

**THE CORPORATION OF THE CITY OF TEMISKAMING SHORES**

**BY-LAW NO. 2004-009**

**BEING A BY-LAW FOR LICENSING, REGULATING AND GOVERNING THE OWNERS AND DRIVERS OF MOTOR VEHICLES USED AS TAXI CABS, ESTABLISHING THE RATES TO BE CHARGED, AND PRESCRIBING THE AMOUNTS OF PUBLIC LIABILITY INSURANCE TO BE PROVIDED.**

**WHEREAS** Section 150 (1) of the *Municipal Act, S.O., 2001, c.25*, as amended, provides a municipality with the authority to pass by-laws for the licensing, regulating and governing of any business wholly or partly carried on within the municipality;

**AND WHEREAS** Section 150 (2) of the *Municipal Act, S.O., 2001, c.25*, as amended, provides a municipality with the authority to pass by-laws imposing conditions for health and safety purposes;

**AND WHEREAS** Section 155 (1) of the *Municipal Act, S.O., 2001, c.25*, as amended, provides a municipality with the authority to pass by-laws for the licensing, regulating and governing of owners and drivers of taxicabs;

**AND WHEREAS** Section 155 (1) (a) of the *Municipal Act, S.O., 2001, c.25*, as amended, provides a municipality with the authority to pass by-laws to 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 WHEREAS** the council of the Corporation of the City of Temiskaming Shores deems it expedient to do so;

**NOW THEREFORE** the council of the Corporation of the Temiskaming Shores enacts as follows:

*SECTION ONE            DEFINITIONS*

- 1.1    BY-LAW ENFORCEMENT OFFICER** means the By-law Enforcement Officer for the City of Temiskaming Shores.
- 1.2    CHIEF ADMINISTRATIVE OFFICER** means the Chief Administrative Officer for the City of Temiskaming Shores.
- 1.3    CLERK** means the Clerk for the City of Temiskaming Shores.
- 1.4    DESIGNATED AGENT** means a person or corporation designated, in writing, by a licensed taxicab owner to act as his/her agent in respect of such taxicab.
- 1.5    DIRECTOR OF PLANNING & PROTECTIVE SERVICES** means the Director of Planning and Protective Services for the City of Temiskaming Shores.
- 1.6    FLEET** means one or more taxicabs owned or leased by one person.

- 1.7** **PERSON** includes an individual, corporation, firm or agent thereof.
- 1.8** **TAXICAB** means a motor vehicle which is kept or used for hire for the conveyance of passengers, with a seating capacity of not more than five persons or more than a number equal to the maximum insured capacity of the taxicab and is equipped with a taximeter.
- 1.9** **TAXICAB ESTABLISHMENT** means a taxicab operation based within the limits of the City of Temiskaming Shores.

*SECTION TWO RESPONSIBILITIES OF THE MUNICIPALITY*

**2.1 RESPONSIBILITIES OF THE DIRECTOR OF PLANNING & PROTECTIVE SERVICES**

The Director of Planning & Protective Services shall:

- (a) be responsible for the issuance, suspension and revocation of all licenses pertaining to this by-law;
- (b) accept applications for licenses required by this by-law;
- (c) provide a copy of this by-law to each applicant for a license under the provisions of this by-law;
- (d) when required, provide to applicants for licenses under this by-law the appropriate examination paper to be completed;
- (e) maintain a record of all licenses issued including the name and address of each licensee and the number of taxicabs owned by each licensee;
- (f) maintain a record of each vehicle licensed hereunder including the make, model, year, serial number, the Provincial license plate number, and the date of issuance of each license;
- (g) issue a tariff card to each licensed taxicab driver;
- (h) undertake a thorough review of this by-law and report thereon to the Municipal Council any proposed amendments to be undertaken within its term, or, if none, recommend this By-law to be considered for re-enactment within a period not greater than five (5) years hence.

