

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2021-61

A BY-LAW TO LICENCE, REGULATE AND GOVERN TOW
TRUCKS, AND OWNERS, DRIVERS AND BROKERS OF
TOWING BUSINESSES

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of business within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to enact by-laws to licence, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses; regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose 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; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council for The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence Tow Trucks and Towing Businesses as a means of protecting consumers, enhancing the safety of residents, nuisance control, and crime reduction within the Region;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, or Township of West Lincoln;

“Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Service not operated by such Person to a Hirer;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the Criminal Code, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“CVOR Certificate” means a Commercial Vehicle Operator’s Registration Certificate as issued by the Ministry of Transportation, pursuant to the *Highway Traffic Act*;

“Dispatch” means the act or service of sending or directing a Tow Truck, by electronic or any other means, to a Person or Persons who have requested Tow, but does not include a request made directly to a Driver, and “Dispatched” and “Dispatching” shall have corresponding meanings;

“Driver” means the person who holds a Tow Truck Driver Licence and drives, uses or operates a Tow Truck as licensed under this By-law;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“GPS” or **“Global Positioning System”** means a global navigation system that provides geographic location, velocity and time synchronization of a person or thing using signals from satellites;

“Gross Axle Weight Rating (GAWR)” means the specific weight determined by the manufacturer to be the maximum allowable weight that can be placed on an individual axle;

“Gross Vehicle Weight Rating (GVWR)” means the maximum total vehicle rated capacity, as rated by the manufacturer specification stamp on the vehicle, which includes the weight of the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo;

“Heavy Tow Truck” means a Tow Truck with a GVWR over 11,819 kg;

“Hirer” means the owner of a Motor Vehicle, motorhome, trailer or other vehicle that is Towed; or, in the absence of such owner:

- (1) An agent of the owner, duly authorized by such owner to exercise control over the Towed Motor Vehicle, motorhome, trailer, or other vehicle on the owner's behalf; or
- (2) Any person having lawful custody or the legal right to possession of a Towed Motor Vehicle, motorhome, trailer, or other vehicle.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” means the all-citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for the Regional Municipality of Niagara and includes their designates;

“Medium Tow Truck” means a Tow Truck with a GVWR between 4,501 kg and 11,819 kg;

“Ministry of Transportation” means the Ministry of Transportation for the Province of Ontario or any successor ministry, department or other government body;

“Motor Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal By-Law Enforcement Officer” means a municipal by-law enforcement officer as appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means a Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Person” includes an individual, a sole proprietorship, a partnership, and a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to the TSSEA;

“Recovery Service” means a service carried out to relocate or reposition a Motor Vehicle, motorhome, trailer, or other similar vehicle; that involves the use of a winch or a specialized extraction device; and that must be performed to prepare it for attachment or Towing;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Standard Tow Truck” means a light duty Tow Truck, with a GVWR of 4,500 kg or less;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“Tariff Schedule” means the schedule setting out the maximum fees permitted to be charged to all Hirers of a Tow Truck for the towing of a Motor Vehicle and other services performed by any Licensee in relation to such Tow Truck, as set by the Licensing Officer and publicly posted from time to time on the Region’s website;

“Towed Vehicle” means a Motor Vehicle, motorhome, trailer or other similar vehicle:

- a) Towed or otherwise conveyed by a Tow Truck;
- b) In respect of which an agreement is made or intended to be made for the Towing of such Motor Vehicle, motorhome, trailer, or other vehicle; or for the provision of other related services thereto, by a Hirer.

“Tow” means to transport another Motor Vehicle, motorhome, trailer or other similar vehicle; including a Motor Vehicle that is damaged, incomplete or inoperable, using a Tow Truck, including any ancillary activity such as lifting a Motor Vehicle for purposes of loading, towing or transporting it or placing it onto a truck or trailer for the purpose of towing or transporting it by means of a boom, hook, hoist, pulley stinger, sling, belt, form or other similar device that elevates part or all of the drawn Motor Vehicle, with or without the use of a dolly or other similar device, and “Towing” and “Towed” shall have corresponding meanings;

“Towing and Storage Safety and Enforcement Act” or “TSSEA” means the *Towing and Storage Safety and Enforcement Act*, 2001 S.O.2021, c.26, Sched.3, and any regulations thereunder, as may be amended from time to time, or any successor legislation;

“Towing Services” means the provision or offer of provision of a Tow Truck for compensation and includes

- a) Towing or Recovery Services in respect of Motor Vehicles, motorhomes, trailers, and other similar vehicles, that are disabled, abandoned, impounded, seized, damaged, incomplete or inoperable or that require removal from a location for any other reason,

- b) Clearing debris from collisions on highways and roads, and
- c) Conveying the Hirer, owner or driver of the Motor Vehicle or other Towed vehicle in a Tow Truck;

