



THE CORPORATION OF THE TOWN OF WHITBY

Business Licencing

A by-law for licencing, regulating and governing certain businesses carried on within the Town of Whitby.

By-law # 5545-04

Consolidated Version

As amended by By-laws:

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# 7220-17	January 30, 2017
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Table of Contents

Definitions.....	5
Licences.....	6
Applications.....	7
Processing and Issuance.....	7
Refusal to Issue or Renew.....	8
Renewal of Licences.....	8
Transfer of Licences.....	8
Posting of Licence.....	9
Investigations.....	9
Revocation and Suspension.....	10
Penalties.....	10
Severability.....	11
Short Title.....	11
Repeal of Existing By-laws.....	11
Effective Date.....	11
Schedule "1".....	12
Class of Business.....	12
Schedule "2".....	13
Relating to Adult Entertainment Services Establishment.....	13
Schedule "3".....	16
Relating to Adult Entertainment Body-rub Establishments.....	16
Schedule "4".....	23
Relating to Auctioneers.....	23
Schedule "5".....	25
Relating to Exhibitions, Festivals, Menageries, Circuses, Midways, Carnivals or Other Shows Usually Exhibited by Showmen.....	25
Schedule "6".....	28
Relating to Food Premises.....	28
Schedule "7".....	29
Repealed by By-law No. 7398-18.....	29

Schedule "8"	30
Relating to Lodging Houses	30
Schedule "9"	39
Relating to Pawnbrokers	39
Schedule "10"	40
Repealed by By-law No. 7125-16	40
Schedule "11"	41
Relating to Salvage Yards, Salvage Shops, Second-Hand Shops and Second- Hand Dealers	41

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. "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;
- n. "person" means an individual, firm, corporation, association or partnership;
- o. "police officer" means a Chief of Police or other police officer but does not include a municipal law enforcement officer;
- p. (Repealed by By-law No. 7125-16);
- q. "salvage yard" includes an automobile wrecking yard or premises and a salvage shop;
- r. "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;
- s. (Repealed by By-law No. 7398-18);
- t. "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 Council by written notice delivered to the Clerk and the decision of the Clerk shall be effective until the appeal is disposed of by the Council.

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 Council.
- (2) The Council 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/licencee shall be permitted either by himself/herself or his/her representative to appear before the Council to show cause why he/she believes such licence should be granted.
- (3) The decision of the Council 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 licencee 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 "2"
To
By-Law No. 5545-04

Relating to Adult Entertainment Services Establishment

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on adult entertainment services establishments for the purposes of health and safety, nuisance control, and consumer protection;

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

1. In this Schedule,
 - (a) "adult entertainment services establishment" means any premises or part thereof in which entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided but does not include premises or part thereof in which is provided, in pursuance to a trade, calling, business or occupation body-rubs or goods appealing to erotic or sexual appetites or inclinations;
 - (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, pre-recorded magnetic tape and any other reading, viewing or listening matter;
 - (c) "services" includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the Theatres Act, R.S.O. 1990, c. T.6, as may be amended from time to time and any successor legislation in substitution thereof;
 - (d) "services designed to appeal to erotic or sexual appetites or inclinations" includes services of which a principal feature or characteristic is the nudity or partial nudity of any person, and 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; and,
 - (e) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have

corresponding meanings.

