



# 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.

As amended by By-laws:

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# 5680-05	October 11, 2005
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# 7220-17	January 30, 2017
# 7398-18	April 16, 2018
# 7578-19	November 25, 2019
# 7897-22	May 16, 2022
# 8060-24	March 18, 2024

Individual copies of any of the above by-laws are available from the Office of the Town Clerk of the Town of Whitby. For legal purposes, copies of the original by-laws should be obtained.

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## 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 "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:

**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.

(Administrative numbering error)

1. 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)
2. 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.
3. 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.
4. 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.
5. 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.

6. 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.
  
7. 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.

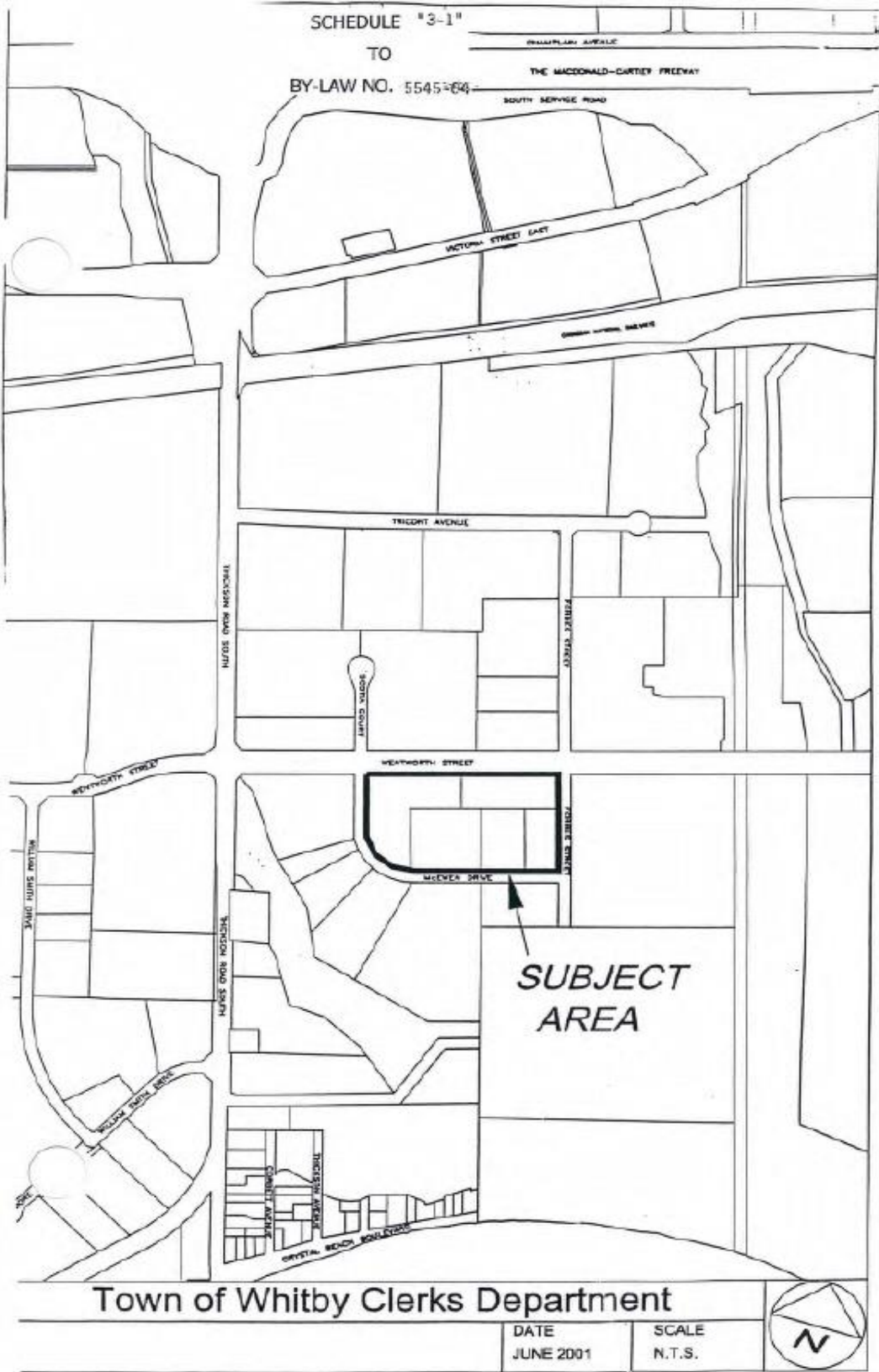
21. No owner or operator shall permit the door of any room or cubicle where services are or may be provided, to be equipped or constructed with a locking device of any kind, or any other device or structure which could delay or hinder anyone from entering or obtaining access to such room or cubicle.

