

BY-LAW 2012-XXX

To Provide for the Licensing and Regulation Stationary Businesses

WHEREAS Section 151 of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS Council wishes to exercise its powers over businesses, the PERSONS carrying on or involved in the operation of the businesses including the powers to impose conditions on the obtaining, holding or renewing of licences and for the suspension, denial and revocation of LICENCES;

AND WHEREAS the regulation of the businesses and the requirement for a LICENCE and the imposition of conditions will aid in the administration and enforcement of this By-law and other laws, so as to identify and qualify the PERSONS responsible for the operation of the business, identify the location of businesses, the regulation and inspection of equipment, vehicles, PREMISES and other property used to carry on business, and allow for the protection of PERSONS dealing with or affected by such businesses and PERSONS;

NOW THEREFORE the Council of The Corporation of the TOWN ENACTS the following:

1. DEFINITIONS AND INTERPRETATION

“ADDITIONAL FEE” means a fee, in addition to the LICENCE fee, imposed by the municipality on a BUSINESS at any time during the term of the LICENCE for cost incurred by the municipality attributable to the activities of the BUSINESS;

“APPLICANT” means a PERSON applying for a LICENCE or renewal of a LICENCE thereof under this By-law;

“APPELLANT” means a LICENSEE that is appealing a decision of the LICENSING OFFICER under the provisions of this By-law;

“BUSINESS” has the same meaning as provided for in Section 150 of the *Municipal Act, 2001*;

“CLERK” means the CLERK of the TOWN or his/her duly appointed Deputy;

“CONDITIONS” includes special CONDITIONS which are imposed upon a BUSINESS in a class that have not been imposed on all of the BUSINESSES in that class, as a requirement of obtaining, continuing to hold or renewing a LICENCE;

“CORPORATION” means the CORPORATION of The TOWN;

“COUNCIL” means the COUNCIL for The CORPORATION of the TOWN;

"HEARING" includes a HEARING or an opportunity given for a HEARING, where an APPLICANT or LICENSEE may show cause why the LICENCE should be granted, or not refused, revoked or suspended, with or without CONDITIONS;

“INDIVIDUAL” means a PERSON and does not include a CORPORATION, partnership or association;

“LICENCE” means the certificate issued by the LICENSING OFFICER under this By-law;

“LICENCE APPEAL COMMITTEE” means a Committee of Council duly appointed to conduct HEARINGS under this By-law;

“LICENSE APPEAL FEE” means the fee payable to the TOWN prior to a HEARING before the LICENSE APPEAL COMMITTEE;

“LICENSEE” means any PERSON licensed under this By-law;

“LICENSING OFFICER” means the supervisor within the Legislative Services Department and includes his or her designates;

“LICENSING SECTION” means the Licensing Unit within the Legislative Services Department;

“MEDICAL OFFICER OF HEALTH” means the MEDICAL OFFICER OF HEALTH for the York Regional Health Unit as defined in the Health Protection and Promotion Act and the regulations enacted thereunder or his designate;

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

“MUNICIPAL LAW ENFORCEMENT OFFICER” means an employee of the TOWN that is appointed by By-law to enforce the provisions of the TOWN’s By-laws;

“OPERATOR” means the PERSON directly or indirectly responsible for the operation of a BUSINESS licensed or required to be licensed under this By-law;

“OWNER” means any PERSON licensed are required to licensed under this By-law;

“PERSON” includes a CORPORATION and its directors and officers, and the heirs, executors, assignees and administrators or the other legal representatives of an INDIVIDUAL and their respective successors and assignees;

"PREMISES" means any PREMISES licensed or required to be licensed under this By-law and includes any trade or calling required to be so licensed;

“PRODUCTS” include goods, wares, crafts, jewellery, refreshments, foodstuffs, merchandise or any other items whatsoever;

“RETAIL” or “RETAIL SALE” means the sale of PRODUCTS or goods to the ultimate consumer, usually in small quantities, in the ordinary course of BUSINESS;

"SCHEDULE" means one or all the SCHEDULEs attached to this By-law;

“SECRETARY" means the SECRETARY of the LICENCE APPEAL COMMITTEE;

“SELL” means to SELL for RETAIL, offer for RETAIL sale, display, and place or expose any PRODUCTS for RETAIL sale;

“TO OPERATE” includes managing, supervising or otherwise be responsible for the control, management or supervision of a BUSINESS;

“TOWN” means The CORPORATION of the TOWN of Markham;

"TREASURER" means the TREASURER of the TOWN.

2. ADMINISTRATION AND ENFORCEMENT

2.1 In this By-law and attached SCHEDULES, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context requires.

2.2 Subject to the terms of this or other By-laws, or the directions of COUNCIL:

- (a) The administration of this By-law shall be by the staff of LICENSING SECTION, Legislative Services Department in the Corporate Services Commission of the TOWN;
- (b) The enforcement of this By-law shall be by PERSONS appointed by Council for the purpose of enforcing the provisions of this By-law, which shall include the following:
 - i) MUNICIPAL LAW ENFORCEMENT OFFICERS; and
 - ii) any duly appointed police officer.

3. SCHEDULES

The following SCHEDULES form part of this By-law:

NUMBER	SCHEDULE
SCHEDULE 1	Term, Issue, Expiry, and Prorating of Licences

SCHEDULE 2	Adult Entertainment Parlour (Services)
SCHEDULE 3	Adult Entertainment Parlours (Goods)
SCHEDULE 4	Places of Amusement (Carnivals)
SCHEDULE 5	Places of Amusement (Arcades)
SCHEDULE 6	Auctioneers
SCHEDULE 7	Barber and Hairdressing Shops
SCHEDULE 8	Billiards, Bagatelle Establishments & Bowling Alleys
SCHEDULE 9	Body Rub Parlours
SCHEDULE 10	Clothing Donation Bins
SCHEDULE 11	Driveway Paving Contractors
SCHEDULE 12	Dry Cleaning Depots
SCHEDULE 13	Eating Establishments
SCHEDULE 14	Fireworks (Sale)
SCHEDULE 15	Garages
SCHEDULE 16	Golf Driving Ranges
SCHEDULE 17	Horse Riding Establishments
SCHEDULE 18	Public Halls
SCHEDULE 19	Salvage Shops and Salvage Yards
SCHEDULE 20	Second Hand Dealers and Goods
SCHEDULE 21	Sign Installers (Mobile)
SCHEDULE 22	Special Sales
SCHEDULE 23	Temporary Vendors
SCHEDULE 24	Tobacco Shops

4. LICENCE REQUIREMENT

- 4.1 The following PERSONS must be in possession of a LICENCE authorizing them to carry on their BUSINESS in the TOWN, and shall pay to the TOWN upon application for, or renewing the LICENCE the required fee.
- 4.2 No PERSON shall carry on, OPERATE or engage in a BUSINESS referred to in Section 5 unless a current and valid LICENCE has been issued in their name by the TOWN under this By-law.

5. COMPLIANCE WITH SCHEDULES

- 5.1 No PERSON shall fail to comply with any regulation contained in the SCHEDULES attached to this By-law that regulates the BUSINESS that they are licensed to carry on under this By-law.
- 5.2 Where a provision in a SCHEDULE of this By-law requiring additional documents or inspections, the provision in the SCHEDULE shall prevail.

6. REPRESENTATION OF LICENSING

- 6.1 No PERSON shall hold himself out to be licensed if he is not.

7. DUTIES OF THE LICENSING OFFICER

7.1 The duties of the LICENSING OFFICER include:

- (a) receiving and processing all applications for licences and renewals of LICENCES;
- (b) ensuring that applications are complete and signed by the APPLICANT, or where the application is from a partnership or CORPORATION respectively, signed by a partner or the president or other authorized signing officer of the CORPORATION;
- (c) ensuring that the APPLICANT has paid the fees required for the term of the LICENCE, prior to processing the application;
- (d) imposing 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) imposing special CONDITIONS as a requirement of continuing to hold a LICENCE at any time during the term of the LICENCE where the LICENSING OFFICER is of the opinion that a term or condition of a LICENCE should be imposed;
- (f) refusing to issue or renew a LICENCE, or revoke or suspend a LICENCE where the LICENSING OFFICER is of the opinion that the APPLICANT is not entitled to a LICENCE under Section 16.1;
- (g) the maintenance and retention of all applications received and licences issued as provided for by the TOWN Record Retention By-law and policies;
- (h) the prohibition of the carrying on or engaging in a BUSINESS without a required LICENCE;
- (i) generally performing all the administrative functions conferred upon the Officer by this By-law and the attached SCHEDULES; and
- (j) co-ordination and direction of the enforcement of this By-law and SCHEDULES.

8. GENERAL LICENSING APPLICATION REQUIREMENTS

8.1 Every APPLICANT for a LICENCE and for the renewal of a LICENCE issued under this By-law shall:

- (a) submit a completed application for a LICENCE or the renewal of a LICENCE on the forms provided;

- (b) where the APPLICANT is an INDIVIDUAL or a partner of a partnership, file proof satisfactory to the LICENSING OFFICER that they are eighteen (18) years of age or older, a citizen of Canada or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of the LICENCE type that they are applying for;
- (c) submit to the taking of photographs, for the production of “Photo Identification” LICENCES for general identification purposes where required;
- (d) if the APPLICANT is a CORPORATION, file a copy of the incorporating document and a copy of the last annual information return which has been filed with the appropriate government department;
- (e) if the APPLICANT is a registered partnership, file a copy of the registered declaration of partnership;
- (f) any other document relating to the operation of the BUSINESS requested by the LICENSING OFFICER including but not limited to Provincial Driver`s License statutory declarations, Vulnerable Sector Screening Search and Criminal Conviction Background Search issued by the Police Service in which the APPLICANT resides, Harmonized Sales Tax number, proof of citizenship or landed immigrant status; York Regional Health Department Inspection Certificate, Insurance Certificates, medical certificates, letters of employment;
- (g) pay the required fee in the Licensing, Permit and Service Fees By-law;
- (h) pay any ADDITIONAL FEE imposed under the Licensing, Permit and Service Fees By-law; and
- (i) pay any outstanding fine owed to the TOWN.

9. ZONING BY-LAW COMPLIANCE

- 9.1 No LICENCE shall be issued contrary to the provisions of any TOWN Zoning By-law.

10. APPLICATION FORMS RETURNED

- 10.1 Where an APPLICANT fails to comply with any requirements of Section 8, or instructions in that regard, or where no licences are available to be issued the application shall be returned and not processed further.
- 10.2 Where the application is refused under Section 8 the APPLICANT may be advised personally if present and the application returned, or may be advised by letter sent by regular or electronic mail or facsimile to the APPLICANT’S BUSINESS or electronic address as disclosed by the application, or previous last known address, if any.