**2.2 RESPONSIBILITIES OF THE BY-LAW ENFORCEMENT OFFICER**

The By-law Enforcement Officer shall:

- (a) make all necessary enquiries and examine all applications for taxicab owner and taxicab driver licenses;
- (b) where applicable, examine each applicant as to his or her personal history;

- (c) make all necessary enquiries in connection with the suspension or revocation of licenses issued pursuant to this by-law; and
- (d) report his findings to the Director of Planning & Protective Services.
- (e) ensure that the taxicab drivers and owners attend the city's administrative office in person for the issuance and renewal of licenses; except:
  - 1) in those cases where a designated agent has been approved by the Director of Planning & Protective Services on compassionate grounds, in which case a designated agent of that owner shall be required to attend the city's administrative office for the issuance and renewal of licenses; and,
  - 2) in those cases where the owner or broker is a corporation or firm, in which case an officer of that corporation or firm shall be required to attend the city's administrative office for the issuance and renewal of licenses.

*SECTION THREE      GENERAL PROVISIONS*

The provisions of this by-law apply to taxicab establishments based within the City of Temiskaming Shores.

**3.1      EXCEPTIONS TO BY-LAW**

This by-law applies to any motor vehicle kept or used for hire as taxicab, for the conveyance of passengers, other than a bus that is licensed by the Province of Ontario or a limousine.

**3.2      PROHIBITIONS WITHIN THE CITY OF TEMISKAMING SHORES**

Within the City of Temiskaming Shores no person shall:

- (a) drive a taxicab without having a current valid license so to do, issued under the provisions of this by-law and herein after referred to as a taxicab driver license;
- (b) keep a taxicab for hire without having a current valid license so to do, issued under the provisions of this by-law and referred to herein as a taxicab owner license;
- (c) advertise the use of a taxicab unless the said vehicle is licensed as a taxicab in accordance with the provisions of this by-law;

**3.3      EXPIRY OF LICENSE**

A licensed issued under the provisions of this by-law shall expire on February 28th as indicated on the license, unless previously renewed, suspended or revoked.

### **3.4 APPLICATION FOR TAXICAB DRIVER'S LICENSE**

Each applicant for a taxicab driver's license shall:

- (a) attend the city's administrative office of the City of Temiskaming Shores and make a written application for such license;
- (b) the applicant must provide with his/her application a current driver's abstract from the Ministry of Transportation and a current criminal re-enforcement check from the Ontario Provincial Police or from the Temiskaming Shores Police Services.
- (c) be at least 18 years of age;
- (d) have a current, valid full Class G Provincial motor vehicle driver's license issued under the provisions of the *Highway Traffic Act of Ontario*;
- (e) upon being granted a license, pay the prescribed license fee to the City of Temiskaming Shores.

### **3.5 APPLICATION FOR TAXICAB OWNER'S LICENSE**

Each applicant for a taxicab owner license shall:

- (a) attend the city's administrative office and make a written application for such license;
- (b) in the case of an individual, hold a current valid taxicab driver license issued by the City of Temiskaming Shores.
- (c) in the case of a Corporation, firm or agent thereof, an officer of the said Corporation, firm or the agent, shall hold a current valid taxicab driver's license issued by the City of Temiskaming Shores.
- (d) have the motor vehicle(s) which is/are to be licensed as a taxicab licensed for the current year under the provisions of the *Highway Traffic Act of Ontario* and file with the Director of Planning and Protective Services proof that said motor vehicle(s) is/are either registered in his/her own name or leased by him;
- (e) file with the Director of Planning and Protective Services proof of insurance in respect to each vehicle to be licensed indemnifying and protecting the owner and the public, including passengers carried in such vehicles in the minimum amount of \$1,000,000.00 inclusive of public liability and property damage;
- (f) submit a certificate of mechanical fitness as prescribed by the *Highway Traffic Act of Ontario* with respect to the vehicle to be licensed should said vehicle be in used condition;

- (g) have affixed to each taxicab in respect to which they are licensed, a taximeter which shall register distances traveled and compute fares to be paid, and upon request, shall submit any taximeter to which they are licensed for inspection and approval by an authorized personnel.
- (h) upon being granted a license, pay the prescribed fee;
- (i) in the case of a corporation, firm or agent thereof, provides details of the corporate ownership in a form acceptable to the Director of Planning and Protective Services.

