



Corporation of the Town of Newmarket

By-law 2020-07

A By-law to Regulate and License Mobile Businesses to Operate in the Town of Newmarket.

Whereas Section 151 of the Municipal Act 2001, S.O. 2001, c25, as amended, establishes that a municipality may provide for a system of licences with respect to a business;

And whereas the Council of the Town of Newmarket deems it advisable to pass such by-law;

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. Title

This By-law may be known and cited for all purposes as the “Mobile Business Licence By-law 2020-07”.

2. Definitions

In this By-law:

“Accessible Vehicle” means a motor vehicle that is used or designed to be used to transport Persons who have a disability;

“Affiliation Date” means the date an Applicant applies for a new or the renewal of a Business Licence;

“Appeal Committee” means the Appeal Committee established by the Town.

“Applicant” means a person applying for a Business Licence to carry on a Business, activity, or undertaking pursuant to this By-law;

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

“Business Licence” means a licence to operate a Business under this By-law;

“Clean” means free of dirt, garbage, debris, and in good repair;

“Collision” means the unintended contact resulting from the motion of a Motor Vehicle and/or its load;

“Collision Scene” means the general location or place where a Collision has occurred;

“Council” means Council for the Corporation of the Town of Newmarket;

“CVOR Certificate” means a Commercial Vehicle Operator’s Registration Certificate issued under the Highway Traffic Act;

“Criminal Record Check” means a criminal record check issued by an Ontario police service as approved by the Manager;

“Director” means the Director of Legislative Services of the Town of Newmarket or designate;

“Director of Recreation and Culture” means the Director of Recreation of the Town of Newmarket or designate;

“Drivers Abstract” means a Driver Record Search issued by the Ontario Ministry of Transportation;

“Driving School Instructor” means a Person who provides instruction in the operation of motor vehicles but does not include a Person who provides in-class instruction only;

“Driving School Instructor Vehicle” means a motor vehicle that is being used by a Driving School Instructor for the purpose of teaching a Person to operate a motor vehicle or conduct a driving test;

“Drop Fee” means any fee or commission paid to a Tow Truck Company or Tow Truck Driver in return for the towing or otherwise conveying of a vehicle to a particular place, other than or in addition to the amount to which the Tow Truck Company or Tow Truck Driver is authorized to charge the customer in accordance with this By-law;

“Fare” means the amount communicated and agreed upon by any potential customer or passenger prior to the start of a Trip;

“Farmers Market” means a central location at which a group of Persons who operate stalls or other food premises meet to sell or offer for sale to consumers products that include, without being restricted to, farm products, baked goods, and preserved foods, and at which the majority of the Persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products;

“Fees and Charges By-law” means the Town of Newmarket Fees and Charges By-law, as amended;

“Licence Fee” means a fee payable for a Business Licence pursuant to the Fees and Charges By-law;

“Licensed” means to have in one’s possession a valid and current Business Licence issued pursuant to this By-law;

“Licensing Officer” means an individual appointed by the Town as a Municipal Law Enforcement Officer or any other individual designated by the Town to enforce this By-law;

“Limousine” means a motor vehicle for hire, not equipped with a meter, to transport Persons, which has a minimum seating capacity of five (5) passengers in the rear compartment which shall include, but is not limited to, formal limousine, stretched limousine, super, mega and ultra stretched limousine;

“Limousine Company” means a Business engaged in providing an array of specialty or luxury passenger transportation services via Limousines or luxury sedans generally on a reserved basis, and who offers such vehicle for hire;

“Manager” means the Town of Newmarket Manager of Regulatory Services or their designate;

“Mobile Business” means a Business that provides goods and/or services to the public from a vehicle or apparatus that is designed to be mobile and includes, but is not limited to:

- (a) Driving School Instructor Instructors;
- (b) Limousine Companies;
- (c) Refreshment Vehicles;
- (d) Taxicabs;
- (e) Tow Trucks; and
- (f) Transportation Network Companies;

“Non-Profit Organization” means any incorporated or unincorporated organization formed for charitable purposes and not organized for profit or personal gain;

“Operator” means the driver or Person that operates a Business pursuant to this By-law;

“Owner” means a Person who, alone or with others, fits into any one or more of the following categories:

- (a) Is the owner of a vehicle or business;
- (b) Has control over the vehicle or business; or
- (c) Directs the operation of the vehicle or business;

“Person” includes a natural person, corporation, partnership or party, and the personal or other legal representatives or a person to whom the context can apply according to law;

“Police Officer” means a Police Officer defined under the Police Services Act, R.S.O. 1990, c. P15, as amended;

“Refreshment Vehicle Owner” means the owner of a Refreshment Vehicle;

“Refreshment Vehicle Operator” means any Person that is the driver or Operator of a Refreshment Vehicle;

“Refreshment Vehicle” means any vehicle from which refreshments are sold for public consumption, including carts, wagons, trailers and trucks, irrespective of the type of motor power employed to move the Refreshment Vehicle;

“Refreshment Vehicle – Type 1” means a motor vehicle that is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to vehicles such as catering trucks and ice cream trucks;

“Refreshment Vehicle – Type 2” means a trailer/cart that is stationary and licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to hot dog carts;

“Refreshment Vehicle Type 3” – means a muscle powered cart that is licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of refreshments, and includes but is not limited to bicycle ice cream carts;

“Refreshment Vehicle Type 4” – means a large motorized vehicle, equipped with facilities for cooking, selling, offering for sale, serving and/or dispensing of refreshments;

“Registered Owner” means a Person who is registered with the Registrar of Motor Vehicles for the Province of Ontario as the plate owner of the vehicle;

“Restricted Area” means the area on a highway used by Drive Test employees for conducting driving tests as contained in Schedule “A” of this By-law;

“Smoke or Smoking” includes the holding or carrying of a lighted cigar, cigarette, pipe, e-cigarette, electronic vaporizer, or any other lighted, heated tobacco, cannabis, or other substance or product;

“Special Event” means any event which is being held as a community, social, sporting, cultural group celebration, or other similar event on a commercial property or public property;

“Special Event Organizer” means the organizer and/or coordinator of a Special Event;

“Special Event Organizer Licence” means a licence applied for and obtained pursuant to this By-law;

“Special Event Vendor” means a Person that is licensed as a Refreshment Vehicle Owner by the Town;

“Sticker Plate” means a numbered sticker plate issued by the Town and required to be visibly displayed on a Mobile Business Vehicle pursuant to this by-law;

“Taxicab” means a motor vehicle that is designed or customarily used for the transportation of passengers, where such motor vehicle is offered or made available for hire together with a driver for the conveyance of passengers or goods;

“Taxicab Company” means any Person who carries on the business of accepting, advertising, brokering, or dispatching orders for Taxicabs by way of a listed telephone line, and through other means not limited to an App or other electronic method;

“Taxicab Driver” means the driver of a Taxicab that provides transportation to passengers by way of Persons requesting services through a Taxicab Company, or in response to a Street Hail or pick-up;

“Taxicab Meter” means a device or instrument affixed to a Taxicab which measures, mechanically or electronically, the distance driven and the time waiting upon which a Fare is based, and which computes the amount of the fare chargeable for a Taxicab Trip for which a Fare is chargeable;

“Tow/Towing” means the removal, or a conveyance of a motor vehicle by a Tow Truck and are in accordance with the tow rates set out in this By-law;

“Tow Truck” means a motor vehicle that is designed, modified, configured, or equipped so that it is capable of towing other motor vehicles;

“Tow Truck Company” means a Person who in pursuance of a trade, calling business, or occupation arranges for the provision for hire to a customer of the services of a Tow Truck;

“Tow Truck Driver” means any Person that is the driver or operator of a Tow Truck;

“Town” means the Corporation of the Town of Newmarket in the Regional Municipality of York;

“Trail” means that part of a park that has been improved with a hard surface or not paved and intended for a variety of uses;

“Transportation Network Company (TNC)” means any Person that offers, facilitates, or operates prearranged transportation services exclusively through a TNC App that matches passengers requesting service to TNC Drivers who provide service using a TNC Vehicle;

“Transportation Network Company (TNC) App” means a mobile application that can be downloaded onto or accessed on a mobile phone, tablet, or other digital electronic device used to connect passengers with TNC Drivers;

“Transportation Network Company (TNC) Driver” means the driver of a TNC Vehicle who is affiliated with a TNC and who has access to a TNC App to transport passengers for compensation;

“Transportation Network Company (TNC) Vehicle” means a private motor vehicle that provides transportation services for compensation but does not include a Taxicab as defined in this By-law;

“Trip” means each journey commencing when a passenger enters a vehicle-for-hire having made a request for transportation in exchange for a monetary amount and ending when that same passenger exits the vehicle-for-hire;

“Zoning By-law” means the Town of Newmarket Zoning By-law, as amended.

