



THE CORPORATION OF THE TOWN OF WHITBY

Business Licensing

A by-law for licensing, regulating and governing certain businesses carried on within the Town of Whitby – Legal and Enforcement Services Department

This document has been reproduced for convenience only and is a consolidation of "Business Licensing By-law # 5545-04", adopted by the Council of the Town of Whitby on December 13, 2004.

Definitions

1. In this by-law,
 - a. "adult entertainment establishment" means any premises or part thereof in which,
 - (a) goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided; or,
 - (b) body-rubs, including the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body, are performed, offered or solicited in the premises or part of the premises, but does not include premises or part of them where body-rubs performed, offered or solicited are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise qualified, licenced or registered to do so under the laws of the Province of Ontario;
 - b. "auctioneer" means a person who sells or puts up for sale goods, wares, merchandise, or effects by public auction, but does not include a sheriff or bailiff offering for sale goods or chattels seized under execution or distraint for rent;
 - c. "Chief of Police" means the Chief of Police of the Regional Municipality of Durham or his/her designate;
 - d. "Clerk" means the Clerk of the Corporation of the Town of Whitby or his/her designate;
 - e. "Corporation" means the Corporation of the Town of Whitby;
 - f. "Council" means the Council of the Corporation of the Town of Whitby;
 - g. "Fire Chief" means the Fire Chief of the Corporation of the Town of Whitby or his/her designate;
 - h. "food premises" includes any premises or part thereof where food intended for human consumption is made for sale, offered for sale or sold and includes a bakeshop, a butcher shop and a restaurant but does not include a lodging house or a refreshment vehicle;

- i. (Repealed by By-law No. 7398-18);
- j. "lodging house" means a nursing home and any house or other building or portion of it in which four or more persons are lodged for hire but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if it is licenced, approved or supervised under any act other than the Municipal Act, 2001, 5.0. 2001, c.25, as amended, or any successor legislation in substitution thereof;
- k. "Medical Officer of Health" means the Medical Officer of Health of the Regional Municipality of Durham or his/her designate;
- l. "municipal law enforcement officer" means a municipal law enforcement officer appointed by the Council of the Corporation of the Town of Whitby;
- m. "municipal licensing and standards committee" means the Municipal Licensing and Standards Committee appointed by Council;
- n. pawnbroker" means a person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon;
- o. "person" means an individual, firm, corporation, association or partnership;
- p. "police officer" means a Chief of Police or other police officer but does not include a municipal law enforcement officer;
- q. (Repealed by By-law No. 7125-16);
- r. "salvage yard" includes an automobile wrecking yard or premises and a salvage shop;
- s. "second hand shop" means a store or other place where second hand goods are purchased, sold or exchanged but does not include a pawn shop;
- t. (Repealed by By-law No. 7398-18);
- u. "Town" means the Corporation of the Town of Whitby.

Licences

2.

- (1) No person shall carry on within the Town any business listed in Schedule "1" attached to and forming part of this by-law, unless he/she has obtained from the Town a licence authorizing him/her to carry on the business.
- (2) Every person who holds a licence shall in carrying on the business for which the licence is issued comply with this by-law and the provisions of the schedules to this by-law that relate to the business and the schedules shall form part of this by-law.

Applications

3.

- (1) Every person who requires a licence under the provisions of this by-law for any business shall,
 - (a) apply to the Clerk upon such form or forms as may be prescribed from time to time by the Town;
 - (b) provide any documents required under the applicable schedule to this by-law; and,
 - (c) pay the applicable licence fee set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17)
- (2) If for any reason a licence is not issued, the licence fee shall not be refunded.
- (3) The licence fee shall not be reduced or pro rated for any reason.
- (4) Where a partnership or an association applies for a licence, the names and addresses of each member of the partnership or association shall be set out in the application.

Processing and Issuance

4.

- (1) The Clerk shall, upon receipt of an application for a business licence, make or cause to be made all investigations considered necessary or which are required by law or by the Town relative to the application and,

without limiting the scope of this Section, the Clerk may ask for the written approval of any or all of the following:

- (a) the Medical Officer of Health;
 - (b) the Durham Regional Police Service;
 - (c) the Town Fire and Emergency Services Department;
 - (d) the Town Planning Department;
 - (e) the Town Public Works Department; and,
 - (f) the Town Treasury Department.
- (2) If the investigations made by the Clerk do not disclose any reason to believe the applicant's carrying on of the business may result in a breach of this or any other by-law or may be contrary to the public interest, the Clerk shall issue the business licence.

