

BUSINESS LICENSING BY-LAW

By-law (X)

A by-law to provide for the LICENSING AND REGULATION OF VARIOUS BUSINESSES

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WHEREAS subsection 5(3) of the Municipal Act, 2001 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

AND WHEREAS pursuant to the provisions of Part IV of the Municipal Act, 2001, as amended, a municipality may pass by-laws for licensing, regulating and governing businesses;

AND WHEREAS subsection 151(1) of the Municipal Act, 2001 provides that, without limiting sections 9 and 10 of the Act, a municipality may provide for a system of licenses with respect to a business and may,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and,
- (g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licenses established by the municipality.

AND WHEREAS the Council for the City of London considers it necessary and desirable for the public to exercise its licensing powers for the purposes of:

- i) Health and Safety; and/or
- ii) Nuisance Control; and/or
- iii) Consumer Protection.

AND WHEREAS section 23.2 of the Municipal Act, 2001 permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this By-law to the Licence Manager and the Hearings Officer including without limitation the power to issue, revoke, suspend and impose conditions on a licence, prescribe operational standards to be imposed on licensees are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the Municipal Act, 2001;

AND WHEREAS subsection 391(1) of the Municipal Act, 2001 provides that a municipality may impose fees and charges on persons:

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- (c) for the use of its property including property under its control.

PART 1 DEFINITIONS

1.1 Definitions

For the purpose of this By-law:

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

“**Certificate of Zoning Compliance**” means information provided in a letter that includes but not limited to Official Plan designation, current zoning and use of the property, and compliance with building setback regulations;

“**Chief Building Official**” means the Chief Building Official as appointed by Council pursuant to the *Building Code Act*;

“**Chief of Police**” means the Chief of the London Police Service or any police officer of that Service;

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

“**City Clerk**” means the City Clerk for the Corporation or a person delegated by them for the purposes of this By-law;

“**Council**” means the Council of The Corporation of the City of London;

“**Enforcement Officer**” means a Municipal Law Enforcement Officer appointed by the Council, a police officer with the London Police Service or an officer, employee or agent of the City whose responsibilities include the enforcement of this By-law;

“**Fire Chief**” means the Chief of London Fire Services of the Corporation or a person delegated by them for the purposes of this By-law;

“**Hearings Officer**” means a Hearings Officer appointed under the Corporation’s Hearings Officer By-law A.-6653-121, as amended;

“**Licence Manager**” means the Chief Municipal Law Enforcement Officer or their delegate;

“**Licensee**” means a person licensed under this By-law;

“**Manager of Municipal Law Enforcement**” means the Chief Municipal Law Enforcement Officer or a person delegated by them for the purposes of this By-law;

“**Medical Officer of Health**” means the Medical Officer of Health for the Middlesex-London District Health Unit or a person delegated by them for the purposes of this By-law;

“**Owner**” means:

- a) with respect to premises, the registered owner of the land on which the premises is situated and includes a trust acting on behalf of the registered owner, the estate of registered owner and a person with a leasehold interest in the land or premises;
- b) with respect to a business, the persons that carries on the trade, business, or occupation and whose name appears on the licence issued for such trade, business or occupation under this By-law.

PART 2 - CLASSES OF LICENCES

- 2.1 The classes of Licences that may be issued under this By-law in accordance with the provisions of this By-law and the corresponding Schedules as set out in this By-law.
- 2.2 Every Applicant and Licensee shall comply with all of the provisions of this By-law and the corresponding Schedules.

PART 3 - PROHIBITIONS

- 3.1 No person shall hold to be licensed under this By-law if they are not.
- 3.2 No person shall operate a business while their licence issued under this By-law is under suspension.
- 3.3 No person shall operate a business at a location other than for which a licence is issued under this By-law.
- 3.4 No person shall operate a business under any name other than the name endorsed on their licence issued under this By-law.
- 3.5 No person holding a licence issued under this By-law shall fail to:
 - a) With respect to premises, display the licence in a conspicuous place in or on the said premise; or
 - b) With respect to a vehicle, display the licence in a conspicuous place in or on the said vehicle; or
 - c) With respect to an individual, maintain the licence on their person while conducting the activity for which the licence was issued.
- 3.6 No person shall fail to keep any records required to be kept by them under the provisions of this By-law.
- 3.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

PART 4 - EXEMPTIONS

- 4.1 Exemptions for specific classifications of businesses are listed in the Schedules pertaining to those classifications.

PART 5 - ADMINISTRATION OF BY-LAW

- 5.1 The administration of this By-law is assigned to the Licence Manager who shall generally perform all of the administrative functions conferred upon them by this By-law and without limitation may:
 - (a) receive and process all applications for all licences and renewals of licences under this By-law;
 - (b) issue licences in accordance with the provisions of this By-law;
 - (c) impose terms and conditions on licences in accordance with this By-law; and
 - (d) refuse to issue or renew a licence or revoke or suspend a licence in accordance with this By-law.