“Tow Truck” means

- a) A Motor Vehicle registered and commonly known as a tow truck that is equipped with a boom and a retractable wheel lift, or is a flatbed equipped with the retractable wheel lift,
- b) A commercial Motor Vehicle, as defined in subsection 1(1) of the *Highway Traffic Act*, used exclusively to tow or transport other Motor Vehicles, motorhomes, trailers and other similar vehicles, and
- c) A Motor Vehicle that is designed, modified, configured or equipped so that it is capable of towing other Motor Vehicles, motorhomes, trailers, and other similar vehicles;

“Tow Truck Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Services to a Hirer;

“Tow Truck Business” and **“Towing Business”** means a business engaged in Towing Services, which may include the operation of a Tow Truck Yard, if applicable;

“Tow Truck Business Licence” means a Licence issued by The Regional Municipality of Niagara;

“Tow Truck Plate” means a sign to be affixed to a Tow Truck displaying a series of letters and numbers that is issued by the Licensing Officer pursuant to this By-law, as evidence that the Tow Truck is authorized to operate within the Region;

“Tow Truck Yard” means a pound, yard, shop, public garage, or any other type of premises used for the storage, impounding, repair, or servicing of Motor Vehicles;

PART II LICENCE CLASSES

2. The Licensing Officer shall issue Licences for the following classes:

- (1) Tow Truck Broker;
- (2) Tow Truck Yard;

- (3) Tow Truck Vehicle;
 - (4) Tow Truck Driver; and,
 - (5) Tow Truck Licence Plate.
3. (1) No Person shall carry on or engage in the Tow Truck Business unless the Person has a valid and current Licence permitting that Person to do so in The Regional Municipality of Niagara as required in accordance with this By-law.
- (2) All Licences are valid for a twelve (12) month period from the date of issue. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Towing Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.
- (4) This By-law shall apply to all Towing Services provided on both public and private property within the Region.

PART III TOW TRUCK BROKER LICENCE

Prohibition

4. No Person shall act as a Broker without first having obtained a Tow Truck Broker Licence in accordance with this By-law.

Licence Application

5. Every application for a Tow Truck Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;

- (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names of all Drivers who are currently affiliated, or will be affiliated, with the Applicant as their Broker;
- (8) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;

- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Proof of a current and valid CVOR Certificate issued to the Applicant;
- (10) Proof of certification under the TSSEA as required;
- (11) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of Towing Services suspended or revoked in the Region or in any other municipality within Canada;
- (12) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or other municipality within Canada governing the licencing of a Towing Business;
- (13) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (14) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law;
- (15) A description and picture of any name, logo and/or trademark the Broker intends to use for any advertising or for display on any Tow Trucks affiliated with the Broker.

General Licence Requirements

6. Every Broker licensed under this By-law shall:

- (1) Have a physical business premises located within the Region;
- (2) Have a telephone number or email address that is solely associated with the Broker, to be used by customers who wish to make contact with the Broker;
- (3) Have a digital Dispatch system and GPS that allows the Broker to communicate with and locate all Tow Trucks that are affiliated with the Broker;
- (4) Have a minimum of one (1) Tow Truck, licensed under this By-law, affiliated exclusively with the Broker;

- (5) Maintain a daily record (the “Register”) of all transactions and services performed by the Broker and any affiliated Drivers, in a form satisfactory to the Licensing Officer, which includes the full legal name and address of every Hirer, a description of any Motor Vehicles Towed including the Vehicle Identification Number and Provincially issued licence plate number, the location of any Towed Vehicle, the fees charged, and the total fees collected, to be maintained for a period of twelve (12) months;
- (6) Send an electronic copy of the Register entries of the previous day’s transactions to the Licensing Officer, via email, daily by 10:00 a.m., save and except those days that the business is not operating due to a Statutory Holiday or some other closure, in which case, the entries shall be submitted the following operating day;
- (7) Ensure that each Driver who operates through the Broker has completed annual driver training that includes the following topics:
 - (i) The safe and proper operation of a Tow Truck, including Standard, Medium, and Heavy Tow Trucks as well as flatbed or float vehicles, Towing equipment and devices and safe operation during inclement weather;
 - (ii) Vehicle recovery training, including winching, chocking, and other methods required for performing a Recovery Service;
 - (iii) Ontario Traffic Manual Book 7 (Temporary Conditions) Training, as may be updated from time to time;
 - (iv) Workplace Hazardous Materials Information System (WHMIS) Training;
 - (v) Road safety training and safety requirements under the *Highway Traffic Act*;
 - (vi) The proper response to an emergency situation including medical emergency, fire and Motor Vehicle accidents;
 - (vii) The provision of Towing Service in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
 - (viii) Health and safety awareness training; and

