

*This By-law is a consolidated version and includes amendments made by the amending by-laws listed on the following page. This consolidation is prepared for purposes of convenience only and is not the official or legal version of the By-law. For accurate reference to the By-law, certified copies should be obtained through the City Clerk's Office.*

Consolidation Update: November 30, 2023

## **CITY OF HAMILTON**

**By-law No. 07-170**

**A By-law To License and Regulate Various Businesses**

**OFFICE CONSOLIDATION**

# A By-law To License and Regulate Various Businesses

## Consolidated By-law No. 07-170

### Incorporating amendments made by:

**By-Law No:    Effective Date:**

08-099	April 23, 2008	Amendment to Schedule 25, paragraph 64
08-131	May 28, 2008	Housekeeping and technical amendments General Provisions Schedule 1 Schedule 3 Schedule 9 Schedule 17 Schedule 19 Schedule 20 Schedule 21 Schedule 23 Schedule 25 Schedule 30 Schedule 31
08-175	July 10, 2008	Replacement of Appendix 1 of Schedule 25 (Taxi Cabs)
08-186	August 7, 2008	City of Hamilton Licensing Committee name change to Hamilton Licensing Tribunal
08-225	September 24, 2008	Deletion of Schedule 15 (Public Baths)
08-255	October 29, 2008	Amendment to definition of Lodging House
08-267	November 12, 2008	Replacement of Schedule 1 (Adult Entertainment Establishments) and Replacement of Schedule 13 (Personal Aesthetic Services)
08-285	December 10, 2008	Amendment to Schedule 25, paragraph 64
09-024	January 28, 2009	Amendment to Schedule 25, subsection 20
09-026	February 11, 2009	Amendment to Schedule 25, subsection 20
09-039	February 25, 2009	Amendments to General Provisions, section 4; Schedule 13, section 3; and Schedule 25 subsection 20

**By-Law No:    Effective Date:**

09-040	February 25, 2009	Amendment to General Provisions, section 5
09-058	April 1, 2009	Replacement of Appendix 3 of Schedule 25
09-111	May 27, 2009	Amendments to General Provisions, section 11, paragraph 12, section 31, section 32; addition of Schedule 21.1 Hess Village Entertainment District; and repeal of By-Law 06-234
09-152	July 9, 2009	Replacement of Schedule 20 (Residential Care Facilities)
09-156	July 9, 2009	Housekeeping and technical amendments General Provisions Schedule 3 Schedule 10 Schedule 12 Schedule 18 Schedule 19 Schedule 29
09-170	August 13, 2009	Re-enactment of Schedule 20 (Residential Care Facilities)
09-237	November 11, 2009	Amendment to Schedule 25, paragraph 64
10-077	April 14, 2010	Housekeeping and technical amendments General Provisions Schedule 1 Schedule 4 Schedule 25
10-078	April 14, 2010	Replacement of Schedule 20 (Residential Care Facilities)
10-106	May 12, 2010	Amending to Schedule 29, provide for licensing of Sprinkler and Fire Protection Installers
10-126	May 26, 2010	Replacement of Appendix 3 of Schedule 25
10-198	August 12, 2010	Replacement of Schedule 26 (Mobile Sign Leasing or Renting)
10-314	December 15, 2010	Replacement of Schedule 21 (Food Premises) and deletion of Schedule 21.1
11-017	January 12, 2011	Addition of Schedule 15 (Personal Wellness Services Establishments)

**By-Law No:    Effective Date:**

11-111	April 13, 2011	Housekeeping and technical amendments General Provisions Schedule 1 Schedule 4 Schedule 12 Schedule 14 Schedule 16 Schedule 22 Schedule 23 Schedule 25 Schedule 26 By-law 10-221
11-125	May 11, 2011	Housekeeping and technical amendments to Schedule 25 with respect to the Priority List
11-142	May 25, 2011	Replacement of Schedule 1 (Adult Entertainment Establishments)
11-230	September 28, 2011	Housekeeping and technical amendments General Provisions Schedule 25 By-law 10-142 By-law 10-118 By-law 10-197 By-law 10-260
12-021	January 25, 2012	Replacement of Schedule 22 (Salvage and Second-Hand Goods, Pawnbroker, and Jewellery and Precious Metals Businesses), Deletion of Schedules 6, 11, and 14
12-069	March 28, 2012	Replacement of Schedule 3 (Bed and Breakfasts, Hotels and Motels)
12-101	April 25, 2012	Amendments to the General Provisions to have the Licensing Tribunal make the final decision to refuse, suspend, revoke or attach conditions to a licence instead of Council.
12-118	May 25, 2012	Addition of New Schedule 28 (Tow Trucks)
12-150	June 27, 2012	Deletion of Schedule 19 (Refreshment Vehicles) and addition of Schedule 6 (Food Service Vehicles)
12-219	October 10, 2012	Amendments to Schedule 20 (Residential Care Facilities)

**By-Law No:    Effective Date:**

12-249	November 14, 2012	Amendments to Schedule 25 (Taxicabs) to have accessible taxicab owner licenses issued in 2013 and 2014
12-250	November 14, 2012	Amends Schedule 22 (Salvage and Second-Hand Goods, Pawnbroker, and Jewellery and Precious Metals Businesses), Section 5
13-060	February 27, 2013	Amends Schedule 25 (Taxicabs), Sections 55 – 59
13-081	March 27, 2013	Amends Schedule 28 (Tow Trucks)
13-302	December 11, 2013	Amends Schedule 25 (Taxicabs), Appendix 1, Tariff/Fares
14-119	May 14, 2014	Amends Schedule 6 (Food Service Vehicles)
14-181	July 11, 2014	Amends Schedule 25 (Taxicabs)
15-130	May 13, 2015	Amends Schedule 21 (Food Premises)
15-232	October 14, 2015	Amends Schedule 3 (Bed and Breakfasts, Hotels and Motels)
16-053	February 24, 2016	Addition of Schedule 11 (Payday Loan Businesses)
16-105	April 13, 2016	Amends General Provisions by deleting the following Licensing Categories: Building Exterior Cleaners (Schedule 5) Mobile Home s and Mobile Home Parks (Schedule 10) Sign Posters and Bill Distributors, Etc. (Schedule 24)
17-011	January 25, 2017	Amends General Provisions
17-012	January 25, 2017	Amends Schedule 25 – Taxicabs
17-013	January 25, 2017	Provides for the addition of Schedule 24 to Licence Personal Transportation Providers
17.054	March 29, 2017	Delete and replace Schedule 22 – Auctioneers
17-055	March 29, 2017	Delete Schedule 18 – Recreational Camping Establishments
17-056	March 29, 2017	Delete and replace Schedule 27 – Tobacco Retailers
17-069	April 26, 2017	Delete and replace Schedule 7 – Kennels and Pet Shops
17-116	June 14, 2017	Delete and replace Schedule 6 – Food Service Vehicles

**By-Law No:    Effective Date:**

17-128	June 28, 2017	Delete and replace Schedule 22 Second-Hand Goods, Jewellery and Precious Metals (remove Salvage Businesses and Pawnbrokers)
17-129	June 28, 2017	Add Schedule 5 – Pawnbrokers
17-130	June 28, 2017	Add Schedule 10 – Salvage Businesses
17-216	October 25, 2017	Amends Schedule 21 - Food Premises (Hess Village)
17-251	November 22, 2017	Amends Schedule 8 -Limousines
17-259	December 8, 2017	Amends Schedule 25 - Taxicabs
18-040	February 28, 2018	Amends Schedule 25 - Taxicabs (Accessible Taxi Plates)
18-041	February 28, 2018	Amends Schedule 25 – Taxicabs (Replace Appendix 1 (Taxicab Tariff/Fares Meter and By Agreement Rates)
18-042	February 28, 2018	Delete and Replace Schedule 11 (Payday Loan Businesses)
18-111	May 9, 2018	Delete and Replace Schedule 21 (Hess Village Paid Duty Policing)
18-212	August 17, 2018	Amend Schedule 1 (Adult Entertainment Establishments)
18-252	September 12, 2018	Amend Schedule 24 (Personal Transportation Providers) and Schedule 25 (Taxi Cabs)
18-320	December 19, 2018	Delete and Replace Schedule 21 (to include Drive-Thru Facilities)
19-175	July 12, 2019	Add Schedule 14 – Tree Cutting Services
19-258	October 23, 2019	Add 90 Centennial Parkway North as (ee) to Schedule 11
20-033	February 26, 2020	Delete Map 2 from Schedule 1 and Schedule 4
20-128	June 24, 2020	Amend Schedule 24 - Personal Transportation Providers

**By-Law No:    Effective Date:**

20-180	August 21, 2020	Repeal and Replace definition of “Director of Licensing” Include definition of Hearing Officer Add Section 12a – License on Terms and Conditions Add Section 18a – Temporary Suspensions without a Hearing
21-166	September 29, 2021	Add Schedule 31 – Rental Housing Units
21-217	November 24, 2021	Add definition of “inspection log” to Section 20 Add subsection (vii) to Schedule 20, subsection 12(f) Add subsection (j) to Schedule 20, subsection 12
22-102	April 27, 2022	Amend Appendix 1 of Schedule 25
22-248	September 28, 2022	Amend Appendix 1 of Schedule 25 by adding “Request for a Van (non-accessible) fare (per trip)
23-005	January 25, 2023	Add Schedule 32 – Short-Term Rentals

## CITY OF HAMILTON

### CONSOLIDATED BY-LAW NO. 07-170

#### A By-law to License and Regulate Various Businesses

**WHEREAS** Council considers it in the public interest to enact a by-law to license regulate and govern various classes of businesses, and to repeal the existing City of Hamilton Licensing Code being City of Hamilton By-law No. 06-213, as amended;

**AND WHEREAS** Part IV of the Municipal Act, 2001 allows the enactment of by-laws to license, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses;

**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 as this By-law and Municipal Act, 2001 provide;

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

**AND WHEREAS** Sections 390 to 400 of the Municipal Act authorize a municipality to pass by-laws imposing fees or charges for services or activities provided or done by them;

**AND WHEREAS** pursuant to Section 151(1)(g) of the Municipal Act, Council considers it desirable to provide for a system of administrative penalties and fees as an additional means of encouraging compliance with this By-law;

**AND WHEREAS** Council is satisfied that a public meeting and reasonable public notice have been given for enactment of this by-law in accordance with the Municipal Act, 2001;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:



## GENERAL PROVISIONS

### DEFINITIONS and APPLICATION

1.(1) In this By-law:

- (a) "**applicant**" means a person applying for a licence or renewal of a licence thereof under this By-law;
- (b) "**business**" has the same meaning as provided in section 150 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended;
- (c) "**City**" means the City of Hamilton as constituted by section 2 of the *City of Hamilton Act, 1999*, S.O. 1990, c.14, Schedule C;
- (d) "**City Council**" or "**Council**" means the council of the City of Hamilton;
- (e) "**City Treasurer**" means the treasurer of the City;
- (f) "**conditions**" includes special conditions which are conditions 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;
- (g) "**Director**" or "**Director of Licensing**" means the Director of Licensing and By-law Services for the City, or their designate;<sup>(20-180)</sup>
- (h) "**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;
- (i) "**Hearing Officer**" means a person from time to time appointed by Council pursuant to the City's Administrative Penalty By-law;<sup>(20-180)</sup>

- (j) "**Licensing Tribunal**" means the Hamilton Licensing Tribunal established under subsection 3(1);
  - (k) "**Municipal Officer**" except where otherwise indicated, means an employee of the Parking and By-law Services Division of the Planning and Economic Development Department who is assigned by the Director of Licensing to enforce the provisions of this By-law;<sup>(17-011)</sup>
  - (l) "**person**" includes an individual, partnership, corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
  - (m) "**policies**" or "**policy**" means policies or a policy approved by Council under section 15;
  - (n) "**private club**" means an establishment which is maintained and operated by a not-for-profit corporation or unincorporated association solely for the benefit and enjoyment of its members, and which has adopted by-laws or policies regulating the admission of persons to the corporation or association, the classes and conditions of membership, the suspension and termination of membership, the qualification and membership of directors and their manner of election, and the holding of an annual general meeting of members, and which requires the payment of fees and dues by members on an annual basis, and which issues cards or other documents to members which state the name of the member and the date on which his or her membership expires;
  - (o) "**Secretary**" means the secretary of the Licensing Tribunal; and
  - (p) "**Schedule**" shall be a reference to one or all the Schedules listed in section 30, as the context requires.
- (2) Except where otherwise provided, the provisions of this By-law apply to the engaging in or carrying on, in the City of Hamilton, of any of the businesses regulated by this By-law.

- (3) This By-law is subject to the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30.

## ADMINISTRATION

2. Subject to the terms of this or other by-laws, or the directions of Council:

(a) Administration of this By-law shall be by the staff of Licencing and By-law Services Division of the Planning and Economic Development Department of the City. <sup>(19-</sup>

175)

(b) Enforcement of this By-law shall be by:

(i) persons assigned by the Director of Licensing or Council for the purpose of enforcing the provisions of this By-law which shall include the following:

a. municipal law enforcement officers; and

b. inspectors appointed pursuant to the *Building Code Act, 1992*, S.O. 1992, c.23; and

(ii) police officers.

3.(1) A tribunal, composed of not fewer than three members of Council who are appointed by resolution of Council, is established pursuant to section 23.2 of the Municipal Act, 2001, under the name "Hamilton Licensing Tribunal".

(2) The Licensing Tribunal shall select one of its members as a Chair.

(3) For the purposes of subsection (2), the Licensing Tribunal shall apply the by-laws of the Council and have the powers, duties and rights as applicable under the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22.

- (4) There shall be a Secretary to the Licensing Tribunal, who may be assigned administrative duties by the Tribunal.
  - (5) The Secretary shall attend all meetings of the Licensing Tribunal and shall keep all necessary records and perform such other duties as may from time to time be required by the Licensing Tribunal.
- 4.(1) The duties of the Director of Licensing include ensuring:
- (a) that the applicant, except an applicant for a licence as an attendant under Schedules 1 or 4 or as a driver under Schedule 25, is the owner or operator of the business and "owner" or "operator", unless otherwise defined in the applicable Schedule, means a person who has responsibility for carrying out the business including but not limited to:
    - (i) having the right to possess or occupy the premises where the business is carried on;
    - (ii) having significant financial responsibility for the business such as responsibility for accounts payable and accounts receivable;
    - (iii) managing any employees of the business such as hiring or firing such employees;
    - (iv) having responsibility for the business under a permission granted by the federal or provincial governments such as a liquor licence (Liquor Licence Act) or a vendor's permit (Retail Sales Tax Act).
  - (b) that applications are on the form applicable to the category of licence applied for, 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) that the applicant has paid the fees required for the applicable licence(s) and application, for the term of the licence, prior to processing the application; and

- (d) where a limited number of licences may be issued or transferred, that there is a licence approved or available for issuance or transfer.
- (2) Where an application or applicant fails to comply with the requirements of paragraphs 1(a), (b) or (c), or the Director of Licensing' instructions in that regard, or where no licences are available to be issued or transferred under paragraph 1(d), the application shall not be processed and shall be returned to the applicant.
- (3) Where the application is returned under subsection (2), the applicant may be:
- (i) given the application and advised personally; or
  - (ii) sent the application by regular mail to the applicant's address as disclosed by the application or to their last known address and advised by an accompanying letter.
- (4) When the Director of Licensing has refused to issue a licence under section 12 and the applicant has not requested a hearing in accordance with subsection 13(1), no further application from the applicant for the same category of licence shall be processed by the Director of Licensing for one year from the date of the refusal. Any such further application shall be returned to the applicant in accordance with subsection (3).
- (5) Notwithstanding subsection (4), where the only reason for the refusal is the failure of premises to meet one or more requirements under this By-law, a further application may be processed if the premises, whether they are the same or different premises, meet all requirements under this By-law. Any such further application is subject to all of the requirements under this By-law including the requirements under this section.
- (6)(a)  
Notwithstanding any of the provisions of this By-law that apply to an applicant for a licence that is:

- (i) a partnership, the Director of Licensing may issue a licence to a partnership provided that at least one partner, or other individual affiliated with the partnership as determined by the Director of Licensing, satisfies such applicable provisions;
- (ii) a corporation, the Director of Licensing may issue a licence to a corporation provided that at least one director, officer, or other individual affiliated with the corporation as determined by the Director of Licensing, satisfies such applicable provisions.

(b) Paragraph (a) does not apply to Schedules 1, 4 or 25.

### **LICENCE APPLICATIONS AND FEES**

5.(1) An applicant for a licence shall file the application, materials and fees, and in the case of a licensee renewing a licence, shall file the certifications, materials and fees, required to be supplied under the terms of this By-law.

(2) The applicant shall be responsible for ensuring that:

- (a) all forms are properly completed and signed where necessary;
- (b) truthful information is provided in forms required, or in responses supplied to enquiries made under this By-law;
- (c) prior to issuance of the licence, any correction of information supplied under paragraph (a) or (b) is brought to the attention of the Director of Licensing in writing; and
- (d) all necessary and required information, materials and fees are delivered to the Director of Licensing, including unpaid fines for Fees for Service or unpaid fines imposed under the Provincial Offences Act;<sup>(17-011)</sup>

(3) An applicant may withdraw the application prior to issuance of the licence.

- (4) A person issued more than one licence under this By-law for the same premises at the same time shall only be required to pay the fee for the licence with the highest fee.
  - (5) A person holding a current and valid licence under this By-law who is issued a further licence for the same premises shall only be required to pay the administration portion of the fee plus any inspection fee for the further licence.
  - (6) Notwithstanding subsections (4) and (5), a person issued a *Payday Loan Business Licence under Schedule 11*(16-053) or a Tobacco and Electronic Cigarette Retailer <sup>(17-056)</sup> licence under Schedule 27 of this By-law shall be required, under all circumstances, to pay the fee for that licence.
- 6.(1) The applicant shall make a written application for a licence, and shall include in or with the application:
- (a) the particular class or classes of licence applied for;
  - (b) the full name, home address and telephone number of the applicant;
  - (c) any other information as may be required for the kind and class of licence by the Schedules, or as may be required by the Director of Licensing to identify the applicant, the business and its owner or operator, and the nature of the business which the applicant proposes to license, including any premises or vehicle, cycle or cart to be used;
  - (d) where the application is for renewal of a licence, the applicant shall either supply completed and executed certifications on the form provided to the effect that there is no change to the information as supplied in the previous application and previous records of conviction required under this By-law, or shall provide either a new application or a written and signed list of the changes in the required information from the previous application, as may be requested by the Director of Licensing; and
  - (e) applicants shall supply with the application, the following information:

- (i) an applicant for a licence under
- |             |   |
|-------------|---|
| Schedule 1  | Adult Entertainment Establishments  |
| Schedule 2  | Auctioneers   |
| Schedule 3  | Bed and Breakfasts, Hotels and Motels   |
| Schedule 4  | Body Rub Parlours   |
| Schedule 5  | Pawnbrokers <sup>(17-129)</sup>   |
| Schedule 6  | Food Service Vehicles   |
| Schedule 9  | Lodging Houses  |
| Schedule 10 | Salvage Businesses <sup>(17-130)</sup>  |
| Schedule 11 | Payday Loan Businesses <sup>(16-053)</sup>                                      |
| Schedule 12 | Pedlars   |
| Schedule 14 | Tree Cutting Services <sup>(19-175)</sup>                                       |
| Schedule 16 | Public Garages - Classes A, B1, B2 and B3 only                                  |
| Schedule 20 | Residential Care Facilities   |
| Schedule 22 | Second-Hand Goods, Jewellery and Precious Metals Businesses <sup>(17-128)</sup> |
| Schedule 24 | Personal Transportation Providers <sup>(17-013)</sup>                           |
| Schedule 25 | Taxicabs - Cab Broker only  |
| Schedule 29 | Trades  |
| Schedule 30 | Transient Traders   |
| Schedule 32 | Short Term Rentals <sup>(23-005)</sup>  |
- shall submit, as part of their application for a licence:

- a. the applicant's original criminal record, provided that if no original criminal record exists, the applicant shall submit instead original certification from the police that no such record exists; and
- b. a list of any criminal or provincial offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original criminal record submitted.

(ii) an applicant for a licence under

Schedule 8	Limousines
Schedule 25	Taxicabs - Taxicab Driver and Taxicab Owner only
Schedule 28	Tow Trucks

shall submit, as part of their application for a licence:

- a. the applicant's original criminal and driving records provided that if no original criminal record exists, the applicant shall submit instead original certification from the police that no such record exists; and
- b. a list of any criminal, provincial or driving offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original criminal or driving record submitted.

(iii) a licensee under

Schedule 8

Limousines

Schedule 25

Taxicabs - Taxicab Driver and  
Taxicab Owner only

shall submit, as part of their application to renew a licence:

- a. the applicant's original driving record; and
  - b. a list of any driving offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original driving record submitted.
- (iv) a licensee seeking to renew a licence for the classes set out in subparagraph (i) or (ii) above, where a change of information has been noted in the criminal, provincial or driving record as applicable, shall upon request of the Director of Licensing submit the records and information required by subparagraph (i) or (ii) as applicable, with the application for renewal.
- (2) The application and required materials shall be delivered in person by the applicant to the Director of Licensing, together with the applicable fees.
  - (3) Where the applicant for a licence application is a partnership, the application shall include the names and addresses of all partners, and each partner shall supply the information required under subparagraphs (1)(e)(i) and (ii).
  - (4) Where the applicant for a licence is a corporation, the application shall include the names and addresses for all directors and officers, and each director and officer of the corporation shall supply the information required under subparagraphs 1(e)(i) and (ii).
  - (5) A criminal record, driving record or other document referred to in subparagraphs 1(e)(i) or (ii) shall be dated not more than 36 days prior to the date on which the application is filed with the Director of Licensing.

- (6) (a) Every person who is a licence holder under this By-law shall ensure that they renew the licence before it expires.
  - (b) In the event a licence holder fails to renew their licence before it expires, they may renew their licence no more than 60 days after it expires provided that they pay, in addition to the applicable licence fee, the applicable late payment fee.
  - (c) No licence shall be renewed more than 60 days after it expires.
- (7) Where any premises or part thereof are to be used for a purpose requiring authorization by licence, the applicant shall ensure the application includes an accurate and complete description of such premises or of the part to be authorized to be so used, including the address and telephone number of the location, and shall make a separate application for each separate premises to be licensed.
- (8) Where a motor vehicle is to be used for a purpose requiring authorization by licence, the applicant shall ensure the application includes a sufficient description of such vehicle, including the make, the model, the licence plate number, and the vehicle identification number, and shall make a separate application for each vehicle to be licensed.
- 7.(1) In this section, "licence" means a licence for a business of the following classes, which is not a renewal or transfer of a current and valid licence under this By-law: a flea market under Schedule 6, a lodging house under Schedule 9, any class of garage under Schedule 16, a public hall, bingo parlour, roller skating rink, billiard parlour or pool room under Schedule 17, a residential care facility under Schedule 20, or an eating establishment under Schedule 21.
- (2) Every person seeking a licence for the proposed business, shall submit a plot plan in a form satisfactory to the Director of Licensing, together with the fees and documents required for a zoning verification certificate, and submit the zoning verification certificate obtained as part of the application.

- 8.(1) The applicable licence fee for each class or type of licence shall be the fee prescribed for each Schedule in the User Fees and Charges By-law for such type or class of licence or application, and shall be considered an annual fee unless this By-law specifies otherwise.
- (2) Subject to subsection (4), applicants and licensees shall pay the fees prescribed for the application and licence applied for, and their licence when issued shall expire one year later, on the anniversary of the date of issuance, unless the applicable Schedule or this By-law provides for a shorter term.
- (3) Where a licence is renewed, before, on or after its date of expiry, the date of issuance as shown on the renewed licence shall be the date of expiry of the expired licence.
- (4) Where a licence has been issued or renewed subject to the fulfillment of a condition imposed by the Director of Licensing or the Licensing Tribunal, and the applicant or licensee has failed to fulfil such condition within the time specified, the applicant or licensee shall pay an additional fee of \$100.00 before the licence may be continued.
- (5) In spite of the expiry date determined under subsection (2), a licence shall expire:
  - (a) when the licence is revoked or suspended under this By-law;
  - (b) where the licensee ceases to be the owner or operator as defined in paragraph 4(1)(a);
  - (c) where the licence is issued to an individual, on the date of death of the individual, provided that a taxicab owner's licence issued under Schedule 25 shall expire in accordance with section 47 of that Schedule;
  - (d) where the licence is issued to a partnership or corporation, on the date of dissolution of the partnership or corporation;

- (e) where any federal, provincial or municipal licence, including a permit, an approval, a registration or any other type of permission, required for the licensee to carry on or engage in their business has been revoked, suspended or has expired without renewal; or
  - (f) where the licensee has been prohibited from carrying on or engaging in their business under federal, provincial or municipal authority including under authority of a court order.
- (6) Refunds of paid licence fees may be made, in the following amounts and circumstances:
- (a) Where the applicant prior to processing the licence under section 11 withdraws an application for a licence, a refund of the licence fee may be made to the applicant;
  - (b) Subject to paragraph (e), where an application for a licence is withdrawn by the applicant after processing the licence under section 11 and before issuance, a refund of the licence fee may be made to the applicant;
  - (c) Subject to paragraph (e), where a licence or renewal of a licence is refused or denied, a refund of the licence fee may be made to the applicant;
  - (d) Where a licence is revoked, a refund may be made of the proportionate amount of the unexpired portion of the term of the licence; and
  - (e) In the case of an application for a licence other than a renewal, the processing fee as set out in the User Fees and Charges By-law is non-refundable, in the event the application is withdrawn or the licence is not issued, and for the sake of clarity in this subsection, "renewal" means renewal by the current licensee of the previous year's licence without change.
- (7) The licensee, or the licensee's legal representative where the licensee has died, shall return the licence certificate, plate, sticker or photo identification to the Director of Licensing:

- (a) where a licence that has expired under paragraph (5)(a), unless the licence certificate has been returned to the City at the earlier request of the Director of Licensing, within seven days of the date of approval of the suspension or revocation by Council;
  - (b) where a licence that has expired without renewal under subsection (2) or expired under paragraphs (5)(b), (c), (d) or (e), within seven days of the date of the expiry; or
  - (c) where the business licensed under this By-law ceases to operate, within seven days of the date it ceases to operate.
9. Fees shall be paid by the licensee for replacement of:
- (a) a licence certificate,
  - (b) photo identification, and
  - (c) a licence plate,
- in accordance with the User Fees and Charges By-law.
10. Where the City provides any form or other document to a person that requires the insertion of information, the form or document whether or not containing the inserted information in whole or in part, shall be and remain the property of the City.

## **ISSUANCE of LICENCES**

- 11.(1) The Director of Licensing upon receipt of a proper, completed application and payment of fees for a licence under this By-law shall circulate the application to such City or provincial departments or agencies as the Director of Licensing deems necessary or as directed by Council, including but not limited to the Fire Department, Hamilton Police Services, the Planning and Economic Development Department, Public Health Services and the Public Works Department.
  - (2) Departments or agencies to which the application is provided under subsection (1) shall review obtainable information and provide the Director of Licensing with comments or compliance reports on whether the information indicates non-compliance with an applicable law which the department or agency enforces and which applies to the proposed business, and where an inspection is made, shall provide the Director of Licensing with a report on any non-compliance found as a result of that inspection.
  - (3) Where, under this By-law an applicant or licensee is to be tested, the City department responsible for the testing shall conduct the test or provide an opportunity for taking the test, and provide the Director of Licensing with the test results.
  - (4) Applicants and licensees, as a condition of obtaining or continuing to hold a licence, shall permit inspections or inquiries by representatives of the departments or agencies circulated under subsection (1) as may be reasonably requested, and shall undertake the tests referred to in subsection (3).
  - (5) Fees which are required to be paid for the making of an inspection or the conducting of a test under subsections (3) and (4) as prescribed in the User Fees and Charges By-law may be collected by the Director of Licensing before a licence is issued or renewed.
  - (6) The Director of Licensing may send notice of the comments or other response from the departments or agencies received under this section to the applicant or licensee.
- 12.(1) The Director of Licensing shall refuse to issue a licence or may recommend the suspension or revocation of a licence when:

- (a) in the case of a refusal:
  - (i) a policy under section 15 requires a refusal;
  - (ii) any federal, provincial or municipal licence, including a permit, an approval, a registration or any other type of permission, required for the applicant to carry on or engage in their business has not been issued or has been suspended, revoked or has expired; or
  - (iii) the applicant has been prohibited from carrying on or engaging in their business under federal, provincial or municipal authority including under authority of a court order;
- (b) in the case of a recommendation:
  - (i) the licensee has not actively carried on the business for which the licence was obtained within a reasonable period of time following the issuance or renewal of the licence; or
  - (ii) a policy under section 15 becomes applicable and would require a refusal or the issuance of a conditional licence if the licensee were applying for a licence; or
- (c) in the case of refusal or a recommendation, the applicant or the licensee:
  - (i) has not met any of the requirements under this By-law including the applicable Schedule or any conditions on the licence;
  - (ii) has provided information in an application or by other means that is false or misleading;
  - (iii) has not paid any fee to be paid under this By-law including the applicable Schedule;
  - (iv) has not paid any fine or court awarded costs resulting from a legal proceeding related to this By-law or the applicable Schedule;
  - (v) has not complied with any prohibition or other court order resulting from any legal proceeding related to this By-law or the applicable Schedule; or
  - (vi) in the opinion of the Director of Licensing:

1. the operation of the applicant's or licensee's business would put the public safety at risk;
  2. the operation of the applicant's or licensee's business is not or will not be carried on in compliance with the law; or
  3. the conduct of the applicant or licensee (in the case of partnership, the conduct of its partners, employees or agents or in the case of a corporation, the conduct of its officers, directors, employees or agents) affords reasonable grounds for belief that the applicant or licensee will not carry on or engage in the business in accordance with the law or with honesty or integrity.
- (2) The Director of Licensing may issue a licence:
- (a) upon conditions specified as required by a policy under section 15 when paragraphs 12(1)(a) and 12(1)(c) do not apply; or
  - (b) when paragraphs 12(1)(a), 12(1)(c) and 12(2)(a) do not apply.

### **License on Terms and Conditions**

12a(1)<sup>20-180</sup> Notwithstanding any other provision of this By-law, the Director may impose terms and condition as they believe reasonable in the circumstances on any licence at issuance, at renewal, or at any time during the licence period, which may include, but are not limited to conditions stipulating: the hours of operation; the maximum number of persons permitted to attend at the premises; the conduct of outdoor patio operations other than those set out in this By-law; payment of outstanding fines; or that the licensee shall have employees in attendance at the premises during hours of operation to ensure compliance with this By-law and the conditions on the licence.

- (2) It shall be a condition of every licence that the licensee shall comply with all provisions of this By-law, other by-laws and all provincial and federal legislation, as applicable.

(3) The licensee shall:

(a) ensure compliance with this By-law by every other person involved in carrying out the business

(b) at all times maintain and keep clean, safe, in good condition and repair the place or premises for which a licence has been issued under this By-law;

(c) not cause, tolerate or permit shouting, noise or disturbance on, in or in connection with the place or premises for which a licence was issued, which is unnecessary, unreasonable or contrary to any by-law prohibiting the same, and if such shouting, noise or other disturbance occurs, the licensee shall at once take immediate steps to cause the shouting, noise or disturbance to be abated;

(d) not cause, tolerate or permit any profane, offensive or abusive language in connection with any place or premises for which the licence was issued;

(e) not cause, tolerate or permit any obstruction on any highway, sidewalk, lane or public place in front of or adjoining the place or premises for which the license was issued, unless approved by the Director; and

(f) not cause, tolerate or permit any expansion(s) or addition(s) in connection with the place or premises for which a licence was issued without first obtaining the approval of the Director.

(4) Before the Director imposes any further conditions on a licence, the applicant or licensee shall be advised orally which additional conditions the Director proposes to add to the licence and they shall be given an opportunity to respond orally. The director may then immediately impose additional conditions on the licence subsequent to which the

Director shall provide written notice to the applicant or the licensee advising:

- (a) the grounds for the conditions;
- (b) the reasonable particulars of the conditions; and
- (c) that the applicant or licensee is entitled to a hearing before a Hearing Officer

(5) Where an applicant or licensee is dissatisfied with any condition imposed by the Director, the applicant or licensee may request a review by the Hearing Officer in accordance with this section 12a and in accordance with the procedures and fees outlined in the City of Hamilton's Administrative Penalties By-law, with necessary modifications.

- (a) A person may appeal the Director's conditions by submitting a written request to the Director no later than fifteen (15) days after the date on which the Director's decision is given to them. A person may not request that a Hearing Officer extend the time to appeal after the fifteen (15) days, at which time the Director's decision is final and not subject to review.
- (b) The person shall be given no fewer than fifteen (15) days' notice of the date, time and place of the hearing of the review request under this subsection.
- (c) The Hearing Officer shall not make a determination with respect to a review request under this By-law unless the Hearing Officer has given each of the applicant or licensee and the Director an opportunity to be heard.
- (d) The Hearing Officer shall give the written decision to the applicant or licensee at the conclusion of the hearing and may remove the conditions, affirm the Director's conditions or impose different conditions that the Hearing Officer sees fit as a

condition of obtaining, continuing to hold or renewing the licence.

(e) If the applicant or licensee is dissatisfied with the final decision of the Hearing Officer, the licence shall be deemed revoked or failed to be issued pursuant to section 13 and the applicant or licensee shall be entitled to a hearing before the Licensing Tribunal, pursuant to section 14.

(f) A request by an applicant or licensee for a hearing shall be made in writing, accompanied by the applicable fee and delivered to the Secretary within 30 days of the date contained in the written decision of the Hearing Officer. The applicant or licensee shall also include the grounds for their request.

13.(1)(a) When the Director of Licensing refuses to issue a licence, the Director of Licensing shall send a dated notice of refusal to the applicant and the Secretary which includes the grounds upon which the licence is being refused.

(b) An applicant who receives a notice of refusal is entitled to request a hearing before the Licensing Tribunal.

(c) A request by an applicant for a hearing shall be made in writing, accompanied by the applicable fee and delivered to the Secretary within 30 days of the date contained in the notice of refusal. The applicant shall also include the grounds for their request.

(2)(a) When the Director of Licensing has recommended the suspension or revocation of a licence, the Director of Licensing shall send a dated recommendation to suspend or revoke to the licensee and the Secretary which includes the grounds upon which the recommendation is being made.

(b) A licensee who receives recommendation to suspend or revoke is entitled to a hearing before the Licensing Tribunal.

14.(1) Where a request for a hearing meeting the requirements of paragraph 13(1)(c) or a

recommendation to suspend or revoke has been delivered to the Secretary under paragraph 13(2)(a), a hearing shall be scheduled before the Licensing Tribunal and notice of the hearing date shall be given to the parties.

(2) The parties to a hearing to refuse a licence are the applicant and the City and to a hearing to suspend or revoke a licence are the licensee and the City.

(3) A notice of hearing shall include:

- (a) a statement of the time, date and purpose of the hearing; and
- (b) a statement that if the applicant or licence holder does not attend the hearing, the Licensing Tribunal may proceed in their absence without notice to them.

(4) A notice of refusal or a notice of hearing may be delivered personally to a person apparently in charge of a licensed premises, vehicle, cart or cycle or by sending it by prepaid registered mail to the last known address of the applicant or licensee on file with the City. Delivery by registered mail shall be deemed to have taken place five business days after the date of mailing.

15.(1) The Director of Licensing shall use and apply the policies, where applicable, to the decision to deny or approve licences with or without conditions, or to recommend revocation or suspension of licences, which policies are attached as Appendices "A" and "B" to these General Provisions.

(2) Director of Licensing may, at a hearing, recommend that a licence be refused, suspended or revoked or the imposition of conditions.

16.(1) The Licensing Tribunal shall hold a hearing at the time, date and place set out in a notice of hearing.

(2) A hearing shall be commenced by the Licensing Tribunal on or before 60 days from the date of delivery of a notice of hearing subject to a decision of the Licensing Tribunal to extend the time for commencing a hearing.

17.(1) Upon holding an appeal from a refusal to issue a licence or a hearing to suspend or revoke a licence, the Licensing Tribunal may:

- (a) uphold the refusal to issue the licence;
- (b) suspend or revoke the licence; or
- (c) attach conditions to the licence.

(2) Conditions attached to a licence may include but are not limited to requiring the applicant or licensee:

- (a) comply with by-laws or other laws and provide proof of such compliance;
- (b) pay a fine or other court awarded costs resulting from a legal proceeding related to this By-law or the applicable Schedule and to provide proof of such payment;
- (c) comply with a prohibition or other court order resulting from a legal proceeding related to this By-law or the applicable Schedule and to provide proof of such compliance;
- (d) change the hours of operation of their business;
- (e) take or re-take a test required under this By-law;
- (f) supply additional information on criminal, provincial or driving convictions or periodic updates of such convictions or both;
- (g) supply information to verify evidence given at their hearing; or
- (h) ensure that the persons carrying on their business do so in accordance with the law or with honesty and integrity.

(3) The Licensing Tribunal shall have regard to the following matters where relevant, as may be raised at a hearing:

- (a) this By-law and other applicable law;
- (b) circumstances and facts raised by the evidence of the parties;

- (d) if the business puts or could put public safety at risk; and
- (e) if the business is or will be carried on in compliance with the law, and whether the conduct of the person (in the case of a partnership, the conduct of its partners, employees or agents or in the case of a corporation, the conduct of its officers, directors, employees or agents) affords reasonable grounds for belief that the person will not carry on or engage in the business in accordance with the law or with honesty or integrity.

(4) The Licensing Tribunal's decision in respect of refusing, suspending, revoking or attaching conditions to a licence is final.

18.(1) After the Licensing Tribunal has made a decision in respect of a hearing, notice of that decision shall be sent to the applicant or licensee by personal delivery or by registered mail to the last known address of the applicant or licensee on file with the City.

(2) Where the decision of the Licensing Tribunal is:

- (a) to issue a licence or conditional licence, the Director of Licensing shall issue the licence or the conditional licence, on the terms directed by the Licensing Tribunal; or
- (b) to refuse or revoke a licence, any further hearing with respect to that licence shall be not considered for one year from the date of the Licensing Tribunal's decision.

18a<sup>20-180</sup> (1) Notwithstanding the above, a licence issued under the authority of this By-law may be temporarily suspended upon such grounds and in accordance with such procedural provisions as are set out in this section 18a.

(2) Temporary suspensions of a licence may be for a maximum period of fourteen (14) days. If the violation has been corrected to the satisfaction of the Director prior to the expiry of the suspension, the licence may be reinstated.

(3) Temporary suspensions may be initiated by the Director in any situation that has

resulted, or may reasonably be expected to result, in a danger to health or safety of persons or property, and without limiting the generality of the foregoing, these situations may include:

- (a) where the licensee (which includes, for the purposes of this By-law, any of its owners, operators, officers, directors, employees, sub-contractors, agents or representatives) has breached any law including any City by-law;
  - (b) where the licensee has done anything that is in any way adverse to the public interest;
  - (c) where a motor vehicle is deemed to be mechanically unsafe, including but not limited to body damage with sharp edges, holes in the floor boards, unserviceable tires, doors not closing properly, wire protruding from the seat or any other mechanical defect that would render the motor vehicle unsafe;
  - (d) where an inspection has been performed on a motor vehicle for transfer of a licence and the licensee fails to effect the transfer, the licence shall be suspended should the operator carry on business with the replacement vehicle;
  - (e) where a leasing agreement has expired and the lessee has failed to renew it, the licence may be suspended if the licensee continues to work while the licensing agreement is expired, and the licensee does not have the authority to remain on the premises;
  - (f) where a licensee's liability insurance has expired and he or she continues to carry on business for which the licence was issued, the licence shall be suspended; or
  - (g) any other situation or circumstance that constitutes, in the discretion of the Director, a danger to health or safety.
- (4) Prior to suspending a licence, the Director shall provide the licensee with the reasons for the suspension either orally or in writing and an opportunity to respond to them.
- (5) The Licensing Tribunal will be advised on a quarterly basis of all suspension

actions initiated summarily.

(6) The suspension of a licence pursuant to this section is lifted after the expiration of two (2) weeks from the date of suspension or at the discretion of the Director any time prior to the expiration.

(7) Where a licence has been suspended or revoked, no person shall refuse to deliver the licence to the Director or shall in any way prevent or hinder the Director from receiving or taking the licence.

(8) No licensee shall operate or carry on the business for which the licence was issued while the licence is under suspension.

## **GENERAL and OFFENCES**

19.(1) Every licence certificate shall be in such form as may from time to time be authorized by the Director of Licensing and shall show on its face:

- (a) the kind or class or classes of licence issued;
- (b) the date of expiry;
- (c) whenever the licence authorizes the use of any premises or part or parts thereof for the purpose of the licensed business, identification of such premises or part or parts; and
- (d) wherever the licence authorizes the use of a vehicle, cycle or cart, identification of the vehicle, cycle or cart.

(2) Licence certificates may show conditions imposed on the licence.

(3) No licence certificate shall be valid until it is shown on the face of the certificate that the amount of the licence fee has been paid.

- (4) The signature of the Director of Licensing shall be affixed to each issued licence certificate, and a mechanical reproduction of the signature may be affixed in place of the original.
  - (5) On behalf of the City Clerk, the Director of Licensing may sign a statement as to the licensing or non-licensing of any premises or person under this By-law as provided for under subsection 447.6(4) of the Municipal Act, 2001.
20. Every licence certificate, licence plate, identification card, form or document, shall be delivered forthwith to the City upon written or oral request of the Director of Licensing or a licence inspector acting upon his or her direction.
- 21.(1) Every licence is personal to the holder thereof, and no licence is transferable without the consent in writing of the Director of Licensing or Council.
- (2) No licence is transferable unless a transfer is specifically provided for in the applicable Schedule.
  - (3) No licence authorizes the use of any premises or part thereof, or of any vehicle, cycle or cart, except that identified on the licence certificate or record of application.
- 22.(1) Where a licence authorizes the use of any premises or part thereof, for any purpose for which a licence is required under this By-law, the current licensee shall:
- (a) post up the licence certificate; and
  - (b) keep the licence certificate posted up, in a position where it may readily be seen and read by persons entering the premises or part thereof.
  - (c) remove any licence certificate which is not current from any area which is accessible to persons entering the premises.

23. The licensee shall be responsible that the premises authorized to be used for the purposes of the licensed business are kept clean and orderly, and that every vehicle, cycle or cart authorized to be used for the purpose of the licensed business is so used only when in a clean and safe condition.
24. Persons carrying on or engaged in the businesses for which licensing is provided under this By-law, shall allow at any reasonable time, inspection of the places or premises used in the carrying on of the business and equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business, by persons authorized to enforce the provisions of this By-law.
25. A licensee who is issued a licence on the condition that the Licensee provide further criminal or driving records, shall supply the information required by subparagraphs 6(1)(e)(i) and (ii) as applicable, on the intervals required by the conditions imposed on their licence.
- 25a Every licence holder shall advise the Director of Licensing immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions or the Schedule under which their licence is issued.
- 26.(1) Every person engaging in or carrying on any business for which a licence is required by the provisions of this By-law shall be responsible that all applicable law, including all the provisions of this By-law and the applicable Schedule or Schedules regulating such business, are complied with.
  - (2) Licensees shall comply with all applicable law, including all the provisions of this By-law and the applicable Schedule or Schedules, and with conditions of their licences, and no licensee shall cause or permit their employee, agent or other persons carrying on or engaging in the business on their behalf, to fail to comply with all applicable law, including the provisions of this By-law and the applicable Schedule or Schedules, and with the conditions of their licences.

(3) Compliance with all applicable law, including the provisions of this By-law and its Schedules, and with the conditions of licences is a condition of an applicant or licensee obtaining, continuing to hold or renewing a licence.

26a. (1) A person assigned to enforce this By-law may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-Law;
- (b) a direction or order made under this By-Law;
- (c) a condition of a licence issued under this By-Law; or
- (d) an order made under s. 431 of the *Municipal Act, 2001*.

(2) A person assigned to enforce this By-law may, for the purposes of the inspection under subsection (1):

- (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 in writing or otherwise as required by the person assigned to enforce this By-law from any person concerning a matter related to the inspection; or
- (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.

(2.1) Any cost incurred by the City in exercising its authority to inspect under subsection (2), including but not limited to the cost of any examination, tests, sampling or photographs necessary for the purposes of the inspection, shall

be paid by the person who is licensed or required to be licensed under this By-law to carry on the business being inspected.

- (3) A person assigned to enforce this By-law may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where he or she has been prevented or is likely to be prevented from carrying out an inspection under subsections (1) and (2).
- (4) If a person assigned to enforce this By-law is satisfied that a contravention of this By-Law has occurred, he or she 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 property on which the contravention occurred to discontinue the contravening activity.
- (5) An order under subsection (4) shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and
  - (b) the date or dates by which there must be compliance with the order.
- (6) If a person assigned to enforce this By-law is satisfied that a contravention of this By-law has occurred, he or she 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 property on which the contravention occurred to do work to correct the contravention.
- (7) An order under subsection (6) shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
  - (b) the work to be completed; and
  - (c) the date or dates by which the work must be complete.
- (8) An order to discontinue contravening activity made under subsection (4) or an order to do work made under subsection (6) may be served personally or by registered mail to the last known address of:

- (a) the owner or occupier of the property where the contravention occurred; and
- (b) such other persons affected by it as person assigned to enforce this By-law making the order determines.

Service by registered mail shall be deemed to have taken place five business days after the date of mailing.

- (9) In addition to service given in accordance with subsection (8), an order to discontinue contravening activity made under subsection (4) or an order to do work made under subsection (6) may be served by a person assigned to enforce this By-law by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.
  - (10) Where service cannot be given in accordance with subsection (8), sufficient service is deemed to have taken place when given in accordance with subsection (9).
  - (11) Where a person does not comply with a direction or a requirement, including an order, under this By-Law to do a matter or thing, the Director of Licensing, with such assistance by others as may be required, may carry out such direction or requirement at the person's expense.
  - (12) The City may recover the costs of doing a matter or thing under subsection (11) by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
  - (13) The Director of Licensing is authorized to give immediate effect to any direction or requirement where the costs of carrying out the direction or requirement do not exceed \$10,000 and, where the costs do exceed \$10,000, as the City's Council may authorize.
- 26b. Pursuant to Section 431 of the Municipal Act, 2001, when a person has been convicted of an offence under this By-Law, any court of competent jurisdiction may, in addition to any other penalty or other remedy imposed, make an order prohibiting the continuation or repetition of the offence.

- 27.(1) Every person who contravenes Schedules 1 or 4 and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and upon conviction liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both.
- (2) Every person, including every person who fails to comply with an order made under section 26a., who contravenes this By-law, except Schedules 1 or 4, and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and upon conviction liable to a fine not exceeding \$25,000.
- (3) Where a corporation is convicted of an offence under subsection (1) or (2), the maximum penalty that may be imposed on the corporation is \$50,000 and not as provided in those subsections.
- (4) Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended. <sup>(23-005)</sup>
- 28.(1) A notice given or required to be given to an applicant or licensee under this By-law, may be sent by facsimile, regular mail or registered mail to a number or address supplied by the applicant or licensee, or delivered personally to the applicant or licensee, or to a person in charge of the premises, vehicle, cart or cycle licensed or required to be licensed under this By-law.
- (2) Notwithstanding any other section of this By-law, a notice of refusal to issue, or a notice of revocation or suspension of a licence is effective upon personal delivery to a person in charge of the business premises, vehicle, cart or cycle licensed.

## **SEVERABILITY AND SAVING**

29. If a court of competent jurisdiction declares a part or the whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law.

## SCHEDULES

30. The following Schedules form part of this By-law:

Schedule 1	Adult Entertainment Establishments
Schedule 2	Auctioneers
Schedule 3	Bed and Breakfasts, Hotels and Motels
Schedule 4	Body Rub Parlours
Schedule 5	Pawnbrokers <sup>(17-129)</sup>
Schedule 6	Food Service Vehicles
Schedule 7	Kennels and Pet Shops <sup>(17-069)</sup>
Schedule 8	Limousines
Schedule 9	Lodging Houses
Schedule 10	Salvage Businesses <sup>(17-130)</sup>
Schedule 11	Payday Loan Businesses <sup>(16-053)</sup>
Schedule 12	Pedlars
Schedule 13	Personal Aesthetic Services
Schedule 14	Tree Cutting Services <sup>(19-175)</sup>
Schedule 15	Personal Wellness Services Establishments
Schedule 16	Public Garages
Schedule 17	Public Halls and Places of Amusement
Schedule 18	(Reserved) <sup>(17-055)</sup>
Schedule 19	(Reserved)
Schedule 20	Residential Care Facilities
Schedule 21	Food Premises
Schedule 22	Second-Hand Goods, Jewellery and Precious Metals Businesses <sup>(17-128)</sup>
Schedule 23	Seasonal Produce Vendors

Schedule 24	Personal Transportation Providers <sup>(17-013)</sup>
Schedule 25	Taxicabs
Schedule 26	Mobile Sign Leasing or Renting
Schedule 27	Tobacco and Electronic Cigarette Retailers <sup>(17-056)</sup>
Schedule 28	Tow Trucks
Schedule 29	Trades
Schedule 30	Transient Traders
Schedule 31	Rental Housing Units <sup>(21-166)</sup>
Schedule 32	Short-Term Rentals

31. City of Hamilton By-law No. 06-213 and all amendments thereto are repealed upon the coming into force and effect of this by-law.
32. City of Hamilton By-law No. 06-234 is repealed.
33. This by-law may be referred to as the “City of Hamilton Licensing Code”. A reference to the City of Hamilton Licensing Code in this or any other City of Hamilton By-Law is deemed to be a reference to this By-Law.
34. This by-law comes into force and effect on the date it is passed and enacted.

**PASSED and ENACTED** this            day  
of            ,

---

MAYOR

---

CLERK

**APPENDIX “A”****Departmental Policy Standard Character and Driving Record Criteria  
For Conditional Issuance and Refusal of Mobile Licence Applications or Renewals**

Schedules 2 (Auctioneers), 8 (Limousines), 12 (Pedlars), 25 (Taxicabs-Taxicab Driver and Taxicab Owner only), 28 (Tow Trucks) and 30 (Transient Traders)	
A	Refuse licence if 2 or more criminal convictions within 2 years of the application or renewal date
B	Refuse licence if 3 or more criminal convictions within 5 years of the application or renewal date
C	Refuse licence if convicted of a criminal offence where the sentence imposed was 5 years or longer
D	Issue conditional licence for 1 year if convicted of 1 criminal conviction within 5 years of application or renewal date.
E	Refuse licence if 1 Criminal Negligence or Impaired Driving convictions within 1 year of the application or renewal date
F	Refuse licence if 2 Criminal Negligence or Impaired Driving convictions (or 1 of each) between 1 and 4 years old from application or renewal date
G	Issue conditional licence for 1 year, if Criminal Negligence or Impaired Driving conviction, between 1 and 4 years old from application or renewal date
H	Refuse licence if either 6 demerit points lost or 4 driving convictions within 1 year of application or renewal date
I	issue conditional licence for 6 months if 3 – 5 demerit points lost or 3 driving convictions within 1 year of application or renewal date

A conditional licence issued as a result of a criminal record is for a 1 year period (licence holder must submit an updated criminal abstract at 6 months and at 1 year).

A conditional licence issued as a result of a driving record is for a 6 month period (licence holder must submit an updated driving record at the end of the 6 month period). At annual licence renewal, an updated driving record is required for all mobile "driver" licence holders.

**Notwithstanding the policy, the Director of Licensing may refuse an application for a licence above due to concerns of public safety being at risk. The licence applicant shall be informed of this decision in writing. It is a licence applicants right to appeal this decision to the Licensing Tribunal.**

**APPENDIX “B”****Departmental Policy Standard Character and Driving Record  
Criteria For Conditional Issuance and Refusal of  
Establishment and Trade Licence Applications or Renewals**

Schedules 1 (Adult Entertainment Establishments), 3 (Bed and Breakfasts, Hotels and Motels), 4 (Body Rub Parlours), 5 (Pawnbrokers), 9 (Lodging Houses), 10 (Salvage Businesses), 16 (Public Garages - Classes A, B1, B2 and B3 only), 20 (Residential Care Facilities), 22 (Second-Hand Goods, Jewellery and Precious Metals Businesses), 25 (Taxicabs - Cab Broker only), 29 (Trades) (17-128)	
A	Refuse licence if 2 or more criminal convictions within 2 years of the application or renewal date
B	Refuse licence if 3 or more criminal convictions within 5 years of the application or renewal date
C	Refuse licence if convicted of a criminal offence where the sentence imposed was 5 years or longer
D	Issue conditional licence for 1 year if convicted of 1 criminal conviction within last 5 years

A conditional licence issued as a result of a criminal record is for a 1 year period (licence holder must submit an updated criminal abstract at 6 months and at 1 year).

Notwithstanding the policy, the Director of Licensing may refuse an application for a licence above due to concerns of public safety being at risk. The licence applicant shall be informed of this decision in writing. It is a licence applicants right to appeal this decision to the Licensing Tribunal.

## **SCHEDULE 1**

### **ADULT ENTERTAINMENT ESTABLISHMENTS**

#### **PART I: DEFINITIONS**

1. In this Schedule:

##### **Adult Entertainment Establishment**

“**adult entertainment establishment**” means any premises or part of a premises in which are provided, in pursuance of a business, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes an adult services entertainment establishment, an adult film store and an adult film theatre;

##### **Adult Services Entertainment Establishment**

“**adult services entertainment establishment**” means any premises or part of a premises in which adult services are provided by one or more individuals by means of physical movements, verbal expressions, or other forms of behaviour;

“**adult services**” means services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes but is not limited to:

- (a) services of which a principal feature or characteristic is the nudity, or partial nudity of any person;
- (b) services in respect of which the word “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; or
- (c) activities, facilities, performances, dances, exhibitions, viewings and encounters in an adult services entertainment establishment; but does not include burlesque entertainment.<sup>(18-212)</sup>

“**attendant**” means any person who provides adult services in an adult services entertainment establishment;

<sup>(18-212)</sup> “**burlesque entertainment**” means a type of variety show or performance, including comic or musical sketches that may be both provocative and comedic, and that may feature minimum consuming, sexually related dialog, witty remarks and dancing for the purpose of entertainment, ridicule, satire and humor, rather than the sexual

arousal of its audience.

“**business owner**” means a person who owns or occupies or has the right to own or occupy, an adult services entertainment establishment and includes but is not limited to a lessee of an adult services entertainment establishment or of the premises in which the adult services entertainment establishment is located;

“**main stage**” means the primary area within an adult services entertainment establishment upon which services are presented, and excludes areas for the seating of customers;

“**operator**” means a person who operates, manages, supervises, controls or is responsible for the business of an adult services entertainment establishment;

“**to provide**” when used in relation to adult services includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings;

#### **Adult Film Store and Adult Film Theatre**

“**adult film**” means a film classified by the Ontario Film Review Board as “restricted” and approved by the Ontario Film Review Board as an “adult sex film”;

“**adult film area**” means the part of a Class B adult film store used for the provision of adult films;

“**adult film store**” means a Class A adult film store or a Class B adult film store;

“**adult film theatre**” means premises for which a Class B Exhibitor licence has been issued under the Film Classification Act, 2005 or its regulations;

“**Class A adult film store**” means:

- (a) premises for which a Class B Retailer licence has been issued under the Film Classification Act, 2005 or its regulations;
- (b) premises where:
  - (i) the number of adult films available from the premises exceeds 500; or
  - (ii) the number of adult films available from the premises is more than 20% of the films available from the premises which are not adult films; and
- (c) does not include a Class B adult film store;

**“Class B adult film store”** means:

- (a) premises for which a Class B Retailer licence has been issued under the Film Classification Act, 2005 or its regulations;
- (b) premises where:
  - (i) the number of adult films available from the premises does not exceed 500; and
  - (ii) the number of adult films available from the premises is not more than 20% of the films available from the premises which are not adult films; and
- (c) does not include premises where the area displaying adult films is no more than 5% or 9.3 m<sup>2</sup>, whichever is less, of the total area displaying films on the premises;

**“film”** means a moving image, including an interactive moving image such as a video game, that may be generated for viewing from any thing including but not limited to video tapes, video discs, film or electronic files.