PART 6 - APPLICATION FOR LICENCES AND RENEWALS

- 6.1 Every application for a licence and renewal licence shall be made to the Licence Manager in a format provided by the Licence Manager. Without limitation, every application for a licence or a renewal shall include the following information:
- (a) the name, municipal address, email address and telephone number of each Applicant;
 - (b) if the Applicant is a partnership, the name, address, email address and telephone number of each partner;
 - (c) if the Applicant is a corporation, the address of its head office, the name, address, email address and telephone number of each director and officer;
 - (d) the municipal address of the premises in which the business is located;
 - (e) a sworn statement by the Applicant certifying the accuracy, truthfulness and completeness of the application;
 - (f) if the Applicant is a partnership, a sworn statement by each partner certifying the accuracy, truthfulness and completeness of the application;
 - (g) if the Applicant is a corporation, a sworn statement by an officer of the corporation duly authorized for that purpose certifying the accuracy, truthfulness and completeness of the application; and
 - (h) Zoning Compliance.
- 6.2 Every person applying for a licence or a renewal of a licence shall provide in full at the time the application is submitted all of the information requested on the application form as well as:
- (a) payment of the prescribed fee as set out in Schedule "X" of this By-law;
 - (b) proof satisfactory to the Licence Manager that the Applicant or Licensee has a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the Applicant or Licensee to carry on the business;
 - (c) if the Applicant or Licensee is a corporation, a copy of the incorporating documentation, a copy of the last initial notice or notice of change which has been filed with the provincial or federal government and a Certificate of Status issued by the Ministry of Government and Consumer Services dated no later than fifteen (15) days prior to the date of the application;
 - (d) if the Applicant or Licensee is a partnership, details of each partner's interest in the partnership; and
 - (e) any other documentation or information as may be required in any other part of this By-law and by the Licence Manager.
- 6.3 The Licence Manager may require affidavits in support of an application for or a renewal of a licence.
- 6.4 Every application may be subject to investigations by and comments or recommendations for the municipal or provincial department or agencies as the Licence Manager deems necessary including but not limited to:
- (a) the Chief Building Official;
 - (b) the Manager of Municipal Law Enforcement

- (c) the Fire Chief;
- (d) Chief of Police; and
- (e) the Medical Officer of Health.

PART 7 - ISSUANCE OF LICENCES

7.1 Every licence issued under this By-law shall be in the form and manner as provided by the Licence Manager and without limitation shall include on its face the following information:

- (a) the licence number;
- (b) the name of the Licensee;
- (c) the date the licence was issued and the date it expires; and
- (d) where applicable, the municipal address of the premises in which the business is located.

7.2 Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- (a) the Applicant or Licensee shall pay all licence fees related to this By-law;
- (b) the Applicant or Licensee shall pay all fees and fines owed by the Applicant or Licensee to the City;
- (c) the Applicant or Licensee shall allow, at any reasonable time, the Corporation to inspect the premises used for the business;
- (d) the Applicant or Licensee shall ensure that the places and premises used for the business are not constructed or equipped so as to hinder the enforcement of this By-law;
- (e) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, shall not afford reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the operation of the business in accordance with the law or with honesty or integrity;
- (f) the premises in which the business is located shall be in accordance with the requirements of the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the City's Property Standards By-law CP-16;
- (g) where the premises in which the business is located is altered and a building permit is required to carry out the alterations, the business premises, as altered, shall be in accordance with the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the Regulations thereunder, and the City's Property Standards By-law CP-16;
- (h) the use of the premises in which the business is located is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- (i) the operation of the business licensed under this By-law shall comply with all federal and provincial laws and City by-laws;

- (j) the Applicant or Licensee shall have a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the Applicant or Licensee to carry on the business;
- (k) the Applicant or Licensee shall meet all of the requirements of this By-law.

- 7.3 A licence issued under this By-law shall be valid only for the period of time for which it is issued as determined by the Licence Manager by regulation. All licences issued under this By-law shall expire annually on December 31 at 11:59 pm. An application for a renewal shall be delivered to the Licence Manager on or before the expiry date of the licence being renewed.
- 7.4 The issuance of a licence or renewal thereof under this By-law is not intended and shall not be construed as permission or consent by the Corporation for the Licensee to contravene or fail to observe or comply with any law of Canada, Ontario or any by-law of the Corporation.
- 7.5 Every licence, at all times, is owned by and is the property of the Corporation and is valid only in respect of the person and the premises or of the person named therein and for the business stated therein. A separate licence shall be required for each business location.
- 7.6 No licence issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.
- 7.7 The Licensee shall notify the Licence Manager of any change in his name, business or home address or any other information relating to his licence within five (5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return his Licence to the Licence Manager for amendment.
- 7.8 Where the Licensee is a corporation, the Licensee shall notify the Licence Manager of any changes in the names or addresses of officers or directors, the location of the corporate head office, in the ownership of shares or any other information relating to the corporation's licence within five (5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return his licence to the Licence Manager for amendment.
- 7.9 Where the Licensee is a partnership, the Licensee shall notify the Licence Manager of any changes in the names or addresses of the partners, the composition of the partnership, the address for the partnership or any other information relating the partnership's licence within five (5) days after such change and if necessary, as determined by the Licence Manager, shall immediately return their Licence to the Licence Manager for amendment.

