

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SALVAGE SHOPS AND SALVAGE YARDS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of salvage businesses (meaning salvage shops and salvage yards, including automobile wrecking yards or premises) within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence salvage shops and salvage yard dealers as a means of protecting consumers and enhancing the safety of residents and their personal property by preventing the sale of salvage that is taken from stolen goods and regulating and controlling any visual, noise, environmental, fire, safety, health and property standard nuisance or hazard caused by salvage shops and salvage yards, including automobile wrecking yards or premises;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires,:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and its regulations, or any successor legislation;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“**Licence**” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“**Licensee**” means a Person holding a Licence in accordance with this By-law;

“**Licensing Appeals Committee**” or “**Committee**” means the all citizen tribunal appointed by Council to conduct hearings under this By-law;

“**Licensing Officer**” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“**Ministry of the Environment**” means the Ontario Ministry of the Environment, and Conservation and Parks, or any successor ministry;

“**Motor Vehicle**” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“**Motor Vehicle Dealers Act, 2002**” means the *Motor Vehicle Dealers Act, 2002* S.O. 2002, c. 30, Sched. B, as amended, or any successor legislation;

“**Municipal Act, 2001**” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“**Municipal Law Enforcement Officer**” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“**Officer**” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“**Person**” includes an individual, a corporation, or a partnership;

“**Police Officer**” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“**Provincial Licences**” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to an EASR Licence;

“**Region**” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the register as required under Part VIII of this By-law;

“Salvage” means, but is not limited, to:

- (1) Dismantled or wrecked motor vehicles or any parts thereof including tires;
- (2) Dismantled or scrap residential, commercial or industrial machines, appliances, or any part thereof, including e-waste; or
- (3) Scrap aluminium, brass, copper, steel, or any other metal;

“Salvage Business” means Salvage Shops and Salvage Yards, including an automobile wrecking yard or premises;

“Salvage Shop” means any building, or any part thereof, within the Region, that does not have an outdoor yard, where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased;

“Salvage Shop Licence” means a Salvage Shop Licence issued by the Licensing Officer under this By-law;

“Salvage Yard” means:

- (1) An outdoor yard;
- (2) A building or buildings with an outdoor yard; or
- (3) A fenced compound that may include a mix of outdoor storage and buildings;

within the Region where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased, and includes an automobile wrecking yard;

“Salvage Yard Licence” means a Salvage Yard Licence issued by the Licensing Officer under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“**Vehicle**” means a vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8.

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Salvage Shop Licence; and
 - (ii) Salvage Yard Licence.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

PART III PROHIBITIONS

3. No Person shall own or operate a Salvage Shop within the Region unless that Person holds a Salvage Shop Licence.
4. No Person shall own or operate a Salvage Yard within the Region unless that Person holds a Salvage Yard Licence.

PART IV LICENCE APPLICATION PROCESS

5. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;

- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Environmental / Pollution

Pollution Legal Liability insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000) any one claim and in the aggregate, and name The Regional Municipality of Niagara as an additional insured.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in

force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Salvage Business suspended or revoked in the Region or in any other municipality within Canada;
- (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of Salvage Businesses;
- (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (11) Confirmation the proposed Salvage Business is in compliance with all applicable environmental regulations and standards set by the Ministry of the Environment, including but not limited to, registration with the Environmental Activity and Sector Registry for prescribed activities engaged in at an end-of-life vehicle waste disposal site, if applicable;
- (12) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Salvage Business; if zoned "legal non-conforming", the applicable Area Municipality must confirm this zoning status;
- (13) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or had an order issued against them relating to the protection of the environment, fire safety, health, property standards, or zoning violations within the previous twelve (12) month period;
- (14) For Salvage Yard Licence applications only, the additional information as required under section 6 of this By-law; and,
- (15) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

6. In addition to the information and documentation listed in section 5 of this By-law, an application for a Salvage Yard Licence must also include the following:
 - (1) Photographs confirming that the proposed Salvage Yard is fully enclosed by a fence as required pursuant to section 22 of this By-law;
 - (2) A fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended;
 - (3) A letter from the Region's Planning and Development Services Department confirming that the Salvage Yard Business location conforms to the Region's Official Plan;
 - (4) A letter from the Niagara Escarpment Commission confirming the operation of the Salvage Yard Business in the specific location does not violate the Niagara Escarpment Plan, if applicable; and,
 - (5) A site plan for the Salvage Yard that shows:
 - (i) the legal boundaries for the Salvage Yard, which must include only those lands that are under the exclusive control of the Applicant;
 - (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
 - (iii) the location of any fence and/or gate as required under this By-law.
7. Every Applicant for a Salvage Yard Licence shall allow the Licensing Officer or a Municipal Law Enforcement Officer to enter onto the Salvage Yard premises to verify the site plan requirements as set out under subsection 6(5) of this By-law.
8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.

10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law. The Licensing Officer reserves the right to verify the requirements with a subsequent site inspection.
11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Salvage Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
 - (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with all requirements of the application for the Licence in issue.
14. Every Licensee shall notify the Licensing Officer within twenty-four (24) hours of any order or conviction pursuant to any environmental, fire safety, health hazard, property standards, or zoning legislation, regulation or by-law that relates to the Person or the Salvage Shop or Salvage Yard that is licenced under this By-law.
15. No Licensee shall alter, erase or modify, or permit the alteration, erasure or modification of their Licence or any part thereof.

16. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
17. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Salvage Business being operated within the Region.
18. A Licence issued under this By-law may be transferred, pursuant to the sale of a Salvage Business, upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) The applicable transfer application fee, as prescribed in the Fees and Charges By-law; and,
 - (3) Confirmation that the successor Salvage Business meets the application requirements set out in Part IV of this By-law.
19. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with section 18.
20. Prior to any expansion of the operational footprint of a Salvage Business licenced under this By-law, the Applicant must provide confirmation the expanded Salvage Business continues to meet the application requirements set out in Part IV.

PART VI SPECIAL LICENCE REQUIREMENTS

Salvage Shop Licence

21.
 - (1) No Salvage Shop Licensee shall allow Salvage to be sorted, processed, dismantled, crushed, recycled, demolished, displayed, collected or stored outdoors.
 - (2) Subsection (1) shall not apply to a Motor Vehicle that is operational as a mode of transportation and which is being displayed for sale by a Salvage Shop Licensee that is a registered dealer under the *Motor Vehicle Dealers Act, 2002*.

Salvage Yard Licence

22. (1) Every Person who holds a Salvage Yard Licence shall maintain a fence that fully encloses any outdoor area of the Salvage Yard.
- (2) Every fence, as required under subsection (1), shall be:
- (i) Installed and maintained at a height in compliance with the Area Municipality By-laws; or, if none exist, the following standards shall be followed – the fence shall be not less than 1.83 metres and no greater than 2.44 metres in height;
 - (ii) Constructed of a solid uniform material, with a uniform colour, providing a full visual and entry barrier; and
 - (iii) Kept in good repair at all times.
- (3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:
- (i) Includes a locking mechanism;
 - (ii) Opens to a width of at least 3.5 metres;
 - (iii) Is of the same height as the fence;
 - (iv) Is kept in good repair at all times;
 - (iv) Does not open over the travelled portion of a public road allowance or sidewalk; and
 - (v) Is kept clear of obstructions so that it may be opened fully at all times.
- (4) No person shall erect or relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.
23. Every Licensee who holds a Salvage Yard Licence shall ensure that:
- (1) The outdoor area of the Salvage Yard is kept in a clean, neat, orderly and sanitary condition;
 - (2) All storage containers and other materials belonging to the Licensee or used for the Salvage Yard operation on-site are kept within:

- (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (3) All Vehicles and equipment belonging to the Licensee or used for the Salvage Yard operation that do not have a current licence plate as issued by the Ministry of Transportation, or any successor Ministry, are parked within:
- (i) The enclosed area, as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (4) No Salvage is loaded, unloaded, sorted, processed, dismantled, crushed, recycled, demolished, displayed, stored, collected or placed outside of:
- (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (5) No Salvage is placed against or within two (2) metres of the fence as required under section 22 of this By-law;
- (6) No Salvage, storage container or other material within the Salvage Yard is placed on the roof of any building within the Salvage Yard;
- (7) No gasoline, vehicle fluids or other chemicals from the Salvage Yard enter or escape onto any adjoining lands or into any aquifer, lake, pond, river, stream, drainage pond, drainage ditch or other body of water;
- (8) All outdoor lighting for the Salvage Yard shall be arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;
- (9) All parking areas and roadways within the Salvage Yard are paved or are treated in a manner to reduce dust;
- (10) All Vehicle batteries within the Salvage Yard are stored within an enclosed building, and in accordance with any standards required by the Ministry of the Environment; and

- (11) Salvage may not be piled or stored higher than permitted by the applicable zoning by-laws of the Area Municipality where the Salvage Yard is located. Where the zoning by-laws of the Area Municipality are silent, Salvage shall not be piled or stored higher than 4.57 metres.
24. (1) No Licensee who holds a Salvage Yard Licence for a Salvage Business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment at the Salvage Yard except:
- (i) Between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; and
 - (ii) Between the hours of 9:00 a.m. and 5:00 p.m. on weekends.
- (2) Notwithstanding subsection (1) of this section, no Licensee who holds a Salvage Yard Licence for a business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment on a Statutory Holiday.
25. No Salvage Yard shall exceed size restrictions imposed in the applicable zoning by-law of the Area Municipality where the Salvage Yard is located, and if none exist, five (5) Hectares in area, unless the Salvage Yard exceeded five (5) Hectares in area on the date that this By-law came into force and effect.

PART VII OPERATIONS

26. Every Licensee shall ensure that the Licensee and their employees, contractors, and agents abide by the requirements of this By-law.
27. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Salvage Business.
28. No tires shall be stored in an area of a Salvage Business licenced under this By-law where there is the potential for them to come into contact with a spark, flame or a heat source.

29. Every Licensee shall store and dispose of gasoline, oils, and other fluids from recycled Vehicles in approved containers, pursuant to standards imposed by the Ministry of the Environment. Licensees must keep records, to be produced upon demand by the Licensing Officer, documenting the means of disposal of these various Vehicle fluids.
30. Every Salvage Business licenced under this By-law that is also a registered Vehicle dealer pursuant to the *Motor Vehicle Dealers Act*, shall prominently display their proof of registration as a motor vehicle dealer in a visible area within the Salvage Business premises.
31. Every Licensee shall display their Licence in a conspicuous location that is visible to all Persons upon entering the licenced Salvage Business location.

Reporting

32. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number of the Licensing Officer, as publicly posted on the Region's external website from time to time.

PART VIII REGISTER

33.
 - (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Salvage Business in accordance with this section.
 - (2) A copy of the Register entries, including photographs that may be required under subsection (5), documenting the previous day's transactions, shall be delivered to the Licensing Officer, via electronic mail, daily by 10:00 a.m., save and except those days that the Business is not operating due to a Statutory Holiday or some other closure, in which case the entries shall be submitted the following operating day.
 - (3) The Licensee shall maintain a separate Register for each Salvage Business licensed under this By-law that the Licensee operates.
 - (4) A Register, as required under this By-law, shall be in the form of either:
 - (i) A paper booklet or electronic version Register supplied by the Licensing Officer; or,