**“to provide”** when used in relation to adult films includes to sell, offer to sell or display for sale, or rental, or sample gift, by retail or otherwise such adult films, and “providing” and “provision” have corresponding meanings;

**“specified body area”** means any one or more of the following:

- (a) in the case of a female person, her areolas; and
- (b) in the case of all persons, the genitals and the anus; and

**“specified sexual activity”** means any one or more of the following: actual or simulated sexual intercourse, masturbation, ejaculation, sodomy, bestiality, oral sexual intercourse, direct physical stimulation of unclothed genital organs, or flagellation or torture in the context of a sexual relationship or activity.

## **PART II: LICENCES**

### **Adult Entertainment Establishment**

2. No licence shall be issued to an applicant that is:
  - (a) a corporation, if any one of the applicant's officers, directors or shareholders is less than 18 years of age;
  - (b) a partnership, if any one of the applicant's partners is less than 18 years of age;
  - (c) an individual, if the individual is less than 18 years of age.

### **Adult Services Entertainment Establishment**

3. No person shall carry on or in engage in the business of a business owner or operator of, or an attendant in an adult services entertainment establishment without holding a current, valid licence issued under this By-law.
4. Only an individual may be issued an operator or an attendant licence.
5. A separate business owner licence or operator licence shall be taken out in respect of each adult services entertainment establishment.
- 6.(1) Where a business owner does not personally operate their adult services entertainment establishment, every person operating such establishment shall obtain a licence so to do, but nothing herein relieves such a business owner from the requirement that they obtain a licence as business owner of such establishment.
  - (2) A business owner who manages their own adult services entertainment establishment shall notify the Director of Licensing of this at the time they obtain their licence so that their licence may be endorsed accordingly and the business owner shall notify the Director of Licensing to have the said endorsement amended before engaging any operator to operate such establishment.
  - (3) An operator shall notify the Director of Licensing of the name of the business owner whose adult services entertainment establishment they intend to operate at the time they obtain their licence so that their licence may be endorsed accordingly and the operator shall notify the Director of Licensing to have the said endorsement amended before operating any other such establishment.

- (4) The Director of Licensing shall issue a photo identification card to each licensed business owner, licensed operator and licensed attendant. The licence holder shall be re-photographed every third year or sooner if required by the Director of Licensing.
- 7.(1)(a) No adult services entertainment establishment shall be located and no adult services entertainment establishment licence shall be issued except for adult services entertainment establishments in areas as permitted by subsections 7(2) and 7(3).
- (b) No more than two adult services entertainment establishment licences shall be issued.
- (2) <sup>(20-033)</sup> Council may consider a request to substitute a new location for an existing adult services entertainment establishment location provided that any requested new location shall be located entirely within the area shown on Map 1 attached to and forming part of this Schedule.
  - (3) Despite subsection 7(2), the premises at the following municipal addresses licensed and in actual use as a adult services entertainment establishment on May 25, 2011, are each deemed to be a location where one adult services entertainment establishment is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:
    - (a) 92 Barton Street East, Hamilton;
    - (b) 1038 Barton Street East, Hamilton.
  - (4) No new business owner licence shall be issued for a location listed in subsection 7(3).
  - (5) When an adult services entertainment establishment business owner licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Director of Licensing shall carry out a selection process for a licence as follows:

- (a) the available business owner licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
  - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
  - (c) the winner of the draw may be issued a business owner licence for an existing or new location provided that such existing or new location conforms to subsection 7(2) and is approved by Council.
- (6) No business owner shall have an interest, whether as a corporation, a partnership or an individual, in more than one adult services entertainment establishment business owner licence.

#### **Adult Film Store and Adult Film Theatre**

- 8. No person shall carry on the business of an adult film store or an adult film theatre without holding a current, valid licence issued under this By-law.
- 9. A separate licence shall be taken out in respect of each adult film store and each adult film theatre.

#### **Class A Adult Film Store**

- 10.(1)(a) No Class A adult film store shall be located and no Class A adult film store licence shall be issued except for Class A adult film stores in areas as permitted by subsections 10(2) and 10(3);
  - (b) no more than two Class A adult film store licences shall be issued.
- (2) <sup>(20-033)</sup> Council may consider a request to substitute a new location for an existing Class A adult film store location provided that any requested new location shall be located entirely within the area shown on Map 1 attached to and forming part of this Schedule.
- (3) Despite subsection 10(2), the premises at the following municipal addresses licensed and in actual use as a Class A adult film store on May 25, 2011, are each deemed to be a location where one Class A adult film store is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-

law and all other applicable law:

- (a) 8 Fennell Avenue West, Hamilton;
  - (b) 128 Parkdale Avenue North, Hamilton.
- (4) No new licence shall be issued for a location listed in subsection 10(3).
- (5) When a Class A adult film store licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Director of Licensing shall carry out a selection process for a licence as follows:
- (a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
  - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
  - (c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 10(2) and is approved by Council.
- (6) No licence shall be issued under subsection 10(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid Class A adult film store licence.

### **Adult Film Theatre**

- 11.(1)(a) No adult film theatre shall be located and no adult film theatre licence shall be issued except for adult film theatres in areas as permitted by subsections 11(2) and 11(3);
- (b) no more than two adult film theatre licences shall be issued.
- (2) <sup>(20-033)</sup> Council may consider a request to substitute a new location for an existing adult film theatre location provided that any requested new location shall be located entirely within the area shown on Map 1 attached to and forming part of this Schedule.
- (3) Despite subsection 11(2), the premises at 61 King Street East, Hamilton, in actual use as an adult film theatre on May 25, 2011, is deemed to be a location where one adult

film theatre is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law.

- (4) A licence may be issued for the location listed in subsection 11(3) only if:
  - (a) an application is filed within 90 days of May 25, 2011; and
  - (b) the application is complete and otherwise complies with this By-law with the exception of subsection 11(5) of this Schedule which does not apply.
- (5) When an adult film theatre licence has not been issued, expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Director of Licensing shall carry out a selection process for a licence as follows:
  - (a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
  - (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
  - (c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 11(2) and is approved by Council.
- (6) No licence shall be issued under subsection 11(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid adult film theatre licence.

## **INFORMATION TO BE PROVIDED BY APPLICANT**

### **Adult Entertainment Establishment**

12. On every application for a licence or for the renewal of a licence:
  - (a) the applicant shall attend in person, and not by an agent, at the office of the Director of Licensing to file the application provided by the Director of Licensing and shall furnish such information as the Director of Licensing may direct;

- (b) if the applicant is not an individual, the application shall be filed and updated from time to time as this By-law requires by an individual duly authorized by the applicant to sign such application on behalf of the applicant and to bind it, and the individual filing such application shall certify the truth and completeness of the information provided.
13. When filing an application for a licence, in addition to complying with the General Provisions of this By-law, an applicant shall file:
- (a) if the applicant is a corporation:
    - (i) a current certified copy of the corporation profile report;
    - (ii) a list containing the full name of each officer, director and shareholder, the address of their ordinary residence, their telephone number and their date of birth;
    - (iii) the name or names under which the applicant intends to carry on in the business; and
    - (iv) the address of the corporation to which the Director of Licensing may send or deliver any notice or other document required or authorized by law;
  - (b) if the applicant is a partnership:
    - (i) a current certified copy of the limited partnerships report;
    - (ii) the name or names under which the applicant intends to carry on in the business; and
    - (iii) the address of the partnership to which the Director of Licensing may send or deliver any notice or other document required or authorized by law;
  - (c) if the applicant is an individual:
    - (i) the name of the individual, the address of their ordinary residence, their telephone number and their date of birth; and
    - (ii) the address of the individual to which the Director of Licensing may send or deliver any notice or other document required or authorized by law.

14. When filing an application for a licence renewal, in addition to complying with the General Provisions of By-law No. 07-170, an applicant shall, at the time of making an application:
- (a) sign a form certifying that there are no changes to the information required to be filed under the General Provisions of By-law No. 07-270 or this Schedule;
  - (b) if the applicant is a corporation, file every third year a copy of the last information return filed for the corporation and any changes or corrections to the information it contains; and
  - (c) if the licence is an adult services entertainment establishment business owner licence, a Class A film store licence or an adult film theatre licence, file every third year the information respecting the owner of the location as set out under subsections 16(b) for an adult services entertainment business owner or under subsections 18(b) and 18(c) for a Class A adult film store licence or for an adult film theatre licence.
15. Every licence holder shall advise the Director of Licensing immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of By-law No. 07-170 or this By-law, provided that no licence holder shall change or cause a change to be made to a floor plan without first obtaining the approval of the Director of Licensing.

#### **Adult Services Entertainment Establishment**

16. When filing an application for a licence, an applicant for an adult services entertainment establishment shall file:
- (a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;
  - (b) the name and address of the owner of the location as registered under the *Land Titles Act* or the *Registry Act*;
  - (c) documentation demonstrating the applicant's right to possess or occupy the location and if the applicant is not the owner of the location as registered under the *Land Titles Act* or the *Registry Act*, the applicant shall file a copy of a lease

or other document constituting or affecting their legal relationship with the owner of the location; and

- (d) a detailed floor plan, drawn to scale and approved by the Director of Licensing including but are not limited to depicting the location of one main stage and of seating areas, offices, cloak rooms, disc jockey areas, kitchen facilities, bar areas, dressing rooms, washrooms, storage areas and entrances/exits.

#### **Adult Film Store and Adult Film Theatre**

- 17. When filing an application for a licence, an applicant for an adult film store or an adult film theatre licence shall file a detailed floor plan, drawn to scale, of the adult film store or the adult film theatre that has been approved by the Director of Licensing and the details of such floor plan shall include but are not limited to depicting the location of:
  - (a) entrances/exits to the adult film store or adult film theatre;
  - (b) for a Class B adult film store licence, entrances/exits to one adult film area; and
  - (c) for an adult film theatre licence, each lobby and each room where adult films are exhibited.

#### **Class A Adult Film Store and Adult Film Theatre**

- 18. When filing an application for a licence, an applicant for a Class A adult film store licence or an adult theatre licence shall file:
  - (a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;
  - (b) the name and address of the owner of the location as registered under the *Land Titles Act* or the *Registry Act*; and
  - (c) documentation demonstrating the applicant's right to possess or occupy the location and if the applicant is not the owner of the location as registered under the *Land Titles Act* or the *Registry Act*, the applicant shall file a copy of a lease or other document constituting or affecting their legal relationship with the owner of the location.

## **EXPIRATION**

### **Adult Entertainment Establishment**

19. No licence issued under this By-law is transferable.
20. A licence issued under this By-law shall be deemed to have expired where:
  - (a) by transfer of existing shares (including as a result of the death of a shareholder), by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Director of Licensing to have changed hands; or
  - (b) one or more partner in a partnership holding a licence is determined by the Director of Licensing to have ceased to be a partner (including as a result of death) or the partnership is determined by the Director of Licensing to have ceased to exist.

## **PART III: DUTIES OF LICENCE HOLDERS**

### **Adult Entertainment Establishment**

21. Every licence holder shall:
  - (a) produce their licence for inspection upon demand by a person assigned or appointed by the Director of Licensing to enforce this By-law; and
  - (b) be civil in all dealings with the customers and members of the public.

### **Adult Services Entertainment Establishment**

22. A business owner shall:
  - (a) not permit any person other than a licensed operator to operate the adult services entertainment establishment;
  - (b) not permit any person other than a licensed adult services entertainment establishment attendant to provide adult services in the adult services entertainment establishment;
  - (c) at all times when operating an adult services entertainment establishment, carry on their person their photo identification card.
23. An operator shall not operate an adult services entertainment establishment unless:
  - (a) the business owner is licensed under this By-law;

- (b) they first notify the Director of Licensing of the name of the business owner whose adult services entertainment establishment they intend to operate;
  - (c) they have the business owner's name endorsed on their licence; and
  - (d) at all times when operating an adult services entertainment establishment, they carry on their person their photo identification card.
24. An adult services entertainment establishment business owner or operator shall:

**Premises**

- (a) post their licence in a conspicuous place in the adult services entertainment establishment at all times;
- (b) post a copy of the approved floor plan at all public entrances/exits and in the adult services entertainment establishment attendants' dressing rooms;
- (c) keep the premises in a clean and sanitary condition;
- (d) display no more than two signs on the exterior premises of the adult services entertainment establishment that comply with paragraphs 24(d)(i) to (v) inclusive:
  - (i) the signs shall not exceed 0.3 m<sup>2</sup> in area;
  - (ii) the signs shall be illuminated only by a non-flashing indirect or interior means;
  - (iii) one of the signs shall be located over the street door or in the lower front window bearing only the words "Licensed Adult Entertainment Establishment Licence - No. \_\_\_\_", complete with the licence number inserted;
  - (iv) one of the signs shall have a depth of not more than 7.6 cm flat against a wall or door, bearing only the following information:
    - a. the business owner's name as shown on the licence;
    - b. the name, if any, under which the business owner carries on business as endorsed on their licence;
    - c. the address of the adult services entertainment establishment;
    - d. the telephone number of the adult services entertainment establishment;

- (v) the signs shall not include any other letters, marks, painting, contrasting colours, symbol, logo, or any mark whatsoever;
- (e) except as otherwise provided in this section, not advertise or use advertising devices or permit any person to advertise or use advertising devices inside or outside the premises, including but not limited to any printed matter, oral or other communication or thing posted or distributed for the purpose of promoting their adult services entertainment establishment or the adult services provided therein;
- (f) not carry on or permit the carrying on of the business unless the licensed business owner or a licensed operator is present at the adult services entertainment establishment;
- (g) except where otherwise provided in this By-law, close or cause to be closed the adult services entertainment establishment at 2:00 a.m. and remain closed until 8:00 a.m. every day when the adult services entertainment establishment is open;
- (h) post a sign in the adult services entertainment establishment attendants' dressing rooms, at all public entrances/exits and in the washrooms that:
  - (i) includes the following statements:
    - physical contact with the attendants is prohibited; and
    - sexually transmitted infections can be passed on through unprotected sexual contact; and
  - (ii) can be easily read by any person approaching;

**Adult Services**

- (i) retain the photo identification card of each adult services entertainment establishment attendant in their possession during the term of employment of the attendant and keep it in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;
- (j) return each adult services entertainment establishment attendant's photo identification card to the attendant upon the termination of their employment;

- (k) not permit any person, other than a licensed adult services entertainment establishment attendant, to provide an adult service in the adult services entertainment establishment;
  - (l) not permit an adult services entertainment establishment attendant, while providing adult services, to have physical contact with another person's body, or another person to have physical contact with an attendant;
  - (m) ensure that all adult services provided by an adult services entertainment establishment attendant are clearly visible from the main stage, without obstruction or obscuration by any thing, including but not limited to walls, curtains, glass, enclosures, structures, fog, or inadequate lighting; and
  - (n) ensure that no adult services are visible from the exterior of the premises.
25. An adult services entertainment establishment attendant shall not:
- (a) provide any adult services unless their photo identification card is kept in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;
  - (b) provide any adult services unless the business owner or the operator is licensed as business owner or operator of the adult services entertainment establishment;
  - (c) during the provision of adult services, have physical contact with another person's body, or permit another person to have physical contact with their body;
  - (d) provide adult services which are not clearly visible from the main stage, without obstruction or obscuration by any thing, including but not limited to walls, curtains, glass, enclosures, structures, fog, or inadequate lighting;
  - (e) provide any adult services that are visible from the exterior of the premises.

### **Adult Film Store**

26. An adult film store licence holder shall:
- (a) post their licence in a conspicuous place in the adult film store at all times;

- (b) keep the premises in a clean and sanitary condition;
- (c) not use exterior signs or advertisements for the adult film store which use a pictorial representation of a specified body area or a specified sexual activity;
- (d) advertise and carry on the business only under the name in which the licence is issued, or such other name as provided to the Director of Licensing and endorsed on the licence; and
- (e) not permit the viewing of adult films on the premises.

**Class A Adult Film Store**

27. In addition to complying with section 26, a Class A adult film store licence holder shall:

- (a) not permit any person under the age of 18 years to enter or remain in such Class A adult film store;
- (b) not permit any employee under the age of 18 years to work in such Class A adult film store;
- (c) post and keep posted at every public entrance/exit to the Class A adult film store, and in a prominent location inside such Class A adult film store, signs sufficient to indicate clearly to any person approaching the Class A adult film store, and to every person in the Class A adult film store, that no person under the age of 18 years is permitted to enter or remain in such Class A adult film store or any part of it; and
- (d) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the premises;

**Class B Adult Film Store**

28. In addition to complying with section 26, a Class B adult film store licence holder shall:

- (a) display adult films only in an adult film area;
- (b) not permit any person under the age of 18 years to enter or remain in the adult film area;

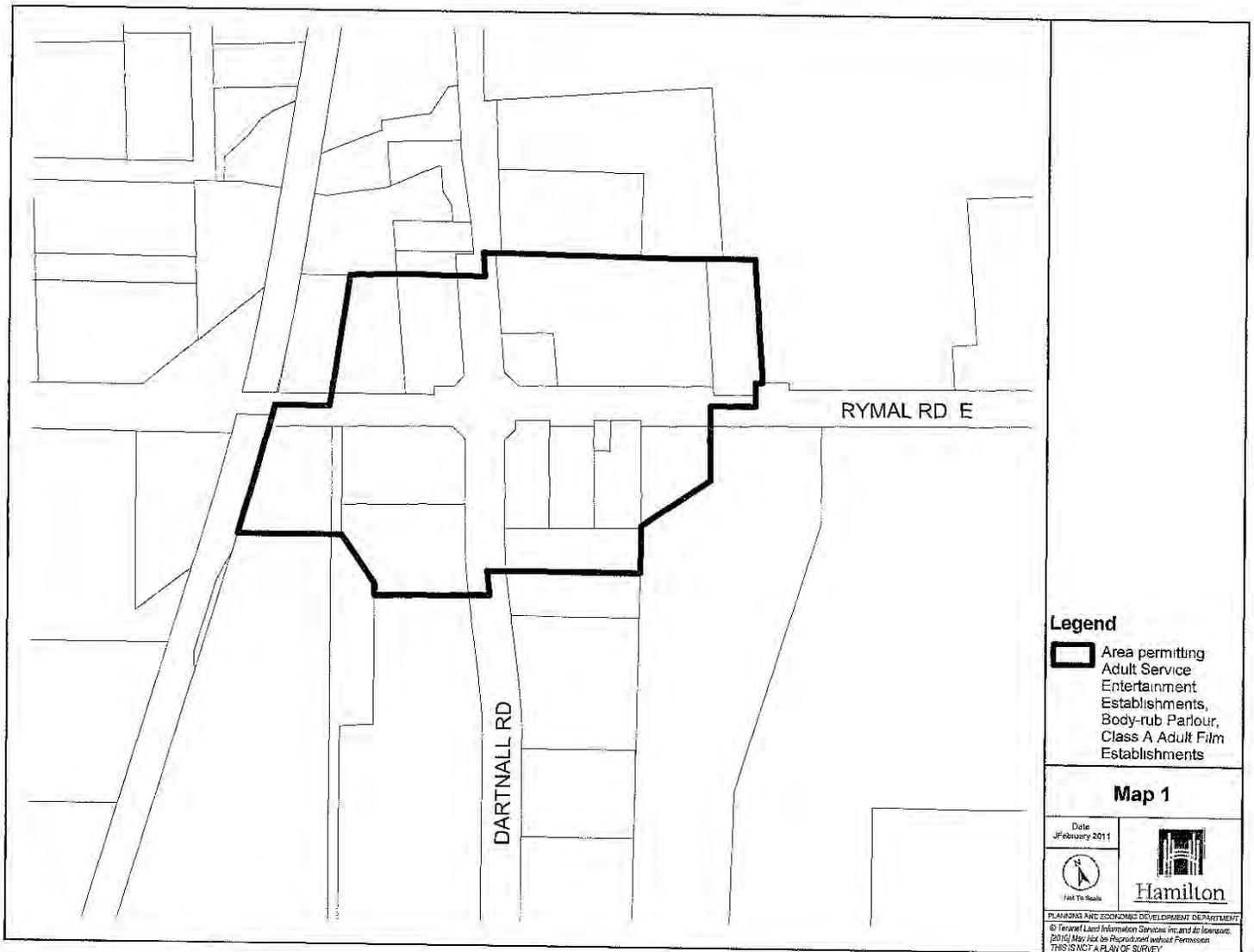
- (c) not permit any employee under the age of 18 years to work in the adult film area;
- (d) post at every public entrance/exit to the adult film area signs sufficient to indicate clearly to any person approaching the adult film area that no person under the age of 18 years is permitted to enter or remain in such adult film area;
- (e) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the adult film area;
- (f) ensure that adult films or adult film packaging which reveals a specified body area or a specified sexual activity while being transported from the adult film area to the cashier, if located outside the adult film area, are enclosed in an opaque bag or other container so that they are not visible; and
- (g) inform any employees of the Class B adult film store of the boundaries of the adult film area and the requirement that persons under the age of 18 years not be allowed to enter or remain in the designated area.

### **Adult Film Theatre**

29. An adult film theatre licence holder shall:

- (a) post their licence in a conspicuous place in the adult film theatre at all times;
- (b) keep the premises in a clean and sanitary condition;
- (c) not use exterior or interior signs or advertisements for the adult film theatre which use a pictorial representation of a specified body area or a specified sexual activity;
- (d) advertise and carry on the business only under the name in which the licence is issued, or such other name as provided to the Director of Licensing and endorsed on the licence;
- (e) not permit any person under the age of 18 years to enter or remain in such adult film theatre;

- (f) not permit any employee under the age of 18 years to work in such adult film theatre;
- (g) post and keep posted at every public entrance/exit to the adult film theatre, and in a prominent location inside such adult film theatre, signs sufficient to indicate clearly to any person approaching the adult film theatre, and to every person in the adult film theatre, that no person under the age of 18 years is permitted to enter or remain in such adult film theatre or any part of it;
- (h) ensure that every room where adult films are exhibited:
  - (i) contains seating for not less than 50 individuals; and
  - (ii) has direct access to a lobby; and
- (i) ensure that the door to a room under subsection 29(h) is not equipped with a locking device of any kind, or with anything else which could delay anyone from obtaining access to the room.



Revised: November 2023

## **SCHEDULE 2** <sup>(17-054)</sup>

### **AUCTIONEERS**

#### **DEFINITIONS**

1. In this Schedule:  
“auctioneer” means any person who sells or offers for sale by auction goods; and,  
“auction” means a publicly held sale where goods, are sold to the highest bidder.

#### **APPLICATION OF THE SCHEDULE**

2. This Schedule does not apply to:
  - (a) a person conducting an auction on behalf of a service club or similar organization to raise money for charitable purposes;
  - (b) a sheriff or court bailiff acting under a court procedure;
  - (c) a municipality conducting an auction under the tax sale provisions of the Municipal Act, 2001;
  - (d) a person registered under the Real Estate and Business Brokers Act, who is selling real estate by public auction; or,
  - (e) a person licensed under the Livestock Community Sales Act, who is conducting a community livestock sale.

#### **GENERAL PROHIBITIONS**

3. No person shall act as or hold himself or herself out to be an auctioneer or shall engage in the business of an auctioneer unless he or she holds a current and valid auctioneer licence under this Schedule.
4. No owner of land shall permit an auction to be held on their land unless the auctioneer holds a current and valid auctioneer licence under this Schedule.

#### **REQUIREMENTS**

5. Every auctioneer shall;

- (a) prominently display their licence at the place of each auction;
  - (b) include their name and licence number in all public advertisements pertaining to an auction; and,
  - (c) maintain and keep proper books of accounts for all transactions including;
    - (i) the names and addresses of the owners of the goods auctioned;
    - (ii) the names and addresses of the purchasers of any goods;
    - (iii) a description of the goods to be auctioned;
    - (iv) the prices at which the goods were sold; and,
    - (v) the dates of payment and amounts paid to the owners for the goods sold, or the dates of return of unsold goods to the owners.
6. (1) All books of accounts, not including the names and addresses of the owners of the goods auctioned or the names and addresses of the purchasers of any goods, kept by an auctioneer shall be open at all times during reasonable hours to inspection by an enforcement agency.
- (2) An auctioneer shall disclose the names and addresses of the owners of the goods auctioned or the names and addresses of the purchasers of any goods to an enforcement agency upon the enforcement agency making a request in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.
7. At the conclusion of an auction, every auctioneer shall;
- (a) account for the proceeds and pay them to the person entitled to them, less proper commissions and charges; and,
  - (b) return the goods to the person entitled to receive them, provided that nothing contained in this Schedule shall in any way affect or invalidate the claim of any auctioneer for goods warehoused by them, and on which they have made advances.
8. No auctioneer shall;

- (a) permit any disorder in the place of the auction;
- (b) conduct or permit to be conducted any mock auction;
- (c) make or permit to be made any misrepresentation as to the nature, content, quantity, or value of any goods which may be offered for sale by them;
- (d) give away articles or sell articles for nominal amounts for the purpose of stimulating bidding;
- (e) do any act that may confuse a purchaser as to the amount to be paid for any goods;
- (f) by deceit stimulate or raise bids or cause the stimulation or raising of bids; or,
- (g) sell or put up by auction, any goods on a reserve-bid basis without having announced clearly to those in attendance at the auction the fact of such reserve bid.

## **SCHEDULE 3**

### **BED AND BREAKFASTS, HOTELS AND MOTELS**

#### **INTERPRETATION**

1. In this Schedule:  
    **“bed and breakfast, hotel or motel”** means a premises where one or more bedrooms are offered to members of the public who may pay for the use of a bedroom on any basis for 7 days or less and includes an inn but does not include a lodging house;  
    **“complaint record”** means a record of each complaint received by a bed and breakfast, hotel or motel from a guest; and,  
    **“guest”** means a member of the public who pays for a bed and breakfast, hotel or motel bedroom;

#### **GENERAL**

2. The Director of Licensing is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

#### **LICENCE REQUIRED**

3. No person shall operate a bed and breakfast, hotel or motel without a licence.
4. When submitting an application for a licence, an applicant for a licence under this Schedule shall:
  - (a) submit a detailed premises plan, drawn to scale, of the bed and breakfast, hotel or motel that has been approved by the Director of Licensing and the details of such premises plan shall include but are not limited to depicting the

location, as applicable, of all buildings or other structures, parking areas and walkways on the property where the bed and breakfast, hotel or motel is located and all entrances/exits, beds, dining areas and entertainment areas in the bed and breakfast, hotel or motel;

- (b) upon first applying for a licence and every third year thereafter upon applying for a licence renewal, submit to the Director of Licensing a certificate from the Electrical Safety Authority that the bed and breakfast, hotel or motel complies with the Ontario Electrical Safety Code;
  - (c) submit a certificate from the Fire Department that the bed and breakfast, hotel or motel complies with the applicable fire safety standards; and,
  - ~~(d) submit a certificate of compliance under the Property Standards By-law. (15-232)~~
5. No licence holder under this Schedule shall change or cause a change to be made to a premises plan without first obtaining the approval of the Director of Licensing.

## **DUTIES OF OPERATOR**

6. Every person operating a bed and breakfast, hotel or motel shall:
- (a) when four or more bedrooms are offered to members of the public, ensure that either the operator or an employee who is responsible for the operation of the bed and breakfast, hotel or motel is present and available at the bed and breakfast, hotel or motel at all times;
  - (b) post in a conspicuous place in the bed and breakfast, hotel or motel:
    - (i) a current licence for the bed and breakfast, hotel or motel;
    - (ii) a notice stating the name of the operator or the employee who is present and available at the bed and breakfast, hotel or motel as required under subsection 6(a) and the telephone number where such operator or employee can be contacted immediately;
  - (c) keep a register in a form satisfactory to the Director of Licensing that includes:

- (i) the name and usual place of residence of each guest;
  - (ii) which bedroom the guest has paid to use;
  - (iii) the date and time the guest checks in; and,
  - (iv) the date and time the guest checks out;
- (d) ensure that the register under subsection 6(c) is:
- (i) easily readable;
  - (ii) not altered or deleted once completed;
  - (iii) kept for a minimum of one year; and,
  - (iv) made available to the Director of Licensing upon request;
- (e) ensure that each guest bedroom, at the entrance to the guest bedroom from the outside of a building or from a common hallway or stairway inside a building, is provided with a door and a lock which is of a type that can be:
- (i) secured by a guest when they are inside or outside of the bedroom; and,
  - (ii) opened from the outside by the operator or an employee only when the guest is not inside the bedroom or when the guest is inside the bedroom but chooses not to secure it against entry from the operator or an employee;
- (f) keep a complaint record for each complaint in a form satisfactory to the Director of Licensing that includes:
- (i) the date and time the complaint is received;
  - (ii) the complainant's name and telephone number, if provided;
  - (iii) the complaint reviewer's name;
  - (iv) the details of the complaint;
  - (v) the action taken in response to the complaint; and,
  - (vi) the date and time the complainant is notified of the action taken;
- (g) ensure that a complaint record under subsection 6(f) is:
- (i) easily readable;
  - (ii) not altered or deleted once completed;

- (iii) kept for a minimum of one year; and,
- (iv) made available to the Director of Licensing upon request;
- (h) report any complaint concerning the safety of an individual immediately to the Director of Licensing;
- (i) be responsible for keeping the bed and breakfast, hotel or motel clean and orderly and maintained in all respects suitable for the purpose for which it is used, and for keeping the bed and breakfast, hotel or motel adequately lighted and ventilated; and,
- (j) ensure the bed and breakfast, hotel or motel meets all requirements of the Building Code Act, 1992 and its regulations, the Fire Protection and Prevention Act, 1997 and its regulations, the Health Protection and Promotion Act and its regulations and any applicable by-law.

## **SCHEDULE 4**

### **BODY-RUB PARLOURS**

#### **PART I: DEFINITIONS**

1. In this Schedule,

(a) **“body-rub”**:

- (i) means the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person’s body or part of a person’s body appealing to or designed to appeal to erotic or sexual appetites or inclinations including but not limited to such kneading, manipulating, rubbing, massaging, touching or stimulating advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication; and
- (ii) does not include a body-rub performed for the purpose of medical or therapeutic treatment provided by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

(b) **“body-rub parlour”** 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, or a personal aesthetic services as defined in Schedule 13;

(c) **“body-rubber”** means a person required to obtain a licence under paragraph 2 (1)(b) of this Schedule;

(d) **“operator”** when used in reference to a body-rub parlour, refers to any person who alone or with others, operates, manages, supervises, runs or controls a body-rub parlour, and “operate”, “operation” and other words of like import or intent shall be given a corresponding meaning;

- (e) “**owner**” when used in reference to a body-rub parlour means a person who alone or with others has the right to possess or occupy a body-rub parlour or actually does possess or occupy a body-rub parlour, and includes a lessee of a body-rub parlour or premises upon which a body-rub parlour is located; and
- (f) “**person authorized by the city**” means an inspector appointed under this By-law, an inspector appointed under any by-law of the City, a public health inspector and the Medical Officer of Health.

## **PART II: LICENCES**

- 2.(1) A licence authorizing such person to carry on the trade, calling, business or occupation shall be taken out by:
  - (a) every person who owns or operates a body-rub parlour; and
  - (b) every person, other than a person licensed pursuant to subsection (a), who performs, offers or solicits a body-rub in, at, or upon a body-rub parlour.
- (2) No person shall own or operate a body-rub parlour or carry on or engage in the business of a body-rub parlour without a licence.
- 3.(1) (a) No body-rub establishment shall be located and no body-rub establishment licence shall be issued except for body-rub establishments in areas as permitted by subsections (2) and (3); and
  - (b) no more than two body-rub establishment licences shall be issued.
- (2) <sup>(20-033)</sup> Council may consider a request to substitute a new location for an existing body-rub parlour location provided that any requested new location shall be located entirely within the area shown on Map 1 attached to and forming part of this Schedule.
- (3) Despite subsection 3(2), the premises at the following municipal addresses licensed and in actual use as a body-rub parlour on April 14, 2010, are each deemed to be a

location where one body-rub parlour is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:

- (a) 893 King Street East, Hamilton;
- (b) 549 Kenilworth Avenue North, Hamilton.

(4) No new business owner licence shall be issued for a location listed in subsection 3(3).

(5) When a body-rub parlour business owner licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Director of Licensing shall carry out a selection process for a licence as follows:

- (a) the available business owner licence shall be advertised in the Hamilton Spectator newspaper and on the City's website inviting the submission of applications within a specified period of time;
- (b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
- (c) the winner of the draw may be issued a business owner licence for an existing or new location provided that such existing or new location conforms to subsection 3(2) and is approved by Council.

(6) No business owner shall have an interest, whether as a corporation, a partnership or an individual, in more than one body-rub parlour business owner licence.

4.(1) On every application for an owner's, operator's or body-rubber's licence or for the renewal thereof, the applicant shall attend in person and not by an agent at the office of the Director of Licensing and shall complete the application form provided by the Director of Licensing and shall furnish such information as the Director of Licensing may direct.

- (2) The Director of Licensing shall issue a photo identification card to each licensed body rub attendant and body rub operator. The licensee shall be re-photographed if required so to do by the Director of Licensing.
  - (3) Every applicant for an owner's licence shall, at the time of making an application, file a list showing the names of all operators and body-rubbers employed by or performing the services in the body-rub parlour and all such persons intended or expected by the applicant to be employed or to perform services in the body-rub parlour.
  - (4) On every application for an owner's, operator's or body-rubber's licence by an individual or by a corporation, the applicant shall state the following:
    - (a) if the applicant is an individual, his or her date of birth; or
    - (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 appellant or in any of the corporations referred to in section 5 of this Schedule.
  - (5) Every applicant referred to in subsection (5), and every shareholder, partner or other person referred to in this section or in sections 5, 6 or 7 of this Schedule, shall file or produce proof of his or her age, if required to do so by the Director of Licensing and no such licence shall be issued unless the Director of Licensing is satisfied that every such person is of the full age of eighteen years.
- 5.(1) Every corporation applying for an owner's or operator's licence shall file at the time of its application, a copy of its letters of incorporation or other incorporating document, duly certified by the proper government official or department, together with a Return in a form supplied by the city which Return shall contain a list of all of the shareholders of the corporation.

- (2) 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 Director of Licensing a Return in lieu thereof in a form supplied by the Director of Licensing 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.
- (3) All Returns required by subsection (2) shall be filed at the same time as the filing of the application for the licence.
- (4) 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 city an Annual Return in a form supplied by the Director of Licensing.
- (5) Where a corporation is the holder of an owner's or operator's licence or licences, the corporation shall forthwith notify the Director of Licensing 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 subsection (2), and the Director of Licensing may, notwithstanding any other provision of this By-law, in his or her discretion, determine whether the licence or licences shall be revoked.
- (6) 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 Director of Licensing to have changed hands, such licence or licences shall, notwithstanding any other provision of this By-law, be terminated forthwith, and the Director of Licensing may issue a new licence or new licences upon payment of the prescribed fee.

- (7) 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 Director of Licensing at the same time as the owner or operator an Annual Return as provided in subsection (4), 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.
  - (8) For the purpose of this section, “shareholder” and any words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation.
- 6.(1) Persons associated in a partnership applying for an owner’s or operator’s licence shall file with its application to the city a certification in writing signed by all the members of the partnership, which certification shall state the following:
- (a) the full name of every partner and the address of his or her ordinary residence;
  - (b) the name or names under which they carry on or intend to carry on business;
  - (c) that the persons therein named are the only members of the partnership; and
  - (d) the mailing address for the partnership.
- (2) If any member of a partnership applying for a licence is a corporation, such corporation shall, for the purposes of section 5 of this Schedule, 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.

- (3) Every member of a partnership shall advise the Director of Licensing 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, and the Director of Licensing may, notwithstanding any other provision of this by-law, in his or her discretion, determine whether the licence or licences shall be revoked or terminated and whether or not a new licence should issue to the partnership as presently constituted.
- 7.(1) Every person applying for an owner's, operator's or body-rubber's licence who carried on or intends to carry on his or her business in or relating to a body-rub parlour under a name or designation other than his or her own name or under his or her 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 applying for a licence, file a certification, which shall state the following:
  - (a) the applicant's full name and the address of the applicant's ordinary residence;
  - (b) any name or designation under which the applicant carries on or intends to carry on business, and the date when the name or designation was first used by the applicant;
  - (c) that no other person is associated with the applicant in partnership;
  - (d) the date of the applicant's birth; and
  - (e) the mailing address for the applicant's business.
- (2) A person to whom this section applies shall notify the Director of Licensing immediately of any change in any of the particulars required to be filed under subsection (1).
- 8.(1) Every owner, operator or body-rubber applying for a licence must use his or her own legal name in making such application and subject to subsection (2) no such licence shall be issued to any person in any name other than his or her own legal name.
  - (2) Every owner, operator or body-rubber intending to use a name or designation other than his or her own may, at the time of the issue of his or her licence, or at the time at which he or she files notice of intention to use such name or designation, have endorsed on his or her licence such name or designation.

- (3) No owner, operator or body-rubber shall carry on business under any name or designation other than his or her own unless he or she has filed notice of his or her intention to use such name or designation and no person shall use any name or designation in respect of a body-rub parlour or of any trade, calling, business or occupation carried on therein without first notifying the Director of Licensing of such name or designation intended to be used and having such name endorsed upon his or her licence in accordance with subsection (2).
- 9.(1) No body-rub parlour may open for business or operate or be operated unless its owner is licensed as such under this By-law.
- (2)
- (a) Every person applying for an owner's licence shall file with the Director of Licensing documentation demonstrating the applicant's right to possess or occupy the premises used as a body-rub parlour, and if such person is not the registered owner or owners in fee simple of the property upon which the body-rub parlour is located, such person shall file at the same time a copy of any lease, and of any other document constituting or affecting the legal relationship between the applicant and the registered owner or owners in fee simple of the real property.
  - (b) For the purpose of this section, "registered owner" means the owner as registered pursuant to the Land Titles Act or the Registry Act as the case may be.
- (3) A Separate owner's licence shall be taken out in respect of each body-rub parlour.
- (4) Where an owner does not personally operate his or her body-rub parlour, every person operating such body-rub parlour shall obtain a licence so to do, but nothing herein relieves such an owner from the requirement that he or she obtain a licence as owner of such body-rub parlour.
- (5) An owner or operator, subject to the provisions of this by-law, if his or her licence as an owner or operator is so endorsed, may perform body-rubs in the body-rub parlour of which-he or she is the owner or operator.

- (6) An owner who operates his or her own body-rub parlour shall notify the Director of Licensing of this fact at the time he or she obtains his or her licence and the licence may be endorsed accordingly upon payment of the appropriate licence fee, and the applicant shall notify the Director of Licensing and have the said endorsement amended before engaging any operator to operate the body-rub parlour.
- 10.(1) No owner of a body-rub parlour or premises shall-permit any person other than a licensed operator to operate such body-rub parlour.
- (2) No owner or operator shall permit any body-rub to be performed, offered, or solicited in the pursuance of a trade, calling, business or occupation, upon or at a body-rub parlour or pursuant to the operation by a body-rub parlour, by any person other than a licensed body-rubber or other person licensed or authorized under this by-law.
  - (3) No owner shall permit any person, other than him or himself, an employee of such owner or a person with whom that owner has contracted to operate the body-rub parlour or to perform, offer or solicit body-rubs in the body-rub parlour.
  - (4) No body-rubber or other person shall perform, offer or solicit body-rubs in any body-rub parlour unless the owner or operator of the body-rub parlour are licensed under this by-law.
  - (5) No operator not being the owner of a body-rub parlour shall operate the said parlour unless the owner of the body-rub parlour is licensed as owner under this by-law.
  - (6) No operator may operate a body-rub parlour unless he or she first notifies the Director of Licensing of the name of the owner whose body-rub parlour he or she intends to operate and has endorsed upon his or her licence the said owner's name, and every operator before operating any other body-rub parlour shall notify the Director of Licensing of his or her intention so to do and have his or her licence endorsed accordingly.

11. A copy of every written contract of service, contract for services or other document constituting or pertaining to the relationship between owner and operator of a body-rub parlour or between owner or operator and a body-rubber performing services in a body-rub parlour, shall be filed with the Director of Licensing and the original of any such document shall be delivered to or made available for inspection at any time by the Director of Licensing, upon request, and shall be retained by the owner or operator for a period of six months after its termination.
  
- 12.(1) Repealed 2006.
  - (2) Every owner who operates his or her own body-rub parlour and every operator shall, during the term of his or her employment of a body-rubber or of a body-rubber's services, retain such body-rubber's licence in his or her possession, and shall post up the licence in a conspicuous place in the body-rub parlour and keep it so posted throughout the term of employment or of the contract for services.
  
  - (3) Every owner or operator referred to in subsection (1) who employs a body-rubber or the services of a body-rubber shall, within forty-eight hours, notify the Issuer of Licences in writing that he or she has so employed the body-rubber or the services of the body-rubber, and when such employment ceases it shall be the joint responsibility of the owner or operator and the body-rubber to notify the Director of Licensing in writing to such effect within forty-eight hours of the cessation of employment or of the contract for services.
  
  - (4) No body-rubber shall perform any body-rubs or other services in a body-rub parlour unless his or her licence is posted up in compliance with subsection (2) and unless he or she has notified the Director of Licensing that he or she is performing services in the body-rub parlour.
  
  - (5) Every owner and operator of a body-rub parlour shall ensure that every body-rubber performing services in a body-rub parlour owned or operated by him notifies the Director of Licensing before such services commence, or so soon thereafter as is reasonably possible, and shall return the body-rubber's licence to the body-rubber upon the termination of his or her employment.

13. Every owner, operator or body-rubber who changes his or her address shall, within two days after such change, attend at the office of the Director of Licensing and notify the Director of Licensing of such change of address and produce his or her licence for the change to be entered thereon.
- 14.(1) No owner's licence shall be transferred, and if an owner sells, leases or otherwise disposes of the body-rub parlour or the premises or part thereof upon or in which a body-rub parlour is operated, to any person, the licence in respect of such body-rub parlour or premises shall be terminated forthwith.
  - (2) Subject to subsection (4) hereof, the Director of Licensing may in his or her discretion issue an owner's licence to the purchaser, lessee or other person obtaining an interest in a body-rub parlour or the premises or part thereof upon or in which a body-rub parlour has been operated, subject also to the following conditions:
    - (a) That the new applicant qualify under all of the other provisions of this Schedule, and that the applicant comply with all of the requirements of this Schedule relating to an owner;
    - (b) That the new applicant file with the Director of Licensing the documents relating to ownership and to his or her right to possess or occupy the body-rub parlour, as required by subsection 9(2) of this Schedule;
    - (c) That the new applicant and the vendor file with the Director of Licensing a notarized copy of a written agreement between the parties containing all the details of the dealings between the parties in respect of such body-rub parlour or premises;
    - (d) That the agreement contain a certification, in a form supplied by the Director of Licensing by both the parties and a further certification by the solicitor for the purchaser in a form supplied by the Director of Licensing.

- (3) Notwithstanding subsections (1) and (2) hereof and any other provision of this Schedule, the Director of Licensing may in his or her discretion refuse to issue a licence or licences to a purchaser, lessee or other person obtaining an interest in a body-rub parlour in a transaction under this section when the Director of Licensing is of the opinion that it is not in the public interest, as determined by the City that such new licence or licences should be issued, and the City shall, upon demand from any party to the transaction, deliver written reasons for such decision.
  - (4) Upon the sale, lease or other disposition of a body-rub parlour, every operator's licence issued in respect of such body-rub parlour shall be terminated forthwith, and the Director of Licensing may, subject to the provisions of this Schedule, permit the purchaser, lessee or other person obtaining an interest in such body-rub parlour to operate the body-rub parlour by an endorsement to that effect upon an owner's licence issued to such person or may issue a new operator's licence to any person previously licensed as an operator in respect of the body-rub parlour.
- 15.(1) Every owner, operator or body-rubber, while engaged in his or her respective trade, calling, business or occupation in a body-rub parlour shall carry at all times on his or her person a plastic numbered identification card issued by the Director of Licensing which shall remain the property of the City and remain in force and effect for the duration of the licence.
- (2) The identification card shall contain a photograph of the owner, operator or body-rubber and such other information as the City requires for identification purposes.
  - (3) No owner, operator or body-rubber in any manner whatsoever directly or indirectly shall use the identification card for any purpose when such owner, operator or body-rubber is off the premises of the body-rub parlour.

### **PART III: REGULATIONS**

- 16.(1) No premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of this by-law.

- (2) No owner, operator or body-rubber shall perform or provide any service or services or permit the performing or providing of any service or services in any body-rub parlour which is constructed or equipped in contravention of subsection (1).
17. No premises or part thereof used as a body-rub parlour shall be used as a dwelling or for sleeping purposes.
- 18.(1) Every body-rub or other service performed in a body-rub parlour shall be given in an individual room or cubicle, but no owner or operator shall permit the door to any room or cubicle where body-rubs are or may be provided, to 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 a room or cubicle or which is obstructed in any way whatsoever.
- (2) No person in a body-rub parlour shall perform a body-rub or provide any other service in a room, cubicle or other enclosure with a door or other means of access which is equipped or constructed with a locking device of any kind or which is equipped or constructed in such a way as to permit the obstruction, hindrance or delay of any person attempting to gain entry thereto or which is obstructed in any way whatsoever.
- 19.(1) Every owner who operates a body-rub parlour business and every operator shall keep proper records and books of account of all business transacted in, by or in respect of the body-rub parlour, which books shall give the amount of gross receipts for all services performed or provided in the said body-rub parlour, the name and address of the person upon whom the body-rub or other service is performed, the name and licence number of every body-rubber or other person performing services in the said body-rub parlour, including the date of commencement and the date of termination of such services, the amount of salary or commission paid to each body-rubber and all amounts paid by the owner to the operator, if any, or by the operator to the owner, in respect of such body-rub parlour or body-rub parlour business.

- (2) Every owner to whom subsection (1) relates and every operator shall keep such books and records as are required by that subsection for at least one year after the information required by that subsection is entered therein, and the Director of Licensing or any person duly authorized by him or her shall at all times have access to such records.
  - (3) Immediately before any services are provided in a body-rub parlour the body-rubber or person who is to provide the services shall give to the customer an itemized bill for such services, listing the services to be provided and the price to be paid for each.
  - (4) Upon payment of the bill referred to in subsection (3), the customer shall be given a written serially numbered receipt for the full amount paid and containing the full name and address of the customer and the licence number of the body-rubber.
  - (5) Every owner operating a body-rub parlour and every operator of a body-rub parlour shall ensure that the bill and receipt required by subsections (3) and (4) are provided to every customer of the body-rub parlour and shall retain and keep a copy of each such bill and receipt for at least one year after the services referred to therein are performed, and the Director of Licensing or any person authorized by him or her shall at all times have access to such copies.
20. Every owner who operates his or her own body-rub parlour and every operator of a body-rub parlour shall comply with, and ensure compliance with, the following regulations:
- (a) the premises shall be provided with adequate light and ventilation;
  - (b) the premises and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition;
  - (c) the premises shall be equipped with an effective utility sink;
  - (d) adequate toilet and washroom accommodation shall be provided, and there shall be separate such rooms for males and females, and no body-rubs or other services may be provided in any washroom or in any room containing a toilet;
  - (e) 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 clean towels for the use of each person using the washing facilities; and
- (iv) a suitable receptacle for used towels and waste material;
- (f) no washroom, toilet, sink or basin used for domestic purposes shall be used in connection with a body-rub parlour;
- (g) adequate shower-bath rooms shall be provided, and in such rooms, and in all sauna-bath rooms, if any;
  - (i) the floors shall be disinfected at least once a week with a suitable disinfecting solution;
  - (ii) all services and attached accessories of the bath or shower enclosure must be self-draining;
  - (iii) all showers must have removable cleanable drain covers; and
  - (iv) floor surfaces both within and without the enclosure shall be of a non-slip type;
- (h) if bathtubs or whirlpool baths are provided on the premises,
  - (i) a grab-bar or other convenient support shall be provided unless the walls of the tub or whirlpool bath enclosure are twenty-four inches in height or higher;
  - (ii) the bottom of the tub or whirlpool bath enclosure shall be of a non-slip type; and
  - (iii) the water serving all bathtubs, showers and hand basins used by patrons shall not have a temperature exceeding 48.89 degrees Celsius and shall be controlled by a device that regulates the temperature, and patrons shall not have access to this device;
- (i) a total volume air change of ten times per hour shall be provided for all tub, shower or bath rooms;
- (j) common foot baths shall not be provided on the premises;
- (k) duckboards or cocoa matting shall not be used in the shower, bath or steam room and only liquid or powdered soap shall be used in the shower room;

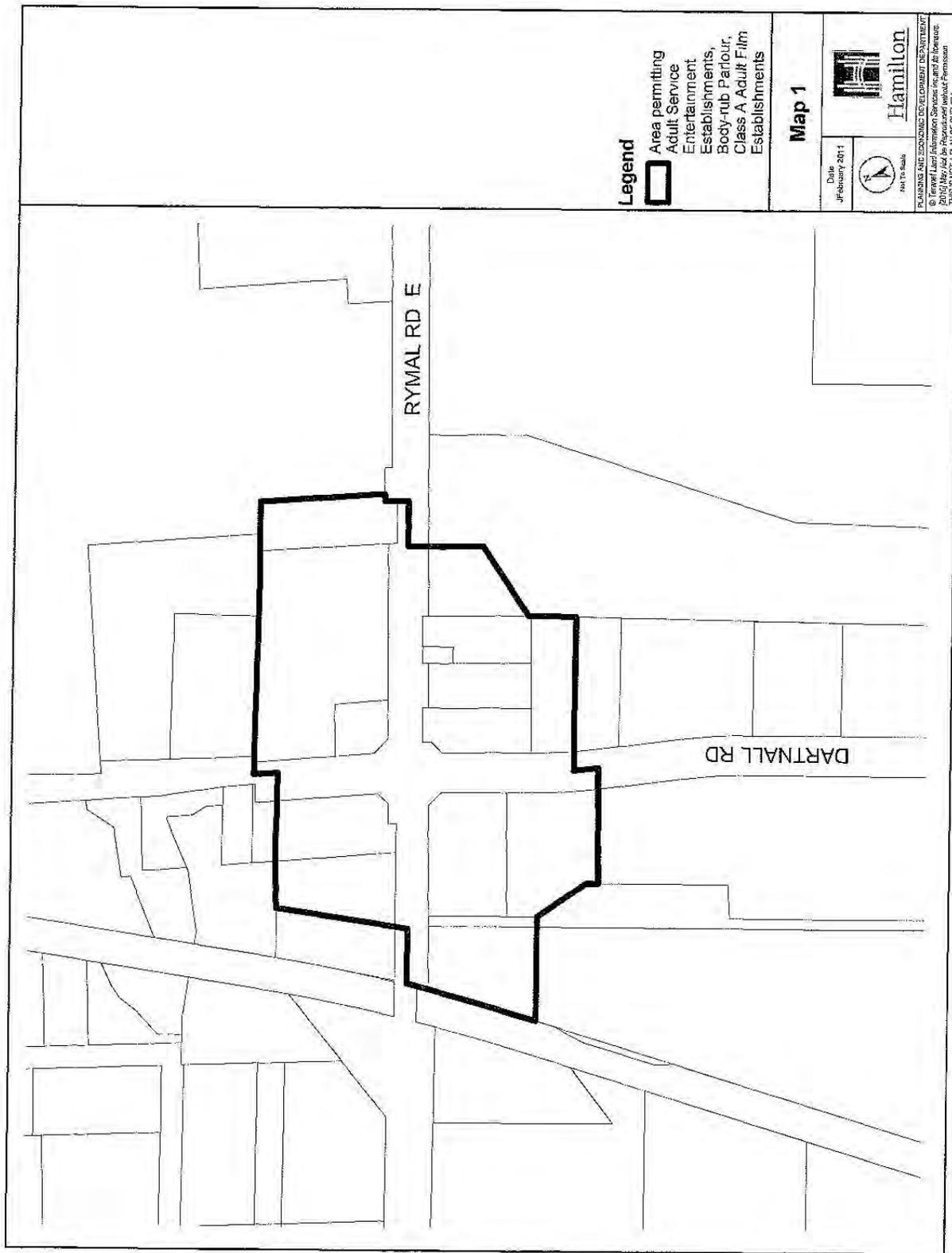
- (l) a notice shall be posted advising all patrons that a cleansing shower or bath must be taken by every person immediately prior to any body-rub being performed upon that person;
  - (m) every person immediately after taking a shower shall be provided with a fresh, clean, individual pair of paper slippers;
  - (n) every table, mat or other surface upon which persons lie or sit while being given or provided with a body-rub shall be clean and in good repair, and shall have a top surface of impervious material;
  - (o) every table, mat or other surface referred to in paragraph (n), before any person receives a body-rub thereon, shall be covered with a fresh, clean individual paper or cloth sheet;
  - (p) every sheet or towel, immediately after being used by any person, shall be deposited in a receptacle reserved for that purpose and shall not be utilized again for any purpose before being freshly laundered; and
  - (q) all massage or body-rub appliances and any other article or device applied to a customer's body for or in connection with body-rubs shall be cleansed and disinfected after each individual use with a suitable disinfecting solution and no such appliance, article or device shall be used or available for use in a body-rub parlour unless it is so constructed as to be readily capable of being so cleansed or disinfected.
- 21.(1) No owner, operator or body-rubber shall perform or permit to be performed a body-rub in any body-rub parlour by or upon any person whom he or she has reasonable cause to suspect has been exposed to or is suffering from any communicable disease including any communicable skin disease.
- (2) Every owner operating his or her own body-rub parlour and every operator shall take every reasonable precautions to ensure that persons whom the owner or operator has reasonable cause to suspect have been exposed to communicable diseases or who are suffering from such diseases, are not permitted to enter into the body-rub parlour.

- (3) No owner or operator shall permit any body-rub to be given, performed, provided or received in any body-rub parlour in breach of any of the regulations contained in this Schedule.
22. No person who performs body-rubs in, upon or at a body-rub parlour shall hold, receive or handle any cash or currency used or received in connection with the business of the body-rub parlour or receive or hold any customer's money or belongings, and every owner or operator, during the period in which the body-rub parlour is open for business, shall provide a person for such purposes, which person, during the period in which he or she is so employed, shall not provide any body rubs.
- 23.(1) No one may provide a body-rub or any other services in a body-rub parlour to a person who is or who appears to be under the age of eighteen years.
- (2) No owner or operator shall permit any person actually or apparently under the age of eighteen to enter or remain in any body-rub parlour.
- 24.(1) No owner, operator, body-rubber, or other person shall provide a body-rub or any other service or services in a body-rub parlour to a person who is or who appears to be intoxicated by alcohol or a drug or to any person whose appearance or condition provides reasonable cause to believe that the provision of such services to such person may cause illness or injury to him.
- (2) No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any body-rub parlour.
- 25.(1) No owner or operator shall pen such body-rub parlour for business or permit the same to be or to remain open for business or permit any body-rubs or services of any kind to be performed, offered or solicited in the said body-rub parlour at any time between the hours of 1:00 o'clock in the forenoon of any day and 8:00 o'clock in the forenoon of the same day.
- (2) Subject to subsection (1), every owner who operates his or her own body-rub parlour and every operator of a body-rub parlour shall file with the Director of Licensing a schedule

showing the hours of business to be observed in the carrying on of operation of the body-rub parlour which schedule shall state specifically the opening and closing times of the said body-rub parlour for each day of the week.