### **3.6 DUTIES OF A TAXICAB DRIVER**

#### **3.6.1 Each taxicab driver shall:**

- (a) upon request of any passenger, provide a receipt for the fare, or charge made and paid;
- (b) take care of all property delivered or entrusted to him and accepted by him for conveyance or safe keeping, and immediately upon termination of any hiring or engagement, search his/her vehicle for any property left therein and deliver to the person owning the same all money or property left in his/her taxicab; or if the owner cannot be at once found, deliver the said property to the Ontario Provincial Police Detachment or to the Temiskaming Shores Police Services and report all information pertaining thereto in his/her possession;
- (c) maintain the interior and exterior of the taxicab within his/her control in a clean and tidy condition;
- (d) provide all available information as to passengers carried to any Police Officer when requested to do so;
- (e) take the shortest and quickest possible route to the destination of the passenger, unless the passenger directs the taxicab driver to take another.
- (f) display the issued taxicab tariff card in such a manner that it may be easily observed by the customer.

#### **3.6.2 Each taxicab driver shall not:**

- (a) be under the influence of any intoxicant or take, consume or have in one's possession any intoxicant while in charge of a taxicab, nor shall the use thereof by the driver be apparent while he is in charge of such vehicle;
- (b) carry more than five passengers in any taxicab used for hire or more than a number equal to the maximum insured capacity of the taxicab;
- (c) carry any passenger who is under the influence of any intoxicant while his taxicab is occupied by a person who is not accompanying the person so under the influence.
- (d) permit smoking by any person in any capacity within the taxicab.

### **3.7 DUTIES OF A TAXICAB OWNER**

#### **3.7.1** Each licensed taxicab owner shall:

- (a) hold a separate taxicab owner license for each vehicle used or kept for hire as a taxicab;
- (b) maintain insurance on each vehicle as required pursuant to section 3.5 (e) of this by-law;
- (c) ensure that each vehicle for which he is licensed is, in its interior, neat, clean, dry and in good repair; and, on its exterior, clean and in good repair, free from exterior body damage and has a well-maintained paint finish;
- (d) submit each licensed taxicab for an annual safety inspection at an authorized Ontario Government Motor Vehicle Inspection Station, effecting repairs as required. It is understood that a safety certificate must accompany each vehicle as licensed annually, any additional vehicle as added or transferred to the fleet. Where deemed warranted by a Police Officer and related to a specific infraction under the *Highway Traffic Act of Ontario*, a safety inspection in addition to the annual certificate shall be required;
- (e) submit each licensed taxicab for general inspection by the By-law Enforcement Officer annually, and at such other time or times when requested to do so;
- (f) in the case of a corporation, firm or agent thereof, notify the Director of Planning and Protective Services immediately upon a change in ownership of the individual holding shares of the company;
- (g) make application to the Director of Planning and Protective Services for re-qualification under the provisions of this by-law for a taxicab owner license should a threshold percentage of twenty percent of the company shares change ownership; and

#### **3.7.2** Each licensed taxicab owner shall not:

- (a) employ any person to operate his/her taxicab who does not hold a valid taxicab driver license issued pursuant to this by-law;
- (b) use or permit to be used any taxicab license issued to him pursuant to this by-law for any vehicle other than the vehicle for which the license was issued;
- (c) permit a taxicab to be operated when the taximeter is out of order or defective in any way;
- (d) use or permit to be used in any of his/her taxicabs any type of scanning device, more than one two-way radio communication system, or more than one cellular telephone; and

- (e) operate, or permit to be operated, a taxicab which was constructed or subsequently modified to permit the loading, transportation and off-loading of those individuals confined to a wheelchair, or similar device used to assist the physically disabled, without transfer, which does not comply with *Ontario Regulation 167/81*, as amended and the *Canadian Standards Association's Standard D409M84*.

