

# *CITY OF MARKHAM*

*ONTARIO*



## **BY-LAW 2012-158**

**Stationary Business Licensing By-law**

(Consolidated for convenience only to April 30, 2014)

**(Schedules/attachments included)**

By-law 2014-57 – April 30, 2014



## BY-LAW 2012-158

### To Provide for the Licensing and Regulation Stationary Businesses

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**WHEREAS** Section 151 of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

**AND WHEREAS** Council wishes to exercise its powers over businesses, the *persons* carrying on or involved in the operation of the businesses including the powers to impose conditions on the obtaining, holding or renewing of licences and for the suspension, denial and revocation of *licences*;

**AND WHEREAS** the regulation of the businesses and the requirement for a *licence* and the imposition of conditions will aid in the administration and enforcement of this By-law and other laws, so as to identify and qualify the *persons* responsible for the operation of the business, identify the location of businesses, the regulation and inspection of equipment, vehicles, *premises* and other property used to carry on business, and allow for the protection of *persons* dealing with or affected by such businesses and *persons*;

NOW THEREFORE the Council of The Corporation of the *City* ENACTS the following:

#### 1. DEFINITIONS AND INTERPRETATION

“*Additional Fee*” means a fee, in addition to the *licence* fee, imposed by the municipality on a *business* at any time during the term of the *licence* for cost incurred by the municipality attributable to the activities of the *business*;

“*Applicant*” means a *person* applying for a *licence* or renewal of a *licence* thereof under this By-law;

“*Appellant*” means a *licensee* that is appealing a decision of the *licensing officer* under the provisions of this By-law;

“*Business*” has the same meaning as provided for in Section 150 of the *Municipal Act, 2001*;

“*Clerk*” means the *clerk* of the *City* or his/her duly appointed Deputy;

“*Conditions*” includes special *conditions* which are imposed upon a *business* in a class that have not been imposed on all of the *businesses* in that class, as a requirement of obtaining, continuing to hold or renewing a *licence*;

“*Corporation*” means a body incorporated, authorized or recognized in law to act as a single entity or person;

“*Council*” means the *council* for The *Corporation* of the *City*;

"*Hearing*" includes a *hearing* or an opportunity given for a *hearing*, where an *applicant* or *licensee* may show cause why the *licence* should be granted, or not refused, revoked or suspended, with or without *conditions*;

"*Individual*" means a *person* and does not include a *Corporation*, partnership or association;

"*Licence*" means the certificate issued by the *licensing officer* under this By-law;

"*Licence Appeal Committee*" means a Committee of Council duly appointed to conduct HEARINGS under this By-law;

"*License Appeal Fee*" means the fee payable to the *City* prior to a *hearing* before the *license appeal committee*;

"*Licensee*" means any *person* licensed under this By-law;

"*Licensing Officer*" means the supervisor within the Legislative Services Department and includes his or her designates;

"*Licensing Section*" means the Licensing Unit within the Legislative Services Department;

"*Medical Officer Of Health*" means the *medical officer of health* for the York Regional Health Unit as defined in the Health Protection and Promotion Act and the regulations enacted thereunder or his designate;

"*Municipal Act, 2001*" means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended and any regulations there under;

"*Municipal Law Enforcement Officer*" means an employee of the *City* that is appointed by By-law to enforce the provisions of the *City's* By-laws;

"*Operator*" means the *person* directly or indirectly responsible for the operation of a *business* licensed or required to be licensed under this By-law;

"*Owner*" means any *person* licensed are required to licensed under this By-law;

"*Person*" includes a *Corporation* and its directors and officers, and the heirs, executors, assignees and administrators or the other legal representatives of an *individual* and their respective successors and assignees;

"*Premises*" means any *premises* licensed or required to be licensed under this By-law and includes any trade or calling required to be so licensed;

"*Products*" include goods, wares, crafts, jewellery, refreshments, foodstuffs, merchandise or any other items whatsoever;

"*Retail*" or "*retail sale*" means the sale of *products* or goods to the ultimate consumer, usually in small quantities, in the ordinary course of *business*;

"*Schedule*" means one or all the *schedules* attached to this By-law;

"*Secretary*" means the *secretary* of the *licence appeal committee*;

"*Sell*" means to *sell* for *retail*, offer for *retail* sale, display, and place or expose any *products* for *retail* sale;

"*To Operate*" includes managing, supervising or otherwise be responsible for the control, management or supervision of a *business*;

“City” means The *Corporation* of the City of Markham;

"*Treasurer*" means the *treasurer* of the *City*.

## 2. **ADMINISTRATION AND ENFORCEMENT**

- 2.1 In this By-law and attached *schedules*, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context requires.
- 2.2 Subject to the terms of this or other By-laws, or the directions of *council*:
- (a) The administration of this By-law shall be by the staff of *licensing section*, Legislative Services Department in the Corporate Services Commission of the *City*;
  - (b) The enforcement of this By-law shall be by *persons* appointed by Council for the purpose of enforcing the provisions of this By-law, which shall include the following:
    - i) *municipal law enforcement officers*; and
    - ii) any duly appointed police officer.

## 3. **SCHEDULES**

The following *schedules* form part of this By-law:

<b>NUMBER</b>	<b>SCHEDULE</b>
SCHEDULE 1	Term, Issue, Expiry, and Prorating of Licences
SCHEDULE 2	Adult Entertainment Parlour (Services)
SCHEDULE 3	Adult Entertainment Parlours (Goods)
SCHEDULE 4	Places of Amusement (Carnivals)
SCHEDULE 5	Places of Amusement (Arcades)
SCHEDULE 6	Auctioneers
SCHEDULE 7	Barber and Hairdressing Shops
SCHEDULE 8	Billiards, Bagatelle Establishments & Bowling Alleys
SCHEDULE 9	Body Rub Parlours
SCHEDULE 10	Clothing Donation Bins
SCHEDULE 11	Driveway Paving Contractors
SCHEDULE 12	Dry Cleaning Depots
SCHEDULE 13	Eating Establishments
SCHEDULE 14	Fireworks (Sale)
SCHEDULE 15	Garages
SCHEDULE 16	Golf Driving Ranges
SCHEDULE 17	Horse Riding Establishments
SCHEDULE 18	Public Halls
SCHEDULE 19	Salvage Shops and Salvage Yards
SCHEDULE 20	Second Hand Dealers and Goods
SCHEDULE 21	Sign Installers (Mobile)
SCHEDULE 22	Special Sales
SCHEDULE 23	Temporary Vendors
SCHEDULE 24	Tobacco Shops

## 4. **LICENCE REQUIREMENT**

- 4.1 The following *persons* must be in possession of a *licence* authorizing them to carry on their *business* in the *City*, and shall pay to the *City* upon application for, or renewing the *licence* the required fee
- a) every person who owns or operates an Adult Entertainment Parlour (Services);
  - b) every person who owns or operates an Adult Entertainment Parlour (Goods);
  - c) every Adult Entertainment Attendant;
  - d) every person who owns or operates a Place of Amusement (Carnival);
  - e) every person who owns or operates a Place of Amusement (Arcade);
  - f) every person who owns or operates an a Personal Services Shop;
  - g) every person who owns or operates an a Billiards Establishment;
  - h) every person who owns or operates a Bowling Alley;
  - i) every person who owns or operates a Body Rub Parlour;
  - j) every Body Rub Parlour Attendant;
  - k) every person who owns or operates a Charity Clothing Bin;
  - l) every person who owns or operates as a Driveway Paving Company;
  - m) every person who owns or operates a Dry Cleaning Depot;
  - n) every person who owns or operates an Eating Establishment;
  - o) every person who owns or operates a place where Foodstuffs are sold;
  - p) every person who sells Fireworks;
  - q) every person who owns or operates a Public Garage;
  - r) every person who owns or operates an Horse Riding Establishment;
  - s) every person who owns or operates a Public Hall;
  - t) every person who owns or operates a Salvage Shop or Yard;
  - u) every person who owns or operates a Second Hand Shop;
  - v) every person who conducts a Special Sale;
  - w) every person who installs Mobile Signs;
  - x) every Temporary Vendor; and
  - y) every person who sells tobacco.

(Amended by By-law 2014-57)

- 4.2 No *person* shall carry on, *operate* or engage in a *business* referred to in 4.1 unless a current and valid *licence* has been issued in their name by the *City* under this By-law.

## **5. COMPLIANCE WITH SCHEDULES**

- 5.1 No *person* shall fail to comply with any regulation contained in the *schedules* attached to this By-law that regulates the *business* that they are licensed to carry on under this By-law.
- 5.2 Where a provision in a *schedule* of this By-law requiring additional documents or inspections, the provision in the *schedule* shall prevail.

## **6. REPRESENTATION OF LICENSING**

- 6.1 No *person* shall hold himself out to be licensed if he is not.

## **7. DUTIES OF THE LICENSING OFFICER**

- 7.1 The duties of the *licensing officer* include:
- (a) receiving and processing all applications for licences and renewals of *licences*;
  - (b) ensuring that applications are complete and signed by the *applicant*, or where the application is from a partnership or *Corporation* respectively, signed by a partner or the president or other authorized signing officer of the

*Corporation;*

- (c) ensuring that the *applicant* has paid the fees required for the term of the *licence*, prior to processing the application;
- (d) imposing 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*;
- (e) imposing special *conditions* as a requirement of continuing to hold a *licence* at any time during the term of the *licence* where the *licensing officer* is of the opinion that a term or condition of a *licence* should be imposed;
- (f) refusing to issue or renew a *licence*, or revoke or suspend a *licence* where the *licensing officer* is of the opinion that the *applicant* is not entitled to a *licence* under Section 16.1;
- (g) the maintenance and retention of all applications received and licences issued as provided for by the *City* Record Retention By-law and policies;
- (h) the prohibition of the carrying on or engaging in a *business* without a required *licence*;
- (i) generally performing all the administrative functions conferred upon the Officer by this By-law and the attached *schedules*; and
- (j) co-ordination and direction of the enforcement of this By-law and *schedules*.

**8. GENERAL LICENSING APPLICATION REQUIREMENTS**

8.1 Every *applicant* for a *licence* and for the renewal of a *licence* issued under this By-law shall:

- (a) submit a completed application for a *licence* or the renewal of a *licence* on the forms provided;
- (b) where the *applicant* is an *individual* or a partner of a partnership, 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) submit to the taking of photographs, for the production of “Photo Identification” *licences* for general identification purposes where required;
- (d) if the *applicant* is a *Corporation*, file a copy of the incorporating document and a copy of the last annual information return which has been filed with the appropriate government department;
- (e) if the *applicant* is a registered partnership, file a copy of the registered declaration of partnership;
- (f) any other document relating to the operation of the *business* requested by the *licensing officer* including but not limited to Provincial Driver’s License statutory declarations, Vulnerable Sector Screening Search and Criminal Conviction Background Search issued by the Police Service in which the *applicant* resides, Harmonized Sales Tax number, proof of citizenship or landed immigrant status; York Regional Health Department Inspection Certificate, Insurance Certificates, medical certificates, letters of employment;

- (g) pay the required fee in the Licensing, Permit and Service Fees By-law;
- (h) pay any *additional fee* imposed under the Licensing, Permit and Service Fees By-law; and
- (i) pay any outstanding fine owed to the *City*.

**9. ZONING BY-LAW COMPLIANCE**

- 9.1 No *licence* shall be issued contrary to the provisions of any *City* Zoning By-law.

**10. APPLICATION FORMS RETURNED**

- 10.1 Where an *applicant* fails to comply with any requirements of Section 8, or instructions in that regard, or where no licences are available to be issued the application shall be returned and not processed further.
- 10.2 Where the application is refused under Section 8 the *applicant* may be advised personally if present and the application returned, or may be advised by letter sent by regular or electronic mail or facsimile to the *applicant's business* or electronic address as disclosed by the application, or previous last known address, if any.

**11. ISSUE OF LICENCE OR RENEWAL OF LICENCE**

- 11.1 When an application for a *licence* or for a renewal of a *licence* is in accordance with, and meets all the requirements of this By-law, the *licensing officer* shall issue a *licence*.
- 11.2 Unless provided otherwise, a *person*, who is the *owner* of more than one *business* location, shall obtain a separate *licence* for each location which is to be operated as a part of a *business* licensed under this By-law.
- 11.3 Except where electronic internet applications for new *licences* and renewals are accepted by the *licensing officer*, or where renewals applications are accepted through postal or other methods, all applications for a *licence* or renewal of a *licence* shall be made by:
- (a) The *applicant*, as sole proprietor of the *business*, personally to the *licensing section*;
  - (b) If a *Corporation*, by an officer or director of the *Corporation*, to the *licensing section*; or
  - (c) If a Partnership, by one of the partners, to the *licensing section*.

**12. TIME FOR RENEWAL**

- 12.1 An application for renewal of a *licence* shall be delivered to the *licensing section* on or before the expiry date. An expired *licence* may be renewed without being subject to any new application requirements within one year of the *licence* expiry date providing all *licence* fees, including late fees, and charges are paid in full and where all required documentation is submitted.
- 12.2 When an application for renewal of a *licence* is delivered to the *licensing section* any time after one year after the expiry date of the *licence*, the *applicant* shall complete an application as a new *applicant*.

**13. TERM OF LICENCE**

13.1 Every *licence* expires on the expiry date as set out in *schedule* 1 to this By-law.

**14. LICENCE NOT TRANSFERABLE**

14.1 No *licence* issued under this By-law is transferable except as specifically provided for within the attached *schedules*.

**15. GROUND FOR REFUSAL TO ISSUE OR TO RENEW A LICENCE**

15.1 An *applicant*, whose application meets all the requirements of this By-law and its *schedules* is entitled to a *licence*, or renewal of a *licence*, except where:

- (a) there are reasonable grounds to believe that any application or other document provided contains a false statement or provides false information;
- (b) the past or present conduct of the *applicant*, or of any partner, or any director, or officer of a *Corporation*, affords reasonable cause to believe that the *applicant*, partner, or officer will not carry on the activity for which the *licence* is to be issued, or to continue to be licensed in accordance with the law, or with honesty and integrity;
- (c) the financial position of the *applicant* affords reasonable grounds to believe that the activity for which the *business* is to be licensed or to continue to be licensed, will not be carried on in a financially responsible manner;
- (d) the issuance of the *licence* or renewal of the *licence* would be contrary to the public interest;
- (e) the *applicant* has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of a By-law enacted by the *City*;
- (f) the fee payable in respect of the *licence* applied for has not been paid;
- (g) a complaint which, in the opinion of the *licensing officer*, is not frivolous or vexatious, has been received about the holder of a *licence* relating to the operation of their *business*;
- (h) the *applicant* for a renewal of a *licence* produces a “*certificate of attendance*” and a *licence* was issued with an attached condition and the *licensee* failed to comply with the attached condition;
- (i) the *licensee* is carrying on activities that are, or would be in contravention of the By-law and, or *schedules*;
- (j) the *licensee* fails to comply with any requirement in the By-law and, or *schedules* to obtain or maintain or renew a *licence* under this By-law; and
- (k) any *additional fee* imposed on a *licence* remains unpaid after the due date as indicated in the “*Notice of additional fee*”.



**16. THE LICENSING OFFICER'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE OR CANCEL, REVOKE OR SUSPEND OR TO ATTACH CONDITIONS TO A LICENCE**

16.1 The administrative power and authority to refuse to issue a *licence*, to cancel, revoke or suspend a *licence*, or to impose *conditions* on a *licence*, are hereby delegated to the *licensing officer* and his or her delegates, pursuant to Section 23.2 of the *Municipal Act, 2001*, as amended.

16.2 Where the *licensing officer* is of the opinion that:

- (a) an application for a *licence* or renewal of a *licence* should be refused; or
- (b) a reinstatement should not be made; or
- (c) a *licence* should be revoked; or
- (d) a *licence* should be suspended; or
- (e) a *licence* should be cancelled; or
- (f) a condition should be imposed,

the *licensing officer* shall make that decision.

**17. WRITTEN DECISION OF THE LICENSING OFFICER**

17.1 The *licensing officer* shall provide written notice to the *applicant* or *licensee* of the decision with respect to the *licence* application, renewal, or its status.

17.2 The written notice under Subsection 17.1 shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the *licensing officer*; and
- (d) state that the *applicant* or *licensee* is entitled to request a *hearing* to be conducted by the *licence appeal committee*.

**18. APPEAL OF A DECISION OF THE LICENSING OFFICER**

18.1 An *applicant* or *licensee* who is not satisfied with the decision, or any term or *condition* that has been imposed, may apply for an appeal to the *licence appeal committee* by sending by regular mail or personal service to the *licensing officer* a written notice of appeal along with the appeal fee, to the *secretary* of the *licence appeal committee*, Office of the *City clerk*, within ten (10) days of receipt of the decision.

**19. APPEAL DOES NOT ACT AS A STAY OF DECISION**

19.1 An appeal, under Section 18.1, of a decision does not act as a stay of that Decision.

**20. REASONS FOR APPEAL**

20.1 *Persons* may appeal the decision of the *licensing officer* if they believe that any of the following circumstances apply:

- (a) the decision of the *licensing officer* was wrong in law, fact, or both law and fact; or
- (b) there was a failure to observe a principle of natural justice.

## **22. CONFIRMATION OF A DECISION**

- 22.1 A decision of the *licensing officer* that is not appealed within the time frame referred to in Section 18.1 shall be deemed to be confirmed.

## **22. LICENCE APPEAL COMMITTEE**

- 22.1 A committee is hereby established pursuant to Section 23.5 of the *Municipal Act, 2001*, under the name “*City licence appeal committee*”, which shall be composed of not fewer than three members of *council*.
- 22.2 The *licence appeal committee* has the powers and authority to conduct appeals of decisions made by the *licensing officer*.
- 22.3 The *licence appeal committee* shall designate one of the members as chair and may designate one or more other members as vice-chairs of the *licence appeal committee*.
- 22.4 The Chair shall have general supervision and direction over the conduct of the affairs of the Committee. Three members of the *licence appeal committee* constitutes a quorum.
- 22.5 In place of the *council*, the *licence appeal committee* shall hear the parties to a *hearing* or afford the parties an opportunity to be heard, and make decisions and recommendations from *hearings* so held.
- 22.6 The *licence appeal committee* shall apply the By-laws of the *council* and have the powers, duties and rights as applicable under the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S. 22.
- 22.7 There shall be a *secretary* to the *licence appeal committee*, who shall attend all meetings of the *licence appeal committee* and shall keep all necessary records and perform such other duties required by the *licence appeal committee*.
- 22.8 The *secretary* shall arrange the sittings of the *licence appeal committee* and assign members to panels to conduct *hearings* as circumstances require, except that no more than three members may sit on a panel.
- 22.9 The *licence appeal committee* shall require that parties submit disagreements to mechanisms of alternate dispute resolution before they are entitled to a *hearing* before the Committee on the subject matter of the disagreement.
- 22.10 The oral evidence given before the *licence appeal committee* at a *hearing* shall be recorded.
- 22.11 Where a *hearing* is conducted, an *appellant* must “show-cause” why the *licence* should be granted, or why it should not be cancelled, refused, revoked or suspended, with or without *conditions*.
- 22.12 Where the *licence appeal committee* is satisfied that the application for the *hearing* is frivolous or vexatious, the Committee may refuse to grant a *hearing* to the *appellant*.

22.13 Where Committee refuses to grant a *hearing*, the appeal fee is non-refundable.

22.14 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 *licence appeal committee* under this By-law.

**23. DISCLOSURE OF DOCUMENTS AND THINGS**

23.1 Each party to a *hearing* shall disclose to all other parties not less than ten (10) *business* days before the *hearing* or, as otherwise ordered by the *licence appeal committee*, the existence of every document or thing that it will refer to, or give in evidence at the *hearing*.

**24. FAILURE TO ATTEND HEARING**

24.1 When the *appellant* who has been given written notice of the *hearing* does not attend at the appointed time and place, the *licence appeal committee* may proceed with the *hearing* in the *appellant's* absence and the *appellant* shall not be entitled to any further notice of the proceedings.

**25. DISMISSAL OF HEARING**

25.1 After confirming the *appellant* received notice of the *hearing*, the *licence appeal committee* may;

- (a) where the *appellant* fails to appear, or fails to submit any material, dismiss the appeal; or
- (b) where the *appellant* appears and the *hearing* proceeds, dismiss the appeal at any time during the *hearing* if the Committee finds it without merit.

**26. COSTS**

26.1 The *licence appeal committee* may not make any order as to costs.

**27. WRITTEN DECISION**

27.1 At the conclusion of a *hearing*, the *licence appeal committee* may give its decision orally or reserve its decision, but in any case shall provide its decision in writing, with reasons, within fourteen (14) days of the *hearing* to the *appellant* and the *licensing officer*.

**28. POWERS OF THE LICENCE APPEAL COMMITTEE**

28.1 On an appeal, the *licence appeal committee* has all the powers and functions of the *licensing officer* who made the decision and may make any decision that the *licensing officer* was entitled to make in the first instance, and the *licence appeal committee* may do any of the following things if, in its opinion, doing so would maintain the general intent and purpose of the By-law:

- (a) modify or rescind the decision or any condition;
- (b) extend any time for complying with a decision or any condition.

28.2 The *licence appeal committee*, after a *hearing*, may consider:

- (a) a breach of the provisions of this By-law;
- (b) anything which may be in any way adverse to the public interest;
- (c) the belief that the *person* will not carry on, or engage in the *business* in accordance with applicable law, or with honesty and integrity;
- (d) if any *person* has made a false statement in the application for the *licence* or a renewal thereof; and
- (e) any other matter which the *licence appeal committee* is authorized by law to consider.

28.3 The *licence appeal committee* shall send a copy of its final decision or order, including any reasons, to each party to a *hearing*, or to the *person* who represented the party by:

- (a) regular mail;
- (b) electronic mail, transmission of a facsimile; or
- (c) such other method that the Committee specifies.

## **29. EFFECT OF DECISION**

29.1 A decision that has been confirmed, modified or rescinded by the *licence appeal committee*, as the case may be, shall be final and binding upon the *appellant* who shall comply with the decision within the time specified and in the manner specified in the decision where applicable.

## **30. ADDITIONAL FEES ON A LICENCE**

30.1 Notwithstanding any other provisions of the By-law, the *licensing officer* may impose *additional fees* on a *licence*, by way of a “Notice of *additional fee*” at any time during the term of the *licence* for costs incurred by the municipality attributable to the activities of the *business*.

30.2 The “Notice of *additional fee*” shall be sent to the *licensee* by registered mail and shall provide the *licensee* with sixty (60) days from the date of the “Notice of *additional fee*” is deemed to have been made to pay the outstanding amount.

## **31. CANCELLATION OF A LICENCE**

31.1 Any *licence* issued under this By-law may be cancelled by the *licensing officer* at any time upon the written request of the *licensee*.

## **32. RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION**

32.1 When a *licence* has been revoked, cancelled or suspended, the holder of the *licence* shall return the *licence* to the *licensing section* within twenty-four (24) hours of service of “Written Notice” of the decision of the *licensing officer* or, where an appeal had been filed, the decision of the *licence appeal committee*, and the *licensing officer* may enter the *business premises* belonging to the *licensee* for the purpose of receiving, taking, or removing the said *licence*.

- 32.2 When a *person* has his or her *licence* revoked or suspended under this By-law, he or she shall deliver the *licence* to the *licensing officer* and in no way shall obstruct or prevent the *licensing officer* from obtaining the *licence*.

**33. POSTING OF LICENCES**

- 33.1 Every *licensee* shall post the in a conspicuous place in the *business premise*.

**34. LICENCE PRODUCTION**

- 34.1 Every *licensee* shall produce the *licence* for the *business* for inspection upon demand by the *licensing officer* or *municipal law enforcement officer*.

**35. NOTIFICATION OF CHANGE OF INFORMATION**

- 35.1 A *licensee* shall carry on *business* in the *City* in the name which is set out on the *licence* and shall not carry on *business* in *City* in any other name unless he has first notified the *licensing section*.
- 35.2 When a *licensee* changes his name or address or any information relating to his *licence*, he shall notify the *licensing section* within forty-eight (48) hours of the change, and shall return the *licence* immediately to the *licensing section* for amendment.
- 35.3 The *licensee* shall report any changes to the following information:
- (a) the names, addresses of officers and directors; or
  - (b) the address of the corporate head office; or if a partnership,
  - (c) names and addresses of all partners.

**36. SERVICE OF NOTICE OR ORDER**

- 36.1 Any notice or order required to be given or served under this By-law is sufficiently served if delivered personally or sent registered mail or by electronic mail or facsimile, addressed to the *person* to whom delivery or service is required to be made, at the last address for service appearing in the records of the *licensing section*.
- 36.2 When service is made by registered mail, the service shall be deemed to be made on the seventh day (7) after the date of mailing, unless the *person* on whom service is being made establishes he did not, through absence, accident, illness, or other cause beyond his control, receive the notice or order until a later date.

**37. POWERS OF ENTRY (authorized under Sections 435, 436 and 438 of the *Municipal Act, 2001*, as amended S.O. 2006, C. 32, Sched. A,s. 184)**

- 37.1 The *City* may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) The provisions of this By-law;
  - (b) An order issued under this By-law; or

- (c) An order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- 37.2 Where an inspection is conducted by the *City*, the *person* conducting the inspection may,
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any *person* concerning a matter related to the inspection including their name, address, phone number and identification; and
  - (d) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 37.3 The *City* may undertake an inspection pursuant to an order issued under s.438 of the *Municipal Act, 2001*.
- 37.4 The *City's* power of entry may be exercised by an employee, officer or agent of the *City* or by a member of the York Regional Police Service, as well as by any *person* under his or her direction.
- 37.5 Every *owner* licensed under this By-law shall on request of the Officer produce his *licence* issued under this By-law and such other documentation as is requested upon an inspection under Section 37.2.

**38. ORDERS AND REMEDIAL ACTION (authorized under Sections 444, and 446 of the *Municipal Act, 2001* as amended S.O. 2006, C.32, Sched. A, s.184)**

- 38.1 If a *person* contravenes any of the provisions of this By-law, the *City* may issue an order to the *person* to discontinue the contravening activity. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention and the date by which there must be compliance with the order. The order may be served in accordance with the service provisions contained in this By-law.
- 38.2 If a *person* has contravened a provision of this By-law, the *City* may issue a work order to the *person* who contravened or permitted the contravention of this By-law, as well as to the *owner* of the lot on which the contravention occurred, to do work to correct the contravention. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the order. The order may also provide that if the *person* or *owner* fails to correct the contravention, the *City* may do the work to correct the contravention at the expense of the *person* and the *owner*. The order may be served in accordance with the service provisions contained in this By-law.
- 38.3 If the *City* has issued an order directing or requiring a *person* or an *owner* to do a matter or thing to correct a contravention of this By-law, and the *person* or the *owner* has failed to correct the contravention, the *City* may enter upon the lot between the hours of 9:00 am and 5:00 pm Monday to Friday to do all work necessary to correct the contravention, and the *City* may recover the cost of the doing the matter or thing from the *person* directed or required to do it by action or by adding the costs to the tax roll of the *owner* and collecting them in the same manner as property taxes.

- 38.4 An order issued under this By-law may be served personally or may be served by registered mail sent to the last known mailing address of the *person* as indicated on the *City's* assessment roll. If an order is served on a *person* by regular mail, it shall be deemed to have been served on the *person* on the 5<sup>th</sup> day after mailing of the order, which deemed service may be rebutted by the *person* proving, on a balance of probabilities, that they did not receive the order.
- 38.5 Upon an inspection under Section 37.2, the *licensing officer* or M.L.E.O. or other *person* so authorized is entitled to request and have produced all relevant *licences* and permits and to have access to the invoices, vouchers, appointment books or like documents of the *person* being inspected, provided such documents are relevant for the purposes of the inspection and the *person* inspecting may remove any of the aforementioned documents for the purpose of photocopying, provided a receipt is given to the *licensee* and the documents are returned to the *licensee* within two (2) *business* days of removal.
- 38.6 Every *owner* licensed under this By-law shall on request of the *licensing officer* or M.L.E.O produce his *licence* issued under this By-law and such other documentation as is requested upon an inspection under Section 37.5.

**39. RIGHT OF INSPECTION OF LICENSED PREMISES DUTY TO PRODUCE**

- 39.1 The *licensing officer, municipal law enforcement officer* or other *person* so authorized who is performing a duty or exercising a power under this By-law may at any reasonable time enter upon and inspect the *business premises* to insure that the provisions of this By-law have been complied with, and on completion of an inspection shall complete and file a written report on the inspection.
- 39.2 Upon an inspection under Section 37.1, the Officer or other *person* so authorized is entitled to request and have produced all relevant *licences* and permits and to have access to the invoices, vouchers, appointment books or like documents of the *person* being inspected, provided such documents are relevant for the purposes of the inspection and the *person* inspecting may remove any of the aforementioned documents for the purpose of photocopying, provided a receipt is given to the *licensee* and the documents are returned to the *licensee* within two (2) *business* days of removal.

**40. OBSTRUCT INSPECTOR**

- 40.1 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, the *licensing officer, municipal law enforcement officer* or other *person* so authorized who is performing a duty or exercising a power under this By-law pursuant to Section 426 of the *Municipal Act, 2001*.

**41. PENALTY FOR CONTRAVENTION BY A PERSON**

- 41.1 Every *person* who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.
- 41.2 If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

- 41.3 If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
- 41.4 Every *person* who is guilty of an offence under this By-law shall be subject to the following penalties:
- (a) Upon a first conviction, to a fine of not less than \$300.00 and not more than \$50,000.00;
  - (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00;
  - (c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000.00 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00.
- 41.5 For the purposes of this By-law, “multiple offences” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 41.6 For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

**42. PENALTY FOR CONTRAVENTION BY A CORPORATION**

- 42.1 Despite Section 42.1, where a *Corporation* is convicted of an offence under the provisions of this By-law pursuant to Section 429 (1) of the *Municipal Act, 2001*, the *Corporation* is liable to a fine not less than \$300.00 and not exceeding \$100,000.00.

**43. ORDER TO DISCONTINUE ACTIVITY**

- 43.1 Pursuant to the provisions of Section 444 of the *Municipal Act, 2001*, in addition to any other remedy and to any penalty imposed, the *City* may make an order requiring the *person* who contravened the By-law or who caused or permitted the contravention, or the *owner* or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
- 43.2 Any *person* who contravenes an order issued under Section 45.1 is guilty of an offence pursuant to Subsection 425 (1) of the *Municipal Act, 2001*.

**44. STATEMENT OF THE CLERK**

- 44.1 For the purposes of prosecution, under this By-law and pursuant to Subsection 447 (6) of the *Municipal Act, 2001*, a statement as to the licensing or non-licensing of any premise or *person*, signed by the *clerk* is, without proof of the office or signature, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein.

**45. COURT ORDERS/BARRING OF ENTRY/CLOSING OF PREMISES**

- 45.1 The provisions of Section 447 of the *Municipal Act, 2001* respecting the issuance of court orders, the banning of entry, and the closing of *premises* shall apply to this By-law where required.



**46. COLLECTION OF UNPAID LICENSING FINES**

46.1 Where any part of a fine for a contravention of this By-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P 3, including any extension of time for payment ordered under that section the *City* is hereby authorized, pursuant to Section 441 (2) of the *Municipal Act, 2001*, to give the *person* against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that *person* at the *person's* residence or place of *business*.

**47. DISTRESS FOR UNPAID FINES**

47.1 Pursuant to Subsection 441 (3) of the *Municipal Act, 2001*, where a fine remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed to be unpaid taxes and, pursuant to Subsection 351 (1) of the *Municipal Act, 2001*, the *treasurer* of the *City*, or agent may seize the following to recover the taxes and costs of seizure, subject to the exemptions provided for in Subsection 351 (3) and (4) of the *Municipal Act, 2001*:

- (a) The personal property belonging to or in the possession of the *person* fined.
- (b) The interest of the *person* fined in any personal property including such *person's* right to the possession of any personal property under a contract for purchase or a contract to which the *person* fined becomes the *owner* of the property upon performance of any condition.
- (c) The personal property on the land and any interest therein, as described in Subsection (a) of this Section, of the *owner* of the land, even if the *owner's* name does not appear on the tax roll.
- (d) Any personal property on the land, title to which is claimed under any assignment or transfer made for the purpose of defeating the seizure.
- (e) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.

**48. LEVY OF FINES UNDER WARRANT**

48.1 Despite Section 47.1 of this By-law, the *treasurer* or an Officer of the *City* may seize personal property, pursuant to Subsection 351 (2) of the *Municipal Act, 2001*, after a tax bill has been sent but before the due date if:

- (a) the *treasurer* or an officer has good reason to believe that the personal property subject to the seizure is about to be removed from the *City* before its due date;
- (b) the *treasurer* or an Officer makes an affidavit to that effect before a Justice of the Peace or the head of *council* of the *City*; and
- (c) the Justice of the Peace or head of *council* of the *City* issues a warrant authorizing the *treasurer* or an Officer to levy for the fines and costs in the manner provided by this Section.

- (d) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.
- (e) No defect, error or omission in the form or substance of the notice required by this By-law invalidates any subsequent proceedings for the recovery of a fine.

**49. PROCEEDS OF FINES**

49.1 Pursuant to the provisions of Subsection 433 (1) of the *Municipal Act, 2001*, where a *person* has been convicted of any offence under this By-law, every fine imposed for a contravention of this By-law belongs to the *City*.

**50. SEVERABILITY**

50.1 Notwithstanding that any section, *schedule*, or any part or parts thereof, of this By-law may be found by any court of law to be invalid or beyond the power of the *council* to enact, such section, *schedule* or part or parts thereof shall be deemed to be severable, and all other sections and *schedules* of this By-law, or parts thereof, are separate and independent there from and enacted as such.

**51. SCHEDULES**

51.1 All *schedules* referred to in this By-law and attached to this By-law shall be deemed to be a part of the By-law.

**52. CONFLICT**

52.1 Where there is a conflict between this By-law and any other *City* By-law that regulates or governs the operation of Stationary *businesses*, this By-law shall prevail.

**53. INTERPRETATION**

53.1 The provisions of the *Legislation Act 2006*, R.S.O. 2006, c.21, Sch. F, shall apply to this By-law.

**54. REPEAL**

54.1 The following By-laws are to be repealed.

By-law	Number	By-law	Number
Adult Entertainment Parlour (Goods)	2002-286	Fireworks (Sale)	2007-230
Adult Entertainment Parlours (Services)	2002-287	Food Stores	2002-296
Places of Amusement (Carnivals)	2002-288	Garages	2002-297
Places of Amusement (Arcades)	2002-289	Golf Driving Ranges	2002-298
Auctioneers	2002-290	Horse Riding Establishments	2002-299
Bagatelle Establishments	2002-293	Public Halls	2002-304
Barber and Hairdressing Shops	2002-291	Salvage Shops	2002-306
Billiards Halls	2002-293	Salvage Yards	2002-306
Body Rub Parlours	2002-292	Second Hand Dealers	2002-306
Bowling Alleys	2002-293	Second Hand Goods	2002-307

Complementary Healthcare Centres	2002-292	Signs, Mobile	2002-302
Driveway Paving Contractors	2006-314	Special Sales	2005-87
Dry Cleaning Depots	2002-295	Tobacco Shops	2002-309
Eating Establishments	2002-296		

**55. EFFECTIVE DATE**

55.1 This By-law comes into force and takes effect on June 27, 2012.

**56. SHORT TITLE**

56.1 This By-law shall be known as the Stationary Business Licensing By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
26<sup>TH</sup> AND 27<sup>TH</sup> DAY OF JUNE, 2012.

"Kimberley Kitteringham"

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KIMBERLEY KITTERINGHAM  
CITY CLERK

"Frank Scarpitti"

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FRANK SCARPITTI  
MAYOR

## **SCHEDULE 1**

### **Relating to the Term, Issue, Expiry, and Prorating of Stationary Business Licences**

#### **1. TERM OF LICENCE**

1.1 Every *licence* listed in this *schedule* is valid for the corresponding term of the *licence* unless:

- (a) the *licence* has been suspended or revoked;
- (b) the *licence* has been cancelled at the request of the *licensee*;
- (c) payment of the said *licence* has not been made.

#### **2. TIME FOR RENEWAL**

2.1 An application for renewal of a *licence* shall be delivered to the *licensing section* on or before the expiry date. An expired *licence* may be renewed without being subject to any new application requirements within one year of the *licence* expiry date providing all *licence* fees, including late fees, and charges are paid in full and where all required documentation is submitted.

2.2 When an application for renewal of a *licence* is delivered to the *licensing section* any time after one year after the expiry date of the *licence*, the *applicant* shall complete an application as a new *applicant*.

2.3 Fees may be pro-rated by calculating the fee based upon the month in which the *application* is made to the *licensing section* to the expiry date of the *licence* pursuant to the Licensing, Permit and Service Fee By-law.

<b>SCHEDULE</b>	<b>RENEWAL DATE</b>
Adult Entertainment Parlour (Goods)	December 31 <sup>st</sup>
Adult Entertainment Parlours (Services)	December 31 <sup>st</sup>
Places of Amusement (Carnivals)	December 31 <sup>st</sup>
Places of Amusement (Arcades)	December 31 <sup>st</sup>
Auctioneers	December 31 <sup>st</sup>
Bagatelle Establishments	December 31 <sup>st</sup>
Barber and Hairdressing Shops	December 31 <sup>st</sup>
Billiards Halls	December 31 <sup>st</sup>
Body Rub Parlours	December 31 <sup>st</sup>
Bowling Alleys	December 31 <sup>st</sup>
Clothing Donation Bins	December 31 <sup>st</sup>
Complementary Healthcare Establishments	March 31 <sup>st</sup>
Driveway Paving Contractors	December 31 <sup>st</sup>
Dry Cleaning Depots	December 31 <sup>st</sup>
Eating Establishments	December 31 <sup>st</sup>
Fireworks (Sale)	December 31 <sup>st</sup>
Food Stores	December 31 <sup>st</sup>
Garages	December 31 <sup>st</sup>
Golf Driving Ranges	December 31 <sup>st</sup>
Horse Riding Establishments	December 31 <sup>st</sup>
Public Halls	December 31 <sup>st</sup>
Salvage Shops	December 31 <sup>st</sup>
Salvage Yards	December 31 <sup>st</sup>
Second Hand Dealers	December 31 <sup>st</sup>
Second Hand Goods	December 31 <sup>st</sup>
Signs, Mobile	December 31 <sup>st</sup>
Special Sales	December 31 <sup>st</sup>

## SCHEDULE 2 - RELATING TO ADULT ENTERTAINMENT PARLOURS - SERVICES

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### 1. DEFINITIONS

"*Adult Entertainment Parlour*" means any *premises* or part thereof in which is provided, in pursuance of a trade, calling, *business* or occupation, *services* appealing or designed to appeal to erotic or sexual appetites or inclinations;

"*Attendant*" means any *person* other than a licensed *owner* or *operator* who provides *services* designed to appeal to erotic or sexual appetites or inclinations at an *adult entertainment parlour*;

"*Defined Areas*" means those two areas of the *City* which are shown as the shaded areas set out in Appendixes "B" and "C" attached hereto;

"*Licensed Premises*" means an *adult entertainment parlour* which is referred to in a *licence*;

"*To Provide*" when used in relation to *services* includes to furnish, perform, solicit, or give such *services* and "providing" and "provision" have corresponding meanings;

"*Services*" includes activities, facilities, performances, exhibitions, viewings and encounters;

"*Services Designed To Appeal To Erotic Or Sexual Appetites Or Inclinations*" includes:

- (i) *Services* of which a principle feature or characteristic is the nudity or partial nudity of any PERSON;
- (ii) *Services* in respect of which "nude", "naked", "topless", "bottomless", "sexy", or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

2. Every *applicant* for an *owner's licence* shall, at the time of making his application, file with the *licensing officer* a list showing the names of all *operators* and *attendants* providing *services* in his *adult entertainment parlour* and all such *persons* intended or expected by him to be employed or to *provide services* in his *adult entertainment parlour* and shall thereafter maintain a list showing at all times the names of all *operators* and *attendants* providing *services* in his *adult entertainment parlour* and such *owner* shall, upon a request made to him by any peace officer or By-law enforcement officer produce the list, brought up to date as of the time of the request, to such officer.

3. On every application for an *owner's*, *operator's* or *attendant's licence* by an *individual* or by a corporation, the *applicant* shall state:

- (a) if the *applicant* is an *individual*, his date of birth; and
- (b) if the *applicant* is a corporation, the date of birth of every shareholder or other *person* having a beneficial interest of any kind in the shares of the corporate *applicant* or in any corporations referred to in section 4 of this By-law.

4. Where the shares in a corporation applying for an *owner's* or *operator's licence* are held in whole or in part by another corporation, the corporation so applying shall file with the *licensing officer* a Return in a form supplied by the *licensing officer*, which Return shall contain a list of all of its shareholders, and if such Return discloses that the shares in such other corporation are in turn held in whole or in part by a third corporation then the said *applicant* shall also file such a Return in respect of such third corporation listing its shareholders, and so on until the names of all living *persons* are shown and identified as the shareholders of any and all corporations having an interest, direct or indirect, in the shares of the *applicant* corporation.
5. All Returns required by section 4 of this section shall be filed with the *licensing officer* at the same time as the filing of the application for the *licence*.
6. Every *owner* or *operator* which is a corporation shall, in every year, on or before the time at which it applies for the renewal of its *licence*, file with the *licensing officer* an Annual Return on a form supplied by the *licensing officer*.
7. Where a corporation is the holder of an *owner's* or *operator's licence* or *licences*, the corporation shall forthwith notify the *licensing officer* in writing of all transfers of existing shares and of the issue of any existing or new shares of the capital stock of the corporation, and of any such transaction involving the shares of any corporation referred to in section 4 and the *licensing officer* may, in its discretion, determine whether the *licence* or *licences* shall be revoked.
8. Where, by a transfer of existing shares or by an issue of new or existing shares, the controlling interest in a corporation holding one or more *owner's* or *operator's licences* is determined by the *licensing officer* to have changed hands, such *licence* or *licences* shall be terminated forthwith and the *licensing officer* may issue a new *licence* or new *licences* upon payment of the prescribed fee. The *licensing officer* may refuse to issue a new *licence* or *licences* if it determines that it is in the public interest so to do.
9. Where the shares of a corporate *owner* or *operator* are held in whole or in part by another corporation, such *owner* or *operator* shall file with the *licensing officer* at the same time as the *owner* or *operator* an Annual Return as provided in section 4 of this section and if the shares in such other corporation are in turn held in whole or in part by a third corporation, then such *owner* or *operator* shall likewise file such an Annual Return in respect of such third corporation and so on until the names of all living *persons* are shown and identified as the shareholders of any and all corporations having an interest, direct or indirect, in the corporate *owner* or *operator*.
9. (a) *persons* associated in a partnership applying for an *owner's* or *operator's licence* shall file with its application to the *licensing officer* a declaration in writing signed by all members of the partnership, which declaration shall state:
  - (i) the full name of every partner and the address of his ordinary residence;
  - (ii) the name or names under which they carry on or intend to carry on *business*;

- (iii) that the *persons* therein named are the only members of the partnership; and
    - (iv) the mailing address for the partnership.
  - (b) If any member of a partnership applying for a *licence* is a corporation, such corporation shall for the purposes of section 4 of this By-law be deemed to be a corporation applying for an *owner's* or *operator's licence* and if such *licence* is issued to the partnership such corporation shall, for the purposes of the said section, be deemed to be a corporation which holds an *owner's* or *operator's licence*; and
  - (c) It shall be the duty of every member of a partnership to advise the *licensing officer* immediately in writing of any change in the membership of the partnership and of any other change in any of the particulars relating to the partnership or its *business* which are required to be filed with the *licensing officer*, and the *licensing officer* may, in his discretion, determine whether or not a new *licence* should issue to the partnership as presently constituted.
- 10.
  - (a) Every *person* applying for an *owner's, operator's* or *attendant's licence* who carries on or intends to carry on his *business* in or relating to an *adult entertainment parlour* under a name or designation other than his own name or under his own name with the addition of the expression "and company" or some other expression indicating a plurality of members in the firm, shall, at the time of the making of his application, file with the *licensing officer* a declaration, which declaration shall state:
    - (i) his full name and the address of his ordinary residence;
    - (ii) any name or designation under which he carries on or intends to carry on *business*, and the date when the name or designation was first used by him;
    - (iii) that no other *person* is associated with him in partnership; and
    - (iv) the mailing address for his *business*.
  - (b) A *person* to whom this section relates shall notify the *licensing officer* immediately of any change in any of the particulars required to be filed with the Licensing Office under subsection (a) of this section.
- 11.
  - (a) Every *owner, operator* or *attendant* applying for a *licence* must use his own legal name in making such application and subject to subsection (b) of this section no such *licence* shall be issued to any *person* in any name other than his own legal name;
  - (b) Every *owner, operator* or *attendant* intending to use some name or designation other than his own may, at the time of the issue of his *licence*, or at the time at which he files with the *licensing officer* notice of intention to use such name or designation, have endorsed on his *licence* such name or designation; and
  - (c) No *owner, operator* or *attendant* shall carry on *business* under any name or designation other than his own, unless he has filed with the *licensing officer* a notice of his intention to use such name or designation and no *person* shall use any name or

designation in respect of an *adult entertainment parlour* or of any trade, calling, *business* or occupation carried on therein without first notifying the *licensing officer* of such name or designation intended to be used and having such name endorsed upon his *licence* in accordance with subsection (b) of this section.

12.
  - (a) No *adult entertainment parlour* may open for *business* or operate or be operated unless its *owner* is licensed as such under this By-law;
  - (b) Every *person* applying for an *owner's licence* shall file with the *licensing officer* documentation satisfactory to the *licensing officer* demonstrating the *applicant's* right to possess or occupy the *premises* used by him as an *adult entertainment parlour* and if such *person* is not the registered *owner* or *owner* in fee simple of the property upon which the *adult entertainment parlour* is located, such *person* shall file with the *licensing officer* at the same time a copy of his lease, if any, and of any other document constituting or affecting the legal relationship between the said *applicant* and the said registered *owner* or *owner* in fee simple of the real property. For the purpose of this subsection, "registered *owner*" means the *owner* as registered pursuant to the *Land Titles Act* or the *Registry Act* as the case may be;
  - (c) A separate *owner's licence* shall be taken out in respect of each *adult entertainment parlour*;
  - (d) Where an *owner* does not personally operate his *adult entertainment parlour*, every *person* operating such *adult entertainment parlour* shall obtain a *licence* so to do, but nothing herein relieves such an *owner* from the requirement that he obtain a *licence* as *owner* of such *adult entertainment parlour*;
  - (e) An *owner* or *operator* may, subject to the provisions of this By-law, if his *licence* as an *owner* or *operator* is so endorsed by the *licensing officer*, perform the *services* of an *attendant* in the *adult entertainment parlour* of which he is the *owner* or *operator*; and
  - (f) An *owner* who operates his own *adult entertainment parlour* shall notify the *licensing officer* of this fact at the time he obtains his *licence* and his *licence* may be endorsed accordingly upon payment of the appropriate fee, and he shall notify the *licensing officer* and have the said endorsement amended before engaging any *operator* to operate his *adult entertainment parlour*.
13.
  - (a) No *owner* of an *adult entertainment parlour* or *premises* shall permit any *person* other than a licensed *operator* to operate such *adult entertainment parlour*;
  - (b) No *owner* or *operator* shall permit the provision of *services* upon or at his *adult entertainment parlour* or pursuant to the operation by him of an *adult entertainment parlour* by any *person* other than a licensed *attendant* or other *person* licensed or authorized by or under this By-law so to do;
  - (c) No *owner* shall permit any *person*, other than an employee of such *owner* or a *person* with whom the *person* has contracted, to operate his *adult entertainment parlour* or to provide *services* in his *adult entertainment parlour*;



- (d) No *attendant* or other *person* shall provide *services* in any *adult entertainment parlour* unless the *owner* of the said *adult entertainment parlour* and the *operator*, if any, is duly Licensed as *owner* or *operator* respectively under this By-law;
  - (e) No *operator* not being the *owner* of an *adult entertainment parlour* shall operate the said *adult entertainment parlour* unless the *owner* of the said *adult entertainment parlour* is duly licensed as *owner* under this By-law; and
  - (f) No *operator* may operate an *adult entertainment parlour* unless he first notifies the *licensing officer* of the name of the *owner* whose *adult entertainment parlour* he intends to operate and has endorsed upon his *licence* the said *owner's* name accordingly, and every *operator* before operating any other *adult entertainment parlour* shall notify the *licensing officer* of his intention so to do and have his *licence* endorsed accordingly.
14. A copy of every written contract of service, contract for *services* or other document constituting or pertaining to the relationship between *owner* and *operator* or an *adult entertainment parlour* or between *owner* or *operator* and *attendant* providing *services* at an *adult entertainment parlour*, shall be filed with the *licensing officer* and the original of any such document shall be made available for inspection at any time by the *licensing officer's* By-law enforcement officers upon request, and shall be retained by the *owner* or *operator* for a period of six months after its termination.
15. Every *owner*, *operator* or *attendant* who changes his address shall, within two days after such change, attend before the *licensing officer* and notify the *licensing officer* of such change of address and produce his *licence* for the change to be entered thereon.
16. (a) No *owner's licence* shall be transferred, and if an *owner* *sells*, leases or otherwise disposes of his *adult entertainment parlour* or the *premises* or part thereof upon or in which an *adult entertainment parlour* is operated, to any *person*, his *licence* in respect of such *adult entertainment parlour* or *premises* shall, notwithstanding any other provision of this By-law, terminate;
- (b) Subject to subsections (d) and (e) hereof, the *licensing officer* may in his discretion issue a new *owner's licence* to the purchaser, lessee or other *person* obtaining an interest in an *adult entertainment parlour* or the *premises* or part thereof upon or in which an *adult entertainment parlour* has been operated subject also to the following *conditions*:
- (i) That the new *applicant* qualifies under all of the other provisions of this By-law, and that he complies with all of the requirements of this By-law relating to him;
  - (ii) That the new *applicant* file with the *licensing officer* the documents relating to ownership and to his right to possess or occupy the *adult entertainment parlour*, all as required by this By-law;
  - (iii) That the *applicant* and the vendor file with the *licensing officer* an executed copy of a written agreement between the parties containing all the details of the dealings between the parties in respect of such *adult entertainment parlour* or *premises*; and

- (iv) That the agreement contain a statutory declaration, in a form supplied by the *licensing officer*, by both parties and a further statutory declaration by the solicitor for the purchaser in a form supplied by the *licensing officer*.
  - (c) The making of a false or intentionally misleading recital of fact, statement or representation in any such agreement or statutory declaration required by this by-law hereof shall be deemed a violation of the provisions of this By-law;
  - (d) Notwithstanding subsections (a) and (b) hereof, the *licensing officer* may in his discretion refuse to issue a *licence* or *licences* to a purchaser, lessee or other *person* obtaining an interest in an *adult entertainment parlour* in a transaction under this section when the *licensing officer* is of the opinion that it is not in the public interest, as determined by the *licensing officer*, that such new *licence* or *licences* should be issued; and
  - (e) Upon the sale, lease or other disposition of an *adult entertainment parlour*, every *operator's licence* issued in respect of such *adult entertainment parlour* shall terminate, and the *licensing officer* may, subject to the provisions of this By-law, permit the purchaser, lessee or other *person* obtaining an interest in such *adult entertainment parlour* to operate the *adult entertainment parlour* by an endorsement to that effect upon an *owner's licence* issued to him or may issue a new *operator's licence* to any *person* previously Licensed as an *operator* in respect of such *adult entertainment parlour*.
17. No *owner* or *operator* shall permit any *services* to be given, performed, provided or received in any *adult entertainment parlour* in breach of any of the regulations contained in this By-law.
18. (a) Every *owner*, *operator* and *attendant* providing *services* at an *adult entertainment parlour* or in attendance at an *adult entertainment parlour* in pursuance of a trade, calling, *business* or occupation carried on by the *owner*, or *operator* of such *adult entertainment parlour*, shall, upon a request made to him by any peace officer, By-law enforcement officer, officer of the Markham Fire Department, or public health inspector, provide his name and residential address, and if he is licensed under this By-law in respect to any trade, calling, *business* or occupation relating to such *adult entertainment parlour*, he shall produce his said *licence*. There shall be an *individual* who is a licensed *owner* or *operator* on the *premises* at all times while the *adult entertainment parlour* is opened for *business*; and
- (b) Notwithstanding subsection (a), this section does not require an *attendant* to identify himself or produce his *licence* to a public health inspector.
19. (a) Subject to this By-law, before there is carried on in any *adult entertainment parlour* any *business*, trade, calling or occupation in an *adult entertainment parlour* for which a *licence* is otherwise required by, the *owner* or the said *adult entertainment parlour* shall attend before the *licensing officer* and shall apply to have his *licence* endorsed to permit such trade, calling, *business* or occupation to be carried on in such *adult entertainment parlour*, and if the *licensing officer* authorized such endorsement, the said

*owner* shall pay the *licence* fee, if any, required of him by the By-law for such a *licence*;

- (b) No *owner* or *operator* shall permit any trade, calling, *business* or occupation for which a *licence* is required under this By-law, to be carried on in an *adult entertainment parlour* owned or operated by him unless a description of the said trade, calling, *business* or occupation is endorsed on the *owner's licence* as provided in this By-law and unless the *owner* and every other *person* required to be so licensed has paid the *licence* fee applicable to him; and
  - (c) Every *person* shall in carrying on or permitting the carrying on of any trade, calling, *business* or occupation in an *adult entertainment parlour* comply with all of the requirements of the By-law relating thereto, including the requirement of *licence*, if any.
- 20.
- (a) No *person* under the age of nineteen may be or act as an *owner* or *operator* of an *adult entertainment parlour* or provide any *services* in an *adult entertainment parlour*;
  - (b) No one may provide *services* in an *adult entertainment parlour* to a *person* under the age of nineteen years;
  - (c) No *owner* or *operator* shall permit any *person* under the age of nineteen to enter or remain in any *adult entertainment parlour* owned or operated by him;
  - (d) This section shall not be deemed to prohibit any *person* from entering or remaining in any *premises* licensed as an *adult entertainment parlour* except when *services* are being provided in such *premises*;
  - (e) No *owner* or *operator* may, in respect of an *adult entertainment parlour* owned or operated by that *person*, knowingly permit any *attendant*, while providing *services* as an *attendant*, to touch, or be touched by or have physical contact with any other *person* in any manner whatsoever involving sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the *attendant's* body or of that *person's* body, whether or not such body parts are clothed or unclothed;
  - (f) No *attendant*, while providing *services* as an *attendant*, may touch or be touched by or have physical contact with any other *person* in any manner whatsoever involving sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the *attendant's* body or of that *person's* body, whether or not such body parts are clothed or unclothed;
  - (g) Every *owner* and every *operator* shall ensure that signage is posted in conspicuous locations throughout the *adult entertainment parlour* sufficient to be visible to all *attendants* and patrons therein, which signage shall indicate the prohibition respecting sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the *attendant's* body or of that *person's* body, whether or not such body parts are clothed or unclothed;

- (h) The *adult entertainment parlour* shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility;
  - (i) Within any *adult entertainment parlour*, the *owner* shall designate an area, which shall be the only area within which adult entertainment *services* may be provided, and which area shall contain no smaller room, area or cubicle enclosed or partitioned by any wall extending from the floor to a height in excess of 1.07 metres from the floor;
  - (j) No room, area or cubicle located within the *adult entertainment parlour*, other than the area designated for that purpose, may be used by any *person* for the provision of adult entertainment *services*;
  - (k) No *adult entertainment parlour* or part thereof shall be used as a *dwelling* or for sleeping purposes or contain therein any furniture which is commonly used or may be used for sleeping purposes;
  - (l) No door to any room, area or cubicle where adult entertainment *services* are or may be provided, save and except for the area designated and used by the *owner* or *operator* as office space, one storage room and rooms required for the heating, ventilation and air conditioning systems of the *adult entertainment parlour*, shall be equipped or constructed with a locking device of any kind, or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such room, area or cubicle;
  - (m) No *attendant* may provided entertainment *services* in a room, area, or cubicle which has a door or other means of access that is equipped or constructed with a locking device of any kind or that is equipped or constructed in such a way as to permit the obstruction, hindrance or delay of any *person* attempting to gain entry thereto; and
  - (n) Every *owner* applying for a *licence* under this By-law shall file with his application a floor plan of the *adult entertainment parlour* upon which the *owner* shall clearly designate the area which shall be used to provide adult entertainment *services*, the area which shall be used as office space, the storage room and the heating, ventilation and air conditioning systems, if any. In the event that the *owner* wishes to amend the floor plan, he shall first file with the *licensing officer* a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the *licensing officer*.
21. Every *owner*, *operator* and *attendant* shall, while engaged in his respective trade, calling, *business* or occupation in an *adult entertainment parlour* be neat and clean in his *person* and civil and well-behaved to members of the public with whom he is dealing.
22. Every *person* shall comply with the provisions of this By-law where applicable to him whether or not he is licensed under this By-law.
23. A *licence* shall not be issued for any *adult entertainment parlour* unless it is located in a *defined area*.
24. Only one *licence* shall be issued for each *defined area*.
25. The number of *licences* that may be issued pursuant to this By-law is

limited to two.

26. A *licence* shall not be issued for any *adult entertainment parlour*, unless all the *conditions* as set out in APPENDIX "A" attached hereto have been satisfied.
27. (a) Every application for a *licence* or a renewal of a *licence* under this By-law shall be filed with the *licensing officer* and be accompanied by:
  - (i) A statement in the form prescribed by the *licensing officer*, giving particulars as to the location of the *adult entertainment parlour* together with such other information as may be required to determine whether the use complies with all applicable zoning By-laws and other regulations.
28. *Licences* and renewals thereof issued under this By-law shall expire six months from the date they are issued.
29. Notice of revocation of or termination of any *licence* may be given by *council* by registered letter signed by the *clerk* and mailed or delivered to the last known address and upon such notice being given, the *licence* shall then be revoked and terminated and no fees shall be refunded in respect thereof.
30. In addition to any other penalties included in this By-law, any *person* who contravenes the provisions of this By-law, including every *person* who fails to perform a duty imposed herein or who performs an act *prohibited* herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the Provincial Offences Act (as amended), is liable to:
  - (a) a penalty in the case of *persons*, other than a corporation, not to exceed \$25,000.00 or imprisonment for a term not to exceed one year or both; and
  - (b) a penalty in the case of a corporation, not to exceed \$50,000; and,
  - (c) an order closing the *premises* which are the subject of the contravention for a period not to exceed two years.
31. That Appendixes "A", "B" and "C" attached to the *schedule* form part of this By-law.

**APPENDIX "A"**  
**TO BY-LAW 2012-158**

CONDITIONS

1. An Adult Entertainment Parlour shall not be permitted within 120 metres of a residential use.
2. Parking shall be provided for an Adult Entertainment Parlour at one space per 9m<sup>2</sup> of gross floor area of the premises.
3. A minimum landscaping strip of 3 metres in width shall be provided along the side and rear lot lines of the property .

**SCHEDULE 3 - RELATING TO  
ADULT ENTERTAINMENT PARLOURS – SALE OF GOODS**

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1. **DEFINITIONS:**

"*Adult Entertainment Parlour (Goods)*" means any *premises* or part thereof in which is provided, in pursuance of a trade, calling, *business* or occupation, goods designed to appeal to erotic or sexual appetites or inclinations;

"*Adult Videotape*" means any videotape, the container or contents of which are designed or held out as designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by the portrayal of one or more *persons* involved or engaged in specified sexual activities as defined by this By-law. "Adult videotape": also includes, in the absence of evidence to the contrary, a videotape classified by the Ontario Film Review Board as "restricted" and required to be characterized with the added information piece "adult sex film";

"*Class 'A' Adult Entertainment Parlour (Goods)*" means an *adult entertainment parlour* (goods) in which the principal *business* is the provision of goods or in respect of which advertisements refer to "adult", "X-rated", "XXX" or similar description in reference to the goods provided in the *premises*;

"*Class 'B' Adult Entertainment Parlour (Goods)*" means an *adult entertainment parlour* (goods) in which the portion of the floor area devoted to the sale of goods to the public is less than 10% of the total area devoted to the sale of all merchandise within the *business premises*;

"*Goods*" includes, but is not limited to, *magazines*, books, pictures, slides, films, videotapes or adult videotapes, phonograph records, pre-recorded magnetic tapes, compact discs, digital video discs, novelties, devices or tools, the container or contents of which are designed or held out as designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction, subject matter distinguished or characterized by the portrayal of one or more PERSONS involved or engaging in specified sexual activities or by an emphasis on specified human body areas;

"*Operator*" includes a *person* who, alone or with others, owns, operates or controls the trade, calling, *business* or occupation carried on at an *adult entertainment parlour* (goods) and includes a *person* who is the tenant or *licensee* in respect of *premises* which are utilized as an *adult entertainment parlour* (goods);

"*Sign*" includes any *sign* as defined pursuant to *City By-law No. 2002-94* (as amended or successor legislation thereto);

"*Specific Human Body Areas*" means the genitals and the anus;

"*Specific Sexual Activities*" means any of the following: actual or simulated sexual intercourse, ejaculation, sodomy, including anal intercourse, oral sexual intercourse or direct physical stimulation of unclothed genital organs;

"*To Provide*" when used in relation to goods includes *to sell*, offer *to sell* or offer for sale, by *retail* or otherwise such goods and "providing" and "provision" have corresponding meanings. When used in the context of adult videotapes, "*to provide*" also includes to rent, license, lease, exchange or trade such goods, and to offer to do any of same, whether or not consideration is effected by cost

of membership, subscription or price of admittance, or any other basis;

"*Videotape*" means cinematographic film, videotape, video disc, computer diskette, or any other medium capable of producing visual images that may be viewed as moving pictures.

## **2. REGULATIONS RESPECTING CLASS B ADULT ENTERTAINMENT PARLOURS (GOODS)**

2.1 Every *person* operating a Class B *adult entertainment parlour* (Goods) shall comply with the following regulations:

- (a) No *operator* may provide or permit the provision of goods to any PERSON who is under the age of eighteen years;
- (b) No *operator* may advertise or promote the sale of goods except in accordance with the provisions of this By-law respecting "*signs and advertisements*";
- (c) No *operator* may permit any employee *to provide* goods without instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations in the provision of such goods;
- (d) No *operator* may permit the provision of any *services* designed to appeal to erotic or sexual appetites or inclinations in an *adult entertainment parlour* (Goods); and
- (e) Where goods in the form of printed, photographic or pictorial matters are provided, such goods shall be located in a manner which renders such materials inaccessible and not readily visible to *persons* under the age of 18 years.

2.2 No *person* may operate a Class B *adult entertainment parlour* (Goods) that provides adult videotapes except in accordance with the following additional regulations:

- (a) No adult videotape containers or related advertising or promotional material may be displayed, except in a designated area of such *adult entertainment parlour* (Goods) that is separated from the balance of the public area by a solid partition extending from the floor to a height not less than 1.8 metres from the floor and provided that access to the designated area shall be through a door having a height not less than 1.5 metres and provided that no such advertising or promotional material can be seen by *persons* in the store without entering the designated area;
- (b) No *operator* may provide adult videotapes, unless such adult videotapes are stored behind the main counter, which is staffed by an employee, or contained within automated vending or dispensing equipment in such a manner as to *firecracker* only the title to the adult videotape;
- (c) No *operator* may provide adult videotapes, without maintaining a current listing of all adult videotapes available on the *premises* and making that listing available to the *licensing officer* upon request;
- (d) No *operator* may play any adult videotape anywhere within such an *adult entertainment parlour* (Goods);
- (e) No *operator* may provide any adult videotape without posting in a prominent location satisfactory to the *licensing officer*, a valid film exchange *licence* issued pursuant to the *Theatres Act*;



- (f) No *operator* may provide any adult videotape unless such adult videotape is clearly marked with a classification sticker issued pursuant to the *Theatres Act*: and
- (g) No *operator* may advertise any adult videotape except in accordance with the provisions of this By-law respecting "*signs and advertisements*".

**3. REGULATIONS RESPECTING CLASS A ADULT ENTERTAINMENT PARLOUR (Goods)**

- 3.1 No *person* may operate a Class A *adult entertainment parlour* (Goods) except in accordance with the following regulations:
- (a) No *operator* may permit the provision of any *services* designed to appeal to erotic or sexual appetites except in accordance with the provisions of the By-law of the *City* of Markham respecting the licensing and governing of *adult entertainment parlours*;
  - (b) No *operator* may provide any goods to any *person* under the age of eighteen years and no *person* under the age of eighteen years may be allowed to enter or remain in any part of the *premises*;
  - (c) No *operator* may provide any goods unless there is posted in a prominent location at the entrance to the *premises* a *sign* indicating that no *person* under the age of eighteen years may enter or remain in such *premises*;
  - (d) No *operator* may permit any employee to provide goods unless such *person* is at least 18 years of age and such *person* has been instructed with regard to the regulation in this By-law and complies with such regulations;
  - (e) With the exception of patent medicines and prescription *drugs* required for medicinal purposes, no *person* may take, consume or have alcohol or *drugs* in their possession in an *adult entertainment parlour* (Goods);
  - (f) No *operator* may permit any *person* who appears to be intoxicated by alcohol or a *drug* to enter or remain on the *premises*;
  - (g) No *operator* may advertise an *adult entertainment parlour* (Goods) or promote the provision of goods at an *adult entertainment parlour* (Goods) except in accordance with the provisions of this By-law respecting "*signs and advertisements*";
  - (h) No *operator* may provide any goods at an *adult entertainment parlour* (Goods) except in compliance with the provision of this By-law respecting "*hours of operation*";
  - (i) No *operator* may provide any goods at an *adult entertainment parlour* (Goods) except in compliance with the provisions of this By-law respecting "*location restrictions and limitations on number*";
  - (j) No *operator* may provide any goods at an *adult entertainment parlour* (Goods) except in compliance with the provisions of this By-law respecting "*design of premises*";
  - (k) Every *operator* shall keep his, her or its *licence* certificate issued in respect of the *adult entertainment parlour* (Goods) posted in a conspicuous place in the said *premises* in a manner satisfactory to the

*licensing officer*, at all times during the currency of the *licence*;

- (l) No *operator* may provide any adult videotape without posting in a prominent location, that is satisfactory to the *licensing officer*, a valid film exchange *licence* issued pursuant to the *Theatres Act*;
- (m) No *operator* may provide any adult videotape unless such adult videotape is clearly marked with a classification sticker issued pursuant to the *Theatres Act*;
- (n) No *operator* may provide adult videotapes without maintaining a current listing of all adult videotapes available on the *premises* and making that listing available to the *licensing officer* upon request; and
- (o) No *person* may play any adult videotape or provide a viewing area for adult videotape anywhere within an *adult entertainment parlour* (Goods).

3.2 No *person* may erect or maintain any *sign* advertising a Class "A" *adult entertainment parlour* (Goods) or the goods provided from such *premises* except in accordance with *City sign* By-law No. 2002-94 (as amended). Despite the provisions of *City sign* By-law No. 2002-94 (as amended), no *person* may erect or maintain any *sign* advertising a Class "A" *adult entertainment parlour* (Goods) or advertising "goods" within the meaning of this By-law except in accordance with the following additional regulations:

- (a) No *person* may circulate, post, distribute or cause to be circulated, posted or distributed any pamphlet, poster, flyer or handbill advertising a Class "A" *adult entertainment parlour* (Goods) or advertising "goods" within the meaning of this By-law;
- (b) Nothing in this By-law shall be deemed to prohibit any *person* from erecting or maintaining any *sign* on any interior wall of a Class "A" *adult entertainment parlour* (Goods), provided the content of such *sign* is not visible from the exterior of the *adult entertainment parlour* (Goods);
- (c) No *person* may advertise a Class "A" *adult entertainment parlour* (Goods) or advertise "goods" within the meaning of this By-law by means of the depiction of specified human body areas; and
- (d) No *person* may erect or maintain any *sign* in respect of an *adult entertainment parlour* (Goods) portraying nudity or sexually suggestive poses or any content deigned to appeal to sexual or erotic appetites or inclinations.

3.3 No *person* may operate a Class A *adult entertainment parlour* (Goods) except in accordance with the following regulations:

- (a) Every *operator* shall provide the *licensing officer* with a floor plan designating the boundaries of all floor-space which shall be used to *provide* goods and no *person* may provide goods from any other room, cubicle, enclosure, partitioned area or space within the *adult entertainment parlour* (Goods). An *operator* who wishes to amend the floor plan shall first file with the *licensing officer* a copy of the amended floor plan and shall not proceed to make any alterations for such purpose without first obtaining the approval of the *licensing officer*;
- (b) Save and except for one room designated by the *operator* for use as an office and one room designated by the *operator* as a storage room, every *operator* shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in any *adult entertainment parlour* (Goods)

is equipped or constructed with a locking device of any kind or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such area;

- (c) During the hours of operation of an *adult entertainment parlour* (Goods) and at all times when goods are provided therein, the *operator* shall ensure that the principal means of access into the *adult entertainment parlour* (Goods) shall be kept unlocked and available so that anyone entering the *adult entertainment parlour* (Goods) may do so without hindrance or delay;
  - (d) The floor-space on which goods may be provided shall have no area enclosed or partitioned by any wall extending from the floor to a height in excess of 1.8 metres from the floor. Any such room or space shall be open at all times to all *persons* attending the *adult entertainment parlour* (Goods) during its *business* hours; and
  - (e) All goods shall be displayed so as not to be visible from the exterior of the *premises*.
- 3.4 An *operator* of a Class "A" *adult entertainment parlour* (Goods) shall not permit any goods to be provided therein except between the hours of 9:00 a.m. in the morning of any day and 1:00 a.m. in the morning of the next day.
- 3.5 No *person* may operate a Class "A" *adult entertainment parlour* (Goods):
- (a) within 120 metres of any lands zoned to permit residential uses by the relevant zoning By-law at such time as the application for *licence* is submitted to the *City*;
  - (b) within 120 metres of any *school*, place of worship or child day care centre in existence when the application for *licence* is submitted to the *City*; and
  - (c) within 120 metres of any other *adult entertainment parlour* (goods), body-rub parlour or *adult entertainment parlour* (*services*) in existence at the time when the application is submitted to the *City*, regardless of whether such other BUSINESSES are licensed or not.
- 3.6 An existing licensed *adult entertainment parlour* (Goods) is not disqualified from the renewal of a *licence* if one of the listed land uses locates within the separation distance.
- 3.7 No *licence* shall be issued under this By-law in respect of any *premises* or place where the operation or carrying on of the *business* of an *adult entertainment parlour* (Goods) is *prohibited* by this or any other law.
- 3.8 The number of *adult entertainment parlours* (goods) which may be licensed in the *City* of Markham shall be limited to five.
- 3.9 No *person* may operate an *adult entertainment parlour* (Goods) from any area except those areas described on *schedule "A"* hereto.
- 3.10 The *City* shall review this section and Appendix "A" within 5 years from the enactment of this By-law, and every five years thereafter, for the purpose of ensuring that these provisions continue to achieve the objects of the By-law. An element of that review shall include consideration of the increase of population in the *City* in relation to the maximum number of permitted *licences*.
- 3.11 Where there is any change in any of the particulars relating to a *person* licensed

under this By-law, which particulars are required to be filed with the *City* on applying for a *licence* under this By-law, such *person* shall report the change to the *licensing officer* within seven days of the change.

- 3.12 Where there is to be a change in the composition or the controlling interest of a partnership licensed under this By-law, the *persons* licensed hereunder in partnership shall obtain the approval of the *licensing officer* to such change prior thereto. Where there has been any change in the controlling interest of the partnership, either by one transaction or a number thereof, the *licence* may be revoked despite the *licensing officer's* prior approval of any one or more such transactions.
- 3.13 Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licensed under this By-law, the corporation shall obtain the approval of the *licensing officer* to such change prior thereto, failing which the *licence* may be revoked. Where there has been any change in the controlling interest of the corporation, either by one transaction or a number thereof, the *licence* may be revoked, despite the *licensing officer's* prior approval of any one or more such transactions.
- 3.14 Every *operator* shall during the operating hours of the *adult entertainment parlour* (Goods) and at all times when goods are provided therein make available for inspection by the *licensing officer*, a peace officer, a *medical officer of health*, a Provincial Offences Officer, or a By-law Enforcement Officer, the original of any document or record referred to in this By-law.
- 3.15 Every *operator* of an *adult entertainment parlour* (Goods) shall, at all times during operating hours of the *adult entertainment parlour* (Goods) and at all times when goods are provided therein, permit the entry therein by and the inspection of the *adult entertainment parlour* (Goods) by a By-law Enforcement Officer, a Provincial Offences Officer, the *licensing officer*, a *medical officer of health* or a peace officer.
- 3.16 No *person* may obstruct or hinder the entry or the inspection of an *adult entertainment parlour* (Goods) by a By-law Enforcement Officer, a Provincial Offences Officer, the *licensing officer*, a *medical officer of health* or a Peace Officer.
- 3.17 The provisions of this By-law shall apply to all lands and *premises* within the *City*.

**APPENDIX "A"**  
**TO BY-LAW NO. 2012-158**

1. The premises at each of the following municipal addresses shall be permitted to operate, subject to all applicable law, as a Class "A" Adult Entertainment Parlour (Goods) as long as the premises are in lawful, actual, continual, uninterrupted and licensed use as a Class "A" Adult Entertainment Parlour (Goods) from May 9, 2006:
  - (a) the premises at 5261 Highway No. 7 operating as Adult Time Video; and
2. Should premise(s) referred to in Section 1 cease to be used for the purpose of a Class "A" Adult Entertainment Parlour (Goods), any license issued under this By-law shall be revoked and no renewal or further license shall be issued for those premises.
3.
  - (a) Figure 2 is and shall form part of Schedule "A";
  - (b) Each of Area 1, 2 and 4 on Figure 2 are hereby designated as an area in which, subject to the provisions of this By-law, one licence for a Class "A" Adult Entertainment Parlour (Goods) may be issued.
  - (c) Area 3 on Figure 2 is hereby designated as an area in which, subject to the provisions of this By-law, more than one licence for a Class "A" Adult Entertainment Parlour (Goods) may be issued.

#### **SCHEDULE 4 - RELATING TO PLACES OF AMUSEMENTS**

1. **DEFINITIONS:**

"*Place of Amusement*" includes theatres, music halls, moving picture shows, roller skating rinks, places where merry-go-rounds, switchback railways, carousels and other like contrivances are operated, exhibitions of wax-works, circus riding and other like shows.

2. **REGULATIONS:**

- 2.1 All equipment shall be identified by plates stating the manufacturer's name, model number if any, maximum capacity and maximum operating speed for safe operation. If the equipment has been materially rebuilt or modified so as to change its original action, a competent and independent inspection company shall certify that it is structurally adequate to safely withstand all stresses to which it will be subjected during normal operation.
- 2.2 All component parts shall be maintained in good condition without visible *signs* of deterioration, wear or fatigue which could result in their inability to carry out their intended function. All defective parts shall be replaced before operation or use.
- 2.3 All assembly work shall be performed in a proper and workmanlike manner. Parts shall be properly aligned, and shall not be bent, distorted, cut or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in the course of assembly. Fastenings and locking devices, such as bolts, cap screws, cotter pins, lock washers etc. shall be installed where required for safe operation. Nuts shall be drawn tight, cotters pins shall be spread and lock nuts firmly set. Before being used, all amusement devices shall be anchored so as to be stable under all operating *conditions*, by the use of guys, blocking, cribbing, outriggers or other suitable means.
- 2.4 All replacement materials for defective parts shall be at least equivalent in all respects to the original material.
- 2.5 An amusement device shall not be overcrowded, or loaded in excess of its safe carrying capacity, or operated under dangerous weather *conditions*; nor shall it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.
- 2.6 If cars or other components may collide in such a way as to cause personal injury upon failure of normal controls, emergency brakes sufficient to prevent such collisions shall be provided. On rides attached to cables or which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger-carrying units in case of failure of the propelling or any other mechanism.
- 2.7 When the *operator* does not have a clear view of the point at which passengers are loaded or unloaded, adequate signal systems shall be provided and used to regulate the starting and stopping of the amusement device.
- 2.8 Safe and adequate means of ingress and egress from amusement devices shall be provided. Such means of ingress and egress shall:

- (a) be protected from adjacent hazards and shall make use of substantial rails, enclosures, barriers or similar means to prevent *persons* from falling;
  - (b) have secure treading and supporting surfaces free from debris, obstruction, projections and slipping, tripping catching and other hazards; and
  - (c) have adequate clearances.
- 2.9 Machinery shall be enclosed, barricaded or otherwise effectively guarded against contact and such protection shall be maintained at all times during operation or use.
- 2.10 The interior and exterior parts of all passenger-carrying amusement devices with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections which might cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the ride shall be adequately padded. Devices which are self-powered and which are operated by a passenger shall have the driving mechanism so guarded and the guards so locked in place as to prevent passengers from gaining access to the mechanism. Such belts, bars, foot rests and other equipment as may be necessary for safe entrance and exit and for support while the device is in operation shall be provided. All equipment and the fastenings thereof shall be of sufficient strength to retain the passengers. The fastenings shall be of a type which cannot be inadvertently released.
- 2.11 Amusement devices and temporary structures, including access thereto and exits there from, shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to prevent accident.
- 2.12 All electrical wiring, equipment and apparatus for amusement devices or for lighting shall be properly and legally installed, operated and maintained.
- 2.13 No employee shall work or be permitted to work in such proximity to any part of an electric power circuit that he may contact the same in the course of his work unless he is protected against shock by de-energizing the circuit, grounding it, or guarding it by effective insulation. If protection is supplied by de-energizing the circuit the switch controlling the circuit shall be locked out to prevent inadvertent closing.
- 2.14 The outlets of electric power lines carrying more than 120 volts shall be clearly marked to show their voltage.
- 2.15 All electrical transformer sub-stations shall be properly enclosed and proper warning *signs* shall be posted.
- 2.16 Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.
- 2.17 Elevated power lines crossing access or other roads within the grounds of a carnival, fair, exhibition or amusement park or other area shall be suspended so as *to provide* a minimum vertical clearance of 14 feet from the road surface and a minimum horizontal clearance of 3 feet on each side of the normal passage space of vehicles.
- 2.18 Temporary electric wiring, if suspended, shall be supported so that its protective insulation will not be damaged.
- 2.19 Temporary electric installations shall be properly grounded.

2.20 Bare wires and other uninsulated current-carrying parts shall be guarded against inadvertent contact by means of proper location or by a fence or other barrier.

2.21 Conductors shall be provided with overcurrent protective devices according to load. No such device shall be installed in neutral or grounding conductors.



## SCHEDULE 5 - RELATING TO PLACES OF AMUSEMENT – VIDEO ARCADES

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### 1. **DEFINITIONS:**

"*Amusement Machine*" means any mechanical or electronic machine, or device, intended as a game, entertainment or amusement, offered for use by the public, by any *person* or corporation, for profit or gain, and shall include a computer, a pinball machine, television or video game, shooting gallery or other similar machine or device, including an automatic machine that dispenses as prizes, one or more free games but shall not include any machine used only for the purpose of vending merchandise or *services* or playing recorded music, bowling alleys, or any billiards, pool or bagatelle table, or any machine that would render the *premises* a Common Gaming House within the meaning of the Criminal Code of Canada;

"*Dwelling*" means a single room or series of rooms of complementary use, operated under a single tenancy which functions as a housekeeping unit used or intended to be used as a domicile by one or more *persons*; containing cooking, eating, living, sleeping and sanitary facilities; and having a private entrance from outside the building or from a common hallway or stairway inside or outside the building;

"*Operator*" means a *person* who, alone or with others, operates, manages, supervises, runs or directs the *business* of a *place of amusement*.

"*Place of Amusement – class A*" means a *place of amusement* where more than 3 amusement machines are provided;

"*Place of Amusement – class B*" means a *place of amusement* where 3 or less amusement machines are provided;

"*School*" means any elementary, secondary or private *school* as defined by the *Education Act*, R.S.O. 1990, c. E.2, and any other educational institution which is recognized as a *school* by the *Education Act*.

### 2. **REGULATIONS**

2.1 Every *applicant* for a *licence* pursuant to this *schedule* shall file with the *licensing officer* the following;

- (a) a floor plan of the *premises* which shall show the location of all doors and windows and the proposed location of each amusement machine;
- (b) documentation satisfactory to the *licensing officer* demonstrating the *applicant's* right to possess or occupy the *premises* and if any *applicant* is not the registered *owner* of the property upon which the *place of amusement* is to be located, such *person* shall file with the *licensing officer* a copy of their lease, if any, and a copy of any other document constituting or affecting the legal relationship relating to the said lands or *premises* between said *applicant* and the registered *owner*.

2.2 Each *licence* issued pursuant to this *schedule* shall be subject to the following:

- (a) Each *licence* shall be granted for a specific number of amusement machines and no additional amusement machines shall be added to the *premises* after the *licence* has been issued, unless the *applicant* shall first submit an amended floor plan of the *premises*, and receive the approval of the *licensing officer*;
- (b) No *person* licensed to carry on any trade, calling, *business* or occupation pursuant to this *schedule* may advertise or promote or carry on such trade, calling, *business* or occupation under any name other than the name endorsed upon his *licence*; and
- (c) No *licence* shall be transferred or assigned and if an *owner*, *operator* *sells*, leases or otherwise disposes of his interest in the trade, calling *business* or occupation carried on at a *place of amusement*, their *licence* in respect of such *place of amusement* shall, notwithstanding any other provision of this *schedule*, be revoked.

2.3 No *person* may own or operate a *place of amusement*:

- (a) in a vehicle of any kind, whether such vehicle is permanently parked in any location, or is capable of being moved;
- (b) located on a lot where any form of *dwelling* is also located; and
- (c) located closer than three hundred metres (300m) to any *school*, measured by the shortest distance between a *school's* property line and the *premises*.

2.4 Every *owner* and *operator* of a *place of amusement* shall

- (a) obtain a separate *licence* for each *place of amusement* that they own and operate;
- (c) post in a conspicuous place in the *premises*, a notice which indicates that disorderly conduct, loitering and gambling are not permitted;
- (d) keep the *premises* in a clean and sanitary condition at all times;
- (e) maintain sufficient space between rows of amusement machines as to permit unimpeded access by patrons at all times to any door or other exit;
- (f) ensure that no amusement machine is located in such a manner as to impede access by patrons to any door or other exit; and
- (h) comply with the provisions of this *schedule* and all other laws.

2.5 No *owner* or *operator* of a *place of amusement* shall:

- (a) permit the *business* to remain open or permit the use of any amusement machine during any time other than between 9:00 a.m. and 12:00 midnight during any day;
- (b) permit the *business* to remain open unless an *operator* of the *business* who is no less than 18 years of age remain on the *premises* at all times;
- (c) permit *persons* younger than sixteen (16) years to use any Amusement Machine or to remain on any *place of amusement*,

unless accompanied by a parent or guardian, except on Monday to Friday between the hours of 4:00 p.m. to 9:00 p.m., and on Saturday and Sunday between 9:00 a.m. and 9:00 p.m.;

- (e) permit any gambling to take place on the *premises*;
- (f) permit the sale or use of alcohol on the *premises*, except in a *place of amusement* Class B which is incidental to a *business* licensed pursuant to the Alcohol and Gaming Commission of Ontario; and
- (g) carry on any trade, calling, *business* or occupation pursuant to this By-law advertise or promote or carry on such trade, calling, *business* or occupation under any name other than the name endorsed upon his license.

2.6 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this *schedule* shall be deemed to be a violation of the provisions of this *schedule*.

## SCHEDULE 6 - RELATING TO AUCTIONEERS

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1. **DEFINITIONS:**

"*Auctioneer*" means any *person selling* or putting up for sale goods, wares, merchandise or effects for public auctions.

2. **REGULATIONS:**

- 2.1 Every *person* licensed or required to be licensed under this *schedule* shall:
- (a) post in a conspicuous manner at his auction room, his name and *business* address as such *auctioneer* and shall in all public advertisements of any nature used by him in the course of his *business* include his name and *business* address in such advertisements;
  - (b) not conduct, or permit to be carried on in his *premises* any mock auction, or shall knowingly and willfully make, or permit to be made, any misrepresentation as the quality or value of any goods, wares or merchandise which may be offered for sale by him;
  - (c) keep good order in his auction room and offices, and shall keep proper books of account of the *business* transacted by him as an *auctioneer*, which books shall give the names and addresses of *persons* depositing goods, wares or merchandise, with him for sale, the description of the same, the price for which the same may be sold, and the names and addresses of the *persons* purchasing such goods, wares or merchandise, or any portion thereof, and shall forthwith, after the sale of same, or any portion thereof, account for the proceeds and pay the same to the *person* or *persons* entitled to such proceeds, less his proper and legal commissions and charges; and shall in case no sale is made of such goods, on payment of this proper costs and charges, return such goods, to the *person* or *persons* entitled to receive the same on proper demand being made therefore. Provided that nothing contained in the section shall in any way affect or invalidate the claim of any *auctioneer* for goods warehoused with him, and on which he shall have made advances;
  - (d) keep all books kept by any *auctioneer*, pursuant to the foregoing shall be open at all times during *business* hours to the *licensing officer*;
  - (e) conduct all auctions in an organized and orderly fashion;
  - (f) avail himself of the *services* of, or act in concert with, *persons* known in the trade as "beaters", "boosters", or "shills" for the purpose of raising or stimulating bids; and
  - (g) *sell* or put up for sale by auction any goods, wares, merchandise, or effects on a reserve-bid basis without first having announced clearly to those in attendance at the auction the fact of such reserve bid.
- 2.2 Nothing in this *schedule* shall apply to a Sheriff or Bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

## SCHEDULE 7 - RELATING TO BARBER AND HAIRDRESSING SHOPS

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1. **REGULATIONS:**

1.1 No *person* licensed or required to be licensed as the *owner* of a Barber or Hairdressing Shop *owner* shall actively engage in or permit or employ any *person* to engage in the trade of a barber or hairdresser therein unless such *person* is:

- (a) the holder of a current certificate of qualification as a barber or hairdresser pursuant to Regulations made under *The Apprenticeship Act*; or
- (b) registered with the Director of Apprenticeship as an apprentice barber or hairdresser under the *Apprenticeship and Tradesmen's Qualification Act*.

1.2 Every *person* licensed as the *owner* of a barber shop or hairdressing shop shall comply with the following regulations in respect to the operation of such shop or establishment:

- (a) Adequate facilities shall be provided for a continuous supply of hot water;
- (b) All razors, scissors, combs and other instruments shall be properly cleaned and disinfected by immersion in water heated to the boiling point or in a solution of a suitable and efficacious recognized germicide before being used on a customer and shall not be used on any other customer without being disinfected again;
- (c) All hair brushes shall be immersed in a strong solution or a recognized disinfectant or water heated to the boiling point, rinsed in clear water and properly dried before being used on any customer, and all shaving brushes shall be cleansed in the same manner as hair brushes and shall be rinsed in very hot water or disinfected in such a manner as is approved by the appropriate *medical officer of health* before each and every use;
- (d) For shaving purposes, only powdered or liquid soap, shaving cream or other lathering appliances approved by the appropriate *medical officer of health* shall be used and, if prepared in a shaving mug, such mug shall be thoroughly cleansed each time before using;
- (e) On the back of every chair used for the purposes of his *business*, there shall be placed a roll of clean paper in such a way as *to provide* a cover for the head rest. A fresh clean section of the said roll of paper shall be used for each customer;
- (f) Fresh, separate, *individual*, clean neck bands or clean towels shall be placed around the neck of each customer immediately under the hair cloth;

- (g) Each towel or steamer used shall be *individual*, fresh and clean, and after being used, such towel or steamer shall immediately be deposited in a receptacle reserved for the purpose and shall not again be utilize for any purpose before being freshly laundered;
- (h) No caustic or styptic pencils, powder puffs or sponges shall be used;
- (i) Alum or other astringent may be applied but only when in liquid or powdered form;
- (j) No customer shall be shaved whose neck or face is broken out with a rash, and no customer shall be served when the surface which is to be treated is inflamed or broken out with a rash;
- (k) No sink or basin used for domestic purposes shall be used in connection with any barber shop or hair dressing establishment;
- (l) No food or soft drinks, except small wrapped articles of confectionery such as chocolate bars, or chewing gum, shall be for sale or sold on the *premises* and no food or beverages shall be served on the *premises* free of charge;
- (m) Every *person* licensed as aforesaid under this By-law shall, in his/her *licensed premises*, to the satisfaction of the *medical officer of health*:
  - (i) provide proper lighting and ventilation;
  - (ii) keep the furnishings in a sanitary condition at all times;
  - (iii) keep an ample supply of running hot and cold water;
  - (iv) have available proper sanitary conveniences for all employees.
- (n) Every *person* licensed under this By-law as the *owner* of a barber or hairdressing shop shall when actively engaged in such shop as a barber or hairdresser:
  - (i) wear a light coloured coat or smock of washable material which shall be kept clean and worn only in such establishment;
  - (ii) wash his/her hands with hot water and soap and scrub them carefully before attending to each customer;
  - (iii) satisfy the said *medical officer of health* as to his/her freedom from communicable or transmissible disease and submit to such tests as the said *medical officer of health* may require; and
  - (iv) every *person* licensed under this By-law as the *owner* of a barber or hairdressing shop shall require every employee actively engaged in such shop as a barber or hairdresser to comply with the regulations set out in section 1.2 (h) and shall not employ or continue to employ any *person* who does not comply.

**SCHEDULE 8 - RELATING TO BOWLING ALLEYS,  
BILLIARDS, BAGATELLE ESTABLISHMENTS**

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**1. DEFINITIONS:**

“*Billiard Or Bagatelle Establishment*” means any *premises* to which the public has access, which is equipped with more than one billiard, pool or bagatelle table offered for use by the public for hire or gain;

“*Bowling Alley*” means any *premises* to which the public has access, which is equipped with one or more lanes for bowling.

**2. REGULATIONS:**

2.1 Prior to the issue of such license, a certificate from the *medical officer of health* may be required certifying that the *premises* to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto.

2.2 Every *premises* licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

## SCHEDULE 9 - RELATING TO BODY RUB OWNERS, OPERATORS AND ATTENDANTS

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1. **DEFINITIONS:**

"*Attendant*" means a *person* who, in pursuance of a trade, *business* or occupation, provides body-rubs at a body-rub parlour;

"*Body Rub*" includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a *person's* body or part thereof, but does not include medical or therapeutic treatment given by a *person* otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario;

"*Body Rub Parlour*" is included in the definition of '*adult entertainment parlour*' in the *Municipal Act, 2001* and includes any *premises* or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, *business*, or occupation, but does not include any *premises* or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by *persons* otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

"*Operator*" includes a *person* who, alone or with others, operates, manages, supervises, runs or directs the trade, calling, *business* or occupation carried on at a body-rub parlour;

"*Sign*" includes any *sign* as defined pursuant to *City By-law 2002-94* as amended;

"*To Provide*" when used in relation to body-rubs includes offering *to provide* or causing or permitting the provision of a body-rub and "provides", "providing" and "provision" have corresponding meanings;

"*Health And Social Club*" means a body-rub parlour, provided that the area used within a *premises* operated by a *Health And Social Club* for the provision of body-rubs does not exceed 20% of the gross floor area of the premise and provided the gross floor area of the *premises* is not less than 650.3 square metres (7,000 sq. ft.);

2. No *person* may be an *owner* or *operator* of a body-rub parlour or be an *attendant* or provide any body-rub in a body-rub parlour except in compliance with the following regulations:
- (a) No *person* may provide any *services* designed to appeal to erotic or sexual appetites in a body-rub parlour except in accordance with the provisions of *City of Markham adult entertainment parlour By-law No. 2002-287* (as amended or successor legislation thereto);
  - (b) No *person* may provide body-rubs in a body-rub parlour to any *person* under the age of eighteen years and no *person* under the age of eighteen years may be allowed to enter or remain in any part of a body-rub parlour;
  - (c) Each *owner* or *operator* shall ensure that there is posted in a prominent location at the entrance to the body-rub parlour a *sign* indicating that no *person* under the age of eighteen years may enter or remain in such *premises*;



- (d) No *owner* or *operator* may permit any employee or *person* under contract to work at a body-rub parlour unless such *person* is at least 18 years of age and such *person* has been instructed with regard to the regulations of this By-law and complies with these regulations;
- (e) No *owner* or *operator* may permit a body-rub parlour to be open for *business* unless the *owner* or *operator* who is designated to be on duty by the *owner* is in attendance in *person*;
  - (i) Every *owner* must designate one *operator* to be on duty during the time the *owner* is not in attendance;
- (f) With the exception of patent medicines and prescription *drugs* required for medicinal purposes, no *person* may take, consume or have alcohol or *drugs* in their possession in a body-rub parlour;
- (g) No *owner* or *operator* may permit any *person* who appears to be intoxicated by alcohol or a *drug* to enter or remain in a body-rub parlour;
- (h) No *person* may advertise or promote a body-rub parlour or the provision of body-rubs at a body-rub parlour except in accordance with the provisions of this By-law respecting "*Signs and Advertisements*";
- (i) No *owner* or *operator* may permit a body-rub parlour to open or to remain open for *business* except in compliance with the provisions of this *schedule* respecting "*Hours of Operation*";
- (j) No *person* may own or operate a body-rub parlour except in compliance with the provisions of this By-law respecting "*Locational Restrictions and Limitations on Number*";
- (k) No *person* may own or operate a body-rub parlour except in compliance with the provision of this By-law respecting "*Design of premises*";
- (l) Every *owner* and *operator* designated to be on duty by the *owner* shall keep their license certificate issued in respect of a body-rub parlour posted in a conspicuous place in the said *premises* in a manner satisfactory to the *licensing officer* at all times during the currency of the license;
- (m) No *owner* or *operator* may permit any *attendant to provide* body-rubs at a body-rub parlour unless such *attendant* is licensed pursuant to the provisions of this By-law and their license has not expired, been revoked or suspended;
- (n) No *attendant* may provide a body-rub at a body-rub parlour unless there is in attendance at the *premises* a licensed body-rub parlour *owner* or *operator* who does not provide body-rubs;
- (o) An *owner* shall enter into a written contract for *services* between every *operator* and every *attendant* at a body-rub parlour and such contracts shall be made available to a *licensing officer* upon request for inspection at any time during *business* hours of the body-rub parlour and during all times when body-rubs are provided, and shall be retained by an *owner* or *operator* for a period of six months after the termination or completion of such contract;
- (q) Every *attendant at a body rub parlour* shall be clothed in a manner such that each such *person's* pubic and genital area, and in the case of a woman, her breasts are fully covered by opaque material.

- (r) No *owner*, or *operator* may use or permit to be used any camera or other photographic or recording device at a body-rub parlour by any *person*. Notwithstanding the foregoing, a public health inspector acting under the direction of the *medical officer of health*, the *licensing officer*, a peace officer or a By-law Enforcement Officer may use a camera or other photographic or recording device at a body-rub parlour during the course of an inspection or investigation thereof. In addition, an *owner* or an *operator* may maintain a photographic device in the entrance lobby of the *premises* for security purposes;
  - (s) Every *owner* shall post and maintain in the lobby or entrance of the *body rub parlour*, in a manner that is satisfactory to the *licensing officer*, a *sign* which provides as follows: “This *premises* is licensed as a *body rub parlour* by the *City* of Markham. The By-law regulating this *premises* makes it an offence for any *person* to *provide services* in a body-rub parlour that are designed to appeal to erotic or sexual appetites.”;
  - (t) No *attendant* shall provide or offer to *provide services* to any *person* unless such *person’s* pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;
  - (u) No *owner* or *operator* shall permit any *attendant* to *provide* or offer to *provide services* to any *person* unless such *person’s* pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;
  - (v) Every body-rub parlour *owner* and *operator* shall ensure that no *services* are provided at the body-rub parlour other than in accordance with the requirements of this By-law;
  - (w) No *person* shall provide *services* in a body-rub parlour unless the *owner* of the body rub parlour holds a body-rub parlour *licence*, which has not expired, been revoked or suspended;
  - (x) No *person* shall be an *operator* of a body-rub parlour unless the *owner* of the body- rub parlour holds a body-rub parlour *licence*, which has not expired, been revoked or suspended;
  - (y) Every *attendant* shall ensure the window provided to permit the observation of body-rubs by third parties remains unobstructed; and
  - (z) No *person*, while acting as an *owner* or *operator*, shall perform any body-rub *services*.
3. No *person* may erect or maintain any *sign* advertising a body-rub parlour or the body-rubs provided from such *premises* except in accordance with *City* By-laws, including *City sign* By-law 2002-94 (as amended). Notwithstanding the provisions of *City sign* By-law 2002-94 (as amended), no *person* may erect or maintain any *sign* advertising a body-rub parlour except in accordance with the following additional regulations:
- (a) No *person* may erect or maintain any of the following *signs* in respect of a body-rub parlour or in respect of any body-rubs provided from such *premises*;
    - awning sign
    - projecting sign
    - portable sign
    - ground or pylon sign,
    - canopy sign
    - inflatable sign
    - trailer sign
    - sandwich board sign

- (b) No *person* may circulate, post, distribute or cause to be circulated, posted, or distributed any poster, flyer, handbill or other form of printed *sign* on *premises* or locations other than the body-rub parlour, with the exception of advertising located in a newspaper or in the Yellow Pages;
  - (c) Nothing within this By-law shall be deemed to constrain any *person* from erecting or maintaining any *sign* or advertising on any interior wall of a body-rub parlour, provided the content of such *sign* is not visible from the exterior of the body-rub parlour;
  - (d) No *person* may erect or maintain any *sign* or advertising in respect of a body-rub parlour which includes any letters, markings, symbols, pictures or representations except the name of the body-rub parlour as recorded on the application for license and any registered copyright logo or symbol, provided a copy of such logo or symbol is filed with the *licensing officer* as part of the licensing process;
4. No *person* may be an *owner* or *operator* of a body-rub parlour except in accordance with the following regulations:
- (a) The *owner* or *operator* shall provide the *licensing officer* with a floor plan showing the designated room or rooms for the provision of body-rubs and no *person* may provide body-rubs in any other room, cubicle, enclosure or partitioned area located within the body-rub parlour. In the event that the *owner* or *operator* wishes to amend the floor plan, he shall first file with the *licensing officer* a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the *licensing officer*;
  - (b) Save and except for one room designated by the *owner* or *operator* for use as an office and one room designated by the *owner* or *operator* as a storage room, every *owner* or *operator* shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in a body-rub parlour is equipped or constructed with a locking device of any kind or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such area;
  - (c) During the hours of operation of a body-rub parlour the *owner*, *operator* and *attendant* shall ensure that the principal means of access into the body-rub parlour is unlocked and available so that anyone coming into the body-rub parlour may enter therein without hindrance or delay;
  - (d) No *premises* or part thereof used as a body-rub parlour shall be used as a *dwelling* or for sleeping purposes or contain therein any furniture which is commonly used or which may be used for sleeping purposes;
  - (e) Every body-rub parlour shall be equipped with a window to permit observation of the provision of body-rubs by third parties. The window must be 3" x 5" clear glass, located in the door to each massage room at a height of not less than 5 feet and not greater than 6 feet and must not be obstructed in any way;
  - (f) Every body-rub parlour shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility and that is uniformly distributed throughout the *premises*;
  - (g) Every body-rub parlour and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition;
  - (h) Every body-rub parlour shall be equipped with an effective utility sink;

- (i) Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth under the Ontario Building Code Act (as amended);
  - (j) Washrooms shall be equipped with:
    - (i) an adequate supply of hot and cold water;
    - (ii) an adequate supply of liquid soap in a suitable container or dispenser;
    - (iii) hot air dryers or *individual* towels in a suitable container or dispenser;
    - (iv) a suitable receptacle for used towels and waste material;
  - (k) In all shower-bathrooms, if any, and in all sauna-bath rooms, if any:
    - (i) the floors shall be disinfected at least once a week with a disinfecting solution approved by the *medical officer of health*;
    - (ii) all surfaces and attached accessories of the bath or shower enclosure must be self-draining;
    - (iii) all showers must have removable cleanable drain covers;
    - (iv) floor surfaces both within and without the enclosures shall be of non-slip type;
  - (l) Every *owner* and *operator* shall provide and maintain at all times at the body-rub parlour a first-aid kit equipped in a manner satisfactory to *medical officer of health*; and
  - (m) Every body-rub parlour shall be constructed in accordance with the Ontario Building Code (as amended) and every *applicant* for an *owner's* license shall provide the *licensing officer* with such drawings as may be required to assess compliance in this regard.
5. (a) No *owner* or *operator* may permit a body-rub parlour to be open for *business* and no *attendant* at a body-rub parlour shall provide body-rubs in a body-rub parlour except between the hours of 9:00 a.m. and 9:00 p.m. on any given day:
- (b) Every *owner*, *operator* and *attendant* shall ensure the hours of operation of the body-rub parlour are posted on a *sign* in a conspicuous place, visible from the outside of the *premises*; and
  - (c) The provisions of section 6(a) of this By-law are not applicable to a *health and social club*.
6. No *person* may own or operate a body-rub parlour:
- (a) within five hundred (500) meters of any residential zone in existence when the application for license is submitted to the *City*;
  - (b) within five hundred (500) meters of any *school*, church or child day care centre in existence when the application for license is submitted to the *City*;
  - (c) within one (1) kilometre of any other body-rub parlour in existence at the time when the application is submitted to the *City*, regardless of whether such other body-rub parlour is licensed or not.

7. The number of body-rub parlours which may be licensed within the *City* of Markham shall be limited to ten (10).
8. Every body-rub parlour license shall have endorsed thereon the location of a body-rub parlour and such endorsement shall be for one location only and such license shall be valid only for the location endorsed thereon.
  - (a) Every body-rub parlour *owner's*, *operator's* and *attendant's* license shall have endorsed thereon the location of the body-rub parlour which they own or at which they work and such license shall be valid only for the locations endorsed thereon; and
  - (b) Where an *operator* or *attendant* requires the endorsement of an additional location after issuance of a license, the *operator* or *attendant* must first produce a copy of the written contract for *services* with the *owner* of the additional location.
9. Every *applicant* shall appear in *person* before a *licensing officer* and shall complete such license application forms as may be provided from time to time by the *licensing officer* in accordance with the requirements of this By-law and shall provide all information requested thereon, such information to include a Canadian Police Clearance Letter dated within thirty (30) days of the date of the application. In the case of a body parlour owned by a partnership such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners and in the case of a body-rub parlour owned by a corporation, such appearance shall be made by an officer of the corporation and not by an agent thereof.
10. Every *applicant* for a license, where such *applicant* is a natural *individual*, shall provide two (2) passport size photographs, which must be taken within thirty (30) days of the license application. Where the *applicant* is a corporation, such photographs shall be taken of an officer of the corporation. Where the *applicant* is a partnership, such photograph shall be taken of one of the partners.
11. Every *applicant* shall provide the *licensing officer* with a written contract for *services* between an *owner* of the body-rub parlour and the *applicant* and signed by the licensed *owner* of the body-rub parlour contained in the application.
12. Every *applicant* for an *attendant's* license shall provide the *licensing officer* with a medical certificate from a qualified doctor dated within thirty (30) days of the date of the application, indicating that the *applicant* is free from communicable or transmissible diseases.
13. At the time of submission of their application, every *applicant* shall pay to the *City* the fee set forth in By-law No. 2002-292 as amended, provided such fee shall not be reduced in the event that the period for which the license is granted is less than one year. Fifty percent of such fee is refundable in the event that an application is not accepted for licensing.
14. Receipt of the application and/or the license fee by the *City* shall not represent approval of the application for the issuance of a license nor shall it obligate the *City* to issue such license.
15. The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
16. Every *person* shall comply with the provisions of this By-law applicable to him whether or not he is licensed under this By-law.



## SCHEDULE 10 – CHARITY CLOTHING DONATION BINS

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### 1. **DEFINITIONS:**

“*Charity*” shall mean a registered *charity* as defined in subsection 248(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), or successor legislation, that has a registration number issued by the Canada Revenue Agency, or successor agency.

“*Clothing Donation Bin*” shall mean any receptacle used for the purpose of collecting clothing, donated by the public, on an ongoing basis and as part of the regular activity of the *operator* which is a registered *charity*.

“*Land*” shall mean grounds, yards and vacant and developed lots.

“*Work Order*” shall mean an order issued under this by-law to the *owner* of a property requiring the *owner* who contravened the by-law or who caused or permitted the contravention or the *owner* of the *land* on which the contravention occurred to do work to correct the contravention.

### 2. **REGULATIONS**

2.1 Every applicant for a licence and for the renewal of a licence issued under this By-law must be a registered *charity* under the *Income Tax Act*, R.S.C. 1985, c. 1 and in addition to the standard licensing requirements shall:

- (a) provide proof of insurance in an amount of at least two million (\$2,000,000) dollars;
- (b) provide a letter of permission from the property owner for installation of said donation boxes on the property; and
- (c) provide a sketch and description of the location on the private property for the proposed *clothing donation bin*.

2.2 No *owner* shall place a *clothing donation bin*:

- (a) on any street or property owned or maintained by the *City*; or
- (b) on any property zoned residential or industrial.

2.3 *Clothing donation bins* shall only be placed:

- (a) on private property in a common area, grouped together and approved by and to the satisfaction of the *City*; and
- (b) set back 1 metre from all property lines, so as not to restrict sight lines from nearby driveways or pathways.

2.4 Every *owner* who operates more than one *clothing donation bin* shall, subject to the provisions of this By-law and subject to the payment of the fee prescribed in the *Licensing Permit and Service Fee By-law*, obtain a separate endorsement of his or her licence for every *clothing donation bin* he or she operates.

2.5 No *owner* shall operate a *clothing donation bin* in any location other than the location in respect of which the licence or endorsement has been issued.

2.6 An *owner* who wishes to move a *clothing donation bin* may apply for an amendment to the licence or endorsement issued in respect of such *clothing donation bin* by:

- (a) paying the fee prescribed in the *Licensing Permit and Service Fee By-law*; and
  - (b) providing proof satisfactory to the *licensing officer* or his or her designate that the *owner* has permission from the property owner to operate the *clothing donation bin* at that location.
- 2.7 Every *owner* shall ensure that the *clothing donation bin* is clean, in good repair and is free of graffiti and shall ensure that all areas immediately adjacent to the *clothing donation bin* are clean and free of garbage.
- 2.8 Every *owner* shall:
- (a) display the name of the *owner* in a conspicuous place on the *clothing donation bin*, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
  - (b) display the Registered Charity Number on the *clothing donation bin* in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
  - (c) affix and maintain the sticker issued by the *City* on a conspicuous part of the *clothing donation bin* throughout the period for which the licence or endorsement is valid;
  - (d) provide a list of the number and locations of all of his or her *clothing donation bins* in the *City*; and
  - (e) ensure that the information filed under Subsection (c) is complete and accurate at all times and shall forthwith notify *City* of any changes to the information filed.
- 2.9 An *M.L.E.O.* may enter upon any *land* at any reasonable time with proper identification to determine if the licensee is complying with the provisions of this by-law.
- 2.10 Where a *clothing donation bin* is not maintained in accordance with the requirements of this Bylaw:
- (a) the *City* may serve the *owner* a *work order* in writing directing the *owner* of the *clothing donation bin* to bring the *clothing donation bin* into conformance with the requirements of this By-law; and
  - (b) the *owner* shall repair, remove or clean up all contraventions identified on the *work order* within seven (7) days of the *work order* being served.
- 2.11 The *work order* from the *City* may be:
- (a) served personally upon the *owner* or
  - (b) mailed by regular mail to the last known address of the *owner* according to the current assessment rolls.
- 2.12 If served by regular mail, a *work order* under subsection 12(b) shall be deemed to have been served on the fifth day after mailing.
- 2.13 Where an *owner*, having been served with a *work order*, fails to comply with the *work order* within the time specified, an *M.L.E.O.* or the *City's* employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto the *land* at a reasonable time and carry out any or all of the work described in the *work order*.



- 2.14 The municipal service fees for the administration and enforcement of this By-law shall be in accordance with the *City's Licensing Permit and Service Fee By-law* and any revisions thereto.
- 2.15 Service fees for the administration and enforcement of this By-law may be applied when a contravention has been confirmed by an *M.L.E.O.*

## SCHEDULE 11 – DRIVEWAY PAVING CONTRACTORS

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1. **DEFINITIONS:**

“*Contractor*” means a *driveway paving contractor*;

“*Driveway*” means a defined area that is paved or treated with a stable surface that provides access for motor vehicles from a public or private street to a *private garage* or *parking pad*;

“*Driveway Paving Contractor*” means a *person* engaged in the *business* of *paving* or *sealing driveway* surfaces on privately owned property which may include municipal boulevards adjacent to such private property, including the altering of property in preparation for *paving*;

“*Parking Pad*” means an open area of land other than a *driveway*, that is paved or treated with a stable surface used for the parking of motor vehicles;

“*Paving*” is the surface of a *driveway* or *parking pad* constructed using materials such as asphalt, concrete and interlocking stone;

“*Private Garage*” means an enclosed building or part thereof, designed and used for the storage of one or more motor vehicles.

2. **DEFINITIONS:**

2.1 Every application for a *licence* shall include:

- (a) a certificate of liability insurance in a minimum amount of two million dollars (\$2,000,000) endorsed *to provide* the *licensing officer* at least ten (10) days notice in writing prior to cancellation, expiration or change of the policy, and the *City of Markham* named as an additional insured party;
- (b) valid Clearance Certificate issued by Workplace Safety and Insurance Board of Ontario applicable to the *applicant's business*;
- (c) a copy of the stationary the *applicant* intends to use in making contracts, including such information as the *contractor's* name, address and telephone number;
- (d) a copy of the H.S.T. Registration applicable to the *applicant's business*;
- (e) completion of a training and education session provided by the *licensing officer*; and

2.2 Every *person* licensed or required to be licensed under this By-law shall:

- (a) have printed or otherwise *displayed* on both sides of all vehicles owned, leased or operated during the course of BUSINESS, in figures no less than 10 centimetres (4 inches) in height, the *driveway paving contractor's* name and *licence* number;
- (b) have printed on all *business* stationery, forms, bills, statements and advertising materials, the *driveway paving contractor's* name, *business* address, telephone number and license number;
- (c) enter into a written contract with the *person* for whom the work is being

done before commencing any work, such contract to include;

- i) name, address, telephone number and *licence* number of the *licensee*;
  - ii) the name and phone number of the *person* for whom the work is being done;
  - iii) the address where the work is to be done;
  - iv) a description of the materials and *services* to be supplied, including the depth of asphalt, concrete, gravel or other material to be applied (this description may be supplemented by a sketch);
  - v) an area site plan indicating the dimensions of *driveway* on the property to be paved;
  - vi) the itemized price for the materials and *services* to be supplied;
  - vii) detailed statement of the terms of payment;
  - viii) warranties or guaranties, if any; and
  - ix) the estimated date of completion.
- (d) give a copy of the contract referred to in subsection 2.2 (c) to the *person* for whom the work is being done;
- (e) ensure that all materials or substances used by the *contractor* are contained on the property for which the contract applies;
- (f) obtain written permission for the placement of materials on the property other than that for which the contract applies;
- (g) obtain all permits and approvals required by law prior to the commencement of any work; and
- (h) comply with all laws, including *City* of Markham By-laws as amended.

2.3 No *person* shall:

- (a) carry on the *business* of a *contractor* in the *City* without a *licence* to do so issued by the *City* of Markham;
- (b) hold themselves out as being licensed to carry on the *business* of a *contractor* if the *person* is not so licensed; and
- (c) carry on *business* of a *contractor* under any name other than the name for which the *licence* is issued.

## SCHEDULE 12 - RELATING TO DRY CLEANERS

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1. **DEFINITIONS:**

“*Dry Cleaning Depot*” means any *premises* used for the purpose of collecting, receiving or returning clothes or material upon which cleaning work is to be or has been done whether or not such dry cleaning depot is part of or connected with *premises* wherein such cleaning work is carried out.

2. **REGULATIONS:**

- 2.1 All such *premises*, which are not the principal or controlling *premises*, shall have a *sign* containing the name and address of the principal *premises* controlling such *dry cleaning depot* or for whom the cleaning work is received.

## SCHEDULE 13 - RELATING TO FOOD PREMISES

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1. **DEFINITIONS:**

“*Eating Establishment*” means a building or place where food and drink are prepared and offered for sale for takeout or to be consumer on the *premises*; and

“*Foodstuffs*” means an edible commodity meant for human consumption and shall include but not be limited to items dispensed from vending machines.

**SCHEDULE 14 - RELATING TO THE SALE  
AND DISCHARGE OF FIREWORKS**

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1. **DEFINITIONS:**

“*Explosives Act*” means the *Explosives Act* c.E-17 R.S.C. 1993, as amended and regulations thereto;

“*Firecracker*” means a pyrotechnic device that explodes when ignited and does not make any subsequent *firecracker* or visible effect after the explosion but does not include paper caps containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flare or marine rockets;

“*Fireworks*” means *firecracker fireworks, family fireworks* and *theatrical fireworks*;

“*Fireworks, Firecracker*” means high-hazard *fireworks* for recreation, including *firecrackers*, that are classified under Class 7, Division 2, Subdivision 1 under the *Explosives Act* and the Explosives Regulations made thereunder and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

“*Fireworks Family*” means low-hazard *fireworks* for recreation that are classified under Class 7, Division 2, Subdivision 2 of the *Explosives Act* and the Explosives Regulations made thereunder, and includes but is not limited to *fireworks* showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;

“*Fireworks, Prohibited*” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink, or key chain pistols auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers; throw down and step on torpedoes, and crackling balls; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake *firecrackers* and other trick devices or practical jokes, as included on the most recent list of *prohibited fireworks*, as published from time to time under the *Explosives Act*;

“*Fireworks Supervisor*” means a *person* certified as a technician under the *Explosives Act* to conduct *firecrackers* of *fireworks*;

“*fireworks theatrical*” means an authorized explosive of a class set out in Section 6 of the *Explosives Act*, Explosives Regulations (C.R.C. c.599), that is made, manufactured or used to produce a pyrotechnic *theatrical* effect in connection with a motion picture, theater or television production or with a, or as a performance, before a live audience;

“*Magazine*” means *magazine* as defined in the *Explosives Act*.

“*Mobile Sales Premises*” means a mobile or portable premise from which *fireworks* are sold and includes a trailer, roadside stand and a

motor vehicle;

“*Permit*” means a permit *to discharge fireworks* issued pursuant to this By-law;

“*To Discharge*”, when used in relation to *fireworks, prohibited fireworks* and *firecrackers*, includes firing, igniting, exploding and setting-off such articles; and

“*To Sell*” includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale.

## **2. REGULATIONS:**

2.1 No *person* shall *sell fireworks* unless:

- (a) the *fireworks* are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of Natural Resources Canada, or their successors;
- (b) the *fireworks* are *displayed* for sale in a package, glass case or other suitable receptacle away from inflammable goods;
- (c) the *fireworks* are *displayed* in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door;
- (d) all vendors of *fireworks* in the *City* of Markham must *firecracker* and make available to purchasers of *fireworks*, a manufacturer’s brochure outlining the safe handling of *fireworks*;
- (e) within 6 metres of every location from which *fireworks* are sold or stored for the purposes of sale shall be designated and posted as a “non-smoking” area and no *person* may smoke or ignite any flammable material, or have in his possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device in such area;
- (f) to any *person* under the age of eighteen years; and
- (g) any employee *to sell fireworks* without first instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations.

2.2 In addition to the regulations affecting the sale of *fireworks*, no *person* shall *sell family fireworks* unless:

- (a) the *fireworks* are *displayed* for sale in lots that do not exceed 25 kilograms each in gross weight;
- (b) the *fireworks* are *displayed* in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door;
- (c) the *fireworks displayed* in any shop window are mock samples only and shall not contain explosive composition.

2.3 No *person* shall:

- (a) *sell family fireworks* or possess *family fireworks* for the purpose of sale, except on Victoria Day, Canada Day, and each of the seven days immediately preceding Victoria Day and Canada Day; and
- (b) any unsold *fireworks* must be returned to the manufacturer within

seven days immediately following Victoria Day and Canada Day.

- 2.4. In addition to the regulations affecting the sale of *fireworks*, no *person* shall *sell fireworks* from a *mobile sales premises* except in accordance with the following regulations:
- (a) the weight of *fireworks* stored at the *mobile sales premises* cannot exceed 1,000 kilograms unless the vendor is licensed by Natural Resources Canada Explosives Division;
  - (b) not less than two (2) *signs* must be posted in prominent locations on the outside of the *mobile sales premises* indicating that *persons* may not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within 6 metres of the *mobile sales premises*;
  - (c) may not be located within twenty (20) meters of any road or occupied parking space and may not be located within forty (40) metres of any occupied building, or any *dwelling* or gas station;
  - (d) the public shall not be permitted to enter any *mobile sales premises* for the purpose of purchasing *fireworks* unless there are at least two operational doors providing means of access to and egress from the *mobile sales premises*;
  - (e) more than fifteen (15) customers are not permitted in a *mobile sales premises* at the same time;
  - (f) any portable power supply to the mobile sales trailer must be located not less than twelve (12) metres from the *mobile sales premises*;
  - (g) with the exception of its entrance and exit, every *Mobile sales premises* shall have a “no encroachment zone” of at least 6 metres established around its perimeter by means of a barrier, such as snow fencing or pylons or other material satisfactory to the *licensing officer* to exclude the public from this area; and
  - (h) every vendor of *fireworks* from a *mobile sales premises* shall keep their *licence* certificate issued in respect of this By-law posted in a conspicuous place on the *mobile sales premises*, at all times during the currency of the *licence*.



**SCHEDULE 15 - RELATING TO PUBLIC GARAGES,  
INCLUDING CAR REPAIRS, GASOLINE SALES,  
CAR WASHES AND CAR RENTAL AGENCIES**

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1. **DEFINITIONS:**

“*Public Garage*” includes a parking station or parking lot where a charge is made for such service, a building or place where motor vehicles are hired or kept or used for hire, a building or place where gasoline or oils are stored or kept for sale, a building or place used as a motor vehicle repair shop and a building or place used for washing or cleaning motor vehicles.

2. **REGULATIONS:**

2.1 Every *premises* licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day’s activities.

3.1 No *person* shall:

- (a) permit the engine of a motor vehicle in any building to run unless adequate ventilation is provided to ensure dilution of any carbon monoxide fumes;
- (b) permit the drainage of surface processed water across any sidewalk or pedestrian way;
- (c) permit any vehicle to remain continuously without lawful excuse at or upon the *premises* for more than 24 hours unless he reports such occurrence forthwith to the nearest police station; and
- (d) use or permit his *premises* to be used for the purpose of wrecking motor vehicles.

## SCHEDULE 16 - RELATING TO GOLF DRIVING RANGES

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### 1. **DEFINITIONS:**

“*Golf Driving Range*” means a place where people practise hitting golf balls.

### 2. **REGULATIONS:**

2.1 A description of the place where the *golf driving range* is to be located, its frontage, depth and the distance from the place of driving to the boundary of the adjoining property; and

- (a) Whether or not any buildings are to be erected on the proposed range, and if so, a general description of such buildings;
- (b) Any provisions that have been made for the protection of the adjoining property *owners* from damage by reason of the operation of the *golf driving range*.

## SCHEDULE 17 - RELATING TO HORSE RIDING ESTABLISHMENTS

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### 1. **DEFINITIONS:**

“*Assistant Instructor*” means a *person* who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience with *horses* in the immediately preceding five (5) years and who is supervised by an *instructor*;

“*Assistant Instructor*” means a *person* who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience riding and working with *horses* at a *trail riding establishment*, in the immediately preceding five (5) years;

“*Drug*” means a substance as listed in *schedules I, II, III, IV, or V* to the Controlled *drugs* and Substances Act S.C. 1996, c.19, as may be amended from time to time;

“*Horse Riding Establishment*” means the carrying on of *business* in the equine industry and is further divided into the following disciplines:

“*Trail Riding Establishment*” means the carrying on of a *business* where *horses* are let out for hire for recreational riding for payment, either at a permanent or temporary location;

“*Instructional Riding Establishment*” means the carrying on of a *business* where *horses* are let out for hire for providing instruction for payment, either at a permanent or temporary location or where instruction is provided in *horse* riding where the *horse* is boarded or part boarded by such establishment;

“*Head Trail Guide*” means a *person* who has attained the age of eighteen (18) years and has at least three (3) consecutive year’s experience in assisting/or leading trail rides during the immediately preceding five (5) years;

“*Horse*” means any animal of the equine species;

“*Instructor*” means a *person* who has attained the age of eighteen (18) years and has at least five (5) consecutive year’s experience in riding or *horse* training in the immediately preceding seven (7) years or a *person* who has been certified by the Ontario Equestrian Federation, Canadian Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman’s Association, the British Horse Society, or other credited Equine Association or Institution;

“*Lead Line Ride*” means a single *horse* led by a walking adult holding the HORSE’s lead rope;

### 2. **REGULATIONS:**

2.1 No *person* shall carry on the *business* of a *trail riding establishment*:

- (a) and rent a *horse* to a *person* under the age of eighteen (18) years unless that *person* is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider’s head by an attached harness, at all times while that *person* is mounted on a *horse*;

- (b) and rent a *horse* to a *person* unless that *person* is wearing properly fitting, hard and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;
- (c) and conduct trail riding with less than one (1) *head trail guide* for the first six (6) *persons* and an *assistant instructor* for every additional six (6) *persons*;
- (d) and conduct trail riding without a *head trail guide* or *assistant instructor* carrying, at all times, a two-way communication device where its signal will be received by another *head trail guide* or *assistant instructor* who is not also on the same trail ride;
- (e) and permit more than one *person* to ride a *horse* at the same time except for disabled riders with special needs within a designated controlled environment;
- (f) and rent a *horse* unless that *horse* is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
- (g) and rent a lame, sick or blind *horse*,
- (h) and rent a *horse* unless the *horse* is a minimum of three (3) years of age and the *horse* has one (1) year of schooling unless that *person* is the *owner* of that *horse*; and provided that *horses* rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian;
- (i) and permit any *person* with less than fifty-two (52) hours riding experience to mount or dismount a *horse* for the purpose of trail riding unless that *horse* is held at the bridle by an employee or volunteer of the *person* carrying on the *business* and who is supervised by a *head trail guide*; or
- (j) and rent to a *person* to ride a *horse* where that *person* is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a *drug* on any *premises* used for the carrying on of the *business* of a *trail riding establishment*.

2.2 No *person* shall carry on the *business* of an *instructional riding establishment*:

- (a) and instruct a *person* under the age of eighteen (18) years to ride a *horse* unless that *person* is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider's head by an attached harness, at all times while that *person* is mounted on a *horse*;
- (b) notwithstanding Section 2.16, for the purposes of dressage or precision riding performed as part of a special event where ceremonial dress is worn by all riders, the requirements under Section 2.16 will not apply;
- (c) and rent a *horse* to a *person* unless that *person* is wearing properly fitting, hard and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;

- (d) and permit more than one *person* to ride a *horse* at the same time except for special needs instructions for disabled riders;
  - (e) and rent a *horse* unless that *horse* is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
  - (f) and rent a lame, sick or blind *horse*;
  - (g) and instruct a *person* to ride a *horse* unless the *horse* is a minimum of three (3) years of age and has one (1) year of schooling unless that *person* is the *owner* of that *horse*; and provided that *horses* rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian;
  - (h) and permit any *person* with less than fifty-two (52) hours riding experience to mount or dismount a *horse* for the purpose of instructional riding unless that *horse* is held at the bridle by an employee or volunteer of the *person* carrying on the *business* and who is supervised by an *instructor*; or
  - (i) and rent to a *person* to ride a *horse* where that *person* is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a *drug* on any *premises* used for the carrying on of the *business* of a *instructional riding establishment*.
- 2.3 Provided that Subsections 2.16 and 2.16 of this By-law shall not apply where a rider has been provided with proper functioning and appropriately sized hooded stirrups, safety stirrups which are designed to prevent a rider's foot from passing through or becoming wedged in the stirrup or stirrups which are designed to break-away when a rider falls from the *horse*.
- 2.4 No *person* shall instruct *persons* in the riding of *horses* at an *instructional riding establishment* unless:
- (a) they have attained the age of eighteen (18) years and they have at least five (5) consecutive year's experience in riding or training *horses* during the immediately preceding seven (7) years; or
  - (b) they have attained the age of eighteen (18) years and they have been certified by the Canadian Equestrian Federation, Ontario Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman's Association, British Horse Society or other credited Equine Association or Institution.
  - (c) Notwithstanding the provisions of Section 19 of this By-law, a *person* shall be permitted to assist in the instruction of *persons* in the riding of *horses* at an *instructional riding establishment* where:
    - i) they have attained the age of sixteen (16) years
    - ii) they have at least three (3) consecutive year's experience with *horses* in the immediately preceding five (5) years; and
    - iii) they are under the supervision of an *instructor* who meets the qualifications as provided for of this By-law.

- 2.5 No *person* shall conduct or lead a trail ride at a *trail riding establishment* unless they have attained the age of eighteen (18) years and they have at least three (3) consecutive year's experience assisting or leading trail rides in the immediately preceding five (5) years. All *head trail guides* employed by a *trail riding establishment* must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the *premises*.
- 2.6 No *person* shall assist the *head trail guide* on a trail ride at a *trail riding establishment* unless they have attained the age of sixteen (16) years and they have at least three (3) consecutive year's experience riding or working with *horses* at a *trail riding establishment* in the immediately preceding five (5) years. All *assistant instructors* employed by a *trail riding establishment* must hold a current certification in first aid and cardiopulmonary resuscitation.
- 2.7 No *person* shall instruct or assist in the instruction of *persons* in the riding of *horses* at an *instructional riding establishment* or conduct or lead or assist in the conducting or leading of a trail ride at a *trail riding establishment* while taking, consuming, and possessing or being, or appearing to be, intoxicated by alcohol or a *drug*.
- 2.8 No *person* shall carry on the *business* of a *trail riding establishment* and rent to a *person* under the age of ten (10) years a *horse* for the purpose of trail riding.
- 2.9 Notwithstanding the provisions of this By-law, a *person* who carries on the *business* of a *trail riding establishment* may rent to a *person* who has attained the age of at least six (6) years to *lead line ride* a *horse* where the *horse* is led by a capable walking adult who is in control of the *horse*.
- 2.10 Where the *person* is under the age of six (6) years, the *lead line ride* will be led by a capable walking adult who is in control of the *horse* and accompanied by a walking spotter.
- 2.11 No *person* shall carry on the *business* of a *horse riding establishment* on *premises* without keeping that portion of the said *premises* ordinarily used for the riding of *horses* clear of all ground and over-hanging obstructions. Where said obstructions cannot be cleared, the *person* carrying on the *business* of a *horse riding establishment* shall barrier these obstructions such that *horses* and riders will not come in contact with them.
- 2.12 Prior to beginning instruction or conducting or leading a trail ride, the *instructor*, *head trail guide* or an *assistant instructor* assigned to that instruction or ride, as the case may be, shall examine the condition and fit of all equipment to be used by each rider to ensure that it is clean, supple, well-fitting, secure and fully functional.
- 2.13 Prior to conducting or leading a trail ride, the *head trail guide* or an *assistant instructor* assigned to the ride, as the case may be, shall provide basic information on the handling of a *horse* and the basics of riding a *horse*.
- 2.14 A *premises* which contains a *trail riding establishment* shall contain a *sign*, to be created and erected at the expense of the *licence* application/holder, with lettering a minimum of one half (½) inch in height and the location of which shall be as approved by the Municipal *clerk*, and which is in the form as prescribed by *schedule "A"*.

- 2.15 A *premises* which contains an *instructional riding establishment* shall contain a *sign*, to be created and erected at the expense of the licensed application/holder, with letter a minimum of one half ( $\frac{1}{2}$ ) inch in height and the location of which shall be approved by the Municipal *clerk*, and which is in the form as prescribed by Appendix "B".
- 2.16 All *head trail guides* and *assistant instructors* employed by a *trail riding establishment* must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the *premises*. A qualified first aid provider, with current certification in first aid and cardiopulmonary resuscitation, must be available whenever lessons are being conducted at an *instructional riding establishment* and a fully stocked first-aid kit must be maintained on the *premises*.

## SCHEDULE 18 - RELATING TO PUBLIC HALLS

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1. **DEFINITIONS:**

“*Public Hall*” means a building, including a portable building or tent with a seating capacity of over one hundred *persons*, that is offered for use or used as a place of public assembly, but does not include a theatre within the meaning of the *Theatres Act*, or a building, except a tent, used solely for religious purposes.

2. **REGULATIONS:**

2.1 No *licence* fee shall be payable under this By-law by any religious organization in respect of a hall used for entertainment given or held by it, but every such hall shall in all other respects comply with this By-law.

2.2. In addition to any other requirements in this By-law, every application for a *public hall licence* shall be accompanied by:

- (a) a statement on the form provided giving such particulars as to the location, size and construction of the hall, together with a plan of the proposed seating arrangement, as may be required;
- (b) a certificate signed by the Fire Chief or his designee certifying that he has inspected the building in respect of which the application is made and has found that it is in accordance with this By-law as to fire safety precautions;
- (c) a certificate signed by the Building Director or his designee certifying that the operation of a hall in the location applied for is approved by him and that he is satisfied with the proposed use of the building or part thereof as a *public hall* and with the proposed methods of operations;
- (d) a certificate dated within three months of the application signed by the local inspector of the Hydro certifying that the electrical wiring has been inspected and found satisfactory; and
- (e) a certificate from the *medical officer of health*, may be required certifying that the *premises* to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto;

2.3. The issue of every *public hall licence* shall be subject to the following *conditions*:

- (a) the *licensing officer* or other *person* designated by the municipality may, at any time, order the evacuation of a *public hall* when the occupants of the *public hall* are, in his opinion, endangered by a hazardous condition, and the *licensing officer* or other such designated *person* may enter the hall at any time in order to ascertain such condition;
- (b) The *licensee* of a *public hall* shall not permit a greater number of *persons* to enter or be in the hall at any time than the stated maximum capacity on the *licence*, which maximum capacity shall be determined by the number of seats provided; and



- (c) The *owner* of every *public hall* shall *firecracker* in a prominent place in the entranceway, placards with the following wording on letters not less than two inches high:

*"occupancy of this hall by more than\_\_\_\_\_persons is dangerous and unlawful".*

with the blank filled in with the maximum capacity as stated on the *licence* and placards stating the location of the nearest telephone, the telephone number of the fire department and the location of the nearest fire alarm box or fire hall.

- 2.4. Metal containers with self-closing covers shall be provided and conveniently placed for the deposit of used paper towels and rubbish and the contents of every such container shall be emptied and disposed of immediately following the use of the hall.

## SCHEDULE 19 - RELATING TO SALVAGE SHOPS AND YARDS

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**1. DEFINITIONS:**

“*Salvage Yard*” includes a building or place used as an automobile wrecking yard;

“*Salvage Shop*” includes a building or place used for the collection, purchase, keeping or *selling of second hand goods* and merchandise such as waste paper, rags, bones, bottles, bicycles, automobile tires, old metal, scrap material, appliances, furniture, clothing, jewellery, sporting goods, and other articles of value;

“*Second Hand Dealer*” includes *persons* who go from house to house or along highways for the purpose of collecting, purchasing or obtaining *second hand goods*.