- (3) No person shall permit a body-rub parlour owned or operated by him or her to be open for business at any time other than the times set forth in a schedule filed with the Director of Licensing pursuant to subsection (2).
  - (4) During the hours of business of a body-rub parlour set forth in the schedule filed with the Director of Licensing in accordance with subsection 2, or at any time at which a body-rub parlour is open for business, or at any time at which a body-rubber is in attendance at a body-rub parlour, it shall be the responsibility of the owner and of the operator, if any, to ensure that the door or doors of other principal means of access into the body-rub parlour by the public shall be kept unlocked and available so that anyone coming into the body-rub parlour from the street or other public place may enter therein without hindrance or delay.
  - (5) Either the owner or an operator licensed in respect of such owner's body-rub parlour shall be in attendance at such owner's body-rub parlour at all of the times referred to in subsection (4), and no owner or operator shall permit a body-rub parlour owned or operated by him to open for business, to remain open for business, or any body-rubber to enter or remain therein, or any services to be performed, offered or solicited in such a body-rub parlour, unless this subsection is complied with.
- 26.(1) No owner, operator or body-rubber shall take, consume or have a liquor or a drug in his or her possession in a body-rub parlour, nor shall the use of liquor or a drug be apparent while he or she is in a body-rub parlour.
- (2) For the purposes of subsection (1) the word "drug" does not include patent medicines and prescription drugs required for medicinal purposes.
  - (3) Notwithstanding subsection (1), every owner who operates his or her own body-rub parlour and every operator shall provide and maintain at all times at the body-rub parlour a first-aid kit as per Regulation 1101 under the Workplace Safety and Insurance Act.

- 27.(1) Every owner, operator and body-rubber shall, while engaged in his or her respective trade, calling, business or occupation in a body-rub parlour be properly dressed, neat and clean in his or her person and civil and well-behaved to members of the public with whom he or she is dealing.
- (2) Every owner, operator or body-rubber performing a body-rub or any other service in a room, cubicle or other enclosure shall be attired in a light-coloured, durable, hygienic uniform.
- 28.(1) No owner, operator or body-rubber shall use or permit to be used any camera or other photographic or recording device in, upon or at a body-rub parlour by any person other than Issuer Licences or an inspector.
- (2) No owner, operator or body-rubber shall perform or cause to be performed or permit to be performed a body-rub or any other service in a room, cubicle or other enclosure in which is installed a two-way mirror, window or closed-circuit television or in which there is an opening to an area outside the room, cubicle or other enclosure by any means whatsoever, except a doorway or operating ventilation system.



**SCHEDULE 5** (17-129)

**PAWNBROKERS**

**DEFINITIONS**

1. In this Schedule:

“**pawnbroker**” means a person operating a business that takes by way of pawn or pledge any good for the repayment of money lent thereon; and

“**pawner**” means a person who delivers an article for pawn to a pawnbroker; and

“**pledge**” means an article pawned with a pawnbroker.

**GENERAL PROHIBITIONS**

2. No person shall carry on business as a pawnbroker within the City without a licence to do so.

**REQUIREMENTS**

3. Every pawnbroker shall comply at all times with all provisions of the *Pawnbrokers Act* R.S.O. 1990.
4. In addition to complying with the General Provisions of this By-law, a person applying for a pawnbroker licence shall provide security in the amount of \$2,000 to the satisfaction of the City Treasurer in accordance with section 6 of the *Pawnbrokers Act* R.S.O. 1990.
5. Every pawnbroker shall:
  - (a) keep their licence issued in respect of this Schedule posted in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to a Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence;

- (b)(i) every Tuesday and, in addition, as needed, review the electronic Identifiable Stolen Property List sent out by the Hamilton Police Service to determine if any of the described goods have been or are being sold to them; and
- (b)(ii) if any of the described goods have been or are being sold to them, notify the Hamilton Police Service immediately;
- (c) submit weekly reports electronically to the Hamilton Police Service via [storereports@hamiltonpolice.on.ca](mailto:storereports@hamiltonpolice.on.ca);
- (d) notify the Hamilton Police Service immediately of the name and description of any goods, which are believed to have been stolen or unlawfully obtained; and
- (e) before pledge ensure the pawner signs a certificate of ownership certifying that they are the owner of each good.

**SCHEDULE 6** <sup>(17—116)</sup>**FOOD SERVICE VEHICLES****DEFINITIONS**

## 1. In this Schedule:

**“certificate of inspection”** means a certificate in a form approved by the City’s Medical Officer of Health which sets out the results of an inspection conducted under the *Health Protection and Promotion Act* or its regulations;

**“charity”** means a registered charity as defined in the *Income Tax Act* (Canada) which has a registration number issued by the Canada Revenue Agency, or a successor agency;

**“Class A vehicle”** means a motorized or non-motorized food service vehicle used as a non-travelling, site-specific food premises including but not limited to a catering truck, chip truck, or refreshment trailer;

**“Class B vehicle”** means a motorized or non-motorized food service vehicle that is used as a travelling food premises including but not limited to a catering truck, chip truck, ice cream truck, refreshment trailer or hot dog cart;

**“Class C vehicle”** means a non-motorized food service vehicle that is used as a travelling food premises from which pre-packaged frozen products exclusively are offered for sale including but not limited to an ice-cream cycle, yogurt cart or juice carts;

**“food service vehicle”** means any vehicle (Class A, B, C) from which refreshments are sold or offered for sale for consumption by the public and includes but is not limited to a cart, wagon, trailer, truck and bicycle, irrespective of the type of power employed to move the food service vehicle from one point to another;

**“food service vehicle identifier”** means a numbered sticker or similar document issued by the Director of Licensing to a food service vehicle operator;

**“designated park”** means Bayfront Park, Pier 4 Park, Confederation Beach Park, Heritage Green Community Sports Park, Turner Park, Sam Lawrence Park, Gage Park, and Valley Park;

**“property”** means a parcel of land which can be legally conveyed pursuant to the

provisions of the *Planning Act* and does not include road allowance;

“**public health inspector**” means a public health inspector employed in the Public Health Services Department;

“**refreshment**” means food or drink;

“**residential local road**” means an Urban Residential Local Road as described in the City’s Transportation Master Plan; and,

“**special event**” means an event administered or approved by the City’s Special Event Advisory Team.

## **APPLICATION OF THE SCHEDULE**

2. This Schedule does not apply to food service vehicles operated by a charity or an educational, religious or youth sports organization for the purpose of raising funds during an event.

## **GENERAL PROHIBITIONS**

3. No person shall operate a food service vehicle without a licence.
4. No person shall operate or permit a Class A or Class B vehicle to be driven unless the driver has a current and valid Driver’s Licence issued under the *Highway Traffic Act*, by the Minister of Transportation and Communications for Ontario.
5. No person shall publish or permit to be published any representation that they are operating food service vehicle unless the person has a licence.

## **LICENSING**

6. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall make the food service vehicle available for inspection as requested by the Director of Licensing and submit:
  - (a) a list of the types of refreshments to be sold or offered for sale, specifying the source supplying the refreshments and identifying refreshments that will be refrigerated or heated as part of the operation of the food service vehicle;
  - (b) a spill containment plan including a description of how and where grease and grey water will be disposed of;
  - (c) a photograph of the food service vehicle to be licensed;

- (d) the location where the food service vehicle will be parked or stored when not in use;
  - (e) written approval from the property owner or owners where the food service vehicle will be located when selling or offering for sale refreshments;
  - (f) for a food service vehicle that is subject to the Director's Orders FS-056-06 (issued under the *Technical Standards and Safety Act, 2000*) as amended or replaced from time to time, a completed inspection certificate and information fact sheet issued no more than 36 days before an application or renewal is submitted;
  - (g) for a Class A or B food service vehicle, proof of current and valid motor vehicle insurance satisfactory to the Director of Licensing with a third party liability limit of no less than \$2,000,000 per occurrence; and,
  - (h) for a Class B or C food service vehicle proof of current and valid liability insurance satisfactory to the Director of Licensing naming the City as an additional insured with a third party liability limit of no less than \$2,000,000 per occurrence.
7. A separate licence shall be issued for each food service vehicle and shall list each property, if any, where the food service vehicle will be located.
  8. A licence to operate a food service vehicle shall not be issued until a public health inspector has informed the Director of Licensing that all requirements under the *Health Protection and Promotion Act* and its regulations have been fully complied with.
  9. A licence to operate a food service vehicle may be issued for a term of one year or for a term of four consecutive days. In addition a licence for Class B or Class C food service vehicle may include permission to access designated parks, upon payment of an additional fee.

## **REQUIREMENTS**

### **Duty of All Operators**

10. Every person operating a food service vehicle shall ensure that:
  - (a) only the food service vehicle and property, if any, for which the licence has been issued are used;
  - (b) the food service vehicle is equipped and maintained with:
    - (i) a clean compartment for the storage of food, and in the case of a food service vehicle selling or offering for sale ice cream, frozen desserts or other frozen confections, the compartment shall be refrigerated; and,
    - (ii) at least one suitable waste container.

- (c) the food service vehicle is kept in a clean and orderly condition and maintained in all respects in a condition suitable of the purpose for which it is used;
- (d) the food service vehicle is adequately lighted and ventilated;
- (e) the food service vehicle identifier is on the rear exterior of the food service vehicle or to another location on the food service vehicle approved in advance by the Director of Licensing and is prominently displayed while the food service vehicle is in operation;
- (f) only the refreshments listed in section 6(a) are sold or offered for sale;
- (g) no internal combustion engine associated with the operation of the food service vehicle idles for more than 3 minutes within 3 metres of a habitable room's door, window or other opening measured from the nearest point of the exhaust venting to the nearest point of the habitable room's door, window or other opening;
- (h) no accessory generator associated with the operation of the food service vehicle is used outside of the food service vehicle;
- (i) waste receptacles are available for use when the food service vehicle is selling or offering for sale refreshments and removed together with all waste collected in the waste receptacles or accumulated in the surrounding area upon leaving or closing;
- (j) a public health inspector is not obstructed when:
  - (i) posting a Certificate of Inspection in a clearly visible and conspicuous location on the food service vehicle, in a location satisfactory to the public health inspector; and,
  - (ii) removing a Certificate of Inspection which has been posted on the food service vehicle; and,
- (k) no one other than a public health inspector or Municipal Officer posts or removes a Certificate of Inspection on the food service vehicle; and
- (l) the food service vehicle does not operate within a park unless it is a designated park and the food service vehicle has a permit.

### **Class A Vehicle Operators**

11. Every person operating a Class A food service vehicle shall ensure that:

- (a) the food service vehicle is at least 1.5 metres from any property line;
- (b) in the Hess Village Entertainment District, the food service vehicle does not operate between 2:30am and 8am; and,
- (c) the food service vehicle is equipped with an operational fire extinguisher.

### **Classes B and C Vehicle Operators**

12. Every person operating a Class B food service vehicle shall ensure that the food service vehicle is equipped with an operational fire extinguisher.
13. Every person operating a Class B or Class C food service vehicle shall ensure that:
  - (a) the food service vehicle is in a safe and mechanical condition before it is driven;
  - (b) the food service vehicle is not driven if it is in an unsafe mechanical condition;
  - (c) all statutes, regulations and by-laws governing driving, parking or stopping the food service vehicle are complied with at all times;
  - (d) the business name of the food service vehicle operator is displayed:
    - (i) on both sides of the food service vehicle or on another location as approved in advance by the Director of Licensing; and,
    - (ii) plainly visible in its entirety at all times.
  - (e) the food service vehicle is moved at the verbal or written request of the Director of Licensing or a Municipal Officer appointed or assigned to enforce this Schedule, if, in the opinion of the Director of Licensing or an officer the location:
    - (i) is or may become undesirable for safety reasons; or,
    - (ii) interferes with normal access to any property.
  - (f) the food service vehicle does not stop on road allowance to sell or offer for sale refreshments:
    - (i) within 30 metres along any abutting road allowance, measured from the point of intersection of the perpendicular projection of the limits of the food premises (including any outdoor patio) and the road allowance to the nearest point of the food service vehicle;
    - (ii) within 6 metres of an intersection;
    - (iii) within 100 metres of any school or hospital, measured along the most direct road allowance route from the nearest point of the school or hospital boundary to the nearest point on the food service vehicle;
    - (iv) within 100 metres of the boundary of a special event measured along the most direct road allowance route from the nearest point of the special event boundary to the nearest point on the food service vehicle, except when approved as part of a special event;
    - (v) for more than 15 minutes at any one location on a residential local road; or,
    - (vi) to a customer who is standing on the travelled portion of a road allowance, not including a sidewalk.

- (g) the food service vehicle does not stop on property to sell or offer for sale refreshments unless:
  - (i) the food service vehicle is otherwise authorized by the City to sell or offer for sale refreshments on the property;
  - (ii) the food service vehicle is not within 6 metres of an intersection;
  - (iii) the food service vehicle is not within 100 metres of any school or hospital, measured along the most direct road allowance route from the nearest point of the school or hospital boundary to the nearest point of the property;
  - (iv) the food service vehicle is not within 100 metres of the boundary of a special event measured along the most direct road allowance route from the nearest point of the special event boundary to the nearest point of the property, except when approved as part of a special event;
  - (v) the property is zoned to permit a restaurant use or an industrial use;
  - (vi) the property owner, owners, or occupiers have given written approval for the food service vehicle to be on the property; or,
  - (vii) the food service vehicle is on the property for 8 hours or less on any one day.
- (h) subsections h(iii) and (vi) do not apply to property used as a place of worship or a school if the sale of refreshments:
  - (i) has been organized by and for the benefit of the place of worship or the school located on the property; and,
  - (ii) occurs no more than 20 days in a calendar year;
- (i) subsection h(iii) does not apply to a food service vehicle operating in compliance with a licence that includes permission to access designated parks;
- (j) the food service vehicle does not operate:
  - (i) on a residential road between 8 p.m. on one day and 8 a.m. on the next day; or,
  - (ii) on any other road between 1 a.m. and 8 a.m.;
- (k) a location log is kept for each day the food service vehicle is operated in a form satisfactory to the Director of Licensing that includes:
  - (i) each location (event, street name) that refreshment sales were made; and,
  - (ii) each time of arrival and departure;
- (l) the location log under subsection 13(k) must be kept for a rolling 1 year window from the current date created;
- (m) the location log shall be made available upon written request from the Director of Licensing within 2 business days; and,

- (n) the food service vehicle is not washed or repaired while on a road allowance except, in the case of repair, when repair is necessary to move the food service vehicle off the road allowance.
14. In addition to otherwise complying with this Schedule, every person operating a Class B or Class C food service vehicle with a licence that includes permission to access designated parks shall ensure that:
- (a) a park endorsement application is submitted to the Licensing Division;
  - (b) the food service vehicle does not operate if three food service vehicles are parked in the designed park upon their arrival;
  - (c) the food service vehicle does not operate between 11pm and 7am; and
  - (d) the food service vehicle parks in parking spaces as specified by the Licensing Division.

**SCHEDULE 7** (17-069)

**KENNELS AND PET SHOPS**

**DEFINITIONS**

1. In this Schedule:

“**animal**” means any member of the animal kingdom, other than a human;

“**kennel operator**” means a person operating a commercial establishment for the keeping or boarding for more than 16 consecutive hours or the breeding of animals that are used or are intended to be used as pets but does not include a person operating a commercial establishment for the provision of services to animals such as daycare for all or part of a day, obedience classes, training, grooming, and behaviour counselling;

“**pet shop operator**” means a person operating a commercial establishment for the selling or offering for sale of animals that are used or are intended to be used as pets; and,

“**pound**” means premises that are operated by the City used for the detention, maintenance or disposal of animals, namely the premises located at 247 Dartnall Road, Hamilton and any additional premises used for the detention, maintenance or disposal of animals that may be operated by the City or its contractors from time to time.

**APPLICATION OF SCHEDULE**

2. This Schedule does not apply to:

- (a) the premises of a pound;
- (b) premises used by the Ontario Society for the Prevention of Cruelty to Animals or an affiliated society;
- (c) registered humane societies, registered shelters or rescue groups as approved by the Director of Licensing;
- (d) a supply or research facility licensed in accordance with the *Animals for Research Act*;

- (e) a temporary public display of animals including a circus, carnival or classroom display;
- (f) an animal hospital or clinic operated and supervised by a veterinarian who has a licence to practise veterinary medicine issued under the *Veterinarians Act*, or,
- (g) a horse boarded or trained as part or all of an agricultural use on premises zoned under a City zoning by-law permitting such a use.

### **GENERAL PROHIBITIONS**

- 3. No kennel operator or pet shop operator shall:
  - (a) operate a kennel or pet shop without a licence to do so;
  - (b) keep for sale or offer for sale any sick diseased or unhealthy animal which exhibits signs of infectious diseases; or,
  - (c) keep for sale or offer for sale any animal which is prohibited under the City's Responsible Animal Ownership By-law.
- 4. Every kennel or pet shop operator shall ensure that:
  - (a) all aspects of the *Ontario Society for the Prevention of Cruelty to Animals Act*, the City's Responsible Animal Ownership Bylaw and the animal cruelty provisions of the *Criminal Code* (Canada) are complied with at all times;
  - (b) the City's Noise By-law is complied with at all times;
  - (c) all animals are adequately fenced or caged to prevent them from running at large;
  - (d) all animals are kept in a cage of adequate size; and,
  - (e) all animals are fed and supplied with water regularly and kept in a clean, healthy condition free from vermin and disease.

### **REQUIREMENTS**

- 5. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall:
  - (a) submit a certificate of compliance from the City's Animal Services Section showing that an inspection of the establishment has been conducted and that it is compliance with the General Provisions and this Schedule; and,
  - (b) satisfy the Director of Licensing that the operator has not been convicted of animal cruelty under the *Criminal Code* (Canada).

**SCHEDULE 8** <sup>(17-151)</sup>

**LIMOUSINES**

**DEFINITIONS**

1. In this Schedule:

“**booking**” means an electronic, written, or oral reservation made in advance;

“**limousine**” means any automobile and includes a sedan, stretch, luxury or classic motor vehicle that transports passengers for compensation without use of a taximeter;

“**limousine driver**” means a person who drives a limousine;

“**limousine owner**” means a person owns a limousine;

“**mechanical safety inspection certificate**” a certificate signed by a designated mechanic from a Ministry of Transportation licensed garage upon completion of a mechanical safety inspection, in a form approved by the Director of Licensing, describing or attesting to the mechanical condition of a vehicle that is being used as a limousine;

“**owner**” means each person whose name appears on the *Highway Traffic Act* certificate of registration for the limousine;

“**passenger**” means any person other than the limousine driver;

“**smoke**” or “**smoking**” includes the carrying of a lighted cigar, cigarette, electronic cigarette, pipe or any other lighted smoking equipment; and

“**solicit**” means any appeal for customers or passengers by sound, words, signs or gestures directed at any person;

**APPLICATION OF SCHEDULE**

2. This Schedule does not apply to:

- (a) taxicab services dispatched by a licensed taxicab broker and taxicab services provided by a licensed taxi plate holder or a licensed taxicab driver under the authority of Schedule 25: Taxicabs of By-law 07-170;
- (b) personal transportation provider services facilitating prearranged transportation services for compensation using any platform to connect passengers with a

personal transportation provider driver under the authority of Schedule 24: Personal Transportation Providers of By-law 07-170;

- (c) a motor vehicle used as part of a transit system provided by the City such as the public transit service known as the Hamilton Street Railway;
- (d) a person with an operating licence under the *Public Vehicles Act* for the vehicle;
- (e) a person who facilitates “carpooling” as defined by the *Public Vehicles Act*; or,
- (f) an emergency motor vehicle including but not limited to an ambulance, fire department vehicle, or police vehicle.

### **GENERAL PROHIBITIONS AND OBLIGATIONS**

- 3. No limousine owner or limousine driver shall:
  - (a) operate without a licence to do so;
  - (b) facilitate or make any representations as a limousine owner or a limousine driver unless authorized to do so by the City;
  - (c) display a roof sign bearing the words “taxi-cab”, “taxi”, or “cab”;
  - (d) permit or condone the acceptance of street hails or the solicitation of passengers, whether on the street or at a taxi stand or in any other manner at any other location;
  - (e) permit any person who does not hold a licence from the City to operate the limousine;
  - (f) permit any person to smoke in the limousine; or,
  - (g) permit or engage in advertising on the limousine.

### **LICENSING**

- 4. An application for a new or renewed limousine owner or limousine driver licence shall be made to the Licensing Section using the forms approved by the Director of Licensing.
- 5. Despite section 4, a limousine driver licence is not required for a limousine driver who holds a current and valid taxi-cab driver’s licence with the City.
- 6. Any issued limousine owner or limousine driver licence is non-transferable and remains at all times the property of the City.
- 7. Every applicant who applies for a limousine owner licence or limousine driver licence must be at least 18 years of age and have a valid G licence issued by the Province of Ontario which is in good standing according to the records of the Ministry of Transportation.

8. Every applicant for a new or renewed limousine owner licence shall:
  - (a) obtain a limousine drivers licence to drive a limousine, but is not required to pay the fee;
  - (b) obtain a separate licence for each motor vehicle to be used as a limousine;
  - (c) submit to the Licensing Section:
    - (i) clear identification of the vehicle, including the make and serial number;
    - (ii) a certificate of ownership;
    - (iii) the motor vehicle registration issued under the *Highway Traffic Act*;
    - (iv) a valid mechanical safety inspection certificate, within 36 days of the inspection date;
    - (v) certificate of insurance with the following minimum insurance requirements:
      1. a policy of insurance in respect of the limousine in an amount not less than \$500,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of one or more persons or from loss or damages to property resulting from any one accident;
      2. provide a special enforcement to the policy of insurance referred to in subparagraph 8(c)(v)1, for passenger hazard in an amount not less than \$500,000, exclusive of interest and costs;
      3. the insurance required under subparagraph 8(c)(v)1 shall contain an endorsement to provide the City no less than 10 days prior notice of any cancellation, expiration or change in the amount of the insurance or in terms of the policy; and,
      4. deposit a certified true copy of the policy of insurance and all endorsements with the City; and,
    - (vi) any other information required by the Director of Licensing.

## **REQUIREMENTS**

### **Limousine Owner**

9. Every limousine owner shall:
  - (a) ensure that the City licence plate is affixed to the limousine and visible prior to use in a location satisfactory to the Municipal Officer;
  - (b) submit a limousine for inspection at a time and location specified by the Director of Licensing or Municipal Officer;
  - (c) immediately remove a limousine from service if any mechanical defects are reported;

- (d) immediately check for mechanical defects to the limousine reported by the driver;
- (e) not employ or permit any person other than a licensed limousine driver or licensed taxi cab driver employed by the limousine owner, to operate a limousine;
- (f) create and maintain completed trip records for a rolling 3 year window from the current date created including:
  - (i) the name and address of the passenger booking the trip;
  - (ii) the date, time and location of the pick-up and drop off;
  - (iii) the total amount paid; and,
  - (iv) the name and licence number of the limousine driver;
- (g) every limousine owner shall make the records in subsection 9(f) and 9(i) available to the Director of Licensing within 2 business days following a demand in writing by the Director of Licencing;
- (h) ensure that the passenger requesting the trip is provided with the total estimated cost prior to booking the trip;
- (i) ensure that a passenger is provided with a printed or electronic receipt at the end of the trip that includes the information confirming:
  - (i) the name and address of passenger;
  - (ii) the date, time and location of the pick-up and drop off;
  - (iii) the total amount paid; and,
  - (iv) the first name and licence number of the limousine driver; and,
- (j) ensure that the limousine driver operating the owner's vehicle records information as required under subsection 9(f).

### **Limousine Driver**

10. Every limousine driver shall:

- (a) hold a valid limousine licence prior to driving a limousine;
- (b) not carry more passengers than the manufacturer's rated seating capacity for that motor vehicle, including the driver;
- (c) not drive with any object placed in, hung on or attached to the limousine or in such a manner that will obstruct the driver's view of the road;
- (d) not take, consume, or have in possession any alcohol, drugs or intoxicants while operating a limousine;
- (e) examine the limousine for any defects immediately before the limousine is to be driven;
- (f) report to the limousine owner immediately:

- (i) any defects to the limousine;
  - (ii) any accidents while operating the limousine; and,
  - (iii) any enforcement tickets or summons issued while operating the limousine; and,
- (g) ensure that the City licence plate is affixed to the limousine and visible prior to use in a location satisfactory to the Municipal Officer;
- (h) ensure that the limousine driver's licence and photo is visible prior to use, in a location satisfactory to the Municipal Officer;
- (i) be properly dressed, well groomed, neat and clean in personal appearance;
- (j) be civil and behave courteously;
- (k) operate a limousine only if:
- (i) it is clean, dry and in good repair as to its interior;
  - (ii) it is clean, and in good repair as to its exterior, free from exterior body damage and with a well maintained exterior paint finish; and,
  - (iii) it is free from mechanical defects; and,
- (l) maintain completed trip records with the information required under subsection 9(f);
- (m) ensure that the passenger is provided with a printed or electronic receipt at the end of the trip that includes the information required under subsection 9(i);
- (n) immediately at the end of the trip:
- (i) search the limousine for any property or money lost or left therein; and
  - (ii) deliver any lost or left money or property to the person owning the property or money and if the owner of the property or money cannot be found, deliver the property or money to the nearest police station with all information regarding the property or money.
11. On demand of the Director of Licensing or a Municipal Officer, the limousine drivers shall:
- (a) produce any of the following:
- (i) the limousine driver's licence, including photograph identification card;
  - (ii) the limousine driver's trip records;
  - (iii) a valid motor vehicle registration issued under the *Highway Traffic Act*;
  - (iv) valid insurance that meets the requirement of this Schedule;
  - (v) a valid safety standard certificate issued by a Ministry of Transportation licensed garage; and,

- (vi) any other information pertaining to the limousine driver or the operation of the limousine as requested by the Municipal Officer; and,
- (b) Submit the limousine operated by the limousine driver for inspection at a time and location specified by the Director of Licensing or Municipal Officer.

**Disposal of Limousine**

12. Immediately when the licensed limousine owner or limousine driver disposed of or otherwise ceases to use a limousine as a limousine all identifying decals, markings and all other items which would make the limousine appear to the public to be a limousine must be removed.

## **SCHEDULE 9**

### **LODGING HOUSES**

#### **INTERPRETATION**

1. Definitions:

**“lodging house”** means a house or other building or portion thereof in which four (4) or more persons are or are intended to be harboured, received or lodged for hire, where lodging rooms are without kitchen facilities for the exclusive use of the occupants and where each occupant does not have access to all of the habitable areas in the building, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if the hotel, hospital, home or institution, is licensed, approved or supervised under a general or special Act other than the Municipal Act, 2001.

#### **LICENCE REQUIRED**

2. No person shall operate a lodging house without a licence under this by-law for the keeping and operation of that house.

#### **MISCELLANEOUS REQUIREMENTS FOR LODGING HOUSES**

- 3.(1) The keeper of a lodging house shall ensure that the lodging house is so designed, constructed, equipped and maintained as to be in compliance with applicable laws and this by-law, and available and suitable for the use of residents, and, without restricting the generality of the foregoing:

There shall be at least one water closet, one wash basin, and one bath tub or shower bath in a separate room or compartment, for every seven residents, based on the lodging house capacity for residents or the actual occupancy, whichever is greater.

- (2) Without restricting the generality of subsection (1), the keeper of a lodging house shall ensure:
- (a) That the building and all facilities are maintained and used in accordance with the standards provided in this by-law, and that the same and all equipment, furniture and furnishings are kept in good repair and in clean and sanitary condition, and available for use by residents;
  - (b) That each resident of the lodging home is supplied with a separate lockable mail box;
  - (c) That a register is maintained at the lodging house, with the name and signature of all residents, their usual residence or if none their last residence, the date of entry to and date of departure from the lodging house, and type of identification produced by the resident to the operator or staff of the lodging house;
  - (d) That there is provided at all times an adequate supply of clean towels for each individual, and other customary toilet supplies, and that all water-closet accommodation and toilet accommodation is provided without extra charge; and
  - (e) That there is posted along with the licence certificate a notice signed by the operator, giving his or her name, address and telephone number, and the name, address and telephone number of the employee or agent in charge of the particular premises, along with the emergency telephone numbers for Fire, Police, Building and Public Health Services Departments.
- (3) Subject to subsection (4), a person applying for or transferring a lodging house licence shall provide with the application, for each lodging house property, a certificate of compliance issued to the person under the applicable property standards by-law.

- (4) A lodging house licence holder applying for renewal of the licence shall comply with subsection (3), unless there is a certificate of compliance issued to the licence holder under the applicable property standards by-law, the date of which is no more than three years before the date of renewal.
- (5) A person applying for a licence shall attend a training session conducted by or on behalf of the City, prior to issuance of a licence.

## **INSPECTION**

4. The Medical Officer of Health, a municipal law enforcement officer, or a police officer may at all reasonable times make inspection of any lodging house and of the records required to be kept, and the Medical Officer of Health may delegate such duty to a subordinate.

**SCHEDULE 10** <sup>(17-130)</sup>

**SALVAGES BUSINESSES**

**DEFINITIONS**

1. In this schedule:

“**purchase**” includes but is not limited to taken in exchange, acquired or otherwise received;

“**recyclable material**” means any product utilized for any purpose which would otherwise be disposed of or dealt with as waste, including glass, metal, plastic, rubber and paper products;

“**salvage**” means but is not limited to recyclable material, metal scrap, used or wrecked motor vehicles or used or wrecked motor vehicle parts;

“**salvage business**” means salvage shops and salvage business, including an automobile wrecking business or premises;

“**salvage business operator**” means a person operating a business where scrap metal, scrapped or wrecked motor vehicles, material from demolished buildings or structures, recyclable material, junk or salvage of any type is received, processed, stored or dismantled prior to being sold or disposed of; and

“**seller**” means a person who sells or who offers to sell any salvage to a salvage business.

**APPLICATION OF THE SCHEDULE**

2. This Schedule does not apply to:

- (a) the business of purchasing used or wrecked motor vehicles or used or wrecked motor vehicle parts, then refurbishing them to like-new condition and then selling them, if the purchasing, refurbishing and selling all take place on the premises of the business; or

(b) a registered charitable corporation.

### **GENERAL PROHIBITIONS**

3. No person shall operate a salvage business without a licence to do so.
4. No salvage business operator shall purchase any salvage from a person appearing to be under:
  - (a) the age of 18 years old without consent from a guardian; or
  - (b) the influence of alcohol or drugs.
5. No salvage business operator shall purchase, acquire or permit the storage of any vehicle that has a serial number that is missing, has been mutilated or obliterated without first having given reasonable notice to the Hamilton Police Service prior to the intended purchase, acquisition, or storage.

### **REQUIREMENTS**

6. Every person required to obtain a licence under this Schedule shall obtain a separate licence for each premises.
7. In addition to complying with the General Provisions of this By-law, a person applying for a salvage business licence shall provide proof satisfactory to the Director of Licensing that the business has all applicable approvals required under the *Environmental Protection Act* and its regulations and that such approvals are current and valid.
8. When a used or wrecked motor vehicle is purchased, every salvage business operator shall produce, at the request of the Director of Licensing, Municipal Officer, or Hamilton Police Service, the vehicle portion of the permit issued for the motor vehicle or the notice from the Ministry of Transportation that the motor vehicle has been destroyed.

9. Every salvage business operator shall:

- (b) keep their licence posted in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to a Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence;
- (c) notify the Hamilton Police Service of the name and description of any salvage which is believed to have been stolen or unlawfully obtained; and
- (d) post a sign giving notice of the collection of personal information from sellers in a form satisfactory to the Director of Licensing in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to the Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence.

#### **Record of Purchase**

10. Every salvage business operator shall ensure that, without delay, at the time any salvage is purchased, a record of the purchase is made and includes:

- (a) the day, month, year and time of the purchase;
- (b) the price or other consideration given;
- (c) the full name, telephone number, and address of the seller as shown on at least 1 piece of identification that contains this information as well as a photograph of the seller; and
- (d) a detailed description of each salvage that shall be reasonably sufficient to identify it, including: make, model, serial numbers, weight, colour, markings and titles, where applicable.

11. Every salvage business shall ensure that the record of purchase under Section 10 is:

- (a) made by hand or electronically, either as approved in advance by the Director of Licensing;
  - (b) easily readable and in English;
  - (c) not altered or deleted once completed;
  - (d) protected from loss or destruction;
  - (e) kept for a minimum of one year; and
  - (f) submitted electronically to the Scrap Investigator at the Hamilton Police Service monthly by the 15<sup>th</sup> of the month following the month of purchase before close of business, or as requested, excluding 10 (c).
12. Every salvage business operator shall only deliver the full name, telephone number and address from whom the salvage was purchased to the Hamilton Police Service, if requested in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

### **Retention Period**

13. For the purposes of completing an investigation, the Hamilton Police Service may require that salvage suspected of having been stolen be retained on the premises and the salvage business operator shall ensure that the said salvage is not sold, exchanged, altered, repaired, disposed of or in any way parted with.

### **Visual Barrier**

14. Every salvage business operator shall install and maintain a visual barrier of not less than 2m in height between any outdoor area used for their salvage business and all adjoining properties including all adjoining road allowance.

15. Every salvage business operator shall ensure that material related to the use of a property as a salvage business that is not located indoors is:
  - (a) enclosed within the visual barrier under section 14;
  - (b) located not less than 1m from the visual barrier under section 14; and
  - (c) where located between 1m and 5m from the visual barrier under section 14, no higher than the visual barrier.
16. Every salvage business operator shall ensure that all activity related to the use of their premises that is not located indoors is enclosed within the visual barrier under section 14.
17. Every salvage business operator shall ensure that any opening in the visual barrier under section 14 for ingress or egress is covered by a gate that:
  - (a) is the same height as the visual barrier;
  - (b) does not open over a traveled portion of road allowance including a sidewalk;  
and
  - (c) is kept clear of obstructions so that the gate may be opened fully at any time.
18. Every salvage business operator shall ensure a visual barrier under section 14 or an opening in a visual barrier under section 17 comply with any other applicable by-law.
19. Where a zoning by-law, site plan or subdivision agreement entered into under the *Planning Act* requires a visual barrier, the requirement in such zoning by-law, site plan or subdivision agreement prevails in the event of a conflict with subsections 14 to 17, both inclusive.

**SCHEDULE 11** (18-042)

**PAYDAY LOAN BUSINESSES**

**DEFINITIONS**

1. In this Schedule:

“chartered bank annual consumer loan rate” means the most recent chartered bank – consumer loan rate set out in Table 176-0043 of the Bank of Canada Financial Market Statistics; and

“payday loan business” means a person or entity licensed as a lender or a loan broker under the *Payday Loans Act, 2008*.

**LICENSING**

**General**

2. Every payday loan business shall hold the applicable current and valid licence under this Schedule.
3. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, for approval of the Issuer of Licences:
  - (a) Proof of a current and valid licence as a lender or a loan broker under the *Payday Loans Act, 2008*;
  - (b) accurate, scale representations of the posters that will be displayed in accordance with sections 10 and 11; and
  - (c) the credit counselling information that will be given in accordance with section 12.
4. No payday loan business is permitted on any lands within Rural Hamilton,

including Rural Settlement Areas, as designated on Schedule D to the Rural Hamilton Official Plan.

5. No new payday loan business shall be issued a licence for a location listed in section 8.
6. No payday loan business shall be located and no payday loan business licence shall be issued except for in areas as permitted by sections 6 and 8.
  - (a) No more than 15 payday loan business licenses shall be issued; and
  - (b) No more than 1 payday loan business licence shall be issued per ward.
7. Council may consider a request to substitute a new location for an existing payday loan business location provided that any requested new location shall be restricted by ward and no more than one location per ward shall be permitted.
8. Despite section 6, the premises at the following municipal addresses licensed and in actual use as payday loans businesses in the City on January 1, 2018, are deemed to be a location where a payday loans business is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence, and the business carried on therein is in compliance with this By-law:
  - (a) 736 Queenston Road;
  - (b) 970 Upper James Street;
  - (c) 152 Hwy 8, Unit 158 (Stoney Creek);
  - (d) 61 King Street East;
  - (e) 1392 Main Street East;
  - (f) 460 Main Street West;
  - (g) 483 Hwy 8 (Stoney Creek);

- (h) 1 Wilson Street;
- (i) 836 Upper James Street;
- (j) 1655 Main Street West;
- (k) 1056 Barton Street East;
- (l) 314 Queenston Road, Unit F;
- (m) 58 Centennial Parkway North;
- (n) 309 Grays Road (Stoney Creek);
- (o) 1120 Fennell Avenue East;
- (p) 529 Concession Street;
- (q) 732 Queenston Road;
- (r) 219 King Street East;
- (s) 1299 Barton Street East, Building K;
- (t) 147 Locke Street South;
- (u) 534 Concession Street;
- (v) 127 King Street East;
- (w) 13 King Street East, Suite 1;
- (x) 858 Upper James Street;
- (y) 478 King Street East, Unit 2;
- (z) 1116 Barton Street East, Unit 1;
- (aa) 77 James Street North, Unit 223;
- (bb) 695 Queenston Road;
- (cc) 833 Upper James Street;
- (dd) 1062 Barton Street East.

(ee) <sup>(19-258)</sup>90 Centennial Parkway North

9. Staff annually report to Council on the number of payday loan businesses licenced.

### **Poster for Rates**

10. Every payday loan business shall display a poster at each of the offices authorized by its *Payday Loans Act, 2008* licence that:

- (a) has been approved in advance by the Issuer of Licences;
- (b) is in English;
- (c) is visible to any person immediately upon entering the office;
- (d) is of a minimum size of 61 centimetres in width by 91 centimeters in length;  
and
- (e) consists of:
  - (i) in 144 point font, a heading setting out the words “Our Annual Interest Rate” and the amount of the payday loan business’s annual interest rate, which may be shown on a replaceable card attached to the face of the poster or by any other similar means, immediately below the heading;
  - (ii) in 144 point font, a heading setting out the words “Chartered Bank – Annual Consumer Loan Rate” and the chartered bank annual consumer loan rate, which may be shown on a replaceable card attached to the face of the poster, immediately below the heading;  
and
  - (iii) in 34 point font and below 4(e)(i) and 4(e)(ii) the words “This poster is required under Schedule 11 of the City of Hamilton’s Business Licensing By-law No. 07-170.”

## Poster for Credit Counselling

11. Every payday loan business shall display a poster at each of the offices authorized by its *Payday Loans Act, 2008* licence that:

- (a) has been approved in advance by the Issuer of Licences;
- (b) is in English;
- (c) is visible to any person immediately upon entering the office;
- (d) is of a minimum size of 61 centimetres in width by 91 centimeters in length;  
and
- (e) consists of:
  - (i) in 144 point font, a heading setting out the words “Credit Counselling”;
  - (ii) in 144 point font, a heading setting out the word “Contact” followed by one or more of the following credit counselling agencies:
    - (1) Credit Counselling Canada,
    - (2) Canadian Association of Credit Counselling Services,
    - (3) Ontario Association of Credit Counselling Services,
    - (4) Canadian Association of Independent Credit Counselling Agencies,together with their respective telephone number and email address;  
and
  - (iii) in 34 point font and below 5(e)(i) and 5(e)(ii) the words “This poster is required under Schedule 11 of the City of Hamilton’s Business Licensing By-law No. 07-170.”

## **Credit Counselling Information**

12. Every payday loan business shall ensure that each person who attends at its offices is given, immediately upon him or her expressing an interest in a loan, credit counselling information that has been approved in advance by the Issuer of Licences.

## **SCHEDULE 12**

### **PEDLARS**

#### **INTERPRETATION**

1. In this Schedule,

“**pedlar**” means a person who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards.

#### **LICENCE REQUIRED**

2. No person shall carry on business as a pedlar without a licence under this By-law, entitling him or her so to do.

#### **LICENCE PLATE**

3. Every pedlar while using a vehicle in his or her business shall keep affixed thereto, on the right-hand side thereof in such a manner as always to be readily visible from that side, the current licence plate for said vehicle, and no other licence plate on that side.

#### **MISCELLANEOUS REQUIREMENTS**

4. No pedlar shall;
  - (a) hold any show or entertainment in any street or public place;
  - (b) place or maintain any stand, stall or booth in any street or other public place;

- (c) use in his or her business any horse or other animal not in sound condition and well-cared for;
  - (d) being the holder of a pedlar's licence, allow any other person to use his or her licence certificate;
  - (e) stop in any place in a highway or on a vacant lot adjacent to such highway to sell goods, wares or merchandise; or
  - (f) shall sell goods, wares or merchandise out-of-doors without written permission from the property owner of commercially-zoned lands within the City.
5. Every pedlar shall;
- (a) upon the request of a licence inspector,
    - (i) produce written proof, acceptable to the licence inspector, that he or she has the permission of the owner of the property on which goods, wares, or merchandise are being offered for sale or exposed, to use the property for such purposes; and
    - (ii) produce his or her current licence issue to carry on business as a pedlar;
  - (b) comply with the requirements of the applicable zoning by-law.

## **SCHEDULE 13**

### **PERSONAL AESTHETIC SERVICES**

#### **PART I: DEFINITIONS**

1. In this Schedule:

- (a) “**personal aesthetic service**” means a service provided for any part of the human body where there is a risk of exposure to blood and includes, but is not limited to, hairdressing, barbering, manicure, pedicure, tattooing, micro-pigmentation, body-waxing, body-piercing and electrolysis services.
- (b) A personal aesthetic service does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

#### **PART II: LICENCE**

- 2.(1) No person shall carry on a personal aesthetic service business without a licence.
- (2) Every person required to obtain a licence under this Schedule shall obtain a separate licence in respect of each premises where a personal aesthetic service business is carried on.

#### **PART III: DUTIES OF LICENCE HOLDERS**

- 3. Every person who carries on a personal aesthetic service business shall comply with the “Ministry of Health Infection Control in Personal Services Settings Protocol”, 2008, as amended from time to time, and the requirements of the Medical Officer of Health.

4. No person who carries on a personal aesthetic service business shall permit their employee or any person to provide a personal aesthetic service for a customer or any person who they reasonably suspect has been exposed to or is suffering from a communicable disease.
5. Every person who carries on a personal aesthetic service business shall keep the personal aesthetic service business in a clean and sanitary condition to the satisfaction of the Medical Officer of Health.

#### **PART IV: ENFORCEMENT AND INSPECTION**

6. A Public Health Inspector or a Municipal Law Enforcement Officer appointed under any City by-law or any other person assigned or appointed by the Director of Licensing or the Medical Officer of Health may enforce the provisions of this Schedule and may, at all reasonable times, inspect a personal aesthetic service business.

**SCHEDULE 14** <sup>(19-175)</sup>

**TREE CUTTING SERVICES**

**Definitions**

1 In this Schedule,

"**tree**" means a self-supporting woody perennial plant which has reached or can reach a height of at least 3 metres at physiological maturity;

"**tree cutting service**" means a person engaged in the business of assessing the health and structural integrity of trees, removing trees, pruning tree branches or roots, removing stumps, or transplanting trees, including climbing aloft and using rigging equipment for any such purpose.

**Requirement for Licence**

2 No person shall carry on the business, trade or occupation of a tree cutting service without a licence.

**General Operating Conditions**

3 Every tree cutting service shall:

- (a) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from any work performed, with an inclusive limit of at least two million dollars (\$2,000,000) per claim or occurrence, is in force at all times during the currency of the licence and includes coverage for all the tradespersons and labourers employed or retained by the tree cutting service;
- (b) provide a written contract to the person for whom the work is being completed, which contract shall be signed by the licensee and shall contain:
  - (i) the name and address of the licensee and the person for whom the work is being done;

- (ii) the address where the work is to be done;
  - (iii) a description of the work to be completed and price; and
  - (iv) the estimated date of completion;
- (c) not permit the operation of any equipment used in the course of the tree cutting service between the hours of 7:00 p.m. and 7:00 a.m. of the following day that is likely to disturb those inhabiting neighbouring properties;
- (d) ensure that no vehicle used in the performance of work obstructs the municipal right of way;
- (e) ensure that all debris, mud, garbage or stone tracked onto a municipal right of way is removed at the end of each working day;
- (f) ensure that no work performed creates a public safety concern;
- (g) ensure that no work performed interferes with any property's drainage or creates any flooding or ponding on any property including a municipal right of way;
- (h) not permit the emission of dust or airborne particulate matter to reduce the enjoyment of a neighbouring property;
- (i) replace any damaged sod, ground cover, pavement, or other property of the City within 48 hours of the completion of the work; and
- (j) obtain proper permits (if required) to ensure that cutting is done in accordance with approved tree protection plan which may be prepared by an arborist among other professionals.

### **Compliance with Tree By-laws**

4 (1) Every tree cutting service shall comply with all applicable by-laws relating to trees, which may include:

- (a) Public Tree Protection By-law No. 15-125;
- (b) Urban Woodland By-law No. 14-212;
- (c) Former Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law No. R00-054;
- (d) Former Town of Dundas Tree Protection By-law No. 4513-99;
- (e) Former City of Stoney Creek Tree By-law No. 4401-96; and
- (f) Former Town of Ancaster Tree Protection By-law No. 2000-118.

(2) Prior to injuring or destroying any tree, every tree cutting service shall ensure:

- (a) that a permit has been obtained to injure or destroy trees, if required by by-law; or
- (b) if no permit is required by by-law, that the injury or destruction of trees is performed in accordance with any applicable restrictions or conditions on the injury or destruction of trees such as an approved tree protection plan imposed as a condition of development approval.

### **Penalties**

5 (1) Despite subsection 27(2) of the General Provisions of this By-law, every person other than a corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$10,000 or \$1,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$25,000 or \$2,500 per tree injured or destroyed, whichever is greater.

(2) Subsection (1) applies to any officer or director who knowingly concurs in a contravention of this Schedule or an order made under this By-law relating to this Schedule.

(3) Despite subsection 27(3) of the General Provisions of this By-law, every corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$50,000 or \$5,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$100,000 or \$10,000 per tree injured or destroyed, whichever is greater.

(4) In addition, if any person convicted of an offence under this Schedule has gained economic advantage from the contravention of the Schedule, they are liable to a special fine, which may exceed \$100,000 equal to the economic advantage gained.

## **SCHEDULE 15**

### **PERSONAL WELLNESS SERVICES ESTABLISHMENTS**

#### **PART I: DEFINITIONS**

1. In this Schedule,

- (a) “**alternative massage**” means the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person’s body or part of a person’s body, but does not include such services:
  - (i) performed for the purpose of medical or therapeutic treatment provided by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; or
  - (ii) appealing to or designed to appeal to erotic or sexual appetites or inclinations including but not limited to such services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication;
- (b) “**personal wellness services establishment**” means any premises or part thereof where an alternative massage is performed, offered or solicited in pursuance of a business;
- (c) “**operator**” means a person who operates, manages, supervises, controls or is responsible for the business of a personal wellness services establishment;
- (d) “**to provide**”, when used in relation to an alternative massage or a service that appeals to or is designed to appeal to erotic or sexual appetites or inclinations including but not limited to services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication, includes to furnish, perform, solicit, or give such alternative massage or service

and “providing” and “provision” have corresponding meanings;

## **PART II: LICENCES**

### **GENERAL**

2. No person shall carry on or engage in the business of an operator of a personal wellness services establishment without holding a current, valid licence issued under this By-law.

### **INFORMATION TO BE PROVIDED BY APPLICANT**

3. On every application for a licence or for the renewal of a licence:
  - (a) the applicant shall file the application provided by the Director of Licensing and shall furnish such information as the Director of Licensing may direct; or
  - (b) if the applicant is not an individual, the application shall be filed and updated from time to time as this By-law requires by an individual duly authorized by the applicant to sign such application on behalf of the applicant and to bind it, and the individual filing such application shall certify the truth and completeness of the information provided.
4. When filing an application for a licence, in addition to complying with the General Provisions of this By-law, an applicant shall file:
  - (a) a detailed floor plan, drawn to scale, of the personal wellness services establishment that has been approved by the Director of Licensing and the details of such floor plan shall include but are not limited to depicting the location of reception areas, offices, rooms where alternative massages are provided, washrooms, storage areas and entrances/exits;
  - (b) an itemized list describing each service that will be provided, what services

may be provided during a single appointment and how appointments will be scheduled;

- (c) information on the training and/or the experience of the operator and their employees with respect to each service that will be provided, as requested by the Director of Licensing;
- (d) if the applicant is a corporation:
  - (i) a current copy of the corporation profile report;
  - (ii) a list containing the full name of each officer, director and shareholder, the address of their ordinary residence, their telephone number;
  - (iii) the name or names under which the applicant intends to carry on in the business; and
  - (iv) the address of the corporation to which the Director of Licensing may send or deliver any notice or other document required or authorized by law;
- (e) if the applicant is a partnership:
  - (i) a current copy of the limited partnerships report;
  - (ii) a list containing the full name of each partner, the address of their ordinary residence, their telephone number;
  - (iii) the name or names under which the applicant intends to carry on in the business; and
  - (iv) the address of the partnership to which the Director of Licensing may

send or deliver any notice or other document required or authorized by law;

- (f) if the applicant is an individual:
  - (i) the name of the individual, the address of their ordinary residence, their telephone number; and
  - (ii) the address of the individual to which the Director of Licensing may send or deliver any notice of other document required or authorized by law.
  
- 5. When filing an application for a licence renewal, in addition to complying with the General Provisions of this By-law, an applicant shall, at the time of making an application:
  - (a) sign a form certifying that there are no changes to the information required to be filed under the General Provisions or this Schedule;
  - (b) if the applicant is a corporation, file every third year a current copy of the corporation profile report;
  - (c) if the applicant is a partnership, file every third year as current of the limited partnerships report.
  
- 6. Every licence holder shall advise the Director of Licensing immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions or this Schedule, provided that no licence holder shall change or cause a change to be made to a floor plan without first obtaining the approval of the Director of Licensing.

## **EXPIRATION**

7. No licence issued under this Schedule is transferable.
8. Where:
  - (a) by a transfer of existing shares, by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Director of Licensing to have changed hands; or
  - (b) one or more partner in a partnership holding a licence is determined by the Director of Licensing to have ceased to be a partner or the partnership is determined by the Director of Licensing to have ceased to exist,a licence issued under this Schedule shall be deemed to have expired.

### **PART III: DUTIES OF OPERATORS**

9. Every operator shall:

#### **Premises**

- (a) not equip the personal wellness services establishment so as to impede the enforcement of this By-law;
- (b) on each day when the personal wellness services establishment is open for business, open or cause it to be opened only between the hours of 7:00 a.m. and 10:00 p.m.;
- (c) post their licence in a conspicuous place in the personal wellness services establishment at all times;
- (d) keep the premises in a clean and sanitary condition;

- (e) ensure that each advertisement of the personal wellness services establishment legibly bears the words “Licensed Personal Wellness Services Establishment, Licence No. \_\_\_\_\_”, complete with the licence number inserted;

### **Alternative Massage**

- (f) not permit any service to be provided to a customer or any person that appeals to or is designed to appeal to erotic or sexual appetites or inclinations including but not limited to services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication;
- (g) ensure any service provided complies with the “Ministry of Health Infection Control in Personal Services Settings Protocol”, 2008, as amended from time to time, and with any other requirements of the Medical Officer of Health; and

### **Records**

- (h) keep a record of each alternative massage provided, which record shall:
  - (i) include the name of the person who provided the alternative massage and the time and date of the alternative massage;
  - (ii) be kept for at least one year after the date of the alternative massage; and
  - (iii) be produced upon demand to a person assigned or appointed by the Director of Licensing to enforce this Schedule.

## **PART IV: ENFORCEMENT AND INSPECTION**

10. A person assigned or appointed by the Director of Licensing to enforce this

Schedule may, at all reasonable times, inspect a personal wellness services establishment.

## **SCHEDULE 16**

### **PUBLIC GARAGES**

1. In this Schedule,

(a) “**landscaped area**” shall mean an area of land provided and maintained on the same lot on which the building, structure or use is situated, no part of which shall be other than:

(i) fully and completely open and exposed to natural light and air and unobstructed above the surface; and,

(ii) used exclusively for scenic, recreational or like uses; and,

Provided that not less than 50% of which shall be natural earth comprised of the natural planting of grass lawns, trees, shrubs and flowers in such manner as to establish and enhance the beautification of the landscaped area and any building or structure on the same lot, and may include a planting strip, but shall not include area used for parking space, manoeuvring space, access or egress driveways or any other vehicular purpose of any kind, nor any area occupied by an accessory building, nor any open space beneath, within or on the roof of any building;

(b) “**planting strip**” means an area of land growing ornamental shrubs or trees or both, suitable to the soil and climatic conditions of the area of land for the sole purpose of providing a visual barrier or buffer; and

(c) “**public garage**” means a public garage, parking facility, automobile service station or car wash.

2.(1) No person shall in the City of Hamilton, carry on the business of a public garage without first paying the amount of the licence fee and obtaining a licence under this By-law, entitling him or her so to do.

(2) Subject to subsection 2(3), every person required to obtain a licence under this

Schedule shall be required to obtain a separate licence and comply with the requirements applicable to each class or licence category, for each class of public garage carried on from the garage.

## **CLASSES OF LICENCE**

3.(1) Any licence entitles the licensee to carry on only such class or classes of public garage as may be specified, and the licensee shall not be entitled to carry on or engage in any class of public garage for which he has not been granted a licence.

(2) The various classes of public garage shall be as follows:

(a) "Garage A" a building or place where motor vehicles are stored or kept for sale;

(b) (i) "Garage B1" a building or place used as a motor vehicle repair shop, including body and fender repairs;

(ii) "Garage B2" a building or place used as a motor vehicle repair shop excepting body and fender repairs; and

(iii) "Garage B3" a building or place used as a motor vehicle repair shop for body and fender repairs only;

(c) "Garage C" an automobile service station, or a building or place where gasoline or oils are stored or kept for sale, except a retail store where any such gasoline or oils are sold in sealed containers only;

- (d) “Garage D” a parking station or a parking lot, provided that the renting of parking space for not more than five motor vehicles, by the operator of an automobile service station licensed as such under this By-law, shall not bring any such automobile service station within this class; and
- (e) “Garage E” a building or place used for washing or cleaning motor vehicles, excepting a licensed public garage without special equipment capable of washing or cleaning more than fifteen motor vehicles in one day.
- 4.(1) For the purpose of this section, “**car wash**” means a building or place used for washing or cleaning motor vehicles as defined in paragraph 3(2)(e).
- (2) “**car wash, manual**”, shall mean a vehicle wash wherein the motor vehicle does not move during washing or is washed only manually by a person but without insertion of a coin into a vending machine or receptacle to commence or continue the washing process.
- (3) “**car wash, mechanical**”, shall mean a vehicle wash wherein the vehicle is driven or towed into the washing bay and does not move during any one or more phases of the washing process and is washed by equipment that is stationary or moves about the vehicle, but without the insertion of a coin into a vending machine or receptacle to commence or continue the washing process.
- (4) “**car wash, coin-operated**”, shall mean a vehicle wash wherein the vehicle is washed either manually or mechanically only upon the insertion of a coin in a vending machine or receptacle to commence or continue the washing process.
- (5) “**car wash, high-speed mechanical**”, shall mean a vehicle wash wherein the vehicle is moved by, on, or along a conveyor system during different phases of the washing process.

