

Authority: Item 6, Planning Committee
Report 12-008 (PED09019(d))
CM: May 15, 2012

Bill No. 118

CITY OF HAMILTON

BY-LAW NO. 12-

**To Amend By-law No. 07-170, a By-law to License and Regulate Various
Businesses**

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the addition of Schedule 28 to licence tow truck businesses;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. By-law No. 07-170 is amended by adding the new Schedule 28, entitled "Tow Trucks", attached as Appendix A to this By-law.
2. Subparagraph 6(1)(e)(ii) of the General Provisions of By-law No. 07-170 is amended by adding the title "Schedule 28 Tow Trucks".
3. Section 30 of the General Provisions of By-law No. 07-170 is amended by deleting the title "Schedule 28 (Reserved)" and replacing it with "Schedule 28 Tow Trucks".
4. Appendix "A" of the General Provisions of By-law No. 07-170 is amended by adding "28 (Tow Trucks)".
5. This By-law comes into force on October 15, 2012.

PASSED this 23 day of May, 2012 .

R. Bratina Mayor	R. Caterini City Clerk

Appendix A

SCHEDULE 28

TOW TRUCKS

DEFINITIONS

1. In this Schedule:

“**compensation**” means any form of payment;

“**complaint record**” means a record of each complaint received by a tow truck business operator or their employee or agent about a towing service they have provided;

“**Highway Traffic Act**” means the Highway Traffic Act and its regulations;

“**registered owner**” means the person shown to be the owner of a tow truck according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

“**tow truck**” means a motor vehicle which is designed, modified or used for pulling, towing, carrying, or lifting a motor vehicle or trailer, be it damaged, disabled, abandoned, or otherwise, with or without the assistance or use of lifts, winches, dollies, trailers, or similar equipment;

“**tow truck driver**” means an individual who drives a tow truck at any time when the tow truck is providing or available to provide a towing service;

“**tow truck business operator**” means a person who carries on the business of providing one or more towing service;

“**tow truck plate**” means a decal, issued by the Issuer Licences, to a tow truck business operator with a current and valid tow truck business operator licence;

“**towing service**” the provision or offer of provision of a tow truck for compensation including but not limited to:

- (a) assisting the owner, operator, driver or passenger of a motor vehicle or trailer through the use of the equipment on or used in conjunction with the tow truck for the pulling, towing, carrying, or lifting of a motor vehicle or trailer; or

- (b) conveying the owner, operator, driver or passenger of a motor vehicle or trailer in a tow truck;

“towing service rate card” means a rate card approved by the Issuer of Licences that includes a tow truck business operator’s rates for towing services and contact information;

“trip record” means a record of each trip providing a towing service from the time:

- (a) a motor vehicle or trailer; or
- (b) an owner, operator, driver or passenger of a motor vehicle or trailer, is picked up to the time they are dropped off.

APPLICATION OF SCHEDULE

- 2. This Schedule does not apply to a tow truck service that consists only of dropping off in the City:
 - (a) a motor vehicle or trailer; or
 - (b) an owner, operator, driver or passenger of a motor vehicle.

GENERAL PROHIBITIONS

- 3.(1) No person shall act as or hold himself or herself out to be a tow truck driver or shall engage in the business of a tow truck driver unless he or she holds a current and valid tow truck driver licence under this Schedule.
- (2) No person shall act as or hold themselves out as a tow truck business operator unless they hold a current and valid tow truck business operator licence under this Schedule.
- (3) No tow truck business operator shall permit a person who does not hold current and valid tow truck driver licence under this Schedule to drive a tow truck under the tow truck business operator’s power or control.

LICENSING

General

- 4. Every tow truck driver and tow truck business operator shall hold the applicable current and valid licence under this Schedule.
- 5. The Issuer of Licences is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

Drivers

6. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck driver licence, not including an applicant for a licence renewal, shall provide proof satisfactory to the Issuer of Licences that the applicant:
- (a) holds a current and valid motor vehicle driver's licence for the tow truck being driven issued by the Province of Ontario;
 - (b) has successfully completed Ontario Traffic Council Book 7 training no more than three years before the date of the application; and
 - (c) will be working for a licensed tow truck business operator should the tow truck licence be issued.

