STANDS FOR TAXICABS

Street	Side	Location	#of Cabs	Hours
7755 Bayview Avenue	South West corner of parking lot	Thornhill Community Centre	6	24 hrs. per day
6041 HIGHWAY 7 East	South East corner of parking lot	Markham Village Community Centre	4	24 hrs. per day
377 Church Street	In front of building	Medial Building (Markham Stouffville Hospital)	2	24 hrs. per day
50 East Valhalla Drive	East side of parking lot, adjoining entrance	Radisson Hotel Toronto-Markham	4	24 hrs. per day
5000 HIGHWAY 7 East	South side (In front of Coast Mountain Sports)	Markville Shopping Centre	2	24 hrs. per day
5000 HIGHWAY 7 East	North side (In front of Food Court)	Markville Shopping Centre	2	24 hrs. per day
2900 Steeles Avenue East	South West corner of parking lot	The Shoppes on Steeles and 404	5	24 hrs. per day
7095 Woodbine Avenue	North side of parking lot	Holiday Inn Toronto-Markham	2	24 hrs. per day
4300 Steeles Avenue East	South West corner of parking lot	Pacific Mall	3	24 hrs. per day

The CORPORATION of the CITY CUSTOMER BILL OF RIGHTS

Markham *taxicab passengers* are entitled to a professional *driver* who:

- prominently displays his/her *taxicab driver licence* inside the *taxicab*;
- is knowledgeable and knows the major routes and destinations in the *city*;
- is well-groomed, neat and clean in personal appearance;
- speaks, reads and understands English;
- is courteous and provides assistance;
- provides a safe ride;
- knows and obeys *City* By-laws and all traffic laws;
- offers a silent ride if desired;
- takes the most direct route to the destination unless otherwise directed by the *passenger*;
- is physically able to assist *passengers* into the *vehicle* and to assist them with their belongings;
- keeps the interior of his/her *taxicab* clean and free of debris;
- issues a receipt upon request noting the date and time of the *trip*, place of pick up, place of discharge, *taxicab licence* number, Provincial *plate* number and the *fare* charges paid; and
- accommodates a personal service animal.

Markham *taxicab passengers* are entitled to a quality *taxicab*:

- in good mechanical and physical condition;
- with a properly calibrated and sealed taximeter;
- with a clean exterior, *passenger* area and trunk;
- which is heated or air conditioned on demand;
- with easy access to seatbelts; and
- is a smoke free environment

Markham *taxicab passengers* are responsible for:

- paying the required *fare*;
- not eating, drinking or smoking inside the *taxicab*;
- not interfering with the *taxicab driver* in the conduct of his/her duties.

Compliments or Complaints

Telephone: (905) 477-7000

SCHEDULE 7
Relating to the Licensing, Regulation and
Governing of Owners and Drivers of *Tow trucks*

ADMINISTRATION AND GENERAL PROVISIONS

1. TYPES OF LICENCES

1.1 The *licensing officer* may issue the following types of licenses in connection with the *business* of providing “For Hire” *towing* services to the travelling public:

- (a) a *tow truck owner’s licence*;
- (b) a *tow truck driver’s licence*;

2. NUMBER OF LICENCES

2.1 A *tow truck owner* who is the *owner* of more than one *vehicle* that is used in providing *towing* services to the travelling public shall obtain a *tow truck plate* for each *vehicle* that is owned and *operated* as a *tow truck*.

3. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER

3.1 No *owner* of a *vehicle* that is utilized as a *tow truck* shall fail to affix in a secure and visible manner to the rear portion of the *vehicle*, the *tow truck plate* issued by the *licensing officer* or as otherwise approved by the *licensing officer*.

3.2 No *owner* of a *vehicle* that is utilized as a *tow truck* shall fail to affix in a secure manner the *licence renewal validation tag* to the *tow truck plate* issued by the *licensing officer*.

4. ADMINISTRATION AND DUTIES

4.1 The *licensing section* shall:

- (a) receive and process all applications for *licences* and for renewal of *licences* to be issued under this *schedule*;
- (b) issue *licences* to, and renew *licences* for *persons* who meet the requirements of this *schedule*;
- (c) enforce the provisions of this *schedule*;

- (d) receive and file the *Rate schedule* provided by the *owner* and provide a copy of the By-law;
- (e) generally perform all of the administrative functions conferred upon it by this *schedule*.