## APPLICATION FOR LICENSE

- 5.(1) Every application for a public garage licence shall be in writing and shall show the applicant's name and postal address, the name and address of the public garage or proposed public garage, the class or classes of licence applied for, and a sufficient description of the premises used or proposed to be used, together with sufficient particulars of his arrangements for carrying on the business, and shall be filed with the Director of Licensing, together with six true copies.
- (2) Save where a similar licence was in force for the previous year with respect to the same premises and there is no change in the relevant information, the application shall be accompanied by a satisfactory plot plan signed by the applicant, with six true copies, based on a registered plan of survey if any, and otherwise in accordance with the actual property lines, drawn to a scale of ten feet to the inch where the area of the site is 25,000 square feet or less, and otherwise to a scale of twenty feet to the inch.
- (3) In the case of a parking lot, the plan shall be substantially in accordance with the form of plot plan and showing,
  - (a) location of the premises, position of adjacent street lines, sidewalks, boulevards, fire hydrants, poles and driveways, and the position and type of use of adjacent buildings, structures and premises, all according to scale and including an indication of the north point;
  - (b) the drainage system and type and specifications of surfacing of all outdoor areas to which motor vehicles will have access, together with complete grade levels and the location and dimensions of all catch-basins and other drainage facilities, the location and dimensions of all fuel pumps and islands, and of all barriers, signs, poles, trees, buildings, structures and things above the level of the paving, and of all access driveways, manoeuvring space and parking spaces, entrances, exits and ramps;

- (c) in the case of any building or structure, the location of the vehicular and pedestrian entrances and exits, the entrance and exit driveways, the location and grade of ramps within the premises giving access to or from the ground level, the location and size of receiving and exit areas, and where parking tickets or car washing tickets are to be issued, the location and nature of ticket-issuing points; and
  - (d) landscaping, paving, fencing, markings, bumpers/wheel barriers and lighting here such is required under the applicable zoning by-law.
- (3) The form of every plot plan other than one for a parking lot shall also be in accordance with the scale and general principles above provided for parking lots.
- (4) In the case of an application for a licence to operate a public garage under a Garage B1, Garage B2 or Garage B3 licence, the applicant shall submit a copy of a current valid Certificate of Approval issued by the Ministry of the Environment pursuant to Section 9 of the Environmental Protection Act, R.S.O. 1990, c. E.19.
6. Whenever a licence has been granted for any public garage and the business so authorized has not yet been commenced as a regular business within one calendar year following the issuing of the licence, a public garage licence shall not again be issued for the location in question unless and until a new application has been made and the circumstances of the delay dealt with in a report to the Licensing Tribunal accompanying the application for a new licence; and in the case of every public garage licence issued, the following words shall appear on the face of the licence:

“If the business authorized by this licence has not been commenced on a regular basis within twelve months from date of issue, a new licence will not be issued until the circumstances of the delay have been reviewed by the Hamilton Licensing Tribunal.”

## **MISCELLANEOUS REGULATIONS FOR ALL PUBLIC GARAGES**

- 7.(1) Every public garage shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and without restricting the generality of the foregoing,
- (a) all grades and drainage facilities shall be such as to prevent drainage to any street, sidewalk or other adjoining land;
  - (b) all lighting facilities shall be such as not to cause annoyance from direct glare, to persons on the street or on adjoining land;
  - (c) all means of ingress and egress shall be in accordance with the plans submitted with the application for licence, or as subsequently authorized and, wherever there is a public sidewalk or curb, shall be by means of an approach ramp installed in accordance with the provisions of the Streets By-law 86-77 as amended; and
  - (d) every sign shall be so located, and shall have such content, colour and design as not to create any unusual hazard or confusion to any pedestrian or to any driver of a motor vehicle.
- (2) The operator of every public garage shall be responsible,
- (a) that all signs and required facilities are maintained in conformity with the requirements hereinbefore set forth;
  - (b) that save as may be otherwise lawfully authorized by a licence to use part of the boulevard for the parking of vehicles and motor vehicles, no part of any street, public lane or other public place is used for the parking or manoeuvring of motor vehicles, or in any other manner as if it were part of the public garage premises;
  - (c) that there is no outside storage except of whole motor vehicles in operating condition;

- (d) that the premises are kept in an orderly and clean condition, without any scrap, debris or refuse left lying about; and
- (e) that prompt report is made to the Hamilton Police Service, of any motor vehicle which there may be reason to suspect is either stolen or abandoned.

#### **ADDITIONAL REQUIREMENTS FOR PARKING STATIONS AND PARKING LOTS**

- 8.(1) Every parking station and parking lot shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and, without restricting the generality of the foregoing,
- (a) a permanent durable and dustless surface that is graded, drained, and paved with concrete or asphalt or a combination of concrete and asphalt shall be provided and maintained on all outside areas to which motor vehicles will have access;
  - (b) save as may be otherwise lawfully authorized by a licence to use part of the boulevard for the parking of vehicles and motor vehicles, all parking spaces and all outside areas to which motor vehicles have access, except exits and entrances, shall be provided with barriers, so designed, constructed, located and otherwise suitable as to prevent any part of a motor vehicle from projecting over any part of a street, public lane or other public place, or within three inches of the boundary of any other adjoining land;
  - (c) there shall be provided at each entrance where it may readily be seen by every driver of a motor vehicle about to enter the premises, a suitable sign no nearer to the ground than seven feet, and no farther from the ground than twelve feet, bearing in clear and legible letters and figures no less than four and no more than twelve inches high, the name of the operator, his business address, and the hours and rates for the parking of motor vehicles;

- (d) there shall be provided the required sanitary facilities except where the medical officer of health is satisfied that they are not necessary and has given a written waiver which remains unrevoked;
  - (e) all open areas, except areas required to be landscaped, shall be paved with asphalt or concrete, and so graded or drained as to ensure that surface water will not escape to neighbouring lands;
  - (f) every lighting facility shall be so designed, installed and maintained as to ensure that light is deflected away from all lands designated for residential uses, and any lighting of signs shall similarly be so deflected; and
  - (g) lighting shall be provided to a minimum level of 5 foot candles, as measured by readings taken at three feet from the ground, in all areas used for parking and access of vehicles as well as those areas used for pedestrian access to and from the parking areas.
- (2) The operator of every parking station and parking lot shall be responsible,
- (a) that all signs and required facilities are maintained in conformity with all applicable provisions hereinbefore set forth;
  - (b) that every entrance, exit, and access aisle is kept unobstructed for its full length and width, and that all entry, parking and discharge of vehicles is conducted only as indicated on the plans submitted with the application for licence or as subsequently authorized; Provided that this clause shall not be deemed to prohibit a suitable ticket office or automatic control device which does not contribute to congestion or unreasonably obstruct any means of ingress or egress;
  - (c) that except in the case of a metered or automatically controlled parking station or parking lot, a competent attendant is on duty at all times during business hours as indicated on the sign;

(d) that while no parking spaces are available, a suitable notice announcing that fact is prominently displayed at the entrance; and

(e) that no person is allowed to loiter about the premises.

(3) Subject to subsection (4), the operator of every parking station and parking lot shall provide and maintain the facilities as set out in the approved plot plan required by section 5 of this Schedule, which shall be a condition of obtaining or continuing to hold the licence.

(4) The operator of an existing licensed parking station or parking lot on the date of enactment of this Schedule, whose existing facilities pertaining to landscaping, paving, fencing, markings, bumpers/wheel stops and minimum lighting are not

in accordance with the requirements as set out in this Schedule, as a condition of obtaining and continuing to hold a licence, shall:

(a) provide a satisfactory plot plan in accordance with section 5 notwithstanding the exemption contained therein; and

(b) within one year of the date of enactment of this Schedule, provide the facilities as required, in accordance with the approved plot plan.

## **ADDITIONAL REQUIREMENTS FOR SALES LOTS**

9.(1) Every place where motor vehicles are stored or kept for sale shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and, without restricting the generality of the foregoing,

- (a) all outside areas to which motor vehicles will have access shall be suitably surfaced with asphalt or concrete, or with crushed stone or slag or other as suitable material so treated as to make it dust free and prevent it from spilling or spreading onto any street or other adjoining land; and
  - (b) save as may be otherwise lawfully authorized by a licence to use part of the boulevard for the parking of vehicles and motor vehicles, all parking or storage areas shall be equipped with barriers as hereinbefore required for a parking lot, so designed, constructed and located, and otherwise suitable, as to prevent any part of a motor vehicle from projecting over any part of a street allowance or public lane, or within three inches of the boundary of any other adjoining land.
- (2) The operator of every place where motor vehicles are stored or kept for sale shall be responsible, that all signs and required facilities are maintained in conformity with all applicable provisions hereinbefore set forth.
10. Every building or place used for washing or cleaning motor vehicles, except a licensed public garage without special equipment capable of washing or cleaning more than fifteen motor vehicles in one day, shall be in all respects suitable for the purpose, and, without restricting the generality of the foregoing,

#### Wash-racks

- (a) Every wash-rack and other equipment for washing or cleaning motor vehicles, except steam-cleaning equipment, shall be located within a building; and

#### Surfacing

- (b) All outside areas to which motor vehicles will have access shall be suitably surfaced with,
  - (i) hot-mix asphalt on macadam base; or

- (ii) concrete; or
- (iii) other as hard-surfaced and otherwise suitable material not including loose crushed stone or slag.

## **SCHEDULE 17**

### **PUBLIC HALLS AND PLACES OF AMUSEMENT**

#### **LICENCE REQUIRED**

1. In this Schedule;
  - (a) “**amusement machine**” means a machine, device or contrivance activated by mechanical or other action or any other means by the user thereof with a view to achieving a desirable result through skill or chance or a combination of both, in terms of points, score, measurement of any other characteristic of the machine, device or contrivance but does not include a pinball machine;
  - (b) “**amusement machine parlour**” means a premises or place on a premises where four or more amusement machines are kept for the amusement of the users thereof;
  - (c) “**billiard parlour**” means a premises or place on a premises on which there is one or more billiard tables or pool tables for hire or gain;
  - (d) “**bingo parlour**” means a premises or place on a premises used as a public hall for the assembly of persons playing bingo;
  - (e) “**Certificate of Inspection**” means a certificate in a form approved by the Medical Officer of Health which sets out the results of an inspection or inspections conducted under the Health Protection and Promotion Act or its regulations;

- (f) “**pinball machine**” means a machine in which a ball, object, thing, or image, or symbol or sign becomes mobile or otherwise active or visible upon being activated or called into existence or use by mechanical or other action or any other means so as to mechanically or otherwise project the ball, object, thing, or image, or symbol or sign through skill or part skill and part chance of the user thereof, upon or under a surface, or on a screen or other viewing surface within a full or part enclosure or not within an enclosure, with a view to achieving a desirable result in terms of points, score, measurement or any other characteristic of the machine, device or contrivance;
  - (g) “**pinball machine parlour**” means a premises or place on a premises where four or more pinball machines are kept for the amusement of the users thereof;
  - (h) “**place of amusement**” includes a bingo parlour, pinball parlour, amusement machine parlour and all other places of amusement;
  - (i) “**proprietary club**” means all clubs other than those in which the use of any billiard, pool or bagatelle table is only incidental to the main objects of the club;
  - (j) “**public hall**” means premises or a part thereof, including a portable building or tent, used as a place of assembly which is operated as a business, where members of the public gather for the purpose of any meeting, dancing or entertainment, but does not include premises used solely for religious purposes or a theatre within the meaning of the Theatres Act, R.S.O. 1990, c. T-6, as amended; and
  - (k) “**public health inspector**” means a public health inspector employed in the Public Health Services Department.
- 2.(1) No person shall for profit or gain, and no proprietary club shall, directly or indirectly, keep or have any billiard, pool, or bagatelle table on or about the premises which the person or club controls, including a house or place of public entertainment or resort, without a licence entitling the person to do so.

(2) Subsection 2(1) does not apply to a restaurant or public hall licensed under this By-law, where not more than two billiard, pool, or bagatelle tables are located on or about the premises, and the use of such tables is incidental to the principal business of the restaurant or public hall.

3.(1) Except as otherwise permitted , no person shall carry on or operate without a separate licence for:

(a) an exhibition held for hire or gain;

(b) a music hall;

(c) a bowling alley;

(d) rolling skating rink;

(e) skate boarding facility;

(f) indoor bicycle facility;

(g) motor vehicle racing track;

(h) a public hall; or

(i) any place of amusement.

(2) Every person who operates a place of amusement shall take out a separate licence for each of the following:

(a) a bingo parlour.

(b) a pinball parlour.

- (c) an amusement machine parlour.
  - (d) any other place of amusement.
- 4.(1) Without a separate licence to do so, no person shall carry on or operate:
- (a) an exhibition of waxworks;
  - (b) a menagerie;
  - (c) circus-riding; or
  - (d) any other like shows usually exhibited by showmen including a carnival.
- (2) Except as otherwise permitted, no person shall carry on or operate without a separate licence for:
- (a) a merry-go-round;
  - (b) a switchback railway;
  - (c) a carousel; or
  - (d) any other like contrivances.
5. No licence shall be required for any exhibition or traveling show or any other show or performance held in a licensed public hall.
6. Every application for a licence for any public hall or place of amusement shall include particulars of the financial responsibility of the applicant.

7. Every application for a licence for any public hall or place of amusement shall include a Certificate of Compliance as issued by the Planning and Economic Development Department pursuant to the Property Standards By-law.
8. Every application for a licence for any public hall or place of amusement shall include proof of liability insurance.

### **GENERAL REQUIREMENTS**

9. Every person carrying on or operating any exhibition, show, public hall, place of amusement or amusement contrivance for which a licence is required under this Schedule shall be responsible that the following requirements are observed, namely;
  - (a) A Certificate of Compliance, as issued by the Parking and By-Law Services Division of the Planning and Economic Development Department, pursuant to the Property Standards By-law, for the premises used for carrying on the exhibition, show, public hall, place of amusement or amusement contrivance, shall be provided to the City on a bi-annual basis prior to that year's renewal licence being issued;
  - (b) Proof of liability insurance in the amount of not less than \$1,000,000.00 in accordance with the Amusement Devices Act, R.S.O. 1990, c.A.20, and the regulations there under, or as required by the Director of Licensing, shall be provided to the City prior to a licence being issued or renewed;
  - (c) There shall not be published, displayed or distributed any advertising matter which is vulgar or indecent;

- (d) The premises shall be kept clean and orderly and maintained in all respects reasonably suitable for the purpose for which they are used, and, in particular, while open for business and for the period of at least one-half hour before and after, the same shall be kept suitably lighted and ventilated, adequate sanitary facilities shall be available, and no snow or ice shall be allowed to accumulate on any fire escape or other means of egress in such manner or to such an extent as to create any unnecessary danger;
- (e) Except as hereinafter otherwise provided or as otherwise specifically authorized by law or as provided by by-law, the hours or operation of the premises shall comply with the regulations as set out by the Alcohol & Gaming Commission of Ontario;
- (f) Subject to the terms and conditions of the charitable gaming licence, a public hall which may be used to conduct a Monte Carlo event under a provincial charitable gaming licence is permitted to open for the licensed ..... event as per the regulations as set out by the Alcohol and Gaming Commission of Ontario;
- (g) There shall not be allowed in or about the premises any disorderly or unseemly conduct;
- (h) All necessary measures shall be taken to prevent any obstruction of the highway by patrons;
- (i) In case of fire, panic or other emergency or untoward incident, the police and fire departments shall be notified promptly, and there shall be taken such other precautionary or protective measures as may be reasonable needful under the circumstances.
- (j) No amusement ride shall be operated unless the licence holder has submitted to the Director of Licensing:

- (i) a licence to carry on the business of operating amusement devices issued by the Director under the Amusement Devices Act; and
- (ii) a current permit for each amusement device signed by an inspector employed by the Technical Standards and Safety Authority.

## **SPECIAL REGULATIONS**

### Bowling Alleys

10.(1) Notwithstanding the provisions of section 7 of this Schedule respecting hours, the business hours of a bowling alley on Monday, Tuesday, Wednesday, Thursday and Friday may be extended until one o'clock in the morning of the following day, but the keeper shall be responsible, that no person under the age of fourteen years shall be allowed to be on the premises after nine o'clock in the afternoon or before eight o'clock in the forenoon of any day unless accompanied by one of his or her parents or a responsible adult.

### Public Halls

(2) Every keeper of a public hall shall be responsible that the following requirements are observed, namely:

### Undesirable Activities

- (a) No indecent or disorderly performance or other such undesirable activity shall be allowed in or about the licensed facility; and

### Dances

- (b) When dancing is held in a public hall, other than a bona fide private dance held by a private person or a bona fide religious, charitable, patriotic or fraternal organization, notwithstanding the provisions of subsection 9(5) of this Schedule respecting hours, the hours of operation of the premises shall comply with the regulations as set out by the Alcohol and Gaming Commission of Ontario.

Provided that nothing herein shall be deemed to prohibit the continuance of any dance on New Year's Eve, until three o'clock of the following morning.

### Bingo Parlours

- (3) Notwithstanding any provision of this Schedule, a person shall carry on or conduct the hours of operation of a bingo parlour in compliance with the regulations as set out by the Liquor Licence Act and its regulations.
11. The premises of the following places of amusement or entertainment shall be closed and remain closed on all other days except Saturday, as follows:
- (a) Roller Rinks, from one o'clock in the forenoon until six o'clock in the forenoon of the same day.
  - (b) Billiard Parlours, from three o'clock in the forenoon until eight o'clock in the forenoon of the same day, except that any pinball machine and amusement machine on the premises shall be closed and remain closed from twelve o'clock midnight until eight o'clock in the forenoon of the following day.
12. No person to whom a licence has been issued to carry on or engage in the business of a billiard parlour shall permit or cause to be permitted any person less than 14 years of age to be within the billiard parlour after nine o'clock in the afternoon and before eight o'clock in the forenoon of the following day.

- 13.(1) No person shall erect, construct, operate or maintain a race track for the purposes of racing motor vehicles, except go-karts, or motor cycles or conduct or take part in races between any type of motor vehicles, except go-karts, within the city without a licence having been obtained to do so, and except in accordance with the provisions of this by-law.
- (2) No such race track shall be erected or operated in the City except within that part of the Fifth Concession bounded on the east by Brock Road and on the west by the Town line between the former Township of West Flamborough and Beverly.
- (3)
  - (a) No track shall be erected upon a parcel of land having an area of less than forty-five acres, and such parcel of land shall be fenced with a fence of height of at least four feet constructed of standard heavy weight 9 gauge wire farm fence or heavier.
  - (b) In addition to the aforementioned fence, the Licensee shall also place chicken wire along the farm fence from a point commencing at the pit area to the northern boundary of the property.
- (4) The licensee shall implement and maintain a tree planting program, whereby commencing at the race tracks' frontage on Concession 5, cedar trees shall be planted around the perimeter of the race track property.
  - (a) Any track shall have a surface paved with hot asphalt or concrete, and no racing shall be conducted upon any surface other than a surface paved as aforesaid.
  - (b) The paved surface of the track shall be located at a minimum distance of one hundred and forty feet from any outside boundary of the parcel of land upon which the track is located.

- (c) The paved surface of the track shall be enclosed completely on its outside boundaries with wire fence and concrete guards of a type and design adequate to prevent cars from running off track, provided, however, that openings shall be permitted where necessary for the entrance and exit of cars from the track itself.
- (5) A grandstand shall be provided of a seating capacity of at least six thousand persons and any standing room facilities shall be subject to adequate safety protection for the spectators.
- (a) The grandstand and any spectators seating accommodation shall be constructed of steel or concrete or a combination of these materials, and shall be located on permanent concrete foundations, and shall not be of a temporary or portable type. Wooden flooring and wooden seats and wooden stairways may be used.
  - (b) No new structures, buildings, or enclosures shall be located beneath the grandstand, unless an adequate fire resistance rating is maintained and sufficient air space exists between the roof of any such building and the grandstand floor.
  - (c) For every one thousand seats contained in the stands, the following washroom accommodation shall be required;
    - (i) one male water closet, three urinals for males, one wash basin for males; and
    - (ii) three water closets for females, and one wash basin for females.
- (6) Police supervision shall be supplied by the Licensee by hiring police for the purposes of maintaining order on the site, and for the purpose of regulating traffic, to ensure that there shall be no congestion on leaving the track.

- (a) A minimum of two police officers shall be provided at least 2 hours prior to the scheduled end of the races. These police officers shall be posted at the corner of Brock Road and Fifth Concession Road West, one-half hour before the completion of the day's racing events, to provide traffic control on all race days, and shall remain there as long as deemed necessary.
  - (b) In addition to police supervision, the Licensee shall provide a minimum of two security guards to assist in maintaining order on the site, including the grandstands, entrance areas, pit area and parking areas. Security shall remain until patrons and drivers have left the site following the conclusion of the days racing events.
- 14.(1) No motor vehicles shall be operated on the track, either for practice, testing or racing, except on a day on which races are to be held, and races shall not be held more than one night per calendar week, not to exceed 25 nights per calendar year, save as provided in subsection 14(2).
- (2) In addition to the regular racing nights provided for in subsection 14(1), the Licensee shall be permitted to hold races on 8 additional nights per calendar year and the Licensee shall disclose in writing and in advance the dates of such 8 additional nights to the Director of Licensing.
- (3) On the additional racing dates permitted in subsection 14(2) the hours of operation will be as follows;
- (a) On five of the eight permitted additional race dates, racing, practicing and testing shall not be permitted to commence before 4:00 p.m. or after 10:45 p.m.
  - (b) On three of the eight permitted additional race dates, racing, practicing and testing shall not be permitted to commence either:
    - (i) before 4:00 p.m. or after 10:45 p.m.;

or

(ii) before 12:00 noon or after 6:45 p.m.

(c) Racing, practicing and testing will not be permitted during the afternoon hours and evening hours, as specified in paragraph 14(3)(b), of the same race date.

(4) Races will not be permitted on more than two consecutive dates.

(5) The Licensee shall record the start and finish times of the last race on each race night and submit this record to the Director of Licensing at the end of the race season.

(6) The Licensee shall report the holding of each of the eight additional racing nights provided for in subsection 14(2) to the City within 48 hours of the holding of each of the additional racing nights. This report shall be in writing and shall be directed to the Director of Licensing.

(7) Two ambulances shall be provided at every race meet and no race shall proceed unless at least one of the ambulances is still in attendance.

(8) Fire protection shall be provided by the Licensee at all meets. The following minimum equipment shall be provided;

(a) one extinguisher in the pit area;

(b) three extinguishers properly located around the track; and

- (c) a fire extinguisher shall also be provided in each booth or room for the sale of refreshments and two additional extinguishers shall be provided beneath the grandstand, or these shall be accessible at all times when races are been conducted. A properly qualified individual shall be assigned to attend each of the foregoing extinguishers.
15. All wrecked motor vehicles must be removed from the premises within twenty-four hours.
  16. The Licensee shall provide at least two tow-trucks in attendance at all race meets and for one hour after the race meets for the purpose of being available to remove obstructions caused by accidents in leaving the premises.
  17. Adequate parking facilities for the purpose of parking spectators' cars shall be provided for every four seats in the grandstand.
  18. Internal roads leading to sodded parking areas shall be properly graded, drained, gravelled, and maintained at all times, and shall be treated to prevent dust.
  19. All parts of the premises including the part surrounded by the paved track and parking areas shall be planted with grass and kept cut at all times, and suitably landscaped.
  20. An adequate sewage disposal system shall be provided and maintained. The Licensee shall comply with the provisions of the Health Protection and Promotion Act and the directions of the Medical Health Officer there under.
  21. The track during operations shall be illuminated in a manner adequate to provide for safety.
  22. All parking areas, entrance roads, pathways, and the stand shall be adequately at all times while the race track is being operated.

23. Alcoholic beverages shall be prohibited at a Motor Vehicle Race Track except on premises licensed under the Alcohol and Gaming Commission of Ontario. This prohibition shall be posted at all entrances, in the pit area and on race track fencing.
24. Upon the breach by a licensee of any of the provisions hereof the right to hold races shall be automatically forthwith suspended until the breach is remedied.
25. As of the commencement of the race season in 2001, all motor vehicles will require mufflers. The standard for the mufflers will be a Magnaflow 11219 muffler or equivalent.
26. Overnight camping is strictly prohibited.
27. The tower lights will be extinguished within fifteen minutes after the completion of the final race.
28. Notwithstanding section 14, practicing and testing of motor vehicles shall be permitted during race season on Tuesdays; with race cars not being permitted on site before 2:00 p.m.; and practicing and testing not to commence before 3:00 p.m. and to be completed no later than 6:00 p.m.

### **POSTING OF CERTIFICATES OF INSPECTION**

- 29.(1) Every person who carries on the business of a public hall shall permit a public health inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at all entrances by which members of the public may enter the premises.
- (2) Every person who carries on the business of a public hall shall permit a public health inspector at any reasonable time to remove a Certificate of Inspection which has been posted on the premises.

- (3) When a Certificate of Inspection has been removed by a public health inspector under subsection (2), the person who carries on the business of a public hall shall not post a copy of the Certificate of Inspection or a facsimile of the certificate at any location on the premises.

**SCHEDULE 18**

Deleted – Reserved (17-055)

**SCHEDULE 19**

DELETED – REPEALED 2012

## **SCHEDULE 20**

### **RESIDENTIAL CARE FACILITIES**

#### **PART I: INTERPRETATION**

1. In this Schedule:

**“activities of daily living”** means the activities of an individual that maintain their sufficient nutrition, hygiene, warmth, rest and safety;

**“additional care”** means community services such as long term care services, or rehabilitative services that can be provided to a tenant either in the residential care facility or in the community;

**“ambulatory”** means in respect of an individual, that they are independently mobile, by mechanical or any other means, or with minimal assistance of another person;

**“attic”** means the space between the roof and the ceiling of the top storey of a residential care facility or between a dwarf wall and a sloping roof of a residential care facility, which is not finished in such a way as to provide suitable habitation for tenants;

**“basement”** means a storey of a residential care facility located below the first storey which is more than 50 per cent below grade or which is not finished in such a way as to provide suitable habitation for tenants;

**“care services”** means advice, information, or supervision provided to tenants in the activities of daily living and may also include:

- (a) periodic personal care, as required, such as the giving of medications, bathing assistance, assistance with feeding, incontinence care, dressing assistance, assistance with personal hygiene, and ambulatory assistance;
- (b) provision of recreational or social activities, housekeeping, laundry services, and

assistance with transportation;

- (c) personal emergency response services, including assistance in evacuating under emergency conditions due to mental limitations and/or developmental handicaps and limitations of the tenants;

**“drug”** means any substance or mixture of substances manufactured, sold or represented for use in:

- (a) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in an individual; or
- (b) restoring, correcting or modifying of organic functions in an individual;

**“Guidelines”** means the guidelines for the operation of facilities licensed under this Schedule, which the Medical Officer of Health is authorized to issue under subsection 57(a);

**“inspection log”** means the document prepared by the City that is completed by an Officer at the end of an inspection to indicate whether the residential care facility is in compliance or not with relevant City by-laws; <sup>(21-217)</sup>

**“long term care facility”** means a nursing home under the Nursing Homes Act, an approved charitable home for the aged under the Charitable Institutions Act or a home under the Homes for the Aged and Rest Homes Act provided that on the day the Long-Term Care Homes Act, 2007 comes into force, “long term care facility” means a place that is licensed under that Act;

**“Officer”** means:

- (a) a building inspector of the Building Division of the Planning and Economic Development Department;

- (b) an inspector of the Fire Department;
- (c) a public health inspector employed in the Public Health Services Department;
- (d) a registered nurse employed in the Public Health Services Department;
- (e) an officer appointed by the Director of Licensing.

**“operator”** means a person licensed under this Schedule to operate a residential care facility;

**“physician”** means a legally qualified medical practitioner;

**“prescribed”**, when used with reference to a drug or mixture of drugs, means that a legally qualified medical practitioner or a dentist has directed the dispensing of the drug or mixture of drugs to a named individual;

**“prescription drug”** means a drug that may be dispensed by a pharmacist only upon the direction of a physician or dentist;

**“rehabilitative services”** means services for a person with a physical, mental, or developmental handicap, and includes,

- (a) homemaker services,
- (b) day care,
- (c) training and rehabilitation,
- (d) casework and counselling, and
- (e) training in life skills;

**“residential care facility”** means a residential complex that is:

- (a) occupied or intended to be occupied by four or more persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy; or
- (b) licensed or required to be licensed under the Retirement Homes Act, 2010,

and the term “facility” has a corresponding meaning.

**“residential care facility information package”** means an information package that contains the information required to be contained in an information package under section 140 of the Residential Tenancies Act, 2006 including notice that a complaint about the operation of the facility may be made by telephoning the City of Hamilton’s Public Health Services at 905-546-2063;

**“single facility incident”** means a situation, or the likelihood of an impending situation, which could reasonably be expected to have an abnormal effect on the health, safety, welfare, or personal property of one or more tenants of a facility, and which, because of its nature or magnitude, requires a controlled and co-ordinated response by the operator;

**“tenant of a facility”** means a person, other than an operator or employee, who

- (a) resides in a residential care facility, and to whom the operator provides care services;
- (b) is ambulatory; and
- (c) has decreased physical or mental functional ability;

and the term “tenant” has a corresponding meaning; and

**“volunteer”** means a person, other than an operator or an employee, who, as part of an organized volunteer program, provides services or work at a residential care facility for

no wage or salary.

## **PART II: LICENSING**

### **GENERAL**

2. No person shall operate a residential care facility without a licence.
- 2.1 The following provisions of this Schedule do not apply with respect to tenants subject to the Retirement Homes Act, 2010 but only to the extent that tenants of the same facility not subject to the Retirement Homes Act, 2010 are unaffected:
  - subsection 5(1)(e);
  - section 7;
  - subsection 12(c);
  - paragraphs 12(f)(ii) to (v);
  - subsection 12(g);
  - section 13 to the extent that the section applies to volunteers;
  - section 15;
  - section 16;
  - section 17;
  - sections 32 to 53.
3. A licence shall not be issued for a facility established after October 1, 1980, which is situated in a location where, at any hour, the noise level exceeds 58 decibels.
4. The authorized capacity of a facility, as determined by the Medical Officer of Health, and the provisions of the applicable zoning by-laws, shall be endorsed on the licence issued to the facility.

### **INFORMATION TO BE PROVIDED BY APPLICANT**

- 5.(1) Every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, before the licence may be issued:
- (a) a signed form certifying that the applicant is at least eighteen years of age at the time of application;
  - (b) a copy of an Ontario Secondary School Graduation Diploma or evidence satisfactory to the Director of Licensing of equivalent standing from the Ontario Ministry of Education and Training;
  - (c) evidence satisfactory to the Director of Licensing of employment experience in work comparable to the administration of the facility which they propose to operate;
  - (d) a premises plan of the residential care facility showing all buildings or other structures, parking areas and walkways on the property where the residential care facility is located and all entrances/exits, bedrooms, beds, clothes closets, dining areas, sitting rooms and toilet facilities, sitting rooms in the residential care facility; and
  - (e) a single facility incident plan satisfactory to the Medical Officer of Health which shall include the premises plan under paragraph (d).
- (2) Paragraph (1)(b) does not apply to a person who was the holder of a licence to operate a residential care facility under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force.
6. Every applicant for a licence or a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Director of Licensing before the licence is issued or renewed, the following:
- (a) upon applying for a licence and every third year thereafter, upon applying for a licence renewal, a certificate from the Electrical Safety Authority that the facility complies with

the Ontario Electrical Safety Code;

- (b) a certificate from the Medical Officer of Health, that the facility complies with the applicable health and safety standards in this Schedule;
  - (c) a certificate from the insurer of the facility, that the insurance coverage required under subsection 12(i) of this Schedule is in effect for the facility; and
  - (d) documentation as required under section 14 as to the age and education of the operator's employees.
7. Every applicant for a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licence before the licence is renewed an updated single facility incident plan satisfactory to the Medical Officer of Health.
8. Where the applicant for a licence or for a licence renewal is a corporation or a partnership, at least one officer or director of the corporation or one partner of the partnership shall submit, in respect of themselves, the certificates or other documents required to be submitted by an individual under the General Provisions of this By-law or under this Schedule.
9. Every operator shall advise the Director of Licensing immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of this By-law or this Schedule.

## **EXPIRATION**

10. No licence issued under this Schedule is transferable.
11. Where:
- (a) by a transfer of existing shares, by an issue of new or existing shares, or by some

other means, the controlling interest in a corporation holding a licence is determined by the Director of Licensing to have changed hands; or

- (b) one or more partner in a partnership holding a licence is determined by the Director of Licensing to have ceased to be a partner or the partnership is determined by the Director of Licensing to have ceased to exist,

a licence issued under this Schedule shall be deemed to have expired.

### **PART III: OPERATOR**

#### **GENERAL**

12. The operator shall:

- (a) ensure that the applicable provisions of this Schedule, including the Guidelines, are complied with;
- (b) provide a certificate from the Electrical Safety Authority that the facility complies with the Ontario Electrical Safety Code as required by the Director of Licensing;
- (c) keep a copy of the single facility incident plan in the facility in a readily accessible location;
- (d) ensure that there are no firearms and no prohibited or restricted weapons, as set out in federal statutes, regulations, Orders in Council or otherwise by the federal government, kept in the facility;
- (e) ensure that access to a telephone is available at all times within the facility;
  - (i) for employees and volunteers; and
  - (ii) for tenants of the facility:

1. with its own, separate line;
  2. in a private setting, not including a lobby, hallway or passageway;
  3. where a tenant using the telephone cannot be easily overheard;
- (f) post in a conspicuous place in the facility:
- (i) the current licence for the facility;
  - (ii) a notice stating the name of the operator or an employee who is present at the facility and has the primary duty of supervising the tenants as required under paragraph 17(2)(b);
  - (iii) a notice stating the operator's name, address and telephone number, and the name, address and telephone number of the employee who has been designated under paragraph 17(2)(a);
  - (iv) a notice stating the operator is licensed by the City of Hamilton and that a complaint about the operation of the facility may be made by telephoning the City of Hamilton at 905-546-2063;
  - (v) rules for the conduct of employees and tenants of the facility;
  - (vi) a notice of the collection of personal information in a form approved by the Director of Licensing which contains:
    1. the legal authority for the collection of personal information about tenants and employees of the facility by Officers;
    2. the principal purpose or purposes for which the personal information is intended to be used; and
    3. the title, business address and business telephone number of an officer or employee of the City who can answer questions from individual tenants and

employees of the facility about the collection of their personal information;

(vii) the inspection log. <sup>(21-217)</sup>

(g) comply with all applicable access to information and protection of privacy legislation;

(h) ensure that the authorized capacity of the facility is not exceeded; and

(i) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from the operation of the facility, with an inclusive limit of at least one million dollars (\$1,000,000) per claim or occurrence, is in force at all times when one or more tenants is present in the facility.

(j) where both tenants who are subject to the Retirement Homes Act, 2010 and tenants who are not subject to the Retirement Homes Act, 2010 reside in the facility, ensure that:

- (i) an up-to-date list of tenants who are not subject to the Retirement Homes Act, 2010 is maintained; and
- (ii) the person with the primary duty of supervising the tenants under paragraph 17(2)(b) provides the list and identifies tenants who are not subject to the Retirement Homes Act, 2010 immediately upon the request of an Officer.

(k) ensure that all documents required under this By-law shall be complete and accurate and shall not be tampered with or falsified in any way. <sup>(21-217)</sup>

## **EMPLOYEES AND VOLUNTEERS**

13.(1) The operator shall give every employee and volunteer a notice of the collection of information in a form approved by the Director of Licensing and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about employees and volunteers, at the time when an individual commences employment or volunteering at the facility.

- (2) The notice under subsection (1) shall also contain:
    - (a) the legal authority for the collection of personal information about employees or volunteers by Officers;
    - (b) the principal purpose or purposes for which the personal information is intended to be used; and
    - (c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from an employee of or a volunteer at the facility about the collection of the employee's or volunteer's personal information.
  - (3) Where the operator has not given an employee or volunteer a notice under subsection (1), the operator shall give the employee or volunteer a letter in a form approved by the Director of Licensing and the Medical Officer of Health which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Director of Licensing.
  - (4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to an employee or volunteer within seven days after being directed to do so by an Officer.
14. The operator shall provide evidence satisfactory to the Director of Licensing, within seven days after an employee commences employment, that the employee:
- (a)(i) is sixteen years of age but less than eighteen years of age; or
    - (ii) eighteen years of age or older;
  - (b) if the employee is eighteen years of age or older;
    - (i) has an Ontario Secondary School Certificate, or equivalent standing; or

- (ii) employment experience, satisfactory to the Director of Licensing, in comparable work;
  - (c) whose duties require communication with the tenants, is able to communicate clearly and effectively with the tenants.
- 15.(1) The operator shall provide evidence satisfactory to the Director of Licensing within thirty days after an employee commences employment that the employee has successfully completed of the new staff in-service orientation training as described in the Guidelines.
- (2) Where an employee's duties involve the supervision of tenants, the operator shall provide evidence satisfactory to the Director of Licensing within thirty days of each six month period after the employee commences employment that the employee has successfully completed at least five hours of continuing education as described in the Guidelines.
- 16. The operator shall provide evidence satisfactory to the Director of Licensing, within seven days after an employee commences employment or a volunteer commences volunteering, that the employee or volunteer has had a negative TB test not more than thirty days before commencing employment or volunteering.

## **RESPONSIBILITY FOR OPERATION AND SUPERVISION**

- 17.(1) In this section "employee" means an employee who is eighteen years of age or older.
- (2) The operator shall ensure:
  - (a) that one employee is designated as the individual responsible for the operation of the facility and can be contacted immediately at the telephone number posted for that employee under subsection 12(f) at any time when the

operator cannot be contacted immediately at the telephone number posted for the operator under subsection 12(f);

- (b) that at all times, the operator or an employee is present at the facility who has the primary duty of supervising the tenants and is able to carry out this duty without interference, including but not limited to any interference caused by other duties or by distractions; and
- (c) the safety of the tenants while the tenants are at the facility.

## **OPERATIONS AND MAINTENANCE**

### **Water Supply**

18. The operator shall ensure that there is an adequate supply of potable and of hot water:

- (a) which can provide at least 227.303 litres (50 gallons) for each tenant and employee, per day;
- (b) of at least .362 kilograms pressure per square centimetre (8 pounds per square inch), when a fixture is in use; and
- (c) for water serving all bath tubs, showers and hand basins used by tenants, of a temperature of not more than 49° Centigrade (120° Fahrenheit) and controlled by a device, inaccessible to the tenants, that regulates the temperature.

### **Bedrooms and Storage**

19. The operator shall ensure that:

- (a) a bedroom for a tenant or tenants in a facility established before October 1, 1980 provides a minimum of 16.8 cubic meters (600 cubic feet) of air space and 6.96 square meters (75 square feet) of floor space for each tenant;

- (b) a bedroom for a tenant or tenants in a facility constructed, renovated, added to or altered on or after June 1, 1980 provides a minimum, exclusive of the space provided for built-in or portable clothes closets, of:
  - (i) 10.22 square meters (110 square feet) of floor space in a single-bed unit, provided that this area may be reduced to 9.30 square meters (100 square feet) where the facility provides a living room and one or more dining area;
  - (ii) 16.72 square meters (180 square feet) of floor space in a two-bed unit;
  - (iii) 25.08 square meters (270 square feet) of floor space in a three-bed unit;
  - (iv) 29.73 square meters (320 square feet) of floor space in a four-bed unit;
- (c) a bedroom for more than one tenant shall be arranged so that all beds are at least .91 meters (3 feet) apart;
- (d) a bedroom for one or more tenants:
  - (i) has one or more windows to the outside that:
    1. except where another means of ventilation is provided, can be opened to provide an open area of at least 5% of the floor area of the room;
    2. is not less in total area than 10% of the floor area of the room; and
    3. is screened from May 1 to October 31;
  - (ii) is not to be part of a lobby, hallway, passageway, closet, bathroom, stairway, basement, attic, kitchen, storage room, boiler room, laundry room, activity room, utility room, chapel, sitting room, administrative office, or tenant examination room;

- (e) a bedroom is provided with a door and a lock which is of a type that can be:
  - (i) secured by the tenant or tenants of the bedroom when they are inside or outside of the bedroom; and
  - (ii) opened from the outside by the operator or an employee in case of an emergency;
- (f) every bed provided for a tenant of a facility is of a minimum width of 91.44 centimetres (36 inches);
- (g) a bedroom in a facility in respect of which a licence was not issued under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force, does not contain more than two beds;
- (h) where more than one bed is located in a bedroom, a moveable partition is provided between the beds to ensure the privacy of each tenant, unless the tenants who occupy the bedroom jointly inform the operator that they do not require such a partition;
- (i) sufficient clean towels, face cloths and bed linen are provided for use of the tenants of a facility, with a supply of such linen:
  - (i) available at all times in the facility: and
  - (ii) changed at least one a week;
- (j) a clothes closet is provided for each tenant in their bedroom;
- (k) secure storage space, no less than 0.15 m<sup>3</sup> in size and accessible only to the tenant and the operator, is provided for each tenant; and
- (l) a rack on which to hang towels and face cloths is provided for each tenant.

## **Dining Area**

20. The operator shall ensure that one or more dining areas is provided, with a minimum floor space of 1.85 square meters (20 square feet) per tenant and capable of accommodating at least one half of the authorized capacity of the facility at one time.

## **Sitting Rooms**

21. The operator shall ensure that:

(a) one or more sitting rooms is provided within each facility;

(b) the minimum total space for a sitting room shall be the greater of:

(i) an area equal to 1.39 square meters (15 square feet) of floor space for each tenant; or

(ii) 11.148 square meters (120 square feet).

## **Toilet Facilities**

22. The operator shall ensure that:

(a) a toilet room or bathroom are not within, or open directly into, any dining room, kitchen, pantry, food preparation room, or storage room;

(b) a toilet is not located within a bedroom;

(c) toilet facilities are provided in at least the following ratios:

(i) for an authorized capacity of four to seven tenants: one wash basin, one flush toilet, and one bath tub or shower;

- (ii) for an authorized capacity of a fraction of seven tenants beyond the first seven: one wash basin and one flush toilet; and
- (iii) for an authorized capacity of each additional seven tenants beyond the first seven: one wash basin, one flush toilet, and one bath tub or shower;
- (d) a bathroom, toilet, or shower room is provided with a door and a lock which is of a type that can be readily released from the outside in case of an emergency;
- (e) one bathroom toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where one or more such persons have been admitted to the facility as tenants;
- (f) the bottom of each bath tub is furnished with non-skid material; and
- (g) each bath tub and each toilet is furnished with at least one grab bar or similar device of a type that will ensure the safety of tenants.

### **Waste**

23. The operator shall ensure that waste is stored in receptacles which are:

- (i) insect and rodent-proof;
- (ii) water-tight;
- (iii) provided with a tight-fitting cover; and
- (iv) kept clean.

### **Lighting**

24. The operator shall ensure that lighting of the exterior and interior of the facility complies

with ANSI/IESNA RP-28-07 (the “Recommended Practice for Lighting and the Visual Environment for Senior Living” approved by the Illuminating Engineering Society of North America) as amended or replaced from time to time.

### **Ventilation**

25. The operator shall ensure that every room shall be adequately ventilated by natural or mechanical means and shall be so designed and installed that it meets the applicable requirements of the Ontario Building Code.

### **Ramps and Stairways**

26. The operator shall ensure that guard, handrail and slip-resistance requirements for ramps and stairways shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

### **Floors**

27. The operator shall ensure that non-skid finishes and coverings are installed on every floor.

### **Balconies**

28. The operator shall ensure that balustrades for balconies shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

### **Construction and Zoning**

29. The operator shall ensure that:

- (a) no construction, renovation, addition or alteration of a facility is carried out, except in compliance with this Schedule, ANSI/IESNA RP-28-07 as amended or replaced from time to time, the Ontario Building Code, the Ontario Fire Code, and under a valid

building permit; and

(a) the applicable zoning by-laws are complied with.

30. The operator:

(a) shall submit to the Director of Licensing an operational plan, addressing the operation of their facility during construction, renovation, addition or alteration, a minimum of 90 days before commencing such construction, renovation, addition or alternation; and

(b) shall not commence construction, renovation, addition or alteration of a facility until the Director of Licensing has given them written approval of the operational plan submitted under subsection (a).

### **General Health and Safety**

31. The operator shall ensure that:

a. the facility is kept in a clean and sanitary condition, including but not limited to providing for professional pest control as needed;

(b) the facility is free from hazards to the safety of tenants of the facility, employees, volunteers or visitors;

(c) the facility is supplied with heat in accordance with City of Hamilton By-law 04-091 with respect to the supply of adequate and suitable heat for rental residential premises;

(d) all food storage, preparation and service areas meet the requirements of the Food Premises Regulation under the Health Protection and Promotion Act, and

(e) the facility meets all requirements of the Building Code under the Building Code Act,

1992 and of the Fire Code under the Fire Protection and Prevention Act, 1997.

#### **PART IV: ADMISSION OF TENANTS**

32.(1) The operator shall give every individual a notice of the collection of personal information in a form approved by the Director of Licensing and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about tenants before obtaining an assessment of the individual under section 33.

(2) The notice under subsection (1) shall also contain:

(a) the legal authority for the collection of personal information about tenants by inspectors;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from a tenant of the facility about the collection of his or her personal information.

(3) Where the operator has not given a individual the notice under subsection (1) and the individual has been admitted as a tenant, the operator shall give the individual a letter in a form approved by the Director of Licensing and the Medical Officer of Health, which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Director of Licensing.

(4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to a tenant within seven days after being directed to do so by a registered nurse employed in the Public Health Services Department.

33.(1) Prior to admitting an individual as a tenant of a facility, the operator shall obtain an

up-to-date assessment from a physician or other member of a regulated health profession employed by a referring agency designated in the Guidelines, which provides an opinion as to the level of care services the individual requires.

- (2) An operator shall determine on the basis of the assessment referred to in subsection (1), and the criteria for admission set forth in the Guidelines, whether the level of care services which is provided in the home is adequate to meet the individual's needs in relation to the activities of daily living.
34. An operator shall not admit an individual as a tenant who is not ambulatory, who for the protection of themselves or others requires placement in a locked unit or who requires a level of care services which the operator is not authorized to provide in the facility, except in accordance with the Guidelines.
35. An operator shall not admit an individual as a tenant without:
  - (a) their consent; or
  - (b) the consent in writing of their next-of-kin, or attorney for personal care, as the case may be, if the individual has been declared mentally or physically incapable of giving consent.
36. The operator shall enter into a written tenancy agreement with each individual who is admitted as a tenant of the facility and shall give each such individual a residential care facility information package prior to entering into the tenancy agreement.

## **PART V: CARE SERVICES**

37. The operator shall provide care services to each tenant in a facility in accordance with the Guidelines.

## **DRUGS**

38. The operator shall ensure that all prescription drugs:

- (a) are kept in one or more locked drug cabinets, unless the drug requires refrigeration, or must be kept with the tenant for immediate use; and
- (b) are made available only:
  - (i) to those tenants for whom they have been prescribed, as directed by a physician;
  - (ii) in a unit-dose medication dispensing system as described in the Guidelines.

39. The operator shall allow self-medication by the tenants of a facility under specified conditions set out in the Guidelines.

40. If a tenant is prescribed a drug that is a controlled substance as defined in the Controlled Drugs and Substances Act (Canada) and the operator has not completed a medication course as described in the Guidelines within the preceding twelve months, then they shall complete such a medication course no more than thirty days after the drug has been prescribed.

## **NUTRITIONAL CARE**

41. The operator shall ensure that the tenants of a facility are served daily sufficient food of good quality and adequate nutritional and caloric value as described in the Guidelines.

## **INFECTION CONTROL**

42. The operator shall ensure that all requirements for the control of infectious diseases that are set forth in Guidelines are complied with, including recommendations for tuberculosis screening, immunization programs, reporting requirements, and outbreak control measures.

## **MEDICAL CARE**

43.(1) Each tenant of a facility or their next-of-kin, or attorney for personal care, as the case may be, shall arrange for emergency medical care for the tenant, as required.

(2) Where the tenant, their next-of-kin, or attorney for personal care is unable to arrange for emergency medical care, or where such emergency medical care is unavailable, the operator shall arrange for emergency medical care for the tenant.

44. The operator shall allow a tenant's physician or a member of a regulated health professional who is providing care or treatment to a tenant to enter the facility at any reasonable time for the purpose of attending to the health of the tenant.

### **ADDITIONAL CARE**

45.(1) Wherever the tenant's physician, the operator, the Medical Officer of Health, or a member of a regulated health profession who is employed by a referring agency designated in the Guidelines, determines that a tenant requires additional care services for their special needs and the tenant, their next-of-kin, or attorney for personal care has not arranged for such additional care, the operator shall ensure that such additional care is made available to the tenant while the tenant continues to reside in the facility.

(2) In ensuring that additional care services are provided under subsection (1), the operator shall:

(a) consult with the tenant, their next-of-kin, attorney for personal care and/or a community worker, and prepare a plan which shall include a description of the health issue and the services being provided to address that health issue and which may include additional care services, such as additional personal care services and/or rehabilitative services;

(b) ensure that additional personal care services are provided through a referral to a community care access centre or to a private community agency;

- (c) where the tenant requires rehabilitative services, support the tenant's rehabilitative goals in the facility and in the community, which may include assisting tenant with meal preparation, laundry, household duties and self-medication.

46. The operator or the employee designated under paragraph 17(2)(a) shall inform the tenant, as soon as possible, of the provisions of section 148 of the Residential Tenancies Act, 2006 and may arrange for the transfer of the tenant:

(a) to a long term care facility or other appropriate living arrangement, with the agreement of the tenant, where an operator is informed by:

- (i) a community care access centre that a tenant of a facility is eligible for admission to a long term care facility;
- (ii) the tenant's physician or the Medical Officer of Health, that the tenant no longer requires the level of care services which the facility is authorized to provide; or
- (iii) the tenant's physician or the Medical Officer of Health, that the tenant requires a level of care services that the operator is not authorized to provide; or

(b) to a long term care facility, with the agreement of the tenant, where a tenant requires placement in a locked unit for the protection of themselves or others.

47. The operator shall ensure that no facility is equipped with a locked unit provided that the Operator of any facility with a locked unit on date of passage shall make the necessary changes such as removing locks as soon as possible to eliminate such locked units.

48.(1) Where a tenant is transferred from a residential care facility to a long term care facility

or to another facility licensed under this By-law, the operator shall request the tenant, or, if they are unable to act, their next-of-kin or attorney for personal care, to complete an authorization in Form 1 for the release of information pertaining to the tenant to the long term care facility or other licensed residential care facility.

- (2) Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, the operator shall complete a transfer in Form 2.

## **PART VI: RECORDS AND REPORTS**

49.(1) The operator shall maintain an up-to-date, alphabetical list of the tenants of a facility which includes the name, sex, date of birth, age and date of admission of each tenant.

- (2) The operator shall maintain a separate file for each tenant, which contains the following information:

- (a) sex, date of birth, age, date of admission and date of discharge or death;

- (b) name, address and telephone number of next-of-kin;

- (c) name and telephone number of the tenant's attorney for personal care, if any;

- (d) the name and telephone number of the tenant's physicians;

- (e) completed assessment;

- (f) the name, address and telephone number of any community agency which is providing support to the tenant;

- (g) tuberculin or chest x-ray testing results, and the dates thereof;

- (h) a brief medical history of the tenant, in respect of the care services provided by the operator under the tenancy agreement (section 36) or any additional care

services made available by the operator (subsection 45(1)), from the date of their admission, including medication information, laboratory results, physicians' orders and staff notes or other records necessary to determining the level of care services provided;

- (i) a residential care facility information package;
- (j) particulars of each accident suffered by the tenant while in the facility; and
- (k) any completed Form 1, Form 2 or Form 3.

50. The operator shall make a record in Form 3 of every occurrence with respect to a tenant of assault, injury or of death that has been reported to coroner, and shall place the completed Form 3 in the tenant's file and keep it available for inspection by the Medical Officer of Health.

51. The operator shall ensure that any document or other record of any kind which contains personal information about a tenant, other than the personal information described in subsections 49(1) and (2) and section 50, is maintained in a file which is separate from the file which is maintained pursuant to subsection 49(2) or any other provisions of this Schedule or the Guidelines.

52. The operator shall ensure that any document or other record of any kind which contains personal information about the performance of duties by an employee of their facility, other than personal information described in sections 14, 15 and 16 and subsections 12(f), is maintained in a file which is separate from the file which is maintained pursuant to the provisions of this Schedule or the Guidelines.

53. The operator shall ensure that documents or records which are kept pursuant to this Schedule or the Guidelines are kept for at least one year after the tenant, employee or volunteer ceases to be a tenant, employee or volunteer respectively.

## **PART VII: INSPECTION AND ENFORCEMENT**

54.(1) The Medical Officer of Health, the General Manager of Planning and Economic Development, the Chief Fire Prevention Officer, the Chief of the City of Hamilton Police, the Director of Licensing, or an Officer, at all reasonable times, may inspect any facility and the list of tenants required by subsection 49(1) where that subsection is applicable.

(2) The Medical Officer of Health or a member of a regulated health profession authorized by them, at all reasonable times, may inspect the file of any tenant required by subsection 49(2) where that subsection is applicable.

55. The operator shall allow the Medical Officer of Health or a member of a regulated health profession authorized by them, as often as they deem reasonably necessary, to make inspections of the facility and its operation in order to determine compliance with this Schedule.

56. The Medical Officer of Health, the Director of Licensing, the General Manager of Planning and Development and the Chief Fire Prevention Officer are authorized to enforce the provisions of this Schedule which are within their respective jurisdiction, and to serve such notices and make and serve such orders as may be necessary to ensure compliance by the operator.

57. The Medical Officer of Health may:

(a) issue Guidelines for the operation of facilities licensed under this By-Law, including any matters relating to the health, safety, and well-being of the tenants of a facility, and shall provide a copy of any such Guidelines and any subsequent additions or revisions to the operator of each facility licensed under this By-Law;

(b) prescribe the format and content of any forms or other documents required under this Schedule;

(c) designate the referring agencies which may employ a member of a regulated health

profession for the purposes of making an assessment under subsection 33(1) and making a determination under subsection 45(1).

**SCHEDULE 21** <sup>(18-320)</sup>

**FOOD PREMISES**

**DEFINITIONS**

1. In this Schedule:

**“Bar/Nightclub”** means a Food Premises when:

(a) the primary purpose of the Food Premises is any one or more of the following:

- (i) serving alcohol to customers;
- (ii) entertaining customers by playing live or recorded music; or
- (iii) accommodating dancing by customers; and

(b) the Food Premises provides seating in a licensed area, as set out in the Food Premises' liquor licence, for less than 65% of customers who are served with food or drink;

**“Certificate of Inspection”** means a certificate in a form approved by the Medical Officer of Health which sets out the results of an inspection or inspections conducted under the *Health Protection and Promotion Act*, or its regulations;

**“Drive-Through Facility”** means a Food Premises which offers food or drink through an attendant to persons remaining in vehicles;

**“farmer”** means a farmer as defined in the *Farming and Food Production Protection Act*, 1998;

**“Food Premises”** means a premises where food or drink for human consumption is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, not including a premises that is:

- (a) a dwelling unit, except a dwelling unit used as a Food Premises home business;
- (b) entirely exempt from R.R.O. 1990, Reg. 562 entitled “Food Premises” under section 2 of that Regulation;
- (c) in part exempt from R.R.O. 1990, Reg. 562 entitled “Food Premises” under section 3 of that Regulation; or
- (d) operated by a farmer, selling or offering for sale primarily produce from his or her agriculture operation and other Ontario agricultural operations;

“**Hess Village Entertainment District**” means the geographic area in the City bordered by Caroline Street to the East, Main Street to the South, Queen Street to the West and King Street to North as shown in the map attached as Appendix A to this Schedule;

“**home business**” means a use conducted as a business in a dwelling unit which is secondary to the use of the dwelling unit as a private residence;

“**Public Health Inspector**” means a public health inspector employed in the Public Health Services Department; and

“**Security Guard**” means a person:

- (a) whose exclusive responsibility or duty while engaged or hired by a Bar/Nightclub is to guard or patrol the premises for the purpose of ensuring orderly conduct and protecting persons or property; and
- (b) who is licensed as a security guard under the *Private Security and Investigative Securities Act, 2005*.

## **LICENCE REQUIRED**

2. No person shall operate a Food Premises without a licence.
3. When submitting an application for a licence, an applicant for a licence under this Schedule shall submit a detailed premises plan, drawn to scale, of the Food Premises that has been approved by the Director of Licensing and the details of such premises plan shall include but are not limited to depicting the location, as applicable, of parking areas, queuing areas, walkways, smoking areas, patios, seating areas, offices, cloak rooms, dance areas, disc jockey areas, kitchen facilities, bar areas, washrooms, storage areas, entrances/exits, and exterior waste and recycling receptacles.
4. No licence holder under this Schedule shall change or cause a change to be made to a premises plan without first obtaining the approval of the Director of Licensing.

## **DUTIES OF OPERATOR**

5. Every person operating a Food Premises shall be responsible for keeping the premises clean and orderly and maintained in all respects suitable for the purpose for which they are used, and for keeping the premises adequately lighted and ventilated.
6. Every person operating a Food Premises with a Drive-Through Facility shall install and maintain waste and recycling receptacles located so as to be accessible to customers remaining in their vehicles.

## **PUBLIC HEALTH APPROVAL**

7. A licence to operate a Food Premises shall not be issued until a Public Health Inspector has informed the Director of Licensing that all requirements under the *Health Protection and Promotion Act* and its regulations have been fully complied with.

#### **POSTING OF CERTIFICATES OF INSPECTION**

8. (a) Every person who operates a Food Premises shall permit a Public Health Inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at all entrances by which customers may enter the premises.  
  
(b) Where a premise described in subsection (a) does not have an entrance by which customers may enter the premises, the person who operates a Food Premises shall permit a Public Health Inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at the pick-up window or other location in the premises from which customers are served.  
  
(c) Every person who operates a Food Premises shall permit a Public Health Inspector at any reasonable time to remove a Certificate of Inspection which has been posted at the premises.  
  
(d) When a Certificate of Inspection has been removed by a Public Health Inspector under subsection (c), the person who operates a Food Premises shall not post a copy of a Certificate of Inspection or any facsimile of the certificate at any location on the premises.

#### **DUTIES OF BAR/NIGHTCLUB OPERATORS**

9. In addition to complying with sections 2 to 8 inclusive of this Schedule:

- (a) No person shall operate a Food Premise as a Bar/Nightclub, unless upon applying for a licence and every third year thereafter, upon applying for a licence renewal, they have submitted to the Director of Licensing a certificate from the Electrical Safety Authority that the premises complies with the Ontario Electrical Safety Code; and
- (b) No person shall operate a Food Premise as a Bar/Nightclub unless, before the operation of the Bar/Nightclub commences, they have submitted to the Director of Licensing:
- (i) a noise control plan, satisfactory to the Director of Licensing, which includes a description of:
1. the maximum volume levels for music within the premises;
  2. the wattage of the music or sound-producing systems used on the premises; and
  3. the sound insulation methods or mechanisms used within the building; and
- (ii) a crowd control plan, satisfactory to the Director of Licensing, which includes a description of the manner in which people seeking entry or re-entry to the premises may line up outside of the premises prior to entry, including:
1. the location of such line ups;
  2. the maximum number of people permitted to be in such line ups; and
  3. the procedures used to monitor the line ups; and

- (iii) the name and telephone number of the person(s) designated as the individual responsible for the operation of the Bar/Nightclub who can be contacted immediately at the telephone number submitted; and
- (c) Every person who operates a Food Premises as a Bar/Nightclub shall, at all times when the Bar/Nightclub is open, ensure that:
- (i) the Bar/Nightclub is operated in accordance with the noise control plan under paragraph (b)(i) and the crowd control plan under paragraph (b)(ii);
  - (ii) a person designated as the individual responsible for the operation of the Bar/Nightclub under paragraph (b)(iii) is at the premises;
  - (iii) the premises are staffed with at least one Security Guard for every 100 customers in attendance at the premises; and
  - (iv) all Security Guards wear identification or clothing by which they can readily be identified as Security Guards; and
- (d) Every person who operates a Food Premise as a Bar/Nightclub shall, at all times, ensure that all areas immediately adjacent to the premises are clean and free of waste and shall install and maintain containers for the deposit of waste.

## **HESS VILLAGE ENTERTAINMENT DISTRICT**

10. Sections 10 to 13 inclusive of this Schedule apply to the Hess Village Entertainment District, as the Hess Village Entertainment District:

- (a) has the highest concentration, in terms capacity, of Bars/Nightclubs, many with outdoor patios, in the City; and

(b) May 24 weekend through to the end of September has a large number of individuals attending such Bars/Nightclubs resulting in:

- (i) significant noise, litter and other nuisances, such as urination in public places in and around the Hess Village Entertainment District;
- (ii) line-ups to enter the Bars/Nightclubs that pose a safety risk to pedestrian and vehicular traffic, including inhibiting the flow of traffic along Hess Street; and
- (iii) additional issues related to nuisance and safety resulting from the large number of individuals in attendance and the consumption of alcohol, in particular when such Bar/Nightclubs close and these individuals exit en masse.

11. A minimum of 3 Constables and ½ Sergeant shall be retained for the Hess Village Entertainment District Friday and Saturday (with Thursdays optional and based on needs) from 11:00pm to 4:00am beginning May 24 weekend through to the end of September.

12. Notwithstanding section 11 of this schedule, the Chief of Hamilton Police Services, or their designate, may:

- (a) change the commencement date of May 24 weekend or the September end date by giving 48 hours prior notice to the City;
- (b) suspend the requirement to retain 3 Constables and ½ Sergeant for any day or time period where they decide that such Officers are not required for public safety, nuisance control or public protection or where such Officers are not

available; and

13. The City shall pay the cost of the Officers required under section 11.



**SCHEDULE 22** <sup>(17-128)</sup>

**SECOND-HAND GOODS, JEWELLERY AND PRECIOUS METALS BUSINESSES**

**DEFINITIONS**

1. In this Schedule:

“**antiques**” means furniture or other goods commonly recognized as collectable because of their quality, value or age, and reproductions of such goods, but does not include bicycles, coins, electronic products, jewellery, musical instruments, precious gems, precious metals, time pieces or tools;

“**bicycle**” includes but is not limited to a unicycle or a tricycle;

“**electronic products**” means any type of electronic device, including but not limited to smartphones, computers, laptops, radios, television receivers and monitors, video cameras, digital audio players, music systems and associated equipment, microwave appliances, and global position systems;

“**goods**” means second-hand bicycles, coins, electronic products, jewellery, precious gems, musical instruments, time pieces or tools;

“**jewellery**” means goods of personal adornment made in whole or part of precious gems or precious metals;

“**jewellery and precious metals business operator**” means a person operating a business that purchases jewellery or precious metals for the purpose of smelting the jewellery or precious metals and includes a jewellery and precious metal business operator who operates for a short period of time at temporary premises;

“**precious metals**” includes but are not limited to gold, platinum, or silver;

“**purchase**” includes but is not limited to taken in exchange, received on consignment ticket

or otherwise received;

**“second-hand goods”** means any article that is offered to or taken by a second hand goods business operator for resale;

**“second-hand goods business operator”** means a person operating a business that sells used or previously owned goods, including jewellery and precious metals regardless of age and condition; and

**“seller”** means a person who sells or who offers to sell any second-hand goods to a second-hand business or jewellery and precious metals business.

## **APPLICATION OF SCHEDULE**

1. This Schedule does not apply to:

- (c) the business of purchasing or selling antiques or works of art; or
- (d) a registered charitable corporation.

## **GENERAL PROHIBITIONS**

- 2. No person shall operate a second-hand goods business, or jewellery and precious metals business without a licence to do so.
- 3. No second-hand goods business operator or jewellery and precious metals business operator shall purchase, any goods from a person appearing to be under:
  - (a) the age of 18 years old; or
  - (b) the influence of alcohol or drugs.

## **REQUIREMENTS**

4. Every person required to obtain a licence under this Schedule shall obtain a separate licence for each premises.
5. Every second-hand goods business operator and jewellery and precious metals business operator shall:
  - (e) keep their licence posted in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to a Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence;
  - (f) review the electronic Identifiable Stolen Property list sent out by the Hamilton Police Service on Tuesday, or as needed, and in the event a seller attempts to sell any of the described goods, contact the Hamilton Police Service within 24 hours;
  - (g) notify the Hamilton Police Service of the name and description of any goods which are believed to have been stolen or unlawfully obtained; and
  - (h) post a sign giving notice of the collection of personal information from sellers in a form satisfactory to the Director of Licensing in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to the Municipal Officer or the Hamilton Police Service, at all times during the currency of the licence.

### **Record of Purchase**

6. Every second-hand goods business operator, and jewellery and precious metals business operator shall ensure that, without delay, at the time any good is purchased, a record of the purchase is made and includes:
  - (e) the day, month, year and time of the purchase;

- (f) the price or other consideration given;
  - (g) the type of identification presented;
  - (h) the full name, telephone number and address of the seller as shown on at least 1 piece of identification that contains this information as well as a photograph of the seller;
  - (i) a detailed description of each good that shall be reasonably sufficient to identify it, including; make, model, serial numbers, weight, colour, engravings, markings and titles, where applicable and, in the case of a temporary business, a photograph or photographs clearly showing the jewellery or precious metals;
  - (j) a signed certificate of ownership from the seller certifying that they are the owner of each good; and
  - (k) the name of the employee who conducted the transaction.
7. Every second-hand goods business operator and jewellery and precious metals business operator shall ensure that the record of purchase under section 7 is:
- (g) made by hand in ink or electronically, either as approve in advance by the Director of Licensing;
  - (h) easily readable and in English;
  - (i) not altered or deleted once completed;
  - (j) protected from loss or destruction;
  - (k) kept for a minimum of one year; and

(l) submitted electronically to the Hamilton Police Service via [storereports@hamiltonpolice.on.ca](mailto:storereports@hamiltonpolice.on.ca), weekly each Thursday before close of business, or as requested, excluding 7 (c), (d) and (f).

8. Every second-hand goods business operator and jewellery and precious metals business operator shall only deliver the signed certificate of ownership from the seller and the full name, telephone number and address of the seller to the Hamilton Police Service, if requested in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

### **Retention Period**

10.(1) Every second-hand goods business operator and jewellery and precious metals business operator shall retain all purchased goods on the premises of the business in an unchanged condition for a period of at least 30 days after the day on which the good was purchased.

(2) The 30-day retention period commences on the day following the day on which the good was purchased, and ends with the close of business on the 30<sup>th</sup> day thereafter.

11. Section 10 does not apply to the sale of pre-recorded or recordable audio or video media.

12. During the 30-day retention period, every second-hand goods business operator and jewellery and precious metals business operator shall:

(a) make the goods available for inspection by a Municipal Officer or the Hamilton Police Service; and

(b) not sell or otherwise dispose of or permit the sale or other disposal of the goods.

13. Despite section 10, for the purpose of completing an investigation, the Hamilton Police Service may request that a good suspected of having been stolen be retained for an additional period of time beyond the 30-days and when so requested, the second-hand goods business operator and jewellery and precious metals business operator shall ensure that the said good is not sold, exchanged, altered, repaired, disposed of or in any way parted with until after the expiration of the additional period of time.

### **Alternate Storage**

14. A second-hand goods business operator and jewellery and precious metals business operator may store goods at an alternate storage facility within a 50 km radius of the City during the retention period if:

- (a) the size, value or quantity of the goods requires such alternate storage; or
- (b) in the case of a temporary business, the location of the event does not reasonably allow for the secure storage of the goods.

If a second-hand goods business operator or a jewellery and precious metals business operator, stores goods at an alternate storage facility pursuant to section 14, the location of the goods must be reported to the Hamilton Police Service via [storereports@hamiltonpolice.on.ca](mailto:storereports@hamiltonpolice.on.ca) in writing immediately following the transfer to the alternate storage facility.

## **SCHEDULE 23**

### **SEASONAL PRODUCE VENDORS**

1. In this Schedule:

**“seasonal produce vendor”** means a person who sells or offers for sale seasonal produce, including, but not be limited to, fresh fruits and vegetables and Christmas trees, at a location on privately owned property.

2.(1) No person shall carry on the business, trade or occupation of a seasonal produce vendor without a licence.

(2) A licence is not required for selling seasonal produce:

(a) to wholesale or retail dealers in seasonal produce;

(b) which is grown in the City and is sold by the grower or his or her agent or employee at the premise of the grower where the seasonal produce is grown;

(c) by an agent of the grower acting on behalf of a dealer who is licensed in respect of premises used for the sale of such seasonal produce pursuant to this Schedule;

(d) by an agent of the grower acting on behalf of a dealer who pays business tax in the City in respect of premises used for the sale of such seasonal produce; or,

(e) to persons, organizations, associations or groups who contribute to the enrichment of community life within the City provided that the person, organization, association or group which purchases the produce is directly responsible for the retail operation and that all proceeds derived from the sale are used to further the enrichment of community life in the City.

3. The applicant for a seasonal produce vendor's licence shall provide the Director of Licensing with:
  - (a) written proof that he or she has the permission of the owner of the property upon which seasonal produce will be offered for sale, to use the property for such purposes, at the time the application is filed; and
  - (b) verification from the Building Services Division of the Planning and Economic Development Department of the City, that the use of the property upon which seasonal produce will be offered for sale, is permitted under the applicable zoning by-law.
  
4. A seasonal produce vendor:
  - (a) shall not place any signs, stands, or other things used in connection with the sale of seasonal produce on a road allowance;
  - (b) shall not place any stand or fresh produce within 4.5 meters of any lot line abutting a road allowance;
  - (c) shall not place any signs advertising the sale of the seasonal produce on the property which are not in compliance with the sign by-law;
  - (d) shall ensure that any signs advertising the sale of seasonal produce shall be located on the property in such a manner as to comply with the sign by-law; and
  - (e) shall ensure that all seasonal produce, and signs, stands, or other things used in connection with the sale of seasonal produce are removed from the property when the seasonal produce is no longer being offered for sale on each day during the term of the licence.

5. A licence for seasonal produce vendor shall not be issued for a period which exceeds 45 days in duration.

**SCHEDULE 24**<sup>(17-013) (20-128)</sup>

**PERSONAL TRANSPORTATION PROVIDER**

**DEFINITIONS** <sup>(20-128)</sup>

1. In this Schedule:

**“business day”** means a day on which the City’s administrative offices are open for business;

**“facilitating”** in all its forms includes but is not limited to offering, operating or providing;

**“model year”** means the year of the vehicle as identified on the Owner’s Vehicle Permit Portion to be calculated from January 1<sup>st</sup> to December 31<sup>st</sup>, <sup>(18-252)</sup>

**“personal transportation provider”** means any person facilitating prearranged transportation services for compensation using any platform to connect passengers with PTP driver and may also be referred to as a “PTP”;

**“personal transportation provider driver”** means any person affiliated with a PTP who transports passengers for compensation using a PTP platform and may also be referred to as a “PTP driver”;

**“personal transportation provider identifier”** means a sign, including a decal, displaying the logo or name of the PTP through which a PTP driver is providing transportation service to passengers, and such other information as required by the Director of Licensing, in a form approved by the Director of Licensing and may also be referred to as a “PTP identifier”;

**“personal transportation provider licence”** means a licence issued under this Schedule and may also be referred to as a “PTP licence”;

**“personal transportation provider vehicle”** means a vehicle used by a PTP driver to provide transportation to a passenger using a PTP platform and may also be referred to as a “PTP vehicle”;

**“platform”** means any software, technology, or service, including a smartphone application, intended to connect passengers with transportation service;

**“solicit”** means any appeal for customers or passengers by sound, words, signs, or gestures directed at any person;

“**street hail**” means any appeal for a ride by any person using sounds, words, signs, or gestures directed at a PTP driver, but does not include communication over a PTP platform; and

“**transportation service**” means each prearranged trip in a PTP vehicle commencing when a passenger enters the vehicle, continuing for the period that the vehicle is continuously occupied, and ending when all passengers or goods exit the vehicle.

## **APPLICATION OF SCHEDULE**

2. This Schedule does not apply to:
  - (a) taxicab services dispatched by a licensed taxicab broker and taxicab services provided by a licensed taxi plate holder or a licensed taxicab driver under the authority of Schedule 25: Taxicabs of By-law 07-170;
  - (b) limousine services provided by a limousine service provider under the authority of Schedule 8: Limousines of By-law 07-170;
  - (c) a motor vehicle used as part of a transit system provided by the City of Hamilton such as the public transit service known as the Hamilton Street Railway;
  - (d) a person who facilitates “carpooling” as defined by the Public Vehicles Act; or
  - (e) an emergency motor vehicle including but not limited to ambulance, fire department vehicle, or police vehicle.

## **GENERAL PROHIBITIONS AND OBLIGATIONS**

3. No person shall hold themselves out to be a PTP or shall engage in the business of a PTP unless they hold a current and valid PTP licence.
4. No person shall facilitate or make any representations as a PTP or a PTP driver unless authorized to do so by a PTP licensed by the City.
5. No PTP shall permit or condone the acceptance of street hails or the solicitation of passengers by PTP drivers, whether on the street or at a taxi stand or in any other manner at any other location.
6. No PTP shall facilitate a transportation service for compensation using any platform to connect any passenger with a driver or with a vehicle that does not comply with this Schedule.
7. No PTP shall permit an affiliated PTP driver to provide transportation services if the PTP driver does not have the insurance required under this Schedule.
8. No PTP shall permit and no PTP driver shall accept payment by cash for a

transportation service facilitated by the PTP.

9. No PTP and no PTP driver shall permit any person to smoke in the PTP vehicle while it is providing transportation services.
10. Every PTP and PTP driver shall ensure that the identification card required under subsection 21 (1) is in the PTP vehicle at all times when transportation services affiliated with the PTP are offered or provided.
11. On demand of the Director of Licensing or a Municipal Officer, the PTP driver shall:
  - (a) produce any of the following:
    - (i) the PTP driver's identification card;
    - (ii) valid insurance that meets the requirements of this Schedule; and
    - (iii) any other information pertaining to the PTP driver or the operation of the PTP vehicle as requested by the Municipal Officer.
  - (b) submit the PTP vehicle operated by the PTP driver for inspection at a time and location specified by the Director of Licensing or Municipal Officer.
12. Every person, PTP or PTP driver who contravenes this Schedule is guilty of an offence as outlined in the General Provisions of this By-law.
13. Every PTP and PTP driver shall ensure that the identification card required under subsection 21(1):
  - (a) is in the PTP vehicle at all times when transportation services affiliated with the PTP are offered or provided; and
  - (b) is produced immediately upon demand of a Municipal Officer.

#### **PTP LICENSING** (20-128)

14. Every person who owns or operates a PTP shall obtain a PTP licence.
15. An issued PTP licence is not transferable and remains at all times the property of the City.

#### **Licence Application** (20-128)

16. An application for a new PTP licence shall be made to the Licensing Section using the forms approved by the Director of Licensing.
17. In addition to complying with the General Provisions of this By-law, an application for a new PTP licence shall be accompanied by:
  - (a) if the applicant is a corporation, proof that it is legally entitled to operate in Ontario, including but not limited to:

- (i) a copy of the incorporating documents;
  - (ii) a copy of the last initial notice/notice of change which has been filed with the appropriate government department;
  - (iii) a Certificate of Status issued by the Ministry of Government and Consumer Services; and
  - (iv) a certified copy of an annual return and a list of all shareholders of the corporation.
- (b) If the applicant is a partnership, the names and addresses of each member of the partnership as well as the name under which the partnership intends to carry on business and proof of the business name registration;
- (c) a demonstration that there are data security measures in place to protect the personal data collected by the PTP relating to passengers and drivers, to the satisfaction of the Director of Licensing;
- (d) proof of the insurance required under this Schedule to the satisfaction of the Director of Licensing;
- (e) any other information as required by the Director of Licensing.

#### **Licence Renewal** <sup>(20-128)</sup>

18. In addition to complying with the General Provisions of this By-law an application for a renewal PTP licence shall be accompanied by:
- (a) a completed renewal application;
  - (b) proof of the insurance required under this Schedule to the satisfaction of the Director of Licensing;
  - (c) adequate demonstration that there are data security measures in place to protect the personal data collected by the PTP relating to passengers and drivers, to the satisfaction of the Director of Licensing; and
  - (d) any other information required by the Director of Licensing.

#### **PTP REQUIREMENTS**

##### **Information to Passengers**

19. Every PTP shall ensure the platform used:
- (a) at the time the transportation service is arranged, can provide to the passenger requesting the transportation service:
    - (i) the PTP name and contact information;

- (ii) the first name and photograph of the PTP driver;
  - (iii) a description of the make, model and licence plate of the PTP vehicle;
  - (v) the surcharge, if any;
  - (vi) an estimate of the total cost; and
  - (vii) the current location of the PTP vehicle.
- (b) provides a link to rate or provide comment of the PTP driver and PTP vehicle.
- (c) provides a process allowing the passenger to accept or refuse the transportation service prior to it commencing and to keep a record of such acceptance or refusal;
- (d) provides a secure payment mechanism; and
- (e) provides a printed or electronic receipt to the passenger at the end of the transportation service that includes information confirming:
- (i) the fare rate and/or surcharges;
  - (ii) total amount paid;
  - (iii) date and time of pickup;
  - (iv) locations where the passenger was picked up and dropped off; and
  - (vii) the first name of the PTP driver.
20. Every PTP shall make available to the public on its platform, and by any other means of its choice, the following information:
- (a) the insurance coverage required to be maintained by the PTP and by the PTP drivers;
  - (b) the transportation services offered by PTP drivers;
  - (c) the applicable screening process for PTP drivers and PTP vehicles;
  - (d) that PTP drivers can only provide transportation services that are prearranged using the platform of the PTP and cannot accept street hails or pick up fares at taxi stands; and
  - (e) that PTP drivers cannot accept cash payment for transportation services.

### **Identification**

- 21.(1) Every PTP shall issue to every affiliated PTP driver a current and up-to-date identification card in written or electronic form providing the following information:
- (a) the first and last name and photograph of the PTP driver;
  - (b) the make, model and licence plate number of the PTP vehicle used by the PTP driver affiliated with the PTP; and

- (c) the name and contact information of the PTP with which the PTP driver is affiliated.
- (2) Every PTP shall issue to every affiliated PTP driver a PTP identifier, to be located in the front windshield of the PTP vehicle and visible from the exterior at all times while offering or providing transportation services.

### **Data Collection Records**

- 22.(1) Every PTP shall create and maintain records of the following information:
  - (a) the total number of transportation services provided by the PTP, annually;
  - (b) the total number of PTP drivers providing a transportation service, annually;
  - (c) the total number of PTP vehicles providing a transportation service, annually;
  - (d) the PTP driver and PTP vehicle information corresponding with each requested transportation service, including:
    - (i) the full name of the PTP driver;
    - (ii) the licence plate number of the PTP vehicle;
    - (iii) the date, time and duration of the transportation service;
    - (iv) the location where the passenger was picked up and dropped off; and
    - (v) the hours and minutes spent by the PTP vehicle transporting the passenger(s), including time spent enroute to pick up the passenger(s).
- (2) All information under subsection 23(1) is required to be kept by the PTP for a rolling 3 year window from the current date created.
- 23. Every PTP shall make the records in subsection 23(1) available electronically to the Director of Licensing within 2 business days following a demand in writing by the Director of Licensing.

### **Access to Software or Platform**

- 24. A PTP shall be required, if requested by the Director of Licensing, to create anonymous passenger and driver accounts to be used by Municipal Officers for inspection purposes to ensure compliance with this Schedule.

### **Insurance**

- 25.(1) Every PTP shall obtain and maintain while licensed under this Schedule the following minimum insurance requirements:

- (a) Commercial General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use, that includes:
    - (i) blanket contractual liability; premises, property and operations liability;
    - (ii) products and completed operations liability;
    - (iii) contingent employers liability; personal injury, owners and contractors protective coverage;
    - (iv) broad form property damage; occurrence property damage; and
    - (v) employees as additional insured, and cross liability and severability of interest provision.
  - (b) such Commercial General Liability policy shall be in the name of the PTP and the City of Hamilton shall be named as an additional insured;
  - (c) the PTP shall also obtain Non-Owned Automobile Insurance with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence; and
  - (d) the insurance required under subsections (a) and (c) shall contain an endorsement to provide the City of Hamilton no less than 30 days prior written notice, from the insurer, of any cancellation.
- 
- (2)(a) It is a condition of a PTP licence that the PTP comply with subsection 26(1) at all times.
  - (b) The PTP licence shall be suspended if the PTP fails to comply with subsection 26(1) until such time as the PTP satisfies the Director of Licensing that there is full compliance.
  - (c) The PTP shall provide the Director of Licensing with such information as the Director of Licensing shall require to demonstrate that subsection 26(1) is being complied with.

### **Requirements related to PTP Driver**

- 26. Every PTP shall keep an up-to-date list of every affiliated PTP driver and PTP vehicle in a readily accessible format that includes:
  - (a) the full name and address of every PTP driver; and
  - (b) the make, model and licence plate of every PTP vehicle.
- 27. Every PTP shall ensure that an affiliated PTP driver meets the following requirements prior to commencing as a PTP driver and at all times when providing transportation services:

- (a) is at least 18 years of age;
  - (b) has a valid G licence;
  - (c) is able to communicate in English; and
  - (d) has been advised and consents to the personal information being submitted to the Director of Licensing for the purpose of auditing compliance with this Schedule.
28. (1) The PTP shall receive a criminal record check and a driving record abstract for each driver.
- (2) The PTP shall review the criminal record check and the driving record abstract and, acting as a reasonable PTP, determine if the driver is suitable for providing transportation services.
- (3) The criminal record check, no older than 90 days, and the driving record abstract, no older than 30 days, shall be submitted to and reviewed by the PTP before the driver begins as a PTP driver and at the end of every subsequent 12 month period while the driver continues as a PTP driver.
29. Every PTP shall keep copies of the documents and information required under sections 27, 28 and 29 for 3 years after the PTP driver ceases to be affiliated with the PTP.
30. Every PTP shall make available to the Director of Licensing the records or information required in sections 27, 28, 29 within 2 business days following a written demand by the Director of Licensing.
- 31.(1) Every PTP shall ensure that every PTP driver obtains and maintains, at all times during the provision of transportation services, Automobile Liability Insurance for owned or leased PTP vehicles, with limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death, and damage to property. The Automobile Liability Insurance shall include the NPCF 6TN *Permission to Carry Paying Passengers for a Transportation Network* endorsement or an equivalent endorsement acceptable to the Director of Licensing.
- (2) The insurance coverage required under subsection 32(1) shall include a provision whereby the City of Hamilton will be provided with no less than 15 days prior notice of any cancellation or variation to the policy.
- (3) Every PTP shall obtain proof of insurance from every PTP driver evidencing compliance with the requirements of subsections 32(1) and (2) prior to affiliation with

the PTP driver, and on an annual basis thereafter and shall keep such records for a period of 3 years after the PTP driver ceases to be affiliated with the PTP and produce it to the Director of Licensing on demand.

- 32.(1) It is a condition of a PTP licence to ensure the denial of a PTP driver's access to the PTP platform immediately upon being notified by the Director Licensing that the driver has acted in a manner that is adverse to the public interest, public safety or upon discovering that a driver is not insured under section 32 and to continue to do so for so long as required by the Director of Licensing.
- (2) The PTP shall provide the Director of Licensing with such information as he or she shall require to demonstrate that subsection 33(1) is being complied with.

### **Requirements related to PTP vehicle**

- 33.(1) Every PTP shall ensure that a PTP vehicle meets the following requirements at all times when providing a transportation service:
    - (a) the PTP vehicle has a valid and current Ontario Ministry of Transportation Safety Standards Certificate, prior to commencement of use as a PTP vehicle, and then annually thereafter; and
    - (b) the PTP vehicle is no more than ten years old, calculated from the model year.<sup>(18-252)</sup>
  - (2) Every PTP shall obtain and maintain the records required under subsection 34(1) for a period of 3 years after the PTP vehicle is no longer used to provide the transportation service.
  - (3) Every PTP shall make available to the Director of Licensing the records required to be kept under subsection 34(1) within 2 business days following a demand in writing from the Director of Licensing.
- 34.(1) It is a condition of a PTP licence to ensure the denial of a PTP driver's access to the PTP platform immediately upon being notified by the Director of Licensing that the driver's vehicle is being operated in a manner that is adverse to the public interest or to public safety and to continue to do so for so long as required by the Director of Licensing.
  - (2) The PTP shall produce the Director of Licensing with such information as he or she shall require demonstrating that subsection 35(1) is being complied within 2 business days following a demand in writing from the Director of Licensing.



## SCHEDULE 25

### TAXI CABS

#### DEFINITIONS AND INTERPRETATION

1.(1) In this Schedule:<sup>(17-012)</sup>

“**accessible priority list**” means the list of applications for an accessible taxicab owner licence maintained by the Director of Licensing and made available to the public with names set out thereon in chronological order as to the date and time of receipt; <sup>(18-040)</sup>

“**accessible taxicab**” means a motor vehicle approved for use as a taxicab by the Director of Licensing and originally constructed or subsequently modified to permit the loading, transportation and off-loading of persons confined to a wheelchair, or similar device used to assist the disabled, without transfer and which motor vehicle complies with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the *Highway Traffic Act*;

“**accessible taxicab driver**” means a licensed taxicab driver whose taxicab driver’s licence has been endorsed by the Director of Licensing to permit the licensee to drive an accessible taxicab in the City of Hamilton;

“**accessible taxicab owner**” means a licensed taxicab owner whose taxicab owner’s licence has been endorsed by the Director of Licensing to permit the operation of an accessible taxicab in the City of Hamilton;

“**authorized sign**” means a parking sign as described in this Schedule;

“**By-Law**” means By-Law 07-170 unless the context refers otherwise;

**“carry on”** when used in reference to a taxicab or to a taxicab brokerage business means to continuously operate, engage, drive, or make a taxicab available for the conveyance of passengers for hire or reward and includes waiting for, accepting, or dispatching orders;

**“continuously operate”** means to drive a licensed taxicab and/or to make the taxicab available to the public for the conveyance of passengers for a minimum of eight (8) hours per day for at least five (5) days per calendar week throughout the calendar year save and except for suspensions of operation due to necessary repairs provided that they are made within fourteen (14) calendar days or due to necessary vehicle replacement due to fitness or age reasons provided that it is completed within thirty (30) calendar days;

**“conveyance”** means to carry, transport, transfer or move;

**“disabled”** means any physically, emotionally or mentally handicapped person who is unable because of mobility impairment to use a regular public transit facility;

**“disabled passenger”** means a passenger who is physically disabled;

**“dispatch”** means the communication of an order or information in any manner between a taxicab broker and a taxicab driver;

**“driver’s licence”** means a licence issued to a taxicab vehicle driver under this Schedule and “licensed driver” has a corresponding meaning;

**“dues”** means any amount of money charged by a taxicab broker to a taxicab owner to receive orders from the taxicab broker;

**“fare”** means the amount of money displayed on the taxicab meter at the conclusion of a trip, or the flat rate allowed under this Schedule for the trip, together with any additional charges allowed under this Schedule and, where the context so requires, shall also refer to the Tariff/Fare rates set out in Appendix “1” of this Schedule;

**“Fees Schedule”** means the User Fees and Charges By-law, as amended from time to time;

**“fleet”** means one or more taxicabs being dispatched by one taxi broker or owned by the same person;

**“fleet owner”** means the owner of a fleet;

**“grossly unclean person”** means a person covered in an amount of dirt and/or other material so excessive that if transported by the driver, the state of the person could leave the interior of the vehicle in a unclean state;

**“highway”** includes a road allowance, a common and public highway, street, avenue, parkway, boulevard, square, place, bridge, viaduct or trestle, designed and intended for or used by the general public for the passage of vehicles;

**“Highway Traffic Act”** means the *Highway Traffic Act* R.S.O. 1990 c.H. 8, as amended, and the regulations there under;

**“lease”** means any contract, agreement, understanding or other arrangement whereby an owner permits another person to manage, operate, control, have custody of, or otherwise employ his or her taxicab and owner’s plate, other than permitting a driver to drive the taxicab for one normal driver’s shift where the taxicab is returned to the owner at the end of such shift; and “to lease a taxicab” includes the act of any owner in entering into or becoming a party to such a contract, agreement, understanding or other arrangement. Without limiting the generality of the foregoing, “lease” also includes a power of attorney, management contract and any other arrangement or agreement whereby any person other than an owner is allowed to exercise or does exercise any of the rights set out herein;

**“lease agreement”** means a written agreement wherein a limited interest in a licence is temporarily transferred by a taxicab owner, and containing terms and conditions prescribed in section 49 and any other terms and conditions not contrary to this Schedule;

**“lessee”** means a person who is either a licensed taxicab owner or taxicab driver under this Schedule and who has entered into a lease with a licensed taxicab owner through which the person acquires certain rights from the owner and under takes to fulfill certain responsibilities with respect to the use of the taxicab owner’s licence, licence plate and vehicle and shall have all the obligations and duties of a taxicab owner in this Schedule;

**“lessor”** means a taxicab owner licensed under this Schedule and who has entered into a lease with a licensed taxicab owner or taxicab driver through which the owner gives certain rights but maintains the responsibility to ensure that the lessee carries on or engages in the conveyance of passengers while in compliance with the provisions of this Schedule;

**“licence”** means the document issued, pursuant to this Schedule, to an applicant for same by the City as evidence of being licensed under this Schedule;

**“licensee”** means any person licensed under this Schedule;

**“licensed”** means licensed under this Schedule;

**“model year”** means the year of the vehicle as identified on the Owner’s Vehicle Permit Portion to be calculated from January 1<sup>st</sup> to December 31<sup>st</sup>; <sup>(18-252)</sup>

**“motor vehicle”** means an automobile and any other vehicle propelled or driven other than by muscular power, but does not include the cars of electric or steam railways, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act* R.S.O. 1990 c.H. 8;

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

**“new accessible taxicab owner’s licence”** means an accessible taxicab owner’s licence issued, transferred or purchased after September 2017, except renewals existing at the date of the enactment of this Schedule; <sup>(18-040)</sup>

**“new taxicab owner’s licences”** means taxicab owner’s licences issued after the original date of enactment of this Schedule, May 28, 2003, save and except renewals or approved transfers of taxicab owner’s licences existing at the date of the enactment of this Schedule;

**“order”** means a request for the conveyance of passengers by a taxicab received by a taxicab broker;

(i) **“owner”** means owner of a taxicab plate; and

(ii) **“owner’s plate”** means a metal vehicle licence plate bearing a number specific to a vehicle issued to a taxicab owner under this Schedule;

**“passenger”** means any person in a taxicab other than the driver;

**“party”** means any person who has an interest in any premise or vehicle licensed under this Schedule and includes the City;

**“Priority List”** means the list of applicants for a taxicab owner licence maintained by the Director of Licensing and made available to the public with names set out thereon in chronological order as to the date and time of receipt;

**“public place”** means places to which the public is invited and include parking lots, plazas, municipal properties and road allowances;

**“registered owner”** means the person shown to be the owner of a motor vehicle according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

**“revoke”** means to withdraw or rescind;

**“Safety Standard Certificate”** means a safety standard certificate issues pursuant to Section 88 to 100 of the Highway Traffic Act R.S.O. 1990, c H. and is issued by a government-approved motor vehicle inspection station (MVIS) after a vehicle passes an inspection which covers the minimum safety requirements for vehicles in the province of Ontario; <sup>(17-259)</sup>

**“Schedule”** means Schedule 25 to By-Law 07-170;

**“spare vehicle”** means a vehicle that has been authorized by the Issuer of Licenses to be used as a taxicab in substitution for a vehicle for which an owner’s licence has been issued, pursuant to the provisions of this Schedule;

**“sub-lease”** means an agreement between a lessee and a person under which the lessee provides certain rights that he or she has acquired from a licensed owner and where the person undertakes to fulfil certain responsibilities to the lessee;

**“Tariff card”** means the card issued by the Director of Licensing setting out the tariff/fares set out in Appendix “1” and shall at all time be and remain the property of the City;

**“taxicab”** has the following meanings:

- (i) for the purposes of Sections 2 and 11, a motor vehicle as defined in the *Highway Traffic Act*, used for the conveyance of passengers for hire, compensation or reward
- (ii) a motor vehicle as defined in the *Highway Traffic Act*, used for the conveyance of passengers for hire, compensation or reward for one specific trip exclusively of one person or group of persons, that is approved for use by the Director of Licensing and equipped with a taximeter and four (4) accessible doors and has a seating capacity of not less than four (4) persons, including the driver, and not more than

ten (10) persons, including the driver, and may include a van type vehicle having not less than three doors;

- (iii) a vehicle with the following characteristics: providing transportation on demand, where the location of boarding of the passenger and the destination is unknown in advance of the request of the passenger, where the passenger chooses the destination, where there are no set routes, schedules or stops for boarding, and where any repeat or regular trips by a passenger or passengers are made based on the passengers need or needs for transportation without a relation to the special features of the vehicle;

**“taxicab broker”** means any person who carries on the business of accepting calls, orders and/or dispatching taxicabs that are used for hire;

**“taxicab driver”** means a person who is licensed as such or required to be licensed as such under this Schedule and includes a taxicab owner who drives a taxicab;

**“taxicab owner”** means a person who is licensed as such or required to be licensed as such under this Schedule and includes a lessee, licensed under this Schedule, of a taxicab owner’s vehicle;

**“taximeter”** means a measuring device used in a taxicab to calculate the fare payable for a meter trip;

**“taxicab stand”** means a stand or place on a highway or area of land set aside or assigned by the City for the purpose of providing a site for use by a taxicab or taxicabs while it is waiting for, picking up, or otherwise carrying on or engaged in the conveyance of passengers and that is marked by authorized signs;

**“trip”** means the distance and time traveling or the distance and time to be traveling measured from the time and point at which the passenger first enters the taxicab or when the meter is first engaged to the time and point at which the passenger finally leaves the taxicab or the meter is disengaged;

“**trip sheet**” means the written record of the details of each trip of a taxicab as prescribed in this Schedule; and

“**vehicle**” means a motor vehicle.

- (2) In this Schedule 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 so requires.

### **SCOPE and APPLICATION OF SCHEDULE**

- 2.(1) The licensing and fare provisions of this Schedule shall apply to the owners and drivers of taxicabs while waiting for or carrying on or being engaged in the conveyance of passengers originating from any point within the City and to taxicab brokers if any part of the business is carried on within the City even where the business premises of the brokerage business is located outside the City.
- (2) This Schedule shall apply to brokers, owners and drivers of taxicab vehicles kept or used for hire in the City of Hamilton. The tariff/fare rates contained in Appendix “1” attached hereto and forming part of this Schedule shall apply respectively for use of taxicabs wholly within the City or to any point not more than 5 kilometres beyond its limits.
- (3) This Schedule shall apply to any person who is operating a “taxicab” or an “accessible taxicab” of any type defined in this Schedule when engaged in the provision of a motor vehicle for hire that is licensed and regulated by the provisions of this Schedule.

### **EXEMPTIONS**

3. The licensing and fare provisions of this Schedule shall not apply to the owners and drivers of taxicabs while:
  - (a) engaged in the conveyance of goods or passengers from any point within the City to any point beyond the boundaries of the City where the conveyance is made to an airport owned and operated by the Crown in Right of Canada by a taxicab bearing a valid and subsisting plate issued in respect of the airport under the Government Airport Concession Operations Regulations under the *Department of Transport Act* (Canada); and
  - (b) engaged in the conveyance of a disabled person, pursuant to a written contract provided the provisions of Section 50 of this Schedule are complied with.
4. No person shall be required to be licensed under the provisions of this Schedule for the operation of an ambulance or a funeral hearse.
5. The operation of a motor vehicle that has seating for 10 or more persons excluding the driver, does not require a licence under this Schedule.
6. A conveyance by means of a motor vehicle that:
  - (a) is owned by the City of Hamilton, the Hamilton Street Railway Company or the Disabled and Regional Transit System (hereinafter called "DARTS"); and
  - (b) is operated by or on behalf of the City of Hamilton as part of a public transportation service, including a public transportation service for the transportation of senior citizens or disabled personsis exempt from Schedule 8 and Schedule 25.
- 6a. A conveyance by means of a motor vehicle that:
  - (a) is not owned by the City of Hamilton, the Hamilton Street Railway Company or DARTS; and

- (b) is operated by or on behalf of the City of Hamilton as part of a public transportation service, including a public transportation service for the transportation of senior citizens or disabled persons

is exempt only from the fare provisions of this Schedule and not from any other provision under Schedule 8 or Schedule 25.

- 6b. For the purposes of section 6 and section 6a, “owned” includes any arrangement for possession and control of a motor vehicle.
7. The transportation of students for hire, to and from school within the City of Hamilton where the vehicle used is a school bus that is licensed under the *Public Vehicles Act*, R.S.O. 1990, c.54 does not require a licence under Schedules 8 or 25 of By-Law 07-170, as amended. In this Schedule, the words “school” and “school bus” shall have the meanings provided in subsection 175(1) of the *Highway Traffic Act*.
8. A motor vehicle licensed under the *Public Vehicles Act*, being used for the transportation of children, deemed to be of special need by the school board or other authority in charge of the school hiring the transportation, does not require a licence under Schedules 8 and 25 of By-Law 07-170, as amended.

In this Schedule, a reference to “special need” shall be deemed a reference to needs as provided for in writing in the Transportation Policy of the Board of Education for the City of Hamilton, and The Hamilton-Wentworth Roman Catholic Separate School Board Transportation Policy and Regulations of such school board or other authority in charge of the school, as may be amended or added to from time to time, or as a board or other authority may accommodate under section 190 of the *Education Act*, R.S.O. 1990, c.E.2.

9. A motor vehicle providing transportation under contract exclusively for children, and operating in a manner distinct from taxicab is exempt from the requirement for an owner’s or driver’s licence under Schedules 8 and 25 of By-Law 07-170, as amended.

For the purposes of the foregoing, the following meanings shall apply:

- (a.) “**contract**” means a written agreement to provide regular transportation services, for the taking of passengers to and from a specific location or to accommodate a need in common to the passengers in addition to transportation, with a term of at least one month, with fees for service fixed in the agreement and not by the metering of time or mileage of actual trips, and includes an agreement with a facility as opposed to the passengers; and
- (b.) “**manner distinct from taxicab**” means lacking one or more characteristics of a taxicab.

### **SHORT TITLE**

- 10. This Schedule shall be known as “A By-Law to Regulate Taxicabs and Taxicab Drivers, Owners and Brokers”.

### **GENERAL PROHIBITIONS**

- 11.(1) No person shall act as or hold oneself out to be a driver of a taxicab or to otherwise carry on or engage in the conveyance of passengers for hire or compensation within the City unless licensed as a driver under this Schedule.
- (2) No person shall act as or hold oneself out to be the owner of a taxicab or otherwise carry on or engage in the conveyance of passengers for hire or compensation within the City unless licensed as an owner under this Schedule.
- (3) No person shall act as or hold oneself out to be a broker of a taxicab or otherwise carry on or engage in the business of accepting orders and dispatching taxicabs for the conveyance of passengers within the City unless licensed as a taxicab broker under this Schedule.
- (4) No person shall use or operate a motor vehicle to convey persons for hire or compensation or otherwise carry on or engage in the conveyance of passengers

within the City except under the authority of a taxicab driver or taxicab owner's licence.

- (5) No person shall represent or cause to be represented that he or she is licensed as a driver, owner or broker of a taxicab if he or she is not licensed under this Schedule.
- (6) No person, other than a driver of a taxicab licensed under this Schedule, shall park a vehicle at any stand marked as a taxicab stand by authorized signs.
- (7) No person licensed under this Schedule, when requested to do so by an Municipal Officer, shall fail to produce or deliver his or her licence and/or any other relevant documents or things required by this Schedule.
- (8) No person shall obstruct an Municipal Officer while engaged in duties under this Schedule.
- (9) No person shall operate a taxicab or act as a driver, owner or broker of a taxicab while such person's licence is under suspension.
- (10) No person licensed as an owner or a broker of a taxicab pursuant to this Schedule shall acquiesce in or permit a driver, whose licence is under suspension, to drive a taxicab under the power or control of such owner or broker.
- (11) No owner, operator or driver shall permit or allow any person to smoke in a taxicab.
- (12) Except when an on-board camera is being serviced in accordance with this Schedule and the City's Access and Privacy Policy for Security Cameras in Taxicabs:
  - (a) no person shall damage, tamper with or obstruct the view of such on-board camera;

- (b) no taxicab driver, taxicab owner or taxicab broker shall permit any person to damage, tamper with or obstruct the view of such on-board camera.

**GENERAL DUTIES – TAXICAB DRIVERS/OWNERS/BROKERS**

- 12.(1) There shall be taken out by every driver, owner and broker of a taxicab, a licence from the City authorizing such person to carry on or to engage in the conveyance of passengers for hire or compensation in the City.
  
- (2) Where a person is required to obtain a licence under subsection (1),
  - (a) a separate licence certificate shall be issued for each licence applied for, and
  - (b) a separate licence certificate shall be issued for each taxicab.
  
- (3) Every licence certificate issued to a taxicab owner or a taxicab broker shall clearly identify the one vehicle in respect of which the licence was issued to such taxicab owner or taxicab broker.
  
- (4) Every driver, owner and broker of a taxicab shall report to the Issuer of Licenses and/or a Municipal Officer, as required, pursuant to the provisions of this Schedule.
  
- (5) Every driver, owner and broker of a taxicab shall provide to the Issuer of Licenses and any Municipal Officer enforcing this Schedule, upon request and/or when required pursuant to this Schedule, all records and documents required to be prepared, retained and/or produced pursuant to this Schedule.
  
- (6) Every driver, owner and broker of a taxicab shall provide to the Director of Licensing and any Municipal Officer enforcing this Schedule, upon request and/or when required pursuant to this Schedule, an address within the City of Hamilton for service for any documents or notices to be provided pursuant to this Schedule or by Law.
  
- (7) For the provision of this Section owner shall include the lessee.

**GENERAL DUTIES – DIRECTOR OF LICENSING**

13. The Director of Licensing shall be responsible:
- (a) to receive and process all applications for licences and for the renewal of licences to be issued under this Schedule;
  - (b) to recommend the issuance and renewal of licences for applicants who meet the requirements of this Schedule;
  - (c) to enforce the provisions of this Schedule;
  - (d) to generally perform all of the administration functions required by this Schedule;
  - (e) upon receipt of an application for a licence or renewal thereof or a leasing agreement proposal made pursuant to this Schedule, make or cause to be made all investigations required by law, this Schedule or by the Tribunal relative to such application;
  - (f) be responsible for the issuance, suspension and revocation of all licences pertaining to this Schedule;
  - (g) when required, provide to applicants for licences under this Schedule the appropriate examination paper to be completed;
  - (h) maintain a record of all licences issued including the name and address of each licensee and the number of taxicabs owned by each licensee;
  - (i) maintain a record of each vehicle licensed hereunder including the make, model, year, serial number, the Provincial licence plate number, the taxicab owner plate number, and the date of the issuance of each licence;

- (j) issue a licence plate to each licensed taxicab owner;
- (k) issue a Tariff card to each licensed taxicab driver; and
- (l) issue a photo identification card to each licensed taxicab driver.
- (m) to impose conditions on any accessible taxicab owner's licence issued by the City, transferred or purchased after September 2017 requiring the accessible taxicab to be in service and available for dispatched calls on:
  - a) specified days of the week; and,
  - b) specified times of the 24-hour period of any day. <sup>(18-040)</sup>

#### **LICENSING PREREQUISITES – TAXICAB DRIVERS**

14. No person shall be licensed or have a licence renewed as a taxicab driver:
- (a) unless such person attends in person and not by agent or representative at the Director of Licensing offices of the City and completes a written application for such a licence or a renewal thereof;
  - (b) unless such person pays all required fees pursuant to the User Fees and Charges By-law to the Director of Licensing;
  - (c) unless such person pays all outstanding fines and/or penalties imposed in accordance with the *Municipal Act, 2001* and/or the *Provincial Offences Act* to the Director of Licensing for contravention(s) of this Schedule and/or By-Law 07-170;
  - (d) unless such person completes all application forms required under this Schedule, or as required by the Director of Licensing from time to time, and files same with the Director of Licensing;

- (e) unless such person fully completes an application for a taxicab driver's licence in a form prescribed by and available from the Director of Licensing;
- (f) unless such person provides proof to the Director of Licensing that:
  - (i) he or she is at least eighteen (18) years of age and a citizen of Canada, a landed immigrant, or produces a valid work permit to work as a taxicab driver, issued by the Government of Canada.
  - (ii) he or she holds in his or her name a current, valid, full Class "G" Provincial motor vehicle driver's licence issued by the Province of Ontario under the provisions of the *Highway Traffic Act* which is in good standing according to the laws of the Province of Ontario and Canada and the records of the Ministry of Transportation.
  - (iii) he or she is able to speak, read and write the English language; and
- (g) unless such person provides a letter of intent to employ from a licensed taxicab owner, lessee or taxicab broker for whom he or she will be driving;
- (h) unless such person provides a Police Security Clearance Record Check and a Ministry of Transportation driver's abstract, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Director of Licensing;
- (i) unless such person meets the requirements of sections 11, 46, 47, 52 and 53 of this Schedule relating to driver duties; and
- (j) where an investigation conducted under subsection 13(e) of this Schedule reveals that an applicant is not entitled to be licensed under section 12(1) of the General Provisions;

### **SERVICE AND SKILLS TRAINING PROGRAM**

15. It is a condition of every new taxicab driver licence that the taxicab driver:
- (a) undertakes and successfully completes a service and skills training program which requires:
    - (i) completion of a one-day in-class customer service training and submission of the Customer Service Certificate to the City within 30 days from the date of issuance of the new taxicab driver licence; and
    - (ii) completion of an eight-hour on-line taxi driver's training course and submission of the Certificate of Completion to the City within 90 days from the date of issuance of the new taxicab driver licence;
  - (b) Despite Section 15(a), taxicab driver service and skills training and testing programs are provided by educational institutions that are approved by the Director of Licensing.<sup>(17-012)</sup>

### **LICENSING PREREQUISITES – TAXICAB OWNERS**

16. No person shall be licensed as a taxicab owner or have such a licence renewed:
- (a) unless such person attends in person and not by agent or representative at the Director of Licensing offices of the City and completes a written application for such a licence or a renewal thereof,
    - (i) where the applicant is a partnership, a partner shall attend for the purpose of subsection 16(a);
    - (ii) where the applicant is a corporation the application shall be completed and filed personally by an Municipal Officer or director of the Corporation having signing authority for the purpose of subsection 16(a);

- (b) unless such person pays all required fees pursuant to the User Fees and Charges By-law and completes and submits all application forms required under this Schedule with the Director of Licensing;
- (c) unless such person fully completes an application for a taxicab owner's licence in a form prescribed by and available from the Director of Licensing;
- (d) unless:
  - (i) such person has undertaken and successfully completed the service and skills training program prescribed by the Director of Licensing under subsection 15(a). Where the person is a corporation, the person holding shares carrying at least fifty-one percent (51%) of the voting rights attached to all shares of the corporation for the time being issued and outstanding shall have undertaken and successfully completed the service and skills training program prescribed by the Director of Licensing under subsection 15(a);
  - (ii) if no one person holds at least fifty-one percent (51%) of the voting rights of the corporation, then the minority shareholder, holding the greatest percentage of the voting rights attached to all shares of the corporation for the time being issued and outstanding, shall have undertaken and successfully completed the service and skills training program prescribed by the Director of Licensing under subsection 15(a). Where among the minority shareholders there are more than one minority shareholder holding the greatest percentage of the voting rights attached to all shares of the corporation for the time being issued and outstanding, the corporation shall designate the minority shareholder among such group who shall have undertaken and successfully completed the service and skills training program prescribed by the Director of Licensing under subsection 15(a) of this Schedule.
  - (iii) This subsection takes effect on September 30, 2009.

The successful completion of the service and skills training program under this subsection shall be determined in accordance with section 15.

- (e) unless such person files with the Director of Licensing proof that he or she holds a current passenger motor vehicle permit which is in good standing and was issued only in the applicant's name by the Ontario Ministry of Transportation for the motor vehicle of which he or she is the owner;
- (f) unless such person produces and files with the Director of Licensing, either an Ontario Ministry of Transportation Vehicle Inspection Report, showing that the vehicle to be licensed has been approved and accepted, within the previous thirty-six (36) days, or a safety standards certificate issued under the *Highway Traffic Act* R.S.O. 1990, c. H. 8 within thirty-six (36) days of application;
- (g) unless such person produces and files with the Director of Licensing, a copy of a current and valid Ontario Standard Automobile Insurance policy for the vehicle for which such person is the owner and the policy shall be endorsed to provide that the Director of Licensing will be given at least thirty (30) days' notice in writing prior to any cancellation, expiration or change in the coverage amount or terms of the policy and the policy shall have a third party liability limit of no less than \$2,000,000.00 per occurrence, exclusive of interest and costs, indemnifying and protecting the owner and the public, including passengers and goods carried in such vehicles, inclusive of public liability and property damage;
- (h) unless, where the applicant is an individual or a partner of a partnership, such person provides proof that he or she is at least eighteen (18) years of age;
- (i) unless, where the applicant is a corporation, the applicant has submitted to the Director of Licensing a copy of the incorporating documentation, a copy of the last initial notice/notice of change which has been filed with the appropriate government department and a Certificate of Status issued by the Ministry of Consumer and Business Services;

- (j) unless, where the applicant is a corporation, the applicant has provided details of the corporate ownership in a form acceptable to the Director of Licensing;
- (k) unless, where the applicant is a partnership, the applicant has provided details of the partners and interests in the partnership of each such partner in a form acceptable to the Director of Licensing;
- (l) unless such person provides a Police Security Clearance Record check, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Director of Licensing,
  - (i) in the case of a partnership, the Police Security Clearance Record check shall be of each partner; and
  - (ii) in the case of a corporation, the Police Security Clearance Record check shall be of each Municipal Officer, director and shareholder;
- (m) unless the vehicle registered in the persons name meets the requirements of sections 38 to 43, inclusive, of this Schedule relating to vehicle approval;
- (n) unless such person provides on his or her own or in conjunction with a licensed taxicab broker, a suitable office for the carrying on or engaging in his or her business and keeps the same orderly, clean and neat;
- (o) unless the applicant, and in the case of a Corporation an Municipal Officer of the Corporation, files with the Director of Licensing a valid certificate of completion of an approved service and skills training program required pursuant to this Schedule by the Director of Licensing;
- (p) unless the applicant for a taxicab owner's licence has been directly and actively engaged in taxicab industry for a period of at least twelve (12) months preceding the date of application;

- (i) For the purposes of subsection 16(p), “directly and actively engaged in the taxicab industry” shall mean active for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period, preceding the date of application for a licence, in the City of Hamilton taxicab industry in the capacity of a licensed taxicab driver, a licensed taxicab owner, a licensed taxicab broker, a taxicab dispatcher, a taxicab telephone service operator or a taxicab business mechanic;
- (ii) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfill the requirements of subsections 16(p), the applicant may complete and file with the Director of Licensing in lieu thereof a certification so stating, together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario and such other evidence as the Director of Licensing may require and a certification that he or she has actually engaged in the taxicab industry on a full time basis in the City as,
- a licensed taxicab driver,
  - a licensed taxicab owner,
  - a licensed taxicab broker,
  - a taxicab dispatcher,
  - a taxicab telephone service operator, or
  - a taxicab business mechanic,

for a period of not less than one (1) year immediately preceding the onset of the medical disability and during any period that the applicant was able to be so actively engaged during the year preceding the date of application and is, at the date of application, fit to undertake active

engagement in the management or day to day operations of his or her taxicab(s) as defined in subsection 16(q)(i).