Operators

7. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck business operator licence, not including an applicant for a licence renewal, shall
- (a) submit a list of each tow truck including the make, model, year of manufacture and Vehicle Identification Number;
 - (b) submit a list of the rates for tow truck services that includes but is not limited to setting out:
 - (i) the rates for:
 - 1. towing;
 - 2. boosting a battery;
 - 3. changing a tire;
 - 4. opening a locked vehicle without a key;
 - 5. righting an overturned vehicle or trailer;
 - 6. other services;
 - (ii) if applicable, how distance, time, weight or other variable factors are used to calculate a rate;
 - (c) submit contact information including but not limited to an address, telephone number and at least one of a facsimile number, e-mail address or cell phone text address;
 - (d) provide proof satisfactory to the Issuer of Licences that

- (i) the applicant is the registered owner of all tow trucks to be used; and
- (ii) all tow trucks to be used:
 - 1. are dual rear-wheeled trucks;
 - 2. have been issued either:
 - a. an Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance; or
 - b. a Safety Standard Certificate issued under the Highway Traffic Act,
 - no more 36 days before the proof is provided; and
 - 3. are insured in a manner satisfactory to the Issuer of Licences; and
- (e) make all tow trucks available for inspection, at the tow truck business operator's expense, as directed by the Issuer of Licences.

INSPECTIONS AND APPROVED TOW TRUCKS

- 8. The Issuer of Licences:
 - (a) may specify the establishments where an inspection of a tow truck is to be carried out; and
 - (b) shall specify what the inspection is to consist of, which may include but is not limited to:
 - (i) a visual exterior and interior inspection of the tow truck;
 - (ii) an assessment of mechanical fitness and safety of the tow truck.
- 9. For so long as:
 - (a) a tow truck business operator's tow truck is on the list submitted under subsection 7(a):
 - (b) a tow truck business operator complies with subsections 11(e) to 11(k); and
 - (c) all inspections, reports and certificates show that a tow truck business operator's tow truck complies with this Schedule,the tow truck shall be deemed to be approved by the Issuer of Licences.

REQUIREMENTS

Drivers

10. A tow truck driver shall:

General

- (a) not drive a tow truck unless:
 - (i) the registered owner of the tow truck is a tow truck business operator licence holder; and
 - (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;
- (b) carry and produce upon request of an Officer, the tow truck driver's tow truck driver licence and vehicle driver's licence issued by the Province of Ontario;
- (c) comply with all applicable statutes, regulations and by-laws with respect to traffic and parking including but not limited to the Highway Traffic Act and the City's traffic and parking by-laws and with the Hamilton Highway Non-Solicitation By-law;

Condition of Tow Truck

- (d) not drive a tow truck unless it is equipped with:
 - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
 - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
 - (iii) a device for securing the steering wheel of a motor vehicle;
 - (iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
 - (v) a safety vest;
 - (vi) a broom;
 - (vii) a shovel;
 - (viii) a waste container at least 75 litres in volume;
 - (ix) a first aid kit;
 - (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;

- (xi) a pry bar of no less than 1.5 metres in length;
 - (xii) two wheel blocks;
 - (xiii) flares or reflector kits;
 - (xiv) flashlight;
 - (xv) wheel wrenches;
 - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
 - (xvii) rope;
 - (xviii) booster cables;
 - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and
 - (xx) at least 9 kilograms of absorbent material.
- (e) maintain:
- (i) the interior of the tow truck in a clean, tidy and dry condition; and
 - (ii) the exterior of the tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;
- (f) ensure the tow truck plate is:
- (i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and
 - (ii) plainly visible in its entirety at all times;
- (g) obtain a photo identification card issued by the Issuer of Licences and keep the photo identification card and the towing service rate card displayed in the holder provided for this purpose;
- (h) not display a photo identification card other than that issued by the Issuer of Licences or a towing service rate card other than that approved by the Issuer of Licences;
- (i) each shift before starting and after finishing the shift, examine the tow truck for mechanical defects, interior or exterior damage and report any defects immediately to the tow truck business operator;
- (j) not drive a tow truck unless the tow truck:

- (i) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;
- (ii) is maintained in accordance with subsection 7(b); and
- (i) is free from mechanical defect;
- (k) report any incidents involving damage or injury during a trip immediately to the tow truck business operator and the Issuer of Licences;

