

Attachment “A”

Consolidated Mobile Business Licensing By-law – Definitions and Administration

BY-LAW SECTION		NEW PROVISION	EXISTING PROVISION	COMMENTS - BENEFIT OF CHANGE
Section 1 Definitions		Definitions used throughout mobile by-law Schedules have been standardized, capitalized and placed at the front of the Consolidated By-law. Where those definitions appear throughout the Schedules, they have also been capitalized.	There is no comprehensive definition section in any of the existing six stand-alone mobile licensing by-laws.	This improvement will create a comprehensive list of mobile licensing definitions and will ensure consistency of defined terms. The uppercase notations will provide ease of reference for by-law users.
Duties of Licensing Officer (Section 9)		The following duties of the Licensing Officer will be included into the Consolidated Mobile Business Plan: • receiving and processing applications • imposing conditions on licence where appropriate • refusing to issue, renew, revoke or suspend a license • retain/maintain all licensing records in accordance with the Town's Records Retention By-law.	The duties of the Licensing Officer are not enumerated in any of the current mobile licensing by-laws except for the Taxicab By-law. The administrative practice in the Licensing Unit however, is for the Licensing Officer to perform these duties.	The inclusion of this new Section clearly delineates the duties of the Licensing Officer and his or her designate(s).
General Licensing Application Requirements (Section 10)		Addition of the following licensing requirements: • individuals must be 18 years of age to obtain a municipal licence and must be eligible to work in Canada • a photograph for licensing purposes (where required) • submission of incorporating documentation, or if partnership, partnership documentation, as required • submission of a Vulnerable Sector Screen Report and a Criminal Background Report as required • submission of a medical certificate as required • submission of Harmonized Sales Tax (HST) Number as required • submission of a Vehicle Ownership Permit as required • submission of York Regional Health Department Inspection Certificate as required • submission of Insurance Certificates, letters of employment and vehicle lease agreements as required • submission of any other documentation relating to operation of business when requested by the Licensing Officer	The current mobile licensing by-laws do not contain General Licensing Application Requirements sections. In some cases, the individual by-laws contain only minimal application requirements, some of which are not consistent across all by-laws.	This improvement provides a comprehensive list of General Licensing Application Requirements, which ensures administrative consistency, clarity and transparency and will facilitate compliance with Portal-based application procedures moving forward.

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Grounds for Refusal to Issue or Renew a Licence (Section 21)	Establishes specific and comprehensive grounds for refusal to issue or renew licence, including: • where there are reasonable grounds to believe that applicant has provided false information • where the past/present conduct of applicant gives cause to believe that the business will not be conducted in accordance with the law or with honesty/integrity • where the financial position of applicant affords reasonable grounds to believe that business will not be carried on in a financially responsible manner • where issuance of a licence would not be in the public interest • where the applicant has failed to pay fine imposed by court • where the licence fee has not been paid • where specified types of complaints have been received about a business licensee • where the applicant has not complied with any required training/testing	None of the current mobile licensing by-laws, except the Taxicab By-law, contain a section detailing the grounds for which a licence will NOT be issued or renewed.	This improvement provides a comprehensive list of Grounds for Refusal to Issue or Renew licences which ensures administrative clarity and transparency and will facilitate compliance with Portal-based application procedures moving forward.	
Licensing Officer's Power to refuse to Issue or renew, or cancel, revoke, suspend or attach conditions to licence (Section 22)	In considering to refuse to issue, cancel, revoke, suspend or impose conditions on a licence, the Licensing Officer shall give consideration to: • the Standard Character and Driving Record Criteria in Schedule 2 • the Vulnerable Sector Screen Report or Criminal Background Report The decision of the Licensing Officer is subject to appeal.	The current mobile licensing by-laws do not contain a section to enumerate the specific powers of the Licensing Officer. The current Taxicab By-law stipulates that Council may refuse to issue or renew licence, impose terms and conditions on licence, or revoke or suspend a licence.	It is desirable for the Licensing Officer to be given the authority to revoke, suspend or deny the renewal of a licence to ensure public safety. Such a delegation is found in other municipalities of similar size to Markham (i.e. Barrie, Brampton, Hamilton, London, and Vaughan). The right of appeal is also an administrative requirement.	

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Licence Appeal Committee (Sections 298-41)	Establishes Tribunal pursuant to Section 23.5 of the <u>Municipal Act</u> under the name “ <i>Town of Markham Licence Appeal Committee</i> ”, which has the powers and authority to conduct appeals of the decisions made by the Licensing Officer.	The Licence Appeal Committee is not addressed in any of the Town’s current free-standing mobile licensing by-laws other than the Taxicab By-law, which contains appeal procedures. .	Detailed, comprehensive provisions for makeup and organization of Appeal Committee, its powers, and administrative procedure. This gives clarity and transparency to licence appeal process.	
Powers of Licence Appeal Committee (Section 47)	Provides the Licensing Appeal Committee with the powers of the Licensing Officer who made the decision; the Committee may modify or rescind the decision or any condition or extend the time for compliance. Section 51 provides that a decision that has been confirmed, modified or rescinded by the Licence Appeal Committee shall be final and binding upon the appellant who shall comply with the decision within the time and in the manner specified in the decision.	The Appeal Committee is not addressed in any of the existing mobile licensing By-laws other than the Taxicab By-law.	Closure of matter obtained more expeditiously. New provisions provide clarity and transparency to licence appeal process.	