11. ISSUE OF LICENCE OR RENEWAL OF LICENCE

- 11.1 When an application for a LICENCE or for a renewal of a LICENCE is in accordance with, and meets all the requirements of this By-law, the LICENSING OFFICER shall issue a LICENCE.
- 11.2 Unless provided otherwise, a PERSON, who is the OWNER of more than one BUSINESS location, shall obtain a separate LICENCE for each location which is to be operated as a part of a BUSINESS licensed under this By-law.
- 11.3 Except where electronic internet applications for new LICENCES and renewals are accepted by the LICENSING OFFICER, or where renewals applications are accepted through postal or other methods, all applications for a LICENCE or renewal of a LICENCE shall be made by:
- (a) The APPLICANT, as sole proprietor of the BUSINESS, personally to the LICENSING SECTION;
 - (b) If a CORPORATION, by an officer or director of the CORPORATION, to the LICENSING SECTION; or
 - (c) If a Partnership, by one of the partners, to the LICENSING SECTION.

12. TIME FOR RENEWAL

- 12.1 An application for renewal of a LICENCE shall be delivered to the LICENSING SECTION on or before the expiry date. An expired LICENCE may be renewed without being subject to any new application requirements within one year of the LICENCE expiry date providing all LICENCE fees, including late fees, and charges are paid in full and where all required documentation is submitted.
- 12.2 When an application for renewal of a LICENCE is delivered to the LICENSING SECTION any time after one year after the expiry date of the LICENCE, the APPLICANT shall complete an application as a new APPLICANT.

13. TERM OF LICENCE

- 13.1 Every LICENCE expires on the expiry date as set out in SCHEDULE 1 to this By-law.

14. LICENCE NOT TRANSFERABLE

- 14.1 No LICENCE issued under this By-law is transferable except as specifically provided for within the attached SCHEDULES.

15. GROUND FOR REFUSAL TO ISSUE OR TO RENEW A LICENCE

- 15.1 An APPLICANT, whose application meets all the requirements of this By-law and its SCHEDULES is entitled to a LICENCE, or renewal of a LICENCE, except where:

- (a) there are reasonable grounds to believe that any application or other document provided contains a false statement or provides false information;
- (b) the past or present conduct of the APPLICANT, or of any partner, or any director, or officer of a CORPORATION, affords reasonable cause to believe that the APPLICANT, partner, or officer will not carry on the activity for which the LICENCE is to be issued, or to continue to be licensed in accordance with the law, or with honesty and integrity;
- (c) the financial position of the APPLICANT affords reasonable grounds to believe that the activity for which the BUSINESS is to be licensed or to continue to be licensed, will not be carried on in a financially responsible manner;
- (d) the issuance of the LICENCE or renewal of the LICENCE would be contrary to the public interest;
- (e) the APPLICANT has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of a By-law enacted by the TOWN;
- (f) the fee payable in respect of the LICENCE applied for has not been paid;
- (g) a complaint which, in the opinion of the LICENSING OFFICER, is not frivolous or vexatious, has been received about the holder of a LICENCE relating to the operation of their BUSINESS;
- (h) the APPLICANT for a renewal of a LICENCE produces a "CERTIFICATE OF ATTENDANCE" and a licence was issued with an attached condition and the LICENSEE failed to comply with the attached condition;
- (i) the LICENSEE is carrying on activities that are, or would be in contravention of the By-law and, or SCHEDULES;
- (j) the LICENSEE fails to comply with any requirement in the By-law and, or SCHEDULES to obtain or maintain or renew a LICENCE under this By-law; and
- (k) any ADDITIONAL FEE imposed on a LICENCE remains unpaid after the due date as indicated in the "Notice of ADDITIONAL FEE".

16. THE LICENSING OFFICER'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE OR CANCEL, REVOKE OR SUSPEND OR TO ATTACH CONDITIONS TO A LICENCE

- 16.1 The administrative power and authority to refuse to issue a LICENCE, to cancel, revoke or suspend a LICENCE, or to impose CONDITIONS on a LICENCE, are hereby

delegated to the LICENSING OFFICER and his or her delegates, pursuant to Section 23.2 of the *Municipal Act, 2001*, as amended.

16.2 Where the LICENSING OFFICER is of the opinion that:

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

the LICENSING OFFICER shall make that decision.

17. WRITTEN DECISION OF THE LICENSING OFFICER

17.1 The LICENSING OFFICER shall provide written notice to the APPLICANT or LICENSEE of the decision with respect to the LICENCE application, renewal, or its status.

17.2 The written notice under Subsection 17.1 shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the LICENSING OFFICER; and
- (d) state that the APPLICANT or LICENSEE is entitled to request a HEARING to be conducted by the LICENCE APPEAL COMMITTEE.

18. APPEAL OF A DECISION OF THE LICENSING OFFICER

18.1 An APPLICANT or LICENSEE who is not satisfied with the decision, or any term or CONDITION that has been imposed, may apply for an appeal to the LICENCE APPEAL COMMITTEE by sending by regular mail or personal service to the LICENSING OFFICER a written notice of appeal along with the appeal fee, to the SECRETARY of the LICENCE APPEAL COMMITTEE, Office of the TOWN CLERK, within ten (10) days of receipt of the decision.

19. APPEAL DOES NOT ACT AS A STAY OF DECISION

19.1 An appeal, under Section 18.1, of a decision does not act as a stay of that Decision.

20. REASONS FOR APPEAL

20.1 PERSONS may appeal the decision of the LICENSING OFFICER if they believe that any of the following circumstances apply:

- (a) the decision of the LICENSING OFFICER was wrong in law, fact, or both law and fact; or
- (b) there was a failure to observe a principle of natural justice.

22. CONFIRMATION OF A DECISION

21.1 A decision of the LICENSING OFFICER that is not appealed within the time frame referred to in Section 18.1 shall be deemed to be confirmed.

22. LICENCE APPEAL COMMITTEE

22.1 A committee is hereby established pursuant to Section 23.5 of the *Municipal Act, 2001*, under the name “TOWN LICENCE APPEAL COMMITTEE”, which shall be composed of not fewer than three members of COUNCIL.

22.2 The LICENCE APPEAL COMMITTEE has the powers and authority to conduct appeals of decisions made by the LICENSING OFFICER.

22.3 The LICENCE APPEAL COMMITTEE shall designate one of the members as chair and may designate one or more other members as vice-chairs of the LICENCE APPEAL COMMITTEE.

22.4 The Chair shall have general supervision and direction over the conduct of the affairs of the Committee. Three members of the LICENCE APPEAL COMMITTEE constitutes a quorum.

22.5 In place of the COUNCIL, the LICENCE APPEAL COMMITTEE shall hear the parties to a HEARING or afford the parties an opportunity to be heard, and make decisions and recommendations from HEARINGS so held.

22.6 The LICENCE APPEAL COMMITTEE shall apply the By-laws of the COUNCIL and have the powers, duties and rights as applicable under the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S. 22.

22.7 There shall be a SECRETARY to the LICENCE APPEAL COMMITTEE, who shall attend all meetings of the LICENCE APPEAL COMMITTEE and shall keep all necessary records and perform such other duties required by the LICENCE APPEAL COMMITTEE.

22.8 The SECRETARY shall arrange the sittings of the LICENCE APPEAL COMMITTEE and assign members to panels to conduct HEARINGS as circumstances require, except that no more than three members may sit on a panel.

- 22.9 The LICENCE APPEAL COMMITTEE shall require that parties submit disagreements to mechanisms of alternate dispute resolution before they are entitled to a HEARING before the Committee on the subject matter of the disagreement.
- 22.10 The oral evidence given before the LICENCE APPEAL COMMITTEE at a HEARING shall be recorded.
- 22.11 Where a HEARING is conducted, an APPELLANT must “show-cause” why the LICENCE should be granted, or why it should not be cancelled, refused, revoked or suspended, with or without CONDITIONS.
- 22.12 Where the LICENCE APPEAL COMMITTEE is satisfied that the application for the HEARING is frivolous or vexatious, the Committee may refuse to grant a HEARING to the APPELLANT.
- 22.13 Where Committee refuses to grant a HEARING, the appeal fee is non-refundable.
- 22.14 The provisions of Sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act* R.S.O. 1990, c.S.22, as amended, shall apply to all HEARINGS conducted by the LICENCE APPEAL COMMITTEE under this By-law.

23. DISCLOSURE OF DOCUMENTS AND THINGS

- 23.1 Each party to a HEARING shall disclose to all other parties not less than ten (10) BUSINESS days before the HEARING or, as otherwise ordered by the LICENCE APPEAL COMMITTEE, the existence of every document or thing that it will refer to, or give in evidence at the HEARING.

24. FAILURE TO ATTEND HEARING

- 24.1 When the APPELLANT who has been given written notice of the HEARING does not attend at the appointed time and place, the LICENCE APPEAL COMMITTEE may proceed with the HEARING in the APPELLANT’S absence and the APPELLANT shall not be entitled to any further notice of the proceedings.

25. DISMISSAL OF HEARING

- 25.1 After confirming the APPELLANT received notice of the HEARING, the LICENCE APPEAL COMMITTEE may;
- (a) where the APPELLANT fails to appear, or fails to submit any material, dismiss the appeal; or
 - (b) where the APPELLANT appears and the HEARING proceeds, dismiss the appeal at any time during the HEARING if the Committee finds it without merit.

26. COSTS

- 26.1 The LICENCE APPEAL COMMITTEE may not make any order as to costs.

27. WRITTEN DECISION

- 27.1 At the conclusion of a HEARING, the LICENCE APPEAL COMMITTEE may give its decision orally or reserve its decision, but in any case shall provide its decision in writing, with reasons, within fourteen (14) days of the HEARING to the APPELLANT and the LICENSING OFFICER.

28. POWERS OF THE LICENCE APPEAL COMMITTEE

- 28.1 On an appeal, the LICENCE APPEAL COMMITTEE has all the powers and functions of the LICENSING OFFICER who made the decision and may make any decision that the LICENSING OFFICER was entitled to make in the first instance, and the LICENCE APPEAL COMMITTEE may do any of the following things if, in its opinion, doing so would maintain the general intent and purpose of the By-law:

- (a) modify or rescind the decision or any condition;
- (b) extend any time for complying with a decision or any condition.

- 28.2 The LICENCE APPEAL COMMITTEE, after a HEARING, may consider:

- (a) a breach of the provisions of this By-law;
- (b) anything which may be in any way adverse to the public interest;
- (c) the belief that the PERSON will not carry on, or engage in the BUSINESS in accordance with applicable law, or with honesty and integrity;
- (d) if any PERSON has made a false statement in the application for the LICENCE or a renewal thereof; and
- (e) any other matter which the LICENCE APPEAL COMMITTEE is authorized by law to consider.

- 28.3 The LICENCE APPEAL COMMITTEE shall send a copy of its final decision or order, including any reasons, to each party to a HEARING, or to the PERSON who represented the party by:

- (a) regular mail;
- (b) electronic mail, transmission of a facsimile; or
- (c) such other method that the Committee specifies.

29. EFFECT OF DECISION

- 29.1 A decision that has been confirmed, modified or rescinded by the LICENCE APPEAL COMMITTEE, as the case may be, shall be final and binding upon the APPELLANT who shall comply with the decision within the time specified and in the manner specified in the decision where applicable.