Refusal to Issue or Renew

5.

- (1) If the investigations made by the Clerk do disclose any reason to believe the applicant's carrying on of the business may result in a breach of this or any other by-law or may be contrary to the public interest, the Clerk shall refuse to issue the business licence.
- (2) If the applicant is not satisfied with the decision of the Clerk to refuse the licence, the applicant may appeal the Clerk's decision to the Municipal Licensing and Standards Committee by written notice delivered to the Clerk and the decision of the Clerk shall be effective until the appeal is disposed of by the Municipal Licensing and Standards Committee.

Renewal of Licences

6.

- (1) An application for renewal of a business licence made after the expiry date of the licence shall be treated as an application for a new business licence.
- (2) The term of a business licence shall be one year from the date of issue of the licence unless it is sooner surrendered, suspended or revoked.

Transfer of Licences

7.

- (1) All business licences issued under this by-law shall be personal to the holder of the licence and shall not be transferred.
- (2) No person shall enjoy a vested right in the continuance of a business licence and upon the issuance, renewal, surrender; suspension or revocation thereof, the value of the licence shall be the property of the Town.
- (3) No person owning or operating licenced premises under this by-law shall move the business from one location to another within the Town without first having obtained from the Town a new business licence in respect of the new location.
- (4) No person owning or operating a vehicle licenced under this by-law shall transfer the licence from one vehicle to another it being understood that a new business licence shall be required in respect of the new vehicle.

Posting of Licence

8.

Every person obtaining a licence under this by-law,

- (a) where the licence applies to premises, shall keep the licence posted up in a conspicuous place on the premises in respect to which the licence is issued;
- (b) where the licence applies to the person, shall keep on his/her person the licence; and,
- (c) where the licence applies to a vehicle, shall keep the licence in the vehicle and where plates are issued, shall mount the plates on the vehicle in the manner required by this by-law.

Investigations

9.

- (1) The Chief of Police, Clerk, Fire Chief, Medical Officer of Health, a municipal law enforcement officer or a police officer may at all reasonable times,
 - (a) inspect a building, place, premises or vehicle that is used for a business for which a person is licenced or is required to be licenced under this by-law; and,
 - (b) inspect the books, records or other documents of the business.
- (2) No person shall hinder or obstruct an inspection authorized by this by-law or cause such an inspection to be hindered or obstructed.
- (3) Every person who obtains a licence under this by-law shall produce the licence when requested to do so.

Revocation and Suspension

10.

- (1) The Clerk may suspend, for cause, any licence issued under this by-law until the next meeting of the Municipal Licensing and Standards Committee.
- (2) The Municipal Licensing and Standards Committee may, for cause, revoke or suspend or refuse to issue or renew any licence to which this by-law applies but before doing so the applicant/licensee shall be permitted either by himself/herself or his/her representative to appear before the Municipal Licensing and Standards Committee to show cause why he/she believes such licence should be granted.
- (3) The decision of the Municipal Licensing and Standards Committee respecting any licence required under this by-law shall be final.
- (4) On suspension or revocation of a licence issued under this by-law, the licensee shall return to the Town all licences and all plates where applicable issued by the Town with reference to such licence, and no person shall refuse to deliver the plates to the Clerk or a municipal law enforcement officer or shall, in any way, prevent or hinder such persons from receiving or taking the same.

Penalties

11. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction thereof is liable to a fine or penalty for each offence, exclusive of costs, as prescribed by the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, or any successor legislation in substitution thereof.

Severability

12. In the event any provisions of this by-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

Short Title

13. This by-law may be referred to as the Business Licensing By-law.

Repeal of Existing By-laws

14. By-law No.s 4817-01, 4873-01, 4874-01 and 5156-02 are repealed.

Effective Date

15. The provisions of this by-law shall come into force and take effect on the final passing thereof.

By-law read a first, second and third time and finally passed this 13th day of December, A.D., 2004.

Original signed and sealed.

Schedule "1"
To By-Law No. 5545-04

Class of Business

Adult Entertainment Services Establishment

Adult Entertainment Body-Rub Establishment

Attendant

Operator

Owner

Auctioneer

Exhibition

Food Premises

Lodging House

Pawnbroker

Salvage Yard/Salvage Shop/Second

Hand Shop Licence

Schedule "8"

To

By-Law No. 5545-04

Relating to Lodging Houses

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on lodging houses for the purposes of health and safety and consumer protection;

Now therefore, the Council of the Corporation of the Town of Whitby enacts as follows:

1. In this Schedule,
 - (a) "lodging house resident" means a person harboured, received or lodged for hire in a lodging house; and,
 - (b) "personal care" means care, supervision and assistance in the routines of daily life required due to the effects of age or disability of body or mind and includes, but is not limited to, assistance with dressing, care and cleanliness of the body, mobility needs and administration of medication.