4.2 When an *owner's plate*, Validation Tag, or *licence* is defaced, destroyed or lost, the *licensee* shall apply to the *licensing section* for a replacement and shall pay the appropriate fee and the *licensing section* shall issue a replacement.

5. LICENCE PLATE PROPERTY OF CITY

5.1 Every *tow truck plate* issued by the *City* to a *tow truck owner* is the property of the *City* and shall be returned forthwith to the *City* upon expiry, suspension, cancellation, or revocation of the *tow truck owner's licence* or upon demand by the *licensing officer*.

LICENSING REQUIREMENTS

6. TOW TRUCK OWNER

6.1 In addition to the general licensing requirements contained within the *City Mobile business* By-law, every *applicant* for a *tow truck owner licence* or renewal thereof shall file with the *licensing officer*:

- (a) the original, valid *motor vehicle permit* issued by the Ontario Ministry of Transportation in the *applicant's* name;
- (b) a original certificate of insurance in accordance with Section 21 of this *schedule*, for each *vehicle* to be licensed as a *tow truck*;
- (c) the current *schedule of rates*, in accordance with Section 15 of this *schedule*, on the *applicant's* letterhead, to be charged to *customers* for all services including the *towing* or *conveying* of, and other services to *vehicles*;
- (d) a sample invoice on the *applicant's* letterhead, in a form approved by the *licensing officer*;
- (e) a sample *run sheet* on the *applicant's* letterhead, containing all information required by Section 13.(d) of this *schedule*, in a form approved by the Licensing Office;
- (f) proof of the *applicant's* Harmonized Sales Tax (HST) registration;
- (g) current list of *City* licensed tow truck drivers operating *tow truck(s)* owned

by the *applicant*;

- (h) a current, valid Ontario Ministry of Transportation Annual Inspection Certificate issued under the *Highway Traffic Act*, R.S.O. for each *vehicle* licensed under this *schedule*;
- (i) a current Ministry of Transportation *safety standard certificate* issued under the *Highway Traffic Act*, R.S.O. within the previous one hundred and twenty days (120) of the date of application or application for renewal for each *vehicle* licensed under this *schedule*;
- (j) address of the motor vehicle pound, yard or building used for storage or impounding of towed *motor vehicles*, and information with respect to such pound, yard or building, as required by Section 22 of this *schedule*;
- (k) a copy of any contract for tow brokerage services between the owner and a *tow truck brokerage*;
- (l) a copy of the *applicant's* "Master *business licence*", evidencing registration under the *Ontario Business Names Act*, of the *applicant's business* operating name, where applicable.

7. **TOW TRUCK DRIVER**

7.1 Every *applicant* for a *tow truck driver licence* shall be at least eighteen (18) years of age, possess oral and written reading English comprehension skills, shall be of good character as provided for in the *City's Standard Character and Driving Record Criteria Policy*", and shall file with the *licensing section*;

- (a) A valid full *motor vehicle driver's licence* issued by the Province of Ontario under the provisions of the *Highway Traffic Act*, R.S.O. of a class authorizing him or her to drive a *tow truck*, which is in good standing according to the records of the Ministry of Transportation, and during any period in which such Provincial *licence* is under suspension, the *tow truck driver's licence* issued under this *schedule* shall, for all purposes of this *schedule*, be conclusively deemed suspended;
- (b) an original Ontario *three year driving record* obtained from the Ministry of Transportation dated within thirty (30) days of the date of the application for a *licence*, or application for renewal, or at the request of the *licensing officer*;
- (c) an original Criminal Background Check current within thirty (30) days of the date of application, or application for renewal, or at the request of the *licensing officer*;

- (d) a letter of employment, or where self-employed, a written contract between the *applicant* and the tow truck owner for the employment or services of the tow truck driver;
- (e) proof of Harmonized Sales Tax (HST) number where self-employed and where the *applicant's* services are subject to a written contract filed with the *licensing officer*;
- (f) completed tow truck driver application, in a form provided by the *City* ;
- (g) such other information or documentation that the *licensing officer* may require to assist in the determination that the *applicant* satisfies the requirements of this *schedule* or any applicable law.