- (q) unless the applicant for the renewal of a taxicab owner's licence has been directly and actively engaged in the management or day to day operations of his or her taxicab for a period of at least twelve (12) months preceding the date of application;
  - (i) For the purposes of subsection 16(q), "directly and actively engaged in the management or day to day operations of his or her taxicab(s)" shall mean active for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period, preceding the date of application for a licence or renewal thereof, in the City of Hamilton in the capacity of a licensed taxicab owner;
  - (ii) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfil the requirements of subsection 16(q), the applicant may complete and file with the Director of Licensing in lieu thereof a certification so stating, together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario and such other evidence as the Director of Licensing may require and a certification that he or she has actually engaged in operating a taxicab on a full time basis in the City as a licensed taxicab owner for a period of not less than one (1) year immediately preceding the onset of the medical disability and during any period that the applicant was able to be so actively engaged during the year preceding the date of application and is, at the date of application, fit to resume active engagement in the management or day to day operations of his or her taxicab(s).
- (r) Every holder of a taxicab owner's licence shall provide proof that he or she renewed his/her taxicab plate licence in the year 2000.

- (s) unless such person meets the requirements of Sections 11, 48, 49, 52 and 53 of this Schedule relating to owner duties; and
- (t) where an investigation conducted under subsection 13(e) of this Schedule reveals that the applicant is not entitled to be licensed under Section 12 of the General Provisions.
- (u) For the provision of this Section, owner shall include the lessee.

### **LICENSING PREREQUISITES – ACCESSIBLE TAXICAB OWNERS**

17.(1) Each applicant for an accessible taxicab owner licence or renewal thereof shall:

- (a) be a licensed taxicab owner with the City of Hamilton in accordance with the provisions of this Schedule and meet the prerequisites thereof;
- (b) submit his or her taxicab owner licence to the Director of Licensing for endorsement to permit the use of the taxicab as an accessible taxicab.

17.(2) New accessible taxicab owner licence plates shall be issued:

- (a) first to individuals on the priority list; and,
  - (b) second to individuals on the accessible priority list. <sup>(18-040)</sup>
- (3) The issuance of accessible taxicab owner licences under this section shall be subject to all of the provisions of this By-law, modified as necessary, applicable to the issuance of taxicab owner licences except that an individual on the Priority List shall be struck from the Priority List only if he or she is issued an accessible taxicab owner licence under subsections 17.(1) or (2).
- (4) In addition to complying with the provisions of this By-law applicable to accessible taxicab owners, accessible taxicab owners shall comply with all of the provisions, modified as necessary, applicable to taxicab owners.
- (5) In addition to complying with the provisions of this By-law applicable to accessible taxicab drivers, accessible taxicab drivers shall comply with all of the provisions, modified as necessary, applicable to taxicab drivers.

- (6) No accessible taxicab owner shall operate or permit the operation under authority of his or her licence of a vehicle other than an accessible taxicab approved in advance by the Director of Licensing.

### **LICENSING PREREQUISITES – TAXICAB BROKERS**

18. No person shall be licensed as a taxicab broker or have such a licence renewed:
- (a) unless such person attends in person and not by agent or representative at the Director of Licensing offices of the City and completes a written application for such a licence or a renewal thereof and where the applicant is a corporation, the application shall be completed and filed personally by an Municipal Officer or director of the Corporation having signing authority;
  - (b) unless such person pays all required fees pursuant to the User Fees and Charges By-law and completes and submits all application forms required under this Schedule with the Director of Licensing;
  - (c) unless such person fully completes an application for a taxicab broker's licence in a form prescribed by and available from the Director of Licensing;
  - (d) unless, where the applicant is an individual or a partner, such person provides proof that he or she is at least eighteen (18) years of age;
  - (e) unless such person provides a Police Security Clearance Record check, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Director of Licensing,
    - (i) in the case of a partnership, the Police Security Clearance Record check shall be of each partner; and
    - (ii) in the case of a corporation, the Police Security Clearance Record check shall be of each Municipal Officer, director and shareholder;

- (f) unless, where the applicant is a corporation, the applicant has submitted to the Director of Licensing a copy of the incorporating documentation, a copy of the last initial notice/notice of change which has been filed with the appropriate government department and a Certificate of Status issued by the Ministry of Consumer and Business Services;
- (g) unless, where the applicant is a corporation, the applicant has provided details of the corporate ownership in a form acceptable to the Director of Licensing;
- (h) unless, where the applicant is a partnership, the applicant has provided details of the partners and interests in the partnership of each such partner in a form acceptable to the Director of Licensing;
- (i) unless such person provides proof to the Director of Licensing that the premises from which he or she intends to operate, carry on or engage in the business of a taxicab broker, on his or her own or in conjunction with a licensed taxicab owner, are situated within the limits of the City and will continue to be so situated throughout the term of his or her licence and are suitable for the operation of, carrying on or engaging in the taxicab broker business and that such premises will be kept orderly, clean and neat and comply with applicable zoning;
- (j) unless such person provides proof to the Director of Licensing that he or she has a satisfactory system for receiving and dispatching calls for the taxicabs operating within his or her fleet, and that such system will not interfere with the operation of the taxicabs of another taxi broker, taxicab owner or fleet;
- (k) where, on application for renewal of a broker's licence, the licensee has not complied with Sections 11, 50, 51, 52 and 53 of this Schedule or where the licensee has not returned the licence issued for the year immediately prior to renewal; and

- (l) where an investigation conducted under subsection 13(e) of this Schedule reveals that the applicant is not entitled to be licensed under section 35 of the General Provisions.
- (m) where the licensed broker fails to dispatch an accessible taxicab on a priority basis to a person with a disability who requests such service. <sup>(18-040)</sup>

### **LICENCE FEES**

19. The licence fees to be paid to the City for those licences referred to in this Schedule shall be as outlined in the User Fees and Charges By-law.

### **LIMITATIONS**

- 20.(1) The following limitations are imposed on the issuance of taxicab owner licences in the City:

- (a) A licence issued under this Schedule shall expire one year from the date of issue or on an earlier or later date as specified by the Director of Licensing and appearing on the licence unless the licence expires as otherwise provided for under this Schedule or under the General Provisions of this By-law. If the term under this paragraph is longer or shorter than one year, then any fee prescribed shall be prorated accordingly. <sup>(14-181)</sup>
  - (b) The issuance of new taxicab owner's licences shall be in accordance with the current ratio of taxicab owners' licences to population of one (1) taxicab owner's licence per 1,170 population.
- (2) Notwithstanding any other provision of this Schedule, no taxicab owner's licence shall be issued, except for renewals or approved transfers, until Council authorizes the issuance of licences for that year.

- (3) Notwithstanding any other provision of this Schedule, Council may authorize the issuance of additional temporary licences for major special events in the City, as determined by Council, expiring upon the termination of the event.
- (4) Every licence and licence plate issued under this Schedule is the property of the City and no person shall enjoy a vested right to a licence issued under this Schedule.
- (5) Notwithstanding any other provision of this schedule, the Director or Licensing may authorize the issuance of additional accessible taxicab plates at his / her discretion.  
(18-040)

### **EXISTING PRIORITY LISTS**

- 21(1). Any and all names on the taxicab owner's licence Priority Lists for the former City of Hamilton and the former City of Stoney Creek, existing at the original time of passage and enactment of By-law 03-128, May 28, 2003, shall be transferred to the Priority List of this Schedule and in the same order of priority as was in existence at such time. (18-040)
- (2) Names of licensed taxicab drivers shall be placed on the accessible priority list in chronological order from date of application. (18-040)

### **CLOSURE OF PRIORITY LIST**

- 22.(1) No names shall be added to the Priority List and the Director of Licensing shall not receive or process any application for entry to the list, subject to the powers of the Director of Licensing under this Schedule and the powers of Council.
- (2) No transfers or changes of position on the Priority List shall be permitted.
- (3) Notwithstanding the closure of the priority list, the accessible priority list shall remain open allowing licensed drivers to be added to the list in order of application date. (18-040)

**STAYING ON PRIORITY LIST**

- 23.(1) Persons whose names are on the Priority List shall renew their entry on the list on or before September 30 of each year, by paying the prescribed fee and attending before the Director of Licensing, to confirm his or her entry on the Priority List as accurate by filing with the Director of Licensing a sworn declaration to that effect or amend the details of such entry.
- (2) The Director of Licensing may receive and process all renewals and fees from persons on Priority List.
- (3) A person who fails to renew their entry on the Priority List, as required by subsection 23.(1) herein, on or before September 30 shall attend before the Director of Licensing to pay the prescribed renewal fee together with a late filing fee in accordance with the Fees Schedule and to confirm his or her entry on the Priority List as accurate by filing with the Director of Licensing a certification to that effect or amend the details of such entry, no later than December 31 of that same year, so as to have their entry maintained on the Priority List, failing which the person's name and entry shall be struck from the Priority List.
- (4) Where a person fails to meet the requirements of this section for staying on the Priority List and renewal, the Director of Licensing shall delete their name from the Priority List.
- (5) Service of any documents on an applicant on the Priority List shall be made to the last recorded address filed by the applicant with the Director of Licensing.
- (6) Upon a transfer of a licence or a change in ownership of a licence or interest thereof being approved pursuant to section 31 of this Schedule, the names of the transferor and transferee shall be struck off the Priority List.
- (7) The Director of Licensing shall remove the name of a taxicab owner or a taxicab driver from the Priority List immediately upon his or her death.

(8) An applicant for a taxicab owner's licence on the Priority List must be directly and actively engaged in the taxicab industry, as defined in paragraph 16(p)(i), at all times to have his or her name remain on the Priority List and to remain on the Priority List:

(a) the applicant must annually complete and file with the Director of Licensing, a certification confirming that he or she was directly and actively engaged in the Hamilton taxicab industry in the capacity of a licensed taxicab driver, a licensed taxicab owner, a licensed taxicab broker, a taxicab dispatcher, a taxicab telephone service operator or a taxicab business mechanic, for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period;

(b) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfil the requirements of paragraph 23(8)(a), the applicant may complete and file with the Director of Licensing in lieu thereof, a certification so stating together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario, and a certification that he or she has actually engaged in operating a taxicab on a full time basis in the City as,

- (i) a licensed taxicab driver,
- (ii) a licensed taxicab owner,
- (iii) a licensed taxicab broker,
- (iv) taxicab dispatcher,
- (v) a taxicab telephone service operator, or
- (vi) a taxicab business mechanic,

for a period of not less than two (2) consecutive years immediately preceding the onset of the medical disability.

- (c) Where an applicant elects to file a certification under paragraph 23(8)(b), the applicant shall provide evidence, to the satisfaction of the Director of Licensing, of the medical disability from not less than two duly licensed medical practitioners of the applicant's choice and, if required by the Director of Licensing, shall submit to a medical examination by a medical practitioner selected by the Director of Licensing and the City of Hamilton Human Resources Division.
  - (d) Nothing in this subsection 23(8) shall operate to relieve an applicant from any other applicable conditions or requirements of this Schedule.
  - (e) Where an applicant fails to meet the requirements of paragraphs 23(8)(b) and (c) or the requirements of paragraph 23(8)(a), as the case may be, his or her name shall be deleted from the Priority List and no licence shall be issued to that applicant.
- (9) Persons whose names are on the accessible priority list must comply with all subsections of this Section 23. <sup>(18-040)</sup>

### **ISSUANCE OF OWNER'S LICENCES FROM PRIORITY LIST**

- 24.(1) The Director of Licensing may send a notice to the persons whose names appear on the Priority List, starting with the person with the earliest application date and continuing in chronological order, as they become eligible to apply for a taxicab owner's licence in accordance with subsection 16(v) of this Schedule or as otherwise directed by Council, provided that if two or more persons have the same application date, both or all of them shall be eligible to apply for a taxicab owner's licence.
- (2) If an applicant fails to provide the Director of Licensing with a current and valid mailing address on the original application or any amendments thereto, the Director of Licensing shall not be required to make any additional effort to locate the applicant or a forwarding address for the applicant. The applicant shall be deemed notified three (3) days after the notice is mailed to the applicant in accordance with this section.

(3) A person who is entered on the Priority List, after being notified or deemed notified by the Director of Licensing under subsections 24(1) and 24(2), shall submit a completed application with the Director of Licensing within fourteen (14) days of the date of the said notice together with the following:

- (a) proof of compliance with sections 12 and 14 of this Schedule;
- (b) a certification, in a form prescribed by and available from the Director of Licensing, that he or she has actively engaged in operating a taxicab full-time in the City as:
  - (i) a taxicab owner;
  - (ii) a taxicab driver;
  - (iii) a taxicab dispatcher;
  - (iv) a taxicab business mechanic; or
  - (v) a taxicab telephone service operator,

for a period of not less than two (2) full and consecutive years immediately preceding the date of filing the completed application; and

- (c) either,
  - (i) a certified true copy by the Canada Revenue Agency of income tax returns for two consecutive years immediately preceding the date of filing the completed application; and/or
  - (ii) any one of, or any combination of the following in respect of the two consecutive years immediately preceding the date of filing the completed application:
    - o a certified copy of record of employment,
    - o statements of insurable earnings as issued by the Canada Employment Insurance Commission,
    - o statements of contributions to the Canada Pension Plan as issued by the Canada Revenue Agency,

- monthly charge statements as issued by a taxicab broker operating in the City of Hamilton,
  - original trip records, or
  - such other or equivalent documentation as the Director of Licensing may accept.
- (d) In the case of a taxicab driver, for all purposes of paragraphs 24(3)(b) and 24(3)(c), “one full year” shall mean not less than 1400 hours in a full year;
- (e) In the case of a taxicab dispatcher or telephone service operator, for the purpose of paragraphs 24(3)(b) and 29(3)(b), “one full year” shall mean not less than 1400 hours in a full year;

If the applicant fails to submit with the Director of Licensing the required documentation in the stipulated time, the application shall be voided, no licence issued and the applicant struck from the Priority List.

- (4)(a) The Director of Licensing shall issue the licence to an applicant who complies with subsection 24(3) and all other applicable provisions of this Schedule and By-law.
- (b) If the Director of Licensing refuses a licence for any reason other than the applicant’s failure to submit the required documentation or to do so in the stipulated time, both under subsection 24(3), the applicant is entitled to a hearing before the Licensing Tribunal and the hearing shall be in accordance with the General Provisions of this By-law which provide for a hearing when an application is refused.
- (c) When, under this section, a taxicab owner’s licence is:
- (i) issued by the Director of Licensing after a Licensing Tribunal hearing;
  - (ii) refused by the Director of Licensing when no Licensing Tribunal hearing has taken place, because such a hearing has not been requested or for some other reason;

- (iii) refused after a Licensing Tribunal hearing has taken place, the applicant whose licence has been issued or refused shall be struck from the Priority List.
  
- (5) No taxicab owner issued a new licence after May 28, 2003 shall lease or give up possession, custody or control of his or her licensed taxicab for a period of five (5) years from the date of issuance of his or her licence from the Priority List except to drivers engaged by the taxicab owner on an individual shift basis in accordance with this Schedule and except in the case of a vehicle replacement in accordance with this Schedule.
  
- (6) No person on the Priority List as of May 28, 2003 who is issued a new owner's licence shall sell, transfer or give up any control or interest of or in the said owner's licence for a period of five (5) years from the date of issuance of such licence.
  
- (7) Subsections 24(5) and 24(6) do not apply to a taxicab owner issued a new licence from the Priority List who is sixty-five (65) years old or older and he or she shall be subject to all other applicable provisions of this Schedule and By-law.
  
- (8) Subsections 24(5) and 24(6) do not apply to a taxicab owner issued a new licence from the Priority List who dies during the five (5) year period after his or her licence is issued and the estate of a taxicab owner shall be subject to all the other applicable provisions of this Schedule and By-law.
  
- (9) Persons whose names are on the accessible priority list must comply with all subsections of this Section 24. <sup>(18-040)</sup>

### **EFFECTIVE ISSUE FROM PRIORITY LIST**

- 25.(1) When an owner's licence and plate is issued from the Priority List or as a result of a draw under section 17(a), the applicant who has been approved for the issuance of a licence shall, within thirty (30) days of the date of being notified by the Director of Licensing of the available taxicab owner's licence, affix the licence plate to a vehicle

registered in his or her name that shall be continuously operated as a taxicab and put his or her taxicab into operation in accordance with this Schedule.

(2) In the event that the applicant fails to meet the thirty (30) day period set out in subsection 25(1):

- (a) his or her application for the licence shall be voided;
- (b) he or she shall be ineligible for the licence;
- (c) his or her name shall be struck from the Priority List; and
- (d) the next person on the Priority List shall become eligible for the licence.

(3) Persons whose names are on the accessible priority list must comply with all subsections of this Section 25. <sup>(18-040)</sup>

### **NO VESTED INTEREST OR BINDING EFFECT**

26.(1) The Priority List shall not oblige the City to issue a licence to anyone on the list, regardless of being at the top or the earliest entry, nor give any such person a vested interest in a taxi owner licence and its use shall be solely for establishing the order of priority of persons seeking a taxi owner's licence.

(2) Notwithstanding the provisions of sections 21, 22, 23, 24 and 25, Council may, delete names of individuals from the Priority List.

(3) Subsections (1) and (2) of this Section 26 also applies to individuals on the accessible priority list. <sup>(18-040)</sup>

### **TIME FOR RENEWAL**

27.(1) Every licensee shall apply for renewal of a driver's, owner's or taxicab broker's licence before the expiry date of the licence. Where an application for renewal of a driver's, owner's or taxicab broker's licence is not delivered to the Offices of the Director of Licensing in the manner prescribed by this Schedule prior to the expiry date of the licence, the licence shall be deemed to have been abandoned. Any licensee who

makes application for renewal of a licence after one month after the expiry date of the licence shall do so as a new applicant.

- (2) The Director of Licensing may forward a renewal notice to all licensees, to the last address filed by the licence holder with the Director of Licensing. The Director of Licensing shall not be required to make any additional effort to locate a forwarding address for the licensee.
- (3) The failure to receive a notification of renewal shall not relieve a licensee from the responsibility to renew a licence issued under this Schedule within the time frame and in the manner as prescribed in subsection 27(1) of this section.

### **FEES NON-REFUNDABLE**

28. Unless otherwise provided in this Schedule, any fee required to be paid pursuant to the Fees Schedule shall not be refunded.

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

- 29.(1) When a licence has been revoked or suspended, the holder of the licence shall return the licence and, if applicable, owner's plate to the Director of Licensing within twenty-four (24) hours of service of written notice of the decision of the Licensing Tribunal and the Director of Licensing or Municipal Officer may enter upon the business premises or vehicles of the licensee for the purpose of receiving, taking or removing the said licence and owner's plate.
- (2) When a person has had his or her licence revoked or suspended under this Schedule, he or she shall not refuse to deliver up or in any way obstruct or prevent the Director of Licensing or Municipal Officer from obtaining the licence and the owner's plate in accordance with subsection 29(1) of this section.

### **DESTRUCTION or LOSS OF OWNER'S PLATE or PRESCRIBED CARDS**

30. When an owner's plate, the Tariff card, the Taxicab Passengers' Bill of Rights card, the Taxicab Driver's Bill of Rights card, the driver's photo identification or the licence is defaced, destroyed or lost, the licensee shall, within seventy-two (72) hours, apply to the Director of Licensing for a replacement and shall pay the appropriate fee for same, and the Director of Licensing may issue a replacement.

### **TRANSFER OF OWNER'S LICENCE**

- 31.(1) For the purposes of this section, "transfer" shall include any transfer, sale or other form of disposition of an interest in a taxicab owner's licence including but not limited to the transfer of a partnership interest in a partnership or the controlling interest of a corporation, which holds a taxicab owner's licence, or an interest of a sole owner of a taxicab owner's licence.
  - (2) The licence issued to a taxicab driver or taxicab broker under this Schedule is not transferable.
  - (3) The licence issued to a taxicab owner under this Schedule is not transferable except as otherwise provided for in this Schedule and only upon the approval of the Director of Licensing.
  - (4) The name of the holder of a taxicab owner's licence shall not be changed or transferred unless and until:
    - (a) the applicant for a transfer of a taxicab owner's licence or name change has filed with the Director of Licensing:
      - (i) a complete application for transfer of the holder of a taxicab owner's licence or name change in a form prescribed by and available from the Director of Licensing;

- (ii) proof that the proposed new holder of the taxicab owner's licence has complied with the prerequisites of this Schedule for obtaining a taxicab owner's licence;
  - (iii) a duly executed copy of a written agreement between the holder of the owner licence and the proposed new holder of the taxicab owner's licence containing all details of their dealings concerning the taxicab owner's licence and, where applicable, the taxicab vehicle, equipment and taximeter, and any other thing included in the agreement pursuant to which the current holder of the taxicab owner's licence agrees to have the proposed new holder of the taxicab owner's licence replace him or her as the holder of such licence; and
  - (iv) two (2) sworn affidavits, one made by the current holder of the taxicab owner's licence and the other made by the proposed new holder of the taxicab owner's licence setting out the true consideration for the taxicab owner's licence and, where applicable, the taxicab vehicle, equipment and taximeter and shall also include the interest of the current holder and the interest of the proposed new holder in the licence and licence plate, goodwill, if any, and any other thing included in the agreement and any other details as requested by the Issuer of the Licenses.
- (b) the proposed transferor of the taxicab owner's licence or name change pays to the Director of Licensing the required transfer fee as set out in the Fees Schedule;
- (5) The Director of Licensing shall give notice to the current holder of the taxicab owner's licence of the approval or refusal of such taxicab owner's application for change or transfer of the holder of such taxicab owner's licence.
- (6) Where an application for change or transfer of the holder of a taxicab owner's licence has been approved by the Director of Licensing, a replacement taxicab owner's licence will be issued to the proposed new holder of the taxicab owner's licence.

- (7) The purchase of the controlling interest of a corporation which holds a taxicab owner's licence by any person shall be deemed a transfer of the taxicab owner's licence, provided that such transfer shall be carried out in compliance with requirements of this Schedule and shall not be effective until approved by the Director of Licensing.
- (8) Where the transfer of the taxicab owner's licence is not approved by the Director of Licensing, the current licensed taxicab owner may sell his or her vehicle and its equipment to any person, however, upon such sale, the taxicab owner's licence issued in respect of such vehicle shall be terminated unless the owner replaces such vehicle and all required equipment within thirty (30) days from the effective date of such sale in accordance with section 44 of this Schedule.
- (9) Where an application to transfer a licence is not approved by the Director of Licensing, any administrative fee incurred shall not be refunded, subject to the authority of Council.
- (10) Where a corporation is the holder of a taxicab owner's licence or licences, the corporation shall forthwith notify the Director of Licensing in writing of any and all transfers of existing shares and of the issue of any and all new shares of the capital stock of the corporation.
- (11) Where, as a result of the transfer of existing shares or by the issue of new shares of a corporation, the Director of Licensing has reasonable grounds to believe that the corporation may not be entitled to the continuation of its licence in accordance with this Schedule, the Licensing Tribunal may determine whether the licence or licences shall be revoked or have conditions placed on it.
- (12) Where, by the transfer of issued shares in, or by the issuance of new shares of, a corporation holding one or more taxicab owner's licences, the controlling interest in such corporation is sold, transferred or acquired, such licence or licences shall be deemed transferred, and the parties thereto shall comply with the requirements in this Schedule in respect to a transfer of the Issuer of Licences may issue a new licence or new licences upon payment of the prescribed fee.

- (13) The Licensing Tribunal may, in its discretion, refuse to transfer or issue a new licence or licences to a transferee in a transaction under this section if it determines that it is not in the public interest so to do or for any other reason which it is authorized by law to consider upon such application.
- (14) Nothing in this section shall obligate the City to approve the transfer of the licence.

### **DEATH OF LICENCE HOLDER**

- 32.(1) In the event of the death of the holder of a taxicab owner's licence, the heirs, executors, administrators, successors or other legal representatives shall have a period of one (1) year<sup>(17-012)</sup> within which to arrange for the change or transfer of the name of the holder of the owner licence in accordance with section 32 of this Schedule, without the licence being revoked, provided that the death of the licensee was reported to the Director of Licensing within thirty (30) days of its happening.
- (2) If the licence expires within the aforementioned period of six (6) months, the heirs, executors, administrators, successors or assigns or other legal representatives may renew the licence on the condition that it will expire on the termination of the aforementioned period of six (6) months.
- (3) Nothing in this section shall relieve the transferor and transferee from compliance with the provisions of this Schedule including but not limited to those in respect to the transfer of a licence.

### **NOTIFICATION OF CHANGE OF INFORMATION**

- 33.(1) When a licensee changes his or her name or address or any information relating to his or her licence, such licensee shall notify the Director of Licensing within six (6) days of the change of information relating to the licence and shall return the licence immediately to the Director of Licensing for amendment.
- (2) When the licensee is a corporation and there is any change in the relevant information on the application or licence, including but not limited to names or addresses of

Municipal Officers or directors, location of the corporate head office or change in the ownership of shares, the licensee shall report the change to the Director of Licensing within six (6) days of the change and if necessary, the licence shall be returned immediately to the Director of Licensing for amendment.

## **LEASING**

34.(1) Except as provided in this section, no taxicab owner shall lease his or her taxicab and taxicab owner's plate.

(2) A taxicab owner may lease or renew a lease of his or her taxicab owner's plate, provided that:

- (a) a leasing agreement proposal has been filed with the Director of Licensing and approval has been granted together with payment of the fee prescribed by the Director of Licensing;
- (b) the proposal contains a lease agreement which provides for lease of the taxicab owner's plate
- (c) where a leasing agreement proposal is filed with the Director of Licensing, the agreement must be in writing, signed by the parties thereto and specify the following:
  - (i) the date of execution of the leasing agreement and its effective date;
  - (ii) the name and address of the lessee and lessor;
  - (iii) a full description of the vehicle which is the subject of the lease, including the serial number, the make, model, serial number and year of the motor vehicle, the Provincial plate number, and the number of the taxicab owner's licence and plate issued by the Director of Licensing in respect of such vehicle;

- (iv) the motor vehicle permit number issued pursuant to the *Highway Traffic Act*;
  - (v) the term and expiry or termination date of the leasing agreement;
  - (vi) the terms and conditions under which the lessee has the right to possession and control of the vehicle under specified terms and conditions;
  - (vii) all of the lessor's and lessee's rights to early termination of the leasing agreement;
  - (viii) the consideration and the signatures of the lessee, the lessor and the witnesses thereto;
  - (ix) a statement that the leasing agreement is considered null and void in the event that the owner or lessee either by a written or verbal agreement sub-leases the taxicab or transfers responsibility for the operation of the taxicab to a third party;
  - (x) the Revenue Canada G.S.T. account number of the lessee;
  - (xi) the taxicab owner is responsible for maintenance of and insurance on the vehicle; and
  - (xii) under the terms of the lease the taxicab owner provides a motor vehicle equipped, inspected, approved and registered in accordance with this Schedule;
- (d) the lessee is licensed by the City as a taxicab driver and has successfully completed the approved service and skills training program recognized and approved by the Director of Licensing and required under this Schedule;

- (e) the lease pertains to one vehicle, and expires upon the sale, replacement or other disposition of such vehicle save and except a vehicle replacement made in accordance with this Schedule; and
  - (f) the plate issued to such taxicab owner by the Director of Licensing is affixed to the right side of the rear bumper of the taxicab which is the subject of the lease in a conspicuous position or at a location and in a manner as the Director of Licensing may require, and remains affixed thereto throughout the term of the lease.
  - (g) In the event of a renewal of a leasing agreement, which has been approved by the Director of Licensing, the taxicab owner shall file with the Director of Licensing satisfactory evidence of the renewal of same in a form prescribed by the Director of Licensing.
- (3) Where a proposal for a leasing agreement is filed by a taxicab owner in accordance with the provisions of this Schedule and where the proposal meets all the requirements as provided for in this section, the Director of Licensing may approve the proposed leasing agreement.
- (4) Where the Director of Licensing denies or refuses to approve a proposed leasing agreement, written notice shall be given to the taxicab owner by the Director of Licensing.
- (5) Where the Director of Licensing denies or refuses to approve a proposed leasing agreement, the taxicab owner may appeal the decision to the Licensing Tribunal for consideration within fourteen (14) days of the receipt or deemed receipt of written notice of the denial or refusal set out in subsection 34(4). The Licensing Tribunal shall cause an investigation to be conducted under subsection 13(e) of this Schedule and where an investigation reveals that the proposal should not be approved because the lessee or lessor is unlikely to or unable to comply with section 35 of the General Provisions or where the proposal does not comply with subsection (2) of this section, the Licensing Tribunal may deny or refuse to approve the proposed leasing agreement or approve the proposal on specified terms and conditions.

- (6) Where a proposal to lease is not approved by the Licensing Tribunal, any administrative fees incurred shall not be refunded.
- (7) No lessee shall sub-lease or purport to sub-lease a taxicab vehicle to any person.
- (8) No taxicab owner shall, by a term in a lease or otherwise, acquiesce in or permit any lessee or other person to sub-lease or purport sub-lease his or her taxicab vehicle.
- (9) Any person licensed under this Schedule who enters into or purports to enter into any lease or purported lease of a taxicab, other than in accordance with this section, shall, in addition to any penalty to which he or she may be liable under this Schedule, be required to attend before the Director of Licensing to show cause why his or her licence should not be suspended or revoked.
- (10)(a) Every owner shall notify the Director of Licensing and the lessee in writing of the expiration or other sooner termination of any lease to which he or she is a party or of any change in custody and control over his or her taxicab, at least fifteen (15) days prior thereto; and provide proof of service upon the lessee by way of a sworn affidavit.
- (b) Every lessee shall notify the Director of Licensing and the lessor in writing of the expiration or other sooner termination of any lease to which he or she is a party or of any change in custody and control over his or her taxicab, within fifteen (15) days prior thereto; and provide proof of service upon the owner by way of a sworn affidavit.
- (11) Every taxicab owner and lessor shall:
  - (a) ensure that every driver or lessee and every other person involved in the operation of his or her vehicle complies in full with the requirements of this Schedule;
  - (b) maintain knowledge at all times of the identity of any person having custody of or control over his or her taxicab; and

- (c) provide full information to the Director of Licensing or his or her designates, as to any of the facts or records required to be maintained or provided by him or her pursuant to this Schedule, forthwith upon a request travelling by the Director of Licensing or his or her designate.
- (12) Every taxicab owner shall ensure that every lease filed with the Director of Licensing sets out fully and accurately all of the facts and terms required by this Schedule and that such information is kept fully up-to-date and accurate.
- (13) No taxicab owner shall enter into or be a party to more than one lease at any one time with respect to any one of his or her taxicabs.
- (14) No person shall enter into or be a party to any agreement or transaction purporting to transfer, assign, lease or otherwise convey rights over a taxicab licence or plate, or give or receive any consideration or remuneration travelling, except as part of a transaction permitted by this Schedule.
- (15) No lessor having an authorized lease agreement respecting a taxicab owner's licence and/or vehicle approved for use as a taxicab shall acquiesce in, allow or permit a lessee to fail to continuously operate the vehicle for which a taxicab owner's licence has been issued.
- (16) The Director of Licensing shall have the authority to refuse to approve a lease agreement and/or rescind or withdraw approval of a lease agreement that does not meet or continue to meet the requirements of this Schedule or on such other grounds as are consistent with the grounds of refusal set out in section 35 of the General Provisions.
- (17) The lessee shall affix the taxicab plate on the vehicle within forty-eight (48) hours of the approval of the lease agreement.
- (18) All lessees must have and maintain a current City of Hamilton taxicab driver's licence.

- (19) An administration fee shall be charged to a lessee of a taxicab for the late registration of a lease agreement with the Director of Licensing in accordance with the User Fees and Charges By-law.
- (20) A taxicab owner or lessee shall not undertake more than one lease agreement per owner's plate at any time in the City of Hamilton.
- (21) As of May 29, 2008, a taxicab broker shall not act as an agent or party to any lease agreement.

### **CONTRACT AGREEMENTS**

- 35.(1) Subject to Section 156(2) of the *Municipal Act, 2001*, any owner or driver of a taxicab is exempt from the fare provisions of this Schedule while engaging in the conveyance of physically, emotionally, or mentally disabled persons, provided:
- (a) the conveyance is made pursuant to a written contract;
  - (b) the written contracts contain the following information:
    - (i) specifies the date and point of commencement and the point of destination of each conveyance;
    - (ii) specifies the charge for each conveyance;
    - (iii) specifies the frequency of the conveyance; and
    - (iv) specifies the nature of the handicap of the person(s) being conveyed.
  - (c) the written contracts or copies thereof are filed with the Director of Licensing upon request;
  - (d) the taxicab providing the conveyance is licensed by the City or the municipality where the conveyance originates and/or ends.

### **MEDICAL CERTIFICATE**

36. The Director of Licensing or an Municipal Officer may require a licensed driver, at any time, to provide the Director of Licensing or such Municipal Officer with a certificate, prepared by a duly qualified medical practitioner, attesting to whether or not the licensee is physically fit and able to operate a taxicab, if the Director of Licensing or such Municipal Officer considers it in the public interest, upon reasonable grounds.

### **RE-PHOTOGRAPHING OF DRIVERS**

37. If at any time the driver's photograph(s) required on the application for a driver's licence issued under this Schedule does not have a reasonable likeness and/or clear image of the driver because of physical changes to the appearance of the driver, the passage of time, the poor quality of the photography or the deterioration of the photograph or photo identification card, the Director of Licensing may require that the driver attend at the Director of Licensing office of the City for another photograph of himself or herself.

### **TAXICAB METER**

- 38.(1) Every owner of a taxicab shall have affixed to each taxicab, in respect of which such owner is licensed, a taxicab meter for registering distance travelled, waiting time and computing the fares to be paid, and each taxicab meter shall be:
- (a) submitted by such person to the Director of Licensing for testing and inspection at any time as directed; <sup>(18-040)</sup>
  - (b) illuminated between dusk and dawn;
  - (c) located in a position clearly visible to all passengers in the taxicab;

- (d) adjusted in accordance with the rates prescribed by Appendix '1' (Taxicab Tariff/Fares) of this Schedule; and
- (2) If a taxicab does not use electronic metered device, re-testing and re-sealing of the taxicab meter will be required as directed.<sup>(17-259)</sup>

### **TAXICAB METER ROAD TEST**

39. Where an Municipal Officer is not available to road test and approve the taxicab meter on a weekend or statutory holiday because the Municipal Officer's services have been requested outside of the regular business hours of the Director of Licensing, the licensed taxicab owner or the licensed taxicab driver who has had the taxicab meter repaired or replaced, may operate the taxicab for a period of up to twenty-four (24) consecutive hours from the date and time of such repair or replacement, provided that licensed taxicab driver has in his or her possession a certificate or receipt for the repair or installation of the taxicab meter, signed by the person who made the repairs or installation and the receipt sets out the date, time and nature of the repairs or installation and has notified the Director of Licensing immediately of the repair or replacement of the taxicab meter.

### **INSPECTIONS AND APPROVED TAXICABS**

- 40.(1) As of January 1, 2018, former police vehicles will not be permitted to operate as taxicabs.<sup>(17-012)</sup>
- (2) Any former police vehicle that is operating, as of January 1, 2018, as a taxicab is permitted to remain as such until the vehicle is ten years old, calculated from the model year.<sup>(18-252)</sup>
- 41.(1) As required by the Director of Licensing, every taxicab owner shall submit their taxicab for inspections, at the taxicab owner's expense.
- (2) The Director of Licensing:
- (a) may specify the establishments where an inspection of a taxicab is to be

carried out; and

- (b) shall specify, by means of a manual or otherwise, what the inspection is to consist of which may include but is not limited to:
  - (i) a visual exterior and interior inspection of the taxicab;
  - (ii) an assessment of mechanical fitness and safety of the taxicab.

(3) At a minimum, a taxicab that is: <sup>(17-259)</sup>

- (a) to three years old, calculated from the model year shall provide a Safety Standard Certificate once per year; <sup>(18-252)</sup>
- (b) more than three years old, calculated from the model year shall provide two Safety Standard Certificates per year; <sup>(18-252)</sup>
- (c) randomly out in the field (spot checks);
- (d) by an auditing process that prioritizes inspections of the oldest and high mileage vehicles; and
- (e) by complaint based.

(4) Every taxicab owner shall provide, at the time of renewing their licence and at such times as required by the Director of Licensing, at the taxicab owner's expense:

- (a) either:
  - (i) an Ontario Ministry of Transportation Vehicle Inspection Report, showing that the taxicab has been accepted within the past 36 days; or
  - (ii) a Safety Standards Certificate issued under the *Highway Traffic Act* for the taxicab within 36 days of the inspection date;
- (b) a certificate verifying the onboard camera is fully operational issued by the camera manufacturer or the camera manufacturer's authorized agent within 36 days of the inspection date. <sup>(14-181)</sup>
- (c) proof of insurance in the amount of \$2,000,000. <sup>(18-040)</sup>

(5)(a) A taxicab may be approved by the Director of Licensing after all inspections have been carried out and all reports and certificates have been provided in accordance with this Schedule.

- (b) When a taxicab has been approved by the Issuer of Licenses, it shall continue to be approved only so long as:
  - (i) the taxicab owner complies with this Schedule; and
  - (ii) all inspections, reports and certificates show that the taxicab owner's taxicab complies with this Schedule.

**TAXICAB AGE RESTRICTION** <sup>(18-252)</sup>

- 42.(1) A taxicab shall be no more than ten years old, calculated from the model year.<sup>(18-252)</sup>
- (2) Despite subsection 42(1):
  - (a) a taxicab that is accessible, as determined by the Director of Licensing from time to time, and is no more than five years old when first approved as a taxicab, may remain in service until it is ten years old, calculated from the model year;<sup>(18-252)</sup>

**SPARE TAXICABS**

- 43.(1) The Director of Licensing may approve a vehicle owned by a taxicab owner as a spare taxicab.
- (2) The number of spare taxicabs that may be approved by the Director of Licensing under subsection 43(1) is limited to one per five taxicabs owned by the taxicab owner to a maximum of nine.
- (3) No taxicab owner shall use a spare taxicab:
  - (a) without first giving notice, including the plate number of the taxicab that will be replaced and the dates when the spare taxicab will be used, to the Director of Licensing;
  - (b) for more than seven consecutive days;
  - (c) unless he or she complies with all of the requirements for a taxicab owner under this Schedule, including complying with section 56 by submitting their spare taxicab for inspections and by providing Ontario Ministry of

Transportation Vehicle Inspection Reports or Safety Standards Certificates issued under the *Highway Traffic Act*.

- (4) No taxicab driver shall drive a spare taxicab unless he or she complies with all of the requirements for a taxicab driver under this Schedule.

### **DISPOSAL OF TAXICAB**

- 44.(1) When the licensed owner disposes of or otherwise ceases to use as a taxicab a vehicle approved for use under this Schedule, he or she shall immediately remove from such vehicle:
- (a) the roof light,
  - (b) the taxicab meter,
  - (c) all identifying decals or markings,
  - (d) fender or side numbers and letters and
  - (e) all other items which make the vehicle appear to the public to be a taxicab.

### **TARIFFS**

- 45.(1) The rates for fares to be charged by the owners and taxicab drivers for the conveyance of passengers wholly within the City or to any point not more than five (5) kilometres beyond its limits shall be exactly as shown in Appendix "1" (Taxicab Tariff/Fares") attached hereto and forming part of this Schedule, and no higher or lower amount than that contained in the said tariff shall be charged or payable, whether such rates and charges are determined by distance or by time, except in accordance with Sections 45(2) and (3) and Section 52(1).<sup>(17-012)</sup>
- (2) If a trip destination is located more than five (5) kilometres beyond the City limits, the taxicab driver and a passenger may agree before the start of the trip to a flat fare to be charged, but the driver shall operate the taxicab meter for the duration of the trip.<sup>(17-012)</sup>

- (3) The taxicab broker may enter into a written flat fare contract with passengers and the taxicab driver shall charge the passenger such a flat fare, but the taxicab driver shall operate the taxi meter for the duration of the trip.<sup>(17-012)</sup>
- (4) Upon written request by the Director of Licensing, the contract required by subsection (3) shall be provided to the Director of Licensing upon demand within two (2) business days.<sup>(17-012)</sup>
- (5) Nothing contained in this Schedule shall prevent the driver of a taxicab from making a charge to be negotiated with a passenger prior to the trip, for parcel handling, and such charge shall not be required to be recorded on the trip record, and shall not apply to luggage or baggage accompanying a passenger or passengers transported between any transportation terminal and the pick-up or destination point of the passenger or passengers.
- (6) At the conclusion of a trip, the driver of a taxicab shall call the passenger's attention to the amount of the fare registered on the meter and place the meter in a non-recording position.
- (7) No owner or driver of a taxicab shall be entitled to recover or receive any fare or charge from any person unless the current Tariff card is on display in the holder provided therefore.
- (8) Each taxicab driver shall ensure that when more than one passenger is being transported in a taxicab, and said passengers have different destinations, the taximeter is re-flagged after each destination. The individual or individuals shall then be responsible for the fee registered on the taximeter at the point of their particular destination.
- (9) When a passenger first enters a taxicab, the taximeter shall be immediately placed in operation and shall remain so placed throughout the trip or until such trip extends to a point 5 kilometres beyond the limits of the City. The shortest and quickest possible route shall be taken to the destination if within the said limit of 5 kilometres beyond the limits of the city, unless the passenger designates another route. If a trip

extends beyond such 5 kilometres limit hereinbefore referred to, the driver and the passenger may agree before the start of the trip to a flat rate, but the taximeter must remain in a recording position at all times within such limit.

- (10) The amount of the adjustment shall not exceed the percentage annual increment in the Taxi Cost Index (TCI) as set out in Appendix 6.

### **DUTIES OF A TAXICAB DRIVER**

46.(1) No licensed taxicab driver shall fail to:

- (a) ensure that the Tariff card, Taxicab Passenger's Bill of Rights, Taxicab Driver's Bill of Rights and taxicab driver's photo identification is in place and maintained in place in the holder required to be provided in the taxicab pursuant to this Schedule which such driver is operating;
- (b) when operating a taxicab, be neat and clean in personal appearance and personal hygiene;
- (c) when operating a taxicab, be civil and behave courteously;
- (d) turn off any radio, tape player or any other sound producing mechanical device in his or her taxicab and turn down the volume on any two-way radio or cell phone in his or her possession or control, used for receiving or confirming calls for his or her taxicab services, upon being requested to do so by any passenger, and having done so, shall leave such devices in the off or turned down position, as the case may be, until termination of the trip with that passenger;
- (e) maintain the interior and exterior of the taxicab within his or her control in a clean and tidy condition;

- (f) when operating a taxicab, punctually keep all his or her appointments and engagements, and no licensed taxicab driver shall make any appointment if a previous engagement would prevent such driver from fulfilling it;
- (g) except when the driver has a previous order or engagement when operating a taxicab, serve the first person who may lawfully require the service of his or her taxicab at any place within the City and at any time during his or her work shift, whether day or night, except when the person:
  - (i) is unruly or disorderly;
  - (ii) refuses to give his or her destination;
  - (iii) is in possession of an animal other than a seeing-eye dog;
  - (iv) is eating or drinking any food or beverage and refuses to dispose of same prior to entry into the taxicab vehicle;
  - (v) has not paid a previous fare or cancellation fee;
  - (vi) is, in the reasonable belief of the driver, unable or unwilling to pay the fare and has been unable or unwilling to satisfy the driver that he or she has the funds to pay the fare;
  - (vii) is a grossly unclean person;
  - (viii) in the reasonable belief of the taxicab driver, poses a threat to his or her personal safety; or
  - (ix) is smoking and refuses to extinguish the cigarette, cigar or pipe or other smoking product and/or instrument prior to entry into the taxicab vehicle
- (h) when operating a taxicab, upon the request of any passenger or whenever there is a dispute over the fare, provide a complete receipt for the fare or charge made and paid, indicating thereon:

- (i) the place of pick up and discharge of such passenger;
  - (ii) the taxicab driver's name;
  - (iii) the number of his or her taxicab driver licence;
  - (iv) the identifying number on the taxicab vehicle;
  - (v) the number of the taxicab owner's licence for the vehicle;
  - (vi) the Provincial Motor Vehicle Permit Number for the taxicab; and
  - (vii) that it is a "Taxicab" receipt;
- (i) when operating a taxicab, take due care of all property delivered or entrusted to him or her and accepted by him or her for conveyance or safekeeping, and immediately upon termination of any hiring or engagement, search the interior of his or her vehicle for any property lost or left therein and forthwith deliver to the person owning the same all money or property left in his or her taxicab; or if the owner of the money or property cannot be at once found, deliver all of the said money and property to the nearest taxicab broker<sup>(17-012)</sup> and report all information pertaining thereto in his or her knowledge, possession and belief;
- (j) at the conclusion of a trip, call the passenger's attention to the amount of the fare registered on the meter and place the meter in a non-recording position and if the taxicab is equipped to accept debit, credit or payment through an app, allow the passenger to choose their means of payment;<sup>(17-012)</sup>
- (k) ensure that when more than one passenger is being transported in a taxicab, and said passengers have different destinations, the taximeter is re-flagged after each destination. The individual or individuals shall then be responsible for the fee registered on the taximeter at the point of their particular destination;

- (l) take the shortest in distance and most practical route to the destination provided by the passenger, unless the passenger directs the taxicab driver to take another route;
- (m) while operating a taxicab, keep and maintain at all times in such taxicab sufficient bills and coins such that change may be provided to passengers of such taxicab;
- (n) be permitted to engage the taxicab meter before the passenger enters the vehicle, only after the taxicab driver has notified the passenger of his or her arrival and has waited at least five (5) minutes after the taxicab driver has notified the passenger of his or her arrival;
- (o) engage the taxicab meter at the commencement of the trip and keep it engaged throughout the trip, unless otherwise exempted under this Schedule;
- (p) when operating a taxicab, use an electronic format approved by the Director of Licensing to collect the following information: <sup>(17-012)</sup>
  - (i) the name, address and taxicab driver's licence number of the driver;
  - (ii) the date;
  - (iii) the number and date of issue of the taxicab owner's licence issued pursuant to the provisions of this Schedule;
  - (iv) the location, date and time of the beginning and end of every trip made trip and the number of passengers carried;
  - (v) the amount of the fare collected for each trip; and
  - (vi) the meter readings at the start and finish of each working period;
- (q) provide the owner of the vehicle with a copy of the trip sheets daily;
- (r) retain a record of every trip in an electronic format approved by the Director of Licensing for at least twelve (12) months following each trip, and make such

records available to the Director of Licensing upon written request within two (2) business days; <sup>(17-012)</sup>

- (s) make his or her trip record and all information as to passengers carried available to any Municipal Officer and to the Director of Licensing when requested to do so;
- (t) notify the Director of Licensing in writing within six (6) days of a change of address and produce his or her licence for that change of address to be entered;
- (u) each day, before commencing the operation of a taxicab:
  - (i) examine the taxicab to ensure it complies with this Schedule including checking for mechanical defects, interior or exterior damage and a jack and usable spare tire;
  - (ii) report immediately any defects found to the owner of the taxicab;
  - (iii) record the examination and its results including any defects reported to the taxicab owner on the daily trip sheet. (14-181)
- (v) each day, before commencing the operation of a taxicab, examine the vehicle for mechanical defects, interior or exterior damage, and a jack and usable spare tire and wheel and shall report forthwith any defects found to the owner of the vehicle;
- (w) each day, upon completion of the operation of a taxicab, return the vehicle to his or her employer and report all defects and all accidents to the owner;
- (x) report forthwith to his or her employer and the Director of Licensing any accident in which he or she was involved while operating his or her employer's cab;

- (y) at the expiration of his or her work period return the cab to his or her employer and shall not at any time abandon the cab or permit any other person to drive same;
- (z) when operating a taxicab, carry at all times and produce on request of an Municipal Officer, the driver's licence issued under this Schedule and his or her Ontario driver's licence;
- (18-252)  
re-lettering (aa) when operating a taxicab, carry and display a current Tariff card at all times and produce same on request of an Municipal Officer or a passenger;
- (bb) when a dispute arises with a passenger about the fare, refer the dispute to Director of Licensing;
- (cc) when operating a taxicab:
- (i) only enter a taxicab stand by taking his or her position at the end of any line formed by the taxicabs already at the stand;
  - (ii) while waiting at a taxicab stand or at any other public place:
    - not obstruct or interfere in any way with the normal use of the taxicab or public place, or interfere with the surrounding traffic patterns;
    - be sufficiently close to his or her taxicab to have it under observation at all times;
    - not wash the taxicab; and
    - not make repairs to his or her taxicab, unless the repairs are immediately necessary.
  - (iii) subject to the Taxicab Passengers' Bill of Rights, not pick up any passenger within sixty (60) meters of a taxicab stand when there is one or more taxicabs at the stand:

- unless an arrangement has been previously made with the passenger to pick him or her up at that location; or,
  - unless the passenger exhibits a preference for that taxicab, and the chosen taxicab driver notifies the driver of the first taxicab on the taxicab stand;
- (dd) provide the medical certificate, as required by the Director of Licensing, pursuant to section 36 of this Schedule; and
- (ee) in addition to complying with all other requirements of this Schedule with respect to taxicab drivers, every licensed accessible taxicab driver shall:
- (iii) ensure that all wheelchairs being transported within the taxicab are securely fastened so as to prevent them from moving when the taxicab is in motion;
  - (iv) ensure that the accessible taxicab he or she is operating:
    - is equipped with an extra tire, wheel and jack ready for use for that vehicle;
    - is in compliance with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the *Highway Traffic Act*, and
    - has wheelchair tie down that comply with the regulations set out in subsection (ii) above;
  - (iii) ensure that only a person licensed under the provisions of this Schedule as an accessible taxicab driver, and whose licence is endorsed by the Director of Licensing, is permitted to drive an accessible taxicab under his or her control;

- (iv) keep accurate, daily, records of the number of trips made for disabled passengers and for non-disabled passengers; and
- (v) give priority to the use of the accessible taxicab by disabled passengers, and then permit its use for non-disabled passengers.

### **DRIVER PROHIBITIONS**

47.(1) No licensed driver shall;

- (a) operate a taxicab where the number of passengers carried exceeds the manufacturer's seating capacity rating and no more than the maximum insured capacity for the vehicle;
- (b) operate a taxicab where seat belts are not available for use by each passenger carried;
- (c) operate a taxicab with luggage or any object placed in, hung on or attached to the vehicle in such a manner as will obstruct the drivers view;
- (d) be under the influence of any intoxicant or take, consume or have in his or her possession any alcohol, drugs or intoxicants while in charge of or operating a taxicab nor shall the use thereof by him or her be apparent while he or she is operating or is in charge of such vehicle;
- (e) operate a taxicab for more than 12 consecutive hours during any period of 24 consecutive hours;
- (f) operate a taxicab other than as a taxicab;
- (g) use any fare or Tariff card while operating a taxicab other than the Tariff card issued by the City;

- (h) remove, exchange, lend or otherwise dispose of a Tariff card issued by the City;
- (i) while operating a taxicab take on any additional passengers after the vehicle has departed from any one starting point, except under the following circumstances:
  - (i) when done at the request of a passenger already in the taxicab; or
  - (ii) in an emergency situation; or
  - (iii) an accessible taxicab, when engaged in the conveyance of disabled persons.
- (j) operate a taxicab which does not have an owner's plate affixed thereto;
- (k) operate a taxicab where the owner of the taxicab is not licensed as an owner under this Schedule;
- (l) when operating a taxicab permit a passenger to stand while the vehicle is in motion;
- (m) operate a taxicab when the taxicab meter is not in accordance with the then existing current tariff/fare rates set out in this Schedule;
- (n) operate a taxicab when the taxicab meter does not operate properly;
- (o) operate a taxicab when the taxicab meter seal has been broken, altered or removed unless authorized under section 39;
- (p) operate a taxicab without door side numbers and/or letters and/or a roof light as required by this Schedule;
- (q) operate a vehicle which is not approved for use as a taxicab by the Director of Licensing;

- (r) operate a taxicab unless such vehicle:
  - (i) is equipped with a spare tire and jack, ready for use for that vehicle;
  - (ii) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;
  - (iii) is clean, dry and in good repair as to its interior; and
  - (iv) is clean and in good repair as to its exterior, free from exterior body damage and with a well maintained exterior paint finish.
  