2. (Administrative numbering error)
3. No person shall own or operate an adult entertainment services establishment within the Town without having first obtained an adult entertainment services establishment licence from the Corporation and having paid the licence fee in accordance with the Fees and Charges By-law. (Amended by By-Law No. 7220-17)
4. No more than one (1) adult entertainment services establishment licence shall be granted by the Corporation it being understood that an application to renew such a licence shall take precedence over an application for a new licence and shall be processed accordingly.
5. No owner or operator of an adult entertainment services establishment shall use or permit to be used any sign or any other advertising device save and except a sign or other advertising device containing the words "adult entertainment establishment", and the name under which the business is operated provided such name does not include any of the following words: "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication.
6. Every owner or operator of an adult entertainment services establishment shall ensure the premises is constructed in such a manner as to prevent viewing of the adult entertainment services from the exterior of the premises.
7. No owner or operator of an adult entertainment services establishment shall,
 - (a) permit any person under the age of 18 years to enter or remain in the premises or any part thereof;
 - (b) permit any person under the age of 18 years to act or appear as an adult entertainment performer or to provide services at an adult entertainment services establishment; or,
 - (c) provide services at an adult entertainment services establishment to an individual under the age of 18 years.

8. Every owner or operator of an adult entertainment services establishment shall before employing or permitting any individual to act or appear as an adult entertainment performer, require such individual to produce a certificate of proof of age relating to such individual, and shall record the name of the individual, the number and description of such certificate and any age or date of birth, shown on such certificate, and maintain such record available for inspection by the Chief of Police or any police officer or municipal law enforcement officer.

9. No owner or operator of an adult entertainment services establishment, shall, knowingly permit any person providing adult entertainment services to touch or be touched by, or have physical contact with, any other person in any manner whatsoever involving any part of that person's body.

Schedule "3"
To
By-Law No. 5545-04

Relating to Adult Entertainment Body-rub Establishments

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on the owners, operators and attendants of adult entertainment body-rub establishments for the purposes of health and safety, nuisance control and consumer protection;

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

1. In this Schedule,
 - (a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating by any means, of a person's body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise qualified, licenced or registered so to do under the laws of the Province of Ontario;
 - (b) "owner" and "operator" mean respectively an owner or operator of an adult entertainment body-rub establishment licenced as such or required to be licenced as such under this by-law; and,
 - (c) "attendant" means a person that provides services in an adult entertainment body-rub establishment and licenced or required to be licenced as such under this by-law.
2. No person shall own or operate or be an attendant at an adult entertainment body-rub establishment without having first obtained a licence from the Corporation to do so and paying the licence fee as set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17).
3. Every applicant for an adult entertainment body-rub establishment owner's licence shall, at the time of making his/her application, file with the Clerk a list showing the legal names of all operators and attendants providing services in the premises and all such persons intended or expected to be employed or to provide services in the premises and shall thereafter maintain a list showing at all times, the legal names of all operators and attendants providing services in the

premises and such owner, shall, upon a request made to him/her by the Medical Officer of Health, the Chief of Police or any police officer or municipal law enforcement officer, produce a list brought up to date as of the time of the request.

4. Every application for an adult entertainment body-rub establishment owner's, operator's or attendant's licence shall be submitted by the Clerk for a report to the Medical Officer of Health and to the Durham Regional Police Service and may also be referred to any other governmental official or functionary for a report.
5. Every applicant for a attendant's licence shall submit with his/her application a medical certificate from a physician qualified to practice medicine in the Province of Ontario, dated within thirty (30) days of the date of the application, indicating that the applicant is free from communicable or transmissible diseases and shall submit to such tests in relation to communicable or transmissible diseases as the Medical Officer of Health may require.
6. No owner of an adult entertainment body-rub establishment shall permit any person other than a licenced operator to operate such establishment.
7. No owner or operator shall permit an adult entertainment body-rub establishment to be open for business unless the owner or the operator is in attendance at all times at which the establishment is open for business.
8. Every contract for service or other document pertaining to the relationship between an owner or operator and any attendant shall be in writing and shall be made available to the Medical Officer of Health, the Chief of Police or any police officer or municipal law enforcement officer upon request, for inspection at any time during business hours and at all times when body-rubs are provided and shall be retained for a period of six months after the termination or completion of such contract.
9. Every owner or operator shall post in a prominent location in the premises a copy of all attendant licences in relation to persons providing services at the adult entertainment body-rub establishment.
10. No person under the age of eighteen years may be or act as an owner, operator or attendant of an adult entertainment body-rub establishment or provide any services in such an establishment.

11. No person may provide services in an adult entertainment body-rub establishment to a person under the age of eighteen years.
12. No owner or operator shall permit any person under the age of eighteen years to enter or remain in an adult entertainment body-rub establishment.
13. Every owner or operator shall ensure that there is posted in a prominent location at every entrance to the premises a sign indicating that no person under the age of eighteen years may enter or remain in such premises.
14. No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in an adult entertainment body-rub establishment.
15. No owner, operator or attendant shall perform or permit to be performed a body-rub by or upon any person whom he/she has reasonable cause to suspect has been exposed to or is suffering from any communicable or transmissible disease including any communicable or transmissible skin disease.
16. Upon the sale, lease or other disposition of an adult entertainment body-rub establishment, every owner's, operator's and attendant's licence issued in respect of such premises shall terminate forthwith and the Town may refuse to issue a new licence or licences if it determines that it is in the public's interest so to do.

Defined Area

17. No person shall own or operate an adult entertainment body-rub establishment in the Town and no attendant shall perform or provide a body-rub except in the area designated as the "Subject Area" on Schedule 3-1 to this by-law and the use shall comply in all respects with the provisions of the Town's Restricted Area (Zoning) By- laws as may be amended from time to time.

Limitation on Number of Body-rub Parlours

18. The maximum total number of owner's licences to be granted in respect of adult entertainment body-rub establishments shall be limited to two (2) in the Town.

Hours of Operation

19. No adult entertainment body-rub establishment shall be open to the public, no owner or operator shall permit services to be provided and no attendant shall provide services between the hours of 1:00 a.m. and 8:00 a.m., daily.

Design and Maintenance

20. No owner or operator shall permit the premises to be used as a dwelling or for sleeping purposes.

21. No owner or operator shall permit the door of any room or cubicle where services are or may be provided, to be equipped or constructed with a locking device of any kind, or any other device or structure which could delay or hinder anyone from entering or obtaining access to such room or cubicle.

22. No person may, in an adult entertainment body-rub establishment provide any service in a room, cubical 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.