3. General Regulations

(1) No Person shall:

- (a) carry on or operate any Mobile Business within the Town unless that Person holds a valid and subsisting business licence issued to that Person for that Business;
- (b) represent to the public that the Person is licensed under this By-law if the Person is not so licensed; or
- (c) contravene or fail to comply with a term or condition of the Licence imposed under this By-law.

(2) Every Person shall comply with all federal, provincial, and municipal laws and regulations applicable to the Mobile Business.

(3) Every holder of a valid business licence shall display the business licence in a location visible to customers utilizing the business.

(4) Every licence issued shall be deemed to be a personal licence to the licensee therein named and is not transferable.

(5) No Person operating a Mobile Business within the Town shall market that Business or its products and services through any means of promotion unless:

- (a) the Person operating that Business is the holder of a valid business licence issued pursuant to this By-law;
- (b) the Business name being promoted or marketed matches the named endorsed on the Business Licence; and
- (c) the marketing offers products and services that comply with Town by-laws and related enactments.

(6) No Person shall carry on a Mobile Business of any kind, in any way or manner on Town-owned property, parks, boulevards, highways, or other public property unless specifically authorized to do so under the conditions of that Person’s business licence.

- (7) Every Mobile Business must apply for, obtain, and be in possession of a valid business licence authorizing them to carry on their Business in the Town.
- (8) No Person shall Smoke or permit Smoking within any vehicle affiliated to any Business licensed under this By-law.

4. Administration and Enforcement

- (1) Through delegated authority, the **Manager** may:
 - (a) grant, issue, or amend a business licence if the Licensing Officer is satisfied that the applicant has complied with all of the by-laws of the Town and related enactments that apply to the applicant's Business;
 - (b) suspend, cancel, or refuse to issue a business licence in accordance with Section 7 of this By-law;
 - (c) impose conditions on a licence at the time of issuance, renewal, or suspension for the purposes of ensuring compliance with all applicable enactments pertaining to the Business;
 - (d) conduct inspections and investigations to ensure that all regulations and provisions prescribed in this By-law are carried out; and
 - (e) prepare, from time to time, forms to be used for the purpose of making applications under this By-law.
- (2) No person shall Obstruct or attempt to Obstruct a Licensing Officer or other Person who is exercising a power or performing a duty under this By-law.
- (3) Any vehicle found to be in contravention of any provision of this By-law shall be the liability of the Registered Owner and responsible for any and all fees and fines imposed.

5. Licence Fees

- (1) Business licence fees shall be in accordance with those specified in the Town of Newmarket Fees and Charges By-law.
- (2) An administrative penalty of 25% of the renewal fee shall be added to each unpaid business licence after 31 days from the renewal date. If unpaid by this time, the licence shall be revoked and a new business licence application shall be required.
- (3) If an application for a licence is withdrawn, in writing, prior to the issuance of the licence, the Licence Fee shall be refunded to the applicant if a licence was pre-paid.
- (4) No Licence Fee shall be refunded after the issuance of a licence.

6. Application and Renewal

- (1) The terms of a business licence issued under this By-law are for a period commencing January 1st and ending December 31st of the year for while the licence is issued.
- (2) All new business licence applications shall be accompanied by a non-refundable \$50.00 application processing fee. If a business licence application is approved, the application processing fee shall be applied to the Business Licence fee identified under the Fees and Charges By-law.

- (3) Every applicant for a new Business Licence or for the renewal of a Business Licence issued under this By-law shall:
- (a) submit a completed application on the forms provided;
 - (b) file proof satisfactory to the Licensing Officer that they are eighteen (18) years of age or older, a citizen of Canada, or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of the Licence type that they are applying for;
 - (c) provide a copy of the:
 - (i) incorporating document and a copy of the last annual information return which has been filed with the appropriate government department, if the applicant is a corporation; or
 - (ii) registered declaration of partnership, if the applicant is a registered partnership;
 - (d) provide any other document relating to the operation of the Business requested by the Licensing Officer, including but not limited to:
 - (i) a provincial diver's licence;
 - (ii) Vulnerable Sector Screening Search or Criminal Conviction Background Search issued by the Police Service in which the applicant resides;
 - (iii) Harmonized Sales Tax (HST) number;
 - (iv) Ontario Ministry of Transportation Vehicle Ownership Permit;
 - (v) York Regional Health Department Inspection Certificate;
 - (vi) Insurance Certificates;
 - (vii) Letters of employment;
 - (viii) Ministry of Transportation Driver's Abstract; or
 - (ix) Vehicle lease agreements;
 - (e) pay any required fees pursuant to the Town's Fees and Charges By-law; and
 - (f) pay any outstanding fine(s) owed to the Town prior to the issuance of a business licence.
- (4) If a Person submits a Business Licence application for which additional information or documentation is required by the Licensing Officer, the Person shall supply all required information and documentation within 30 days of the request made by the Licensing Officer, after which time the application may be refused and a new application for a Business Licence is required.

7. Suspension, Cancellation, and Refusal

- (1) The Manager may revoke, suspend, cancel or refuse to renew or issue a licence:

- (a) where the past conduct of the applicant or licensee affords reasonable grounds for belief that the applicant or licensee will not carry on the activity for which the applicant is applying for or the licensee is licensed for, in accordance with law and with integrity and honesty;
 - (b) where the applicant or licensee has been found by the Manager or Licensing Officer to fail to comply with any provision of this By-law; or
 - (c) where the applicant has been found by the Manager to provide false information in order to obtain a business licence.
- (2) Upon such revocation, suspension, cancellation, or refusal to issue or renew a Business Licence, the Manager shall provide a formal letter outlining the reason(s) for the refusal and shall be delivered to the applicant or licensee within seven (7) business days. Such notice shall set out and give reasonable particulars of the ground(s) for the decision and options for an Appeal Hearing.
 - (3) An applicant or licensee of a Business Licence may request a hearing before the Appeals Committee for reconsideration of the Manager's decisions to revoke, suspend, cancel, or refuse to issue or renew a Business Licence by delivering a written request to the Manager within fourteen (14) days of the Manager's decision being sent.
 - (4) The applicant or licensee of a Business Licence must pay a non refundable Appeal Fee in accordance with the Fees and Charges By-law;
 - (5) Before the **Appeals Committee** makes any decision, a written notice to advise the applicant or licensee of the recommendations being made by the Manager with respect to the licence shall be provided to the applicant or licensee.
 - (6) The applicant or licensee shall have the right to make a submission in support of an application or renewal or retention of a licence before the Appeals Committee.
 - (7) Failure for the applicant or licensee to attend the scheduled hearing before the Appeals Committee shall result in the proceeding of the hearing.
 - (8) The decision of the Appeals Committee is final and is not subject to an appeal.
 - (9) No Person shall conduct any Business pursuant to their Business Licence during a period of suspension of that Business Licence.
 - (10) No Person shall market a Business during a period of suspension of that Business' Licence.
 - (11) If the Manager suspends, cancels or refuses to issue, amend or renew the business licence for a business, the Town may post a notice of suspension, cancellation, or refusal on the vehicle used for and affiliated to the Business.
 - (12) A posted notice of suspension, cancellation, or refusal of a business licence shall not be removed until the Manager has approved the issuance of a valid business licence.
 - (13) If a business is operating without a licence required under this By-law, the Town may post a notice describing the failure to hold a valid

business licence on the premises of the business or on the vehicle used and affiliated with the business.

- (14) A posted notice of operating without a business licence shall not be removed until the Manager has approved the issuance of a valid business licence.