- (ix) Bill 168, the Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009, training.
- (8) Ensure that the name, logo and/or trademark used for any advertising or for display on any Tow Trucks affiliated with the Broker, corresponds exactly with what was submitted to the Licensing Officer as part of the Licence application;
- (9) Have the ability to accept debit, credit and/or cash for roadside payments;
- (10) Not request or be paid a rate for Towing Services which is greater than the rates listed on the Tariff Schedule as established by the Licensing Officer;
- (11) Ensure that any Driver who operates through the Broker keeps a legible copy of the Tariff Schedule in their Tow Truck while the Tow Truck is being operated and produces it upon request of any Person;
- (12) Ensure that any Tow Truck Dispatched does not Tow a Motor Vehicle or trailer that exceeds the Tow Truck's Gross Vehicle Weight Rating (GVWR); and not to exceed the Gross Axle Weight Rating (GAWR) front and rear tire road range and Tow Truck wheel lift rating;
- (13) Take all reasonable steps to ensure that each Driver that is affiliated with the Broker complies with the requirements of this By-law;
- (14) Report within twenty-four (24) hours, to the Licensing Officer any known contravention of this By-law by a Driver affiliated with the Broker;
- (15) Report within twenty-four (24) hours to the Licensing Officer any known:
 - (i) Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - (ii) Ontario driver's licence suspension; or,
 - (iii) Expiry, suspension, revocation or conditions imposed on a Provincial Licenceof a Driver who is affiliated with the Broker.

- (16) Report within twenty-four (24) hours to the Licensing Officer:
 - (i) Any known Motor Vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act*, or any successor provision; or,
 - (ii) Personal injury; or,
 - (iii) Cancellation of insuranceinvolving a Tow Truck that is affiliated with the Broker.
- (17) Report within twenty-four (24) hours, to the Licensing Officer if the Broker has terminated any Tow Truck Vehicle Licensee or Tow Truck Driver Licensee that is affiliated with the Broker;
- (18) Provide run sheets, as referred to in section 29 of this By-law, made in duplicate, and in a form approved by the Licensing Officer, to any Driver affiliated with the Broker;
- (19) Keep original copies of all run sheets referred to section 29 of this By-law, for at least one (1) year after the services recorded in them are provided, and make them available for inspection by the Licensing Officer; and,
- (20) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following documentation for the preceding month in relation to the Broker's operations:
 - (i) A compilation of all run sheets, as described in section 29 of this By-law, recording every Towing Service provided by Drivers affiliated with that Broker; and,
 - (ii) Upon request, a copy of every itemized receipt issued for any Towing Service provided.

Broker Licence Transfer

- 7. The Licensing Officer may approve the transfer of a Tow Truck Broker Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application;

- (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,
- (3) Confirmation that the new Applicant meets the application requirements for a Tow Truck Broker Licence, as set out in Part III of this By-law.

PART IV TOW TRUCK VEHICLE LICENCE AND TOW TRUCK LICENCE PLATES

Prohibition

- 8. (1) No Person shall cause or permit a Motor Vehicle to be used as a Tow Truck without first having obtained a:
 - (i) Tow Truck Vehicle Licence for the Motor Vehicle; and,
 - (ii) Tow Truck Plate to be affixed to the Motor Vehicle in accordance with the requirements of this By-law.
- 9. No Person shall allow or permit another Person to provide or attempt to provide to a Hirer a Towing Service using a Motor Vehicle licensed under this By-law unless such Person holds a valid Tow Truck Driver Licence and a valid Tow Truck Plate is affixed to the Motor Vehicle in accordance with this By-law.
- 10. No Licensee shall affix, or permit any other Person to affix, a Tow Truck Plate to a Motor Vehicle other than the Tow Truck for which the Tow Truck Plate was issued under this By-law.

Licence Application

- 11. Every application for a Tow Truck Vehicle Licence and/or Tow Truck Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Vehicle Licence and Tow Truck Plate Licence, or application for renewal of either Licence shall include:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;

- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, VIN, production year, Ministry of Transportation issued licence plate number and valid Motor Vehicle permit for the Applicant's Tow Truck, confirming a valid "Tow Truck" designation;
- (8) Copies of any safety standards certificates, annual inspection certificates and semi-annual inspection certificates issued in respect of the Motor Vehicle, as may be required for the issuance of a CVOR;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased Motor Vehicle to be used as a Tow Truck;
- (10) Proof of automobile insurance in accordance with the requirements set out in section 13 of this By-law;
- (11) A declaration signed by a Broker confirming the Applicant's affiliation or employment with that Tow Truck Broker;
- (12) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Tow Truck suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
- (13) Confirmation that the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Towing business by-law of the Region or other municipality in Canada in regard to the ownership of a Tow Truck in the three (3) year period prior to the date of the application;

- (14) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within 60 days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law;
 - (15) Payment of the prescribed fee in accordance with the Fees and Charges By-law; and
 - (16) Proof of certification under the TSSEA as required.
12. (1) The Licensing Officer may set a limit or quota on the number of Tow Truck Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Tow Truck Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Tow Truck Vehicle Licence set out in section 11 of this By-law, in order of when completed applications are received.
- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

Tow Truck Vehicle and Plate Requirements

13. (1) Every Tow Truck Vehicle Licensee shall maintain on file with the Region a Certificate of Insurance for each Tow Truck licensed under this By-law, identifying and confirming:
- (i) a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property;
 - (ii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, for damage to customers' vehicles while in the care, custody, or control of the Licensee; and,

- (iii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, against liability resulting from direct physical loss or damage to cargo including Motor Vehicles and goods accepted by the Licensee for Towing.
 - (2) Proof of insurance shall be provided annually through a Certificate of Insurance that confirms the required coverage. The Licensee shall provide the Licensing Officer with renewal replacements on or before the expiry of any such insurance.
14. Every Tow Truck licensed under this By-law shall be equipped with the following equipment, which shall be kept in good working order at all times:
- (1) A fire extinguisher, securely mounted in a place and readily accessible by the Driver near the entrance of the Tow Truck, tagged and inspected monthly;
 - (2) A GPS that sets out and records the location of the Tow Truck;
 - (3) A Dispatch system that allows communication between the Tow Truck Driver and Broker;
 - (4) A 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 to ensure the safe lifting and conveying of Towed Motor Vehicles, not to exceed the GVWR (Gross Vehicle Weight Rating), the GAWR (Gross Axle Weight Rating) front and rear, tire load range and tow truck lift ratings for boom and wheel lift;
 - (5) Four (4) devices for securing the steering wheel, trunk, hood, or doors of a Motor Vehicle;
 - (6) At least two (2) safety chains having a minimum length of 3 metres, each comprised of links of at least 8 millimetres steel and must have legible rating tags;
 - (7) An audible warning system connected to the Tow Truck's backup lamps that is automatically activated when the Tow Truck is in reverse gear;
 - (8) A bar light that produces intermittent flashes of amber light visible from 360 degrees and from a distance of 200 yards;

- (9) A digital camera or camera-enabled mobile phone;
 - (10) A high-visibility, fluorescent safety vest and CSA steel toed safety boots for use by the Driver with a class rating of 3 level 2;
 - (11) One (1) push broom, a scoop shovel, absorbent material to absorb vehicle fluids, and a receptacle to collect absorbent material; and,
 - (12) Road triangles or pylons, pry bar, hammer, wheel chocks, winch hooks, tie downs, and extended magnetic turn signal and brake indicators, and any other tools and safety equipment as may be required by the Licensing Officer.
15. Every Person that holds a Tow Truck Plate shall display:
- (1) The Tow Truck Plate on the frame of the Tow Truck's roof light in order to be seen from the rear of the vehicle;
 - (2) The number of the Tow Truck Licence Plate issued by the Licensing Officer, in contrasting colours on both sides of the Tow Truck; and
 - (3) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the Tow Truck that displays in large print the name or trademark of the affiliated Broker, which shall correspond exactly with the information submitted and approved as a part of the Licence application.
16. Every Tow Truck Vehicle Licensee shall ensure that their Licence is kept within the Tow Truck and is available for inspection upon request by Hirers, Officers, and Persons authorized to enforce this By-law.
17. A Tow Truck Vehicle Licence is specific to the Tow Truck for which it has been issued. When a Tow Truck is replaced with another Tow Truck, the Tow Truck Plate that is affiliated with the previous Tow Truck may be transferred to the replacement Tow Truck, provided:
- (1) The Licensee applies to the Licensing Officer for a new Tow Truck Vehicle Licence in a form provided by the Licensing Officer and meets the applicable requirements under this By-law for such a Licence;
 - (2) A Tow Truck Vehicle Licence is issued for the replacement Tow Truck; and,

- (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.
- 18. A Tow Truck Plate may be leased to another Tow Truck Vehicle Licensee provided that the Tow Truck Plate Licensee first provides the Licensing Officer with the details of the lease arrangement including the term of the lease and confirmation that the Owner of the Tow Truck Plate remains responsible for compliance with the requirements of this By-law, and that the lessee meets the requirements for a Tow Truck Plate-holder as set out in this By-law.
- 19. The Licensing Officer may approve the transfer of ownership of a Tow Truck Plate Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Plate Licence under this By-law.
- 20. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Tow Truck Plate in the event of the plate holder's death, subject to completion and approval of the required transfer application within thirty (30) days, failing which, the Licence plate shall be surrendered.
- 21. A Tow Truck Vehicle Licence and Tow Truck Plate shall only be issued to an Applicant who is affiliated with a single Tow Truck Broker that is licensed under this By-law. A Tow Truck Vehicle Licensee and the Tow Truck Plate assigned to that Licensee may not be affiliated with multiple Tow Truck Brokers at the same time.
- 22. A Licensee may hold multiple Tow Truck Vehicle Licences and/ or Tow Truck Plates.
- 23. All Tow Truck Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Tow Truck Plate Licensee if the Tow Truck Plate is not returned.

24. (1) A Licensee may apply for a non-use status designation of a Tow Truck Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
- (2) No Person shall operate, or permit to be operated, any Tow Truck that bears a Tow Truck Plate that is has been designated for non-use status.
- (3) Tow Truck Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.

PART V TOW TRUCK DRIVER LICENCE

Prohibition

25. (1) No Person shall drive or operate a Tow Truck for the purposes of providing a Towing Service unless that Person is the holder of a Tow Truck Driver Licence as issued under this By-law.
- (2) No Driver shall provide or attempt to provide Towing Services to a Hirer unless they are affiliated with a Broker.
- (3) No Driver shall use or attempt to use a Motor Vehicle as Tow Truck unless the Motor Vehicle has been issued a Tow Truck Vehicle Licence and Tow Truck Plate under this By-law which is affixed to the Motor Vehicle.