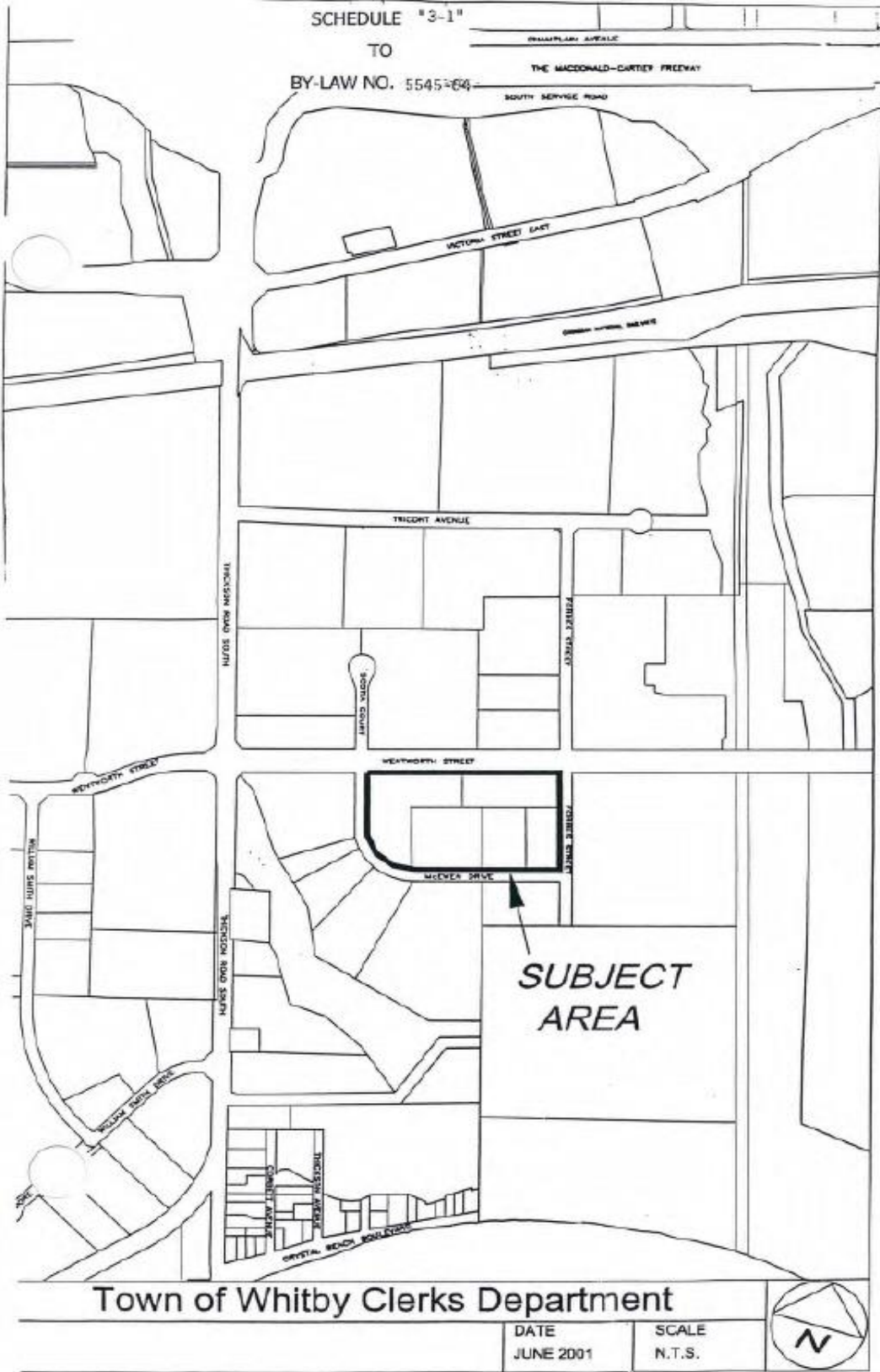
23. Every owner and every operator shall comply with and ensure compliance with the following:

- (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 be 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;

- (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) in all shower - bathrooms, if any, and in all sauna - bathrooms, if any,
 - (i) the floor shall be disinfected at least once a week with a disinfection solution approved by the Medical Officer of Health;
 - (ii) all surfaces and attached accessories of the bath or shower enclosure shall be self-draining; and,
 - (iii) all showers shall have removable, cleanable drain covers; and,

- (g) common foot baths shall not be provided on the premises.



24. Every owner and every operator of an adult entertainment body-rub establishment at which is provided services which involve or may involve the undressing of or changing of clothes by the customer shall provide a service by which any customer may deposit his/her valuables or other property for safekeeping and any customer who presents his/her property for safekeeping shall be given a receipt specifying the nature of the property so entrusted.
25. No owner or operator shall use or permit to be used any camera or other photographic or other electronic recording device in the premises by any person, but this section shall not prohibit,
- (a) the use of any camera or other device by a public authority for the enforcement of the law; or,
 - (b) the use of a camera in the entrance area of the premises for security purposes only.

Schedule "4"

To

By-Law No. 5545-04

Relating to Auctioneers

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on auctioneers for the purpose of consumer protection;

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

1. No person shall carry on the business of an auctioneer within the Town without having first obtained a licence from the Corporation to do so, which licence shall be called an Auctioneer's Licence, and paying the licence fee required for an Auctioneer's Licence as set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17).
2. Every person who exercises the calling or business of an auctioneer shall at the place of each auction, prominently display his/her name and business address.
3. Every auctioneer shall keep proper books of account of the business transacted by him/her as an auctioneer, which books shall give the names and addresses of the owners of the goods, wares, or merchandise to be sold, the description of the same, the price for which the same is sold, and the names and addresses of the persons purchasing such goods, wares or merchandise, or any portion thereof, and shall forthwith, after the sale of same or any portion thereof, account for the proceeds and pay the same to the person or persons entitled to such proceeds, less his/her proper and legal commissions and charges and shall in the case no sale is made of such goods, on payment of his/her proper costs and charges, return such goods to the person or persons entitled to receive the same on property demand being made therefor it being understood that nothing in this Section shall in any way affect or invalidate the claim of any auctioneer for goods warehoused with him/her, and on which he/she has made advances.
4. No auctioneer shall,
 - (a) permit any disorder in his/her auction room or offices;
 - (b) conduct or permit to be conducted any mock auction;

- (c) make, or permit to be made, any misrepresentation as to the quality or value of any goods, wares, merchandise or effects which may be offered for sale by him/her;
- (d) give away articles or sell them for nominal amounts for the purpose of stimulating bidding;
- (e) do any act that is calculated to or which may reasonably have the effect of confusing a purchaser as to the amount he/she pays for any article or articles;
or,
- (f) avail himself/herself of the services of or act in concert with persons known in the trade as "beaters", "boosters" or "schills" for the purpose of raising or stimulating bids.

Schedule "5"

To

By-Law No. 5545-04

Relating to Exhibitions, Festivals, Menageries, Circuses, Midways, Carnivals or Other Shows Usually Exhibited by Showmen

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

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

1. No person shall conduct any exhibition, festival, menagerie, circus, midway, carnival or other show usually exhibited by show persons, without having first obtained a licence from the Corporation to do so, which licence shall be called an Exhibition Licence, and paying the licence fee as set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17).
2. No person licenced under the provisions of this Schedule shall give any show, have any band or orchestra or a group of musicians give any performance or permit or allow to be operated any mechanical musical instrument, loudspeakers or other device between the hours of twelve o'clock midnight and ten o'clock in the morning next following.
3. No licence is required in respect of,
 - (a) an exhibition given by a church or charitable or patriotic association; or,
 - (b) an exhibition of painting or sculpture or other like subject;it being understood that a travelling show, carnival, festival, or exhibition conducted for profit does require a licence notwithstanding that a part of the proceeds are to be paid to a church or charitable or patriotic association.
4. Before an exhibition licence is issued by the Clerk, the applicant shall file with the Clerk,
 - (a) a copy of an insurance policy in a minimum amount of one million dollars, inclusive limits, naming the Town as an insured for loss or damage

resulting from bodily injury to, or the death of one or more persons, and for loss or damage to property arising out of the activity or event to which the exhibition licence relates;

- (b) security in a minimum amount of \$500.00, or such greater amount as is fixed by the relevant authority where the event or activity to which the exhibition licence relates is held, sufficient to repair anticipated minor damage and the cleaning of buildings and grounds after the conclusion of such event or activity, so that such buildings and grounds may be restored to their previous state without cost to the Town or the authority responsible for the administration of such buildings or grounds and upon the applicant's restoration of the buildings and grounds to their previous state, the Town shall return the security to the applicant;
 - (c) an amount of money as is determined by the Durham Regional Police Service as sufficient to provide for the cost of adequate police protection during the period of the event or activity to which the exhibition licence relates;
 - (d) the licence fee as herein before provided;
 - (e) a certificate in writing from the Medical Officer of Health stating that all health and sanitation requirements for the event or activity to which the exhibition licence relates have been provided for by the applicant;
 - (f) an affidavit setting out the name and address of the owner of each amusement ride, if any, to be operated during the exhibition; and,
 - (g) an affidavit setting out the name and address of the qualified operator of each amusement ride to be operated during the exhibition, if any.
5. No person shall operate or continue to operate merry-go-rounds, Ferris wheels and/or like contrivances without first having such contrivances inspected under the Technical Standards and Safety Act, 2000, as may be amended from time to time and any successor legislation in substitution thereof, and filing a copy of a written report of such inspection, together with a certificate from the inspector, with the application, certifying that he/she has corrected any deficiencies resulting from such inspection.

