



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2019-060

A by-law to license, regulate and govern tow truck owners and drivers and to repeal By-law No. 1998-7

WHEREAS pursuant to the provisions of Part IV of the *Municipal Act*, 2001, S.O. 2001, c. 25 ("Municipal Act"), the Council of the Corporation of the Town of Oakville ("Council") may provide for a system of licences with respect to businesses;

WHEREAS pursuant to Section 11 of the Municipal Act, Council is exercising its authority with respect to business licensing in the interest of the health, safety and well-being of persons and consumer protection;

WHEREAS Section 151 of the Municipal Act provides that a municipality may provide for a system of licences with respect to a business;

WHEREAS Section 155 of the Municipal Act provides that a local municipality, in a by-law under Section 151 with respect to owners and drivers of tow trucks and vehicles, other than motor vehicles, used for hire, may, (a) establish the rates or fares to be charged for the conveyance of property or passengers either wholly within the municipality or from any point in the municipality to any point outside the municipality; and (b) provide for the collection of the rates or fares charged for the conveyance;

WHEREAS pursuant to Section 391 of the Municipal Act, a municipality may pass by-laws imposing fees or charges for services or activities provided or done by it or on behalf of it;

WHEREAS Section 171 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 regulates the actions of persons operating tow trucks at accident scenes; and

WHEREAS pursuant to Section 434.1 of the Municipal Act, Council considers it desirable to provide for a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law;

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law,

"Appeals Committee" means a Committee or Tribunal duly appointed by by-law to conduct hearings under this By-law;

"Applicant" means the person applying for a licence or renewal of a licence under this By-law and "application" has a corresponding meaning;

"Applicant Information" means fulsome details of a person applying for or for the renewal of a licence under this By-law and shall include their full name, date of birth, municipal address, telephone number, and email address;

"Article of Incorporation" means documents related to an incorporated business pursuant to the *Business Corporations Act*, R.S.O. 1990 c. B.16, or the *Corporation Act*, 1990 c. C.38;

"Automobile Association" means an organization, either for-profit or non-profit, which motor vehicle owners and drivers can join to enjoy benefits provided by the association relating to driving a motor vehicle;

"Business" means any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

"Business Address" means the place from which the business operates including a number, street name, municipality and postal code;

"Corporation" means a body corporate incorporated pursuant to the *Business Corporations Act*, R.S.O.1990 c. B. 16, or the *Corporations Act*, R.S.O 1990, c. C. 38;

"Council" means the Council for The Corporation of the Town of Oakville;

"CVOR " means a Commercial Vehicle Operator's Registration Certificate issued under Section 17 of *The Highway Traffic Act*, R.S.O. 1990, Chapter H.8;

"Driver's Abstract" means a record issued by the Ontario Ministry of Transportation that shows driving and licence details;

"Drop Fee" means any fee or commission paid to the owner or driver of a tow truck or in return for the towing or other conveyance of a motor vehicle to a location, which fee or commission shall be in addition to the amount the owner or driver of such tow

truck is authorized to charge to the hirer in accordance with the provisions of this By-law and associated schedules;

“Fee” means a fee as set out in the Town of Oakville’s Annual Rates and Fees Schedule, which is not prorated and is non-refundable;

“Flatbed Tow Truck” means a tow truck consisting of a platform body with a winch for loading and that is licensed by the Ministry of Transportation to safely carry a minimum of twenty five-hundred (2,500) kilograms above the registered gross weight of the tow truck and its permanently affixed flatbed;

“Hearing Officer” means a Hearing Officer appointed pursuant to the Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

“Heavy Tow/Towing” means the tow, removal or conveyance of a motor vehicle of greater than 4,500 kg (9,921 lbs) and up to 22,500 kg (49,604 lbs) by a tow truck and “heavy towing” shall have a corresponding meaning;

“Heavy Tow Truck” means a vehicle used for hire for towing or otherwise conveying a motor vehicle as defined in the Highway Traffic Act greater than 4,500 kg (9,921 lbs) and up to 22,500 kg (49,604 lbs);

“Heavy Tow Truck Owner” means a person who owns a tow truck, is licensed under this By-law and provides heavy towing services;

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

“Hirer” means the owner of a towed motor vehicle, or in the absence of the owner,

- (a) the agent of the owner of the towed motor vehicle, duly authorized by the owner to exercise control of the towed motor vehicle on the owner’s behalf; or,
- (b) any person having lawful custody of a motor vehicle or the legal right to possession thereof;

“Licence” means the certificate issued under this By-law as proof of licensing under this By-law;

“Licensee” means a person licensed under this By-law or a person required to be licensed under this By-law;

“Licensing Commissioner” means the Director of Municipal Enforcement Services for the Town or his or her designate;

“Licensing Section” means the Licensing Section of the Municipal Enforcement Services Department of the Town;

“Lifting Charge” means a fee which may be imposed by a tow truck driver where the tow truck driver has attended at a location for the purposes of towing a motor vehicle from a private parking lot and has lifted the motor vehicle or has placed it in a position where it is capable of being physically removed from the property, but has not yet removed the motor vehicle from the property;

“Light Duty Tow Truck” means a tow truck having a minimum Manufacturer's Gross Vehicle Weight Rating of four thousand five-hundred and one (4,501) kilograms (9,923 lbs);

“Motor Vehicle” includes an automobile, a motorcycle, a motor assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;

“Motor Vehicle Storage Yard” means a lot or portion thereof used for the temporary storage and impounding of motor vehicles taken from a collision scene or otherwise towed and awaiting repair, demolition or retrieval;

“Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, Ontario Provincial Police Officers and Halton Regional Police Officers;

“Parking” when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

“Partnership” means an association of two or more persons to carry on, as co-owners, a business or other activity;

“Penalty Notice” means a notice issued pursuant to Section 10 of this By-law;

“Permission to Tow a Vehicle Form” means a Town form, attached as Schedule 3 to this By-law, which must be completed and signed by the tow truck driver and the hirer prior to a tow commencing in the town of Oakville where such tow is requested by the hirer;

“Person” includes an individual, a corporation, a partnership, and an association, and includes a licensee or an applicant for a license under this By-law as the context requires;

“Police Records Check” means a Canadian police records check issued by an accredited Canadian Police Service;

“Private Parking Lot” means an area to which the public has access, whether on payment of a fee or gratuitously, for the purposes of parking motor vehicles;

“Rates and Fees Schedule” means the current rates and fees schedule approved by Council as part of the annual budget approval process;

“Run Sheet” means a record of tows or heavy tows made by a tow truck driver in a form approved by the Licensing Commissioner, in duplicate, dated and numbered by consecutively numbered bills or invoices;

“Safety Standard Certificate” means that a motor vehicle complies with the equipment and performance standards prescribed by the Highway Traffic Act;

“Screening Decision” means a decision made by a Screening Officer;

“Screening Officer” means a Screening Officer appointed pursuant to the Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

“Tow/Towing” means the tow, removal, or conveyance of a motor vehicle by a tow truck that is less than 4,500 kg (9,921 lbs) and “towing” shall have a corresponding meaning;