8. Specific Regulations

8.1 Taxicab Companies

- (1) A Person wishing to carry on the Business of a Taxicab Company in the Town shall apply for a new Licence or a renewal Licence by providing the Licensing Officer with the following:
- (a) a list of all Taxicab Drivers affiliated with the Taxicab Company
 - (b) a list of all Taxicabs affiliated with the Taxicab Company, where the list shall include the year, make, model and Ontario Licence plate number of the Taxicab Vehicle
 - (c) a sworn declaration from the Taxicab Company that all Taxicab Drivers affiliated with the Taxicab Company have provided the following to the Taxicab Company, which comply with the standards set out in this By-law:
 - i. a Criminal Record Check issued within one year of the Affiliation date
 - ii. a Driver's Abstract issued within one year of the Affiliation date
 - iii. proof of a valid driver's licence
 - (d) a sworn declaration from the Taxicab Company that every Taxicab affiliated with the Taxicab Company has the following:
 - i. vehicle ownership;
 - ii. a Safety Standard Certificate issued within one year of the Affiliation Date; and
 - iii. proof of valid Ontario Standard Automobile Insurance Policy insuring themselves in respect of the Taxicab owned by them covering public liability and property damage in the minimum amount of \$2,000,000.00.
 - (e) An insurance certificate demonstrating commercial general liability business insurance for the operations of the Taxicab Company against claims filed against the Taxicab Company with respect to bodily injury, including personal injury and death, and property damage with a per occurrence limit of at least \$5,000,000. The Town must be included as an additional insured under this policy but only with respect to the operations of the Taxi;

Taxicab Driver Requirements

- (2) A Taxicab Company shall not permit a Taxicab Driver to operate in the Town if the Taxicab Driver:
- (a) has received a criminal conviction that does not meet the standards set forth in Schedule "B" of this By-law;
 - (b) has a Driver's Abstract which contains:

- i. more than eight (8) demerit points according to the *Highway Traffic Act*, or its equivalent from outside the Province of Ontario; or
 - ii. an individual Highway Traffic Act conviction which resulted in at least four (4) demerit points, or its equivalent from outside the Province of Ontario;
 - (c) is operating a Taxicab that does not meet the automobile insurance standards as set out in this By-law.
- (3) A Taxicab Company shall ensure that every Taxicab Driver shall, at all times while operating a Taxicab, have on display his or her name and photograph to be plainly visible and readable by customers.

Taxicab Company Requirements

- (4) A Taxicab Company shall:
- (a) ensure that prior to the collection of any personal information, a Taxicab Company shall obtain consent from any affiliated Taxicab Driver for such collection and future disclosure to the Manager for the purposes of investigating complaints, investigation potential breaches of this By-law;
 - (b) set Fares to be charged to passengers transported by affiliated Taxicab Drivers subject to the following conditions:
 - i. the fare for a Trip shall be communicated and agreed upon by any potential passenger clearly and transparently prior to the start of the Trip;
 - ii. the Taxicab Driver shall not commence the Trip until the passenger has been provided a flat rate of the fare communicated in accordance with subsection (i) above; or
 - iii. the customer has been provided the price per kilometre prior to commencement of the Trip.
 - iv. the Taxicab Driver shall charge the passenger the communicated and accepted Fare in accordance with subsection (i) and (ii) and (iii) above;
 - (c) when employing a Taxicab Driver, notify the Town, in writing, that they have employed that Taxicab Driver before he/she operates in the Town and provide the Town with the full name of the Taxicab Driver;
 - (d) when adding a Taxicab to their affiliation, notify the Town in writing that they have added that Taxicab before it is put into operation in the Town and provide the Town with the year, make, model and Ontario Licence plate number of the Taxicab.

Taxicab Company Record Keeping

- (5) A Taxicab Company shall maintain a list of every affiliated Taxicab Driver and Taxicab in a readily accessible format approved by the Manager which shall include:
- (a) the full name, date of birth, address and phone number of the Taxicab Driver; and
 - (b) the year, make, model and Ontario licence plate number of the Taxicab affiliated with the Taxicab Company.

- (6) A Taxicab Company shall maintain information for all Trips completed by affiliated Taxicab Drivers which shall include:
 - (a) the name of the Taxicab Driver;
 - (b) the Taxicab used for the Trip
 - (c) the pick up location and the destination;
 - (d) date and time the Trip started and terminated; and
 - (e) the fare paid for the Trip.
- (7) A Taxicab Company shall maintain information for all Trips that cannot be completed by an affiliated Taxicab Driver including Trips where an Accessible Vehicle is required.
- (8) The records of a Taxicab Company are required to be maintain for a minimum of one (1) year.
- (9) The Taxicab Company shall provide the Manager with any information maintained by the Taxicab Company according to this By-law and shall provide said following information:
 - (a) within thirty (30) days upon request; and
 - (b) notwithstanding section 8.1(9)(a) of this By-law, within seven (7) days where the information is required by the Manager for enforcement purposes.

Removal of Taxicab Driver from Taxicab Company

- (10) A Taxicab Company shall ensure that a Taxicab Driver is removed and/or denied access as a Taxicab Driver in the event that:
 - (a) the Taxicab Company has reasonable belief that an affiliated Taxicab Driver does not meet the Taxicab Driver requirements as set out in this By-law; or
 - (b) the Manager has requested that a Taxicab Driver be removed from the Taxicab company based on an investigation completed whereby the Manager has determined that the Taxicab Driver is not compliant with this By- law.
- (11) No Taxicab Driver that has been removed and/or denied access to a Taxi Company according to section 8.1(10) of this By-law shall be re-granted access until the Manager is satisfied that the Taxicab Driver is in compliance with this By-law.

Taxicab Vehicle Requirements

- (12) A Taxicab Company shall not permit a Taxicab Driver to operate a Taxicab unless the Taxicab:
 - (a) is ten (10) years old or less;
 - (b) has four doors and a maximum seating capacity of seven (7) passengers excluding the Taxicab Driver;
 - (c) has the name of the Taxicab Company with whom the vehicle is associated with, in letters of 15cm in height, on both sides of the vehicle;

- (d) has an assigned number associated with the Taxicab affixed on both sides of the vehicle in a colour that is in contrast with the colour of the vehicle;
 - (e) has a Taxicab Meter;
 - (f) has an electrically illuminated roof sign which is securely attached to the top of the taxicab; and such roof sign shall not be illuminated when a Trip is commenced and shall be illuminated when the Taxicab is in vacant status;
 - (g) has received a Safety Standard Certificate in accordance with this By-law, is inspected at a facility satisfactory to the Manager, and receives an inspection on an annual basis;
 - (h) is clean and in good repair as to its exterior and interior; and
 - (i) is equipped with:
 - i. snow tires or all weather tires from December 1 to April 30;
 - ii. fully functioning air-conditioning and heating system; and
 - iii. seat belts in good working order and plainly visible and accessible to passengers.
- (13) No Taxicab Company or Taxicab Driver shall permit passengers while in the course of their duties unless that passenger is a paying customer that has requested transportation services.

8.2 Transportation Network Companies

TNC Application Requirements

- (1) A Person wishing to carry on the Business of a TNC in the Town shall apply for a new Licence or a renewal Licence by providing the Licensing Officer with the following:
 - (a) a list of all TNC Drivers affiliated with the TNC, where the list shall include the following:
 - i. the full name of the TNC Driver; and
 - ii. the year, make, model, and Ontario licence plate number of the TNC vehicle operated by the TNC Driver.
 - (b) a sworn declaration from the TNC confirming that all TNC Drivers affiliated with the TNC have provided the following to the TNC, which comply with the standards set out in this By-law:
 - i. a Criminal Record Check issued within one year of the Affiliation Date;
 - ii. a Safety Standard Certificate issued within one year of the Affiliation Date for the TNC Vehicles operated by the TNC Driver;
 - iii. a Driver's Abstract issued within one year of the Affiliation Date;
 - iv. proof of valid ride sharing automobile liability insurance which shall include at least 2,000,000 for third party liability coverage per incident, at least 2,000,000 of uninsured

automobile coverages, and statutory Ontario accident benefits; and

v. proof of a valid driver's licence.

- (c) An insurance certificate demonstrating commercial general liability business insurance for the operations of the TNC against claims filed against the TNC with respect to bodily injury, including personal injury and death, and property damage with a per occurrence limit of at least \$5,000,000. The Town must be included as an additional insured under this policy but only with respect to the operations of the TNC;
- (d) An indemnity in favour of the Town from and against claims, demands, losses, costs, damages, actions, suits, or proceedings that arise out of, or are attributable to, the TNC's business and services, which shall be in a form satisfactory to the Licensing Officer;
- (e) A sworn declaration from the TNC confirming to the satisfaction of the Licensing Officer that:
 - i. the TNC will have the ability to maintain and deliver data in the form, manner, and frequency required by this By-law;
 - ii. the TNC has data security measures in place to protect the personal data collected by the TNC relating to passengers and drivers; and
 - iii. the TNC will ensure that every affiliated TNC Driver maintains the requirements set forth in section 8.2(2) of this By-law;

and

- (f) a report from an independent third party auditor confirming that the TNC is accurately collecting the information as required by this By-law.