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 Enforcement Services at 905-430-4345.

**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.
- (3) For the property located at 417 Byron Street North, despite Section 10 (1) and 10 (2) of this Schedule,
  - (a) The total number of residents permitted at the lodging house shall not at any time exceed seventeen (17) residents;
  - (b) Two (2) staff persons shall be on site twenty-four (24) hours per day and seven (7) days per week;
  - (c) The owner of the property shall provide to the Manager of Enforcement Services, or designate, a letter indicating the number of residents living on the site as part of its annual business licence renewal and at any time

requested by an Officer, demonstrating compliance with Section 7. (a) & (b) of Schedule 8 of Business Licensing By-law # 5545-04 and these conditions;

- (d) The Owner shall maintain insurance related to the lodging house with a minimum liability of five (5) million dollars, and shall provide the Town with a Certificate of Insurance naming the Town as additional insured, on the Town's standard certificate and to the satisfaction of the Commissioner of Financial Services/Treasurer, or designate;
- (e) The keeper of the lodging house shall provide and maintain emergency contact information for all employees to the Manager of Enforcement Services, or designate;
- (f) The owner shall comply with Inspection Order Number: 23-100782-FP and all associated conditions of the Fire Protection and Prevention Act, 1997; and,
- (g) The owner shall provide the Town's Building Services Division with updated drawings of the structure of 417 Byron Street North, shall apply for a building permit if deemed necessary by the Chief Building Official, and undertake to complete any work related to the building permit within twelve (12) months of the date this exemption is approved by Council.



**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:

**General**

- A. No person shall carry on the business of a pawnbroker without having first obtained a licence from the Town 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, as amended from time to time.
- B. Every pawnbroker licensed by the Town shall comply with the following provisions contained in this Schedule "9".

**Definitions**

**1** In addition to the definitions provided for in this by-law, the following words in this Schedule "9" shall have the following meanings:

"pawner" means a person who delivers an article for pawn to a pawnbroker;

"pledge" means an article pawned with a pawnbroker; and

"shop" includes any place where the business of a pawnbroker is carried on.

**Licences**

**2** (1) Further to Section A above, no person shall carry on the business of a pawnbroker without a licence issued by the Town in which the person carries on or proposes to carry on business or without renewing the licence annually, but no licence shall be issued or renewed unless under the authority of a by-law of the Town.

**Application for renewal**

**3** (1) No application for a licence or renewal of a licence to carry on the business of a pawnbroker shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.

**Continuation of licence pending renewal**

(2) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of the licence, the holder of a licence to carry on the business of a pawnbroker has applied for renewal and paid the prescribed fee, the licence shall be deemed to continue,

- A. until the renewal is granted; or
- B. until the application has been finally determined by the licence issuing authority or, where there is an appeal from the decision of the licence issuing authority, until the last day for launching an appeal or such later date as may be fixed by the body to whom the appeal may be taken.

### **Licence to cover only one shop**

4 No person shall, by virtue of one licence, carry on business as a pawnbroker in more than one shop.

### **Licence to partners**

5 Where two or more persons carry on business as pawnbrokers in partnership in the same shop, only one licence is necessary.

### **Security**

6 Every pawnbroker shall give to the Town security to the satisfaction of the Town's Treasurer in the sum of \$2,000 for the due observance by the pawnbroker of this Schedule.

### **Business sign and notice of rights, rates and charges**

7 A pawnbroker shall,

- A. keep exhibited in large, legible characters on a sign over the front door of his, her or its shop, the pawnbroker's name and the word "Pawnbroker" or the words "Prêteur sur gages"; and
- B. keep displayed conspicuously in the shop a notice in large, legible characters so as to be visible to persons pawning articles or redeeming pledges, showing,
  - i. rights of redemption of pledges,
  - ii. rates of interest authorized by law to be taken by pawnbrokers for sums lent, and
  - iii. maximum charges authorized by this by-law.

### **Restrictions upon pawnbrokers**

8 A pawnbroker shall not,

- A. purchase any article or receive or take any article in pawn from any person who appears to the pawnbroker to be under the age of eighteen years or to be under the influence of alcohol or drugs;
- B. purchase or take in pawn a pawnticket issued by himself or herself or any other pawnbroker;
- C. carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by proclamation of the Governor General or the Lieutenant Governor as a public holiday, or on any other day before 8 o'clock in the morning or after 8 o'clock in the evening;
- D. purchase, sell or otherwise deal with any pledge while in pawn to the pawnbroker, except in accordance with this Schedule;
- E. suffer any pledge while in pawn to the pawnbroker to be redeemed with a view to the pawnbroker's purchasing it;
- F. make any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale or disposition thereof, within the time of redemption;
- G. take in pawn any cross, medal, insignia or other decoration granted by or with the approval of Her Majesty the Queen or the Crown; or
- H. melt any gold, silver, platinum or other precious metal that was pawned with the pawnbroker, that was not redeemed, and that has become the pawnbroker's absolute property under this Schedule, unless authorized so to do by the Council of the Town.