DUTIES AND PROHIBITIONS

8. TOW TRUCK OWNER AND DRIVER DUTIES

8.1 Every licensed *tow truck owner* and *driver* shall:

- (a) take due care of all *vehicles* and property delivered or entrusted to him/her for *towing*;
- (b) comply with all reasonable instructions from the *customer*;
- (c) be civil and behave courteously;
- (d) keep every *tow truck* and its equipment clean, in good repair, free from mechanical defects and exterior body damage, with well maintained exterior paint finish;
- (e) carry the *licence* issued to him/her under this *schedule* at all times while he or she is driving a *tow truck* and produce same for inspection when requested to do so by any Police Officer, *municipal law enforcement officer* or any other *person* authorized by *council*;
- (f) keep in the *tow truck* and show to the *customer* a copy of the rate sheet showing the applicable *schedule of rates* filed by the *owner* with the *licensing officer*;
- (g) before demanding payment for services, present to the *customer* 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 rates set out in the *schedule of rates* filed with the *licensing officer*;

- (h) keep in duplicate, a permanent daily record as required in Section 14 of this *schedule*, of work performed by the *tow truck* owned or *operated* by the *owner*, or on his/her behalf; and
- (i) before commencing, and at the end of each work shift, examine for defects the *tow truck*, and report forthwith to the *owner* of the *tow truck* any defects.

9. TOW TRUCK OWNER AND DRIVER PROHIBITIONS

9.1 No licensed *tow truck owner* or *driver* shall:

- (a) drive or *operate*, or permit to be driven or *operated*, a *tow truck* unless it is equipped with an *owner's plate* supplied by the *City*, securely affixed to the rear portion of the *tow truck*;
- (b) drive or *operate*, or permit to be driven or *operated*, a *tow truck* unless it is clean and free from mechanical defects;
- (c) drive or *operate*, or permit to be driven or *operated*, a *tow truck* which lacks any equipment required by Section 23 of this *schedule*, in good repair;
- (d) drive or *operate*, or permit to be driven or *operated*, a *tow truck* which has been found to be unsafe or defective after examination and inspection as required under this *schedule*;
- (e) interfere with any contract for hiring of a *tow truck* where a *person* has hired or has indicated an intention to hire a *tow truck*, except under direction of a Police Officer directing removal of a *vehicle* by another *owner* or *driver* of a *tow truck* in order to assist in an investigation;
- (f) induce any *person* to employ or hire a *tow truck* by making any false representations to any *person*, including representations regarding the location of, or distance to, any place;
- (g) demand or request payment for his/her services other than in accordance with the applicable *schedule of rates* filed with the *licensing officer*;
- (h) demand, request, or receive a *drop fee*;
- (i) charge a *customer* for lost time though defects or inefficiency of the *tow truck*, or the incompetence of the *tow truck owner* or *driver*;
- (j) suggest or recommend to any *customer* 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 *customer*; or

- (k) permit a *person* to be a *passenger* in a *tow truck*, except under the following circumstances:
 - (i) the *passenger* is the *customer* of the *tow truck*; or
 - (ii) the *passenger* is either the spouse, son, daughter or parent or similar relation 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 two hundred (200) metres (approximately 656 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 been issued a *tow truck driver's licence* by the *licensing section*, and is receiving instructions as to the operation of a *tow truck* while a *passenger*.
 - (iv) smoke or permit the smoking of a cigar, cigarette or other tobacco product in the *tow truck*.

10. **TOW TRUCK OWNER DUTIES**

10.1 Every *tow truck owner* licensed under this *schedule* shall:

- (a) obtain a *licence* from the *City* in respect of every *tow truck* owned by him/her;
- (b) produce and file an insurance certificate showing *proof of insurance* as required by Section 21 of this By-law, for every *tow truck* of which he/she is the *owner*;
- (c) file with the *licensing officer* a *schedule of rates* to be charged to *customers* for the *towing* or other conveyance of *vehicles* and for other services offered or to be performed by him/her or his/her *driver* for *towing* services;
- (d) charge only the rates filed with the *licensing officer* and provide thirty (30) days notice to *licensing officer* of any change to such *schedule of rates*;
- (e) keep in the *tow truck* and show to the *customer* a copy of a *schedule of rates* showing the applicable charges filed with the *licensing officer*;