PART 8 - POWERS OF THE LICENCE MANAGER

- 8.1 The power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions, on a licence, are delegated to the Licence Manager.
- 8.2 Licence Manager shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.
- 8.3 The Licence Manager may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:
 - a) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the

operation of the business in accordance with the law or with honesty or integrity;

- b) an Applicant or Licensee is carrying on activities that are in contravention of this By-law;
- c) there are reasonable grounds to believe that an application or other documents provided to the Licence Manager by or on behalf of the Applicant or a Licensee contains a false statement;
- d) any information contained in the original application form or any other information provided to the Licence Manager, has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licence Manager to conclude that the licence should continue;
- e) an Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a licence;
- f) an Applicant or Licensee is not in compliance with any federal, provincial law or City By-law, including this By-law; or
- g) the Applicant or Licensee has been convicted of a criminal offence for which, in the opinion of the Licence Manager, it would not be in the interest of public safety to issue or maintain such a licence.

8.4 Notwithstanding any other provision of this By-law, the Licence Manager may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the Licence Manager to give effect to this By-law.

8.5 Where the Licence Manager is of the opinion that:

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

the Licence Manager shall make that decision.

8.6 Where the Licence Manager has made a decision under section 8.5 of this By-law, the Licence Manager's written notice of that decision shall be given to the Applicant or the Licensee by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the address of the corporation's registered head office.

8.7 The written notice to be given under section 8.6 shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licence Manager; and,
- (d) state that the Applicant or Licensee is entitled to a hearing by the Hearings Officer if the Applicant or Licensee delivers to the City Clerk, within ten (10) days after the notice in section 8.5 is served, and the appeal fee as set out in Schedule "X" of this By-law.

- 8.8 Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.
- 8.9 Despite section 8.7 where a licence is voluntarily surrendered by the Licensee for revocation, the Licence Manager may revoke the licence without notice to the Licensee.
- 8.10 In addition to any other power, duty or function prescribed this By-law, the Licence Manager may make regulations under this By-law including:
- (a) prescribing the Operational Standards including without limitation any matter related to consumer protection, protecting the health and safety of the consumer and to ensure that the business is not a nuisance to the surrounding property and neighbourhood;
 - (c) prescribing the format and content of any forms or other documents required under this By-law;
 - (e) prescribing the form of and minimum requirements for criminal record checks and insurance policies as applicable; and
 - (f) prescribing criteria for any requirements or approvals not otherwise specified in this section.

PART 9 - HEARINGS BEFORE THE HEARINGS OFFICER

- 9.1 The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Officer.
- 9.2 The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, apply to all hearings conducted by a Hearings Officer.
- 9.3 The Hearings Officer may uphold or vary the decision of the Licence Manager or make any decision that the Licence Manager was entitled to make in the first instance.
- 9.4 The decision of the Hearings Officer is final.

PART 10 - FEES

- 10.1 All licence fees related to this By-law shall be paid in accordance with Schedule X of this By-law.
- 10.2 All inspection fees related to this By-law shall be paid in accordance with the applicable fees and charges by-law, as may be passed and amended by the Council from time to time.
- 10.3 All fees related to this By-law and inspection fees related to this By-law shall be non-refundable.

PART 11 - ENFORCEMENT

- 11.1 This By-law may be enforced by an Enforcement Officer.

PART 12 - PENALTY

- 12.1 Any person who contravenes any provision of this By-law is guilty of an offence and all contraventions of this By-law are designated as continuing offences.
- 12.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence and all contraventions of this By-law are designated as continuing offences.

- 12.3 A person convicted under this By-law is liable to a minimum fine of \$500.00 and a maximum fine of \$25,000.00 upon a first conviction and a maximum fine of \$50,000.00 for any subsequent conviction.
- 12.4 Despite subsection 12.3, where the person convicted is a corporation, the corporation is liable to a minimum fine of \$500.00 and a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.
- 12.5 In addition to the fine amounts set out in subsections 10.3 and 10.4 above, for each day or part of a day that an offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00.
- 12.6 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and,
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

PART 13 - GENERAL

- 13.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 13.2 If there is a conflict between a provision of this By-law and a provision of any other City by-law, then the more restrictive provision shall apply.

PART 14 - MISCELLANEOUS

- 14.1 By-law L-6 and all of its amendments are hereby repealed.
- 14.2 Any licence or permit issued in 2017 under the provisions of By-law L-6 or under any amendments thereto shall be deemed to have been issued under this By-law and will be valid until such licence or permit is revoked or until it expires on December 31, 2017.
- 14.3 Any by-law number of the predecessor by-laws to this By-law that appears on an existing sign that was required to be posted in accordance with the provisions of the said predecessor by-laws is to be read and construed as having the same force, effect and validity as does the by-law number assigned to this By-law.
- 14.4 This By-law shall come into force and effect on [insert date].
- 14.5 This By-law may be referred to as [name].

Passed in Open Council on [date]

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading:
Second reading:
Third reading: