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## The Corporation of the Municipality of Clarington

### By-law 2019-069

Being a By-law to license and regulate the operation of private transportation services in the Municipality of Clarington.

**WHEREAS** Section 151 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “Act”) provides that a municipality may provide for a system of licences with respect to a business;

**AND WHEREAS** Section 156 of the Act provides a local municipality with the specific licensing authority with respect to owners and drivers of taxicabs;

**AND WHEREAS** the Council of The Corporation of the Municipality of Clarington has determined that it is appropriate and desirable to license taxicabs, limousines, transportation network vehicles, and designated driving services for the purpose of ensuring the health and safety of both passengers and drivers, for the protection of persons and property, for promoting a fair and competitive private transportation industry, and to ensure consumer protection;

**NOW THEREFORE**, the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

#### DEFINITIONS

1. In this by-law,

“**App**” means a mobile application that can be downloaded onto or accessed on a mobile telecommunication device and used to request the services of a Vehicle-for-Hire within the Municipality;

“**Broker**” means a Person who facilitates, dispatches, or accepts a request for the services of a Vehicle-for-Hire originating within the Municipality;

“**Driver**” means a Person who operates a Vehicle-for-Hire;

“**Enforcement Officer**” means a Provincial Offences Officer as defined under the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

“**Licence**” means a licence issued under this by-law;

“**Licensee**” means a person holding a Licence in accordance with this by-law;

“**Limousine**” means a Vehicle-for-Hire that does not have a Metering Device and is not a TNV;

Vehicle for Hire By-law  
By-law 2019-069

**“Metering Device”** means a meter, instrument, or other apparatus affixed to a motor vehicle that measures the distance driven and waiting time;

**“Municipality”** means The Corporation of the Municipality of Clarington, or its geographical area as the context requires;

**“Person”** means an individual or a corporation, and “Persons” has a corresponding meaning;

**“Plate”** means a sign affixed to a vehicle displaying a series of letters or numbers indicating that the vehicle has been approved by the Municipality to operate as a Taxicab;

**“Street Hail”** means any appeal made directly to a Driver for the services of a Vehicle-for-Hire using sounds, words, signs, or gestures;

**“Tariff Card”** means a card issued by the Municipality for display in each Taxicab which contains the rates of fare then in force;

**“Taxicab”** means a Vehicle-for-Hire equipped with a Metering Device which has seating for not more than seven people by way of persons requesting services through a Broker or street hail;

**“Transportation Network Vehicle” or “TNV”** means a Vehicle-for-Hire that accepts fares exclusively through the use of an App;

**“Trip Record”** means a record of the following information as it relates to trips provided by a Driver operating a Vehicle-for-Hire:

- Provincial Motor Vehicle Permit Number of the Vehicle-for-Hire;
- Licence plate number of the Vehicle-for-Hire;
- Name, address and Licence number of the Driver;
- Metering Device readings at the start and finish of a Taxicab Driver’s shift, if applicable;
- Date, time and location of the beginning and termination of each trip, including any stops requested by a Passenger en route; and
- Amount of all rates and fares collected for each trip; and

**“Vehicle-for-Hire”** means a motor vehicle used for the business of private, pre-arranged transportation services from any place within the Municipality to a destination either within or outside of the Municipality.

## PROHIBITIONS

2. No Person shall be a Broker without a valid Licence.
3. No Broker shall contravene any term or condition applicable to their Licence.
4. No Person shall operate a Vehicle-for-Hire unless they are a Licensed Broker or an employee, agent, or contractor of a Licensed Broker.
5. No Driver of a Limousine or TNV shall accept Street Hails or solicit business at a Taxicab Stand.
6. No Person shall be a Driver unless they are at least 18 years of age.
7. No Person shall be a Driver unless they have a valid Ontario Driver's Licence.
8. No Driver shall operate a Vehicle-For-Hire for more than eighteen hours in any twenty-four hour period.
9. No Person shall obscure a Metering Device from the view of a customer.
10. No Driver shall operate a Taxicab unless the Metering Device is in proper working order.
11. No Driver shall operate a Taxicab without a valid Plate, issued by the Municipal Clerk, and obtained through a licensed Broker, security affixed to the right rear bumper of the Taxicab.
12. No Driver shall engage a Metering Device prior to the customer's entry to the Taxicab.
13. No Driver shall fail to display identification information, including the Driver's name, their Broker's name, and a facial photograph of the Driver, in a clear and conspicuous location visible to every customer.
14. No Person shall refuse a fare on the grounds of race, colour, ancestry, creed, religion, place of origin, ethnic origin, citizenship, sex (including pregnancy and gender identity), sexual orientation, age, marital status, family status, disability, or receipt of public assistance.
15. No Person, in respect of a Taxicab, shall charge a rate or fare in excess of the maximums listed in Schedule "D".
16. No Person, in respect of a Vehicle-for-Hire, shall charge an additional fee for carriage of a mobility aid or a mobility assistive device.

## LICENCES

17.
  - (1) Every application for a Licence shall be completed and submitted in the form established by the Municipal Clerk together with the applicable fee set out in Schedule "A" to this by-law.
  - (2) The Municipal Clerk is authorized to request, and if requested, an applicant for a Licence shall provide, any information or materials reasonably required which may include but not be limited to the items enumerated in Schedule "B" to this by-law.
  - (3) The Municipal Clerk may impose such terms and conditions on a Licence that the Municipal Clerk, acting reasonably, considers to be appropriate, and which shall include but not be limited to the items enumerated in Schedule "C" to this by-law.
18. The Municipal Clerk is authorized to approve or refuse any application for a Licence, subject to the right of the applicant to request a review of the decision of Council.
19. A Licence is valid from the date of issuance until the date of expiry, unless cancelled or revoked.
20. No Person shall transfer or assign to any other person, a Licence issued under this by-law.
21. The Municipal Clerk may issue a replacement Licence or Plate if satisfied that the original has been lost or stolen, subject to the applicable fee set out in Schedule "A" of this by-law.
22. The Municipal Clerk is authorized to revoke a Licence if it was issued in error, based on false information, or if the Licensee fails to comply with a term or condition applicable to their Licence or any provision of this By-law, subject to the right of the Licensee to request a review of the decision by Council.
23. Notwithstanding the fees established in Schedule "A" of this by-law, where a Broker who can show that they have operated an accessible vehicle-for-hire over the previous 12 months, and can demonstrate that they have fulfilled a reasonable number of trip requests for persons with disabilities, , is eligible to a fee that is one half the amount listed in Schedule "A".

## TAXICAB VEHICLE PLATES

24. A Plate issued to a Broker shall remain the property of the Municipality.
25. No Person shall enjoy a vested right in the continuance of a Licence.

## **DRIVERS**

26. Every Driver shall ensure the environment of the vehicle is free of any substance, material, or odour that a reasonable person would find noxious or unpleasant, including but not limited to tobacco smoke.
27. Every Driver shall follow the shortest route to the destination unless the customer verbally directs otherwise or an alternate route is agreed to via an App.

## **NOTICE OF CHANGE OF INFORMATION**

28. A Licensee shall notify the Municipal Clerk in writing within ten business days of any change of information submitted with the Licence application, and shall pay the applicable fee as set out in Schedule "A" to this by-law
29. A Licensee shall, upon the request of the Municipal Clerk, surrender a Licence for the purpose of amendment.
30. A Licensee shall provide the Municipality with no less than thirty (30) days prior written notice of any cancellation, variation, replacement policy document, or expiration of any policy of insurance required under this by-law.

## **ENFORCEMENT**

31. Where any Person contravenes any provision of this By-law, an Enforcement Officer may direct such Person to comply with this By-law. Every Person so directed shall comply with such direction without delay.
32. If satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, an enforcement Officer is authorized to suspend a Licence for a period not to exceed 14 days.

## **POWERS OF ENTRY**

33. An Enforcement Officer, whether alone or accompanied by an individual possessing special or expert knowledge or skills, may enter on land that is occupied by a Person who requires a Licence under this By-law at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (a) this By-law;
  - (b) a direction or order of the Municipality made under the *Municipal Act, 2001, S.O. 2001, c. 25* or this By-law; or
  - (c) an order made under section 431 of the *Municipal Act, 2001, S.O. 2001, c. 25*.

34. For the purposes of an inspection under this By-law, an Enforcement Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
35. In addition to any other provision of this By-law, and subject to the provisions of the *Municipal Act, 2001, S.O. 2001, c. 25*, a provincial judge or justice of the peace may issue an order authorizing the Municipality to enter on land, including a room or place actually being used as a dwelling, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
  - (b) a direction or order of the Municipality made under the *Municipal Act, 2001, S.O. 2001, c. 25* or this By-law; or
  - (c) an order made under section 431 of the *Municipal Act, 2001, S.O. 2001, c. 25*.

## **OBSTRUCTION**

36. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Enforcement Officer from lawfully carrying out a power, duty or direction under this By-law.

## **OFFENCES**

37. Every Person, other than a corporation who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence; and not more than \$25,000 for any subsequent conviction.
38. Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence, and not more than \$100,000 for any subsequent conviction.

39. Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the *Provincial Offences Act, R.S.O. 1990, c. P.33*.
40. If any Person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
41. Where any Person contravenes any provision of this By-law, such Person shall be responsible for all costs incurred by the Municipality directly related to the contravention.

### **SEVERABILITY**

42. If any section or sections of this By-law, or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of the Municipal Council to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all remaining sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be properly enacted and to be of full force and effect.

### **CONFLICT**

43. In the event of a conflict between any provision of this By-law and any applicable Act or regulation, the provision that is the most restrictive prevails.

### **SCHEDULES**

44. The following Schedules are attached to and form an integral part of this by-law:
  - Schedule “A” – Fees
  - Schedule “B” – Information to be Submitted with a Licence Application
  - Schedule “C” – Terms and Conditions of a Licence
  - Schedule “D” – Maximum Taxicab Tariffs
  - Schedule “E” – Set Fines

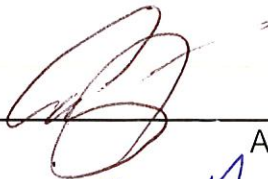
### **EFFECTIVE DATE**

45. This by-law shall come into force and take effect on the date of passing.
46. By-law 2005-205, as amended is repealed on the date this by-law comes into force and effect.

**SHORT TITLE**

47. This by-law may be referred to as the "Vehicle-for-Hire By-law".

Passed in Open Session this 9<sup>th</sup> day of December, 2019



Adrian Foster, Mayor



C. Anne Greentree, Municipal Clerk



## Schedule "A" - Fees

<b>Item</b>	<b>Fee</b>
Taxicab/Limousine Broker Licence	\$1,500.00
TNV Broker Licence	\$25,000.00
Replacement Plate	\$10.00
Broker information update (during term of licence)	\$25.00

## **Schedule “B” – Information to be Submitted with Licence Application**

The information and materials to be submitted with an application for a Licence shall include but not be limited to:

- (a) The applicant’s legal name and any associated business name(s), telephone number, email address, and business address;
- (b) If the applicant is an individual, a Criminal Information Record check dated not more than thirty (30) days prior to the application date;
- (c) If the applicant is an individual, proof that they are 18 years of age or older;
- (d) Commercial General Liability insurance submitted on the prescribed form with the Municipality as an additional insured subject to limits of not less than Five Million Dollars (\$5,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use; and
- (e) In addition to the requirements set out above, every application for a TNC Broker Licence shall include non-owned automobile insurance with limits of no less than Two Million Dollars (\$2,000,000) per occurrence.

## Schedule “C” – Terms and Conditions of a Licence

The terms and conditions applicable to a Licence include but are not limited to the following:

- (1) A Broker shall keep a Trip Record of every dispatch it makes of a Vehicle-for-Hire, and the Broker shall retain each record for a period not less than 12 months.
- (2) Upon the request of the Municipality, and within the timeframe indicated in the request, a Broker shall provide information pertaining to a specific Trip Record. A Broker shall also submit reports of aggregated and depersonalized Trip Record at regular intervals to be determined by the Municipality, acting reasonably.
- (3) A Broker shall keep a record of the number of requests for accessible services and the number of requests for accessible services which were fulfilled.
- (4) A Broker shall keep all records submitted to it by a Driver for a minimum of 2 years.
- (5) A Broker shall inform the customer of the estimated time of arrival of the Vehicle-for-hire to the customer’s location.
- (6) No Broker shall dispatch to a Driver:
  - (a) who is less than eighteen (18) years of age;
  - (b) who does not have a valid G class driver’s licence in good standing issued by the Province of Ontario permitting the Operation of a Vehicle-For-Hire;
  - (c) with less than two years of driving experience;
  - (d) who has failed to submit, no less frequently than on an annual basis, a driver’s abstract issued by the Ontario Ministry of Transportation.
  - (e) who has been convicted in the previous three years of a *Highway Traffic Act* offence carrying more than four (4) demerit points or has accumulated more than eight (8) demerit points in total;
  - (f) who has failed to submit, no less frequently than on an annual basis, proof of a clean and up-to-date police reference check or a reference check that is otherwise satisfactory to the Municipal Clerk; subject to a right of review by Council.
- (7) A Broker shall operate in compliance with all Federal, Provincial, and municipal laws, including the *Highway Traffic Act* and the *Accessibility for Ontarians with Disabilities Act, 2005*.

- (8) A Taxicab Broker shall ensure that:
- (a) a current tariff card is issued to each dispatch Driver and displayed in a conspicuous place in the vehicle;
  - (b) the Metering Device is illuminated between sunset and sunrise;
  - (c) the Metering Device is operational, sealed and calibrated to comply with the maximum tariffs established by the Municipality;
  - (d) The correct Plate issued by the Municipality is affixed to the right rear bumper of the vehicle.
- (9) For every vehicle dispatched by a Broker, that Broker shall keep the following records:
- (a) The legal name and contact information for the Driver;
  - (b) A current copy of the vehicle registration issued by the Ontario Ministry of Transportation;
  - (c) A current and valid Ontario Ministry of Transportation Safety Standards Certificate issued in the previous 12 months;
  - (d) For a Vehicle-for-Hire that is of a model that is 10 years or older, proof of a satisfactory inspection dated no earlier than 90 days before the current Licensing period;
  - (e) If the vehicle is a Taxicab, acceptable confirmation that the vehicle is equipped with a calibrated and properly functional Metering Device.
  - (f) Proof of current Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) inclusive per occurrence for bodily injury, death and damage to property and standard accident benefits; and
  - (g) If the vehicle is accessible, proof that any lifting device affixed to the vehicle is compliant with relevant safety standards, to the satisfaction of the Municipal Clerk.

### **Schedule “D” - Maximum Taxicab Tariffs**

Drop Rate (for the first 100m or part thereof)	\$3.00
For each additional 100m or part thereof	\$0.25
Waiting time while under hire per minute	\$0.45
Additional passengers in excess of four, aged 9 and over	\$0.40

All tariffs inclusive of HST

**Schedule "E"**

**MUNICIPALITY OF CLARINGTON**

**PART I Provincial Offences Act**

**By-law #2019-069: Vehicle-for-Hire By-law**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision creating or defining offence</b>	<b>COLUMN 3 Set Fine</b>
1	Be a Broker without a valid Licence	s. 2	\$400.00
2	Contravene term or condition of Licence	s. 3	\$200.00
3	Operate vehicle-for-hire without a Licence	s. 4	\$300.00
4	Unauthorized acceptance of fare	s. 5	\$200.00
5	Underage driver	s. 6	\$200.00
6	Driver without Ontario Driver's Licence	s. 7	\$200.00
7	Operation exceeding 18 hours	s. 8	\$200.00
8	Obscure a Metering Device	s. 9	\$150.00
9	Metering Device not in working order	s. 10	\$150.00
10	Operate Taxicab without valid Plate	s. 11	\$200.00
11	Engage Metering Device prior to entry	s. 12	\$150.00
12	Failure to display identification	s. 13	\$200.00
13	Rate or fare in excess of maximum	s. 15	\$200.00
14	Charge prohibited fee	s. 16	\$200.00
15	Failure to follow prescribed route	s. 27	\$150.00
16	Failure to update application	s. 28	\$100.00
17	Failure to update clerk of changes in insurance information	s. 30	\$100.00
18	Obstruction of an Enforcement Officer	s. 36	\$100.00

"NOTE: The penalty provision for the offences indicated above is section 39 of by-law no. 2019-069, a certified copy of which has been filed".

THE HONOURABLE ESTHER ROSENBERG  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
CENTRAL EAST REGION

50 EAGLE STREET WEST  
NEWMARKET, ONTARIO L3Y 6B1



JAN 13 2020

MUNICIPALITY OF CLARINGTON  
*Solicitor's Office*

January 6, 2020

Mr. Robert Maciver  
Municipal Solicitor  
Corporation of the Municipality of Clarington  
40 Temperance Street  
Bowmanville, Ontario  
L1C 3A6

L'HONORABLE ESTHER ROSENBERG  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DU CENTRE-EST

50, RUE EAGLE OUEST  
NEWMARKET (ONTARIO) L3Y 6B1

TELEPHONE/TÉLÉPHONE (905) 853-4890  
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RECEIVED

JAN 13 2020

MUNICIPALITY OF CLARINGTON  
*Solicitor's Office*

Dear Sir:

**Re: Set Fines – Part I**  
**The Corporation of the Municipality of Clarington**

Enclosed herewith please find a copy of the Order and a copy of the Schedule of Set Fines for the By-law No. 2019-069.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

I have forwarded a copy of the Order and the Schedule of Set Fines to the POA Court in Whitby, together with a certified copy of the By-law.

Yours truly,

A large, handwritten signature in black ink, appearing to read 'Esther Rosenberg', is written over the typed name and title.

Esther Rosenberg  
Regional Senior Justice  
Central East Region

/bmw

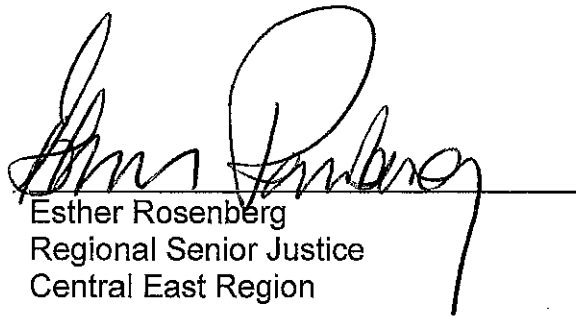
Enclosures

**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law 2019-069, for the Municipality of Clarington, attached hereto is the set fine for that offence. This Order is to take effect January 6, 2020

DATED at Newmarket this 6<sup>th</sup>  
day of January, 2020

  
\_\_\_\_\_  
Esther Rosenberg  
Regional Senior Justice  
Central East Region



**Schedule "E"**

**MUNICIPALITY OF CLARINGTON**

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