- (f) in the carrying out of his/her *business*, use only stationery, forms, bills, invoices, statements or any other printed or written advertising material, including any published advertisement in a newspaper, or other publication, which has printed thereon in clearly legible figures and letters his/her name and address, or if the *owner* is a *Corporation*, the corporate name and address, and if applicable, the name of any *tow truck broker* offering the services of the *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 *licensing officer* on demand;
- (h) ensure that the name under which the *tow truck owner's licence* has been issued is clearly indicated on both sides of the *tow truck*, in a contrasting colour to such sides, in a location acceptable to the *licensing officer*, in letters and figures not less than ten (10) centimetres in height;
- (i) ensure that the name of any *brokerage* with which the *owner* is associated is clearly indicated on both sides of the *tow truck*, in a contrasting colour to such sides, in a location acceptable to the *licensing officer* in letters and figures not less than ten (10) centimetres in height;
- (j) ensure that the number of the *owner's plate* issued for the *tow truck* is painted on or affixed to both sides of the *tow truck* body, in numbers at least ten (10) centimetres in height and of contrasting colour to the colour of such sides;
- (k) have at all times prominently affixed to the rear portion on the outside of the *tow truck*, the *owner's plate* issued for that *tow truck*;
- (l) have at all times prominently affixed to the *owner's plate*, the current year's validation sticker issued by the *City* for that *tow truck*;
- (m) only use the services of a *tow truck driver* who is licensed as a *driver* under this *schedule*;
- (n) provide a letter of employment to a *driver employed* by the *owner*, or a contract of employment where the *driver* is *self-employed*, to be filed with the *licensing officer*;
- (o) file upon application for an *owner's licence* and annually upon renewal of the *owner's licence*, and at any time on demand by the *licensing officer*, an up-to-date list of *drivers* operating *tow trucks* on behalf of the *owner*;
- (p) keep every *tow truck* and its equipment clean and in good repair, and whenever notice is received from the *licensing officer* stating that a *tow truck* owned by such *owner*, or its equipment, is not in a fit or proper

condition for use, and outlines briefly the items complained of, shall, within the time mentioned in the notice, put the same in a fit and proper condition;

- (q) give written notice of the sale or disposition of the licensed *tow truck* to the *licensing officer* within seven (7) days of any such sale or disposition, and upon sale or disposition, forthwith return the metal *plate* or *plates* issued by the *City* to the *licensing officer*;
- (r) upon demand by the *licensing officer*, return forthwith the metal *plate* furnished by the *City* ;
- (s) at all times, while the *vehicle* is being used as such, keep in the *vehicle* the *tow truck owner's licence* issued by the *City*, or a copy of such *licence*;
- (t) file a copy of any contract for tow *brokerage* services between the *owner* and a licensed tow *brokerage*;
- (u) file information with the *licensing officer* giving the address and full particulars of the *owner's vehicle pound* Facility, and where the *owner* has a direct or indirect interest in the pound, provide full particulars of any contract, arrangement, agreement or understanding which gives the *owner* such interest;
- (v) file proof of Harmonized Sales Tax (HST) registration with the *licensing officer*; and
- (w) upon application for a *tow truck owner's licence* or renewal, or upon demand by the *licensing officer*, submit the *tow truck* for which the *owner's licence* has been issued, for inspection by the *licensing officer* at a time and place designated by the *licensing officer*.

11. TOW TRUCK OWNER PROHIBITIONS

11.1 No *tow truck owner* licensed under this *schedule* shall:

- (a) drive or have care and control of a *tow truck* unless he/she is licensed as a *tow truck driver* under this *schedule*;
- (b) drive or *operate* or permit to be driven or *operated* any *tow truck* unless such *tow truck* is licensed under this *schedule*;
- (c) drive or *operate*, or permit to be driven or *operated*, any *tow truck* unless it is equipped with a *tow truck owner plate* supplied by the *City*;

- (d) permit any *owner's plate* issued 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;
- (e) by arrangement, agreement or otherwise, permit the use of the *tow truck owner's licence* in respect of any *tow truck* not owned by such *owner*;
- (f) permit any *person* other than a *tow truck driver* licensed under this *schedule* to use such *owner's tow truck* for the *towing* or otherwise *conveying* of a *vehicle*;
- (g) use or permit to be used a *tow truck* found unsafe or defective upon examination and inspection, as required under this *schedule*;
- (h) demand or request payment for the services rendered, or to be rendered, other than in accordance with the applicable *schedule of rates* filed with the *licensing officer*; or
- (i) alter or amend the *schedule of rates* filed with the *licensing officer* without first giving at least thirty (30) days written notice to the *licensing officer*.