“Town” means The Corporation of the Town of Oakville in the Regional Municipality of Halton;

“Tow Truck” means a vehicle used for hire for towing or otherwise conveying a motor vehicle as defined in the Highway Traffic Act less than 4,500 kg (9,921 lbs) and includes a light duty tow truck and a flatbed tow truck;

“Tow Truck Driver” means any person who drives or operates a tow truck or a heavy tow truck and has been listed with the Licensing Commissioner under this By-law;

“Tow Truck Owner” means a person who owns a tow truck, is licensed under this Bylaw and provides towing services for vehicles under 4,500 kg (9,921 lbs);

“Vehicle Ownership” means the Motor Vehicle Owners Certificate, issued pursuant to the Highway Traffic Act;

2. PROHIBITIONS

- (1) No person shall carry on a business as a tow truck owner or a heavy tow truck owner, or permit a person to carry on said business, or hold themselves out as being licensed to carry on said business:
 - (a) without first obtaining a licence to do so issued by the Licensing Commissioner;
 - (b) under any other name than the one endorsed on his or her licence issued under this By-law;
 - (c) at a location other than for which a licence is issued under this By-law; and
 - (d) except in accordance with the regulations set out in this By-law, including any applicable Schedules, all of which form part of this By-law.
- (2) No person shall drive a tow truck in the town of Oakville:
 - (a) without being employed by or under written contract with a licenced tow truck owner or heavy tow truck owner;
 - (b) without being included on the list of drivers provided to the Licensing Commissioner under subsection 1(1)(f)(iii) and/or subsection 1(5)(d) (ii) of Schedule 1 to this By-law; and
 - (c) except in accordance with the regulations set out in this By-law, including any applicable Schedules.
- (3) No tow truck owner or heavy tow truck owner shall,
 - (a) transfer or assign a licence issued under this By-law;
 - (b) obtain a licence by providing mistaken, false or incorrect information; or
 - (c) enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof, the licence shall be the property of the Town.

3. EXEMPTIONS

- (1) This By-law does not apply to tow truck owners or heavy tow truck owners or to tow truck drivers who provide towing services or heavy towing services for:
 - (a) charitable or non-profit organizations that accept donations of motor vehicles for fund-raising purposes;
 - (b) scrap yards picking up wrecked or inoperative motor vehicles sold for scrap; or
 - (c) school boards that accept donations of motor vehicles for teaching or fund-raising purposes.
- (2) Tow truck owners, heavy tow truck owners and tow truck drivers do not require a licence to drop off motor vehicles that they have towed into the town of Oakville from another municipality.

4. LICENSING REQUIREMENTS

- (1) A completed application for a licence or for renewal of a licence shall be submitted to the Licensing Commissioner accompanied by the requirements prescribed in Schedule 1, and any other information that the Licensing Commissioner may from time to time request.
- (2) The Licensing Commissioner may, for renewal applications, on a case-by case basis, review and/or waive any documentary requirements not related to public safety or consumer protection.
- (3) Tow truck owners, heavy tow truck owners and tow truck drivers shall be at least 18 years of age.
- (4) Every tow truck owner and heavy tow truck owner licensed under this By-law shall at all times:
 - (a) comply with the regulations contained in the Schedules to this By-law; and
 - (b) notify the Licensing Commissioner within seven (7) days of any change in any of the particulars required to be filed with the Licensing Section or any change to the documents required by subsection 1(1)(g) or 1(5)(g)(i) of Schedule 1.

- (5) Every tow truck driver listed with the Licensing Commissioner shall at all times:
- (a) comply with the regulations contained in the Schedules to this By-law; and
 - (b) notify the tow truck owner or heavy tow truck owner immediately of any change in any of the particulars required to be filed with the Licensing Section or any change in the documents required by subsection 1(1)(g) or 1(5)(g)(i) of Schedule 1.

5. ISSUANCE OF LICENCE AND GROUNDS FOR REFUSAL

- (1) The Licensing Commissioner shall:
- (a) receive and process all applications for licences and for renewal of licences to be issued under this By-law;
 - (b) issue a Notice of Incomplete Application to an applicant where the applicant has failed to provide any fee or document required under this By-law for the issuance or renewal of a licence;
 - (c) issue licences and renew licences, either conditionally or unconditionally, to any person who meets the requirements of this By-law except where:
 - (i) the conduct of an applicant affords reasonable grounds for belief that the applicant has not carried on, or will not carry on the business in accordance with the law or with integrity and honesty;
 - (ii) there are reasonable grounds for belief that the carrying on of the business may be adverse to the public interest; or
 - (iii) the applicant is indebted to the Town in respect of fines, penalties, judgments, outstanding property taxes, or any other amounts owing, including an administrative penalty.
 - (d) with respect to subsection 5(1)(c)(ii) of this By-law, include in the Licensing Commissioner's consideration, any record of offence that is less than three (3) years old for which a record suspension has not been granted and relevant to the nature of the business, or any record of offence for which a pardon or record suspension has not been granted that directly affects the applicant's or Licensee's ability to competently and responsibly carry on the business of driving a tow

truck or a heavy tow truck, owning or operating a tow truck or a heavy tow truck, or at any time within three (3) years prior to the application, the applicant or Licensee has been prohibited from driving due to a conviction under any applicable provincial or federal law or has ever been convicted or found guilty of an offence under the *Criminal Code of Canada*, the *Controlled Drugs and Substances Act*, the *Narcotic Control Act* or the *Food and Drug Act* for which a pardon or record suspension has not been granted provided the conviction directly affects the applicant's or Licensee's ability to competently and responsibly carry on the business of driving a tow truck or a heavy tow truck, owning or operating a tow truck or a heavy tow truck;

- (e) generally perform all the administrative functions conferred upon them by this By-law.
- (2) Licences issued pursuant to this By-law are conditional on compliance by the Licensee with all municipal by-laws and compliance with all Provincial and Federal legislation.

6. TERM OF LICENCE

- (1) A licence issued under the provisions of this By-law shall expire annually on June 30th, unless it is renewed or revoked in accordance with the provisions of this By-law.

7. REVOCATION AND SUSPENSION

- (1) The Licensing Commissioner shall provide notice of his or her intention to revoke or suspend a licence and shall advise the Licensee of his or her right to appeal where:
 - (a) the Licensee would be disentitled to a licence or a renewal of a licence for the reasons set out in this By-law;
 - (b) the Licensee has failed to comply with the regulations required by this By-law; or
 - (c) the licence was issued in error.
- (2) Notwithstanding subsection 7(1) of this By-law, the Licensing Commissioner, if satisfied that the continuation of the licence poses an immediate danger to the health or safety of any person, may, for the time and such conditions as are considered appropriate and without a hearing, suspend a licence for not more than fourteen (14) days, and, prior to suspending the licence, shall provide the Licensee with the reasons for the suspension, either orally or in writing, with an opportunity to respond to them.