TNC Driver Requirements

- (2) A TNC shall not permit a TNC Driver to have access to the TNC App to pick up passengers in the Town if the TNC Driver:
 - (a) has received a criminal conviction that does not meet the standards set forth in Schedule "B" of this By-law;
 - (b) has a Driver's Abstract which contains:
 - i. more than eight (8) demerit points according to the Highway Traffic Act, or its equivalent from outside the Province of Ontario; or
 - ii. an individual Highway Traffic Act conviction which resulted in at least four (4) demerit points, or its equivalent from outside the Province of Ontario.
 - (c) is operating a TNC Vehicle that has not obtained a Safety Standard Certificate in compliance with this By-law; or
 - (d) operates a TNC Vehicle that does not meet the automobile insurance standards as set out in this By-law.
- (3) TNC Drivers shall:

- (a) only accept a request for transportation services using the TNC App;
- (b) not be permitted to accept any hail requests for transportation services; and
- (c) maintain in the TNC Vehicle at all times, a Safety Standard Certificate that meets the requirements of this By-law.

TNC General Requirements

(4) A TNC shall:

- (a) ensure that driver training is available for all affiliated TNC Drivers on the use of the TNC App;
- (b) ensure that prior to the collection of any personal information, a TNC shall obtain consent from any affiliated TNC Driver for such collection and future disclosure to the Manager for the purposes of investigating complaints, investigation potential breaches of this By-law;
- (c) upon request confirm by way of an independent third party auditor that the information provided in accordance with this By-law is accurate and true;
- (d) ensure there is a dispute resolution process for dealing with any complaints regarding fees, customer service or any other issues arising from the TNC operations.

(5) A TNC shall not:

- (a) obstruct the Manager or Licensing Officer in the use of either passenger or driver accounts associated with the TNC App for use by the Manager or Licensing Officer to ensure compliance with this By-law; and/or
- (b) permit, encourage or condone the acceptance of hails or the solicitation of passengers by TNC Drivers.

TNC App Requirements

(6) A TNC shall set Fares to be charged to passengers transported by affiliated TNC Drivers via the TNC App subject to the following conditions:

- (a) the fare for a Trip shall be communicated to a potential passenger clearly and transparently prior to the start of the Trip;
- (b) the TNC Driver shall not commence the Trip until the passenger has provided electronic acceptance of the fare communicated in accordance with section 8.2(6)(a) above;
- (c) the TNC Driver shall charge the passenger the communicated and accepted fare in accordance with section 8.2(6)(a) and (b) above; and
- (d) a TNC shall ensure that a record is maintained of the passenger's acceptance of the fare provided.

(7) A TNC shall ensure that its TNC App is based on functioning GPS technology as used by its affiliated TNC Drivers.

- (8) A TNC shall provide passengers with the following information via the TNC App prior to the start of a Trip:
- (a) the TNC Vehicle make and model;
 - (b) TNC Driver's first name;
 - (c) Ontario licence plate number of the TNC Vehicle; and
 - (d) photograph of the TNC Driver.
- (9) A TNC shall at the conclusion of every Trip via the TNC App provide the passenger with an electronic receipt containing the following information:
- (a) the fare charged;
 - (b) the date and end time of the Trip;
 - (c) the start and end locations of the Trip; and
 - (d) the TNC Driver's first name and provincial licence plate number of the TNC Vehicle.

TNC Record Keeping

- (10) A TNC shall maintain a list of every affiliated TNC Driver in a readily accessible electronic format approved by the Manager which shall include:
- (a) the full name, date of birth, address and phone number of the TNC Driver; and
 - (b) the year, make, model and Ontario licence plate number of the vehicle affiliated with the TNC to be operated by the Driver as a TNC Vehicle.
- (11) A TNC shall maintain information for all Trips completed by affiliated TNC Drivers which shall include:
- (a) the name of the TNC Driver;
 - (b) pick up location and the destination;
 - (c) date and time the Trip started and terminated;
 - (d) length of time elapsed between the passenger's service request and the start of the Trip; and
 - (e) the fare paid for the Trip.
- (12) A TNC shall maintain information for all Trips that cannot be completed by an affiliated TNC Driver.
- (13) The records a TNC is required to maintain under the provisions of this By-law shall be maintained for a minimum of one year.
- (14) The TNC shall provide the Manager with any information maintained by the TNC according to this By-law and shall provide said information:
- (a) within thirty (30) days upon request; and

- (b) notwithstanding section 8.2(14)(a) of this By-law, within seven (7) days where the information is required by the Manager for enforcement purposes.

Removal of TNC Driver from TNC App

- (15) A TNC shall ensure that a TNC Driver is removed from and/or denied access to a TNC App in the event that:
 - (a) the TNC has reasonable belief that an affiliated TNC Driver does not meet the TNC Driver requirements as set out in this By-law; or
 - (b) the Manager has requested that a TNC Driver be removed from the TNC App based on an investigation completed whereby the Manager has determined that the TNC Driver is not compliant with this By-law.
- (16) No TNC Driver that has been removed and/or denied access to a TNC App according to section 8.2(15)(b) of this By-law shall be re-granted access until the Manager is satisfied that the TNC Driver is in compliance with this By-law.

TNC Vehicle Requirements

- (17) A TNC shall not permit a TNC Driver to operate using a TNC Vehicle unless the TNC Vehicle:
 - (a) is ten (10) years old or less;
 - (b) has four doors and a maximum seating capacity of seven (7) passengers excluding the TNC Driver;
 - (c) has received a Safety Standard Certificate in accordance with this By-law, is inspected at a facility satisfactory to the Manager, and receives an inspection on an annual basis;
 - (d) is clean and in good repair as to its exterior and interior; and
 - (e) is equipped with:
 - i. snow tires or all weather tires from December 1 to April 30;
 - ii. fully functioning air-conditioning and heating system; and
 - iii. seat belts plainly visible and accessible to passengers.

8.3 Refreshment Vehicles

- (1) Every applicant for a **Refreshment Vehicle Owner's** Licence or for the renewal of such licence, shall submit to the Town:
 - (a) a list of all **Refreshment Vehicle Operators** affiliated with the **Refreshment Vehicles Owner's** Licence, where the list shall include the following:
 - i. the full name of the **Refreshment Vehicle Operator**;
 - ii. a Criminal Record Check issued within 30 days of the application; and
 - (b) a list of all **Refreshment Vehicles** affiliated with the Refreshment Vehicle Owner's Licence where the list shall include the following:
 - i. vehicle ownership;

- ii. a Safety Standards Certificate issued within 30 days of the application;
 - iii. a certificate of automobile insurance in the amount of two million dollars (\$2,000,000); and if requested a certificate of general liability insurance in the amount of two million dollars (\$2,000,000);
 - iv. a certificate from the Medical Officer of Health indicating that the Refreshment Vehicle complies with all regulations regarding food served from vehicles, if the vehicle has not been previously licensed by the Town of Newmarket; and
 - v. sections 8.3(1)(b)(i), (ii), (iii) do not apply to Refreshment Vehicle – Type 3.
- (2) A Refreshment Vehicle Owner shall not permit a Refreshment Vehicle Operator to operate in the Town if the Refreshment Vehicle Operator:
- (a) has received a criminal conviction that does not meet the standards set forth in Schedule “B” of this By-law;
 - (b) has a **Driver’s Abstract** which contains:
 - i. more than eight (8) demerit points according to the *Highway Traffic Act*, or its equivalent from outside the Province of Ontario; or
 - ii. an individual Highway Traffic Act conviction which resulted in at least four (4) demerit points, or its equivalent from outside the Province of Ontario;
 - (c) is operating a Refreshment Vehicle that does not meet the automobile insurance standards as set out in this By-law.
- (3) A Refreshment Vehicle Owner shall ensure that every Refreshment Vehicle Operator shall, at all times while operating a Refreshment Vehicle, have on display his or her name and photograph to be plainly visible and readable by customers.