12. **TOW TRUCK DRIVER DUTIES**

12. Every *tow truck driver* regulated under this *schedule* shall:

- (a) be neat and clean in personal appearance, properly dressed in a uniform shirt displaying the company *business* name, and display on his/her *person* a valid *City tow truck driver licence* card;
- (b) upon a request made by any Police Officer or By-law Enforcement Officer, provide his or her name, residential address, *business* address, *Ontario driver's licence* and *city tow truck driver's licence* to such Officer;
- (c) drive the *tow truck* which is *towing* or otherwise *conveying* a *vehicle* by the most direct route to the destination requested by the *customer*, and in the most expeditious manner, unless otherwise directed by the *customer*; and
- (d) clean up any debris, fragments of glass, *vehicle* parts or other materials (excluding loads dumped during the *collision*) which may be a danger to the public from any *highway* or roadway prior to *towing* the *vehicle* from the *collision scene*.

13. **TOW TRUCK DRIVER PROHIBITIONS**

13.1 No *tow truck driver* licensed under this *schedule* shall:

- (a) drive or have care and control of a *tow truck* unless he/she is licensed as a *tow truck driver* under this *schedule*;
- (b) drive or have care and control of a *tow truck* unless the *owner* of the *tow truck* is licensed under this *schedule*;
- (c) commence to drive or have care and control of a *tow truck* without first providing the *licensing officer* with a letter signed by the *owner* that he/she consents to the *driver* operating his/her licensed *tow trucks*;
- (d) permit any other *person* other than a *driver* licensed under this *schedule* to use a *tow truck* licensed under this *schedule* for the *towing* or otherwise *conveying* of any *vehicle*;
- (e) 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 so to do by a *customer*, or a peace 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;
- (f) stop, or park within two hundred (200) metres (approximately 656 feet) of a *collision scene* unless the *tow truck driver* has been summoned to the *collision scene* by one of the *persons* referred to in Subsection (e) or where there are fewer *tow trucks* at the *collision scene* than *vehicles* apparently requiring the services of a *tow truck*;
- (g) ask or seek out a *customer* or allow or direct an agent to ask or seek out a *customer*, at a *collision scene* or within two hundred (200) metres (approximately 656 feet) of a *collision scene*, where the actions of the *driver* or agent constitute a *nuisance*;
- (h) remove any *vehicle* from the *scene* or immediate vicinity of an accident in respect 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 or her investigation in respect of such *vehicle*, or has stated that the presence of such *vehicle* is no longer required for the investigation.
- (i) Nothing contained in Subsection (h) of this section shall prevent the removal or moving of a *vehicle* for the purpose of preventing injury or damage to any *person* or property, or for the purpose of avoiding undue interference with traffic on a *highway*.

14. **RECORDS MANAGEMENT**

14.1 Every licensed *owner* shall:

- (a) keep a permanent daily record of services provided by the *tow trucks* owned by such *owner*, showing the name and address of every *customer*, a description of the *vehicle* towed or conveyed, including the Provincial *motor vehicle permit* number or *vehicle identification number* of any such *vehicle*, the rate charged, and the total charge collected;
- (b) at all times permit the *licensing officer* or any *person* authorized by him/her to have access to such records to verify the same;
- (c) ensure that every *vehicle* carry a run-sheet upon which each *driver* or *owner* shall record the name and address of such *owner*, the name of the *customer*, the date, origin and designation of each *trip* or service to be performed, the rate or charge, and the Provincial *motor vehicle permit* number, with respect to every *vehicle* towed or conveyed;
- (d) retain *run sheets* in a form approved by the *licensing officer*, in duplicate, dated and numbered by consecutively numbered bills or invoices showing:
 - (a) the name and address of every *customer*;
 - (b) a description of the *vehicle* towed or conveyed including the Provincial *motor vehicle permit* number of any such *vehicle*;
 - (c) the hook-up and drop off locations;
 - (d) the services provided;
 - (e) the rate charged;
 - (f) the total fee collected;
 - (g) the *City tow truck licence* number; and
 - (h) the name and *City licence* number of the *tow truck driver*; and
- (e) retain the original copy of all run-sheets for at least six (6) months after the services recorded in them were provided, and shall make them available for inspection by any *person* authorized by the *City* and such *person* shall be permitted to remove such records and retain same for a reasonable time.

15. **REQUIREMENT TO FILE SCHEDULE OF RATES**

- 15.1 Every *owner* of a *tow truck* shall file with the *City* a *schedule of rates* to be charged to *customers* for all services including the *towing* of, conveyances of, and other services to, *vehicles* within the *City* by every *tow truck* owned by such *owner*.