30. ADDITIONAL FEES ON A LICENCE

- 30.1 Notwithstanding any other provisions of the By-law, the LICENSING OFFICER may impose ADDITIONAL FEES on a LICENCE, by way of a “Notice of ADDITIONAL FEE” at any time during the term of the LICENCE for costs incurred by the municipality attributable to the activities of the BUSINESS.
- 30.2 The “Notice of ADDITIONAL FEE shall be sent to the LICENSEE by registered mail and shall provide the LICENSEE with sixty (60) days from the date of the “Notice of ADDITIONAL FEE is deemed to have been made to pay the outstanding amount.

31. CANCELLATION OF A LICENCE

- 31.1 Any LICENCE issued under this By-law may be cancelled by the LICENSING OFFICER at any time upon the written request of the LICENSEE.

32. RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION

- 32.1 When a LICENCE has been revoked, cancelled or suspended, the holder of the LICENCE shall return the LICENCE to the LICENSING SECTION within twenty-four (24) hours of service of “Written Notice” of the decision of the LICENSING OFFICER or, where an appeal had been filed, the decision of the LICENCE APPEAL COMMITTEE, and the LICENSING OFFICER may enter the BUSINESS PREMISES belonging to the LICENSEE for the purpose of receiving, taking, or removing the said LICENCE.
- 32.2 When a PERSON has his or her LICENCE revoked or suspended under this By-law, he or she shall deliver the LICENCE to the LICENSING OFFICER and in no way shall obstruct or prevent the LICENSING OFFICER from obtaining the LICENCE.

33. POSTING OF LICENCES

- 33.1 Every LICENSEE shall post the in a conspicuous place in the BUSINESS PREMISE.

34. LICENCE PRODUCTION

- 34.1 Every LICENSEE shall produce the LICENCE for the BUSINESS for inspection upon demand by the LICENSING OFFICER or MUNICIPAL LAW ENFORCEMENT OFFICER.

35. NOTIFICATION OF CHANGE OF INFORMATION

- 35.1 A LICENSEE shall carry on BUSINESS in the TOWN in the name which is set out on the LICENCE and shall not carry on BUSINESS in TOWN in any other name unless he has first notified the LICENSING SECTION.
- 35.2 When a LICENSEE changes his name or address or any information relating to his LICENCE, he shall notify the LICENSING SECTION within forty-eight (48) hours of the change, and shall return the LICENCE immediately to the LICENSING SECTION for amendment.
- 35.3 The LICENSEE shall report any changes to the following information:
- (a) the names, addresses of officers and directors; or
 - (b) the address of the corporate head office; or if a partnership,
 - (c) names and addresses of all partners.

36. SERVICE OF NOTICE OR ORDER

- 36.1 Any notice or order required to be given or served under this By-law is sufficiently served if delivered personally or sent registered mail or by electronic mail or facsimile, addressed to the PERSON to whom delivery or service is required to be made, at the last address for service appearing in the records of the LICENSING SECTION.
- 36.2 When service is made by registered mail, the service shall be deemed to be made on the seventh day (7) after the date of mailing, unless the PERSON on whom service is being made establishes he did not, through absence, accident, illness, or other cause beyond his control, receive the notice or order until a later date.

37. POWERS OF ENTRY (authorized under Sections 435, 436 and 438 of the *Municipal Act, 2001*, as amended S.O. 2006, C. 32, Sched. A,s. 184)

- 37.1 The TOWN may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) The provisions of this By-law;
 - (b) An order issued under this By-law; or
 - (c) An order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- 37.2 Where an inspection is conducted by the TOWN, the PERSON conducting the inspection may,
- (a) require the production for inspection of documents or things relevant to the inspection;

- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any PERSON concerning a matter related to the inspection including their name, address, phone number and identification; and
- (d) alone or in conjunction with a PERSON possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

37.3 The TOWN may undertake an inspection pursuant to an order issued under s.438 of the *Municipal Act, 2001*.

37.4 The TOWN's power of entry may be exercised by an employee, officer or agent of the TOWN or by a member of the York Regional Police Service, as well as by any PERSON under his or her direction.

37.5 Every OWNER licensed under this By-law shall on request of the Officer produce his LICENCE issued under this By-law and such other documentation as is requested upon an inspection under Section 37.2.

38. ORDERS AND REMEDIAL ACTION (authorized under Sections 444, and 446 of the *Municipal Act, 2001* as amended S.O. 2006, C.32, Sched. A, s.184)

38.1 If a PERSON contravenes any of the provisions of this By-law, the TOWN may issue an order to the PERSON to discontinue the contravening activity. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention and the date by which there must be compliance with the order. The order may be served in accordance with the service provisions contained in this By-law.

38.2 If a PERSON has contravened a provision of this By-law, the TOWN may issue a work order to the PERSON who contravened or permitted the contravention of this By-law, as well as to the OWNER of the lot on which the contravention occurred, to do work to correct the contravention. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the order. The order may also provide that if the PERSON or OWNER fails to correct the contravention, the TOWN may do the work to correct the contravention at the expense of the PERSON and the OWNER. The order may be served in accordance with the service provisions contained in this By-law.

38.3 If the TOWN has issued an order directing or requiring a PERSON or an OWNER to do a matter or thing to correct a contravention of this By-law, and the PERSON or the OWNER has failed to correct the contravention, the TOWN may enter upon the lot between the hours of 9:00 am and 5:00 pm Monday to Friday to do all work necessary to correct the contravention, and the TOWN may recover the cost of the doing the matter

or thing from the PERSON directed or required to do it by action or by adding the costs to the tax roll of the OWNER and collecting them in the same manner as property taxes.

- 38.4 An order issued under this By-law may be served personally or may be served by registered mail sent to the last known mailing address of the PERSON as indicated on the TOWN's assessment roll. If an order is served on a PERSON by regular mail, it shall be deemed to have been served on the PERSON on the 5th day after mailing of the order, which deemed service may be rebutted by the PERSON proving, on a balance of probabilities, that they did not receive the order.
- 38.5 Upon an inspection under Section 37.2, the LICENSING OFFICER or M.L.E.O. or other PERSON so authorized is entitled to request and have produced all relevant LICENCES and permits and to have access to the invoices, vouchers, appointment books or like documents of the PERSON being inspected, provided such documents are relevant for the purposes of the inspection and the PERSON inspecting may remove any of the aforementioned documents for the purpose of photocopying, provided a receipt is given to the LICENSEE and the documents are returned to the LICENSEE within two (2) BUSINESS days of removal.
- 38.6 Every OWNER licensed under this By-law shall on request of the LICENSING OFFICER or M.L.E.O produce his LICENCE issued under this By-law and such other documentation as is requested upon an inspection under Section 37.5.

39. RIGHT OF INSPECTION OF LICENSED PREMISES DUTY TO PRODUCE

- 39.1 The LICENSING OFFICER, MUNICIPAL LAW ENFORCEMENT OFFICER or other PERSON so authorized who is performing a duty or exercising a power under this By-law may at any reasonable time enter upon and inspect the BUSINESS PREMISES to insure that the provisions of this By-law have been complied with, and on completion of an inspection shall complete and file a written report on the inspection.
- 39.2 Upon an inspection under Section 37.1, the Officer or other PERSON so authorized is entitled to request and have produced all relevant LICENCES and permits and to have access to the invoices, vouchers, appointment books or like documents of the PERSON being inspected, provided such documents are relevant for the purposes of the inspection and the PERSON inspecting may remove any of the aforementioned documents for the purpose of photocopying, provided a receipt is given to the LICENSEE and the documents are returned to the LICENSEE within two (2) BUSINESS days of removal.

40. OBSTRUCT INSPECTOR

- 40.1 No PERSON shall hinder or obstruct, or attempt to hinder or obstruct, the LICENSING OFFICER, MUNICIPAL LAW ENFORCEMENT OFFICER or other PERSON so authorized who is performing a duty or exercising a power under this By-law pursuant to Section 426 of the *Municipal Act, 2001*.

41. PENALTY FOR CONTRAVENTION BY A PERSON

- 41.1 Every PERSON who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.
- 41.2 If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 41.3 If an order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
- 41.4 Every PERSON who is guilty of an offence under this By-law shall be subject to the following penalties:
- (a) Upon a first conviction, to a fine of not less than \$300.00 and not more than \$50,000.00;
 - (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00;
 - (c) Upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000.00 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00.
- 41.5 For the purposes of this By-law, “multiple offences” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 41.6 For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

42. PENALTY FOR CONTRAVENTION BY A CORPORATION

- 42.1 Despite Section 42.1, where a CORPORATION is convicted of an offence under the provisions of this By-law pursuant to Section 429 (1) of the *Municipal Act, 2001*, the CORPORATION is liable to a fine not less than \$300.00 and not exceeding \$100,000.00.

43. ORDER TO DISCONTINUE ACTIVITY

- 43.1 Pursuant to the provisions of Section 444 of the *Municipal Act, 2001*, in addition to any other remedy and to any penalty imposed, the TOWN may make an order requiring the PERSON who contravened the By-law or who caused or permitted the contravention, or the OWNER or occupier of the land on which the contravention occurred, to discontinue the contravening activity.

- 43.2 Any PERSON who contravenes an order issued under Section 45.1 is guilty of an offence pursuant to Subsection 425 (1) of the *Municipal Act, 2001*.

44. STATEMENT OF THE CLERK

- 44.1 For the purposes of prosecution, under this By-law and pursuant to Subsection 447 (6) of the *Municipal Act, 2001*, a statement as to the licensing or non-licensing of any premise or PERSON, signed by the CLERK is, without proof of the office or signature, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein.

45. COURT ORDERS/BARRING OF ENTRY/CLOSING OF PREMISES

- 45.1 The provisions of Section 447 of the *Municipal Act, 2001* respecting the issuance of court orders, the banning of entry, and the closing of PREMISES shall apply to this By-law where required.

46. COLLECTION OF UNPAID LICENSING FINES

- 46.1 Where any part of a fine for a contravention of this By-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P 3, including any extension of time for payment ordered under that section the TOWN is hereby authorized, pursuant to Section 441 (2) of the *Municipal Act, 2001*, to give the PERSON against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that PERSON at the PERSON'S residence or place of BUSINESS.

47. DISTRESS FOR UNPAID FINES

- 47.1 Pursuant to Subsection 441 (3) of the *Municipal Act, 2001*, where a fine remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed to be unpaid taxes and, pursuant to Subsection 351 (1) of the *Municipal Act, 2001*, the TREASURE of the TOWN, or agent may seize the following to recover the taxes and costs of seizure, subject to the exemptions provided for in Subsection 351 (3) and (4) of the *Municipal Act, 2001*:

- (a) The personal property belonging to or in the possession of the PERSON fined.
- (b) The interest of the PERSON fined in any personal property including such PERSON'S right to the possession of any personal property under a contract for purchase or a contract to which the PERSON fined becomes the OWNER of the property upon performance of any condition.

- (c) The personal property on the land and any interest therein, as described in Subsection (a) of this Section, of the OWNER of the land, even if the OWNER'S name does not appear on the tax roll.
- (d) Any personal property on the land, title to which is claimed under any assignment or transfer made for the purpose of defeating the seizure.
- (e) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.