- (ii) A computer software program that has been approved for use by the Licensing Officer.
- (5) Every Licensee who acquires any Salvage, with the exception of Vehicles or Vehicle parts, from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
- (i) The full legal name, address and telephone number including the type of identification provided and the plate number of the Vehicle of the Person from whom they received the Salvage item(s);
 - (ii) The date and time of the transaction;
 - (iii) The value paid or consideration given for the Salvage item(s);
 - (iv) A detailed description of the Salvage item(s);
 - (v) The name of the employee or agent of the Licensee who accepted the Salvage item(s);
 - (vi) The value paid or consideration given for the Salvage item(s);
 - (vii) The serial number of the Salvage item(s), if available; and
 - (viii) A photograph of any Salvage items that were purchased for more than ONE HUNDRED DOLLARS (\$100.00).
- (6) Every Licensee who acquires a Vehicle or Vehicle parts from another Person for the purpose of dismantling or selling such at their Salvage Business, either personally or through an employee or agent, shall immediately record, in English, in the Register:
- (i) The full legal name, address and telephone number including the type of identification provided to verify this information and the plate number of the Vehicle of the Person from whom they received the Vehicle or Vehicle parts;
 - (ii) The date of the transaction;
 - (iii) Proof of legal ownership;
 - (iv) The vehicle information number (VIN) of the Vehicle;
 - (v) The make and model of the Vehicle;

- (vi) The plate number of the Vehicle delivering the Salvage Vehicle or Vehicle parts;
 - (vii) The name of the employee or agent of the Licensee who accepted the Vehicle or Vehicle parts;
 - (viii) The value paid or consideration given for the Vehicle or Vehicle parts;
 - (ix) A detailed description of the Vehicle or Vehicle parts including the serial number, if applicable; and
 - (x) A photograph of any Vehicle or Vehicle parts that were purchased for more than ONE HUNDRED DOLLARS (\$100.00).
- (7) Every Licensee who sells Salvage to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
- (8) Every Licensee shall make the Register and the receipts required under subsection (7) available for inspection upon demand by an Officer.
- (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
- (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.
- (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
- (11) A Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from the licensed Salvage Business premises.

34. No Licensee shall purchase or acquire any Vehicle or Vehicle part without being provided proof that the Person offering the Vehicle or Vehicle part is the lawful owner of, or in is lawful possession of, the Vehicle or Vehicle part, which proof shall be retained for a minimum of one (1) year.
35. No Licensee shall acquire, purchase or offer to sell any Vehicle that has a serial number that is altered, destroyed, removed or concealed without first having given notice to a Police Officer and the Licensing Officer twenty-four (24) hours prior to the intended purchase, acquisition or sale.
36. A Licensee, upon suspicion that any Salvage offered to the Licensee may be stolen property, shall not purchase said Salvage and shall forthwith report the incident to a Police Officer and the Licensing Officer.
37. Any Salvage purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner and no compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regards to ownership, and shall notify the Licensing Officer.

PART IX INSPECTIONS

38. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Salvage Business premises to ensure compliance with all provisions of this By-law.
39. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying and returned to the Licensee within forty-eight (48) hours of removal.
40. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

41. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
42. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
43. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a partnership or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Salvage Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant or Licensee does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;

- (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
44. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
45. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
 - (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
46.
 - (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
 - (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.

47. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
48. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty-four (24) hours of service of written notice.

Appeal

49. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
50. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
51.
 - (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 46, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
 - (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.

- (4) After conducting a hearing under subsection (2), the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 46.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

52. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 46.
53. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT

Penalty

54. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

55. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law, is guilty of an offence.
56. (1) Notwithstanding section 54 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law, as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
57. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

58. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this By-law;

- (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (v) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
59. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
60. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
61. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law, shall be considered in violation of this By-law.
62. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties, and shall be considered in violation of this By-law.

Survival

63. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

64. This By-law may be cited as the "Salvage Business By-law".

By-law Commencement / Transition

65. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1), all Salvage Business-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Salvage Business-related licences issued under By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.

66. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Standard Character Criteria

An application for, or renewal of, a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.