6. The Clerk, municipal law enforcement officer, police officer, Fire Chief, Chief of Police, Medical Officer of Health, or any other person duly authorized by Council, may request a licensee under this Schedule to take any steps considered necessary to correct any condition or practice that exists in or upon the licensed premises which in any way may be adverse to the public interest.
7. An exhibition licence shall expire on the date of termination of the event or activity to which the licence relates unless it is sooner forfeited or revoked and in any case shall not be for a longer period than one (1) year.
8. No person, other than a person registered by the applicant as a ride operator, shall operate any amusement ride and a registered ride operator shall only operate the amusement ride he/she has been registered to operate.

Schedule "6"

To

By-Law No. 5545-04

Relating to Food Premises

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on food premises for the purposes of health and safety;

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

1. No person shall own or operate a food premises within the Town without having first obtained a licence from the Corporation to do so, which licence shall be called a Food Premises Licence as set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17).
2. All premises licenced under the provisions of this Schedule shall be kept and maintained in a sanitary condition to the satisfaction of the Medical Officer of Health and if a condition exists in any food premises that is or may be dangerous to health or may hinder in any manner the prevention, mitigation or suppression of disease, the Medical Officer of Health may order the licensee to remedy such condition and failure to do so by the licensee shall be a breach of this by-law.
3. Every food premises and owner or operator thereof shall comply with the regulations made under the Health Protection and Promotion Act, R.S.O. 1990, c. H.7, as may be amended from time to time and any successor legislation in substitution thereof. ,
4. Every person making application for a food premises licence or the renewal of a food premises licence in respect of a food premises that will be open for business at any time between the hours of one o'clock in the forenoon and six o'clock in the forenoon shall file with the application a letter from the Durham Regional Police Service indicating that the Police Service has conducted a business security check of the food premises some time within the twelve month period immediately preceding the submission of the application to the Corporation.

Schedule "7"

To

By-Law No. 5545-04

Repealed by By-law No. 7398-18

Schedule 7 of By-law #5545-04 is repealed upon expiry of all Licences issued in accordance with Schedule 7, and until such time as it is repealed, shall only apply to Licences that were issued in accordance with Schedule 7.

For further information, please contact By-law Services at 905-430-4305.

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 on
- and 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.

Schedule "9"

To

By-Law No. 5545-04

Relating to Pawnbrokers

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on pawnbrokers for the purpose of consumer protection;

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

1. No person shall carry on the business of a pawnbroker without having first obtained a licence from the Corporation to do so, which licence shall be called a Pawnbroker's Licence, and paying the licence fee required for a Pawnbroker's Licence as set out in the Fees and Charges By-law. (Amended by By-law No. 7220-17)
2. Every pawnbroker licenced by the Town shall comply with the provisions of the Pawnbrokers Act, R.S.O. 1990, c. P.6, as may be amended from time to time and any successor legislation in substitution thereof.

Schedule "10"
To
By-Law No. 5545-04

Repealed by By-law No. 7125-16

Schedule "11"

To

By-Law No. 5545-04

Relating to Salvage Yards, Salvage Shops, Second-Hand Shops and Second-Hand Dealers

Whereas, the Council of the Corporation of the Town of Whitby considers it desirable to licence and impose conditions on salvage yards, salvage shops, second hand shops and second hand dealers for the purposes of health and safety, nuisance control and consumer protection;