48. LEVY OF FINES UNDER WARRANT

48.1 Despite Section 47.1 of this By-law, the TREASURER or an Officer of the TOWN may seize personal property, pursuant to Subsection 351 (2) of the *Municipal Act, 2001*, after a tax bill has been sent but before the due date if:

- (a) the TREASURER or an officer has good reason to believe that the personal property subject to the seizure is about to be removed from the TOWN before its due date;
- (b) the TREASURER or an Officer makes an affidavit to that effect before a Justice of the Peace or the head of COUNCIL of the TOWN; and
- (c) the Justice of the Peace or head of COUNCIL of the TOWN issues a warrant authorizing the TREASURER or an Officer to levy for the fines and costs in the manner provided by this Section.
- (d) Subsections 351 (5), (7), (8), (9), (10), (13) and (14) of the *Municipal Act, 2001*, apply with necessary modifications to a seizure for an unpaid licensing fine under this By-law.
- (e) No defect, error or omission in the form or substance of the notice required by this By-law invalidates any subsequent proceedings for the recovery of a fine.

49. PROCEEDS OF FINES

49.1 Pursuant to the provisions of Subsection 433 (1) of the *Municipal Act, 2001*, where a PERSON has been convicted of any offence under this By-law, every fine imposed for a contravention of this By-law belongs to the TOWN.

50. SEVERABILITY

50.1 Notwithstanding that any section, SCHEDULE, or any part or parts thereof, of this By-law may be found by any court of law to be invalid or beyond the power of the COUNCIL to enact, such section, SCHEDULE or part or parts thereof shall be deemed

to be severable, and all other sections and SCHEDULES of this By-law, or parts thereof, are separate and independent there from and enacted as such.

51. SCHEDULES

- 51.1 All SCHEDULES referred to in this By-law and attached to this By-law shall be deemed to be a part of the By-law.

52. CONFLICT

- 52.1 Where there is a conflict between this By-law and any other TOWN By-law that regulates or governs the operation of Stationary BUSINESSES, this By-law shall prevail.

53. INTERPRETATION

- 53.1 The provisions of the *Legislation Act 2006*, R.S.O. 2006, c.21, Sch. F, shall apply to this By-law.

54. REPEAL

- 54.1 The following By-laws are to be repealed.

By-law	Number	By-law	Number
Adult Entertainment Parlour (Goods)	2002-286	Fireworks (Sale)	2007-230
Adult Entertainment Parlours (Services)	2002-287	Food Stores	2002-296
Places of Amusement (Carnivals)	2002-288	Garages	2002-297
Places of Amusement (Arcades)	2002-289	Golf Driving Ranges	2002-298
Auctioneers	2002-290	Horse Riding Establishments	2002-299
Bagatelle Establishments	2002-293	Public Halls	2002-304
Barber and Hairdressing Shops	2002-291	Salvage Shops	2002-306
Billiards Halls	2002-293	Salvage Yards	2002-306
Body Rub Parlours	2002-292	Second Hand Dealers	2002-306
Bowling Alleys	2002-293	Second Hand Goods	2002-307
Complementary Healthcare Centres	2002-292	Signs, Mobile	2002-302
Driveway Paving Contractors	2006-214	Special Sales	2005-87
Dry Cleaning Depots	2002-295	Tobacco Shops	2002-309
Eating Establishments	2002-296		

55. EFFECTIVE DATE

- 55.1 This By-law comes into force and takes effect on **DATE**

56. SHORT TITLE

- 56.1 This By-law shall be known as the Stationary Business Licensing By-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS

DAY OF _____, 2011.

KIMBERLEY KITTERINGHAM
TOWN CLERK

FRANK SCARPITTI
MAYOR

SCHEDULE 1

Relating to the Term, Issue, Expiry, and Prorating of Stationary Business Licences

1. TERM OF LICENCE

- 1.1 Every LICENCE listed in this SCHEDULE is valid for the corresponding term of the LICENCE unless:
- (a) the LICENCE has been suspended or revoked;
 - (b) the LICENCE has been cancelled at the request of the LICENCEE;
 - (c) payment of the said LICENCE has not been made.

2. TIME FOR RENEWAL

- 2.1 An application for renewal of a LICENCE shall be delivered to the LICENSING SECTION on or before the expiry date. An expired LICENCE may be renewed without being subject to any new application requirements within one year of the LICENCE expiry date providing all LICENCE fees, including late fees, and charges are paid in full and where all required documentation is submitted.
- 2.2 When an application for renewal of a LICENCE is delivered to the LICENSING SECTION any time after one year after the expiry date of the LICENCE, the APPLICANT shall complete an application as a new APPLICANT.
- 2.3 Fees may be pro-rated by calculating the fee based upon the month in which the APPLICATION is made to the LICENSING SECTION to the expiry date of the LICENCE pursuant to the Licensing, Permit and Service Fee By-law.

SCHEDULE	RENEWAL DATE
Adult Entertainment Parlour (Goods)	December 31 st
Adult Entertainment Parlours (Services)	December 31 st
Places of Amusement (Carnivals)	December 31 st
Places of Amusement (Arcades)	December 31 st
Auctioneers	December 31 st
Bagatelle Establishments	December 31 st
Barber and Hairdressing Shops	December 31 st
Billiards Halls	December 31 st
Body Rub Parlours	December 31 st
Bowling Alleys	December 31 st
Clothing Donation Bins	December 31 st
Complementary Healthcare Establishments	March 31 st
Driveway Paving Contractors	December 31 st
Dry Cleaning Depots	December 31 st

Eating Establishments	December 31 st
Fireworks (Sale)	December 31 st
Food Stores	December 31 st
Garages	December 31 st
Golf Driving Ranges	December 31 st
Horse Riding Establishments	December 31 st
Public Halls	December 31 st
Salvage Shops	December 31 st
Salvage Yards	December 31 st
Second Hand Dealers	December 31 st
Second Hand Goods	December 31 st
Signs, Mobile	December 31 st
Special Sales	December 31 st

SCHEDULE 2 - RELATING TO ADULT ENTERTAINMENT PARLOURS - SERVICES

1. DEFINITIONS

"ADULT ENTERTAINMENT PARLOUR" means any PREMISES or part thereof in which is provided, in pursuance of a trade, calling, BUSINESS or occupation, SERVICES appealing or designed to appeal to erotic or sexual appetites or inclinations;

"ATTENDANT"" means any PERSON other than a licensed OWNER or OPERATOR who provides SERVICES designed to appeal to erotic or sexual appetites or inclinations at an ADULT ENTERTAINMENT PARLOUR;

"DEFINED AREAS" means those two areas of the TOWN which are shown as the shaded areas set out in Appendixes "B" and "C" attached hereto;

"LICENSED PREMISES" means an ADULT ENTERTAINMENT PARLOUR which is referred to in a LICENCE;

"TO PROVIDE" when used in relation to SERVICES includes to furnish, perform, solicit, or give such SERVICES and "providing" and "provision" have corresponding meanings;

"SERVICES" includes activities, facilities, performances, exhibitions, viewings and encounters;

"SERVICES DESIGNED TO APPEAL TO EROTIC OR SEXUAL APPETITES OR INCLINATIONS" includes:

- (i) SERVICES of which a principle feature or characteristic is the nudity or partial nudity of any PERSON;
- (ii) SERVICES in respect of which "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.

2. Every APPLICANT for an OWNER'S LICENCE shall, at the time of making his application, file with the LICENSING OFFICER a list showing the names of all OPERATORS and ATTENDANTs providing SERVICES in his ADULT ENTERTAINMENT PARLOUR and all such PERSONS intended or expected by him to be employed or TO PROVIDE SERVICES in his ADULT ENTERTAINMENT PARLOUR and shall thereafter maintain a list showing at all times the names of all OPERATORS and ATTENDANTs providing SERVICES in his ADULT ENTERTAINMENT PARLOUR and such OWNER

shall, upon a request made to him by any peace officer or By-law enforcement officer produce the list, brought up to date as of the time of the request, to such officer.

3. On every application for an OWNER'S, OPERATOR'S or ATTENDANT'S LICENCE by an INDIVIDUAL or by a corporation, the APPLICANT shall state:
 - (a) if the APPLICANT is an INDIVIDUAL, his date of birth; and
 - (b) if the APPLICANT is a corporation, the date of birth of every shareholder or other PERSON having a beneficial interest of any kind in the shares of the corporate APPLICANT or in any corporations referred to in section 4 of this By-law.
4. Where the shares in a corporation applying for an OWNER'S or OPERATOR'S LICENCE are held in whole or in part by another corporation, the corporation so applying shall file with the LICENSING OFFICER a Return in a form supplied by the LICENSING OFFICER, which Return shall contain a list of all of its shareholders, and if such Return discloses that the shares in such other corporation are in turn held in whole or in part by a third corporation then the said APPLICANT shall also file such a Return in respect of such third corporation listing its shareholders, and so on until the names of all living PERSONS are shown and identified as the shareholders of any and all corporations having an interest, direct or indirect, in the shares of the APPLICANT corporation.
5. All Returns required by section 4 of this section shall be filed with the LICENSING OFFICER at the same time as the filing of the application for the LICENCE.
6. Every OWNER or OPERATOR which is a corporation shall, in every year, on or before the time at which it applies for the renewal of its LICENCE, file with the LICENSING OFFICER an Annual Return on a form supplied by the LICENSING OFFICER.
7. Where a corporation is the holder of an OWNER'S or OPERATOR'S LICENCE or LICENCES, the corporation shall forthwith notify the LICENSING OFFICER in writing of all transfers of existing shares and of the issue of any existing or new shares of the capital stock of the corporation, and of any such transaction involving the shares of any corporation referred to in section 4 and the LICENSING OFFICER may, in its discretion, determine whether the LICENCE or LICENCES shall be revoked.
8. Where, by a transfer of existing shares or by an issue of new or existing shares, the controlling interest in a corporation holding one or more OWNER'S or OPERATOR'S LICENCES is determined by the LICENSING OFFICER to have changed hands, such LICENCE or LICENCES shall be terminated

forthwith and the LICENSING OFFICER may issue a new LICENCE or new LICENCES upon payment of the prescribed fee. The LICENSING OFFICER may refuse to issue a new LICENCE or LICENCES if it determines that it is in the public interest so to do.