Refreshment Vehicle Owner Prohibitions

- (4) A Refreshment Vehicle Owner shall not operate or permit the operation of a Refreshment Vehicle:
- (a) from any site unless such use is permitted by the Town’s Zoning By-law as may be amended from time to time;
 - (b) on private property without written consent from the property owner or management company. Notwithstanding anything in this section, the owner of a refreshment vehicle – Type 1 which has the sole purpose of travelling from place to place shall not be required to provide letters of permission from the property owner;
 - (c) on Main Street from Water Street to Millard Avenue and from a point immediately west of the railroad tracks on Water Street to one hundred (100) metres east of Main Street at any time;
 - (d) unless it meets the requirements of the Region of York Health Department;
 - (e) which depends upon outside sources of power, electricity or water unless approved by property owner;
 - (f) within thirty (30) metres of any intersection;

- (g) within one hundred (100) metres of an entrance to any public park;
 - (h) within one hundred (100) metres of the property line of any land occupied by a public, separate or private school between the hours of 10:00 a.m. and 5:00 p.m. on any day;
 - (i) within eight (8) metres of the vehicular entrance to the property or in any location which would obstruct the flow of vehicle traffic;
 - (j) at an approved site for more than twelve hours in any twenty-four hour period;
 - (k) with the exception of Refreshment Vehicle - Type 1 Catering Trucks, between the hours of 10:00 p.m. of one day and 10:00 a.m. of the next day.
- (5) Every Refreshment Vehicle Owner or Operator shall not:
- (a) use or permit the use of any amplification of sounds that are contrary to the Town's Noise By-law as may be amended from time to time; or
 - (b) provide any seating or move any park benches or tables to his location for the purpose of his customers.
- (6) Every Refreshment Vehicle Owner shall:
- (a) ensure the interior and exterior of the Refreshment Vehicle is kept clean and in good repair;
 - (b) clean up any debris, refuse and garbage resulting from the operation of the **Refreshment Vehicle** in the immediate vicinity of the serving location of the **Refreshment Vehicle**;
 - (c) when employing a Refreshment Vehicle Operator, notify the Town in writing that they have employed that person before he or she operates in the Town and provide the Town with:
 - i. the full name of the Refreshment Vehicle Operator; and
 - ii. a Criminal Record Check within 30 days of the start date of employment.

Refreshment Vehicle – Type 1; Duties of Owner

- (7) Every Refreshment Vehicle – Type 1 shall have:
- (a) conspicuously displayed on the rear, in black letters on a yellow background, the words "WATCH FOR CHILDREN" in letters at least 15 centimetres high and the vertical width of such yellow background shall be at least 22.8 centimetres; and
 - (b) a "Mirror System" which makes it possible for the driver to complete a 360° visual inspection of the area around the Refreshment Vehicle; and
 - (c) a back-up warning device that is engaged when the Refreshment Vehicle transmission is placed in reverse gear.

Special Events

- (8) No Person shall hold or carry on, or permit to be held or carried on, a Special Event without a Special Event Organizer Licence.
- (9) Every **Refreshment Vehicle Owner** shall not operate or permit the operation of a **Refreshment Vehicle**:

- (a) from any park or recreation facility without permission and a signed lease agreement from the Director of Recreation and Culture or his designate; and having provided a certificate of general liability insurance in the amount of \$2,000,000 naming the Town of Newmarket as an additional insured;
 - (b) at a Special Event which has been sponsored by the Town, without first obtaining written permission from the Director of Recreation and Culture or his designate;
 - (c) at a Special Event without first completing the York Region Public Health Department's street food vending cart application and after receiving their subsequent approval, file the approval with the **Director of Recreation and Culture** or his designate;
 - (d) at any Community Event which has been sponsored by a charitable or non for profit organization without first obtaining written permission of the said charitable or not for profit organization; and
 - (e) on any Trail in the Town.
- (10) An Owner's Licence for a Special Event issued under this By-law shall only be valid for the date(s) and location listed on the Licence.
- (11) A **Special Event Organizer Licence** is issued in the name of the Special Event Organizer who holds the responsibility of collecting and producing upon request all required application documents.
- (12) Every **Special Event Organizer** shall provide:
- (a) A completed "Application for **Special Event Organizer Licence**" and the licensing fee as set out in the Fees and Charges by law; and
 - (b) A **Special Event Organizer** must provide for each **Special Event Vendor**:
 - i. For "Refreshment Vehicle Type1 and Type 4", Certificate of automobile insurance in the amount of two million dollars (\$2,000,000.00), if the vendor is a motorized vehicle; and
 - ii. For Refreshment Vehicle Types 1, 2, 3 and 4, Certificate of General liability Insurance in the amount of two million dollars (\$2,000,000.00).
 - (c) A list of all **Refreshment Vehicles** that will be operating at the **Special Event**; and
 - (d) Proof that the **Special Event Organizer** has informed the **Health Department** of the dates and times of the event.
- (13) A **Special Event Organizer Licence** for a Special Event issued under this By-law shall only be valid for the date(s) and location listed on the Licence.

Farmers Market

- (14) A **Farmers Market** is exempt from obtaining an Owner's Refreshment Vehicle licence where products that are grown, raised or produced on a farm and intended for use as food and include, without being restricted to, fruits and vegetables, mushrooms, meat and meat products, dairy products, honey products, maple products, fish, grains and seeds and

grain and seed products, at which the majority of the persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products.

8.4 Limousine Companies

- (1) Every applicant for a Limousine Company Licence or for the renewal of such licence, shall submit to the Town:
 - (a) a list of all Limousine Drivers affiliated with the Limousine Company, where the list shall include the following:
 - i. the full name of the Limousine Driver;
 - ii. proof of a valid driver's licence;
 - iii. a Criminal Record Check issued within 30 days of the application; and
 - iv. a Driver's Abstract issued within 30 days of the application.
 - (b) a list of all **Limousines** affiliated with the Limousine Company to be licensed with the Town, where the list shall include the following:
 - i. vehicle ownership;
 - ii. a Safety Standard Certificate issued within 30 days of the application; and
 - iii. proof of valid Ontario Standard Automobile Insurance Policy insuring themselves in respect of the Limousine owned by them covering public liability and property damage in the minimum amount of \$2,000,000.00.
- (2) Every **Limousine Company** shall obtain and maintain an Ontario Standard Automobile Insurance Policy insuring themselves in respect of the Limousine(s) owned by them covering public liability and property damage in the minimum amount of \$5,000,000.00 and shall produce annually to the Town a Certificate of Insurance issued by the insurer, or its agent, certifying that an insurance policy providing coverage in accordance herewith is in effect.

Limousine Driver Requirements

- (3) Every Limousine Company shall ensure the **Limousine Driver** maintains and keeps the following documents in the **Limousine** at all times:
 - (a) a current provincial motor vehicle permit for the Limousine; and
 - (b) a current Certificate of Liability Insurance for the Limousine.
- (4) A Limousine Company shall not permit a Limousine Driver to operate in the Town if the Limousine Driver:
 - (a) has received a criminal conviction that does not meet the standards set forth in Schedule "B" of this By-law;
 - (b) has a **Driver's Abstract** which contains:
 - i. more than eight (8) demerit points according to the *Highway Traffic Act*, or its equivalent from outside the Province of Ontario; or
 - ii. an individual Highway Traffic Act conviction which resulted in at least four (4) demerit points, or its equivalent from outside the Province of Ontario;

- (c) is operating a Limousine that does not meet the automobile insurance standards as set out in this By-law.
- (5) A Limousine Company shall ensure that every Limousine Driver shall, at all times while operating a Limousine, have on display his or her name and photograph to be plainly visible and readable by customers.
- (6) Every **Limousine Company** shall:
 - (a) when employing a Limousine Driver, notify the Town, in writing, that they have employed that Limousine Driver before he or she operates in the Town and provide the Town with:
 - i. the full name of the limousine driver;
 - ii. proof of a valid driver's license;
 - iii. a current photo of the driver;
 - iv. a Criminal Record Check issued within 30 days of the **Affiliation Date**; and
 - v. a Driver's Abstract issued within 30 days of the Affiliation Date.
- (7) A **Limousine Company** shall not permit:
 - (a) a greater number of passengers in a Limousine than the manufacturers rating of seating capacity of such Limousine, exclusive of the driver; and
 - (b) the operation of a limousine with luggage or other material piled or placed in or on the limousine in a manner that obstructs their view.

Limousine Vehicle Requirements

- (8) A Limousine Company shall not permit a Limousine to be used unless that Limousine:
 - (a) is 10 years old or less;
 - (b) is operating without any mechanical defects and interior or exterior damage;
 - (c) is clean and in good repair; and
 - (d) is equipped with:
 - i. snow tires or all weather tires from December 1 to April 30; and
 - ii. a fully functioning air-conditioning and heating system.

8.5 Driving School Instructors

- (1) No **Person** except an individual may hold a **Driving School Instructor Licence**.
- (2) No **Person's Driving School Instructor Licence** is valid unless the individual holds a valid **Ministry of Transportation Instructor's Licence**.
- (3) Every Person applying for a **Driving School Instructor Licence** or renewal shall:
 - (a) submit a copy of the insurance policy or a certificate of automobile insurance to the **Director** that is issued by an insurer of duly authorized to issue insurance within the Province of Ontario and for each **Driving School Instructor Vehicle**, coverage shall be in the amount of \$2 million (\$2,000,000.00)

dollars for personal injury and property damage arising out of any one accident or occurrence, and such policy shall be endorsed to the effect that the **Director** will be given fifteen (15) business days' notice in writing of any cancellation;

(b) provide a valid and current Class "G" Ontario Driver's Licence; and

(c) provide proof of a valid Ministry of Transportation Driving Instructor's Licence.