- 15.2 A copy of a *schedule of rates* filed with the *City* in accordance with section 15.1 of this Section showing the charges to be made to *customers* of a *tow truck* for the services of *towing* or otherwise *conveying* of any *vehicle*, or for any other services rendered by the *owner* or *driver* of such *tow truck*, shall at all times be kept in the *tow truck*, to be shown to the *customer* on demand.
- 15.3 A *schedule of rates* filed with the *City* by an *owner* may not be altered or amended unless thirty (30) days written notice is given to the *licensing officer*.
- 15.4 Every *owner* or *driver* shall, upon the request of a *customer*, provide a copy of the applicable *schedule of rates* filed with the *City* as required by this *schedule*.

16. **BASIS FOR RATES**

- 16.1 The *schedule of rates* filed with the *City* shall be based solely on one or more of the following factors or items, or a combination of them:
- (a) Time:
 - (i) time required to reach *scene* after hiring;
 - (ii) time required to perform services;
 - (iii) stand-by time.
 - (b) Distance:
 - (i) distance to travel to reach *scene* after hiring;
 - (ii) distance *vehicle* is towed or conveyed.
 - (c) Additional Services:
 - (i) changing more than one (1) wheel;
 - (ii) disconnecting drive shaft;
 - (iii) up-righting of an overturned *vehicle*;
 - (iv) moving *vehicle* to *towing* position; opening locked *vehicles* without keys;
 - (v) winching;
 - (vi) provision and use of dolly or *flatbed*; and
 - (vii) other specified services.
- 16.2 Where rates vary according to time of day or geographical zones, the basis for such variances shall be clearly set out in the *schedule of rates* filed with the *City*.

- 16.3 Where a combination of different factors or items may determine the rate to be charged, the exact formula for determining the rate shall be set out in the *schedule of rates* filed with the *City*.
- 16.4 No *owner* or *driver* shall demand or request payment for his services other than in accordance with the applicable *schedule of rates* filed with the *City*.
- 16.5 No other charges may be added for locator, administrative or finder's fees or services.
- 16.6 This *schedule* does not prohibit the entering into of a written contract or agreement between the *owner* of a *tow truck* or a *tow truck broker*, and an automobile association, motor league, any government or local board thereof, or any limited *Corporation*, containing a *schedule* providing for the provision of *towing* services at rates lower than those shown in the *schedule of rates* filed by the *tow truck owner* as required by this *schedule*, provided that:
- (a) a copy of such written *schedule of rates* and the contract or agreement relating thereto is filed with the *City* at least thirty (30) days before any services, to which such contract or agreement applies, are to be provided;
 - (b) any *customer* to which such *schedule of rates* or such contract or agreement applies, is a party to such contract or agreement, or is a member or employee of such party at the time at which the services are performed;
 - (c) no *owner* or *driver* to whom such contract or agreement applies shall demand or request payment for his services other than in accordance with the applicable *schedule of rates* filed with the *City* pursuant to Section 16 of this *schedule* except to the extent to which such rates are modified by the *schedule of rates* set out in such contract or agreement, in which case the rates contained therein shall be charged;
 - (d) the rates set out in the *schedule* in any such contract or agreement shall be calculated in the same manner and on the same basis of the same factors as are authorized to be charged to a *customer* by Section 16 of this *schedule*; and
 - (e) the provision of this *schedule* relating to the calculations of rates and to the filing and amending of *schedule of rates*, shall apply to the rates and *schedules* of rates set out in any contract or agreement referred to in this section.
 - (f) Notwithstanding the provisions of any other section of this *schedule*, where an estimate is given to the *customer* of the cost of services or equipment to be provided by an *owner* or *driver*, the charge to the

customer shall not exceed the charges indicated in the *schedule of rates* filed with the *licensing officer* under this *schedule* or the amount of estimate, whichever is lower.

17. ITEMIZED BILL REQUIRED

17.1 Every *owner* or *driver* hired to perform or provide services shall, before demanding payment for such services, present to the *customer* an itemized bill for such 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* filed by the *owner* with the *City* in respect of each specific item set out in section 16 of this *schedule*.

18. OWNER AND DRIVERS TO CHARGE RATES IN COMPLIANCE WITH SCHEDULE OF RATES

18.1 No *owner* or *driver* shall, except as otherwise provided in this *schedule*, be entitled to recover or receive any fee or charge or amount from any *person* or *persons* from whom he/she shall have demanded any fee, other than those set out in the applicable *schedule of rates* filed with the *City* pursuant to this *schedule*.