Lodging House Licence

2. No person shall establish, operate, maintain or keep a lodging house within the corporate limits of the Town of Whitby except under the authority of a licence issued under this by-law.
3. Every keeper of a lodging house shall provide accommodation and furnishing in and about the house in accordance with the following standards:
 - (1) Bedroom
 - (a) Every bedroom shall comply with the Building Code Act, 1992, and regulations made thereunder as may be amended

from time to time and any successor legislation in substitution thereof;

- (b) Not more than four unrelated residents shall occupy any one bedroom;
- (c) Every bedroom shall be furnished with a bed, chair, closet and chest of drawers for each unrelated resident occupying the bedroom;
- (d) No bed shall be closer than 75 centimetres (30 inches) to any other bed and bunk-beds and cots shall not be permitted;
- (e) There shall be an adequate supply of clean linen and blankets for each bed. Bedsheets shall be changed at least once a week or with such greater frequency as may be necessary; and,
- (f) No cooking facilities shall be permitted in any bedroom.

(2) Dining Room

Every lodging house in which meals are provided shall contain a dining room which shall be separate from other rooms in the house and shall contain at least .95 square metres (10.2 square feet) of floor space for each resident to a maximum of 50% of the total number of permitted residents. Every dining room shall be capable of accommodating at one sitting at least 50% of the permitted residents of the house.

(3) Sitting Room

An indoor sitting room shall be provided in addition to bedroom space and dining room space.

(4) Outdoor Sitting Area

An outdoor sitting area shall be provided and such area shall be clean, accessible and partially shaded and contain seating

adequate to accommodate at least 50% of the residents at any one time.

(5) First Aid Equipment

At least one first aid kit approved by the Medical Officer of Health shall be provided in every lodging house.

(6) Washing, Bathing and Toilet Facilities

Washing, bathing and toilet facilities shall comply with the Building Code Act, 1992, and regulations made thereunder as may be amended from time to time and any successor legislation in substitution thereof.

(7) Heating

Every lodging house shall be provided with a heating system capable of maintaining a room temperature of 21 degrees Celsius at .9 metres (3 feet) above floor level and .9 metres (3 feet) from the exterior walls in all habitable rooms, bathrooms and toilet rooms when the temperature outside the lodging house is -21 degrees Celsius. A minimum temperature of 21 degrees Celsius shall be maintained in all habitable rooms, bathrooms and toilet rooms between the 1st day of October and the 31st day of May in each calendar year and a minimum temperature of 20 degrees Celsius shall be maintained in all such rooms at all other times of the year.

(8) Illumination

Every keeper of a lodging house shall provide and maintain illumination in accordance with the provisions of the Building Code Act, 1992, and regulations made thereunder as may be amended from time to time and any successor legislation in substitution thereof.

(9) Fire Safety

Every keeper of a lodging house shall ensure that the lodging house and equipment contained in the house comply with the Fire

Protection and Prevention Act, 1997 and regulations made thereunder as may be amended from time to time and any successor legislation in substitution thereof.

(10) Telephone

Every keeper of a lodging house shall provide a telephone which is accessible at all times to residents for emergency use.

Records

4. (1) Every keeper of a lodging house shall keep and maintain in the house written records with respect to each resident showing,
 - (a) the resident's full name;
 - (b) the last place of residence of the resident; and,
 - (c) the date the resident took up residence at the lodging house.
- (2) Where a resident stays in a lodging house for more than seven days, the keeper of the lodging house shall also keep a record showing,
 - (a) the name, address and telephone number of next of kin or, where there is no next of kin, the name, address and telephone number of a close family or personal friend;
 - (b) the resident's Social Insurance Number;
 - (c) the resident's Ontario Health Insurance Plan Number; and,
 - (d) the date the resident left the lodging house, if applicable, and the new address of the former resident.
- (3) Every keeper of a lodging house shall post in a conspicuous place in the house a list of emergency telephone numbers.

Health and Hygiene

5. Every keeper of a lodging house shall,
 - (a) ensure that every resident maintains a satisfactory level of personal hygiene; and,
 - (b) ensure the cleaning and disinfection of all rooms, equipment, etc., are carried out in accordance with the provisions of the Health Protection and Promotion Act and regulations made thereunder as may be amended from time to time and any successor legislation in substitution thereof.