### **3.8 TARIFFS (FARES)**

- (a) The rates of fares to be charged by the owners or drivers of taxicabs for the conveyance of passengers shall be as shown in Schedule "A" (Taxicab Tariffs) attached hereto and forming part of this by-law, and no higher or lower amount than that contained in the said Schedule shall be charged or payable, whether such rates and charges are determined by distance or time.
- (b) At the conclusion of a trip, the driver of a taxicab shall call the passenger's attention to the amount of the fare registered on the meter and place the meter in a non-recording position.
- (c) When more than one passenger is being transported in a taxicab, and said passengers have different destinations, the taximeter is reflagged after each destination. The individual or individuals shall then be responsible for the fee registered on the taximeter at the point of their particular destination.
- (d) When a passenger first enters a taxicab, the taximeter shall be immediately placed in operation and shall remain so placed throughout the trip. If a trip extends beyond 10 kilometres of the boundary of the City of Temiskaming Shores, the driver and passenger may agree before the start of the trip to a flat rate.
- (e) The taxi meter shall be turned off if the vehicle is required by reason of a railway crossing to stop, and shall remain turned off until the vehicle is able to proceed across the railway crossing.

### **3.9 LICENSE FEES**

License Fees to be paid to the Municipality for those licenses referred to in this by-law shall be as outlined in Schedule "B" (License Fees), attached hereto and forming part of this by-law. License Fees may be pro-rated at the discrimination of the municipality.

### **3.10 TAXIMETER**

Each taxicab meter shall be:

- (a) installed in such a manner that it may be easily observed by the customer;
- (b) tested by running the taxicab to which the meter is attached over a measured track or distance prior to being placed in service, by the By-law Enforcement Officer or such other person as may be authorized by council;
- (c) submitted when required, for testing, inspection, and sealing by the By-law Enforcement Officer or such other person as may be authorized by council;
- (d) illuminated between dusk and dawn;
- (e) used only when the seal thereon is intact;
- (f) adjusted in accordance with the rates prescribed by Schedule "A" (Taxicab Tariff) of this by-law; and
- (g) kept in good working condition at all times, and not used when defective in any way.

## *SECTION FOUR RENEWAL, SUSPENSION AND REVOCATION OF LICENSE*

### **4.1 RENEWAL OF LICENSE**

Each license unless previously suspended or revoked, shall be renewed upon payment of the appropriate fee.

### **4.2 SUSPENSION OF LICENSE**

In addition to any other penalty which may be imposed pursuant to this by-law, the Director of Planning and Protective Services:

- (a) may suspend a license for failure to comply with any of the provisions of this by-law; and
- (b) shall suspend each taxicab owner license upon failure to maintain on file proof of insurance in accordance with section 3.5 (e) of this by-law.

### **4.3 NOTIFICATION OF SUSPENSION**

Upon notification of suspension the licensee shall surrender such license to the Director of Planning and Protective Services.



#### **4.4 DURATION OF SUSPENSION**

A suspension shall be and remain in force until such time as the licensee has satisfied the Director of Planning and Protective Services as to his/her compliance with the by-law.

#### **4.5 REVOCATION OF LICENSE**

Any license which has been under suspension for a period in excess of 120 days shall be revoked by the Director of Planning and Protective Services.

#### **4.6 APPEAL OF SUSPENSION**

The decision of the Director of Planning and Protective Services may be appealed to council.

### *SECTION FIVE PENALTIES*

#### **5.1 CONTRAVENTION BY INDIVIDUAL**

Every person who contravenes any provision of this by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.00.

#### **5.2 CONTRAVENTION BY CORPORATION**

Where a corporation is convicted of an offence under section 5.1 of this by-law, the maximum penalty that may be imposed on the corporation is \$50,000.

#### **5.3 CONTINUATION OR REPETITION OF OFFENCES**

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, and such order shall be in addition to any other penalty imposed on the person convicted.

#### **5.4 INTEGRITY OF BY-LAW**

Notwithstanding that any section or sections of this by-law, or any part or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such section or sections or part or parts thereof shall be deemed to be severable, and all other sections of this by-law, or parts thereof, are separate and independent therefrom and enacted as such.

## **5.5 UNPAID LICENSE FINE**

If a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, including any extension of time for payment ordered under that section, the By-law Enforcement Officer 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, by delivering the notice or causing it to be delivered to that person at that person's residence or place of business.

## **5.6 DISTRESS OF UNPAID LICENSING FINE**

If the fine referred to in section 5.5 of this by-law remains unpaid after the final date on which it is payable as specified in the notice, the By-law Enforcement Officer may alone or by an agent, subject to the exemptions provided for in Section 351 of the *Municipal Act*, S.O. 2001, c.25, as amended, levy the unpaid fine with costs of distress:

- (a) upon the goods and chattels, wherever found, belonging to or in the possession of the person fined;
- (b) upon the interest of the person fined in any goods to the possession of which the person is entitled under a contract for purchase, or a contract by which the person may or is to become the owner thereof upon performance of any condition;
- (c) upon any goods and chattels in the possession of the person fined where title to them is claimed;
  - (i) by virtue of an execution against the person fined;
  - (ii) by purchase, gift, transfer or assignment from the person fined, whether absolute or in trust, or by way of mortgage or otherwise;
  - (iii) by the spouse, daughter, son, daughter-in-law or son-in-law of the person fined, or any of his/her or her relatives, in case such relative lives as a member of the family; or
  - (iv) by virtue of any assignment or transfer made for the purpose of defeating distress; and
- (d) upon goods and chattels that at the time the fine was imposed were the property and on the premises of the person fined and are still on the same premises, even if such goods are no longer the property of the person fined.

## **5.7 LEVY OF FINES UNDER WARRANT**

If at any time after the notice referred to in section 5.5 of this by-law is given and before the final date on which the fine is payable as specified in the said notice, the By-law Enforcement Officer has good reason to believe that any person in whose hands goods and chattels are subject to distress under section 5.6 of this by-law is about to remove such goods and chattels out of the province and makes affidavit to that effect before any justice of the peace, the justice shall issue a warrant to the By-law Enforcement Officer authorizing him to levy for the fines and costs in the manner provided by section 5.8 of this by-law.

## **5.8 APPLICATION OF SECTION 351 OF THE MUNICIPAL ACT**

Section 351 of the *Municipal Act, S.O. 2001, c.25*, as amended, apply with necessary modifications to the distress for an unpaid licensing fine under this by-law.

## **5.9 DEFECT IN NOTICE**

No defect, error or omission in the form or substance of the notice required by section 5.5 of this by-law invalidates any subsequent proceedings for the recovery of a fine.

## *SECTION SIX EXECUTION OF BY-LAW*

### **6.1 REPEALS**

That By-law No. 793 of the Township of Dymond, By-law No. 2070 of the Town of New Liskeard and By-law No. 2001-026 of the Town of Haileybury being a by-law for the licensing, regulating and governing of owners and drivers of taxicabs, and for establishing the rates to be charged, and prescribing the amounts of public liability insurance to be provided shall be repealed immediately upon the passing of this by-law.

### **6.2 EFFECTIVE DATE**

This by-law shall become effective on the date of passing thereof for a period of five (5) years or until repealed.

Read a FIRST and SECOND TIME this 26<sup>th</sup> day of January, 2004.

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Mayor

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Clerk

Read a THIRD TIME AND FINALLY PASSED this 23rd day of February, 2004.

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Mayor

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Clerk

SCHEDULE "A"

TO BY-LAW 2004-009

TAXICAB TARIFFS

1. Maximum initial charge of \$2.75.
2. Maximum additional charge of \$1.50 per kilometer.
3. For each period of waiting requested by a passenger they shall be charged a maximum amount to be computed by meter of \$33.00 per hour or \$0.55 per minute.
4. Special cartage charge of 25 cents per parcel.

**SCHEDULE "B"**

**TO BY-LAW 2004-009**

**TAXICAB DRIVER AND OWNER LICENSING FEES**

**TAXICAB LICENSE**

1. The fee for the first vehicle to be licensed to be paid is \$35.00.
2. The fee for every additional vehicle licensed to be paid is \$15.00.
3. The fee for a license shall be paid per year and renewable upon expiry date.
4. The fee for a taxicab license may be prorated such that the fee is renewable upon the expiry date, February 28th of each year.

**TAXICAB DRIVER'S LICENSE**

1. The fee for a license to drive a cab shall be \$25.00 per year renewable upon expiry date.
2. The fee for a license to drive a cab may be prorated such that the fee is renewable upon the expiry date, February 28th of each year.

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