19. NO CHARGE PERMITTED FOR INEFFICIENCY OR INCOMPETENCE

19.1 No *owner* or *driver* shall make any charge under this *schedule* for time lost through defects or inefficiency of the *tow truck*, or the incompetence of the *owner* or *driver* thereof.

20. DROP FEE PROHIBITED

20.1 No *owner* or *driver* shall demand, request, accept or receive, directly or indirectly, any charge, gift, payment, drop-fee, thing or other consideration from any *person* who owns or has a direct or indirect interest in any *motor vehicle* compound, *motor vehicle* body shop, public garage or any other yard, shop, building or place used for the storage, repair or servicing of *motor vehicles*, in respect of, or in consideration for, the *towing* or *conveying* of a *vehicle* to such pound, body shop, public garage, yard, shop, building or place, and no *owner* or *driver* shall be a party to any transaction by which any such charge, gift, payment, drop-fee, thing or other consideration is paid or given, or is required to be paid or given.

20.2 No *customer* of a *tow truck* shall be required or requested, directly or indirectly, to pay any drop-fee or any payment or transaction made or done in contravention of section 20.1 of this Section.

20.3 This Section does not prohibit:

- (a) any payment for the *towing* or otherwise *conveying* of a *vehicle* owned by the *customer*, provided that such payment is authorized by this *schedule* to be charged to the *customer*;
- (b) where the *person* making the payment is the *owner* of a *tow truck* or is a *tow truck broker*, the payment by such *owner* to the *driver* of a *tow truck* owned or provided by such *person*, provided that
 - (i) full disclosure in writing of such payment and of the services in respect of which it is made, is made to the *customer* before any charge is made to such *customer* in respect of such services; and
 - (ii) no charge is made to the *customer* in respect of such services other than as authorized by Section 16 to this *schedule* for the services referred to therein; or
- (c) any payment to an *owner* or *driver* for *towing* or other services, provided that such payment is authorized by this *schedule* to be charged to the *customer* of the *tow truck* in respect of such services, and is paid on behalf of, and at the request of, such *customer*.

21. INSURANCE REQUIREMENTS

21.1 Every *person* who, as the *owner* of a *tow truck*, applies for a *licence* under this *schedule*, shall, before receiving such *licence*, procure a policy of insurance endorsed to the effect that the *City* shall be given at least ten (10) days notice in writing of the cancellation or expiration of the policy or policies, and insurance for each such *vehicle* in at least the following amounts on a form supplied by the *City*:

- (a) automobile liability insurance to the limit of at least two million dollars (2,000,000.00) exclusive of interest and costs, against liability resulting from bodily injury to or the death of one (1) or more *persons* and loss of or damage to property;
- (b) insurance in the amount of at least one-hundred thousand dollars (\$100,000.00) against legal liability for damage to *customers' vehicles* while being towed or while in the care, custody or control of the *licencee*, caused by *collision*, theft or all perils damage;

- (c) comprehensive general liability insurance of two million dollars (\$2,000,000.00);
 - (d) in respect of any one claim, cargo liability insurance in the amount of at least fifty thousand dollars (\$50,000.00) to indemnify the *licencee* against loss by reason of his legal liability for direct physical loss or damage to *vehicles* and other items of property accepted by the *licensee* for *towing* or conveyance.
- 21.2 A certified copy of the applicable insurance policy or policies, or a certificate covering the same in the form required by the *licensing officer*, shall be filed with the *City*.
- 21.3 The *licensing officer* may, notwithstanding anything else contained in this By-law, suspend a *tow truck owner's licence* in respect of any *tow truck* as to which there has been a failure to comply with Section 21 or where there has been a cancellation of a policy of insurance filed under Section 21, and such suspension shall continue until there has been satisfactory compliance with Section 21.