### **Pawnbroker's book**

**9 (1)** Every pawnbroker who takes an article in pawn shall, before any money is lent thereon, enter in a book to be kept for that purpose,

- A. the day, month and year in which the pledge was taken;
- B. the full name, address and a description of the person delivering the article for pawn reasonably sufficient to identify such person, including sex, and estimated age, height, complexion and full particulars of identification if produced and, where the person who delivers the article for pawn states that he or she is the agent of its owner for the purpose of pawning it, the name and address of the owner;
- C. a description of the pledge reasonably sufficient to identify it; and
- D. the sum lent on the pledge.

### **Where no identification**

(2) Where a person tendering an article for pawn refuses or is unable to produce any identification, the pawnbroker shall enter in the book a note thereof, which shall be deemed to constitute compliance with the identification requirements of clause (1) (b).

### **Entries to be numbered consecutively**

(3) The entries shall be numbered in the book consecutively in the order in which the articles are pawned.

### **Pawnticket**

**10** At the time of taking an article in pawn, the pawnbroker shall give the pawner a pawnticket containing,

- E. the pawnbroker's name and business address;
- F. the name of the pawner;
- G. the day, month and year in which the pledge was taken in pawn;
- H. the number of the entry of the pledge in the pawnbroker's book;
- I. a description of the pledge;
- J. the sum lent on the pledge;
- K. the rate of interest charged for the sum lent;
- L. the charge for the pawnticket; and
- M. the charge for storage, if any.

### **Where article suspected to have been stolen**

**11** Where a pawnbroker has reasonable cause to suspect that an article offered to the pawnbroker has been stolen or otherwise unlawfully obtained, the pawnbroker shall forthwith report the matter to a member of the police force of the Town in which the pawnbroker carries on business.

### **Alphabetical list of pawners**

**12** Every pawnbroker shall keep up to date during each year a list, arranged alphabetically, of the names of the persons who have pawned articles with the pawnbroker, and each such list shall be kept for not less than one year after the end of the year during which it was compiled.

### **Daily report to police**

**13** (1) Every pawnbroker shall before noon of every business day make a report either for the chief of police or for such other person as is designated by by-law of the Council of the Town.

### **Contents**

(2) Such reports shall contain, in respect of every transaction made on the next preceding business day, all the information required under section 9 to be entered in the pawnbroker's book.

### **Form**

(3) Such reports may be on forms to be furnished by the Town or may be copies of the pawnbroker's book reproduced by any means whatsoever so long as the copy is legible.

### **Identification of pledge**

**14** Each pledge shall be identified by a number that corresponds with the number of the pawnticket and the entry of the transaction in the pawnbroker's book, and, when the pledge is redeemed, the pawnbroker shall record the amount of interest taken and of all other charges and shall keep the record for not less than one year after redemption.

### **Inspection by police**

**15** Every police officer shall at all times be given access to and may inspect a pawnbroker's books, papers and pledges, and when so engaged may have with him or her such other persons as he or she considers advisable.

### **Production of ticket**

**16** Except as hereinafter provided, a pawnbroker is not bound to deliver a pledge until the pawnticket for it is produced and delivered to the pawnbroker.

### **Rights of holder of ticket**

**17** The holder for the time being of a pawnticket shall, as between the pawner and the pawnbroker, be presumed to be the person entitled to redeem the pledge, and, subject to this Schedule, the pawnbroker shall accordingly, on payment of the sum lent, lawful interest and charges, deliver the pledge to the person producing the pawnticket.

### **Pawnticket may be non-transferable**

**18** Despite section 17, where a pawnbroker and a pawner agree that the pawnticket shall not be transferable and such condition is clearly shown upon the pawnticket, the pawner only may redeem the pledge.

### **Liability of pawnbroker in case of fire**

**19** (1) Where a pledge is destroyed or damaged by or in consequence of fire, lightning or tempest or any additional peril defined in a standard fire insurance additional perils supplemental contract, the pawnbroker nevertheless is liable, on application within the period during which the pledge would have been redeemable, to pay the value of the

pledge after deducting the sum lent, lawful interest and charges, such value to be the sum lent, lawful interest and charges and 25 per cent on the sum lent.

### **Insurable interest**

(2) A pawnbroker has an insurable interest in the pledge to the extent of the value so estimated.