8. APPEAL

- (1) Where the Licensing Commissioner has denied an applicant a licence or a request for renewal, or suspended or revoked a licence, the Licensing Commissioner shall inform the applicant or licensee by way of written notice setting out the grounds for the decision with reasonable particulars, and advise of the right to appeal such decision to the Appeals Committee.
- (2) Persons or applicants may appeal to the Appeals Committee in relation to matters noted in subsection 8(1) to this By-law. A request for an appeal shall be made in writing to the Licensing Commissioner, setting out the reasons for the appeal within seven (7) days after service of the written notice. Appeals will not be permitted for any matters that have already been heard or are pending before the Hearing Officer or failure to provide the Licensing Commissioner with documents required by Schedule 1 resulting in a Notice of Incomplete Application.
- (3) Where no request for an appeal is received in accordance with subsection 8(2) to this By-law, the decision of the Licensing Commissioner shall be deemed to be affirmed.

- (4) Where a request for an appeal is received, a hearing of the Appeals Committee shall be convened and the applicant or licensee shall be provided reasonable written notice thereof.
- (5) After such opportunity to be heard is afforded to the applicant or licensee, the Appeals Committee may make a decision in respect of which the hearing was held or the opportunity for a hearing afforded. The Appeals Committee's decision is final and not subject to review. The Appeals Committee may refuse to issue or renew a licence, revoke, suspend, or impose any conditions upon a licence. The Appeals Committee may consider any matter pertaining to the licensing requirements in Section 4 to this By-law or the grounds for refusal in Section 5 to this By-law, or any other matter that relates to the general welfare, health or safety of the public.
- (6) Where the Appeals Committee conducts a hearing, the rules set out in the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 shall apply.

9. ORDER

- (1) Where the Licensing Commissioner has reasonable grounds to believe that a contravention of this By-law has occurred, the Licensing Commissioner may serve an order on the licensee setting out the reasonable particulars of the contravention and directing:
 - (a) compliance within a specified timeframe;
 - (b) any work that is required to be done, and in default of such work being done, the work may be done at the licensee's expense and the Town may recover the expense by or in the same manner as municipal taxes; or
 - (c) that the activity be discontinued.
- (2) Any person who contravenes an order under this By-law is guilty of an offence.
- (3) An order under this By-law may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.

10. ADMINISTRATIVE PENALTIES

- (1) Each person who contravenes any provision of this By-law, including any provision of the Schedules, shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300 or as revised in the rates and fee schedule.
- (2) An Officer who finds or has any reasonable cause to believe that a person has contravened any provision of this By-law, including any provision of its Schedules, may issue a penalty notice addressed to the person.
- (3) The Penalty Notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
 - (a) date of the penalty notice;
 - (b) the penalty notice number;
 - (c) particulars of the contravention;
 - (d) the amount of the administrative penalty;
 - (e) information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and
 - (f) a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the Town.
- (4) No Officer may accept payment of an administrative penalty.
- (5) Any person who is served a penalty notice may request a review by a Screening Officer within 15 days after the penalty notice date.
- (6) Any person may request that the Screening Officer extend the time to request a review within 45 days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
- (7) The Screening Officer may extend the time to request a review of the administrative penalty when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- (8) On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment

of the administrative penalty, including any additional administrative fees, on the following grounds:

- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
- (9) Every person who has a review by the Screening Officer shall receive a Screening Decision.
- (10) Where the person fails to appear at the time and place scheduled for a review by the Screening Officer:
 - (a) the person shall be deemed to have abandoned the review;
 - (b) the administrative penalty shall be deemed to be affirmed;
 - (c) the administrative penalty shall not be subject to review; and
 - (d) the person shall pay the applicable fee.
- (11) Any person who has received a Screening Decision may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued.
- (12) Any person may request that the Hearing Officer extend the time to request a review within 45 days after the Screening Decision was issued, at which time the Screening Decision shall be deemed to be affirmed.
- (13) The Hearing Officer may extend the time to request a review of the Screening Decision when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- (14) The person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- (15) On a review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:

- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- (16) Where a person fails to request a review of the Screening Decision or extension of time before the Hearing Officer in accordance with this By-law:
 - (a) the person shall be deemed to have waived the right to a hearing;
 - (b) the Screening Decision and the administrative penalty shall be deemed to be affirmed; and
 - (c) the Screening Decision and the administrative penalty shall not be subject to any further review.
- (17) Where a person fails to appear at the time and place scheduled for a review by the Hearing Officer:
 - (a) the person shall be deemed to have abandoned the hearing;
 - (b) the Screening Decision and administrative penalty shall be deemed to be affirmed;
 - (c) the Screening Decision and administrative penalty and associated fees shall not be the subject of any further review; and
 - (d) the person shall pay to the Town a fee in the amount of \$100 or as revised in the rates and fee schedule.
- (18) Where an administrative penalty and any applicable administrative fees are not paid within 15 days after the date that it becomes due and payable, each person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of \$50 or as revised in the rates and fee schedule.
- (19) A Hearing Officer shall not make any decision respecting a review of the Screening Decision unless the Hearing Officer has given the person and the Town an opportunity to be heard.
- (20) The decision of a Hearing Officer is final.
- (21) The Screening Officer and the Hearing Officer have no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

11. SERVICE and NOTICE

- (1) Any penalty notice or any other notice or order pursuant to this By-law may be given in writing in any of the following ways and is effective:
 - (a) on the date on which a copy is delivered to the person to whom it is addressed;
 - (b) on the fifth day after a copy is sent by mail to the person's last known address;
 - (c) upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
 - (d) upon the sending of a copy by e-mail transmission to the person's last known e-mail address.
- (2) For the purpose of subsection 11(1) of this By-law, the person's last known address, last known facsimile transmission number and last known e-mail address shall be deemed to include those provided pursuant to Schedule 1 of this By-law.

12. INSPECTION

- (1) The Licensing Commissioner, or an Officer may at any reasonable time inspect:
 - (a) any premises/vehicles or place where a business which is subject to this By-law is carried on or where there are reasonable or probable grounds to believe a business is being carried on; or
 - (b) any goods, equipment, books, records or documents used or to be used by the applicant or Licensee under this By-law.
- (2) It shall be an offence to obstruct or permit the obstruction of such inspection.

13. DELEGATION

- (1) Pursuant to Section 23.2 of the Municipal Act, Council hereby delegates to the Appeals Committee the power to make the final decision in respect of which a hearing was held, and it is the opinion of Council that this delegated power is of a minor nature. This delegation may be revoked by Council at any time.

14. OFFENCES

- (1) Every person who contravenes any of the provisions of this By-law, including those contained in any of the Schedules and every director of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction liable to a fine not exceeding \$25,000 for a first offence and \$50,000 for any subsequent offence.
- (2) Where a corporation is convicted of an offence under this By-law, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.
- (3) Pursuant to Section 447 of the Municipal Act, where an owner is convicted of knowingly carrying on or engaging in a business in respect of any premises or any part of any premises without a licence required by this By-law, or a person is convicted of any other contravention of this By-law and the court determines that the owner or occupant of the premises or part of the premises in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part of the premises be closed to any use for a period not exceeding two years.