Tow Services

- (l) not provide any tow service to an individual who has care, charge or control of a motor vehicle or trailer unless the driver has first:
 - (i) given to the individual a towing service rate card with:
 1. each tow truck service offered checked off;
 2. the total estimated cost of the tow truck services offered, including applicable taxes, entered;
 3. if applicable, the location of the storage yard where the motor vehicle or trailer will be dropped off; and
 - (ii) received from the individual a signed and dated copy of the towing service rate card under paragraph 10(l)(i) authorizing the driver to provide the checked off tow truck services.
- (m) not request or be paid a rate
 - (i) which is greater than a rate listed on the tow service rate card; or
 - (ii) arising from a failure of the tow truck or the tow truck driver;
- (n) keep a trip record for each trip in a form satisfactory to the Issuer of Licences that includes:
 - (i) the date;
 - (ii) the time the call for tow truck services is received;
 - (iii) the time the tow truck arrives and the location;
 - (iv) the time of pick-up;
 - (v) the time of drop-off and the location;
 - (vi) the total cost of the tow truck services provided; and
- (o) behave courteously.

Tow Truck Business Operators

11. A tow truck business operator shall:

General

- (a) not permit their tow truck to be driven unless:
 - (i) the driver is a tow truck driver licence holder; and
 - (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;
- (b) ensure that a tow truck driver driving their tow truck complies with all applicable provisions of this Schedule and By-law;
- (c) keep at all times in their tow truck an original or copy of:
 - (i) the tow truck's motor vehicle registration issued under the Highway Traffic Act and the current Ontario Ministry of Transportation passenger Motor Vehicle Permit;
 - (ii) the tow truck owner licence; and
 - (iii) proof of the insurance required under this Schedule;
- (d) ensure that their tow truck is at all times during the term of tow truck business owner licence insured in a manner satisfactory to the Issuer of Licences;

Condition of Tow Truck

- (e) ensure their tow truck is equipped with:
 - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
 - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
 - (iii) a device for securing the steering wheel of a motor vehicle;
 - (iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
 - (v) a safety vest;
 - (vi) a broom;
 - (vii) a shovel;
 - (viii) a waste container at least 74 litres in volume;
 - (ix) a first aid kit;

- (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
 - (xi) a pry bar of no less than 1.5 metres in length;
 - (xii) two wheel blocks;
 - (xiii) flares or reflector kits;
 - (xiv) flashlight;
 - (xv) wheel wrenches;
 - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
 - (xvii) rope;
 - (xviii) booster cables;
 - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and
 - (xx) at least 9 kilograms of absorbent material.
- (f) maintain:
- (i) the interior of their tow truck in a clean, tidy and dry condition; and
 - (ii) the exterior of their tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;
- (g) ensure the tow truck plate is:
- (i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and
 - (ii) plainly visible in its entirety at all times;
- (h) display the name and telephone number of the tow truck business and tow truck plate number:
- (i) on both sides of the tow truck or on another location as approved in advance by the Issuer of Licences;
 - (ii) in letters and numbers at least 18 centimetres in height;
 - (iii) in a colour that contrasts with the background colour; and
 - (iv) so as to be plainly visible in their entirety at all times;

- (i) ensure that at all times when their tow truck is being used or is available for use it is free from mechanical defects;
 - (i) when reported by a tow truck driver licence holder; or
 - (ii) as directed by an Officer;
- (j) report any incidents of damage or injury involving their tow truck immediately to the Issuer of Licences;
- (k) provide a current Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance or a current Safety Standards Certificate issued under the Highway Traffic Act for the tow truck at such time as prescribed by this Schedule or as requested by the Issuer of Licences;

Towing Services

- (l)(i) retain trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) for at least one year; and
 - (ii) make trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) available to the Issuer of Licences upon request;
- (m)(i) keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:
 1. the date and time the complaint is received;
 2. the complainant's name and telephone number, if provided;
 3. the employee's name;
 4. the complaint reviewer's name;
 5. the details of the complaint;
 6. the action taken in response to the complaint; and
 7. the date and time the complainant is notified of the action taken;
- (ii) report any complaint concerning the safety of an individual immediately to the Issuer of Licences;
- (iii) retain complaint records for at least one year; and
- (iv) make complaint records available to the Issuer of Licences upon request.