### **Right of redemption where sum lent \$15 or less**

**20** Where the sum lent upon a pledge is \$15 or less, it may be redeemed at any time within one year after the day on which it was pawned by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property.

### **Where sum lent is more than \$15 and not more than \$30**

**21** (1) Where the sum lent upon a pledge is more than \$15 but not more than \$30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown in the pawnbroker's book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, it becomes the pawnbroker's absolute property.

### **Idem**

(2) Any such pledge may be redeemed at any time within the fifteen days next after the day of mailing the notice by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property.

### **Where sum lent is more than \$30: notice by mail and newspaper**

**22** (1) Where the sum lent upon a pledge is more than \$30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown by the pawnbroker's book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, a final notice will be published in a newspaper having general circulation in the Town in which the pawnbroker carries on business identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of publication of the notice, it becomes the pawnbroker's absolute property.

### **Idem**

(2) If the pledge is not redeemed within the fifteen days next after the mailing of the first notice mentioned in subsection (1), the pawnbroker may at any time thereafter give the final notice mentioned in that subsection.

### **Idem**

(3) Any such pledge may be redeemed at any time within the fifteen days next after the mailing of the first notice mentioned in subsection (1) or within the fifteen days next after the day of publication of the final notice mentioned in that subsection, as the case may be, by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property.

### **Calculation of 1-year period**

**23** (1) The one-year period mentioned in sections 20, 21 and 22 commences on the day following the day on which the pledge was put in pawn and ends with the close of business on the 365th day thereafter.

### **Calculation of 15-day period**

(2) The fifteen-day period mentioned in sections 21 and 22 commences on the day following the day on which the notice was mailed or the final notice was published, as the case may be, and ends with the close of business on the fifteenth day thereafter.

### **Exception**

(3) When a period mentioned in subsection (1) or (2) ends on a day on which business is not carried on, the next business day is included in the period.

### **Affidavit as to notices**

**24** As soon as a notice mentioned in section 21 or 22 has been sent or published, the pawnbroker shall make or cause to be made an affidavit as to the sending or publication, as the case may be, of the notice, and such affidavit shall be kept by the pawnbroker for at least two years.

### **Where pledge not given back upon tender of money owing**

**25** (1) If, during the period that a pledge is redeemable, the pawner tenders to the pawnbroker the pawnticket, the sum lent and the lawful interest and charges and the pawnbroker neglects or refuses without reasonable cause to deliver back the goods so pawned, the pawner may make oath thereof before a justice of the peace, who shall summon such person before him, and shall examine on oath the parties and their witnesses touching the matter.

## **Tender and consequences of refusal**

(2) If tender of the pawnticket with the sum lent and the lawful interest and charges is proved to have been made within such time, then, on payment by the pawner of the total amount owed or, if the pawnbroker refuses to accept such amount on tender before the justice, the justice shall, by order, direct the pledge to be forthwith delivered to the pawner or, if it is not so delivered, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice in accordance with section 19, and, if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value so fixed, the justice shall commit him or her to imprisonment for a period of not more than three months or until he or she delivers up the pledge or makes satisfaction for the value so fixed.

## **Compensation for depreciation of pledge**

**26** If a person entitled and offering to redeem a pledge shows to the satisfaction of a justice of the peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker or shall be paid by the pawnbroker, as the case requires, in such manner as the justice may direct, and in case of default the pawnbroker is liable to the punishment mentioned in section 25.

## **Lost pawntickets**

**27** (1) Any person claiming to be entitled to redeem a pledge but not holding the pawnticket may apply to the pawnbroker for a copy of the pawnticket and a printed form of affidavit, which the pawnbroker shall deliver to the person upon payment of the charge therefor.

## **Idem**

(2) If the claimant proves to the satisfaction of a justice of the peace the right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to the person by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn and endorsed with a certificate of the justice that such proof has been made, the claimant has, as between the claimant and the pawnbroker, all the rights and remedies that the claimant would have had if the claimant had produced the pawnticket.

## **Idem**



(3) The pawnbroker is not bound to deliver the pledge to any person until the expiration of such three days.

**Idem**

(4) The pawnbroker shall be indemnified for delivering the pledge, or otherwise acting in conformity with the affidavit and certificate, unless the pawnbroker has notice that the affidavit is fraudulent or false in a material particular.

**Maximum charges**

**28** In addition to the profit on the sum lent, being interest thereon at not more than the lawful rate, a pawnbroker is entitled to make the following charges:

1. For a pawnticket, not more than 20 cents.
2. For storage of a pledge, not more than 10 cents per month per cubic foot or part thereof of storage space taken up by the pledge.
3. For a copy of a pawnticket and printed form of affidavit, not more than 20 cents.

**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.