15. COLLECTION OF UNPAID FINES

- (1) Pursuant to Section 441 of the Municipal Act, if any part of a fine for a contravention of a business licensing 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.33, including any extension of time for payment ordered under that Section, the Licensing Commissioner may 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 21 days after the date of the notice. If the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes pursuant to Section 351 of the Municipal Act and may be added to the person's tax roll and collected in the same manner as property taxes.

16. REFERENCES

- (1) References in this By-law to any legislation or by-law means as may be amended or replaced from time to time, and include any regulations thereunder.

17. SEVERABILITY

- (1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

18. REPEAL

- (1) By-law No. 1998-7, a by-law to prohibit tow truck operators from soliciting or importuning at the scene of an accident, is hereby repealed on the date this By-law comes into force and effect.

19. TITLE

- (1) This By-law may be known as the "Tow Truck Licensing By-law."

20. EFFECTIVE DATE

- (1) This By-law comes into force and effect on January 1, 2020.

PASSED this 25th day of June, 2019

MAYOR

CLERK

Schedule 1

1. APPLICATION FOR ISSUANCE/RENEWAL OF LICENCE

Tow Truck Owner's Licence

- (1) Every applicant for a tow truck owner's licence shall provide the following documentation to the Licensing Commissioner:
 - (a) a completed application in the form required by the Licensing Commissioner containing all required applicant information;
 - (b) payment of the licensing fee;
 - (c) on the initial application for a licence, if the applicant is a corporation, proof that the corporation is legally entitled to conduct business in Ontario, including but not limited to:
 - (i) Article of Incorporation or other incorporating documents, duly certified by the proper government official or department of the Province of Ontario or of the Government of Canada;
 - (d) on the initial application for a licence, if the applicant is a partnership, the names and addresses of each member of the partnership as well as the name under which the partnership intends to carry on business;
 - (e) an original certificate(s) of insurance in accordance with Section 2 of this Schedule for each vehicle to be licensed as a tow truck, as well as a Schedule 1 to the certificate naming the tow truck drivers who are insured;
 - (f) on the initial application for a licence and at every licence renewal:
 - (i) a list of all tow trucks operated by that tow truck owner, which list shall include the year, make, model, type of tow truck, mileage and Ontario licence plate number in a form satisfactory to the Licensing Commissioner;
 - (ii) a statement of the rates to be charged for each of his or her towing services in a form satisfactory to the Licensing Commissioner;
 - (iii) a list of all tow truck drivers who operate tow trucks on behalf of the tow truck owner, which list shall include the full name, date of birth, address, phone number, and date(s) of employment of the

tow truck driver, in a form satisfactory to the Licensing Commissioner. If the tow truck owner will also operate his or her own tow truck, the owner shall include his or her name on the list of tow truck drivers.

- (iv) full information, in a form satisfactory to the Licensing Commissioner, of any interest either directly or indirectly that the applicant has in any motor vehicle pound, yard, public garage or any other type of premises used for the storage, impounding, repair or servicing of motor vehicles; including the location and size of such premises, the facilities provided in the premises, the kind and extent of any interest in the premises, and full particulars of any contract, arrangement, agreement or understanding giving the applicant such interest.
- (v) where an applicant resides or has its head office or any other business office outside of the boundaries of the Town or owns or has an interest in any type of premises named in subsection 1(1)(f)(iv) of this Schedule that is located outside of the boundaries of the Town, the applicant shall, on the initial application for a licence and at every licence renewal, notify the Licensing Commissioner of the number and type of any licenses issued by any other municipality or licensing authority.
- (g) a sworn declaration, in a form provided by the Licensing Commissioner, confirming:
 - (i) that each tow truck driver operating a tow truck on behalf of the tow truck owner has provided the following to the tow truck owner:
 - a police records check current within one (1) year of June 30th in the current licensing period confirming that there are no charges or warrants pending before any courts, or any record of offence for which a records suspension has not been granted that is less than three (3) years and relevant to the nature of the services of a tow truck driver, or any record of offence for which a records suspension has not been granted that directly affects the tow truck driver's ability to competently and responsibly carry on the services of a tow truck driver, including but not limited to: an offence under the *Criminal Code of Canada*, the *Controlled Drugs and Substances Act*, the *Narcotic Control Act* or the *Food and Drug Act*;

- a current and valid Class A, B, C, D, E, F or G driver's licence issued by the Province of Ontario. Graduated driver's licences will not be accepted; and
- a driver's abstract current within one (1) year of June 30th in the current licensing period;

(ii) that the tow truck owner has:

- an original copy of the Provincial motor vehicle registration for each tow truck, where the name and address match the applicant's. If the applicant is a partnership or corporation, the motor vehicle ownership must be registered to the partnership or corporation;
- a safety standards certificate for each tow truck issued by an approved Ministry of Transportation Vehicle Inspection Centre, current within one (1) year of June 30th in the current licensing period. If a tow truck accumulates more than 50,000 kilometers in a licensing period, a second safety standards certificate issued by an approved Ministry of Transportation Vehicle Inspection Centre is required. The tow truck owner shall obtain the second safety standards certificate when the tow truck is no more than 2,500 kilometers over the 50,000 kilometer threshold;
- authorization from the owner or agent of the motor vehicle storage yard used by the tow truck owner to store motor vehicles that have been towed by the tow truck owner or tow truck driver;
- a CVOR current to within one (1) year of June 30th in the current licensing period;
- a police records check for the tow truck owner current to within one (1) year of June 30th in the current licensing period;
- a run sheet on the applicant's letterhead, containing all information required by Section 12 of this Schedule;
- the equipment required by subsection 5(2) of this Schedule on or in every tow truck owned by him or her; and

- a list of leases if the applicant leases his or her tow truck(s).
- (2) The tow truck owner shall obtain an owner's plate for each tow truck to be operated in the town of Oakville.
- (3) Notwithstanding subsection 1(1)(f)(ii) of this Schedule, Schedule 2 of this By-law establishes the rates for towing motor vehicles under 4,500 kg from private parking lots.
- (4) The Licensing Commissioner may post the statement of rates provided in accordance with subsection 1(1)(f)(ii) and 1(5)(e) of this Schedule on the Town's website.

Heavy Tow Truck Owner's Licence

- (5) Every applicant for a heavy tow truck owner's licence shall provide the following documentation to the Licensing Commissioner:
 - (a) a completed application in the form required by the Licensing Commissioner containing all required applicant information;
 - (b) payment of the licensing fee;
 - (c) a list of services provided by the heavy tow truck owner;
 - (d) on the initial application for a licence and at every licence renewal:
 - (i) a list of all heavy tow trucks operated by that heavy tow truck owner, which list shall include the year, make, model, mileage and Ontario licence plate number in a form satisfactory to the Licensing Commissioner;
 - (ii) a list of all tow truck drivers who operate heavy tow trucks on behalf of the heavy tow truck owner, which list shall include the full name, date of birth, address, phone number and date(s) of employment of the tow truck driver in a form satisfactory to the Licensing Commissioner. If the heavy tow truck owner will also operate his or her own tow truck, the owner shall include his or her name on the list of tow truck drivers;
 - (iii) full information, in a form satisfactory to the Licensing Commissioner, of any interest either directly or indirectly that the applicant has in any motor vehicle pound, yard, public garage or

any other type of premises used for the storage, impounding, repair or servicing of motor vehicles; including the location and size of such premises, the facilities provided in the premises, the kind and extent of any interest in the premises, and full particulars of any contract, arrangement, agreement or understanding giving the applicant such interest.

- (iv) where an applicant resides or has its head office or any other business office outside of the boundaries of the Town or owns or has an interest in any type of premises named in subsection 1(5)(d)(iii) of this Schedule that is located outside of the boundaries of the Town, the applicant shall, on the initial application for a licence and at every licence renewal, notify the Licensing Commissioner of the number and type of any licenses issued by any other municipality or licensing authority.
- (e) a statement of the rates to be charged for each of its heavy towing services in a form satisfactory to the Licensing Commissioner, including towing from a private parking lot;
- (f) an original certificate(s) of insurance in accordance with Section 2 of this Schedule for each tow truck providing heavy towing services to be operated in the town of Oakville, as well as a Schedule 1 to the certificate naming the tow truck drivers who are insured;
- (g) a sworn declaration, in a form provided by the Licensing Commissioner, confirming:
 - (i) that each tow truck driver operating a heavy tow truck on behalf of the heavy tow truck owner has provided the following to the heavy tow truck owner:
 - a police records check current within one (1) year of June 30th in the current licensing period confirming that there are no charges or warrants pending before any courts, or any record of offence for which a records suspension has not been granted that is less than three (3) years and relevant to the nature of the services of a tow truck driver, or any record of offence for which a records suspension has not been granted that directly affects the tow truck driver's ability to competently and responsibly carry on the services of a tow truck driver, including but not limited to: an offence under the *Criminal Code of Canada*, the *Controlled Drugs and Substances Act*, the *Narcotic Control Act* or the *Food and Drug Act*;

- a current and valid Class A, B, C, D, E, F or G driver's licence issued by the Province of Ontario. Graduated driver's licences will not be accepted; and
 - a driver's abstract current within one (1) year of June 30th in the current licensing period;
- (ii) that the heavy tow truck owner has a police records check current to within one (1) year of June 30th in the current licensing period.
- (6) The heavy tow truck owner shall obtain an owner's plate for each heavy tow truck to be operated in the town of Oakville.

2. INSURANCE

- (1) Every person who applies for a licence under this By-law, shall, before receiving such licence, procure a policy of insurance endorsed to the effect that the Town shall be given at least ten (10) day's notice in writing of the cancellation or expiration of the policy or policies, and insurance for each such tow truck in at least the following amounts:
- (a) current valid Ontario 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' motor vehicles while being towed or while in the care, custody or control of the licensee, 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 licensee against loss by reason of his or her legal liability for direct physical loss or damage to motor vehicles and other items of property accepted by the licensee for towing or conveyance.
- (2) When a tow truck owner or heavy tow truck owner ceases to have current valid insurance as required by subsection 2(1) of Schedule 1 to this By-law, the licence shall be deemed to be suspended as of the date on which the

cessation of insurance occurred, and the licence shall only be reinstated on there being delivered to the Licensing Commissioner written proof of insurance in accordance with the provisions of this By-law.

- (3) When a tow truck owner or a heavy tow truck owner has had his or her owner's licence suspended under subsection 2(2) of Schedule 1 to this By-law, the owner shall forthwith remove the owner's plate and return or relinquish the owner's plate and the owner's licence to the Licensing Commissioner.
- (4) When a tow truck owner or a heavy tow truck owner cancels his or her current insurance before the expiry date of the policy, the owner must produce a certificate of newly acquired insurance properly endorsed in accordance with the provisions of this By-law, or return the owner's plate and licence to the Licensing Commissioner on the date and time of cancellation.

3. OWNER'S PLATE

- (1) The plates issued by the Licensing Commissioner to a tow truck owner or heavy tow truck owner may be affixed to any tow truck or heavy tow truck in the owner's fleet, provided that the tow truck or heavy tow truck is included on the list required by subsections 1(1)(f)(i) and 1(5)(d)(i) of this Schedule.
- (2) The tow truck owner or heavy tow truck owner shall prominently affix one of the plates issued by the Licensing Commissioner to the rear portion on the outside of the tow truck or the heavy tow truck in a clearly visible position.

4. TOW TRUCK OWNER, HEAVY TOW TRUCK OWNER AND TOW TRUCK DRIVER REGULATIONS

- (1) Every licensed tow truck owner, heavy tow truck owner and every tow truck driver shall:
- (a) take due care of all motor vehicles and property delivered or entrusted to him/her for towing or heavy towing;
 - (b) comply with all reasonable instructions from the hirer;
 - (c) keep every tow truck and its equipment clean, in good repair, free from exterior body damage with a well maintained exterior paint finish;
 - (d) keep in the tow truck at all times while the tow truck is in use, any licences or copy of such licences issued therefore by the Licence Commissioner;
 - (e) before commencing each shift and at the end of each shift, examine the tow truck he or she is to drive during the shift for defects, and report any noted defects forthwith to the tow truck owner or heavy tow truck owner;
 - (f) comply with the Ontario Traffic Manual's Book 7 requirements;
 - (g) drive the tow truck which is towing or otherwise conveying a motor vehicle by the most direct route to the destination requested by the hirer, and in the most expeditious manner, unless otherwise directed by the hirer;
 - (h) prior to the towing, heavy towing or conveying any motor vehicle; provide the owner of the motor vehicle or the owner's agent with a copy of the schedule of rates provided to the Licensing Commissioner in accordance with subsection 1(1)(f)(ii) and 1(5)(e) of this Schedule;
 - (i) before demanding payment for towing services or heavy towing services, present the hirer with an itemized invoice for the tow or heavy tow based on the rates for towing services or heavy towing services as provided to the Licensing Commissioner;
 - (j) convey the motor vehicle to the hirer's desired location;
 - (k) accept payment (by way of a functioning device where applicable) for any towing services or heavy towing services provided under this By-

law using a payment method of the hirer's choice including credit card, debit, cash or any other prescribed method of payment;

- (l) provide the hirer with access to the motor vehicle that is the subject of the tow or heavy tow, in order to permit the removal of all property contained in the motor vehicle, including money, valuables, documents and records, unless otherwise directed by a member of a police service;
- (m) upon a request made to him or her by an Officer, provide his or her name, residential address and business address to the Officer and shall produce his or her tow truck owner licence or heavy tow truck owner licence to an Officer upon request;
- (n) not use or operate any tow truck or heavy tow truck for the towing, heavy towing or otherwise conveying of a motor vehicle unless the owner of such tow truck is licensed under this By-law as an owner in respect of such tow truck;
- (o) not use, operate or permit to be used or operated a tow truck or heavy tow truck found to be unsafe or defective upon examination and inspection as required by Section 8 of this Schedule;
- (p) not commence to tow or otherwise convey or move any motor vehicle, or hook, lift or connect the motor vehicle to the tow truck or heavy tow truck, or perform any other services unless first requested so to do by a hirer, or a peace officer or any member of a municipal fire department, or any person authorized by law to direct the removal of the motor vehicle from private or public property;
- (q) not stop or park within 200 metres (approximately 653 feet) of a collision location but this does not apply where the tow truck driver has been summoned to the location of the collision by one of the persons referred to in subsection 4(p) to this Schedule;
- (r) not ask or seek out a hirer or allow or direct an agent to ask or seek out a hirer at a collision location or within 200 metres (approximately 653 feet) of a collision location;
- (s) not commence to tow or otherwise convey or move any motor vehicle or perform any other services unless first disclosing to the hirer any interest (either direct or indirect) that the tow truck owner, heavy tow truck owner or tow truck driver has in any location or facility to which a

motor vehicle may be towed for repair, storage, appraisal or similar purpose in accordance with any prescribed standards;

- (t) where any person has hired or indicated his or her intention to hire any tow truck or heavy tow truck, no other tow truck owner, heavy tow truck owner or tow truck driver shall knowingly interfere in any way with any such contract or hiring, except under the direction of a police officer directing the removal of a motor vehicle by a tow truck owner, heavy tow truck owner or tow truck driver;
- (u) not induce any person to employ or hire a tow truck or heavy tow truck by knowingly misleading or deceiving such person as to the location or distance of any place or as to any other thing, or by making any false representation to such person;
- (v) not demand, charge or request payment for his or her towing services or heavy towing services other than in accordance with the schedule of rates set out in Schedule 2 of this By-law or the statement of rates for towing services or heavy towing services as provided to the Licensing Commissioner; and
- (w) not charge a hirer for time lost through defects or inefficiency of the tow truck or the incompetence of the tow truck owner, heavy tow truck owner or tow truck driver.

5. ADDITIONAL TOW TRUCK OWNER AND TOW TRUCK DRIVER REGULATIONS

- (1) Every licensed tow truck owner and every tow truck driver shall:
 - (a) notwithstanding subsection 4(1)(g) of Schedule 1 to this By-law, if the motor vehicle is towed from a private parking lot in accordance with Section 9 of this Schedule, tow the motor vehicle to a motor vehicle storage yard within the boundaries of the Town of Oakville;
 - (b) where the request to tow a motor vehicle is from a hirer, or where the tow is required as a result of a motor vehicle collision, not commence to tow or otherwise convey or move any motor vehicles, hook, lift or connect the motor vehicle to the tow truck unless the tow truck driver has a completed Permission to Tow a Motor Vehicle Form as set out in Schedule 3 to this By-law. Automobile associations are exempt from the requirements regarding Permission to Tow a Motor Vehicle forms contained in this By-law;

- (c) provide a copy of the completed and signed Permission to Tow a Motor Vehicle form to the hirer. Where the hirer refuses to sign the Permission to Tow a Motor Vehicle Form, consent to tow the motor vehicle has not been obtained and the tow truck owner or tow truck driver shall not tow the motor vehicle;
- (d) notwithstanding subsection 5(1)(c) of this Schedule, if a peace officer requires that a motor vehicle be towed, the consent required by subsection 5(1)(c) is not required and the tow truck owner or driver shall have the peace officer sign the Permission to Tow a Motor Vehicle Form in the event that the hirer refuses to sign the form;
- (e) where the hirer is unable to sign the Permission to Tow a Motor Vehicle Form, and a peace officer, a member of a municipal fire department or ambulance service is attending the scene, the tow truck owner or tow truck driver shall have one of either the peace officer, member of a municipal fire department or ambulance service sign the Permission to Tow a Motor Vehicle form in the stead of the hirer.
- (f) not alter the Permission to Tow a Motor Vehicle Form;
- (g) not demand, request or receive a drop fee;
- (h) not suggest or recommend to any hirer that any motor vehicle in respect of which his or 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 or she has been requested to do so by the hirer, and may at no time suggest or recommend a salvage yard, body shop, storage yard or any other public garage, building or place located outside of the boundaries of the Town of Oakville.

Equipment

- (2) Every licensed tow truck owner and tow truck driver shall provide and maintain on or in every tow truck owned or operated by him or her the following:
- (a) power brakes or boosted hydraulic brakes;
 - (b) a two way radio which will enable the tow truck to be dispatched;
 - (c) a recognized lock-out tool set;
 - (d) two (2) wheel chocks (rubber and/or metal);
 - (e) a debris container with a five (5) gallon capacity;
 - (f) manufacturer's dual rear wheels (ie. no single rear wheel pick-up trucks);
 - (g) have and maintain in proper working order an automatic audible warning device for reversing, which is not subject to manual override;
 - (h) reflective winch cable markers;
 - (i) emergency flares (30 minutes each)/or reflective triangles;
 - (j) tire jack;
 - (k) working flashlight;
 - (l) 30 kg. bag of "Absorb-All" or equivalent and container; and
 - (m) two-way radio or cellular phone.
- (3) Every licensed tow truck owner and tow truck driver shall provide and maintain on or in every light duty tow truck owned or operated by him or her the following:
- (a) a tow apparatus consisting of a wheel lift with a minimum of one (1) conventional wrecker. The wheel lift shall have a minimum capacity of fifteen hundred and ninety (1,590) kilograms and the tow capacity shall be a minimum of twenty five hundred (2,500) kilograms;

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- (b) any conventional wrecker must be equipped with a hydraulic or manual boom with a minimum load capacity of thirty six hundred (3,600) kilograms for winching or recovery service;
 - (c) a hydraulic or mechanical operated winch with a minimum load capacity of thirty six hundred (3,600) kilograms;
 - (d) winch cable with the minimum of one hundred (100) feet of 3/8 inch diameter fibre core wrap cable, six (6) bundle, nineteen (19) strand;
 - (e) a minimum of one (1) anchor ring mounted on the rear of the vehicle. The vehicle must also be equipped with one (1) snatch block and the manufacturer's specification shall be a minimum four (4) ton capacity;
 - (f) two (2) hook-up chains, minimum 5/16 inches in diameter of grade seven (7) steel or grade (8) eight alloy, six (6) feet in length, including "J" hooks, "T" hooks and grab hooks;
 - (g) safety chains, minimum 5/16 inches in diameter of grade (7) seven steel or grade (8) eight alloy consisting of one (1) or two (2) pieces with a total length of twenty (20);
 - (h) a swivel type mounted tow sling; and
 - (i) a trailer hitch with assorted ball sizes.
- (4) Every licensed tow truck owner and tow truck driver shall provide and maintain on or in every flatbed tow truck owned or operated by him or her the following:
- (a) a hydraulic operated winch with a minimum load capacity of thirty six hundred (3,600) kilograms;
 - (b) a winch cable with a minimum length of twenty five (25) feet, 3/8 inch diameter fibre core wrap cable, six (6) bundle, nineteen (19) strand;
 - (c) one (1) hook-up bridle equipped with a minimum of 5/16 inch diameter, grade (7) seven steel or grade (8) eight alloy chain or web straps with two (2) "J" hooks, manufacturer's tested minimum strength of two (2) ton capacity;
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- (d) two (2) tie down chains, minimum 5/16 inches in diameter of grade (7) seven steel or grade (8) eight alloy, six (6) feet in length, with "J" hooks, "T" hooks and grab hooks;
- (e) two (2) chain binders, minimum 5/16 inches in diameter of grade (7) seven steel or grade (8) alloy or two (2) ratchet straps, manufacturer's tested minimum strength of (2 ton) capacity; and
- (f) safety chains, minimum 5/16 inches in diameter of grade (7) seven steel or grade (8) eight alloy. Each safety chain shall be one (1) piece, with a total length of ten (10) feet.