9. Where the shares of a corporate OWNER or OPERATOR are held in whole or in part by another corporation, such OWNER or OPERATOR shall file with the LICENSING OFFICER at the same time as the OWNER or OPERATOR an Annual Return as provided in section 4 of this section and if the shares in such other corporation are in turn held in whole or in part by a third corporation, then such OWNER or OPERATOR shall likewise file such an Annual Return in respect of such third corporation and so on until the names of all living PERSONS are shown and identified as the shareholders of any and all corporations having an interest, direct or indirect, in the corporate OWNER or OPERATOR.
9. (a) PERSONS associated in a partnership applying for an OWNER'S or OPERATOR'S LICENCE shall file with its application to the LICENSING OFFICER a declaration in writing signed by all members of the partnership, which declaration shall state:
 - (i) the full name of every partner and the address of his ordinary residence;
 - (ii) the name or names under which they carry on or intend to carry on BUSINESS;
 - (iii) that the PERSONS therein named are the only members of the partnership; and
 - (iv) the mailing address for the partnership.
- (b) If any member of a partnership applying for a LICENCE is a corporation, such corporation shall for the purposes of section 4 of this By-law be deemed to be a corporation applying for an OWNER'S or OPERATOR'S LICENCE and if such LICENCE is issued to the partnership such corporation shall, for the purposes of the said section, be deemed to be a corporation which holds an OWNER'S or OPERATOR'S LICENCE; and
- (c) It shall be the duty of every member of a partnership to advise the LICENSING OFFICER immediately in writing of any change in the membership of the partnership and of any other change in any of the particulars relating to the partnership or its BUSINESS which are required to be filed with the LICENSING OFFICER, and the LICENSING OFFICER may, in his discretion, determine whether or not a new LICENCE should issue to the partnership as presently constituted.

10. (a) Every PERSON applying for an OWNER'S, OPERATOR'S or ATTENDANT'S LICENCE who carries on or intends to carry on his BUSINESS in or relating to an ADULT ENTERTAINMENT PARLOUR under a name or designation other than his own name or under his own name with the addition of the expression "and company" or some other expression indicating a plurality of members in the firm, shall, at the time of the making of his application, file with the LICENSING OFFICER a declaration, which declaration shall state:
- (i) his full name and the address of his ordinary residence;
 - (ii) any name or designation under which he carries on or intends to carry on BUSINESS, and the date when the name or designation was first used by him;
 - (iii) that no other PERSON is associated with him in partnership; and
 - (iv) the mailing address for his BUSINESS.
- (b) A PERSON to whom this section relates shall notify the LICENSING OFFICER immediately of any change in any of the particulars required to be filed with the Licensing Office under subsection (a) of this section.
11. (a) Every OWNER, OPERATOR or ATTENDANT applying for a LICENCE must use his own legal name in making such application and subject to subsection (b) of this section no such LICENCE shall be issued to any PERSON in any name other than his own legal name;
- (b) Every OWNER, OPERATOR or ATTENDANT intending to use some name or designation other than his own may, at the time of the issue of his LICENCE, or at the time at which he files with the LICENSING OFFICER notice of intention to use such name or designation, have endorsed on his LICENCE such name or designation; and
- (c) No OWNER, OPERATOR or ATTENDANT shall carry on BUSINESS under any name or designation other than his own, unless he has filed with the LICENSING OFFICER a notice of his intention to use such name or designation and no PERSON shall use any name or designation in respect of an ADULT ENTERTAINMENT PARLOUR or of any trade, calling, BUSINESS or occupation carried on therein without first notifying the LICENSING OFFICER of such name or designation intended to be used and having such name endorsed upon his LICENCE in accordance with subsection (b) of this section.
12. (a) No ADULT ENTERTAINMENT PARLOUR may open for BUSINESS or operate or be operated unless it's OWNER is licensed as such under this By-law;

- (b) Every PERSON applying for an OWNER'S LICENCE shall file with the LICENSING OFFICER documentation satisfactory to the LICENSING OFFICER demonstrating the APPLICANT's right to possess or occupy the PREMISES used by him as an ADULT ENTERTAINMENT PARLOUR and if such PERSON is not the registered OWNER or OWNER in fee simple of the property upon which the ADULT ENTERTAINMENT PARLOUR is located, such PERSON shall file with the LICENSING OFFICER at the same time a copy of his lease, if any, and of any other document constituting or affecting the legal relationship between the said APPLICANT and the said registered OWNER or OWNER in fee simple of the real property. For the purpose of this subsection, "registered OWNER" means the OWNER as registered pursuant to the *Land Titles Act* or the *Registry Act* as the case may be;
 - (c) A separate OWNER'S LICENCE shall be taken out in respect of each ADULT ENTERTAINMENT PARLOUR;
 - (d) Where an OWNER does not personally operate his ADULT ENTERTAINMENT PARLOUR, every PERSON operating such ADULT ENTERTAINMENT PARLOUR shall obtain a LICENCE so to do, but nothing herein relieves such an OWNER from the requirement that he obtain a LICENCE as OWNER of such ADULT ENTERTAINMENT PARLOUR;
 - (e) An OWNER or OPERATOR may, subject to the provisions of this By-law, if his LICENCE as an OWNER or OPERATOR is so endorsed by the LICENSING OFFICER, perform the SERVICES of an ATTENDANT in the ADULT ENTERTAINMENT PARLOUR of which he is the OWNER or OPERATOR; and
 - (f) An OWNER who operates his own ADULT ENTERTAINMENT PARLOUR shall notify the LICENSING OFFICER of this fact at the time he obtains his LICENCE and his LICENCE may be endorsed accordingly upon payment of the appropriate fee, and he shall notify the LICENSING OFFICER and have the said endorsement amended before engaging any OPERATOR to operate his ADULT ENTERTAINMENT PARLOUR.
13. (a) No OWNER of an ADULT ENTERTAINMENT PARLOUR or PREMISES shall permit any PERSON other than a licensed OPERATOR to operate such ADULT ENTERTAINMENT PARLOUR;
- (b) No OWNER or OPERATOR shall permit the provision of SERVICES upon or at his ADULT ENTERTAINMENT PARLOUR or pursuant to the operation by him of an ADULT ENTERTAINMENT PARLOUR by any PERSON other than a licensed ATTENDANT or other PERSON licensed or authorized by or under this By-law so to do;

- (c) No OWNER shall permit any PERSON, other than an employee of such OWNER or a PERSON with whom the PERSON has contracted, to operate his ADULT ENTERTAINMENT PARLOUR or TO PROVIDE SERVICES in his ADULT ENTERTAINMENT PARLOUR;
 - (d) No ATTENDANT or other PERSON shall provide SERVICES in any ADULT ENTERTAINMENT PARLOUR unless the OWNER of the said ADULT ENTERTAINMENT PARLOUR and the OPERATOR, if any, is duly Licensed as OWNER or OPERATOR respectively under this By-law;
 - (e) No OPERATOR not being the OWNER of an ADULT ENTERTAINMENT PARLOUR shall operate the said ADULT ENTERTAINMENT PARLOUR unless the OWNER of the said ADULT ENTERTAINMENT PARLOUR is duly licensed as OWNER under this By-law; and
 - (f) No OPERATOR may operate an ADULT ENTERTAINMENT PARLOUR unless he first notifies the LICENSING OFFICER of the name of the OWNER whose ADULT ENTERTAINMENT PARLOUR he intends to operate and has endorsed upon his LICENCE the said OWNER'S name accordingly, and every OPERATOR before operating any other ADULT ENTERTAINMENT PARLOUR shall notify the LICENSING OFFICER of his intention so to do and have his LICENCE endorsed accordingly.
14. A copy of every written contract of service, contract for SERVICES or other document constituting or pertaining to the relationship between OWNER and OPERATOR or an ADULT ENTERTAINMENT PARLOUR or between OWNER or OPERATOR and ATTENDANT providing SERVICES at an ADULT ENTERTAINMENT PARLOUR, shall be filed with the LICENSING OFFICER and the original of any such document shall be made available for inspection at any time by the LICENSING OFFICER's By-law enforcement officers upon request, and shall be retained by the OWNER or OPERATOR for a period of six months after its termination.
15. Every OWNER, OPERATOR or ATTENDANT who changes his address shall, within two days after such change, attend before the LICENSING OFFICER and notify the LICENSING OFFICER of such change of address and produce his LICENCE for the change to be entered thereon.
16. (a) No OWNER'S LICENCE shall be transferred, and if an OWNER SELLS, leases or otherwise disposes of his ADULT ENTERTAINMENT PARLOUR or the PREMISES or part thereof upon or in which an ADULT ENTERTAINMENT PARLOUR is operated, to any PERSON, his LICENCE in respect of such ADULT ENTERTAINMENT PARLOUR or PREMISES shall, notwithstanding any other provision of this By-law, terminate;

- (b) Subject to subsections (d) and (e) hereof, the LICENSING OFFICER may in his discretion issue a new OWNER'S LICENCE to the purchaser, lessee or other PERSON obtaining an interest in an ADULT ENTERTAINMENT PARLOUR or the PREMISES or part thereof upon or in which an ADULT ENTERTAINMENT PARLOUR has been operated subject also to the following CONDITIONS:
- (i) That the new APPLICANT qualifies under all of the other provisions of this By-law, and that he complies with all of the requirements of this By-law relating to him;
 - (ii) That the new APPLICANT file with the LICENSING OFFICER the documents relating to ownership and to his right to possess or occupy the ADULT ENTERTAINMENT PARLOUR, all as required by this By-law;
 - (iii) That the APPLICANT and the vendor file with the LICENSING OFFICER an executed copy of a written agreement between the parties containing all the details of the dealings between the parties in respect of such ADULT ENTERTAINMENT PARLOUR or PREMISES; and
 - (iv) That the agreement contain a statutory declaration, in a form supplied by the LICENSING OFFICER, by both parties and a further statutory declaration by the solicitor for the purchaser in a form supplied by the LICENSING OFFICER.
- (c) The making of a false or intentionally misleading recital of fact, statement or representation in any such agreement or statutory declaration required by this by-law hereof shall be deemed a violation of the provisions of this By-law;
- (d) Notwithstanding subsections (a) and (b) hereof, the LICENSING OFFICER may in his discretion refuse to issue a LICENCE or LICENCES to a purchaser, lessee or other PERSON obtaining an interest in an ADULT ENTERTAINMENT PARLOUR in a transaction under this section when the LICENSING OFFICER is of the opinion that it is not in the public interest, as determined by the LICENSING OFFICER, that such new LICENCE or LICENCES should be issued; and
- (e) Upon the sale, lease or other disposition of an ADULT ENTERTAINMENT PARLOUR, every OPERATOR'S LICENCE issued in respect of such ADULT ENTERTAINMENT PARLOUR shall terminate, and the LICENSING OFFICER may, subject to the provisions of this By-law, permit the purchaser, lessee or other PERSON obtaining an interest in such ADULT ENTERTAINMENT PARLOUR to operate the ADULT ENTERTAINMENT PARLOUR by an endorsement to that

effect upon an OWNER'S LICENCE issued to him or may issue a new OPERATOR'S LICENCE to any PERSON previously Licensed as an OPERATOR in respect of such ADULT ENTERTAINMENT PARLOUR.