(4) Every Driving Instructor shall:

(a) carry at all times and produce, upon request, a valid and unexpired **Ministry of Transportation Driving Instructor's Licence**;

(b) carry a valid and unexpired driver's licence;

(c) produce upon request documentation showing dates and times that driving instructions and/or testing are being provided;

(d) affix a **Sticker Plate** that is visible to the rear of the Driving Instructor Vehicle; and

(e) affix a roof sign on the Driving Instructor Vehicle showing the business name of the Driving School Instructor as shown on the Driving Instructor Licence at all times while the **Driving Instructor Vehicle** is within the Town of Newmarket.

Restricted Area for Driving School Instructors

(5) No **Driving School Instructor** shall **Operate** or permit to **Operate a Driving Instructor Vehicle** on any **Highway** within the area marked "**Restricted Area**" in Schedule "A" to this By-law.

(6) Notwithstanding section 8.5(5), a **Driving Instructor Vehicle** may be **Operated** within the area marked "**Restricted Area**" in Schedule "A" provided that:

(a) the **Driving School Instructor** is picking up or dropping off a student residing in the "**Restricted Area**" for the purpose of giving driving instruction;

(b) when a **Driving School Instructor** is picking up or dropping off a student from a Secondary School located in the "**Restricted Area**"; or

(c) when a **Driving School Instructor Vehicle** is used for the purpose of a driving test required by the **Ontario Ministry of Transportation**.

8.6 Tow Truck Companies

Tow Truck Company General Requirements

(1) A **Person** wishing to carry on the Business of a **Tow Truck Company** in the Town shall apply for a new Licence or a renewal Licence by providing the **Licensing Officer** with the following:

(a) insurance coverage for the following kinds of liability in the following amount in respect of any one claim:

- i. coverage against liability resulting from bodily injury to or the death of one or more persons and loss or damage to property, in the amount of at least \$2,000,000 exclusive of interest and costs;

- ii. coverage against liability for damage to a vehicle of the consumer while in the provider's care, custody or control, in the amount of at least \$100,000; and
 - iii. cargo liability insurance in the amount of at least \$50,000.
- (b) a list of all Tow Truck Drivers affiliated with the Tow Truck Company, where the list shall include the following:
 - i. the full name of the **Tow Truck Driver**;
 - ii. the year, make, model, and Ontario licence plate number of the Tow Truck operated by the Tow Truck Driver.
- (c) a sworn declaration from the **Tow Truck Company** confirming that all Tow Truck Drivers affiliated with the Tow Truck Company have provided the following to the Tow Truck Company, which comply with the standards set out in this By-law:
 - i. a Criminal Record Check issued within 30 days of the Affiliation Date;
 - ii. a Safety Standard Certificate issued within 30 days of the Affiliation Date for the Tow Truck operated by the Tow Truck Driver;
 - iii. proof of a valid Ontario driver's licence of a class authorizing him or her to drive a Tow Truck; and
 - iv. a Driver's Abstract issued within 30 days of the Affiliation Date.

Tow Truck Driver Requirements

- (2) Every Tow Truck Company shall ensure the Tow Truck Driver:
 - (a) maintains and keeps the following documents in the Tow Truck at all times:
 - i. a current provincial motor vehicle permit for the Tow Truck; and
 - ii. a current Certificate of Liability Insurance for the Tow Truck.
 - (b) cleans up and removes any and all debris, fragments of glass, vehicle parts, or other materials from any highway or roadway during a collision, prior to the towing or conveying of any vehicle from the scene;
 - (c) notwithstanding section 8.6(2)(b), where the accident scene is an ongoing police investigation, a Tow Truck Company shall ensure the clean up and removal of all debris is carried out within 8 hours immediately following the completion of the investigation.
- (3) A Tow Truck Company shall not permit a Tow Truck Driver to operate in the Town if the Tow Truck Driver:
 - (a) has received a criminal conviction that does not meet the standards set forth in Schedule "B" of this By-law;
 - (b) has a **Driver's Abstract** which contains:

- i. more than eight (8) demerit points according to the *Highway Traffic Act*, or its equivalent from outside the Province of Ontario; or
 - ii. an individual Highway Traffic Act conviction which resulted in at least four (4) demerit points, or its equivalent from outside the Province of Ontario;
- (c) is operating a Tow Truck that does not meet the automobile insurance and safety standards as set out in this By-law.
- (4) A Tow Truck Company shall ensure that every Tow Truck Driver shall, at all times while operating a Tow Truck, have on display his or her name and photograph to be plainly visible and readable by customers.
- (5) Every Tow Truck Company shall:
 - (a) when employing a Tow Truck Driver, notify the Town, in writing, that they have employed that Tow Truck Driver before he or she operates in the Town and provide the Town with:
 - i. the full name of the Tow Truck Driver;
 - ii. proof of a valid driver's licence;
 - iii. a current photo of the driver;
 - iv. a Criminal Record Check issued within 30 days of the affiliation; and
 - v. a Driver's Abstract issued within 30 days of the affiliation.

Tow Truck Company Prohibitions

- (6) No Tow Truck Company shall permit an affiliated Tow Truck Driver to:
 - (a) operate any affiliated Tow Truck unless it is clean, free from mechanical defects, and in good repair;
 - (b) interfere with any contract of another Tow Truck Company where a Person has hired or has indicated an intention to hire that Tow Truck Company, except under the direction of a Police Officer who is directing the removal of a vehicle in order to assist in an investigation;
 - (c) suggest or recommend any location to tow a customer's vehicle to unless the Tow Truck Company or Tow Truck Driver has been requested to do so by the customer;
 - (d) accept any gift or payment, other than payment for lawful services rendered, from any facility in exchange for business from the Tow Truck Company, either directly or indirectly; and
 - (e) demand, request or permit the acceptance or receive a **Drop Fee**.
 - (f) connect any vehicle to a Tow Truck, or perform any other services, unless first requested to do so by a customer, a Police Officer, any member of a municipal fire department, or any person authorized by law to direct the removal of a vehicle from public or private property;
 - (g) stop, stand, or park within (200) two hundred meters of a collision scene unless the Tow Truck Driver has been summoned to the collision by a customer, Police Officer, or member of a municipal fire department;

- (h) remove any vehicle from a Collision Scene or immediate vicinity of an accident in respect of which a report is required by law to be made by a Police Officer, until a report has been made and the investigating Police Officer has stated that the vehicle is no longer required to remain at the scene; and
- (i) permit to be driven or operated a Tow Truck with any passenger, other than the customer, while the Tow Truck is actively engaged in providing towing services.

Tow Truck Vehicle Requirements

- (7) Every Tow Truck Company shall require all Tow Trucks to provide and maintain the following equipment:
 - (a) a hoisting device of sufficient capacity to safely lift the vehicle to be towed;
 - (b) a tow cradle, tow bar, or tow sling equipped and maintained in a manner to ensure the safe lifting and conveying of a towed vehicle, except where a flatbed-type Tow Truck is being used;
 - (c) one device for securing the steering wheel of a vehicle;
 - (d) one 1.25kg dry chemical fire extinguisher of a type capable of functioning at -40 degrees Celsius;
 - (e) a minimum of two safety chains having a minimum length of 2.74 meters, each comprised of links of at least 7.94 millimetres steel;
 - (f) one broom;
 - (g) one shovel;
 - (h) one general purpose first aid kit;
 - (i) at least two wheel blocks;
 - (j) dollies, with the exception of a flatbed-type Tow Truck;
 - (k) an intermittent warning light system consisting of at least one light which, when activated, is clearly visible from three hundred sixty (360) degrees for a distance of at least one hundred (100) meters;
 - (l) absorbent material capable of absorbing or removing any vehicle fluid product from a roadway surface;
 - (m) a garbage container of a minimum capacity of 10 litres;
 - (n) a pry bar at least 1.5 meters in length;
 - (o) wheel straps;
 - (p) a safety vest; and
 - (q) any other equipment or provisions that may be required under the Highway Traffic Act, as amended.
- (8) Every Tow Truck Vehicle shall:
 - (a) have the name of the Tow Truck Company with whom the vehicle is associated with, in letters a minimum of 15cm in height, on both sides of the vehicle; and

- (b) affix a **Sticker Plate** that is visible to the front of the Tow Truck Vehicle.

Tow Truck Company Rates

- (9) Every Tow Truck Company shall:
 - (a) provide a quote, in writing, within 10% of the cost for towing services to a customer prior to services accepted and rendered;
 - (b) provide an itemized invoice of the cost for towing services to the customer;
 - (c) charge a maximum flat rate towing fee of \$250.00 for any passenger vehicle, light duty van or truck not exceeding 6000lbs in towing weight from a Collision Scene;
 - (d) charge a maximum flat rate towing fee of \$125.00 for any passenger vehicle, light duty van or truck not exceeding 6000lbs in towing weight from a non-collision scene;
 - (e) Notwithstanding sections 8.6(8)(c) and (d), rates established in this By-law shall not supersede the rates established by York Regional Police and Central York Fire Services; and
 - (f) Notwithstanding sections 8.6(8)(c) and (d), a Tow Truck Company shall be permitted to charge the following:
 - i. an additional rate of \$1.55 per kilometer after the first 30 kilometers of towing services;
 - ii. if required, a flat rate winch fee of \$103.00; and/or
 - iii. a wait-time (collision reporting centre) fee of \$17 per 15 minutes.
- (10) If a customer's requested drop-off location is closed, the Tow Truck Company shall require the Tow Truck Driver to take the customer's vehicle to a second location of the customer's choice and may only charge an additional mileage rate for a re-tow as follows:
 - (a) \$3.10 per kilometer for the first 30 kilometers; and
 - (b) \$1.55 per kilometer after the first 30 kilometers.

Tow Truck Company Record Keeping

- (11) A Tow Truck Company shall maintain a list of every affiliated Tow Truck Driver and Tow Truck Vehicle in a readily accessible electronic format approved by the Manager which shall include:
 - (a) the full name, date of birth, address and phone number of the Tow Truck Driver; and
 - (b) the year, make, model and Ontario licence plate number of the vehicle affiliated with the Tow Truck Company.
- (12) A Tow Truck Company shall maintain information for all Trips completed by affiliated Tow Truck Drivers which shall include:
 - (a) the name of the Tow Truck Driver;
 - (b) the name of the customer;
 - (c) the pick up location and the destination for towing services;

- (d) the date and time the towing services started and terminated; and
 - (e) the towing fees paid for the Trip.
- (13) Every Tow Truck Company shall keep the original copies of all run sheets and documentation required to be maintained under this By-law for a minimum of one year from the date of services provided.

Tow Truck Companies Affiliated with Public Garages

- (14) Any Tow Truck Company affiliated or operated out of a Public Garage that is located within or outside of the Town of Newmarket shall provide:
- (a) the name, address, and telephone number of the Public Garage; and
 - (b) a copy of any agreements between the Tow Truck Company and Public Garage.

9. Offences

- (1) Every Person who contravenes any provision of this By-law are liable to the fines and administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62.
- (2) Every Person who is in contravention of the provisions of this By-law is responsible for any fines and administrative fees imposed in relation to their Licence under the Administrative Monetary Penalty System By-law 2019-62.
- (3) Every Person who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law-2019- 62.
- (4) Any **Person** who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended

10. Severability

- (1) Where a court of competent jurisdiction declares any section of this By-law to be invalid, or to be not in force, or without effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and applied and enforced in accordance with its terms to the fullest extent possible according to law.

11. Repeal

- (1) By-law Number 2018-39, 2016-52 and 2016-34, is hereby repealed and this By-law shall come into force and effect upon adoption.

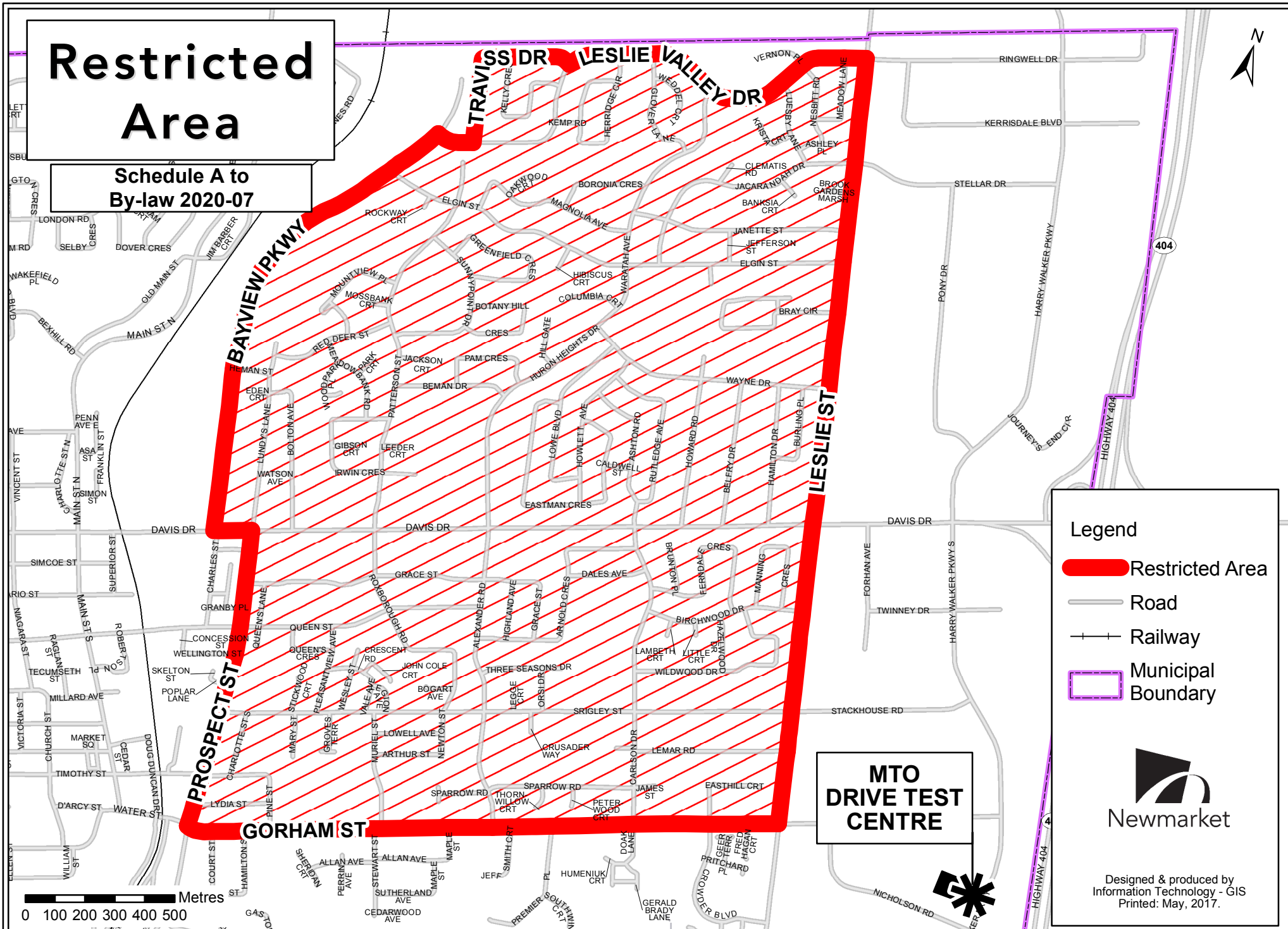
Enacted this 2nd day of March 2020.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Restricted Area

Schedule A to
By-law 2020-07



Legend

- Restricted Area
- Road
- Railway
- Municipal Boundary



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Schedule “B”
Conviction Thresholds

1. Definitions

For the purpose of this Schedule:

“code 01 conviction” means a conviction for a sexual offence that involved a minor pursuant to Section 151 (Sexual interference), Section 152 (Invitation to sexual touching), Section 153 (Sexual exploitation), Section 155 (Incest), Sections 170 (Parent or guardian procuring sexual activity), 171 (Householder permitting sexual activity), 172.1 (Luring a child) or subsection 173(2) (Exposure) of Part V of the Criminal Code;

“code 02 conviction” means a conviction for:

- (a) financing of terrorism pursuant to Section 83.02 (Providing or collecting property for certain activities), Section 83.03 (Providing, making available, etc.) or Section 83.04 (Using or possessing property for terrorist purposes) of Part II.1 of the Criminal Code;
- (b) homicide pursuant to any of Sections 222 through 228 of Part VIII of the Criminal Code; or
- (c) murder, manslaughter and infanticide pursuant to any of Sections 229 through 240 of Part VIII of the Criminal Code.