- (s) recover or receive any fare or charge from any passengers or persons who had demanded his or her services which is greater or less than the fare, tariff or charge authorized by this Schedule save and except for a tip or gratuity, or otherwise as authorized under this Schedule;
  
- (t) when operating a taxicab recover or receive any fare or charge from any person to whom he or she has refused to show the Tariff card;
  
- (u) when operating a taxicab, make any charge for time lost through defects or inefficiency of the taxicab or the incompetence of the driver;
  
- (v) when operating a taxicab, make any charge for the time elapsed due to early arrival of the taxicab in response to a call for the taxicab to arrive at a fixed time;
  
- (w) when operating a taxicab, induce any person to engage his or her taxicab by any misleading or deceiving statement or representation to that person about the location or distance of any destination named by that person;

- (x) knowingly drive about the streets in his or her cab any person for the purpose of soliciting from the cab for acts of prostitution or for the purpose of any illegal act ;
- (y) solicit any person to take or use his or her taxicab by calling out or shouting. The person wishing to use or engage a taxicab shall be left to choose without interruption or solicitation;
- (z) employ or allow any runner or other person to assist or act in concert with such driver in obtaining any passenger or baggage at any of the public taxicab stands, railway stations or elsewhere in the said City;
- (aa) carry any passenger who is under the influence of any intoxicant while his or her taxicab is occupied by a person who is not accompanying the person so under the influence;
- (bb) carry any person while on duty or subject to call, other than the person or persons employing his or her services, unless first approved by that person;
- (cc) smoke in a taxicab;
- (dd) transport liquor, spirits, beer or any other alcoholic beverage except in strict compliance with the applicable legislation;
- (ee) when requested by the Director of Licensing, fail to return or surrender any licence issued under this Schedule;
- (ff) overcrowd a public taxicab stand, nor back onto the same nor push or displace any taxicab already in the stand. (A driver who wishes to enter a public taxicab stand with his or her taxicab shall do so by taking his or her position at the end of any line formed by other taxicabs already in the stand and when a driver is either first or second in line in such stand, he or she shall remain in the driver's seat of his or her taxicab ready to be hired);

(18-252)  
re-lettering

- (gg) while carrying on or engaged in the conveyance of passenger(s) stop, stand or park a taxicab on any highway except as authorized by law; or
- (hh) take on any additional passenger after the cab has departed with one or more passengers from any starting point except at the request of a passenger already in the cab or with the approval of the Issuer of Licences due to special emergency conditions;

### **OWNER'S DUTIES**

48.(1) No licensed owner or lessee shall fail to:

- (a) hold a separate taxicab owner licence for each vehicle used or kept for hire as a taxicab;
- (b) obtain and maintain in good standing a taxicab driver's licence issued in accordance with this Schedule;
- (c) keep at all times in the taxicab of which he or she is the owner, the original, or a traveling copy of the original, of each of the following documents:
  - (i) the motor vehicle registration issued under the *Highway Traffic Act* and current Ontario Ministry of Transportation passenger Motor Vehicle Permit issued for that taxicab;
  - (ii) the current taxicab owner's licence issued in accordance with this Schedule;
  - (iii) when operating the taxicab, the current taxicab driver's licence issued under this Schedule; and
  - (iv) the certificate of liability insurance for the vehicle, in accordance with this Schedule;

- (d) for each taxicab for which the owner holds a licence, and before use of the taxicab,
  - (i) obtain and maintain a policy of insurance in respect of the taxicab in full force and effect during the entire period of time for which the licence is issued and in full force and effect in an amount not less than \$2,000,000.00, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of one or more persons or from loss or damage to property resulting from any one accident;
  - (ii) provide a special endorsement to the policy of insurance referred to in paragraph (i), for passenger hazard in an amount not less than \$2,000,000.00, exclusive of interest and costs;
  - (iii) cause to be endorsed on the policy of insurance referred to in paragraph (i), that the City shall be given at least thirty (30) days prior notice of any cancellation, expiration or change in the amount of the insurance or in terms of the policy; and
  - (iv) deposit a certified true copy of the policy of insurance and all endorsements with the City;
- (e) obtain, place and maintain therein or thereon, for each vehicle licensed pursuant to this Schedule, the following:
  - (i) a current Tariff card, Taxicab Passengers' Bill of Rights card, Taxicab Driver's Bill of Rights card and driver's photo identification in a holder securely affixed on the upper portion of the rear of the driver's seat of the vehicle in a location clearly visible to the passenger(s) or in a manner approved by the Director of Licensing;
  - (ii) the taxicab owner's plate securely affixed to the left rear trunk, or at a location and in a manner approved by the Director of Licensing; and

- (iii) the owner's plate number for that taxicab displayed in contrasting colours in letters of at least 15cm affixed on both side doors or at a location and in a manner approved by the Director of Licensing;
- (f) inform the Director of Licensing forthwith of any changes in the motor vehicle registration of the taxicab;
- (g) have in his or her vehicle a taxi meter of the type approved and road tested by the Director of Licensing or Municipal Officer and mounted in a position approved by the Director of Licensing or Municipal Officer so that it is clearly visible to the passengers in the front and rear seats of the taxicab;
- (h) have on his or her vehicle an electrically illuminated roof sign which is securely attached to the top of the taxicab in a manner approved by the Director of Licensing or Municipal Officer and wired to the taxicab meter and working in conjunction with the taxicab meter so that it is not illuminated when the meter is engaged and is illuminated when the headlights are on and the meter is in the vacant status;
- (i) ensure that each vehicle for which he or she is licensed is, in its interior, neat, clean, dry and in good repair; and, on its exterior, clean and in good repair, free from exterior body damage and has a well-maintained paint finish;
- (j) repair any mechanical defect in the taxicab, reported to such owner by a licensed driver or directed by the Director of Licensing or an Municipal Officer to be repaired;
- (k) report forthwith to the Director of Licensing any accident in which his or her taxicab was involved;
- (l) submit to the Director of Licensing a valid Safety Standards Certificate issued in accordance with the *Highway Traffic Act* for each taxicab at the time the owner's licence is renewed or transferred.

- (m) submit each taxicab or spare taxicab for inspection or approval or both as required under the General Provisions of this By-law or this Schedule;
- (n) it is optional for an emergency lighting warning system to be mounted on the exterior of the vehicle. <sup>(17-012)</sup>
- (o) equip each licensed taxicab with:
  - (i) at all times when the taxicab is in service, a fully operational Global Positioning System;
  - (ii) at all times when the taxicab is in service, a fully operational onboard camera;
  - (iii) from December 15 of one calendar year to March 15 of the next calendar year at all times when the taxicab is in service, four tires specifically designed for winter driving bearing an icon representing mountain with a superimposed snowflake. <sup>(14-181)</sup>
- (o)(1) ensure that before the on-board camera required under paragraph 48(1)(o)(i) is serviced, the contractor has entered into a confidentiality agreement with the City as provided for in the City's Access and Privacy Policy for Security Cameras in Taxicabs;
- (p) equip each licensed taxicab with:
  - (i) a Global Positioning System; and
  - (ii) an onboard camera on or before May 1, 2010;
- (q) ensure that taxicab drivers in his or her employ retain the daily trip records referred to in this Schedule for a period of time not less than twelve (12) months, that such records shall be open to inspection by any person authorized by the Director of Licensing and that such records may be removed and retained by the Director of Licensing for a reasonable time and copied by the Director of Licensing or any person authorized by the Director of Licensing;

- (r) retain copies of the daily trip sheet submitted by the licensed driver of the taxicab to the owner for at least twelve (12) months and make them available for inspection, copying and retention at the request of and by the Director of Licensing or any person authorized by the Director of Licensing;
- (s) employ or use only the services of taxicab drivers licensed under this Schedule;
- (t) carry on or engage in or otherwise continuously operate or make his or her taxicab available for service within the City during the term of his or her licence;
- (u) notify the Director of Licensing in writing within six days of a change of address;
- (v) in the case of a corporation or partnership, notify the Director of Licensing immediately upon a change in ownership of the individual holding shares of the company;
- (w) make application to the Director of Licensing for re-qualification under the provisions of this Schedule for a taxicab owner licence should a threshold percentage of twenty percent of the company shares change ownership;
- (x) before acting as a taxicab driver, comply with all the requirements for the issuance of a taxicab driver's licence under this Schedule, except that payment of the fee for issuance of a driver's licence shall not be required;
- (y) require all drivers using or operating the owner's licensed taxicab to comply with the requirements of this Schedule applicable to taxicab drivers;
- (z) in addition to complying with all other requirements of this Schedule with respect to taxicab owners, every licensed accessible taxicab owner shall:
  - (i) keep accurate records of the number of trips made monthly for disabled passengers and for non-disabled passengers and submit the records

for each month to the Director of Licensing no more than 10 business days after the last day of each month;

- (ii) ensure that the accessible taxicab he or she is operating:
  - is equipped with an extra tire, wheel and jack ready for use for that vehicle;
  - has approved wheelchair tie down;
- (iii) in addition to all of the other general taxicab owner responsibilities prescribed by this Schedule, ensure that only a person licensed under the provisions of this Schedule as an accessible taxicab driver, whose licence has been endorsed by the Director of Licensing, is permitted to drive an accessible taxicab under his or her control;
- (iv) ensure that before using, or permitting to be used, any vehicle that is licensed under the provisions of this Schedule as an accessible taxicab, that the said vehicle complies with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the *Highway Traffic Act*, and all other pertinent federal and provincial regulations as established from time to time; and
- (v) ensure that priority is given to the use of the accessible taxicab by disabled passengers, and thereafter permit the taxicab to be used for non-disabled passengers; and

<sup>(18-252)</sup> (aa) ensure that any vehicle for which the taxicab plate is to be used shall be in compliance with this Schedule

## **OWNER PROHIBITIONS**

49.(1) No licensed owner or lessee shall:

- (a) operate or permit the operation of a vehicle not owned by him or her under the authority of his or her owner's plate and licence;

- (b) employ any person to operate his or her taxicab who does not hold a valid taxicab driver licence issued pursuant to this Schedule;
- (c) fail to continuously operate the vehicle for which a taxicab owner's plate has been issued;
- (d) operate or permit the operation of a vehicle of which he or she is the owner where the vehicle is not approved for use as a taxicab under the provisions of this Schedule;
- (e) operate or permit the operation of a taxicab of which he or she is the owner, without attaching the current taxicab owner's plate for that taxicab in the manner prescribed under the provisions of this Schedule;
- (f) fail to have a vehicle which has been approved by the Director of Licensing for the owner's plate issued pursuant to this Schedule unless otherwise exempted in this due to repair or replacement of such vehicle;
- (g) fail to affix the taxicab owner's plate to the vehicle approved for use as a taxicab by the Director of Licensing;
- (h) operate or permit the operation of a taxicab of which he or she is the owner while displaying any owner's plate issued by the licensing authority of any other municipality;
- (i) fail to submit a taxicab or spare taxicab for inspection or approval or both as required under the General Provisions of this By-law or this Schedule;
- (j) permit any driver to operate such owner's taxicab for any period in excess of 12 hours during any period of 24 consecutive hours;
- (k) operate or permit the operation of a taxicab where such vehicle has mechanical defects;

- (l) operate or permit the operation of a taxicab where such vehicle has substantial exterior body damage or rust;
- (m) operate or permit the operation of a taxicab of which the owner is in affiliation with a taxicab broker who is not licensed under this Schedule;
- (n) operate or permit the operation of a taxicab of which he or she is the owner while displaying or bearing any sign, emblem, decal, ornament or advertisement, on or in his or her vehicle except in a form approved by the Director of Licensing;
- (o) operate or permit the operation of a taxicab, of which he or she is the owner, which displays or bears advertising, unless in accordance with the Advertising Prerequisites contained in subparagraph 65(1)(o)(i) and such other advertising prerequisites and guidelines as may be established by the Director of Licensing from time to time;
  - (i) An owner may operate or permit the operation of a taxicab which displays or bears advertising provided that;
    - the content of the advertising shall not be of an obscene, racist, sexist or discriminatory nature;
    - all advertising, advertising signs and sign holders shall be securely mounted to the taxicab in such a manner as to prevent the sign, holder and any advertising materials exhibited thereon from loosening, separating or coming free during the operation of the taxicab;
    - no advertising, advertising sign or sign holder on the rooftop or exterior of a taxicab shall, in any way, block, hamper, obstruct or obscure the view of any person of the taxicab licence number,

taxicab licence plate, name of the owner of the taxicab and, where applicable, its broker;

- no advertising, advertising sign or sign holder shall be placed or located on any window of the taxicab;
  - no interior advertising, advertising sign or sign holder shall be placed or located in such a way as to obstruct or obscure the vision of the driver or obstruct or hamper the driver's operation of the taxicab, in any way, or obstruct or obscure the view, from all passenger seats, of the driver's photo identity card, the taxicab meter, the driver's taxicab licence, the tariff/fare card, the Passengers' Bill of Rights card and the Driver's Bill of Rights card;
  - the number of exterior advertisements or advertising signs shall not exceed one (1);
  - exterior advertisements or advertising signs shall only be placed or located on the rear end of the taxicab;
  - exterior advertisements or advertising signs shall not exceed sixteen centimetres by ninety-two centimetres (16cm x 92cm) in size;
  - the number of rooftop mounted signs shall not exceed one (1);
  - a rooftop mounted sign shall be illuminated;
  - a rooftop mounted sign not exceed one hundred and twenty-two centimetres in length, seventy-nine centimetres in width, and forty-six centimetres in height (122cm L x 79cm W x 46cm H); and
- (ii) any exterior advertisement painted on a vehicle or secured on a rooftop advertising sign, not in accordance with the advertising prerequisites contained in paragraph 49(1)(o) but previously approved by the Director

of Licensing as of May 28, 2003, shall be removed from the taxicab at the earlier of the date upon which the taxicab is repainted, replaced, or May 28, 2005;

- (p) operate or permit the operation of a taxicab of which he or she is the owner unless equipped with a taxicab meter which has been tested, sealed and approved by the Director of Licensing or Municipal Officer unless authorized under section 39;
- (q) operate or permit to operate a taxicab when the taximeter is out of order or defective in any way or the taximeter seal is broken, altered or not intact unless authorized under section 39;
- (r) use or permit to be used any taxicab licence issued to such owner pursuant to this Schedule for any vehicle other than the vehicle for which the licence was issued;
- (s) knowingly drive or permit to be driven about the streets in his or her cab any person for the purpose of soliciting from the cab for acts of prostitution or conducting or soliciting any illegal acts;
- (t) operate, or permit to be operated, a taxicab which was constructed or subsequently modified to permit the loading, transportation and off-loading of those individuals confined to a wheelchair, or similar device used to assist the physically disabled, without transfer, which does not comply with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the *Highway Traffic Act*;
- (u) when requested by the Director of Licensing, fail to return or surrender any licence, owner's plate, or other documentation or identification, issued by the Director of Licensing pursuant to this Schedule, to the Director of Licensing;

- (v) when requested by the Director of Licensing, fail to surrender to the Director of Licensing any daily trip sheets prescribed and required by this Schedule;
- (w) lease or otherwise lend an owner's licence issued under this Schedule or a vehicle approved for use as a taxicab unless approval by the City has been granted;
- (x) by a written or verbal agreement sub-lease the taxicab or transfer the responsibility for the operation thereof to a third party;
- (y) enter into any written or oral agreement, directly or indirectly, permitting or acquiescing in the operation of the taxicab for which the licence was issued, by any other person who is not a licensed taxicab driver; or
- (z) shall permit his or her taxicab plate or the operations thereof to be used on a vehicle that does not comply with this Schedule

### **TAXICAB BROKER DUTIES**

50.(1) Every licensed taxicab broker shall:

- (a) maintain an office, from which the taxicab brokerage is operated;
- (b) require all taxicab owners who have entered into arrangements with such broker for the provision of taxicab brokerage services to affix to the side doors of the vehicle identification numbers and letters in a form approved by the Director of Licensing;
- (c) provide to the Director of Licensing the name of every owner and driver required to be licensed under this Schedule with which he or she has entered into any arrangement for the provision of taxicab brokerage services;
- (d) keep a record of all owners operating taxicabs in association with him or her such record to show the number of taxicabs operated by each owner, including

his or her name and address and the number of the licence issued under this Schedule in respect of each;

- (e) notify the Director of Licensing, in writing, within ten (10) days of any additions or deletions from the list provided under subsection (3) of this section;
- (f) carry on or engage in or otherwise continuously operate the taxicab brokerage business within the City;
- (g) require all owners and drivers of taxicabs operating within the broker's taxi fleet to comply with the requirements of this Schedule;
- (h) maintain an accurate record of all requests for the hire of a taxicab along with the following information for each taxicab dispatched:
  - (i) the number of the taxicab owner licence issued under the provisions of this Schedule;
  - (ii) the date and time of receipt of the order and of the dispatching;
  - (iii) the name and taxicab driver licence number of the driver; and
  - (iv) the address to which such taxicab is dispatched, and retain these records for a twelve (12) month period;
- (i) dispatch a taxicab to any person requesting service within the municipality, unless the person requesting service has not paid for a previous trip and these facts are verified by the broker;
- (j) post in a conspicuous location in the business office, viewable by the public, the licence issued under this Schedule;
- (k) at the direction of the Director of Licensing not dispatch calls to any taxicab, if the licensed owner or licensed driver, in the opinion of the Director of Licensing, has contravened any section of this Schedule;

- (l) at the request of the Director of Licensing, provide a list showing the number of taxicabs available for service to the public on any particular day, including the times when it was last available for service on that day and also including the number of dispatched calls serviced by each such taxicab;
- (m) employ or use only the services of an owner or driver licensed under this Schedule; and
- (o) post and maintain a copy of the Ontario Human Rights Commission's publication entitled "Declaration of Management Policy", on bulletin boards and on other similar locations provided for the regular posting of written notices to drivers or owners of taxicabs operating from the brokerage.

#### **TAXICAB BROKER PROHIBITIONS**

51.(1) No licensed taxicab broker shall:

- (a) dispatch a taxicab for the purpose of carrying on or engaging in the conveyance of passengers within the City where the owner or driver of the taxicab does not hold a licence for their respective calling issued under this Schedule;
- (b) accept orders for, or in any way dispatch or direct orders to a taxicab, licensed under this Schedule:
  - (i) when the activity would be illegal under a provincial or federal statute; or
  - (ii) where the fare is less than that permitted under this Schedule.
- (c) accept orders for, or in any way dispatch or direct orders to a taxicab where the owner of which is not licensed under this Schedule, for a pick-up location within the boundaries of the City;

- (d) be permitted to have exclusive rights to any taxicab stand in the City;
- (e) enter into an agreement for the provision of brokerage services with a taxicab driver or a taxicab owner who is already affiliated with another taxicab broker;
- (f) charge a fare or enter into an agreement to charge a fare which is not in accordance with the approved tariff/fare set out in Appendix "1" to this Schedule;
- (g) when requested by the Director of Licensing, fail to return or surrender any licence issued under this Schedule; or
- (h) fail to carry on or engage in the taxicab brokerage business for which the taxicab brokerage licence has been issued.

## **PROMOTIONAL SCHEMES**

- 52.(1) A taxicab broker may offer, and the taxicab driver that agrees to provide the trip shall accept, a rate lower than the tariff for a taxicab trip to a maximum discount or promotion up to 20% off the maximum fare as calculated by the taxi meter at the City-regulated rate if:
- (a) the trip is booked with the taxicab broker or through a software application; and
  - (b) the taxi meter in the taxicab can calculate and display the discounted rate to be charged to the passenger;
- (2) An owner, lessee or driver of a taxicab may participate or acquiesce in a promotional scheme or practice of a taxicab broker that is authorized under this section.
- (3) A taxicab broker is not required to pay a taxicab driver operating a taxicab any difference between the fare charged for a trip and the fare as calculated at the tariff.<sup>(17-012)</sup>

## **CUSTOMER SERVICE**

53.(1) A taxicab driver, owner and broker shall ensure that:

- (a) a Taxicab Passengers' Bill of Rights in the prescribed form, as set out in Appendix "4", for all taxicabs, is displayed on the upper portion of the rear of the driver's seat in a position clearly visible to the passenger(s) to inform Taxicab passengers of their rights;
  - (b) a Taxicab Driver's Bill of Rights in the prescribed form, as set out in Appendix "5", for all taxicabs, is displayed on the upper portion of the rear of the driver's seat in a position clearly visible to the passenger(s) to inform Taxicab passengers of the rights of the Taxicab Driver; and
  - (c) a taxicab Tariff card and Taxicab Driver photo identification card is displayed as prescribed in this Schedule.
- (2) Every broker shall post in a conspicuous place in their place of business, clearly visible to the public, the City customer complaints/compliments hotline telephone number and follow-up and resolution process prescribed by the Director of Licensing.

## **ADMINISTRATION AND ENFORCEMENT**

54.(1) This schedule shall be administered by the Director of Licensing, with delegation of the enforcement to any Municipal Officer. (18-040)

- (2) A Municipal Enforcement Municipal Officer has the authority, if the Municipal Officer is in the opinion that the vehicle contravenes the Schedule or public safety is at risk, to:
- (a) remove a taxicab from service;
  - (b) remove the City of Hamilton taxi plate from the taxicab;
  - (c) remove the roof sign;
  - (d) remove the taxicab meter, and

- (e) issue an administrative penalty notice for any contraventions of this Schedule.  
(18-040)

## **SEVERABILITY**

55. Notwithstanding that any section or sections of this Schedule, or any part or parts thereof, may be found by any court of law to be invalid or illegal or beyond the power of the Council to enact, such section or sections or part or parts thereof shall be deemed to be severable, and all other sections of this Schedule, or parts thereof, are separate and independent therefrom and enacted as such.

## **APPENDICES**

56. Appendices "1", "2", "3", "4", "and 5" attached hereto form part of this Schedule.

**SCHEDULE 25**

**APPENDIX 1 (Taxicab Tariff/Fares) <sup>(18-041)(22-102)</sup>  
Meter and By Agreement Rates**

The Meter and By Agreement Rates as approved by Council are set as follows:

For the first 71.4 meters or part thereof	\$4.90 <sup>(22-102)</sup>
For each additional 55.6 meters or part of thereof	\$0.10 (\$1.80/km)
For waiting time while under engagement for each eleven (11) seconds	\$0.10
Livery or meter cabs by agreement (per hour)	\$37.00
Request for a Van (non-accessible) fare (per trip)	\$10.00 <sup>(22-248)</sup>

Senior Citizens receive a 10% reduction on the above Meter Rates calculated on the highest Full Dollar registered on the taxi meter.

The above rates include the Harmonized Sales Tax.

In accordance with section 68 of this By-law, promotional discount fares are prohibited subject to the written consent of the Director of Licensing.

**SCHEDULE 25**  
**APPENDIX 2**

<b>Taxi Trip Sheet</b>									
Date _____ Start Shift Time _____ End Shift Time									
_____									
Drivers Name _____ Taxicab # _____									
Broker _____									
	<b>From</b>	<b>Starting Odometer</b>	<b>Destination</b>	<b>Arrival Odometer</b>	<b>Charged</b>	<b>Flat Rate</b>	<b>Metered Rate</b>		
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

11									
12									
22									
23									
24				Totals					
25									
26									
27				Grand Total					
	Equipment Faults: Brakes		Steering	Lights					
	Exhaust System		Radio	Meter					
	Cleanliness & Damage: Interior		Exterior	Check: Oil		Transmission Fluid			
	Driver Comments: Signature: Date:		Owners signature: Date:						

## **SCHEDULE 25**

### **APPENDIX 3**

#### **PASSENGER BILL OF RIGHTS**

1. The passenger has the right to:
  - (a) a professional and knowledgeable taxicab driver who is licensed
  - (b) a driver who is provides a safe ride
  - (c) a taxicab driver provides a silent ride if desired
  - (d) a taxicab driver who knows the major streets and destinations
  - (e) a taxicab driver who is courteous and provides assistance
  - (f) a taxicab driver who speaks and understands English
  - (g) a taxicab driver who knows the Taxi By-law and traffic laws
2. The passenger has the right to an effective customer complaint process.
3. The passenger has the right to direct a taxicab driver on the route to be taken.
4. A clean, safe, air-conditioned and smoke-free taxicab.
5. A free ride if the meter is not in a 'recording' position.
6. Obtain a receipt that shows the date, time, the taxicab driver's name, identification number and fare charge

7. Taxi Drivers Licenses are to be displayed inside the taxi and the passenger has a right to see it.
8. A passenger has thirty days to file a signed complaint. The complaint must be in writing and include your name, address and telephone number, and address the complaint to:

Municipal Law Enforcement  
77 James Street North, Suite 400  
Hamilton, ON L8R 2K3

If you have any questions you may call 905.546.2350

## **SCHEDULE 25**

### **APPENDIX 4**

#### **TAXICAB DRIVER BILL OF RIGHTS**

1. Taxicab Driver has the following rights:
  - (a) a clean, safe, licensed, air-conditioned and smoke-free taxicab;
  - (b) fair and equitable dispatch service;
  - (c) access to a service and skills training program;
  - (d) a taxicab driver can refuse a customer if the customer requests the taxi driver to carry any passengers or baggage, which the taxi driver is incapable of carrying;
  - (e) can refuse a customer if they are drunk or disorderly;
  - (f) can refuse a customer if the customer is unable to pay for the fare or if the customer owes money from a previous ride;
  - (g) can refuse a customer if the customer requests the driver to carry an animal or baggage, which might be detrimental to the repair, cleanliness or sanitary condition of the taxi (with the exception to seeing eye dog); and
  - (h) taxi driver's responsibility to check his taxi after a customer has departed to ensure the customer has not left any belongings in the taxi – if the customer has left something behind the driver is to make every reasonable attempt to return the belonging to the owner. If the owner cannot be found belonging is to be turned over to the Taxi Broker's Office.

**APPENDIX 5****TAXI COST INDEX****City of Hamilton's Basis for Taxi Meter Rate Adjustments**

COMPONENT	PUBLICATION	COST INDEX IN %
1. Other Taxi-Cab expenses, licences, rent	CPI Toronto: All-items (v739287)	12.50%
2. Insurance	CPI Ontario: Automotive vehicle insurance premiums (v738391)	8.00 %
3. Fuel	CPI Ontario: Gasoline (v738388)	22.50%
4. Routine repairs and maintenance	CPI Ontario: Automotive vehicle parts, maintenance and repairs (v738389)	16.50%
5. Amortized cost of vehicle, radio and equipment	CPI Ontario: Purchase of automotive vehicles (v738386)	11.30%
6. Earnings-all drivers	Ontario: Average hourly wage rate; Full-time employees; Transportation and Warehousing (v2153229)	29.20%
	TOTAL	100%

**SCHEDULE 26** (10-198)

**MOBILE SIGN LEASING OR RENTING**

**PART 1.0**

**DEFINITIONS**

1.1 In this Schedule:

**“advertising device”** means any object displayed so as to attract public attention to any goods, services, facilities or events, including but not limited to flags, banners, pennants, and lights;

**“copy”** means the graphic content of a sign surface in either permanent or changeable letter, pictorial, symbolic, or numeric form;

**“display”** in any form includes “erect” and “locate”;

**“Mobile Sign”** means a sign that is temporary, is capable of being readily moved from one location to another, and may be part of or attached to a wheeled trailer or frame without wheels;

**“Mobile Sign permit”** means a sign permit issued for the display of a Mobile Sign under the Hamilton Sign By-law;

**“person”** includes an individual, association, proprietorship, partnership, syndicate, company, corporation, firm, business, authorized agent, trustee and the heirs, executors or other legal representatives, or any combination of the foregoing; and,

**“sign”** means any surface, structure and other component parts, which are used or capable of being used as a visual medium or display to attract attention to a specific subject matter for identification, information or advertising purposes and includes an advertising device.

**PART 2.0**  
**GENERAL PROVISIONS**

- 2.1 No person shall carry on the business of leasing or renting Mobile Signs without holding a current valid licence issued under this By-law including this Schedule.
- 2.2 For the purpose of section 2.1, a person who carries on the business of leasing or renting Mobile Signs from a location outside the City shall be deemed to be carrying on business in the City if the person leases or rents Mobile Signs that are displayed in the City.
- 2.3 Every person who carries on the business of leasing or renting Mobile Signs shall ensure that all required permits are obtained prior to placement of a Mobile Sign and that its placement is in accordance with any permit issued.
- 2.4 In the event of a conflict between a provision of this Schedule and any other provision of this By-law, the provision in this Schedule prevails.

**PART 3.0**  
**LICENCE APPLICATIONS**

- 3.1 In addition to any of the items required in the “LICENCE APPLICATIONS AND FEES” Part of the General Provisions of this By-law, the applicant shall, at the time of filing the application, deliver to the Director of Licensing the following:
- (a) if the applicant is a corporation, a certified copy of the incorporating document showing the names and addresses of all Directors, Officers and Shareholders;
  - (b) if the applicant is a registered partnership, a certified copy of the registered Declaration of Partnership, showing the names and addresses of all partners; and

- (c) a certification that all Mobile Signs to be leased or rented shall have the name and phone number of the licensee affixed to the Mobile Sign at a clearly visible location.

#### **PART 4.0**

#### **GROUNDINGS FOR REFUSAL TO ISSUE OR RENEW A LICENCE**

- 4.1 In addition to the grounds listed in section 12 of the General Provisions of this By-law, the Director of Licensing shall refuse to issue or renew a licence where, having regard to the applicant's financial position, the applicant cannot be reasonably expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

#### **PART 5.0**

#### **PROHIBITIONS**

- 5.1 No person shall:
  - (a) publish or cause to be published any representation that the person is licensed under this Schedule if the person is not so licensed;
  - (b) display or permit the display of a Mobile Sign that does not have the name and phone number of the licensee under this Schedule, if a licence is required, affixed to the Mobile Sign at a clearly visible location;
  - (c) display or permit the display of a Mobile Sign other than in accordance with all of the applicable provisions of the City's by-laws respecting signs before February 1, 2007 and with the Hamilton Sign By-law on and after February 1, 2007; or
  - (d) fail to ensure that the message board on a Mobile Sign is secured with a locking mechanism to prevent any person, other than the licensee under this Schedule or the Mobile Sign permit holder under the Hamilton Sign By-law, from having access to the

message board.

**PART 6.0**

**CHANGES IN INFORMATION**

- 6.1 Every licensee shall notify the Director of Licensing, in writing, within 6 days after the event, of any change to the information contained in their application.
- 6.2 Where a change has occurred in the name or business name of a licensee, the licensee shall attend within 6 days of the date of the change at the office of the Director of Licensing to have the licence and licence records amended accordingly.

**SCHEDULE 27** (17-056)

**TOBACCO AND ELECTRONIC CIGARETTE RETAILERS**

**DEFINITIONS**

1. In this Schedule:  
“**electronic cigarette**” has the same meaning as in the *Electronic Cigarettes Act, 2015*;  
  
“**operator**” means a person who owns, operates, manages, supervises, controls or is responsible for premises selling tobacco, cigars, cigarettes, or electronic cigarettes at retail;  
  
“**licence holder**” means an operator who holds a current and valid licence under this Schedule; and,  
  
“**premises**” includes any building, booth, or stall, or a portion thereof where goods are exposed for sale such as a shop or store.

**GENERAL PROHIBITIONS**

2. No operator shall operate without a licence to do so.
3. No person shall sell tobacco, cigars, cigarettes or electronic cigarettes at retail from any premises without a licence to do so.

**REQUIREMENTS**

4. In addition to complying with the General Provisions of this By-law, an operator who applies for a licence shall provide proof satisfactory to the Director of Licensing that the premises are not subject to a prohibition imposed under section 16 of the *Smoke-Free Ontario Act*.
5. All operators selling tobacco, cigars or cigarettes at retail from any premises shall comply with all aspects of the *Smoke-Free Ontario Act*.
6. All operators selling electronic cigarettes at retail from any premises shall comply with all aspects of the *Electronic Cigarettes Act, 2015* that are in force.
7. A licence holder;

- (a) shall keep their licence issued in respect of this Schedule posted in a conspicuous location on the premises, so as to be clearly visible to the public and in a manner satisfactory to the Municipal Officer, at all times during the currency of the licence;
  - (b) who sells tobacco, cigars or cigarettes, shall comply with the *Smoke-Free Ontario Act* legislation and regulations pertaining to the promotion, display and sale of tobacco products, including displaying the required signs;
  - (c) who sells electronic cigarettes, shall comply with the in force provisions of the *Electronic Cigarettes Act, 2015* respecting the promotion, display and sale of electronic cigarettes, including displaying the required signs;
  - (d) shall require employees of the premises to read the required signs prior to commencing work involving the sale of tobacco, cigars, cigarettes or electronic cigarettes, and instruct employees to bring any removal or defacement of the required signs to the immediate attention of the licence holder;
  - (e) shall replace with a new sign any required sign which has been removed or where the prescribed message or part thereof has been defaced; and,
  - (f) shall use as the required signs the provincially-legislated required signs available from the City or the Ontario Ministry of Health and Long-Term Care.
8. Where the operator has obtained a licence, no employee need obtain a separate licence.

## **SCHEDULE 28**

### **TOW TRUCKS**

#### **DEFINITIONS**

1. In this Schedule:

“**compensation**” means any form of payment;

“**complaint record**” means a record of each complaint received by a tow truck business operator or their employee or agent about a towing service they have provided;

“**Highway Traffic Act**” means the Highway Traffic Act and its regulations;

“**registered owner**” means the person shown to be the owner of a tow truck according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

“**tow truck**” means a motor vehicle which is designed, modified or used for pulling, towing, carrying, or lifting a motor vehicle or trailer, be it damaged, disabled, abandoned, or otherwise, with or without the assistance or use of lifts, winches, dollies, trailers, or similar equipment;

“**tow truck driver**” means an individual who drives a tow truck at any time when the tow truck is providing or available to provide a towing service;

“**tow truck business operator**” means a person who carries on the business of providing one or more towing service;

“**tow truck number**” means the number, which may consist of numbers or letters or both, issued for each approved tow truck by the Director of Licensing;

“**towing service**” the provision or offer of provision of a tow truck for compensation including but not limited to:

- (a) assisting the owner, operator, driver or passenger of a motor vehicle or trailer through the use of the equipment on or used in conjunction with the tow truck for the pulling, towing, carrying, or lifting of a motor vehicle or trailer; or

- (b) conveying the owner, operator, driver or passenger of a motor vehicle or trailer in a tow truck;

**“towing service rate card”** means a rate card approved by the Director of Licensing that includes a tow truck business operator’s rates for towing services and contact information;

**“trip record”** means a record of each trip providing a towing service from the time:

- (a) a motor vehicle or trailer; or
- (b) an owner, operator, driver or passenger of a motor vehicle or trailer, is picked up to the time they are dropped off.

## **APPLICATION OF SCHEDULE**

- 2. This Schedule does not apply to a tow truck service that consists only of dropping off in the City:
  - (a) a motor vehicle or trailer; or
  - (b) an owner, operator, driver or passenger of a motor vehicle.

## **GENERAL PROHIBITIONS**

- 3.(1) No person shall act as or hold himself or herself out to be a tow truck driver or shall engage in the business of a tow truck driver unless he or she holds a current and valid tow truck driver licence under this Schedule.
- (2) No person shall act as or hold themselves out as a tow truck business operator unless they hold a current and valid tow truck business operator licence under this Schedule.
- (3) No tow truck business operator shall permit a person who does not hold current and valid tow truck driver licence under this Schedule to drive a tow truck under the tow truck business operator’s power or control.

## **LICENSING**

### **General**

- 4. Every tow truck driver and tow truck business operator shall hold the applicable current and valid licence under this Schedule.

5. The Director of Licensing is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

### **Drivers**

6. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck driver licence, not including an applicant for a licence renewal, shall provide proof satisfactory to the Director of Licensing that the applicant:
  - (a) holds a current and valid motor vehicle driver's licence for the tow truck being driven issued by the Province of Ontario;
  - (b) has successfully completed Ontario Traffic Council Book 7 training no more than three years before the date of the application; and
  - (c) will be working for a licensed tow truck business operator should the tow truck licence be issued.

### **Operators**

7. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck business operator licence, not including an applicant for a licence renewal, shall
  - (a) submit a list of each tow truck including the make, model, year of manufacture and Vehicle Identification Number;
  - (b) submit a list of the rates for tow truck services that includes but is not limited to setting out:
    - (i) the rates for:
      1. towing;
      2. boosting a battery;
      3. changing a tire;
      4. opening a locked vehicle without a key;
      5. righting an overturned vehicle or trailer;
      6. other services;

- (ii) if applicable, how distance, time, weight or other variable factors are used to calculate a rate;
- (c) submit contact information including but not limited to an address, telephone number and at least one of a facsimile number, e-mail address or cell phone text address;
- (d) provide proof satisfactory to the Director of Licensing that
  - (i) the applicant is the registered owner of all tow trucks to be used; and
  - (ii) all tow trucks to be used:
    - 1. are dual rear-wheeled trucks;
    - 2. have been issued either:
      - a. an Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance; or
      - b. a Safety Standard Certificate issued under the Highway Traffic Act,
    - no more 36 days before the proof is provided; and
    - 3. are insured in a manner satisfactory to the Director of Licensing;
  - and
- (e) make all tow trucks available for inspection, at the tow truck business operator's expense, as directed by the Director of Licensing.

## **INSPECTIONS AND APPROVED TOW TRUCKS**

- 8. The Director of Licensing:
  - (a) may specify the establishments where an inspection of a tow truck is to be carried out; and
  - (b) shall specify what the inspection is to consist of, which may include but is not limited to:
    - (i) a visual exterior and interior inspection of the tow truck;
    - (ii) an assessment of mechanical fitness and safety of the tow truck.
- 9. For so long as:

- (a) a tow truck business operator's tow truck is on the list submitted under subsection 7(a):
  - (b) a tow truck business operator complies with subsections 11(e) to 11(k); and
  - (c) all inspections, reports and certificates show that a tow truck business operator's tow truck complies with this Schedule,
- the tow truck shall be deemed to be approved by the Director of Licensing.

## **REQUIREMENTS**

### **Drivers**

10. A tow truck driver shall:

#### **General**

- (a) not drive a tow truck unless:
  - (i) the registered owner of the tow truck is a tow truck business operator licence holder; and
  - (ii) the tow truck has been approved for use as a tow truck by the Director of Licensing;
- (b) carry and produce upon request of an Officer, the tow truck driver's tow truck driver licence and vehicle driver's licence issued by the Province of Ontario;
- (c) comply with all applicable statutes, regulations and by-laws with respect to traffic and parking including but not limited to the Highway Traffic Act and the City's traffic and parking by-laws and with the Hamilton Highway Non-Solicitation By-law;

#### **Condition of Tow Truck**

- (d) not drive a tow truck unless it is equipped with:
  - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
  - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting

- and towing of a motor vehicle or trailer;
  - (iii) a device for securing the steering wheel of a motor vehicle;
  - (iv) a fire extinguisher no smaller than 2.5 kilograms with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
  - (v) a safety vest;
  - (vi) a broom;
  - (vii) a shovel;
  - (viii) a waste container, including a flexible waste container, at least 20 litres in volume;
  - (ix) a first aid kit;
  - (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
  - (xi) a pry bar of no less than 1.5 metres in length;
  - (xii) two wheel blocks;
  - (xiii) flares or reflector kits;
  - (xiv) flashlight;
  - (xv) wheel wrenches;
  - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
  - (xvii) rope;
  - (xviii) booster cables;
  - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking.
- (e) maintain:
- (i) the interior of the tow truck in a clean, tidy and dry condition; and
  - (ii) the exterior of the tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-

- maintained paint finish;
- (f) ensure the tow truck number is:
  - (i) affixed to the door on either side of the truck, below the side view mirror, or to another location on the tow truck approved in advance by the Director of Licensing;
  - (ii) in letters and numbers at least 6 centimetres in height;
  - (iii) in Verdana or Arial font;
  - (iv) in a colour that contrasts with the background colour by at least 75%;  
and
  - (v) plainly visible in its entirety at all times;
- (g) obtain a photo identification card issued by the Director of Licensing and keep the photo identification card and the towing service rate card displayed in the holder provided for this purpose;
- (h) not display a photo identification card other than that issued by the Director of Licensing or a towing service rate card other than that approved by the Director of Licensing;
- (i) each shift before starting and after finishing the shift, examine the tow truck for mechanical defects, interior or exterior damage and report any defects immediately to the tow truck business operator;
- (j) not drive a tow truck unless the tow truck:
  - (i) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;
  - (ii) is maintained in accordance with subsection 7(b); and
  - (iii) is free from mechanical defect;
- (k) report any incidents involving damage or injury during a trip immediately to the tow truck business operator and the Director of Licensing;

### **Tow Services**

- (l) not provide any tow service to an individual who has care, charge or control of a motor vehicle or trailer unless the driver has first:
  - (i) given to the individual a towing service rate card with:
    - 1. each tow truck service offered checked off;
    - 2. the total estimated cost of the tow truck services offered, including applicable taxes, entered;
    - 3. if applicable, the location of the storage yard where the motor vehicle or trailer will be dropped off; and
  - (ii) received from the individual a signed and dated copy of the towing service rate card under paragraph 10(l)(i) authorizing the driver to provide the checked off tow truck services.
- (m) not request or be paid a rate
  - (i) which is greater than a rate listed on the tow service rate card; or
  - (ii) arising from a failure of the tow truck or the tow truck driver;
- (n) keep a trip record for each trip in a form satisfactory to the Director of Licensing that includes:
  - (i) the date;
  - (ii) the time the call for tow truck services is received;
  - (iii) the time the tow truck arrives and the location;
  - (iv) the time of pick-up;
  - (v) the time of drop-off and the location;
  - (vi) the total cost of the tow truck services provided; and
- (o) behave courteously.

### **Tow Truck Business Operators**

11. A tow truck business operator shall:

#### **General**

- (a) not permit their tow truck to be driven unless:
  - (i) the driver is a tow truck driver licence holder; and

- (ii) the tow truck has been approved for use as a tow truck by the Director of Licensing;
- (b) ensure that a tow truck driver driving their tow truck complies with all applicable provisions of this Schedule and By-law;
- (c) keep at all times in their tow truck an original or copy of:
  - (i) the tow truck's motor vehicle registration issued under the Highway Traffic Act and the current Ontario Ministry of Transportation passenger Motor Vehicle Permit;
  - (ii) the tow truck owner licence; and
  - (iii) proof of the insurance required under this Schedule;
- (d) ensure that their tow truck is at all times during the term of tow truck business owner licence insured in a manner satisfactory to the Director of Licensing;

#### **Condition of Tow Truck**

- (e) ensure their tow truck is equipped with:
  - (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
  - (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
  - (iii) a device for securing the steering wheel of a motor vehicle;
  - (iv) a fire extinguisher no smaller than 2.5 kilograms with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
  - (v) a safety vest;
  - (vi) a broom;
  - (vii) a shovel;
  - (viii) a waste container, including a flexible waste container, at least 20 litres in volume;
  - (ix) a first aid kit;

- (x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
  - (xi) a pry bar of no less than 1.5 metres in length;
  - (xii) two wheel blocks;
  - (xiii) flares or reflector kits;
  - (xiv) flashlight;
  - (xv) wheel wrenches;
  - (xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
  - (xvii) rope;
  - (xviii) booster cables;
  - (xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking.
- (f) maintain:
- (i) the interior of their tow truck in a clean, tidy and dry condition; and
  - (ii) the exterior of their tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;
- (g) ensure the tow truck number is:
- (i) affixed to the door on either side of the truck, below the side view mirror, or to another location on the tow truck approved in advance by the Director of Licensing;
  - (ii) in letters and numbers at least 6 centimetres in height;
  - (iii) in Verdana or Arial font;
  - (iv) in a colour that contrast with the background colour by at least 75%;  
and
  - (v) plainly visible in its entirety at all times;
- (h) display the name and telephone number of the tow truck business and tow

truck number:

- (i) on both sides of the tow truck or on another location as approved in advance by the Director of Licensing;
  - (ii) in letters and numbers at least 18 centimetres in height;
  - (iii) in a colour that contrasts with the background colour; and
  - (iv) so as to be plainly visible in their entirety at all times;
- (i) ensure that at all times when their tow truck is being used or is available for use it is free from mechanical defects;
    - (i) when reported by a tow truck driver licence holder; or
    - (ii) as directed by an Officer;
  - (j) report any incidents of damage or injury involving their tow truck immediately to the Director of Licensing;
  - (k) provide a current Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance or a current Safety Standards Certificate issued under the Highway Traffic Act for the tow truck at such time as prescribed by this Schedule or as requested by the Director of Licensing;

### **Towing Services**

- (l)(i) retain trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) for at least one year; and
- (ii) make trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) available to the Director of Licensing upon request;
- (m)(i) keep a complaint record for each complaint in a form satisfactory to the Director of Licensing that includes:
  1. the date and time the complaint is received;
  2. the complainant's name and telephone number, if provided;
  3. the employee's name;
  4. the complaint reviewer's name;
  5. the details of the complaint;

6. the action taken in response to the complaint; and
  7. the date and time the complainant is notified of the action taken;
- (ii) report any complaint concerning the safety of an individual immediately to the Director of Licensing;
  - (iii) retain complaint records for at least three years; and
  - (iv) make complaint records available to the Director of Licensing upon request.

## **SCHEDULE 29**

### **TRADES**

#### **PART I: GENERAL**

1 In this Schedule,

- (a) “**construction**” means any work in the erection, installation, or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and “construct” has a similar, grammatical meaning;
- (b) “**contractor**” means any person who agrees with a member of the public or another contractor to carry out any work in a trade regulated under this Schedule;
- (c) “**person**” includes an individual alone or in association with a partnership, firm or corporation and each of them as an entity;
- (d) “**regular place of business**” means the land or building or part of a building used for a fixed or permanent place of business, and where such business address appears in governmental assessment, taxation, planning or engineering records or the address is registered with the Provincial Ministry of Consumer and Commercial Relations. The place of business applies to a contractor or master tradesperson licensed or required to be licensed under this Schedule. A contractor’s regular place of business may also be designated for a master who is on that contractor’s payroll;
- (e) “**Trades Examining Board**” means the Board established pursuant to this Schedule and which shall be responsible for examining the level of competence of any tradesperson regulated by Parts V and VI applying for the issuance or renewal of a licence under this Schedule; and

- (f) **“tradesperson”** means a person licensed or required to be licensed under this Schedule and engaged in, occupied in or retained to carry out work in the trades of building repair, drain repair, plumbing, heating, air-conditioning and ventilation or sprinkler and fire protection installer in the City.

## **PERSONS REQUIRING A LICENSE**

- 2. Subject to section 4, every person engaged, occupied or retained in the City to carry out work in each of the trades of building repair, drain repair, plumbing, heating, air-conditioning and ventilation, sprinkler and fire protection installer shall, before being engaged, occupied or retained in the aforesaid trades apply for and obtain annually a licence pursuant to this Schedule, as a:
  - (a) Building Repair Contractor or Master Builder Repairer;
  - (b) Drain Repair Contractor or Master Drain Installer;
  - (c) Heating, Air-conditioning and Ventilation Contractor or Master Warm Air Heating, Air Conditioning and Ventilation installer in one or more specialized areas of steam fitter, refrigeration and air-conditioning mechanic, oil burner mechanic, or sheet metal worker;
  - (d) Plumbing Contractor or Master Plumber; or one or more of the above designated trades persons;
  - (e) Sprinkler and Fire Protection Installer Contractor or Master Sprinkler and Fire Protection Installer.

## **PROHIBITION**

- 3. Subject to section 4, no person shall within the City, carry on or engage in or be retained or offer to carry out work in any of the trades or occupations named in section 2, without first having obtained a licence under this By-law to do so.

## **PERSONS NOT REQUIRING A LICENSE**

4. The provisions of this Schedule do not apply to any person:
  - (a) holding a valid registration under the Tarion Warranty Corporation for work carried out on a construction project pursuant to such warranty save and except where such person is also a plumber, or heating, air conditioning and ventilation installer, drain layer or sprinkler and fire protection installer;
  - (b) who does work for his or her own benefit and not for hire in or about the dwelling or dwelling unit in which such person resides or in which the spouse of such person is the owner;
  - (c) carrying out work in the trades of building repair, drain repair, plumbing or heating, air conditioning and ventilation, sprinkler and fire protection installer in relation to the construction of a commercial, industrial, institutional, or residential building which has been designed by and is under the supervision of a Professional Engineer or an Architect licensed to practice in Ontario; or
  - (d) engaged in or occupied in any one of the trades governed by this By-law as a journeyman or apprentice under the supervision of a master of such trade.
  - (e) engaged in or occupied in any one of the trades governed by this By-law as a journeyman or apprentice carrying out in-house work for a single institution, business or other organization.

## **APPLICATION FORMS**

5. The Director of Licensing shall, upon receipt of an application under Part V or Part VI, make or cause to be made any necessary investigations concerning the application, and shall refer the application to the Trades Examining Board to determine the eligibility of the applicant to be licensed, and, upon receipt of an application under Part III, Part IV, Part V, Part VI or Part VII may obtain any expert advice which he or she deems necessary to determine whether it is appropriate to issue a licence.

## **LICENCES**

- 6.(1) The Director of Licensing, upon compliance by the applicant with all the other provisions of this Schedule, shall issue to the applicant a number and licence for a trade regulated under this Schedule, together with a photograph of the licence holder, and the licence card and number shall be carried by the licence holder whenever engaged in trades work governed by this Schedule;

- (2) Licence number or business name of the licence holder shall be displayed, or both

may be displayed, by the licence holder in any advertising for the trade by such person.

## **INSPECTION OF LICENCES**

7. Each licence holder under this Schedule, when requested to do so by the Director of Licensing or any Inspector, or by any member of the public retaining the services of a tradesperson, shall produce for inspection, such licence, identification card and photograph.

## **INSPECTIONS OF RECORDS**

8. The Director of Licensing or an inspector may require any contractor or master tradesperson licensed or required to be licensed under this Schedule to produce the trades records of such tradesperson or other relevant documentation for the purpose of determining whether such tradesperson is validly licensed under this By-law, or whether a provision of this By-law has been or is being contravened;

### **TRANSFER OF LICENCE AND EXAMINATION OF APPLICANTS**

9. A contractor's or master's licence issued under this By-law shall not be transferred to another person, and such licence shall be valid only from the place of business indicated thereon.
- 9.1 The Director of Licensing may at any time require an examination of a Part V or Part VI licence holder by the Trades and Examining Board.

### **PLACE OF BUSINESS**

10. A contractor is not required to have a regular place of business in Ontario provided that the contractor employs a master tradesperson licensed under this By-law who has a regular place of business or residence in Ontario.

### **APPLICATION OF SCHEDULES AND STATUTES**

11. Every person holding a contractor's or master's licence under this By-law and every tradesperson carrying on or engaging in the trade or occupation in respect of which a licence is issued, shall observe and comply with and be governed by all the provisions set out in the provisions of this Schedule, and also all the provisions of the Trades Qualification And Apprenticeship Act and the regulations there under which relate to such person's trade and occupation.

### **RENEWALS**

12. The Director of Licensing may renew a licence under Part V or Part VI without requiring an examination of the licence holder by the Trades Examining Board where a valid licence under this Schedule was held by the licence holder in the immediate proceeding year.

## **REVOCATION AND SUSPENSION OF LICENSES**

- 13.(1) Upon suspension or revocation of a licence issued under this Schedule, the licence holder shall return to the Director of Licensing all photographs, numbers and licence cards issued by the Director of Licensing within seven days of the date the notice of suspension or revocation of the licence is given by the Director of Licensing.
  - (2) Upon receipt of the findings by the Trades Examining Board, the Issuer of Licences within five days, shall make a decision on the application for the issuance of a licence, and shall notify the applicant in writing of the decision within three days of such decision being made.

## **TRADES EXAMINING BOARD**

- 14.(1) Trades Examining Board is established to be comprised of such persons as appointed by the Director of Licensing. The function of the Board shall be to make findings concerning the competence of contractors and masters and other tradespersons in their respective trades and occupations regulated under this Schedule and referred to it by the Director of Licensing.
  - (a) The findings of the Board shall state whether the applicant is eligible to be licensed and shall be sent to the Director of Licensing;
  - (b) The Board shall meet at the call of the Chairman upon three days notice, but not less than once annually;
  - (c) The Board shall consist of two panels of three members each, one panel each for the Building Repair and the Drain Repair trades regulated under this Schedule;

- (d) Each panel of the Board shall consist of three qualified tradespersons from each trade regulated under this By-law, one of whom may be an Inspector. A majority vote of the designated panel shall be deemed to be a finding of the Board.

## **CERTIFICATE OF QUALIFICATION**

15. A person holding a valid Certificate of Qualification issued by the Province of Ontario, or holding an equivalent inter-provincial Certificate, each for a minimum of two years, shall be eligible to make application for a master's licence for the plumbing trade, the heating, air conditioning and ventilation trade and the sprinkler and fire protection installer trade.

## **PART III: PLUMBING CONTRACTORS AND PLUMBING MASTERS**

### **INTERPRETATION**

16. In this Schedule,
- (a) “**plumbing Contractor**” means a person engaged in the business of contracting with a member of the public or another contractor for the placing, installing, maintaining, repairing or replacing of any pipe, fixture or other device, equipment or facility of a plumbing system or in other plumbing work, and includes any person who solicits for plumbing work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do plumbing work by himself or through another qualified person, or as being a plumbing contractor, and who has a regular place of business in Ontario;

- (b) **“Plumbing Master”** means a person who has been issued a Certificate of Qualification in the plumbing trade under Trades Qualification And Apprenticeship Act and is aware of and knowledgeable in the general regulations under the Trades Qualification And Apprenticeship Act, and operates in a manner pursuant to the requirements required by the said Act and Regulations there under and is skilled in the planning, superintending and installing, maintenance and repair of plumbing equipment and who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself, or by journeyman tradesmen under his or her supervision performs the trade of plumber; and
  
- (c) **“Plumbing”** includes any procedure, method, matter or thing referred to described in the Building Code Act 1992, and amendments thereto from time to time; and plumbing work has a corresponding meaning;

#### **APPLICATION OF SCHEDULE**

- 17. The provisions of this Schedule shall apply to all persons engaging in any plumbing occupations, as:
  - (a) Plumbing Contractor;
  
  - (b) Plumbing Master.

## **LICENCE REQUIREMENTS**

- 18.(1) No person shall carry on the business of a plumbing contractor without a plumbing contractor's licence issued pursuant to this Schedule, entitling him or her so to do, and, is or has a licensed plumbing master in his or her employ.
  
- (2) No person shall engage in the occupation of a plumbing master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.
  
- (3) Before commencing any work, or upon completion of the work, a form of written agreement (including an invoice or written firm estimate of work to be done), shall be entered into by a plumbing contractor with the person for whom the work is to be done, containing the name and address of the contractor and customer and an itemized price or firm estimate of the goods and services to be provided.

## **APPLICATION FOR LICENSE**

19. Where the application is for a plumbing contractor's licence, the application shall include:
  - (a) The name and address of a licensed plumbing master who is employed by the plumbing contractor and the name of the person who has applied for a plumbing master's licence, or the applicant contractor who is also a master plumber;
  
  - (b) The business address of the plumbing contractor;
  
  - (c) The name and address of the owner, partners or company officers responsible for the operation of the plumbing contractor's business;

- (d) The name of the Insurance Company providing the public liability and property damage coverage for the Plumbing Contractor and all tradespersons employed or retained by him, during the currency of the licence.
20. Where the application is for a plumbing master's licence, an application shall be made to the Director of Licensing and shall include:
- (a) The applicant's qualifications as outlined in the application form, evidence that he or she is the holder of a Certificate of Qualification as a plumber for the minimum of two years, and the address of his or her regular place of business in Ontario;
  - (b) The address of the plumbing master's employer or one's own address if self-employed may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a plumbing contractor's licence under this By-law;

#### **DISQUALIFICATION OF CONTRACTOR**

- 21.(1) When the plumbing master whose name appears on a plumbing contractor's certificate is no longer regularly employed by the plumbing contractor, the contractor shall within three days notify the Director of Licensing, in writing, the name and address of the master who will thenceforward be responsible, or with particulars of his or her arrangements pending the engaging of a master to be in charge.
- (2) It shall be an offence for any plumbing contractor to have any plumbing work performed by him or her when there is not in his or her employ a licensed plumbing master whose name and address have been furnished to the Director of Licensing in writing.
  - (3) It shall be an offence for a plumbing master to carry on the work of a plumbing master for more than one plumbing contractor for the same period of time unless authorized in writing by the Director of Licensing for a maximum of 60 days or by the Licensing Tribunal for a longer period;

- (4) It shall be an offence for a plumbing contractor to perform or have performed any plumbing work without employing a tradesperson holding a valid master's licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.
22. The licence number issued to a plumbing contractor by the Director of Licensing or the business name of the plumbing contractor shall be displayed in any advertising by such person for that trade.

**PART IV: HEATING, AIR CONDITIONING, AND VENTILATION**  
**CONTRACTOR AND MASTER WARM AIR HEATING, AIR**  
**CONDITIONING AND VENTILATION INSTALLER**

**INTERPRETATION**

23.(1) In this Schedule,

- (a) **“Heating, Air Conditioning and Ventilating Contractor”** means a person engaged in the business of contracting for the installation, maintaining, repairing, or replacing of warm air heating or cooling equipment or refrigeration or ventilation equipment and systems of any kind, and the distribution, piping and ductwork including the installation of oil tanks and oil gas burners, and includes any person who solicits for heating or cooling work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do heating or cooling work by himself or through another qualified person, or as being a heating, ventilating and refrigeration and cooling contractor, and who has a regular place of business in Ontario;

- (b) **“Heating, Air Conditioning and Ventilating and Refrigeration”** means the lay out, assembly, installation, repairs, and manufacturing in the field, any cooling or refrigeration or heating/cooling combination system for residential, commercial, institutional, or industrial purpose and included the manufacturing, fabrication, assembly, installation or service of a ferrous and non-ferrous sheet metal work and further includes the installation of piping that conveys gas or the tubing of any air handling system.