17. No OWNER or OPERATOR shall permit any SERVICES to be given, performed, provided or received in any ADULT ENTERTAINMENT PARLOUR in breach of any of the regulations contained in this By-law.
18.
 - (a) Every OWNER, OPERATOR and ATTENDANT providing SERVICES at an ADULT ENTERTAINMENT PARLOUR or in attendance at an ADULT ENTERTAINMENT PARLOUR in pursuance of a trade, calling, BUSINESS or occupation carried on by the OWNER, or OPERATOR of such ADULT ENTERTAINMENT PARLOUR, shall, upon a request made to him by any peace officer, By-law enforcement officer, officer of the Markham Fire Department, or public health inspector, provide his name and residential address, and if he is licensed under this By-law in respect to any trade, calling, BUSINESS or occupation relating to such ADULT ENTERTAINMENT PARLOUR, he shall produce his said LICENCE. There shall be an INDIVIDUAL who is a licensed OWNER or OPERATOR on the PREMISES at all times while the ADULT ENTERTAINMENT PARLOUR is opened for BUSINESS; and
 - (b) Notwithstanding subsection (a), this section does not require an ATTENDANT to identify himself or produce his LICENCE to a public health inspector.
19.
 - (a) Subject to this By-law, before there is carried on in any ADULT ENTERTAINMENT PARLOUR any BUSINESS, trade, calling or occupation in an ADULT ENTERTAINMENT PARLOUR for which a LICENCE is otherwise required by, the OWNER or the said ADULT ENTERTAINMENT PARLOUR shall attend before the LICENSING OFFICER and shall apply to have his LICENCE endorsed to permit such trade, calling, BUSINESS or occupation to be carried on in such ADULT ENTERTAINMENT PARLOUR, and if the LICENSING OFFICER authorized such endorsement, the said OWNER shall pay the LICENCE fee, if any, required of him by the By-law for such a LICENCE;
 - (b) No OWNER or OPERATOR shall permit any trade, calling, BUSINESS or occupation for which a LICENCE is required under this By-law, to be carried on in an ADULT ENTERTAINMENT PARLOUR owned or operated by him unless a description of the said trade, calling, BUSINESS or occupation is endorsed on the OWNER'S LICENCE as provided in this By-law and unless the OWNER and every other PERSON required to be so licensed has paid the LICENCE fee applicable to him; and

- (c) Every PERSON shall in carrying on or permitting the carrying on of any trade, calling, BUSINESS or occupation in an ADULT ENTERTAINMENT PARLOUR comply with all of the requirements of the By-law relating thereto, including the requirement of LICENCE, if any.
- 20.
- (a) No PERSON under the age of nineteen may be or act as an OWNER or OPERATOR of an ADULT ENTERTAINMENT PARLOUR or provide any SERVICES in an ADULT ENTERTAINMENT PARLOUR;
 - (b) No one may provide SERVICES in an ADULT ENTERTAINMENT PARLOUR to a PERSON under the age of nineteen years;
 - (c) No OWNER or OPERATOR shall permit any PERSON under the age of nineteen to enter or remain in any ADULT ENTERTAINMENT PARLOUR owned or operated by him;
 - (d) This section shall not be deemed to prohibit any PERSON from entering or remaining in any PREMISES licensed as an ADULT ENTERTAINMENT PARLOUR except when SERVICES are being provided in such PREMISES;
 - (e) No OWNER or OPERATOR may, in respect of an ADULT ENTERTAINMENT PARLOUR owned or operated by that PERSON, knowingly permit any ATTENDANT, while providing SERVICES as an ATTENDANT, to touch, or be touched by or have physical contact with any other PERSON in any manner whatsoever involving sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the ATTENDANT'S body or of that PERSON'S body, whether or not such body parts are clothed or unclothed;
 - (f) No ATTENDANT, while providing SERVICES as an ATTENDANT, may touch or be touched by or have physical contact with any other PERSON in any manner whatsoever involving sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the ATTENDANT'S body or of that PERSON'S body, whether or not such body parts are clothed or unclothed;
 - (g) Every OWNER and every OPERATOR shall ensure that signage is posted in conspicuous locations throughout the ADULT ENTERTAINMENT PARLOUR sufficient to be visible to all ATTENDANTS and patrons therein, which signage shall indicate the prohibition respecting sexual touching, which shall include rubbing, fondling or manual stimulation of the genitals, the buttocks, or the breasts of the ATTENDANT'S body or of that PERSON'S body, whether or not such body parts are clothed or unclothed;

- (h) The ADULT ENTERTAINMENT PARLOUR shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility;
- (i) Within any ADULT ENTERTAINMENT PARLOUR, the OWNER shall designate an area, which shall be the only area within which adult entertainment SERVICES may be provided, and which area shall contain no smaller room, area or cubicle enclosed or partitioned by any wall extending from the floor to a height in excess of 1.07 metres from the floor;
- (j) No room, area or cubicle located within the ADULT ENTERTAINMENT PARLOUR, other than the area designated for that purpose, may be used by any PERSON for the provision of adult entertainment SERVICES;
- (k) No ADULT ENTERTAINMENT PARLOUR or part thereof shall be used as a DWELLING or for sleeping purposes or contain therein any furniture which is commonly used or may be used for sleeping purposes;
- (l) No door to any room, area or cubicle where adult entertainment SERVICES are or may be provided, save and except for the area designated and used by the OWNER or OPERATOR as office space, one storage room and rooms required for the heating, ventilation and air conditioning systems of the ADULT ENTERTAINMENT PARLOUR, shall be equipped or constructed with a locking device of any kind, or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such room, area or cubicle;
- (m) No ATTENDANT may provided entertainment SERVICES in a room, area, or cubicle which has a door or other means of access that is equipped or constructed with a locking device of any kind or that is equipped or constructed in such a way as to permit the obstruction, hindrance or delay of any PERSON attempting to gain entry thereto; and
- (n) Every OWNER applying for a LICENCE under this By-law shall file with his application a floor plan of the ADULT ENTERTAINMENT PARLOUR upon which the OWNER shall clearly designate the area which shall be used TO PROVIDE adult entertainment SERVICES, the area which shall be used as office space, the storage room and the heating, ventilation and air conditioning systems, if any. In the event that the OWNER wishes to amend the floor plan, he shall first file with the LICENSING OFFICER a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the LICENSING OFFICER.

21. Every OWNER, OPERATOR and ATTENDANT shall, while engaged in his respective trade, calling, BUSINESS or occupation in an ADULT

ENTERTAINMENT PARLOUR be neat and clean in his PERSON and civil and well-behaved to members of the public with whom he is dealing.

22. Every PERSON shall comply with the provisions of this By-law where applicable to him whether or not he is licensed under this By-law.
23. A LICENCE shall not be issued for any ADULT ENTERTAINMENT PARLOUR unless it is located in a DEFINED AREA.
24. Only one LICENCE shall be issued for each DEFINED AREA.
25. The number of LICENCES that may be issued pursuant to this By-law is limited to two.
26. A LICENCE shall not be issued for any ADULT ENTERTAINMENT PARLOUR, unless all the CONDITIONS as set out in APPENDIX "A" attached hereto have been satisfied.
27. (a) Every application for a LICENCE or a renewal of a LICENCE under this By-law shall be filed with the LICENSING OFFICER and be accompanied by:
 - (i) A statement in the form prescribed by the LICENSING OFFICER, giving particulars as to the location of the ADULT ENTERTAINMENT PARLOUR together with such other information as may be required to determine whether the use complies with all applicable zoning By-laws and other regulations.
28. LICENCES and renewals thereof issued under this By-law shall expire six months from the date they are issued.
29. Notice of revocation of or termination of any LICENCE may be given by COUNCIL by registered letter signed by the CLERK and mailed or delivered to the last known address and upon such notice being given, the LICENCE shall then be revoked and terminated and no fees shall be refunded in respect thereof.
30. In addition to any other penalties included in this By-law, any PERSON who contravenes the provisions of this By-law, including every PERSON who fails to perform a duty imposed herein or who performs an act PROHIBITED herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the Provincial Offences Act (as amended), is liable to:
 - (a) a penalty in the case of PERSONS, other than a corporation, not to exceed \$25,000.00 or imprisonment for a term not to exceed one year or both; and
 - (b) a penalty in the case of a corporation, not to exceed \$50,000 and

(c) an order closing the PREMISES which are the subject of the contravention for a period not to exceed two years.

31. That Appendixes "A", "B" and "C" attached to the SCHEDULE form part of this By-law.

APPENDIX "A"
TO BY-LAW XXXX-XX

CONDITIONS

1. An Adult Entertainment Parlour shall not be permitted within 120 metres of a residential use.
2. Parking shall be provided for an Adult Entertainment Parlour at one space per 9m² of gross floor area of the premises.
3. A minimum landscaping strip of 3 metres in width shall be provided along the side and rear lot lines of the property .

SCHEDULE 3 - RELATING TO ADULT ENTERTAINMENT PARLOURS – SALE OF GOODS

1. **DEFINITIONS:**

"ADULT ENTERTAINMENT PARLOUR (GOODS)" means any PREMISES or part thereof in which is provided, in pursuance of a trade, calling, BUSINESS or occupation, goods designed to appeal to erotic or sexual appetites or inclinations;

"ADULT VIDEOTAPE" means any videotape, the container or contents of which are designed or held out as designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by the portrayal of one or more PERSONS involved or engaged in specified sexual activities as defined by this By-law, or by an emphasis on the FIRECRACKER of specified human body areas. "Adult videotape": also includes, in the absence of evidence to the contrary, a videotape classified by the Ontario Film Review Board as "restricted" and required to be characterized with the added information piece "adult sex film";

"CLASS 'A' ADULT ENTERTAINMENT PARLOUR (GOODS)" means an ADULT ENTERTAINMENT PARLOUR (goods) in which the principal BUSINESS is the provision of goods or in respect of which advertisements refer to "adult", "X-rated", "XXX" or similar description in reference to the goods provided in the PREMISES;

"CLASS 'B' ADULT ENTERTAINMENT PARLOUR (GOODS)" means an ADULT ENTERTAINMENT PARLOUR (goods) in which the portion of the floor area devoted to the FIRECRACKER of goods to the public is less than 10% of the total area devoted to the FIRECRACKER of all merchandise within the BUSINESS PREMISES;

"GOODS" includes, but is not limited to, MAGAZINES, books, pictures, slides, films, videotapes or adult videotapes, phonograph records, pre-recorded magnetic tapes, compact discs, digital video discs, novelties, devices or tools, the container or contents of which are designed or held out as designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction, or FIRECRACKER of contents, of subject matter distinguished or characterized by the portrayal of one or more PERSONS involved or engaging in specified sexual activities or by an emphasis on the FIRECRACKER of specified human body areas;

"OPERATOR" includes a PERSON who, alone or with others, owns, operates or controls the trade, calling, BUSINESS or occupation carried on at an ADULT ENTERTAINMENT PARLOUR (goods) and includes a PERSON who is the tenant or LICENSEE in respect of PREMISES which are utilized as an ADULT ENTERTAINMENT PARLOUR (goods);

"SIGN" includes any SIGN as defined pursuant to TOWN By-law No. 2002-94 (as amended or successor legislation thereto);

"SPECIFIC HUMAN BODY AREAS" means the genitals and the anus;

"SPECIFIC SEXUAL ACTIVITIES" means any of the following: actual or simulated sexual intercourse, ejaculation, sodomy, including anal intercourse, oral sexual intercourse or direct physical stimulation of unclothed genital organs;

"TO PROVIDE" when used in relation to goods includes TO SELL, offer TO SELL or FIRECRACKER for sale, by RETAIL or otherwise such goods and "providing" and "provision" have corresponding meanings. When used in the context of adult videotapes, "TO PROVIDE" also includes to rent, license, lease, exchange or trade such goods, and to offer to do any of same, whether or not consideration is effected by cost of membership, subscription or price of admittance, or any other basis;

"VIDEOTAPE means cinematographic film, videotape, video disc, computer diskette, or any other medium capable of producing visual images that may be viewed as moving pictures.

2. REGULATIONS RESPECTING CLASS B ADULT ENTERTAINMENT PARLOURS (GOODS)

2.1 Every PERSON operating a Class B ADULT ENTERTAINMENT PARLOUR (Goods) shall comply with the following regulations:

- (a) No OPERATOR may provide or permit the provision of goods to any PERSON who is under the age of eighteen years;
- (b) No OPERATOR may advertise or promote the sale of goods except in accordance with the provisions of this By-law respecting "SIGNS and advertisements";
- (c) No OPERATOR may permit any employee TO PROVIDE goods without instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations in the provision of such goods;
- (d) No OPERATOR may permit the provision of any SERVICES designed to appeal to erotic or sexual appetites or inclinations in an ADULT ENTERTAINMENT PARLOUR (Goods); and
- (e) Where goods in the form of printed, photographic or pictorial matters are provided, such goods shall be located in a manner which renders such materials inaccessible and not readily visible to PERSONS under the age of 18 years.

2.2 No PERSON may operate a Class B ADULT ENTERTAINMENT PARLOUR (Goods) that provides adult videotapes except in accordance with the following additional regulations:

- (a) No adult videotape containers or related advertising or promotional material may

be displayed, except in a designated area of such ADULT ENTERTAINMENT PARLOUR (Goods) that is separated from the balance of the public area by a solid partition extending from the floor to a height not less than 1.8 metres from the floor and provided that access to the designated area shall be through a door having a height not less than 1.5 metres and provided that no such advertising or promotional material can be seen by PERSONS in the store without entering the designated area;

- (b) No OPERATOR may provide adult videotapes, unless such adult videotapes are stored behind the main counter, which is staffed by an employee, or contained within automated vending or dispensing equipment in such a manner as to FIRECRACKER only the title to the adult videotape;
- (c) No OPERATOR may provide adult videotapes, without maintaining a current listing of all adult videotapes available on the PREMISES and making that listing available to the LICENSING OFFICER upon request;
- (d) No OPERATOR may play any adult videotape anywhere within such an ADULT ENTERTAINMENT PARLOUR (Goods);
- (e) No OPERATOR may provide any adult videotape without posting in a prominent location satisfactory to the LICENSING OFFICER, a valid film exchange LICENCE issued pursuant to the *Theatres Act*;
- (f) No OPERATOR may provide any adult videotape unless such adult videotape is clearly marked with a classification sticker issued pursuant to the *Theatres Act*: and
- (g) No OPERATOR may advertise any adult videotape except in accordance with the provisions of this By-law respecting "SIGNS and advertisements".

3. REGULATIONS RESPECTING CLASS A ADULT ENTERTAINMENT PARLOUR (Goods)

3.1 No PERSON may operate a Class A ADULT ENTERTAINMENT PARLOUR (Goods) except in accordance with the following regulations:

- (a) No OPERATOR may permit the provision of any SERVICES designed to appeal to erotic or sexual appetites except in accordance with the provisions of the By-law of the TOWN of Markham respecting the licensing and governing of ADULT ENTERTAINMENT PARLOURS;
- (b) No OPERATOR may provide any goods to any PERSON under the age of eighteen years and no PERSON under the age of eighteen years may be allowed to enter or remain in any part of the PREMISES;
- (c) No OPERATOR may provide any goods unless there is posted in a prominent

location at the entrance to the PREMISES a SIGN indicating that no PERSON under the age of eighteen years may enter or remain in such PREMISES;

- (d) No OPERATOR may permit any employee TO PROVIDE goods unless such PERSON is at least 18 years of age and such PERSON has been instructed with regard to the regulation in this By-law and complies with such regulations;
- (e) With the exception of patent medicines and prescription DRUGs required for medicinal purposes, no PERSON may take, consume or have alcohol or DRUGs in their possession in an ADULT ENTERTAINMENT PARLOUR (Goods);
- (f) No OPERATOR may permit any PERSON who appears to be intoxicated by alcohol or a DRUG to enter or remain on the PREMISES;
- (g) No OPERATOR may advertise an ADULT ENTERTAINMENT PARLOUR (Goods) or promote the provision of goods at an ADULT ENTERTAINMENT PARLOUR (Goods) except in accordance with the provisions of this By-law respecting "SIGNS and advertisements";
- (h) No OPERATOR may provide any goods at an ADULT ENTERTAINMENT PARLOUR (Goods) except in compliance with the provision of this By-law respecting "hours of operation";
- (i) No OPERATOR may provide any goods at an ADULT ENTERTAINMENT PARLOUR (Goods) except in compliance with the provisions of this By-law respecting "location restrictions and limitations on number";
- (j) No OPERATOR may provide any goods at an ADULT ENTERTAINMENT PARLOUR (Goods) except in compliance with the provisions of this By-law respecting "design of PREMISES";
- (k) Every OPERATOR shall keep his, her or its LICENCE certificate issued in respect of the ADULT ENTERTAINMENT PARLOUR (Goods) posted in a conspicuous place in the said PREMISES in a manner satisfactory to the LICENSING OFFICER, at all times during the currency of the LICENCE;
- (l) No OPERATOR may provide any adult videotape without posting in a prominent location, that is satisfactory to the LICENSING OFFICER, a valid film exchange LICENCE issued pursuant to the *Theatres Act*;
- (m) No OPERATOR may provide any adult videotape unless such adult videotape is clearly marked with a classification sticker issued pursuant to the *Theatres Act*;
- (n) No OPERATOR may provide adult videotapes without maintaining a current listing of all adult videotapes available on the PREMISES and making that listing available to the LICENSING OFFICER upon request; and
- (o) No PERSON may play any adult videotape or provide a viewing area for adult

videotape anywhere within an ADULT ENTERTAINMENT PARLOUR (Goods).

3.2 No PERSON may erect or maintain any SIGN advertising a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods) or the goods provided from such PREMISES except in accordance with TOWN SIGN By-law No. 2002-94 (as amended). Despite the provisions of TOWN SIGN By-law No. 2002-94 (as amended), no PERSON may erect or maintain any SIGN advertising a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods) or advertising "goods" within the meaning of this By-law except in accordance with the following additional regulations:

- (a) No PERSON may circulate, post, distribute or cause to be circulated, posted or distributed any pamphlet, poster, flyer or handbill advertising a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods) or advertising "goods" within the meaning of this By-law;
- (b) Nothing in this By-law shall be deemed to prohibit any PERSON from erecting or maintaining any SIGN on any interior wall of a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods), provided the content of such SIGN is not visible from the exterior of the ADULT ENTERTAINMENT PARLOUR (Goods);
- (c) No PERSON may advertise a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods) or advertise "goods" within the meaning of this By-law by means of the depiction of specified human body areas; and
- (d) No PERSON may erect or maintain any SIGN in respect of an ADULT ENTERTAINMENT PARLOUR (Goods) portraying nudity or sexually suggestive poses or any content deigned to appeal to sexual or erotic appetites or inclinations.

3.3 No PERSON may operate a Class A ADULT ENTERTAINMENT PARLOUR (Goods) except in accordance with the following regulations:

- (a) Every OPERATOR shall provide the LICENSING OFFICER with a floor plan designating the boundaries of all floor-space which shall be used TO PROVIDE goods and no PERSON may provide goods from any other room, cubicle, enclosure, partitioned area or space within the ADULT ENTERTAINMENT PARLOUR (Goods). An OPERATOR who wishes to amend the floor plan shall first file with the LICENSING OFFICER a copy of the amended floor plan and shall not proceed to make any alterations for such purpose without first obtaining the approval of the LICENSING OFFICER;
- (b) Save and except for one room designated by the OPERATOR for use as an office and one room designated by the OPERATOR as a storage room, every OPERATOR shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in any ADULT ENTERTAINMENT PARLOUR (Goods) is equipped or constructed with a locking device of any kind or with any

other device or structure which could delay or hinder anyone from entering or obtaining access to such area;

- (c) During the hours of operation of an ADULT ENTERTAINMENT PARLOUR (Goods) and at all times when goods are provided therein, the OPERATOR shall ensure that the principal means of access into the ADULT ENTERTAINMENT PARLOUR (Goods) shall be kept unlocked and available so that anyone entering the ADULT ENTERTAINMENT PARLOUR (Goods) may do so without hindrance or delay;
 - (d) The floor-space on which goods may be provided shall have no area enclosed or partitioned by any wall extending from the floor to a height in excess of 1.8 metres from the floor. Any such room or space shall be open at all times to all PERSONS attending the ADULT ENTERTAINMENT PARLOUR (Goods) during its BUSINESS hours; and
 - (e) All goods shall be displayed so as not to be visible from the exterior of the PREMISES.
- 3.4 An OPERATOR of a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods) shall not permit any goods to be provided therein except between the hours of 9:00 a.m. in the morning of any day and 1:00 a.m. in the morning of the next day.
- 3.5 No PERSON may operate a Class "A" ADULT ENTERTAINMENT PARLOUR (Goods):
- (a) within 120 metres of any lands zoned to permit residential uses by the relevant zoning By-law at such time as the application for LICENCE is submitted to the TOWN;
 - (b) within 120 metres of any SCHOOL, place of worship or child day care centre in existence when the application for LICENCE is submitted to the TOWN; and
 - (c) within 120 metres of any other ADULT ENTERTAINMENT PARLOUR (goods), body-rub parlour or ADULT ENTERTAINMENT PARLOUR (SERVICES) in existence at the time when the application is submitted to the TOWN, regardless of whether such other BUSINESSES are licensed or not.
- 3.6 An existing licensed ADULT ENTERTAINMENT PARLOUR (Goods) is not disqualified from the renewal of a LICENCE if one of the listed land uses locates within the separation distance.
- 3.7 No LICENCE shall be issued under this By-law in respect of any PREMISES or place where the operation or carrying on of the BUSINESS of an ADULT ENTERTAINMENT PARLOUR (Goods) is PROHIBITED by this or any other law.