Nutrition

6.
 - (1) Every keeper of a lodging house offering board shall provide each resident of the house with at least three meals per day which conform to the Canada Food Guide.
 - (2) Every keeper of a lodging house in which meals are provided shall post in the dining room a menu of meals for the seven days following the date of posting. Every such menu shall bear the date of posting and the meal times. Menus shall be kept for six months following the date of posting.
 - (3) The provisions of Subsection 6(1) of this Schedule are of general application and shall be modified by the lodging house keeper in individual cases when so instructed in writing by a physician.

Staff

7. Every keeper of a lodging house shall,
 - (a) have at least one person with a current first aid certificate on duty in the lodging house at all times; and,

- (b) have sufficient staff on duty in the house at all times to provide adequate care for the residents and to ensure the safety of the residents in emergencies and to maintain the house in a clean and sanitary condition.

Refuse Disposal

- 8. Every keeper of a lodging house shall insure rubbish and garbage are stored in receptacles which are,
 - (a) insect and rodent proof
 - (b) water tight;
 - (c) provided with a tight fitting cover; and,
 - (d) maintained in a clean condition.

Personal Care

- 9. Every keeper of a lodging house in which personal care is provided to the residents shall,

Service Contract

- (a) enter into a written service contract with each resident, in a form approved by the Medical Officer of Health, which contract shall contain provisions respecting,
 - (i) the services the keeper provides to the residents;
 - (ii) the rates for accommodation and services; and,
 - (iii) admission and discharge requirements.

Financial Records

- (b) where the keeper provides financial services to a resident, keep a financial record which shall include,
 - (i) all sums received from or on behalf of the resident and the dates on which the monies were received;
 - (ii) all sums given to the resident by the keeper and the dates on which the monies were given; and,
 - (iii) itemized receipts and invoices for each expenditure made onand such keeper shall provide the resident with a copy of his/her financial record monthly.

Medical Records

- (c) where the keeper provides medical services to a resident, keep a medical record which shall include,
 - (i) the examination and medical history, to be made and taken on admission to the lodging house and at least annually thereafter, by a duly qualified medical practitioner;
 - (ii) the name, address and telephone number of the resident's personal physician;
 - (iii) all accidents and illnesses happening to or suffered by a resident while living in the lodging house together with the treatment prescribed and administered; and,
 - (iv) with respect to prescription drugs dispensed by the keeper, the name and address of the prescribing doctor and the times and dates when the drug was administered to the resident.
- (d) exercise control of storage and administration of medications and without limiting the generality of this Clause shall,
 - (i) keep all prescription drugs in one or more locked drug cabinets;

- (ii) ensure that prescription drugs are made available only to those residents for whom they have been prescribed, as directed by a physician; and,
 - (iii) ensure that all drug cabinets contain a detailed list of contents which is kept up to date on a daily basis and is available for inspection on request;
- (e) provide access to local home care programs to residents requiring minimal, short term bed care;
- (f) where a resident's condition deteriorates, or where a resident requires continuing care, ensure, where appropriate, such resident is transferred to a facility where his/her care needs can be accommodated;
- (g) ensure that all personnel working in the lodging house are tuberculin tested and/or chest x-rayed at the commencement of employment and thereafter at least once every two years.

Activity Programs

- (h) make newspapers, magazines, books, a radio, a television set, stimulating games and playing cards available to the residents;
- (i) encourage in the residents an interest in crafts, community recreation and activities;
- (j) arrange for residents to participate in appropriate community recreation, activity, and training programs; and,
- (k) refer residents to appropriate persons or agencies for such guidance, information and counselling as may be required.

Lodging House Capacity

10. (1) No keeper of a lodging house shall harbour, receive or lodge more than ten residents in a lodging house.
- (2) Every keeper of a lodging house shall provide a minimum of 9.29 square metres (100 square feet) of habitable floor space in the lodging house for each resident.

Exceptions

11. (1) The provisions of this by-law shall not apply to a lodging house in which less than four (4) residents are harboured, received or lodged.
- (2) Despite the provisions of Subsection 10(1) of this Schedule,
 - (a) a maximum of seventeen (17) residents shall be permitted at the lodging house located at 206 Byron Street South; and,
 - (b) a maximum of twenty (20) residents shall be permitted at the lodging house located at 425 Dundas Street East,provided the lodging house complies in all other respects with the provisions of this by-law governing lodging houses and it continues, without interruption, to be used as a lodging house.