Licence Application

26. Every application for a Tow Truck Driver Licence and/or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
- (2) Proof of a valid, unrestricted, Class G driver's licence issued by the Ministry of Transportation, and a class of driver's licence required to drive a Tow Truck, meeting the vehicle towing weight requirements, and at least two (2) years of driving experience;

- (3) Two (2) pieces of government issued identification, one being photo identification;
 - (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a Tow Truck Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
 - (7) A Ministry of Transportation three (3) year driver's abstract;
 - (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* charges or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a Broker confirming the Applicant's affiliation or employment with that Broker;
 - (10) Confirmation from the Applicant's affiliated Broker that the Applicant has successfully completed all required driver training; and
 - (11) Proof of certification under the TSSEA as required.
27. An Applicant for a Tow Truck Driver Licence shall submit to a photograph being taken of them for use on the Tow Truck Driver Licence.

General Licence Requirements

28. Every Driver, while operating a Tow Truck licensed under this By-law, shall:
- (1) Display their Licence in a location that is clearly visible within the Tow Truck and make it available for review by any Person, upon request;
 - (2) Ensure their Tow Truck Vehicle Licence is in the Tow Truck;
 - (3) Display a copy of the Tariff Schedule in their Tow Truck so that it is clearly visible to all Hirers;

- (4) Verbally advise a Hirer of the rates for Towing and related services set out in the Tariff Schedule, upon request;
- (5) Not charge fees for any Towing Service provided to a Hirer in excess of the rates for such services set out in the Tariff Schedule;
- (6) Ensure the proof of Motor Vehicle insurance slip is in the Tow Truck;
- (7) Ensure all proof of Motor Vehicle ownership is in the Tow Truck;
- (8) Ensure the Tow Truck Plate is affixed to the Tow Truck as prescribed in this By-law;
- (9) Ensure that the GPS and Dispatch systems in the Tow Truck are operational;
- (10) Provide an itemized receipt to Hirers for all Towing Services performed, which includes the date, a description of all services provided, the total cost of the Services provided, and the Driver's Tow Truck Plate number and Driver's Tow Truck Driver licence number;
- (11) Take due care of all Motor Vehicles, motorhomes, trailers, or other vehicle or other vehicles and property delivered or entrusted to them for Towing or storage to prevent loss of or from or damage to such Motor Vehicles motorhomes, trailers, or other vehicles and property;
- (12) Ensure that the Motor Vehicle motorhome, trailer, or other vehicle being Towed does not exceed the Gross Vehicle Weight Rating (GVWR) and Gross Axle Weight Rating (GAWR) and boom, lift weight restrictions of their Tow Truck;
- (13) Keep the hoisting device on their Tow Truck lowered at all times when the Tow Truck is in motion, unless it is Towing a Motor Vehicle, motorhome, trailer, or other vehicle;
- (14) Ensure that any dolly affixed to their Tow Truck is affixed in a manner that does not obstruct the Driver's view to the rear of the Tow Truck;
- (15) Ensure their Tow Truck and its equipment are in good repair and free from mechanical defects;

- (16) Examine the licensed Tow Truck they intend to operate at the commencement of each work shift for any mechanical defects or operational issues and at the conclusion of each work shift; and,
 - (17) Report any mechanical defects or operational issues which are disclosed during the inspections referenced in subsection (16) forthwith to the owner of the Tow Truck, and refrain from operating it until such defects or issues are rectified.
29. (1) Every Driver shall maintain a run sheet in a form satisfactory to the Licensing Officer to be kept in the Tow Truck at all times, to be completed immediately upon the conclusion of a Towing Service, with the following information:
- (i) The Tow Truck Licence Plate number and Tow Truck Driver licence number;
 - (ii) The full legal name and address of the Hirer;
 - (iii) A description including the condition of the Motor Vehicle motorhome, trailer, or other vehicle being Towed, including the Provincially issued licence plate number and Vehicle Information Number (VIN);
 - (iv) A description of the Towing Service provided;
 - (v) The date and time the Driver arrives at the location;
 - (vi) The date and time of drop-off and the location, if applicable;
 - (vii) The time the Towing Service provided to the Hirer is concluded; and,
 - (viii) The amount charged and collected for the Towing Service provided.
- (2) Original copies of all run sheets in a form satisfactory to the Licensing Officer referenced in subsection (1) shall be submitted to the Driver's affiliate Broker for retention in accordance with the Broker's duties under subsection 6(19) of this By-law.

30. No Driver shall:

- (1) Verbally solicit any Person for the purposes of providing a Towing Service;
- (2) Operate a Tow Truck licensed under this By-law in a dangerous, careless, or reckless manner;
- (3) Operate a Tow Truck licensed under this By-law in excess of posted speed limits;
- (4) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Tow Truck licensed under this By-law;
- (5) Permit their Tow Truck, as licensed under this By-law, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, unless for the immediate purpose of:
 - (i) Performing a Recovery Service; or
 - (ii) Towing a Motor Vehicle.
- (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in a Tow Truck licensed under this By-law;
- (7) Consume or be under the influence of any alcohol while operating a Tow Truck licensed under this By-law;
- (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Tow Truck licensed under this By-law; or
- (9) Use an electronic cigarette or permit the use of an electronic cigarette in a Tow Truck licensed under this By-law.

31. (1) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of the criteria set out in Schedule "A" of this By-law or of any Motor Vehicle accident involving a Tow Truck licensed under this By-law.

- (2) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Driver pursuant to the *Criminal Code*, the *Highway Traffic Act* or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction;
 - (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Tow Truck Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
 - (i) Criminal Record and Judicial Matters check; or
 - (ii) A three (3) year Ontario Driver's Abstract.
32. A Tow Truck Driver, while operating a Tow Truck licensed under this By-law, shall turn on the amber emergency lighting of the Tow Truck when stopped on a road allowance, when providing a roadside Towing Services.
33. (1) Every Tow Truck Driver shall Tow a Motor Vehicle motorhome, trailer, or other vehicle by the most direct route reasonably possible in the circumstances and in the most efficient manner, unless otherwise directed by the Hirer.
- (2) No Tow Truck Driver shall make any intermediate stop when Towing a Motor Vehicle motorhome, trailer, or other vehicle to a collision reporting centre as directed by a Police Officer or to a destination specified by a Hirer.
- (3) No Tow Truck Driver shall Tow any Motor Vehicle, motorhome, trailer, or other vehicle or hook, lift, or connect the Motor Vehicle motorhome, trailer, or other vehicle to a Tow Truck, or perform any related Towing Services, unless first requested to do so by one of the following:
- (i) A Hirer;
 - (ii) An Officer;
 - (iii) Any member of an Area Municipality fire department; or,

- (iv) Any Person authorized by law to direct the removal of the Motor Vehicle motorhome, trailer, or other vehicle from public or private property.
 - (4) No Tow Truck Driver shall suggest or recommend to any Hirer or other Person requesting the Towing Service that the Motor Vehicle motorhome, trailer, or other vehicle be Towed, driven or delivered to any particular Tow Truck Yard, body shop, storage yard, or any other public garage, building or place.
 - (5) Every Tow Truck Driver shall, where the final destination specified by a Hirer is unable to accept the Hirer's Motor Vehicle, motorhome, trailer, or other vehicle, contact the Hirer and obtain the Hirer's consent to Tow the Motor Vehicle motorhome, trailer, or other vehicle to an alternate destination.
34. No Tow Truck Driver shall remove a Motor Vehicle motorhome, trailer, or other vehicle from private property unless:
- (1) The Hirer has care and control of the Motor Vehicle motorhome, trailer, or other vehicle; or,
 - (2) The following conditions are met:
 - (i) The private property owner has entered into an agreement with the Tow Truck Driver's affiliated Broker to provide a Towing Service for that private property, and signs are posted throughout that property with a minimum of two (2) signs indicating where the Motor Vehicle motorhome, trailer, or other vehicle has been Towed to and a contact name and phone number for the Broker is clearly displayed on the sign; and
 - (ii) The Niagara Regional Police Service and the Licensing Officer have been notified of the Tow, along with information as to the description of the Motor Vehicle, motorhome, trailer, or other vehicle that is Towed, the date and time of the Tow, and Tow Truck Yard to which the vehicle has been Towed.
35. No Tow Truck Driver shall Tow a Motor Vehicle from public or private property if that Motor Vehicle is the subject of a police investigation, without first having authorization from the investigating Police Officer to remove the Motor Vehicle.

36. Where a Motor Vehicle, motorhome, trailer, or other vehicle is Towed to a licensed Tow Truck Yard within the Region, the Tow Truck Driver shall ensure that the Motor Vehicle, motorhome, trailer, or other vehicle is secured and the owner of the Motor Vehicle, motorhome, trailer, or other vehicle has reasonable access to it to remove personal effects, unless otherwise instructed by a Police Officer pursuant to a police investigation.
37. No Tow Truck Driver licensed under this By-law shall deliver a Towed Motor Vehicle, motorhome, trailer, or other vehicle to a Tow Truck Yard outside the geographical boundaries of the Region unless the Hirer has requested and given their express consent for such Towed Motor Vehicle, motorhome, trailer, or other vehicle to be delivered to that Tow Truck Yard outside of the Region.

PART VI TOW TRUCK YARD LICENCE

Prohibitions

38. (1) No Person shall own or operate a Tow Truck Yard within the Region without first having obtained a Licence, issued pursuant to this By-law, permitting them to do so.
- (2) No Person shall own or operate a Tow Truck Yard within the Region, without first having obtained a Tow Truck Broker Licence.

Licence Application

39. Every application for a Tow Truck Yard Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Yard Licence shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) The municipal address of the Tow Truck Yard;
 - (3) Confirmation that the Applicant holds a valid Tow Truck Broker Licence;

- (4) A Certificate of Insurance identifying and confirming the following minimum insurance requirements for the Tow Truck Yard:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (5) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or has had an order issued against them relating to the protection of the environment, fire safety, public health, property standards, or zoning violation within the previous twelve (12) month period;
- (6) Verification that the Tow Truck Yard is fully enclosed by a fence, as required under this By-law;
- (7) A fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

- (8) A letter from the Region's Planning and Development Services Department, or successor department, confirming the Tow Truck Yard location conforms to the Region's Official Plan;
 - (9) A letter from the Niagara Escarpment Commission confirming the Tow Truck Yard in its present location does not violate the Niagara Escarpment Plan, if applicable;
 - (10) A site plan for the Tow Truck Yard that shows:
 - (i) the legal boundaries for the Tow Truck Yard, which must include only those lands that are under the exclusive control of the Applicant;
 - (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
 - (iii) the location of any fence and/or gate, as required under this By-law;
 - (iv) the finished surface of the storage yard complies with the requirements set out in subsection 42(6) of this By-law; and,
 - (v) the location of CCTV cameras as required under subsection 42(7) of this By-law; and
 - (11) Proof of certification under the TSSEA, if required.
40. Every Applicant for a Tow Truck Yard Licence shall allow any Officer to enter onto the Tow Truck Yard premises to verify the site plan requirements as set out in subsection 39(10) of this By-law.

Licence Requirements

41. (1) Every Tow Truck Yard Licensee shall maintain a fence that fully encloses the entire perimeter of the property.
- (2) Every fence as required under subsection (1) shall be installed and maintained in compliance with the applicable Area Municipality By-laws. If none exist, the following standards shall be followed:
- (i) Not less than 1.83 metres and no greater than 2.44 metres in height;

- (ii) Constructed of a uniform material, with a uniform colour, providing a full entry barrier; and
 - (iii) Kept in good repair at all times.
 - (3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:
 - (i) Includes a locking mechanism;
 - (ii) Opens to a width of at least 3.5 metres;
 - (iii) Is of the same height as the fence;
 - (iv) Is kept in good repair at all times;
 - (v) Does not open over the travelled portion of a public road allowance or sidewalk; and
 - (vi) Is kept clear of obstructions so that it may be opened fully at all times.
 - (4) No Person shall relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.
42. Every Tow Truck Yard Licensee shall ensure that:
- (1) The outdoor area of their Tow Truck Yard is kept in a clean, neat, orderly and sanitary condition;
 - (2) All storage containers and other materials belonging to the Licensee or used for the Tow Truck Yard operation on-site are kept within the enclosed area created by the fence, as required under section 41 of this By-law, or in an enclosed building;
 - (3) All Motor Vehicles onsite or used for the Tow Truck Yard operation that do not have a current licence plate as issued by the Ministry of Transportation are parked within the enclosed area created by the fence, as required under section 41 of this By-law, or an enclosed building;
 - (4) All outdoor lighting for the Tow Truck Yard is arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;

- (5) All parking areas and roadways within the Tow Truck Yard are paved or are treated in a manner to reduce dust;
 - (6) All areas of the Tow Truck Yard that are used for storage have a surface that is hard compacted and consisting of gravel, tar and chip, pavement, or cement, and is free of potholes and debris;
 - (7) The Tow Truck Yard is equipped with operational CCTV cameras that provide video surveillance of all Motor Vehicles contained within the enclosed portion of the Tow Truck Yard; and
 - (8) Contact information for the Tow Truck Yard, including a telephone number and hours of operation, is posted outside of their premises and is clearly visible to any owners of Towed Motor Vehicles stored within the Tow Truck yard;
 - (9) Any voicemail or email messages from a Hirer or owner of a Towed Motor Vehicle must be promptly returned; and,
 - (10) Reasonable and prompt access to a Towed Motor Vehicle is given to a Hirer and/or owner of a Towed Motor Vehicle, at no additional cost or fee.
43. Any Tow Truck Yard that is licensed under this By-law must be located within the geographical boundaries of the Region.
44. Any Tow Truck Yard that is licensed under this By-law must be owned by a single Broker or a co-operative of Brokers licensed under this By-law.
45. The Licensing Officer may approve a transfer of Tow Truck Yard Licence from one Person to another upon the parties providing to the Licensing Officer:
- (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee, as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Yard Licence under this By-law.

PART VII GENERAL LICENCE REQUIREMENTS

46. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence class and subclass, if applicable, as set out in Part V of this By-law.
47. Every Applicant shall provide payment, in full, of the appropriate fee, as prescribed in accordance with the Fees and Charges By-law, at the time the application for a Licence is submitted.
48. (1) No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- (2) All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
- (3) Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.
49. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced, as set out in Parts III, IV and V of this By-law.
- (2) In the event a Licensee cannot meet the requirements as set out in subsection (1), the Licensee shall cease to operate the Tow Truck Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with the requirements of the application for the Licence in issue.
50. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while providing or offering a Towing Service, including but not limited to the TSSEA.