As part of this interpretation **“Air Conditioning”** is interpreted to mean, by all definitions:

The simultaneous control of;

- (i) Temperature, (Heating, or cooling air);
- (ii) Humidity, (humidifying or dehumidifying air);
- (iii) Cleanliness, (Mechanical or Electronic air cleaning); and
- (iv) Air Motion (The proper air distribution within a building with related (fresh air) for comfort conditions; and

- (c) **“Master Warm Air Heating, Air Conditioning and Ventilation Installer”** means a person who has been issued a Certificate of Qualification in the trade of Sheet Metal or Refrigeration, Air-conditioning Mechanic or as a Steam Fitter or as an Oil Burner Mechanic or Gas Fitter under the Energy Act for a minimum of two years.

## **APPLICATION OF SCHEDULE**

24.(1)The provision of this Schedule shall apply to all persons engaging in any Heating, Air Conditioning, Refrigeration or Ventilation work as:

- (a) Heating, Air Conditioning, and Ventilation Contractor;
  - (b) Master Warm Air Heating, Air Conditioning and Ventilation Installer; or
  - (c) The holder of a Certificate of Qualification under the Trades Qualification And Apprenticeship Act as a Refrigeration and Air Conditioning Mechanic, a Steam Fitter or Sheet Metal Worker, or qualified as an Oil Burner Mechanic or Gas Fitter under the Energy Act;
- (2) Every licensee hereunder shall observe and comply with and be governed by this Schedule and all the provisions of the Trades Qualification And Apprenticeship Act and the Regulations there under related to the trade regulated under this Schedule.

#### **LICENCE REQUIRED**

- 25.(1) No person shall carry on the business of a Heating, Air Conditioning, and Ventilation Contractor, without a Contractor's licence under this By-law, entitling him or her so to do and has a licensed Master Warm Air Heating, Air Conditioning, and Ventilation installer in one or more of the trades mentioned in section 24(c) his or her employ;
- (2) No person shall engage in the occupation of a Master Warm Air Heating, Air Conditioning, and Ventilation installer, unless he or she is the holder of a current valid licence under this schedule entitling him or her so to do in one or more of the trades mentioned in section 24(c);
- (3) Before commencing any work, or upon completion of the work, a form of written agreement shall be entered into by a Heating, Air Conditioning, and Ventilation Contractor with the person for whom the work is to be done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided;

26. Where the application is for a heating, air conditioning, refrigeration and ventilation contractor's licence the application shall include:

(a) the name and address of a licensed master warm air heating, air conditioning, and ventilation installer who will be in the contractor's employ or the name of the person who has applied for a master heating, air conditioning and ventilation installer's licence;

(b) the business address of the heating, air conditioning and ventilation contractor;

(c) the name and address of the principals of the company responsible for the operation of the business; and

(d) the name of the Insurance Company providing the public liability and property damage coverage for the Contractor and all tradespersons employed or retained by him, during the currency of the licence;

27. Where the application is for a Master Warm Air Heating, Air Conditioning and Ventilation installers licence, an application shall be made to the to the Director of Licensing and shall include:

(a) the applicant's qualifications as outlined in the application form, and provide evidence that he or she has a minimum of two years experience in the field of heating, air conditioning, refrigeration and ventilation and that he or she is a holder of a Certificate of Qualification for a minimum of two years as a Refrigeration and Air Conditioning Mechanic, a Steam Fitter or Sheet Metal worker or qualified as an Oil Burner Mechanic or Gas Fitter under the Energy Act; and

- (b) the address of the Master Warm Air Heating, Air Conditioning, and Ventilation installer, if self-employed, and the address of the Master installer and employer if employed by a contractor, may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a Heating, Air Conditioning, Refrigeration and Ventilation Contractor's licence under this By-law.

## **DISQUALIFICATION OF CONTRACTOR**

- 28.(1) When the Master Warm Air Heating, Air Conditioning, and Ventilation installer, whose name appears on a Heating, Air Conditioning, and Ventilation Contractor's certificate is not longer regularly employed and in actual charge of the work, the contractor shall within three days notify the Director of Licensing, in writing, of the name and address of the Master who will henceforward be in charge, or with particulars of his or her arrangements pending the engaging of a Master to be in charge of the Contractor's work.
- (2) It shall be an offence for any Heating, Air Conditioning, and Ventilation Contractor to have any Heating, Air Conditioning, Refrigeration and Ventilation work performed by him or her when there is not in his or her employ a licensed Master Warm Air Heating, Air Conditioning and Ventilation installer to be responsible for the work whose name and address have been furnished to the Director of Licensing, in writing.
- (3) It shall be an offence for a Master Warm Air Heating, Air Conditioning and Ventilation installer to carry on the work of a Master Warm Air Heating, Air Conditioning and Ventilation installer for more than one Heating, Air Conditioning and Ventilation Contractor for the same period of time unless authorized in writing by the Director of Licensing for a maximum of 60 days or by the Licensing Tribunal for a longer period.
- (4) It shall be an offence for a Heating, Air Conditioning and Ventilation Contractor to perform or have performed any Heating, Air Conditioning, Refrigeration or Ventilation work without employing a tradesperson holding a valid master's licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.

29. The licence number issued to a Heating, Air Conditioning, and Ventilation Contract by the Director of Licensing or the business name of the Heating, Air Conditioning, and Ventilation Contractor shall be displayed in any advertising for that trade of such person.

**PART V: DRAIN REPAIR CONTRACTORS**  
**AND DRAIN INSTALLER MASTERS**

**INTERPRETATION**

30.(1) In this Schedule,

- (a) **“Drain Repair Contractor”** means a person engaged in the business of contracting for the repairing, constructing or installing or drainage works or systems or who engages in the business of cleaning drains or contracting for installing weeping tile beds and septic tank systems, and includes any person who solicits for drain work and who in anyway advertises, or holds himself out to the public, as doing or contracting to do drain repair and installation work by himself or through another qualified person or as being a drainlayer contractor, and who has a regular place of business in Ontario;
- (b) **“Drain Installer Master”** means a person who supervises work for a drain contractor, who is skilled in the planning, superintending and performing of drain repair and installation work and who is familiar with the laws, rules and regulations governing the same, and who has a regular place of business in Ontario;
- (c) **‘Drain work’** means and includes any work of drain laying, weeping tile installing, septic tank installing, drain reconstruction or repairing, or removing tree roots or other obstructions from drains or private drain connections by mechanical or other means; and

- (d) **“Drain Repair Examining Panel”** means the examining board appointed by Council under the provisions of this Schedule.

## **APPLICATION OF SCHEDULE**

31.(1) The provisions of this Schedule shall apply to all persons engaging in any of the following drain work, namely;

- (a) Drain Repair Contractor;
- (b) Drain Installer Master.

(2) The provisions of this Schedule shall not apply to the performance by a plumber licensed hereunder and doing plumbing or drainage work or cast iron or other metal plumbing work outside a building or doing the installation of septic tanks.

## **LICENCE REQUIRED**

32. (1) No person shall carry on the business of a drain repair contractor without a drain repair contractor’s licence under this By-law, entitling him or her so to do and with a licensed drain installer master or a tradesperson experienced in drain laying and repair in his or her employ who is in actual charge of the work.

(2) No person shall engage in the occupation of a drain installer master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.

(3) Before commencing any work or upon completion of the work a form of written agreement shall be entered into by a drain repair contractor with the person for whom the work is to be a done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided.

## **APPLICATION FOR LICENSE**

33. Where the application is for a drain repair contractor's licence, the application shall include:
- (a) the name and address of a licensed drain installer master who will be responsible for the drain repair contractor's work or the name of the person who has applied for a drain installer master's licence, in the event that the applicant contractor is also a master installer;
  - (b) the business address of the drain repair contractor;
  - (c) the name and address of the owner, partners or company officers responsible for the operation of the business; and
  - (d) the name of the Insurance Company providing the public liability and property coverage for the contractor and all persons employed or retained by him, during the currency of the licence.
34. Where the application is for a drain installer master's licence, an application shall be made to the examining board and shall include:
- (a) the applicant's qualifications as outlined in the application form, to include evidence that he or she has a minimum of two years experience in the field of drain installing and repair, and the address of his or her regular place of business in Ontario; and
  - (b) the address of the drain installer master's employer may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a drain repair contractor's licence under this By-law.

## **EXAMINATION BY DRAIN REPAIRS EXAMINING PANEL**

35. (1) Every applicant for a drain installer master's licence shall be examined by the Drain Repairs Examining Panel of the Trades Examining Board as hereinafter constituted, touching his or her knowledge of the provisions of this By-law and of all relevant codes and standards relating to the planning and Installation of drain systems and equipment used in connection therewith.
- (2) No licence shall be issued under this Schedule unless the results of the examination are satisfactory to the examining panel.
- (3) The Drain Repair Examining Panel of the Board shall not be required to receive or entertain any application for an examination within a period of less than three months following the failure of the applicant to pass a previous examination for a similar licence.

#### **DRAIN REPAIR PANEL OF TRADES EXAMINING BOARD**

36. (1) Recommendations for members to the Drain Repair Examining Board will be received by the Tribunal from an official inspection agency under the authority of a Province of Ontario Act or a municipality or a drain repair trade organization in the City.
- (2) The members of the Drain Repair Examining Panel shall hold office for the balance of the calendar year in which they have been appointed and until their successors have for cause, been appointed, unless their term is terminated sooner, for cause, and shall receive such remuneration for their services as may be fixed by the City Council.
- (3) It shall be the duty of the Drain Repair Examining Panel to supply the results of every examination to the Director of Licensing.

#### **DISQUALIFICATION OF CONTRACTOR**

- 37.(1) When the drain installer master whose name appears on a drain repair contractor's certificate is no longer regularly employed and responsible for the work, the contractor shall within three days notify the Director of Licensing, in writing, with the name and address of the master who will thenceforward be in charge, or with particulars of his or her arrangements pending the engaging of a master to be in charge.
- (2) It shall be an offence for any drain repair contractor to have any drain work performed when there is not responsible for the work a licensed, drain installer master or tradesperson experienced in the drain laying and repair whose name and address have been furnished to the Director of Licensing in writing.
- (3) It shall be an offence for a drain installer master to carry on the work of a drain installer master for more than one drain repair contractor or for the same period of time unless authorized in writing by the Director of Licensing for a maximum of 60 days or by the Licence Tribunal for a longer period.
37. The licence number issued to a drain repair contractor by the Director of Licensing or the business name of the drain repair contractor shall be displayed in any advertising for that trade of such person.

## **PART VI: BUILDING REPAIRS CONTRACTORS AND BUILDING REPAIRS MASTERS**

### **INTERPRETATION**

39. In this schedule,
- (a) **“Building Repairs Contractor”** means a person engaged in the business of carrying out repairs or renovations of buildings, and includes any person who solicits for such work or who in any way advertises or holds himself out to the public as doing or contracting to do building repairs by himself or by another qualified person or as being a building repairs contractor, and who has a regular place of business in Ontario;

- (b) **“Building Repairs Master”** means a person who is skilled in the planning and superintending of repairs and renovations of buildings and who is familiar with the laws, rules and regulations governing the same, and who has a regular place of business in Ontario;
- (c) **“Building”** means a structure consisting of a wall, roof and floor or any one or more of them, or a structural system serving the function thereof including all the works, fixtures, and service systems appurtenant thereto;
- (d) **“Repairs and renovations”** means to do anything in the erection, installation, extension or replacement of a part of a building and includes the installation of a building unit fabricated or moved from elsewhere; and
- (e) **“Building Repairs Examining Panel”** means the examining board appointed under the provisions of this Schedule.

## **APPLICATION OF SCHEDULE**

- 40. The provisions of this Schedule shall apply to all persons engaging in building repairs and renovations, namely
  - (a) Building Repairs Contractor;
  - (b) Building Repairs Master.

## **LICENCE REQUIREMENTS**

- 41.(1) No person shall carry on the business of a building repairs contractor without a building repairs contractor's licence under this By-law entitling him so to do and is or has a licensed building repair master in his or her employ who is in actual charge of the work.
- (2) No person shall engage in the occupation of a building repairs master unless he or she is the holder of a current valid licence under this Schedule entitling him or her so to do.
- (3) Before commencing any work or upon completion of the work, a form of written agreement (including a written firm estimate or detailed invoice of work and repairs to be done) shall be entered into by a building repairs contractor with the person for whom the work is to be done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided.

#### **APPLICATION FOR LICENCE**

42. Where the application is for a building repairs contractor's licence, the application shall include:
  - (a) the name and address of a licensed master who will be responsible for the building repairs contractor's work or the name of the person who has applied for a building repairs master's licence, in the event that the master is also a contractor;
  - (b) the business address of the building repairs contractor;
  - (c) the name and address of the owner, partners or company officers responsible for the operation of the business; and
  - (d) the name of the Insurance Company providing public liability, and property damage coverage for the building repairs contractor and all persons employed or retained by him or her during the currency of his or her licence.

- 43.(1) Where the application is for a building repairs master's licence, an application shall be made to the Building Repairs Examining Panel and shall include:
- (a) the applicant's qualifications as outlined in the application form, to include evidence that he or she has a minimum of two years experience in the field of building construction, and the address of his or her regular place of business in Ontario; and
  - (b) the address of the master builder's employer may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a building repairs contractor's licence under this By-law.
- (2) Every applicant for a building repairs master's licence shall be examined by the Building Repair Examining Panel of the Trades Examining Board as hereinafter constituted, touching his or her knowledge of the provisions of this Schedule and of all relevant codes and standards and By-laws relating to the planning and installation of building systems and equipment used in connection therewith;
- (3) No licence shall be issued under this Schedule unless the results of the examination are satisfactory to the examining panel or previous qualification for a licence under this Schedule is satisfactory to the examining panel;
- (4) The Building Repairs Examining Panel shall not be required to receive or entertain any application for an examination within a period of less than three months following the failure of the applicant to pass a previous examination for a similar licence.

#### **BUILDING REPAIRS PANEL OF THE TRADES EXAMINING BOARD**

- 43.(1) Recommendations for members to the building repairs examining panel will be received by the Tribunal from an official inspection agency under the authority of a Province of Ontario Act or a municipality or a building trade organization in the City.

- (2) The members of the Building Repairs Examining Panel shall hold office for the balance of the calendar year in which they have been appointed and until their successors have been appointed, unless their term is terminated sooner, for cause, and shall receive remuneration for their services as may be fixed by the Council.
- (3) It shall be the duty of the Building Repairs Examining Panel to supply the results of every examination to the Director of Licensing.

## **DISQUALIFICATION OF CONTRACTOR**

- 45.(1) When the building repairs master whose name appears on a building repairs contractor's licence certificate is no longer regularly employed and responsible for the work, the contractor shall within three days notify the Director of Licensing, in writing, with the name and address of the master who will thenceforward be in charge, or with particulars of his or her arrangements pending the engaging of a master to be in charge.
  - (2) It shall be an offence for any contractor to have any building and renovation work performed when there is not in actual charge of the work a licensed building repairs master whose name and address has been furnished to the Director of Licensing in writing.
  - (3) It shall be an offence for a building repairs master to carry on the work of a building repairs master for more than one building repairs contractor for the same period of time unless authorized in writing by the Director of Licensing for a maximum of 60 days or by the Licence Tribunal for a longer period.
46. The licence number issued to a building repair contractor by the Director of Licensing or the business name of the building repair contractor shall be displayed in any advertising for that trade of such person.

**PART VII: SPRINKLER AND FIRE PROTECTION INSTALLER CONTRACTORS AND SPRINKLER AND FIRE PROTECTION INSTALLER MASTERS**

**INTERPRETATION**

47. In this Schedule,

- (a) **“Sprinkler and Fire Protection Installer Contractor”** means a person engaged in the business of contracting with a member of the public or another contractor for the planning, laying out, installing or maintaining of piping systems to protect against fires, and includes any person who solicits for sprinkler and fire protection installer work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do sprinkler and fire protection installer work by himself or through another qualified person, or as being a sprinkler and fire protection installer contractor, and who has a regular place of business in Ontario; and
  
- (b) **“Sprinkler and Fire Protection Installer Master”** means a person who has been issued a Certificate of Qualification in the sprinkler and fire protection installer trade under Trades Qualification And Apprenticeship Act and is aware of and knowledgeable in the general regulations under the Trades Qualification And Apprenticeship Act, and operates in a manner pursuant to the requirements required by the said Act and Regulations there under and is skilled in the planning, laying out, installing or maintaining of piping systems to protect against fires and who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself or herself, or by journeyman tradesmen under his or her supervision performs the trade of sprinkler and fire protection installer.

**APPLICATION OF SCHEDULE**

48. The provisions of this Schedule shall apply to all persons engaging in any sprinkler

and fire protection installer occupations, as a:

- (a) Sprinkler and Fire Protection Installer Contractor;
- (b) Sprinkler and Fire Protection Installer Master.

## **LICENCE REQUIREMENTS**

- 49.(1) No person shall carry on the business of a sprinkler and fire protection installer contractor without a sprinkler and fire protection installer contractor's licence issued pursuant to this Schedule, entitling him or her so to do, and, is or has a licensed sprinkler and fire protection installer master in his or her employ.
- (2) No person shall engage in the occupation of a sprinkler and fire protection installer master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.
- (3) Before commencing any work, or upon completion of the work, a form of written agreement (including an invoice or written firm estimate of work to be done), shall be entered into by a sprinkler and fire protection installer contractor with the person for whom the work is to be done, containing the name and address of the contractor and customer and an itemized price or firm estimate of the goods and services to be provided.

## **APPLICATION FOR LICENCE**

50. Where the application is for a sprinkler and fire protection installer contractor's licence, the application shall include:
- (a) The name and address of a licensed sprinkler and fire protection installer master who is employed by the sprinkler and fire protection installer contractor and the

name of the person who has applied for a sprinkler and fire protection installer master's licence, or the applicant contractor who is also a master sprinkler and fire protection installer;

- (b) The business address of the sprinkler and fire protection installer contractor;
  - (c) The name and address of the owner, partners or company officers responsible for the operation of the sprinkler and fire protection installer contractor's business;
  - (d) The name of the Insurance Company providing the public liability and property damage coverage for the sprinkler and fire protection installer contractor and all tradespersons employed or retained by him or her, during the currency of the licence.
51. Where the application is for a sprinkler and fire protection installer master's licence, an application shall be made to the Director of Licensing and shall include:
- (a) The applicant's qualifications as outlined in the application form, evidence that he or she is the holder of a Certificate of Qualification as a sprinkler and fire protection installer for the minimum of two years, and the address of his or her regular place of business in Ontario;
  - (b) The address of the sprinkler and fire protection installer master's employer or his or her own address if self-employed may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a sprinkler and fire protection installer contractor's licence under this By-law;

## **DISQUALIFICATION OF CONTRACTOR**

- 52.(1) When the sprinkler and fire protection installer master whose name appears on a sprinkler and fire protection installer contractor's certificate is no longer regularly employed by the sprinkler and fire protection installer contractor, the contractor shall within three days notify the Director of Licensing, in writing, of the name and address

of the master who will thenceforward be responsible, or with particulars of his or her arrangements pending the engaging of a master to be in charge.

- (2) It shall be an offence for any sprinkler and fire protection installer contractor to have any sprinkler and fire protection installer work performed by him or her when there is not in his or her employ a licensed sprinkler and fire protection installer master whose name and address have been furnished to the Director of Licensing in writing.
  - (3) It shall be an offence for a sprinkler and fire protection installer master to carry on the work of a sprinkler and fire protection installer master for more than one sprinkler and fire protection installer contractor for the same period of time unless authorized in writing by the Director of Licensing for a maximum of 60 days or by the Licensing Tribunal for a longer period;
  - (4) It shall be an offence for a sprinkler and fire protection installer contractor to perform or have performed any sprinkler and fire protection installer work without employing a tradesperson holding a valid master's licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.
53. The licence number issued to a sprinkler and fire protection installer contractor by the Director of Licensing or the business name of the sprinkler and fire protection installer contractor shall be displayed in any advertising by such person for that trade.

## **SCHEDULE 30**

### **TRANSIENT TRADERS**

1. In this Schedule,

(a) “**trade**” means trade, business, or occupation; and

(b) “**transient trader**” means a person who offers goods, wares or merchandise for sale in any manner in the City,

(i) other than on a permanent basis, or

(ii) on a permanent basis if the total time the person has operated the business on a permanent basis and the time the person continuously resided in the City immediately before beginning to operate the business on a permanent basis is less than three months.

A person who commences business by offering of goods, wares or merchandise for sale at a particular location, may still qualify as a transient trader, whether or not the trade is conducted with the use of a building or fixtures.

2. Every transient trader shall obtain and maintain in good standing a licence authorizing the transient trader to carry on or engage in his or her trade.

3. No transient trader shall commence the sale of goods, wares or merchandise until a licence has been issued under section 2.

4. Every applicant for a licence or a renewal thereof shall make the application in person and not by an agent or representative.

5. Every transient trader shall pay a licence fee before commencing trade in the City.

- 6.(1) Every applicant for a transient trader's licence shall as part of the application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise that the transient trader proposes to sell or offer for sale under such licence.
  - (2) A licence issued under subsection (1) is only permission for the particulars supplied by the applicant under this section, and any change in the classes of goods sold will require a new or separate application.
  - (3) Every applicant for a transient traders licence shall, as part of the application, provide a letter of permission for the owner of the property where the applicant proposes to do business as a transient trader. The aforementioned property shall be in compliance with all requirements and provisions of the applicable Zoning By-law.
7. (1) The licences issued under this Schedule shall expire three months from the date of issuance.
  - (2) The licence fee shall be applied on account of taxes payable on the land used for the purposes of or in connection with the business if the land is owned by the person carrying on the business during the year in which the licence was issued and five years thereafter.
  - (3) Every transient trader shall cause their licence to be prominently and permanently displayed in the transient trader's place of business during the full term in which the transient trader is carrying on business as a transient trader and in default thereof is guilty of an offence.
8. This Schedule does not apply to:

- (a) The sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire, so long as no goods, wares or merchandise are added to such stock;
- (b) The sale of a business to a purchaser who continues the business; or
- (c) A registered charitable organization or non-profit group or corporation selling goods, wares or merchandise, the whole of the proceeds from which are donated to, or used directly for charitable objects.

**SCHEDULE 31** <sup>(21-166)</sup>

**RENTAL HOUSING UNITS**

**1: DEFINITIONS**

1.1 In this Schedule:

“**Applicant**” means a person applying for a licence under this Schedule;

“**Building**” means a structure, whether permanent or temporary, with walls or a roof or part thereof, used or intended to be used for shelter, accommodation or enclosure of persons, animals, goods or chattels;

“**Building Code**” means Ontario Regulation 332/12, as amended, under the *Building Code Act*;

“**Building Code Act**” means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;

“**By-law**” means the City of Hamilton By-law No. 07-170, a By-law to License and Regulate Various Businesses, and includes this Schedule 31;

“**Chief Building Official**” means the Chief Building Official as appointed by Council pursuant to the *Building Code Act*, or their designate, and may include building inspectors for the purpose of doing inspections as contemplated under this Schedule;

“**Dwelling Unit**” means a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway,

vestibule or stairway;

**“Fire Chief”** means the City of Hamilton Chief of the Hamilton Fire Department or his or her designate and includes all members of the Hamilton Fire Department that are designated as an “Assistant to the Fire Marshal” for the purpose of doing inspections as contemplated under this Schedule;

**“Fire Code”** means Ontario Regulation 213/07, as amended under the *Fire Protection and Prevention Act*;

**“Fire Protection and Prevention Act”** means the *Fire Protection and Prevention Act*, 1997 S.O. 1997, c.4, as amended;

**“Licensee”** means any person, corporation or partnership licensed under this Schedule;

**“Medical Officer of Health”** means the Medical Officer of Health for the Hamilton Health Unit or their designate and includes public health inspectors for the purpose of doing inspections as contemplated under this Schedule;

**“Multiple Dwelling”** means a building or part thereof containing five or more self-contained Dwelling Units;

**“Municipal Law Enforcement Officer”** means an employee of the Licensing and By-law Services Division of the City of Hamilton who is assigned by the Director of Licensing to enforce the provisions of this By-law;

**“Officer”** shall include a Municipal Law Enforcement Officer, Medical Officer of Health, Fire Chief, Chief Building Official and a Hamilton Police Services police officer;

**“Owner”** includes:

- (i) each registered owner of a Rental Housing Unit;
- (ii) each person who permits occupancy of a Rental Housing Unit; and
- (iii) the heirs, assigns, personal representatives and successors in title of a person referred to in clauses (i) and (ii);

**“Rental Housing Unit”** means a Building or part of a Building:

- (i) Consisting of one or more rooms;
- (ii) Containing toilet and cooking facilities;
- (iii) Designed for use as a Single Housekeeping Establishment; and
- (iv) Used or intended for use as a rented residential premise;

**“Ontario Fire Code”** means O. Reg. 213/07, as amended, under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended.

**“Schedule”** means this Schedule 31 to City of Hamilton By-law No. 07-170, a By-law to License and Regulate Various Businesses;

**“Single Housekeeping Establishment”** - shall mean a household whose members are an interactive group of persons jointly occupying a Dwelling Unit, including joint access to and use of all common areas including living, kitchen, and eating areas within the Dwelling Unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, and in which there is collective decision making with respect to the control of the premises, and the occupants have the largest degree of control over the use of the dwelling and property; and,

**“Tenant”** includes a person who pays rent or provides services in lieu of paying rent, in return for the right to occupy a Rental Housing Unit and includes the person’s heir,

assigns (including subtenants) and personal representatives.

## **2. PROHIBITIONS**

- 2.1 No person shall operate a Rental Housing Unit without holding a current valid licence issued under the provisions of the By-law;
- 2.2 No person shall hold themselves out to be licensed under the By-law if they are not;
- 2.3 No person shall contravene or fail to comply with a term or condition of their licence imposed under the By-law;
- 2.4 No person shall operate a Rental Housing Unit while their licence issued under the By-law is under suspension;
- 2.5 No person shall transfer or assign a licence issued under the By-law;
- 2.6 No person shall provide false or misleading information to the City when applying for a licence under the By-law, renewing a licence or at any other time;
- 2.7 No person shall hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty under the By-law; and,
- 2.8 Any person who provides false information to the City shall be deemed to have hindered or obstructed an Officer in the execution of his or her duties.

## **3. APPLICATION OF SCHEDULE 31 – RENTAL HOUSING UNITS**

- 3.1 This Schedule shall apply to the geographic area as shown in Appendix “A” of this

Schedule (Appendix “A” – Rental Housing Units in Wards 1, 8 and 14).

3.2 This Schedule shall not apply to:

- a) a Multiple Dwelling;
- b) a hotel, motel, inn or bed and breakfast; tourist home, lodging house or short-term rental; or
- c) a Rental Housing Unit to which any of the following statutes, or their regulations, apply:
  - i. the *Homes for Special Care Act*, R.S.O. 1990, c. H.12, as amended;
  - ii. the *Innkeepers Act*, R.S.O. 1990, c. 17, as amended;
  - iii. the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended;
  - iv. the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended;
  - v. the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, as amended; and,
  - vi. social housing or affordable housing that is not subject to *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, as amended, but which is subject to an agreement with the City of Hamilton and which has been approved for exemption by the Director.

#### **4. APPLICATIONS FOR A LICENCE AND RENEWAL OF LICENCE**

4.1 Every application for a licence and renewal shall be made to the Director on the forms provided by the Director. Without limitation, and in addition to the requirements under the General Provisions of By-law 07-170, every application for a licence or a renewal shall include the following information:

- a) the municipal address and legal description of the Rental Housing Unit;
- b) the name, municipal address, telephone number and email address of each Owner;

- c) If the Owner is a partnership, the name, address, telephone number and e-mail address of each partner;
- d) If the Owner is a corporation, the address of its head office, the name, address, telephone number of each director and officer and a copy of:
  - i. Articles of incorporation;
  - ii. A copy of the last initial notice or notice of change which has been filed with the provincial or federal government; and,
  - iii. A Certificate of Status issued by the Ministry of Government and Consumer services.
- e) Evidence of ownership of the property to the satisfaction of the Director;
- f) A sworn statement by each Applicant certifying the accuracy, truthfulness and completeness of the application;
- g) If none of the Owners reside in the City of Hamilton, or if the Owner is a corporation, the name and contact information of any local contact including their address, telephone number, facsimile number and e-mail address;
- h) Proof of Insurance that:
  - i. Includes a limit of liability of no less than \$2,000,000 (two million dollars) per occurrence for property damage and bodily injury;
  - ii. Identifies that the proposed use of the premise is that of a rental property; and,
  - iii. Requires that the Director be notified of any intended cancellation by the insurer no fewer than 14 days prior to such cancellation; and,
- i) Any other documentation or information as may be required in any other part of the By-law or this Schedule, and by the Director.

4.2 Every person applying for a license shall, in addition to completing the application provided for in this Schedule and in addition to the requirements under the General Provisions of By-law 07-170, provide the following additional materials in support of the license application:

- (a) Floor plan of the Rental Housing Unit including, for each room, its dimensions and proposed use, clearly indicating the location and number of bedrooms;
- (b) A site sketch that indicates the location of the Rental Housing Unit, any external garage/recycling facilities, and parking spaces (clearly indicate the number of spaces provided and their dimensions) for the Rental Housing Unit;
- (c) Evidence satisfactory to the Director confirming that the Rental Housing Unit and its proposed use complies with the *Electrical Safety Code*, O. Reg. 164/99;
- (d) Certificate of compliance from the City verifying that the Rental Housing Unit complies with the minimum maintenance requirement of the City's Property Standards By-law;
- (e) Certificate of zoning verification from the City;
- (f) Completed fire inspection from the City confirming compliance with the Fire Code;
- (g) A completed self-certification check list, as provided by the City;
- (h) A signed written statement that: The Licensee acknowledges that the Rental Housing Unit must comply with all relevant federal and provincial legislation, including the Ontario Human Rights Code, as well as all relevant municipal by-laws, and that they will comply with all of them; and,
- (i) Any other documentation or information as may be required in any other Part of the By-Law or by the Director.

## **5. ISSUANCE OF LICENCES**

5.1 Without limiting the requirements under the General Provisions of the By-law, every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- a) the Applicant or Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Rental Housing Unit;
- b) the Rental Housing Unit shall be in accordance with the requirements of the *Building Code Act* and the regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the regulations thereunder, and the City's Property Standards By-law 10-221;
- c) where the Rental Housing Unit is altered and a building permit is required to carry out the alterations, the Rental Housing Unit, as altered, shall be altered to the satisfaction of the City;
- d) the use of the Rental Housing Unit is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- e) the Applicant or Licensee shall not directly or indirectly require or cause a Tenant to refuse to consent to lawful entry and inspection of a Rental Housing Unit for the purpose of determining compliance with the By- law; and,
- f) the Licensee shall produce a copy of its tenant agreement immediately when requested to do so by an Officer.

5.2 A licence issued under the By-law shall be valid only for the number of bedrooms that were indicated on the application form.

5.3 A separate licence shall be required for each Rental Housing Unit.

- 5.4 No licence issued under this By-law may be sold or transferred.
- 5.5 The Licensee shall notify the Director of any change in ownership of the Rental Housing Unit and shall surrender his, her or its licence to the Director within seventy-two (72) hours of the completion of such change.
- 5.6 All licence fees and inspection fees related to this By-law shall be paid in accordance with the applicable fees and charges by-law, as may be passed and amended by the Council from time to time, and such licence fees and inspection fees paid shall be non-refundable;

## **6. POWERS OF THE DIRECTOR**

- 6.1 Notwithstanding any other provision in the By-law, the power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions on a licence are delegated to the Director.
- 6.2 (a) The Director shall issue a licence or renew a licence where the requirements or conditions of the By-law and this Schedule have been met:
  - (b) In addition to the powers granted to the Director under the General Provisions of the By-law, the Director may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:
    - i) The conduct of the Applicant or the Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords

- reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the Rental Housing Unit in accordance with the law or with honesty or integrity;
- ii) There are reasonable grounds to believe that an application or other documents provided to the Director by or on behalf of the Applicant or a Licensee contains a false statement;
  - iii) There are reasonable grounds to believe that the issuing of the licence would not be in the public interest;
  - iv) There are reasonable grounds to believe that the issuing of the licence would pose a threat to the health and safety of person or property;
  - v) An Applicant or Licensee is carrying on activities that are in contravention of the By-law;
  - vi) The Applicant or Licensee's Rental Housing Unit is subject to an order, or orders, made pursuant to or by:
    - 1) The City of Hamilton's Property Standards By-law No. 10-221, Property Maintenance (Yards) By-law No. 10-118, Snow and Ice By-law No. 03-296, By-law Respecting the Prohibition and Inspection of Marijuana Grow Operations (By-law 07-244), By-law to Prohibit and Regulate Fortification and Protective Elements of Land (By-law 10-122), or By-law to Regulate Enclosures for Privately-Owned Outdoor Pools (By-law 16-184);
    - 2) The *Building Code Act*, 1992 or any regulations made under it, including the Building Code;
    - 3) The *Fire Protection and Prevention Act*, 1997, as amended, or any regulation made under it, including the Fire Code; or
    - 4) The *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7
  - vii) An Applicant or Licensee does not meet all the requirements of the By-law or that the Rental Housing Unit does not comply with the provisions of the By-law;

viii) The Director has received an objection to the issuance or renewal of the license by:

- 1) the Chief Building Official;
- 2) the Fire Chief;
- 3) Medical Officer of Health; and/or,
- 4) chief planner for the City of Hamilton, or his or her designate.

6.3 The Director may reject an application or its renewal where any of the documents required by this By-law are incomplete or have not been filed.

6.4 Notwithstanding any other provision in the By-law, the Director may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as necessary in the opinion of the Director to give effect to this Schedule.

6.5 Before revoking or suspending a license, the Director shall consider:

- a) The impact of any such license revocation or suspension on any Tenant; and
- b) Imposing terms or conditions on any such license revocation or suspension that would minimize the adverse impact on Tenants, including the possibility of providing a reasonable time period before the license revocation or suspension takes place to permit Tenants to find new housing or to seek relief in a Court or before the Ontario Landlord and Tenant Board;

## **7. ENFORCEMENT**

7.1 This Schedule may be enforced by an Officer.

7.2 An Officer performing a duty under this By-law may be accompanied by a person under his or her direction.

**SCHEDULE 32** (23-005)

**SHORT-TERM RENTALS**

**1: DEFINITIONS**

1.1 For the purposes of this Schedule and any forms, contracts or policies prepared in relation to this Schedule:

**“Building Code Act”** means the *Building Code Act*, 1992, S.O. 1992, c. 23;

**“Building Code”** means Ontario Regulation 332/12 established under the Building Code Act;

**“By-law”** means the City’s By-law No. 07-170, a By-law to License and Regulate Various Businesses, as amended, and includes this Schedule 32;

**“User Fees and Charges By-law”** means the City’s user fees and charges by-law, as amended and as approved annually by Council;

**“Fire Protection and Prevention Act”** means the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4;

**“Fire Code”** means Ontario Regulation 213/07 established under the *Fire Protection and Prevention Act*;

**“Health Protection and Promotion Act”** means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H. 7;

**“Operator”** means any individual who operates a Short-Term Rental and does not include a corporation;

**“Principal Residence”** means a dwelling unit owned or rented by an individual, either alone or jointly with others, where the individual is ordinarily resident, makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving documentation related to identification, taxation and insurance purposes, driver’s licenses, income tax returns, medical plan documentation, vehicle registration and voter registration, or similar information;

**“Property Standards By-law”** means the City’s By-law No. 10-221, being a By-law to Prescribe Standards for the Maintenance and Occupancy of Property, as amended, or any successor by-law thereto;

**“Reservation”** means a booking or commitment between an Operator and a person that a Short-Term Rental will be available for the person’s use for a specified period of time;

**“Schedule”** means this Schedule 32 under the By-law;

**“Short-Term Rental”** means all or part of a dwelling unit used to provide sleeping accommodations to the travelling public for any rental period that is less than 28 consecutive days in exchange for payment or other remuneration;

**“Short-Term Rental Broker”** means any person who advertises, facilitates the advertisement of, or brokers Short-Term Rental Reservations via the internet, or otherwise, and who:

- (1) receives payment, compensation, or any financial benefit, due to, as a result of, or in connection with a person making or completing a Short-Term Rental Reservation; or
- (2) collects, accesses, or holds information on the number of nights that Reservations of any Short-Term Rental are made or completed;

This definition does not include a person who facilitates or brokers Reservations for a Short-Term Rental that is the Principal Residence of that person.

In this definition, “person” includes multiple persons who, acting together, carry on the business of a Short-Term Rental Broker, despite the fact that no single one of those persons carries on the activity in its entirety, and such may be held jointly and severally responsible for each other’s actions.

**“Zoning By-Law”** means a by-law enacted by the City under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13.

## **2. APPLICATION**

2.1 This By-law does not apply to:

- (a) a hotel, motel, inn, resort, bed and breakfast or tourist home as defined and regulated by the Ontario Building Code and/or Zoning By-law;
- (b) a residence operated by a post-secondary institution;

- (c) an accommodation rented out to tenants in accordance with the *Residential Tenancies Act, 2006*, S.O. 2006, C. 17.
- (d) a home for special care operated under the authority of a licence issued under the *Homes for Special Care Act*, R.S.O. 1990, c. H. 12;
- (e) a long-term care home operated under the authority of a licence issued under the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8;
- (f) a retirement home operated under the authority of a licence issued under the *Retirement Homes Act, 2010*, S.O. 2010, c. 11; or
- (g) a boarding, lodging or rooming house, as defined in the Building Code and/or Zoning By-law.

### **3. PROHIBITIONS**

- 3.1 No person shall operate a Short-Term Rental unless they have obtained a licence to do so from the City.
- 3.2 No person shall operate a Short-Term Rental unless the Short-Term Rental is that person's Principal Residence.
- 3.3 No person shall act as a Short-Term Rental Broker unless they have obtained a licence to do so from the City.
- 3.4 No person shall provide or advertise a Short-Term Rental without prominently displaying in each advertisement or listing:
  - (a) the Operator's licence number; and
  - (b) the maximum overnight guest limit as established by Section 4.9 of this Schedule;
- 3.5 No person shall fail to remove an advertisement for a Short-term Rental that is prohibited under this by-law within seven (7) days of becoming aware of the prohibition or receiving notice to do so by the Director.
- 3.6 No person shall provide or advertise a Short-Term Rental to a number of guests that is in excess of the overnight guest limit established in Section 4.9 of this Schedule.
- 3.7 No person shall provide or advertise a Short-Term Rental with a Short-Term Rental Broker that is not licenced in accordance with this By-law.

- 3.8 Every Short-Term Rental Broker and Operator is required to maintain insurance as specified in this Schedule.
- 3.9 No person who is required under this Schedule to maintain insurance shall fail to keep the policy in force for the period for which the licence is in effect, inclusive of any renewal period.
- 3.10 Any lapse in maintaining the insurance coverage required in this Schedule invalidates any licence issued under this By-law.

#### **4. OPERATORS**

- 4.1 To apply for an Operator's licence or its renewal, an applicant shall submit to the City the information required by this By-law, together with all applicable fees, as prescribed by the User Fees and Charges By-law.
- 4.2 An application for an Operator's licence shall be in a form approved by the Director and require the applicant to provide:
  - (a) The Operator's name, phone number and e-mail address;
  - (b) The address of the Operator's Short-Term Rental;
  - (c) A floor plan showing the square footage of the residential unit in which the Short-Term Rental will be located including the number of bedrooms in the Short-Term Rental, along with the number of smoke alarms and carbon-monoxide detectors and their respective locations;
  - (d) A description of what parts of the property will be used for Short-Term Rental;
  - (e) A description of the type of building in which the Short-Term Rental is located;
  - (f) The number of off-street parking spaces available for the Short-Term Rental;
  - (g) The guest information package, as further described in section 4.16;
  - (h) A detailed fire escape plan;
  - (i) Proof of adequate insurance coverage in accordance with section 4.17;
  - (j) Approval of condo board and/or owner of property, if applicable

- (k) Statutory declaration that the property is in compliance and will be maintained in compliance with the *Fire Protection and Prevention Act* and any regulations made thereunder including the Fire Code;
  - (l) Zoning verification for secondary dwelling units;
  - (m) The name and telephone number of an emergency contact person who will be available 24 hours a day during rental periods;
  - (n) List of companies used to advertise the listing;
  - (o) Government-issued identification that is satisfactory to the Director to demonstrate the Short-Term Rental is the Operator's Principal Residence;
  - (p) The applicant's original criminal record, provided that if no original criminal record exists, the applicant shall submit instead original certification from the police that no such record exists;
  - (q) A list of any criminal or provincial offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original criminal record submitted; and
  - (r) Any other information or documents required by the Director.
- 4.3 No Short-Term Rental Operator's licence shall be issued to a corporation and no more than one Short-Term Rental Operator licence per Operator is permitted.
- 4.4 An applicant for an Operator's licence or its renewal shall be an individual who is 18 years of age or older.
- 4.5 All licences issued to Operators shall be issued a unique licence number and will be valid for one year after issuance. Operators may renew their licences annually by paying the applicable fees and submitting the required documents.

*Principal Residence Requirement.*

- 4.6 For the purpose of this By-law, an Operator shall be deemed to have only one Principal Residence at any time.
- 4.7 No Operator shall rent or advertise a property for Short-Term Rental unless it is the Operator's Principal Residence at that time.

*Limitations regarding rentals*

- 4.8 No Operator shall exceed the maximum limit for overnight guests of two (2) persons per sleeping room. For the purpose of this requirement, children that are two (2) years old or younger are exempt.
- 4.9 Operators shall ensure that their respective secondary dwelling units comply with the Zoning By-law and are recognized by the City through the issuance of a building permit and undergo inspections to confirm compliance with the Property Standards By-law, *Building Code Act, and Electricity Act, 1998, S.O. 1998, c. 15, Sched. A.*
- 4.10 All Operators shall post their fire escape plan on all floors of their building in a conspicuous place.
- 4.11 All Operators shall have working smoke alarms and carbon monoxide detectors in their buildings in accordance with the Fire Code.

*Requirements regarding guests and collection of information*

- 4.12 Every Operator shall keep a record of each concluded transaction related to the Operator's Short-Term Rental for three years following the date of the transaction. A transaction is concluded on the last day of the rental period. The records retained shall include the following:
  - (1) The number of nights the Short-Term Rental was rented;
  - (2) The nightly and total price charged for each rental; and
  - (3) Any other information required by the Director.
- 4.13 Every Operator shall provide the information referred to above to the City within 30 days of being requested to do so by the Director.
- 4.14 Every Operator shall provide the guest who made the reservation with an information package for each rental period:
  - (a) Electronically at the time of booking; and
  - (b) Within the residential unit, in a printed document that is visible and accessible to all guests.
- 4.15 The information package prescribed above shall include:
  - (a) contact information for the Operator or person who is available to receive communications from any guest during the rental period;
  - (b) instructions for use of the 9-1-1 emergency system;

- (c) the name and address of the nearest two (2) hospitals or emergency medical services providing emergency care;
- (d) non-emergency contact information for Hamilton Police Service;
- (e) a floor plan for the residential unit indicating emergency evacuation routes and the location of safety equipment;
- (f) notice to guests of the presence of any system onsite that is making video or audio recordings or photographs;
- (g) instructions for solid waste disposal, to include information on the applicable waste collection day and instruction for composting and recycling;
- (h) instruction for legal parking onsite and in the vicinity of the property, as applicable; and
- (i) copy of the applicable Operator licence, occupancy limits and any conditions imposed on the licence.

### *Insurance*

- 4.17 Every Operator shall have and maintain Homeowners Insurance, Condominium Insurance, or Renters Insurance, as appropriate, that includes the following:
- (a) coverage for Short-Term Rental or home sharing activity that is appropriate for the nature of the property,
  - (b) Host Liability or Commercial General Liability coverage of not less than One Million Dollars (\$1,000,000.00) per occurrence for personal injury, bodily injury, death, and damage to property, and,
  - (c) a provision that the City will be notified with no less than thirty (30) days written notice of any cancellation.

## **5. SHORT-TERM RENTAL BROKERS**

- 5.1 To obtain a Short-Term Rental Broker licence with the City, an applicant shall submit to the City the information required in this By-law together with all applicable fees, as prescribed in the User Fees and Charges By-law.
- 5.2 A person may apply for a licence as a Short-Term Rental Broker by providing the Director with the following:

- (a) A completed application form prescribed by the Director containing:
    - (i) the full name of the applicant;
    - (ii) if the applicant is a corporation, the relevant duly certified incorporating documents and an updated certified copy of an annual return with a list of shareholders of the corporation;
    - (iii) If the applicant is a partnership, certified documents indicating the name of the partnership and the names and addresses of each partner; and
  - (b) Proof that the applicant is eighteen (18) years of age or older, if the applicant is a natural person;
  - (c) The address of a place of business in the Province of Ontario, which is not a post office box, to which the Director may send during business hours any notice or documentation or communication that may be required under this By-law and which the applicant or the applicant's agent will accept receipt of such notice, documentation or communication;
  - (d) The name, telephone number and e-mail address of a designated representative;
  - (e) Proof of insurance as required under this Schedule;
  - (f) Details of the process by which the company will remove advertisements for a Short-Term Rental if its Operator has not obtained a licence from the City;
  - (g) Details of the company's procedure for dealing with problem Operators and responding to complaints; and
  - (h) Any other information or documents required by the Director.
- 5.3 In any of the above required information changes during the term of the licence, the Short-Term Rental Broker shall notify the City at its earliest convenience.
- 5.4 A Short-Term Rental Broker licence shall be valid for five (5) years and may be renewed by paying the applicable fees and submitting the required documents pursuant to this By-law.

#### *Data Collection*

- 5.5 A Short-Term Rental Broker shall execute an agreement with the City governing the collection, use, disclosure and retention of information on Short-Term Rentals, Operators and guests, on terms satisfactory to the Director and City Solicitor.
- 5.6 If required by law, a Short-Term Rental Broker shall obtain the consent of the Operators and guests for the collection, use and potential disclosure of the Operator's and guest information to and by the City for the purpose of the administration of this By-law, as amended from time to time, or its successor by-laws.
- 5.7 Every Short-Term Rental Broker shall keep a record of each concluded transaction in relation to a Short-Term Rental listed or advertised on its platform in the city of Hamilton for three years following the last day of the rental period. A transaction is concluded on the last day of the rental period. The records retained shall include the following:
- (a) The listing identification number and corresponding licence number of each Short-Term Rental listing for which it has provided Short-Term Rental Broker services;
  - (b) The total number of nights each Short-Term Rental listing has been rented in each calendar year or part thereof;
  - (c) The total amount of revenue collected for accounts associated with each Short-Term Rental listing in each calendar year, or part thereof;
  - (d) The total number of complaints received by the Short-Term Rental Broker in respect of each Short-Term Rental in each calendar year or part thereof; and
  - (e) Any other information required by the Director.
- 5.8 No Short-Term Rental Broker shall fail to remit to the Director the records required above every three (3) months during the licence term.
- 5.9 No Short-Term Rental Broker shall fail to make available to the Director the records or information required pursuant to this Schedule for a specific Short-Term rental listing within seven (7) days following a request to do so.
- 5.10 Every Short-Term Rental Broker shall make available to the City the number of Short-Term Rental listings or advertisements that have been removed from its platform in accordance with section 3.5 of this Schedule.
- 5.11 Every Short-Term Rental Broker shall maintain and make publicly available its procedure for dealing with complaints it receives about nuisances, criminal activity,

and or contravention of federal, provincial or municipal law related to a Short-Term Rental.

- 5.12 Every Short-Term Rental Broker shall have and maintain a system for receiving and responding to complaints from the public.
- 5.13 Every Short-Term Rental Broker shall convey any communications issued by the Director that relate to the requirements of this By-law to all Operators listing or advertising their Short-Term Rental with the Short-Term Rental Broker in a format and manner prescribed by the Director.

### *Insurance*

- 5.14 Each Short-Term Rental Broker shall have and maintain:
- a) **Commercial General Liability Insurance** subject to limits of not less than two million dollars (\$2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use, that includes: blanket contractual liability, premises and operations liability, products and completed operations liability, contingent employers liability; personal injury, owners and contractors protective coverage; broad form property damage; occurrence property damage; employees as additional insured, and cross liability and severability of interest provision to the satisfaction of the City;
  - b) **Comprehensive Crime Insurance**, broad form coverage *endorsed to include third parties* to adequately protect against loss of monies, securities or other properties, while such property is in the Broker's care, custody, and control, for dishonesty, disappearance and destruction, to protect against incidents arising out of but not limited to theft, robbery or burglary; having a limit of not less than \$50,000) for Employee Dishonesty (Commercial Blanket Form A), Loss inside the Premises, and Loss outside the Premises and Computer Funds Transfer Fraud.
  - c) **Cyber Liability and Privacy Breach Liability** insurance in an amount of not less than \$1,000,000 per occurrence, to protect against privacy breach and violations as a result of but not limited to unauthorized access to or wrongful disclosure or dissemination of any private information, failure to properly handle, manage, store, destroy or control personal or confidential information and include the failure to comply with any privacy laws;
    - i. extend to include the costs associated with notification of affected parties including credit monitoring costs for those individuals, regardless if required by statute as well as any third party fines or penalties or costs imposed as a result of any privacy or cyber

breach including judgements, settlements, or defense of any regulatory action involving a breach of privacy;

- ii. Privacy breach expenses including crisis management and credit monitoring expenses related to electronic and non-electronic breaches to a limit of not less than \$1,000,000;

5.15 The insurance provided in accordance with the above shall name the City as additional insured.

5.16 The insurance provided in accordance with the above shall include an endorsement to provide the City with no less than 30 days prior notice of any cancellation.

## **6. GENERAL REQUIREMENTS**

6.1 No person shall enjoy a right in the continuance of a licence and at all times the value of a licence shall be the property of the City.

6.2 No person shall sell or transfer a licence issued under this Schedule.

6.3 No person licensed under this Schedule shall advertise, promote or carry on business under any name other than that endorsed upon that person's licence.

6.4 The City shall, upon receipt of an application for a licence, or its renewal, investigate as necessary with respect to the application and shall:

(1) if there are any reasonable grounds to believe that the applicant may not be entitled to the issuance or renewal of a licence based on the criteria identified in this By-law, send notice of this fact to the applicant; or

(2) subject to the provisions of this By-law, issue or renew the licence, with or without conditions and send the appropriate notice to the applicant.

6.5 In addition to the criteria in section 12 of By-law 07-170, the Director shall issue or renew a license to any person who meets the requirements of this By-law, except where:

(1) the conduct, or past conduct, of the person affords the Director reasonable grounds to believe that the person has not or will not carry on the Short-Term Rental or the Short-Term Rental Broker business in accordance with applicable law or with honesty and integrity;

- (2) the applicant is a corporation and its conduct or the conduct of its officers, directors, employees, or agents afford reasonable grounds to believe that its business has not been, or will not be carried on in accordance with law or with integrity and honesty;
  - (3) The Director reasonably believes that the issuing of a license to a person could be adverse to the public interest;
  - (4) The Director reasonably believes that the carrying on of the Short-Term Rental or Short-Term Rental Broker business by the applicant has resulted, or will result, in a breach of this By-law, a Zoning By-law or any other law;
  - (5) The Director has reasonable grounds to believe that the premises, advertising, or platform in respect of which the licence is required have not complied or will not comply with the provisions of this By-law, a Zoning By-law or any other law;
  - (6) The lot and/or building on which the Short-Term Rental is situated is subject to an order, or orders, made pursuant to (or by): the Property Standards By-law, the *Building Code Act*, the *Fire Protection and Prevention Act*, the *Health Protection and Promotion Act* or any regulations made thereunder;
  - (7) The Short-Term Rental, the building in which it is situated, or the lot on which the building is situated is not in compliance with the applicable Zoning By-law;
  - (8) The person or the subject lot is indebted to the City by way of fines, penalties, judgements or outstanding (past due) property taxes; or
  - (9) The conduct of the applicant or other circumstances afford reasonable grounds to believe that the operation of the Short-Term Rental or the acting as Short-Term Rental Broker by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health and safety.
- 6.6 Where an applicant for a Short-Term Broker licence is a corporation or a partnership, section 6.5 shall apply to any of the officers or directors of the corporation or partners in the partnership.
- 6.7 The Director may deny the issuance or renewal of a license where the applicant has been convicted within the past five (5) years of a criminal offence for which a pardon has not been granted.
- 6.8 The collection, use, disclosure, transmission, retention and destruction of personal information by any Operator or Short-Term Rental Broker must be conducted in accordance with the requirements of PIPEDA.

## **7. ENFORCEMENT**

- 7.1 Notwithstanding anything else in this By-law, for the purpose of investigating compliance with the By-law, the Director may audit or examine all books, records and any account, voucher, letter, facsimile, and electronic or other document held by a Short-Term Rental Broker or Operator that relates or may relate to information that is or should be in the person's books or records.
- 7.2 A Short-Term Rental Broker and Operator shall comply with all audit directions given by the Director within the time he or she specifies, including;
- (a) Giving the Director all reasonable assistance with their audit or examination;
  - (b) Answering all questions relating to the audit or examination either orally or, if the Director requires, in writing, on oath or affirmation, or by statutory declaration;
  - (c) Attending at a premise or place where the business is carried on or any City office for the purposes of giving the Director reasonable assistance and answering questions related to the audit or examination; and
  - (d) Producing on oath or affirmation or otherwise all books, letters, accounts, invoices, financial statements, electronic or such other documents as the Director considers necessary to determine compliance with this By-law.
- 7.3 Any person authorized by the Director may at all reasonable times and in accordance with any applicable requirements in the *Municipal Act, 2001*, as amended, inspect any premises used for the carrying on of any business in respect of which a person is required to be licensed under this Schedule.
- 7.4 No person who has or is required to have a licence under this Schedule shall obstruct or permit to be obstructed the making of the inspection.
- 7.5 If requested by the City, an inspection shall be scheduled and conducted within seven (7) days of the City's request.

## **8. DIRECTOR AUTHORITY AND ADMINISTRATIVE PROVISIONS**

- 8.1 The Director may, at their discretion, issue interpretation bulletins or guidelines on matters relating to this Schedule, including its enforcement or application
- 8.2 The Director may establish standards and guidelines applicable to the issuance, renewal or entitlement to all licences issued under this Schedule.

- 8.3 The Director may delegate any authority or function provided for in this Schedule to any employee of the City designated by the Director.
- 8.4 All communication relating to this Schedule between the City and an applicant or licensee, shall be sent via e-mail to the e-mail address most recently provided to the City as part of the licensing process under this Schedule, except where another method is authorized by the Director.
- 8.5 Any e-mail sent in accordance with 8.4 shall be deemed for the purposes of this Schedule to have been received by the addressees on the day it is sent.
- 8.6 All records and information that must be maintained by a Short-Term Rental Broker or Operator or that may be audited, examined or collected by the City under this Schedule are deemed to be collected and properly used for the purposes of administrating and enforcing this By-law.