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

1. No person shall carry on the trades, businesses, occupations or callings mentioned in Section 2 of this Schedule without having first obtained a licence from the Corporation to do so, and paying the licence fee required for the class or type of business as set out in the Fees and Charges By-law (Amended by By-law No. 7220-17).
2. A licence shall be taken out by,
 - (a) the owner or keeper of every salvage shop or salvage-yard;
 - (b) the owner or keeper of every second hand shop; and,
 - (c) every second-hand dealer.
3. Notwithstanding any other provision in this Schedule, no licence shall be required by persons engaged,
 - (a) in any of the objects mentioned in Section 2 of this Schedule for patriotic or charitable purposes; or,
 - (b) in the purchase, sale or exchange of articles commonly known and recognized as valuable antiques and works of art, either in their original condition or as renovated, remodelled, repaired or re-manufactured.
4. Any licence issued in accordance with this Schedule may be issued to authorize the licensee to deal in one class only of second hand goods or in more than one

class as may be specified in the licence and such licensee shall not be entitled to deal in any class of second hand goods not covered by the licence.

5. No person licenced under this by-law shall purchase, take in exchange, or receive any goods, article or thing from any person who appears to be under the age of 18 years, or from any person under the influence of liquor, or transact any business whatsoever by virtue of the said licence between the hours of eleven o'clock in the evening and seven o'clock on the morning of the following business day, except on Saturday and any day preceding a statutory or other public holiday, when the hour for closing may be extended until twelve o'clock midnight.
6. Notwithstanding any other provision of this by-law no person shall, between the hours of sunset on any day and the hour of sunrise on the next following day, pass from house to house or along any private street or land or public highway in the Town for the purpose of collecting, purchasing or obtaining second hand goods.
7. No person licenced under this by-law shall alter, repair, dispose of, or in any way part with any goods or articles purchased or taken in exchange until after the expiration of fifteen (15) clear days, from the date of purchase, or such exchange, and during these fifteen (15) days the goods or articles so obtained shall remain on the premises in respect to which the licence is issued and be kept in a separate location from goods previously purchased and shall be subject to inspections at any time during business hours by the Chief of Police or any police officer or municipal law enforcement officer, who may be accompanied by such other person as in his judgement may be necessary for the identification of goods reported or suspected of having been stolen.
8. Every licensee who takes an article shall enter into a book to be kept for that purpose,
 - (a) the day, month and year in which the article was taken;
 - (b) a description of the article reasonably sufficient to identify it;
 - (c) the sum paid for the article;
 - (d) the full name, address and a description of the person from who the article was taken sufficient to identify such person, including sex, estimated age,

height, complexion and full particulars of a minimum of three pieces of personal identification, one of which shall be a photo identification;

and such book shall be open to the inspection of the Chief of Police, a police officer or a municipal law enforcement officer at any time.

9. No salvage yard shall be operated or maintained within the corporate limits of the Town except in accordance with the following regulations:

(a) all salvage yards shall be completely enclosed by a solid fence of 3.6 metres (12 feet) in height. Such fence shall be constructed of new lumber or such other materials as may be approved by the Chief Building Official of the Town of Whitby. Such fence shall be stained or painted and shall at all times be properly maintained and not allowed to fall into a state of disrepair;

(b) no salvage yard shall be located closer than 38.1 metres (125 feet) from the centre line of any public highway, other than a provincial highway, and 137 metres (450 feet) from the centre line of any provincial highway;

(c) no wrecked automobiles or other salvage material shall be located in a salvage yard unless the same is stored or piled in such a fashion that no part of such material shall exceed a height of 3.0 metres (11.8 feet) from the ground; and,

(d) where the owner or keeper of a salvage yard provides and maintains a continuous, unpierced planting strip consisting of,

(i) a minimum of three (3) planting rows of trees;

(ii) a minimum perpendicular width of fifteen (15) trees; and,

(iii) a minimum height of 3.6 metres;

within the outer perimeter of the salvage yard, then for such portion of the continuous, unpierced planting strip, such owner or keeper may, in lieu of the fence required in Clause (a) of this Section, provide and maintain an open or solid fence having a minimum height of 1.2 metres, consisting of such design, material and construction as may be approved by the Chief Building Official of the Town of Whitby.