“code 03 conviction” means a conviction for:

- (d) a major assault or sexual assault pursuant to Section 267 (Assault with a weapon or causing bodily harm), Section 268 (Aggravated assault) or Section 272 (Sexual assault with a weapon, threats to third party or causing bodily harm) of Part VIII of the Criminal Code;
- (e) sexual offences not involving a minor pursuant to Section 153.1 (Sexual exploitation of Person with disability), Section 155 (Incest), Section 173 (Indecent acts) or 271 (Sexual assault) of Parts V and VIII of the Criminal Code;
- (f) confinement pursuant to Section 279 (Kidnapping), Section 279.1 (Hostage taking), Section 280 (Abduction of Person under sixteen), Section 281 (Abduction of Person under fourteen), Section 282 (Abduction in contravention of custody order or Section 283 (Abduction) of Part VIII of the Criminal Code;
- (g) hate propaganda pursuant to Section 318 (Advocating genocide) or Section 319 (Public incitement of hatred) of Part VIII of the Criminal Code;
- (h) robbery or extortion pursuant to Section 98.1 (Robbery to steal a firearm) or any of Sections 343 through 346 of Parts III and IX of the Criminal Code;
- (i) participation in criminal organization activities pursuant to Section 167.11 (Participation in activities of criminal organization) of Part XIII of the Criminal Code;
- (j) trafficking of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;
- (k) importing or exporting of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or
- (l) production of a substance listed in Schedule I or II of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act, save and except for the production of marijuana;

“code 04 conviction” means a conviction for:

- (m) negligence pursuant to any of Sections 219 through 221 of Part XIII of the Criminal Code;
- (n) assault pursuant to Section 270 (Assaulting a peace officer), Section 270.01 (Assaulting a peace officer with a weapon or causing bodily harm) or Section 270.02 (Aggravated assault of a peace officer) of Part XIII of the Criminal Code;
- (o) administering a noxious thing to harm pursuant to subsection 245(a) of Part XIII of the Criminal Code;
- (p) criminal harassment pursuant to Section 264 of Part XIII of the Criminal Code;
- (q) uttering a threat pursuant to Section 264.1 of Part XIII of the Criminal Code;
- (r) using and possession explosives pursuant to Section 81 (Using explosives) and Section 82 (Possession without lawful excuse) of Part II of the Criminal Code;
- (s) using, possessing or trafficking weapons pursuant to any of Section 85 through 101 of Part III of the Criminal Code;
- (t) theft pursuant to any of Sections 322 through 342.2 of Part IX of the Criminal Code;
- (u) forgery pursuant to any of Section 366 through 378 of Part IX of the Criminal Code;
- (v) breaking and entering pursuant to Section 348 of Part IX of the Criminal Code;
possession of property obtained by crime pursuant to Section 354 of Part IX of the Criminal Code;
- (w) fraud pursuant to any of Sections 380 through 402 of Part X of the Criminal Code;
- (x) falsification of books and documents pursuant to any of Sections 397 through 402 of Part X of the Criminal Code;
- (y) arson pursuant to any of Sections 433 through 436.1 of Part XI of the Criminal Code;
- (z) uttering, advertising and dealing in counterfeit money pursuant to Section 452 (Uttering, etc., counterfeit money), Section 458 (Making, having or dealing in instruments for counterfeiting) and Section 460 (Advertising and dealing in counterfeit money, etc.) pursuant to Part XII of the Criminal Code;
- (aa) laundering proceeds of crime pursuant to Section 462.31 of Part XII.2 of the Criminal Code;
- (bb) trafficking of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;
- (cc) importing or exporting of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or
- (dd) production of a substance listed in Schedule III of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act;

“code 05 conviction” means a conviction for:

- (ee) trap setting pursuant to subparagraph 247(1)(a) of Part XIII of the Criminal Code;
- (ff) administering a noxious thing to annoy or aggrieve pursuant to subsection 245(b) of Part XIII of the Criminal Code;
- (gg) mischief, pursuant to Section 140 (Public Mischief) and any of Sections 430 through 432 of Parts IV and XI of the Criminal Code;
- (hh) conspiracy to commit an indictable offence pursuant to subparagraphs 465(1)(a)(b) and (c) of Part XIII of the Criminal Code;
- (ii) an offence in relation to prostitution pursuant to Section 213 of Part VII of the Criminal Code;
- (jj) keeping, transporting to, and procuring to or at, bawdy houses pursuant to Sections 210 through 212 of Part VII of the Criminal Code;
- (kk) possession of a substance listed in the schedules to the Controlled Drugs and Substances Act pursuant to Section 4 of the Controlled Drugs and Substances Act;
- (ll) trafficking of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 5 of the Controlled Drugs and Substances Act;
- (mm) importing or exporting of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 6 of the Controlled Drugs and Substances Act; or
- (nn) production of a substance listed in Schedule IV of the Controlled Drugs and Substances Act pursuant to Section 7 of the Controlled Drugs and Substances Act;

“code 06 conviction” means a conviction for:

- (oo) Motor Vehicle, vessel or aircraft related matters pursuant to Section 249 (Dangerous operation of Motor Vehicles, vessels and aircraft), Section 252 (Failure to stop at scene of accident) or Section 253 (Operation while impaired), subsection 259(4) (Operation while disqualified) of Part VIII of the Criminal Code;
- (pp) driving when Driver’s License is suspended pursuant to Section 43(1) of the Highway Traffic Act;
- (qq) exceeding speed limit by 50km/hr or more pursuant to Section 128 of the Highway Traffic Act; subsection 13 (3) of Regulation 829 of the Revised Regulations of Ontario, 1990; any provision of the National Capital Commission Traffic and Property Regulations CRC 1978, c. 1044 made under the National Capital Act (Canada) fixing maximum rates of speed and any municipal by-law fixing maximum rates of speed;
- (rr) careless driving pursuant to Section 130 of the Highway Traffic Act;
- (ss) failing to remain at the scene of an accident pursuant to Section 200 of the Highway Traffic Act;
- (tt) failing to stop when signalled or requested to stop by police officer pursuant to Section 216 of the Highway Traffic Act;
- (uu) racing pursuant to Section 172 of the Highway Traffic Act; or
- (vv) failing to stop for a school bus pursuant to subsections 175 (11) and (12) of the Highway Traffic Act.

“code 07 conviction” means:

- (ww) any conviction under the Criminal Code other than those set out above as code 01 – code 06 convictions; or
- (xx) driving while Driver’s License is suspended pursuant to Section 36 of the Highway Traffic Act.

“Controlled Drugs and Substances Act” means the Controlled Drugs and Substances Act, S.C., 1996, c.19;

“Criminal Code” means the Criminal Code, R.S.C., 1985, c. C-46;

“Highway Traffic Act” means the Highway Traffic Act, R.S.O. 1990, c. H.8;

Any section set out above includes any section that amends or supersedes it.

2. Refusal to issue, renew, revoke, or suspend business licence

In the event that a criminal background check or a vulnerable sector screening identifies the following convictions in the timeframes indicated below, a Licensing Officer shall refuse to issue or renew an application for a licence, or shall suspend or revoke an existing licence, for any Mobile Business:

- (a) any code 01 conviction;
- (b) any code 02 conviction within the last 10 years;
- (c) any code 03 conviction within the last 5 years;
- (d) two or more code 03 convictions within the last 10 years;
- (e) any code 04 convictions within the last 3 years;
- (f) two or more code 04 convictions within the last 5 years;
- (g) any code 05 or code 07 conviction within the last year; or
- (h) any code 06 conviction within the last 3 years.

3. Convictions no longer leading to refusal to issue, renew, suspend, or revoke business licence

The Licensing Officer shall issue, renew or reinstate any licence refused or suspended pursuant to Section 2 of this Schedule provided that:

- (a) in the case of a code 02 conviction, the conviction is more than 10 years old;
- (b) in the case of a code 03 conviction, the conviction is more than 5 years old;
- (c) in the case of two (2) or more code 03 convictions, no more than one (1) of the code 03 convictions is less than 10 years old, provided that it is not less than 5 years old;
- (d) in the case of a code 04 conviction described, the conviction is more than 3 years old;
- (e) in the case of two or more code 04 convictions, no more than one of the code 04 convictions is less than 5 years old, provided that it is not less than 3 years old;
- (f) in the case of a code 05 or a code 07 conviction or convictions, the conviction is more than a year old; and
- (g) the case of a code 06 conviction, the conviction is more than 3 years old.