6. REMOVAL OF TOW TRUCK DRIVER FROM LIST OF DRIVERS

- (1) Every tow truck driver shall immediately:
 - (a) report any suspension of his or her Provincial driver's licence to the tow truck owner or heavy tow truck owner upon the suspension; and
 - (b) notify the tow truck owner or heavy tow truck owner when the tow truck driver's driver abstract shows eight (8) demerit points.
- (2) Upon receiving notification from the tow truck driver as required by subsection 6(1)(a) or (b) of this Schedule, every tow truck owner or heavy tow truck owner shall remove the tow truck driver's name from the list provided to the Licensing Commissioner pursuant to subsection 1(1)(f)(iii) or 1(5)(d)(ii) of this Schedule, thereby making the tow truck driver ineligible to operate tow trucks or heavy tow trucks in the town of Oakville. The tow truck owner or heavy tow truck owner shall advise the tow truck driver that he or she has been removed from the list of drivers provided to the Licensing Commissioner.
- (3) Every tow truck owner or heavy tow truck owner shall immediately notify the Licensing Commissioner when advised of suspensions and/or demerits as required by subsection 6(1)(a) or (b) of this Schedule and when he or she has removed a tow truck driver's name from the list of drivers provided to the Licensing Commissioner in accordance with subsection 1(1)(f)(iii) or 1(5)(d)(ii) of this Schedule.

7. ADDITIONAL TOW TRUCK OWNER AND HEAVY TOW TRUCK OWNER REGULATIONS

- (1) Every tow truck owner and heavy tow truck owner shall only permit a tow truck driver:

- (a) whose name has been provided to the Licensing Commissioner in accordance with subsection 1(1)(f)(iii) and 1(5)(d)(ii) of this Schedule; and
- (b) who meets the police records check requirements set out in subsection 1(1)(g)(i) and 1(5)(g)(i) of this Schedule;

to operate a tow truck for the towing or otherwise conveying of a motor vehicle.

(2) Every tow truck owner or heavy tow truck owner shall:

- (a) report any suspension of his or her Provincial driver's licence to the Licensing Commissioner immediately upon the suspension;
- (b) have the name and telephone number of the tow truck business as shown on the owner's tow truck or heavy tow truck licence attached to or painted on both sides of the body of the tow truck or heavy tow truck in a clearly visible position. The letters and figures for the name and telephone number shall be not less than eight (8) centimetres in height and of a contrasting colour to the tow truck or the heavy tow truck;
- (c) immediately notify the Licensing Commissioner in writing when he or she gives possession and control of the tow truck or heavy tow truck for which he or she is licensed under this By-law to another person or permits the use of said tow truck by another person other than through a bona fide contract of hiring for a period greater than one day;
- (d) immediately notify the Licensing Commissioner if a tow truck's or heavy tow truck's Ontario motor vehicle permit is revoked or suspended;
- (e) immediately return the tow truck owner's or heavy tow truck owner's licence and plate to the Licensing Commissioner if the owner disposes of or is no longer operating and using the tow truck or heavy tow truck;
- (f) charge the rates for towing services as set out in Schedule 2 to this By-law or in the statement of rates for towing services or heavy towing services as provided to the Licensing Commissioner;
- (g) limit changes to the statement of rates for towing services or heavy towing services to once every 3 months, if required, and give the Licensing Commissioner one (1) month's notice prior to any change to the statement of rates;

- (h) keep a copy of the statement of rates for towing services or heavy towing services as provided to the Licensing Commissioner in the tow truck and show the statement of rates to the hirer upon request;
- (i) be solely responsible for any damage to motor vehicles and for any theft, loss of or damage to property in and from motor vehicles during the towing service or heavy towing service; and
- (j) in the carrying out of his or her business use only stationery, forms, bills, invoices, statements and any other printed or written advertising material including any published advertisement in a newspaper, periodical, directory or other publication, for that business which has printed therein in clearly legible figures and letters: the business name, business address, telephone number and business hours.

8. INSPECTION OF TOW TRUCKS AND HEAVY TOW TRUCKS

- (1) The Licensing Section may carry out random inspections and may carry out mandatory inspections of tow trucks or heavy tow trucks licensed under an owner and temporarily suspend the owner's licence of any tow truck or heavy tow truck found to be mechanically unfit and/or that fails to comply with the requirements of this Schedule, until such time as the condition has been rectified to the satisfaction of the Licensing Commissioner.
- (2) The Licensing Commissioner may at any time give notice to the licensed tow truck owner or heavy tow truck owner of a mandatory inspection of the tow truck or heavy tow truck.
- (3) Upon receipt of a notice of inspection under subsection 8(2) of this Schedule, each licensed tow truck owner, heavy tow truck owner or the tow truck driver shall attend with the tow truck or heavy tow truck at the requested time and place and shall bring a Safety Standards Certificate issued under the Highway Traffic Act current within one (1) year of June 30th in the current licensing period. Failure to attend shall result in the tow truck or heavy tow truck being suspended from operation until an inspection can be completed. A re-inspection fee will apply.
- (4) If a tow truck or heavy tow truck is removed from service due to a significant failure of the inspection required under subsection 8(2) of this Schedule which could affect public safety, a re-inspection fee will apply.

9. TOWING MOTOR VEHICLES UNDER 4,500 KG FROM PRIVATE PARKING LOTS

- (1) A tow truck owner licensed under this By-law or a tow truck driver may tow and motor vehicle from a private parking lot with a signed Permission to Tow a Motor Vehicle form.
- (2) Subject to subsection 9(3), when towing from a private parking lot without a signed Permission to Tow a Vehicle form, every tow truck owner licensed under this By-law or tow truck driver shall:
 - (a) prior to towing, provide the Halton Regional Police Service with the following information:
 - (i) the name of the towing company;
 - (ii) the make, model and licence plate number of the motor vehicle being towed;
 - (iii) the address of the private parking lot from which the motor vehicle is being towed;
 - (iv) the location of the motor vehicle storage yard to which the motor vehicle is being towed for storage;
 - (v) the date and time when the motor vehicle is going to be towed from the private parking lot;
 - (vi) that the motor vehicle is being towed without the consent of the owner or operator; and,
 - (vii) any other particulars as the Halton Regional Police Service may require.
 - (b) tow the motor vehicle to a motor vehicle storage yard within the boundaries of the Town of Oakville;
 - (c) charge the rates for towing services as set out in Schedule 2 of this By-law; and
 - (d) maintain a log book of all motor vehicles towed from a private parking lot, to include the following information:
 - (i) the date and time of the tow;

- (ii) the make, model and license plate number of the motor vehicle that was towed;
 - (iii) the address of the private parking lot from which the motor vehicle was towed;
 - (iv) the location of the storage yard that the motor vehicle was towed to; and
 - (v) the Town tow truck plate number.
- (3) No tow truck owner licensed under this By-law or tow truck driver shall cause any motor vehicle to be towed from a private parking lot without a signed Permission to Tow a Vehicle form, unless the parking lot is posted with double sided signs or notices upon the entrance and exit to the parking lot which:
 - (a) include the following statements:
 - (i) the parking of motor vehicles is enforced by towing;
 - (ii) parking is restricted to the motor vehicles of customers, visitors, patrons, clients or guests;
 - (iii) the name and telephone number of the towing company engaged by the owner of the private parking lot;
 - (iv) the name and telephone number of the motor vehicle storage yard to which the motor vehicle will be towed; and
 - (b) include a clearly visible tow away symbol/graphic that states “customer parking only, vehicle may be towed at the owner’s risk and expense”;



- (c) has a minimum area of one square (1) metre;
 - (d) are clearly visible at a minimum height of two (2) metres (7 feet) and maximum height of 2.75 metres (9 feet) above the grade of the parking lot; and
- (4) A sign or notice is deemed to comply with the requirements of subsection 9(3) of this Schedule if the sign, in addition to the statements mentioned above, contains a statement that parking is restricted to a specific duration or to a specified period of any day or to specified days of the week.

10. TOWING MOTOR VEHICLES OVER 4,500 KG AND UP TO 22,500 KG FROM A PRIVATE PARKING LOT

- (1) Every heavy tow truck owner shall charge the rates for heavy towing from a private parking lot as provided to the Licensing Commissioner in accordance with subsection 1(5)(e) of this Schedule.

11. FEES AND CHARGES

- (1) Notwithstanding the provisions of any other section of this By-law, where an estimate is given to the hirer of the cost of towing services or heavy towing services to be provided by a tow truck owner, heavy tow truck owner or tow truck driver, the charge to the hirer shall not exceed the charges indicated in the statement of rates for towing services or heavy towing services as provided to the Licensing Commissioner.
- (2) Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this By-law.

12. RECORDS MANAGEMENT

- (1) Every licensed tow truck owner and heavy tow truck owner shall:
- (a) keep a permanent daily record of towing services or heavy towing services provided by the tow trucks owned by such owner, showing the name and address of every hirer, a description of the motor vehicle towed or conveyed, including the Provincial motor vehicle permit number or vehicle identification number of any such motor vehicle, the rate charged, and the total charge collected;
 - (b) at all times permit the Officer, the Licensing Commissioner or any person authorized by the Licensing Commissioner to have access to such records to verify the same;
 - (c) ensure that every tow truck carries a run sheet upon which each tow truck driver, tow truck owner or heavy tow truck owner shall record:
 - (i) the name and address of such owner;
 - (ii) the name and address of the hirer;
 - (iii) the date, time, hook-up and drop off locations;
 - (iv) the services provided;
 - (v) a description of the motor vehicle towed or conveyed including the Ontario motor vehicle permit number of any such vehicle;
 - (vi) the rate or charge;
 - (vii) the total fee collected;
 - (viii) the Town tow truck plate number; and
 - (ix) the name of the tow truck driver.
- (2) Every licensed tow truck owner shall:
- (a) retain the documents required in subsection 1(1)(g) of this Schedule for the current year and the previous year;

- (b) retain the original copy of all Permission to Tow a Motor Vehicle forms for no less than three (3) years after the towing services recorded in them were provided; and
 - (c) make the documents referred to in subsection 12(2)(a) and (b) of this Schedule available for inspection by any person authorized by the Town and such person shall be permitted to remove such records and retain same for a reasonable time.
- (3) Every licensed heavy tow truck owner shall retain the documents required in subsection 1(5)(g)(i) of this Schedule for the current year and the previous year.
- (4) Every licensed tow truck owner and heavy tow truck owner shall retain the original copy of all run sheets for the current year and the previous year after the towing services or heavy towing services recorded in them were provided, and shall make them available for inspection by any person authorized by the Town and such person shall be permitted to remove such records and retain same for a reasonable time.

SCHEDULE 2

Maximum Towing Rates for Motor Vehicles Under 4,500 kg Towed From a Private Parking Lot

1. The charges for the cost of removal and towing of a motor vehicle towed from a private parking lot are exclusive of any administrative fees and/or service charges levied by the Halton Regional Police Service incidental to the administration and/or enforcement of this By-law.

The following are maximum charges for a passenger motor vehicle, inclusive of all applicable taxes, having no more than four (4) single wheels:

Towing (service charge) \$250 per motor vehicle

Lifting Charge \$125 per motor vehicle

2. A tow truck owner or tow truck driver must release a motor vehicle once it has been lifted if the owner of the motor vehicle returns to the private parking lot before the motor vehicle has been removed from the parking lot. The lifting charge set out in Schedule 2 to this By-law may be applied.
3. Fees for either towing or lifting may be levied, but not both.
4. A tow truck owner or tow truck driver must accept payment for a lifting charge in accordance with subsection 3(1)(l) of this Schedule.
5. A tow truck owner or tow truck driver is not entitled to any charges unless authorized under this Schedule.
6. A tow truck owner or tow truck driver is not entitled to charge any amount, whether fixed or calculated at a rate based on any unit of time, for waiting.

SCHEDULE 3

Permission to Tow a Motor Vehicle Form {This form to be copied onto the owner's business letterhead}

1. To be

The owner/driver/agent of the motor vehicle to be towed **AND** the tow truck driver must **BOTH** sign this form **BEFORE** the commencement of the tow. **This permission is for towing services ONLY and is in no way approval to initiate repairs to the motor vehicle.**

Completed by the Motor Vehicle Owner/Driver/Agent

I, _____ have authorized the said named tow truck driver to tow my motor vehicle bearing Ontario Permit number _____ to the location of _____ at the towing rate (shown to me) as provided to the Town's Licensing Commissioner.

2. **To be Completed by the Tow Truck Driver**

Date: _____
Driver's Name: _____
Town of Oakville Plate #: _____
Tow Company Name: _____
Collision/Call Out Location: _____

3. **Permission to Tow the Motor Vehicle**

Signature (motor vehicle owner/driver/agent)

Signature (tow truck driver)

4. **If the Hirer is Unable to Sign - Verified By:**

Signature (Police Officer/Badge # or
Member of Fire/EMS)

Date

*Distribution: White Copy – Tow Truck Driver

Yellow Copy – motor vehicle owner/driver/agent

The personal information on this form is collected under the authority of Section 150 of the *Municipal Act, 2001* S.O. 2001, c. 25 and the Town of Oakville Tow Truck By-law and will be used in connection with the towing of motor vehicles. Questions about the collection of the personal information only should be direct to the Town of Oakville's Municipal Enforcement Services Department, Supervisor, Enforcement Support Services, at 905-845-6601, 1225 Trafalgar Road, Oakville, ON L6H 0H3.