51. (1) No Person shall alter, erase, or modify, or permit the alteration, erasure or modification of any Licence or any part thereof issued under this By-law.
- (2) If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
52. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Statutory Holiday, or before or after business hours as posted by the Region, by submitting the report via electronic mail or leaving a voicemail message to the email address or telephone number posted on the Region's website from time to time.
53. No Licensee shall knowingly interfere in any way with the hiring or use of another Licensee's Tow Truck where a Hirer has hired or indicated an intention to hire such Tow Truck, excepted where a Police Officer directs the Towing of a Motor Vehicle by a specific Licensee to assist in an investigation.
54. No Licensee shall induce any Person to employ or hire a Tow Truck by knowingly misleading or deceiving such Person as to the location or distance of any place, or by making any false representation to such Person.
55. No Licensee shall make or convey, or permit to be made or conveyed, an offer of Towing Services while they are within two hundred (200) meters of the scene of an accident or an apparent accident, or within two hundred (200) metres of a Motor Vehicle involved in an accident, unless they are requested to attend at the scene or the Motor Vehicle by:
- (1) A Hirer;
 - (2) A peace officer as defined in the *Criminal Code*;
 - (3) An Officer authorized to enforce this By-law; or,
 - (4) Any other Person authorized by law to direct the removal of a Motor Vehicle or vehicles from the scene of an accident;
- unless emergency conditions exist which pose an immediate threat to the safety of any Person.

56. No Licensee shall request, accept or give, or permit any other Licensee to request, accept or give, any gift, fee, payment or other remuneration to or from any Person other than a Hirer in exchange for any service relating to the use of a Tow Truck, its equipment or its Driver.
57. Every Licensee shall accept payment for Towing and related services by credit card, debit card and cash.
58. Every Licensee shall permit a Hirer or owner of a Towed Vehicle reasonable access to their Motor Vehicle motorhome, trailer, or other vehicle to remove any personal property at no additional cost or fee. For the purpose of this section, reasonable access means that access must be granted, at a minimum, between standard business hours of 9 a.m. and 5 p.m. on all days that are not Statutory Holidays.

PART VIII DISCRIMINATION

59. No Licensee shall discriminate against any Person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability, or otherwise contravene the *Human Rights Code*, in relation to the provision of a Towing Service.
60. Without limiting section 59 of this By-law, no Licensee shall charge:
 - (1) A higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same Towing Service; or
 - (2) A fee for the storage of mobility aids or mobility assistive devices in relation to a Towing Service.

PART IX INSPECTIONS

61. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Broker's premises, Tow Truck Yard and/ or a Tow Truck licensed under this By-law to ensure that all provisions of this By-law have been satisfied.

62. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
63. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

64. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
65. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
66. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the business in accordance with any applicable Federal law, Provincial law, or Municipal By-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;

- (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any Federal law, Provincial law, or Municipal By-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has a police investigation or been charged or been convicted of a criminal or *Highway Traffic Act* offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a licence.
67. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to this By-law.
68. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.

69. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.
70. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
71. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

72. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee (the "Committee").
73. 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 Committee under this By-law.
74. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 68 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant.

- (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing, the Committee, may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 69 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

- 75. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred, if applicable; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 69 of this By-law.
76. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT**Penalty**

77. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the applicable penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
78. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
79. (1) Notwithstanding section 77 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
80. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the Person convicted or impose conditions

Administration / Enforcement

81. (1) The Licensing Officer shall have all necessary authority to administer and enforce this By-law.

- (2) Without limiting subsection (1), the Licensing Officer shall have the authority to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, licence criteria and operational hours;
 - (iii) establish, maintain and publically post, on the Region's website, a Tariff Schedule of maximum rates to be charged to all Hirers of a Tow Truck for Towing Services;
 - (iv) establish policies and procedures as necessary regarding the tow rotation system utilized by police and emergency services;
 - (v) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (vi) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vii) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (viii) designate any accessibility training or other required training pursuant to this By-law;
 - (ix) verify any information provided by an Applicant or Licensee; and,
 - (x) demand from any Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
82. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
83. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this by-law, or any Police Officer.

84. Any Person who obstructs or interferes with an Officer in the discharge of their duties shall be considered in violation of this By-law.
85. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties.

Survival

86. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

87. This By-law may be cited as the "Towing Services By-law".

By-law Commencement / Transition

88. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxicabs, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (3) Notwithstanding subsection (1), all Tow Truck-related licences issued under By-law 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on licence-holders, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

- (4) All Persons holding Tow Truck-related licences issued under the provisions of By-law 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or twelve (12) months from the date this By-law comes into force, whichever date is later.
 - (5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.
89. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: August 26, 2021

Schedule "A"

STANDARD CHARACTER AND DRIVING RECORD CRITERIA

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all Applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Schedule "A"

STANDARD CHARACTER AND DRIVING RECORD CRITERIA

(Parts 8, 9 and 10 shall only apply to Driver Licence Applicants)

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:
 - i) Careless Driving;
 - ii) Racing or Stunt Driving; or
 - iii) Exceeding the Speed Limit by 50 km/hour or more;
9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or
10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or *Criminal Code* within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.