**2. REGULATIONS:**

2.1 Every *premises* licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

2.2 No *person* shall:

- (a) purchase, take in exchange or receive any goods, article or thing from any *person* who appears to be under the age of eighteen (18) years or from any *person* who appears to be under the influence of liquor;
- (b) alter, repair, dispose of, or in any way part with any goods or articles purchased or taken in exchange, until after the expiration of fifteen clear days, exclusive of Sundays and holidays, from the date of purchase or such exchange, and during these fifteen days the goods or articles so obtained shall remain on the *premises* in respect to which the license is issued and kept in a separate location from goods previously purchased, and shall be subject to inspection at any time during *business* hours by the *licensing officer* who may be accompanied by such other *persons* as in his judgment may be necessary for the identification of goods reported or suspected of having been stolen;
- (c) make an entry in a book to be kept for that purpose at the time of purchase or immediately thereafter of all articles purchased. The entry shall include the date and hour of purchase, a full description of the article, the price paid therefor, the name, address and a description (such as complexion - fair or dark - height, weight, age, colour of hair) of the *person* from whom the purchase was made and in cases of automobiles, the make, model, serial number and license plate number and in the cases of *salvage yards* in addition to the foregoing entry the license number of the vehicle or vehicles making delivery of salvage to the yard; and such book shall be made available for inspection to any police officer at anytime.

## SCHEDULE 20 - RELATING TO RETAILERS OF SECOND-HAND GOODS

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### 1. **DEFINITIONS:**

“*Garage Sale*” means a sale of goods from a residential premise where the sale lasts no longer than two (2) days, the sale from that premise occurs no more than two (2) times per year and the *second hand vendor* is either the user of the goods sold, or is one of not more than three (3) households conducting a sale of goods used by the members of those households or is a tenant or condominium association relating to a residential building;

“*Pawnbroker*” means a *person* who carries on the *business* of taking by way of pawn or pledge any article for the repayment of money lent thereon and “*pawnbroker*” includes a *person* who offers a buy-back service in relation to such articles;

“*Salvage Yards*” means a yard or premise in which bicycles, automobile tires, old metal and other scrap material and salvage is received, purchased, taken in, processed or otherwise dealt with and includes an automobile wrecking yard or premise;

“*Second Hand Goods*” means any article that has been used for the purpose for which it was designed and which is offered to or taken by a *pawnbroker* or a *second hand vendor* for resale;

“*Second Hand Vendor*” means a *person* who carries on the *business* of *selling* goods by way of *retail* that have previously been used for the purpose for which such goods were designed and “*second hand vendor*” includes the *operator* of a *salvage yard* and any *person* who travels from place to place to *sell second hand goods*;

“*Seller*” means a *person* who *sells* or who offers to *sell* any *second hand goods* to a *pawnbroker* or a *second hand vendor*.

### 2. **REGULATIONS:**

- 2.1 The provisions of this *schedule* are not applicable to *second hand vendor*'s who are engaged in the sale of goods for charitable purposes, who are engaged in the sale of goods as part of a *garage sale*, whose *second hand goods* consist primarily of used books, maternity wear or infant's accessories, whose *second hand goods* consist of used automobiles or whose *second hand goods* consist of articles purchased new and rented out in the normal course of *business* by the *second hand vendor*.
- 2.2 The provisions of this *schedule* are not applicable to *second hand vendors* whose sale of goods is conducted by auction; provided such *persons* are licensed pursuant to the applicable *auctioneer*'s licensing *schedule* of the *City*.
- 2.3 A *second hand vendor* whose principle *business* is the sale or exchange of new and used electronic games shall:
  - (a) ensure that *second hand goods* are received only in exchange for new or used goods simultaneously with the same *person*;

- (b) obtain and record photo identification from *persons* over 16 years of age who provide *second hand goods* for exchange;
  - (c) ensure that an electronic tracking system is used to record and store for no less than seven (7) years all information related to the exchange or sale of *second hand goods*, including the identification of the *persons* involved in such transactions; and
  - (d) permit or cause to permit the inspection of information contained in this system by *persons* described in section 6.3 of this *schedule*.
- 2.4. No *person* may be a *pawnbroker* or a *second hand vendor* or operate a Premise except in accordance with the following regulations:
- (a) No *person* may receive *second hand goods* from any *person* who is under the age of eighteen (18) years or from any *person* who appears to be under the influence of alcohol or illegal *drugs*;
  - (b) No *person* may receive *second hand goods* from any *person* on a “holiday” as defined in the *Interpretation Act*, R.S.O. 1990, c.I.11 or between the hours of 9:00 p.m. on one evening and 9:00 a.m. on the following day. For the purposes of this subsection, “holiday” shall not include a Sunday;
  - (c) No *pawnbroker* or *second hand vendor* may permit any employee to work at a Premise without first instructing such employee in the regulations of this *schedule* and ensuring that such employee complies with these regulations. Every *pawnbroker* and *second hand vendor* shall be responsible for the acts or omissions of its employees in the carrying on of the sale of *second hand goods* and the *business* conducted from the Premise in the same manner and to the same extent as though such acts or omissions were the acts or omissions of the *pawnbroker* or *second hand vendor*.
  - (d) Every *pawnbroker* and every *second hand vendor* shall keep their license certificate issued in respect of this *schedule* posted in a conspicuous place in the *premises* in a manner satisfactory to the *licensing officer*, at all times during the currency of the license;
  - (e) No *pawnbroker* or *second hand vendor* may engage any employee for the purpose of acquiring or *selling second hand goods* without first providing a *licensing officer* with a police clearance letter relating to that employee and every *pawnbroker* and *second hand vendor* shall keep a record of all *persons* employed by them for the purpose of acquiring or *selling second hand goods*; and
  - (f) In circumstances where a *seller* refuses to *provide* identification as required in this By-law, or where identifying features of the *second hand goods* presented by a *seller* have been removed or obliterated, or in other circumstances which might lead to the inference that the *second hand goods* have been stolen, the *pawnbroker* or *second hand vendor* shall not purchase such goods, shall attempt to ascertain the identity of the *seller* and shall contact the nearest police station as soon as is practicable to report such circumstances.
- 2.5 No *pawnbroker* or *second hand vendor* may receive any second hand good without first obtaining identification as required in this *schedule*.
- 2.6 For the purpose of identifying the *seller*, the *pawnbroker* or *second hand vendor* must be presented by the *seller* with at least two (2) pieces of identification and at least one piece of identification must be listed below and must be integrated with a photograph of the *seller*:

- (a) a valid driver's *licence*;
- (b) a passport issued by the government of origin
- (c) a "Bring Your Identification Card" issued by the Alcohol and Gaming Control Commission;
- (d) a Certificate of Indian Status issued by the Government of Canada;
- (e) a Certificate of Canadian Citizenship issued by the Government of Canada; or
- (f) a *conditions* Release Card issued by Correctional Services of Canada.

2.7 Where *second hand goods* are obtained by a *pawnbroker* or a *second hand vendor* from a *garage sale*, the recipient shall record the address of the *garage sale*.

2.8 Where *second hand goods* are obtained by a *pawnbroker* or a *second hand vendor* from an auction, the recipient shall record the name and address of the *auctioneer* and, where such information is available, the name and address of the former *owner* of the goods being auctioned.

2.9. No *pawnbroker* or *second hand vendor* may receive any *second hand goods* without first maintaining a legible record of the following information:

- (a) the day, month, year and time of the transaction;
- (b) the full name, sex, date of birth, address and approximate height and weight of the *seller*;
- (c) the full particulars of both pieces of the *seller's* identification required to be presented pursuant to this *schedule*;
- (d) a detailed description of each Second Hand Good that is reasonably sufficient to identify it, including make, model, serial numbers, markings or other identifying features as applicable;
- (e) the price paid by the *pawnbroker* or *second hand vendor* or the value of goods exchanged for the Second Hand Good; and
- (f) the name of the employee who conducted the transaction

2.10 In circumstances where the *second hand goods* consist of a number of related or similar materials in the nature of a collection, the *pawnbroker* or *second hand vendor* shall record the exact number of articles received and any identifying features of such goods. In circumstances where more than ten (10) such related or similar goods are received, the exact number of articles received shall be recorded and the identifying features of the ten (10) most valuable articles in the collection shall be recorded.

2.11 In circumstances where a system is in place with the York Region Police Department for the automated recording of transactions in *second hand goods* and where the annual number of transactions in *second hand goods* occurring at any Premise exceeds 500, which transactions shall include acquisitions or dispositions of such goods, the *licensing officer* may require a *licensee* to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Region

Police Department.

- 2.12 Where more than twenty (20) *second hand goods* are purchased by a *second hand vendor* from any *person* as part of a single transaction, which *second hand goods* do not consist of a number or collection of related or similar materials, notwithstanding the provisions of subsection 5.1(4) a *second hand vendor* shall not be required to record a detailed description of each second hand good for which was paid less than ten (\$10.00) and shall not be required to record a detailed description of each second hand good that is offered by the *second hand vendor* for re-sale at less than thirty (\$30.00) dollars.
- 2.13 If a *second hand vendor* obtains an independent appraisal of value relating to any Second Hand Good, the *second hand vendor* shall retain a copy of the appraisal for not less than thirty (30) days after the appraised Second Hand Good is re-sold.
- 2.14 No *pawnbroker* or *second hand vendor* may *sell*, exchange, alter, melt or otherwise dispose of any Second Hand Good within the earlier of thirty (30) days from the date of obtaining possession thereof or thirty (30) days after providing an automated transaction record relating to such Second Hand Good as required in this By-law and, during this period, such goods shall be kept in the Premise used by the *pawnbroker* or *second hand vendor* for the sale of *second hand goods* and shall be separate from and not commingled with other *second hand goods* in the same *premises*.
- 2.15 Every *pawnbroker* and every *second hand vendor* shall during the regular operating hours of the Premise and at all times when *second hand goods* are provided therein make available for inspection by the *licensing officer*, a By-law enforcement officer or a peace officer, the original of any document or record referred to in this By-law and shall provide a photocopy thereof upon request.
- 2.16 Every *pawnbroker* and every *second hand vendor* shall, at all times during the regular operating hours of the Premise and at all times when *second hand goods* are provided therein, permit the entry by and the inspection of the Premise and of the *second hand goods* of the *pawnbroker* or the *second hand vendor* by the *licensing officer*, a By-law enforcement officer or a police officer, together with such other *persons* who may be necessary to identify potentially stolen *second hand goods*.
- 2.17 In circumstances where a peace officer suspects that specified *second hand goods* were stolen, the police officer shall be entitled, upon providing a receipt therefor, to remove such *second hand goods* for the purpose of criminal investigation, provided such *second hand goods* are either returned within sixty (60) days or further retained by means of a Court Order.

**SCHEDULE 21 - RELATING TO SIGN INSTALLERS AND  
THE ISSUANCE OF SIGN PERMITS**

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1. **DEFINITIONS:**

“*Mobile Sign*” means a *sign* that is designated so as to be capable of being readily moved from one location to another, and is usually built on a trailer or other solid framework with wheels and may include a double faced readograph type *sign*.

“*Mobile Sign Installer*” means a *person* licensed or required to be license that is in the *business* of installing *signs* that are moved from one location to another, and is usually built on a trailer or other solid framework with wheels and may include a double faced readograph type *sign*.

2. **REGULATIONS**

2.1 A *person* who, from a location outside the *City* carries on the *business* of leasing or renting *mobile signs*, shall be deemed to be carrying on *business* in the *City* if the *person* locates or permits the location of *mobile signs* in the *City*.

2.2. Every *person* who leases or rents a *mobile sign* that is to be located in the *City* shall ensure that all required permits are obtained, prior to placement of the *sign* and that its placement is in accordance with any permit issued.

## SCHEDULE 22 - RELATING TO THE CONDUCT OF SPECIAL SALES EVENTS

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1. **DEFINITIONS:**

“*Special Sale*” includes any sale or offer to sell goods, wares and merchandise at retail from a location at which the use of the premises for retail sales is prohibited or is not a permitted use under By-laws passed by the council under Section 34 of the *Planning Act*.

2. **REGULATIONS:**

2.1 No person shall sell, offer to sell or advertise for sale in any way, any goods, wares or merchandise by way of special sales unless such person is the holder of a licence issued under this By-law for such purpose.

2.2 Each application for a licence under the By-law shall be accompanied by:

- (a) the name, address and phone number of the applicant, operator, and registered owner of the premises;
- (b) the municipal address, legal description, and unit number(s) of the premises at which the special sale is to occur;
- (c) a description of the goods to be sold, including the quantity and value of the goods;
- (d) identification of any goods that may be hazardous;
- (e) a floor plan, indicating the total area of the premises, showing the arrangement of goods for sale, exits, and entrances to the premises;
- (f) dates when the special sale is to occur and the dates of the licence extension(s) when the application is for a licence extension; and
- (g) a statutory declaration of the applicant or operator and if the applicant or operator is not the owner of the goods to be sold, that the applicant is authorized to sell goods on behalf of the owner.

2.3 The operator shall produce such books, records or other documents or information as the licensing officer shall consider necessary to corroborate any of the statements contained in the application, both before and after the licence is issued and shall permit the licensing officer, at any reasonable hour, to inspect the goods to be sold and to enter and inspect the premises in which such goods are located or in which the sale will be held.

2.4 Every licence issued under this By-law except shall expire four (4) days after the date of issue and the operator is entitled to apply for and receive, two further licence extensions for additional (4) day periods, provided there is a minimum (3) day break between each extension and there is no more than thirty consecutive (30) days in the licence period.

2.5 There shall be a minimum one hundred eighty (180) day period between each licence issued at the same municipal address.



- 2.6 All advertising material distributed or published with respect to a *special sale*, including each radio or television broadcast, shall contain a statement that such sale is held under the authority of this By-law and shall state the number and expiry date of the *licence* issued hereunder.
- 2.7 The *licence* shall be permanently posted on the *premises* while the *special sale* is held.
- 2.8 Notwithstanding anything herein contained, the *licensing officer* is under no obligation to issue a *licence* or a *licence* extension under this By-law if:
- (a) any of the information or particulars set forth in the application or statutory declaration of the *applicant* or the *owner* is false;
  - (b) the *special sale* is advertised or conducted in the application or in any manner contrary to the provisions of this By-law; and
  - (c) the *operator* refuses to produce any books, documents, records or other information requested by the inspector, or refuses to permit the *licensing officer* to inspect any goods or *premises* in accordance with the provisions of this By-law.

## **SCHEDULE 23 - RELATING TO TEMPORARY VENDORS**

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### **1. DEFINITIONS**

“Designated Area” means an area designated for the purpose of selling products there from and may include an area designated for the parking of a vehicle or a portable display unit for the purpose of selling products there from;

“Mobile Vendor” means:

- (a) a hawker or pedlar or any person who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards; and
- (b) any corporation, partnership or association which has an employee or agent who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards

“Portable Display Unit” means a push cart or other portable display unit not to exceed 2.32 square metres in dimension approved by this by-law for the purpose of selling products;

“Products” include goods, wares, crafts, jewellery, refreshments, foodstuffs, merchandise or any other items whatsoever;

“Retail” or “retail sale” means the sale of products in the ordinary course of business;

“Sell” means to sell for retail, offer for retail sale, display, place or expose any products for retail sale;

“Vehicle” means a vehicle or push cart from which products are sold; and

“Vending” means: the supplying of any good or service.

### **2. TYPES OF LICENCES**

2.1 The Licensing Officer may issue the following types of licenses in connection with the business of selling products from a portable display unit or selling products by going place to place or to a particular place

- (a) Designated Area Vendor:
- (b) Designated Area Vehicle Vendor
- (c) Designated Area Portable Display Unit
- (a) Hawker or Pedlar.

### **3. NUMBER OF LICENCES**

3.1 A mobile vendor who is the owner or lessee of more than one vehicle that is utilized for selling products shall be issued a vehicle licence plate

for each vehicle that is owned or leased and operated for the purpose of vending.

**4. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER**

- 4.1 No mobile vendor who is the owner or lessee of a vehicle that is utilized for selling products shall fail to affix in a secure and visible manner to the exterior of the vehicle the mobile vendor licence plate(s) issued by the Licensing Officer or as otherwise approved by the Licensing Officer.
- 4.2 No mobile vendor who is the owner or lessee of a vehicle that is utilized for selling products shall fail to affix in a secure manner the licence renewal sticker to the licence plates issued by the Licensing Officer.

**5. LICENSING REQUIREMENTS FOR MOBILE VENDOR**

5.1 In addition to the general requirements for licensing established under the City of Markham Mobile Business Licensing By-law, every applicant for a mobile vendor licence and for the renewal of a mobile vendor licence shall:

- (a) provide the Harmonized Sales Tax (H.S.T.) number registered to the applicant or licensee;
- (b) within forty-eight (48) hours of any change in address, incorporating or partnership documents or other individual information, attend at the offices of the Licensing Section and furnish the Licensing Section with the particulars of the new information, and return their licence for replacement if required;
- (c) provide a list to the Licensing Section of each vehicle to be operated as a vehicle in the mobile vendor business, identifying the same by the make, model year, provincial licence plate number and vehicle identification number (V.I.N.) if any;
- (d) submit all vehicles to be operated in the mobile vendor business for inspection on the date and at the time scheduled by the Licensing Officer.

**6. MOBILE VENDOR PROHIBITIONS**

- 6.1 No mobile vendor shall sell, or cause or offer to sell at any time any product unless such person is in possession of a licence issued pursuant to this by-law.
- 6.2 Any person may apply for a mobile vendor licence:
- (a) to sell products in a designated area specified in the licence;
  - (b) to sell products from a vehicle to be parked in a designated area specified in the licence; or
  - (c) to sell products from a portable display unit to be located in a designated area specified in the license, and
  - (d) to go place to place with products for sale, or to carries and expose samples, patterns or specimens of an product that will be delivered in the municipality afterwards.

6.3 The issuance of a mobile vendor licence shall be subject to the following conditions:

- (a) the applicant shall identify the proposed location for the designated area, and shall provide a letter from the property owner or property manager permitting the use of his/her land for the proposed use;
- (b) every owner of a vehicle or cart operating by propane shall file annually with the City of Markham, a propane inspection certificate signed by a certified propane inspector, confirming that the inspection has been done in accordance with the National Standard of Canada CSA-B149.5-05, and further, all companies performing this task shall be a registered contractor under the *Technical Standards and Safety Act* under the direction of the Ministry of Consumer Services.

6.4 The proposed location for the designated area shall comply with the following criteria:

- (a) no portion of the designated area shall be located on a highway or part thereof;
- (b) no portion of the designated area shall be located directly in front of an entrance or exit from a building;
- (c) the designated area shall be located only on land zoned by the applicable zoning by-law to permit a commercial or industrial use;
- (d) the designated area shall not be located within 500 metres of a business establishment or another designated area in which similar products are sold;
- (e) the designated area shall not be located within 50 metres of a signalized intersection; and
- (f) the designated area shall be set back at least 15 metres of a highway.

6.5 Notwithstanding Section 10 of this Schedule, a licensed vendor may apply for permission to sell products in a City park. Such permission shall be in writing from the appropriate department of the City of Markham and may be subject to restrictions at the discretion of the City.

## **7. EXEMPTIONS**

7.1 A licence to sell products shall not be required if:

- (a) the products are sold by a Registered Charitable Organization, or a City of Markham Service Club at a location approved by the City; and
- (b) the products sold are in conjunction with and part of a community festival of the City of Markham and the vendor has received permission in writing from the organizers of the festival to sell within the celebration area.

## **SCHEDULE 24 - RELATING TO TOBACCO SHOPS**

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**1. DEFINITIONS:**

"Tobacco Shop" means any store or shop where tobacco, cigars or cigarettes are sold by *retail*.