22. VEHICLE STORAGE YARDS/POUNDS

- 22.1 Every *owner* and every *driver* who owns, or has any interest, either directly or indirectly, in a *motor vehicle pound*, a yard or building used for the storage or impounding of *motor vehicles*, a *motor vehicle* body shop or other kind of public garage, or any other yard, shop, building or place used for the storage, repair or servicing of *motor vehicles*, shall before receiving a *licence* as *owner* or *driver*, provide and file with the *City* full information as to the location and size of such yard, shop, building or place, and the facilities provided therein, and as to the kind and extent of any interest therein, and shall provide to the *City* full particulars of any contract, arrangement, agreement or understanding giving the *owner* or *driver* such interest.
- 22.2 Where the *owner* of a *tow truck* resides, or has his head office or any other *business* office outside the *City*, or owns or has an interest in any public garage, yard, shop or other place referred to in this section, outside the *City*, such *owner* shall, in addition to the other information required to be furnished by this *schedule*, notify the *City* of the number and type of any *licence* issued to him, her or it by any other municipality or licensing authority.
- 22.3 The *owner*, *lessee* and *operator* of a *vehicle* storage yard must be approved by the *licensing officer* and shall comply with the *City* zoning requirements and all applicable law.

23. VEHICLE STANDARDS AND EQUIPMENT

23.1 Only dual rear-wheel *tow trucks* will be issued *licences* under this *schedule* and every *owner* shall provide and maintain on every *tow truck* licensed under this *schedule*, the following equipment:

- (a) Dual rear-wheel truck;
- (b) A winching or hoisting device of sufficient *capacity* to safely lift the *motor vehicle* to be towed, and a tow cradle, tow bar or tow sling equipped and maintained in a manner to ensure the safe lifting and *conveying* of *towed vehicles*;
- (c) One device for securing the steering wheel of a *vehicle*;
- (d) At least one 2.27 kg., chemical fire extinguisher having an effective total rating equivalent to at least 4-B, C;
- (e) At least two (2) safety chains having a minimum length of 2.7 metres (9 feet) each with links of at least 21 mm. (1 inch) steel;
- (f) Broom;
- (g) Shovel;
- (h) First Aid Kit;
- (i) An intermittent amber warning light system consisting of at least one light, which is clearly visible in all directions from a distance of at least one hundred (100) metres;
- (j) Pry bar at least 152.4 cm. (5 foot) in length;
- (k) Two (2) wheel blocks;
- (l) Flares and reflector kits;
- (m) Wheel wrenches;
- (n) Rope;
- (o) Booster Cables;
- (p) *towing* lights (magnetic) which shall be attached as close to the rear of the *vehicle* in tow for illumination and braking; and

(q) Reflective safety vests for *driver*.

24. MANDATORY INSPECTION

- 24.1 A *licensing officer* may require an *owner* to submit his *tow truck* for inspection at any time and at an appointed place and the *owner* shall submit each *tow truck* for inspection when required to do so by a *licensing officer*.
- 24.2 Where the *licensing officer* has made an appointment for the inspection of a *tow truck* or its equipment pursuant to Section 24.1 of this *schedule* and if such *tow truck* and equipment are not produced at the time and place appointed for such inspection, the *licensing officer* may suspend the *tow truck owner's licence* in respect of such *tow truck* until such time as the *tow truck* and its equipment have been tested, inspected and approved.
- 24.3 When a *tow truck* and its equipment have been examined by the Ministry of Transportation, a *licensing 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 the Ministry, or other inspecting authority.
- 24.4 When a *tow truck* is examined by the Ministry of Transportation, or a licensed mechanic, or by a *licensing officer* and a report states that the *tow truck* or equipment is dangerous or unsafe, the *owner* or *driver* shall remove and return to a *licensing officer* the *owner's plate* to be held until the *owner* delivers to the *licensing officer* either an annual inspection certificate or a *safety standard certificate*, and the *tow truck* and the equipment are certified to be safe by the Ministry of Transportation, or *licensing officer*.
- 24.5 When an *owner* is unable to obtain a *safety standard certificate* issued under the *Highway Traffic Act*, R.S.O., for the *tow truck* following an inspection, the *owner* shall remove and return to the *licensing officer* the *owner's plate* and shall not *operate* or permit the *tow truck* to be *operated* until he obtains and produces a *safety standard certificate* or an annual inspection certificate and the *tow truck* and equipment are certified to be safe by the Ministry of Transportation, or the *licensing officer*.
- 24.6 Where the provisions of this *schedule* require an *owner* or *driver* of a *tow truck* to remove and deliver an *owner's plate* to a *licensing officer* and the *owner* or *driver* fails to do so, the *licensing officer* may remove the *owner's plate*.
- 24.7 Where the police have removed the permit and/or number *plate* issued by the Ministry of Transportation in respect of a *tow truck*, the police shall also remove the *tow truck owner's plate*.