- 3.8 The number of ADULT ENTERTAINMENT PARLOURs (goods) which may be licensed in the TOWN of Markham shall be limited to five.
- 3.9 No PERSON may operate an ADULT ENTERTAINMENT PARLOUR (Goods) from any area except those areas described on SCHEDULE "A" hereto.
- 3.10 The TOWN shall review this section and Appendix "A" within 5 years from the enactment of this By-law, and every five years thereafter, for the purpose of ensuring that these provisions continue to achieve the objects of the By-law. An element of that review shall include consideration of the increase of population in the TOWN in relation to the maximum number of permitted LICENCES.
- 3.11 Where there is any change in any of the particulars relating to a PERSON licensed under this By-law, which particulars are required to be filed with the TOWN on applying for a LICENCE under this By-law, such PERSON shall report the change to the LICENSING OFFICER within seven days of the change.
- 3.12 Where there is to be a change in the composition or the controlling interest of a partnership licensed under this By-law, the PERSONS licensed hereunder in partnership shall obtain the approval of the LICENSING OFFICER to such change prior thereto. Where there has been any change in the controlling interest of the partnership, either by one transaction or a number thereof, the LICENCE may be revoked despite the LICENSING OFFICER's prior approval of any one or more such transactions.
- 3.13 Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licensed under this By-law, the corporation shall obtain the approval of the LICENSING OFFICER to such change prior thereto, failing which the LICENCE may be revoked. Where there has been any change in the controlling interest of the corporation, either by one transaction or a number thereof, the LICENCE may be revoked, despite the LICENSING OFFICER's prior approval of any one or more such transactions.
- 3.14 Every OPERATOR shall during the operating hours of the ADULT ENTERTAINMENT PARLOUR (Goods) and at all times when goods are provided therein make available for inspection by the LICENSING OFFICER, a peace officer, a MEDICAL OFFICER OF HEALTH, a Provincial Offences Officer, or a By-law Enforcement Officer, the original of any document or record referred to in this By-law.
- 3.15 Every OPERATOR of an ADULT ENTERTAINMENT PARLOUR (Goods) shall, at all times during operating hours of the ADULT ENTERTAINMENT PARLOUR (Goods) and at all times when goods are provided therein, permit the entry therein by and the inspection of the ADULT ENTERTAINMENT PARLOUR (Goods) by a By-law Enforcement Officer, a Provincial Offences Officer, the LICENSING OFFICER, a MEDICAL OFFICER OF HEALTH or a peace officer.
- 3.16 No PERSON may obstruct or hinder the entry or the inspection of an ADULT ENTERTAINMENT PARLOUR (Goods) by a By-law Enforcement Officer, a Provincial Offences Officer, the LICENSING OFFICER, a MEDICAL OFFICER OF

HEALTH or a Peace Officer.

- 3.17 The provisions of this By-law shall apply to all lands and PREMISES within the TOWN.

APPENDIX "A"
TO BY-LAW NO. XXXX-XX

1. The premises at each of the following municipal addresses shall be permitted to operate, subject to all applicable law, as a Class "A" Adult Entertainment Parlour (Goods) as long as the premises are in lawful, actual, continual, uninterrupted and licensed use as a Class "A" Adult Entertainment Parlour (Goods) from May 9, 2006:
 - (a) the premises at 5261 Highway No. 7 operating as Adult Time Video; and
2. Should premise(s) referred to in Section 1 cease to be used for the purpose of a Class "A" Adult Entertainment Parlour (Goods), any license issued under this By-law shall be revoked and no renewal or further license shall be issued for those premises.
3.
 - (a) Figure 2 is and shall form part of Schedule "A";
 - (b) Each of Area 1, 2 and 4 on Figure 2 are hereby designated as an area in which, subject to the provisions of this By-law, one licence for a Class "A" Adult Entertainment Parlour (Goods) may be issued.
 - (c) Area 3 on Figure 2 is hereby designated as an area in which, subject to the provisions of this By-law, more than one licence for a Class "A" Adult Entertainment Parlour (Goods) may be issued.

SCHEDULE 4 - RELATING TO PLACES OF AMUSEMENTS

1. DEFINITIONS:

"PLACE OF AMUSEMENT" includes theatres, music halls, moving picture shows, roller skating rinks, places where merry-go-rounds, switchback railways, carousels and other like contrivances are operated, exhibitions of wax-works, circus riding and other like shows.

2. REGULATIONS:

- 2.1 All equipment shall be identified by plates stating the manufacturer's name, model number if any, maximum capacity and maximum operating speed for safe operation. If the equipment has been materially rebuilt or modified so as to change its original action, a competent and independent inspection company shall certify that it is structurally adequate to safely withstand all stresses to which it will be subjected during normal operation.
- 2.2 All component parts shall be maintained in good condition without visible SIGNS of deterioration, wear or fatigue which could result in their inability to carry out their intended function. All defective parts shall be replaced before operation or use.
- 2.3 All assembly work shall be performed in a proper and workmanlike manner. Parts shall be properly aligned, and shall not be bent, distorted, cut or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in the course of assembly. Fastenings and locking devices, such as bolts, cap screws, cotter pins, lock washers etc. shall be installed where required for safe operation. Nuts shall be drawn tight, cotters pins shall be spread and lock nuts firmly set. Before being used, all amusement devices shall be anchored so as to be stable under all operating CONDITIONS, by the use of guys, blocking, cribbing, outriggers or other suitable means.
- 2.4 All replacement materials for defective parts shall be at least equivalent in all respects to the original material.
- 2.5 An amusement device shall not be overcrowded, or loaded in excess of its safe carrying capacity, or operated under dangerous weather CONDITIONS; nor shall it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.
- 2.6 If cars or other components may collide in such a way as to cause personal injury upon failure of normal controls, emergency brakes sufficient to prevent such collisions shall be provided. On rides attached to cables or which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger-carrying units in case of failure of the propelling or any other mechanism.

- 2.7 When the OPERATOR does not have a clear view of the point at which passengers are loaded or unloaded, adequate signal systems shall be provided and used to regulate the starting and stopping of the amusement device.
- 2.8 Safe and adequate means of ingress and egress from amusement devices shall be provided. Such means of ingress and egress shall:
- (a) be protected from adjacent hazards and shall make use of substantial rails, enclosures, barriers or similar means to prevent PERSONS from falling;
 - (b) have secure treading and supporting surfaces free from debris, obstruction, projections and slipping, tripping catching and other hazards; and
 - (c) have adequate clearances.
- 2.9 Machinery shall be enclosed, barricaded or otherwise effectively guarded against contact and such protection shall be maintained at all times during operation or use.
- 2.10 The interior and exterior parts of all passenger-carrying amusement devices with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections which might cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the ride shall be adequately padded. Devices which are self-powered and which are operated by a passenger shall have the driving mechanism so guarded and the guards so locked in place as to prevent passengers from gaining access to the mechanism. Such belts, bars, foot rests and other equipment as may be necessary for safe entrance and exit and for support while the device is in operation shall be provided. All equipment and the fastenings thereof shall be of sufficient strength to retain the passengers. The fastenings shall be of a type which cannot be inadvertently released.
- 2.11 Amusement devices and temporary structures, including access thereto and exits there from, shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to prevent accident.
- 2.12 All electrical wiring, equipment and apparatus for amusement devices or for lighting shall be properly and legally installed, operated and maintained.
- 2.13 No employee shall work or be permitted to work in such proximity to any part of an electric power circuit that he may contact the same in the course of his work unless he is protected against shock by de-energizing the circuit, grounding it, or guarding it by effective insulation. If protection is supplied by de-energizing the circuit the switch controlling the circuit shall be locked out to prevent inadvertent closing.

- 2.14 The outlets of electric power lines carrying more than 120 volts shall be clearly marked to show their voltage.
- 2.15 All electrical transformer sub-stations shall be properly enclosed and proper warning SIGNS shall be posted.
- 2.16 Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.
- 2.17 Elevated power lines crossing access or other roads within the grounds of a carnival, fair, exhibition or amusement park or other area shall be suspended so as TO PROVIDE a minimum vertical clearance of 14 feet from the road surface and a minimum horizontal clearance of 3 feet on each side of the normal passage space of vehicles.
- 2.18 Temporary electric wiring, if suspended, shall be supported so that its protective insulation will not be damaged.
- 2.19 Temporary electric installations shall be properly grounded.
- 2.20 Bare wires and other uninsulated current-carrying parts shall be guarded against inadvertent contact by means of proper location or by a fence or other barrier.
- 2.21 Conductors shall be provided with overcurrent protective devices according to load. No such device shall be installed in neutral or grounding conductors.

SCHEDULE 5 - RELATING TO PLACES OF AMUSEMENT – VIDEO ARCADES

1. DEFINITIONS:

"AMUSEMENT MACHINE" means any mechanical or electronic machine, or device, intended as a game, entertainment or amusement, offered for use by the public, by any PERSON or corporation, for profit or gain, and shall include a computer, a pinball machine, television or video game, shooting gallery or other similar machine or device, including an automatic machine that dispenses as prizes, one or more free games but shall not include any machine used only for the purpose of vending merchandise or SERVICES or playing recorded music, bowling alleys, or any billiards, pool or bagatelle table, or any machine that would render the PREMISES a Common Gaming House within the meaning of the Criminal Code of Canada;

"DWELLING" means a single room or series of rooms of complementary use, operated under a single tenancy which functions as a housekeeping unit used or intended to be used as a domicile by one or more PERSONS; containing cooking, eating, living, sleeping and sanitary facilities; and having a private entrance from outside the building or from a common hallway or stairway inside or outside the building;

"OPERATOR" means a PERSON who, alone or with others, operates, manages, supervises, runs or directs the BUSINESS of a PLACE OF AMUSEMENT.

"PLACE OF AMUSEMENT – CLASS A" means a PLACE OF AMUSEMENT where more than 3 amusement machines are provided;

"PLACE OF AMUSEMENT – CLASS B" means a PLACE OF AMUSEMENT where 3 or less amusement machines are provided;

"SCHOOL" means any elementary, secondary or private SCHOOL as defined by the *Education Act*, R.S.O. 1990, c. E.2, and any other educational institution which is recognized as a SCHOOL by the *Education Act*.

2. REGULATIONS

2.1 Every APPLICANT for a LICENCE pursuant to this SCHEDULE shall file with the LICENSING OFFICER the following;

- (a) a floor plan of the PREMISES which shall show the location of all doors and windows and the proposed location of each amusement machine;
- (b) documentation satisfactory to the LICENSING OFFICER demonstrating the APPLICANT's right to possess or occupy the PREMISES and if any

APPLICANT is not the registered OWNER of the property upon which the PLACE OF AMUSEMENT is to be located, such PERSON shall file with the LICENSING OFFICER a copy of their lease, if any, and a copy of any other document constituting or affecting the legal relationship relating to the said lands or PREMISES between said APPLICANT and the registered OWNER.

2.2 Each LICENCE issued pursuant to this SCHEDULE shall be subject to the following:

- (a) Each LICENCE shall be granted for a specific number of amusement machines and no additional amusement machines shall be added to the PREMISES after the LICENCE has been issued, unless the APPLICANT shall first submit an amended floor plan of the PREMISES, and receive the approval of the LICENSING OFFICER;
- (b) No PERSON licensed to carry on any trade, calling, BUSINESS or occupation pursuant to this SCHEDULE may advertise or promote or carry on such trade, calling, BUSINESS or occupation under any name other than the name endorsed upon his LICENCE; and
- (c) No LICENCE shall be transferred or assigned and if an OWNER, OPERATOR SELLS, leases or otherwise disposes of his interest in the trade, calling BUSINESS or occupation carried on at a PLACE OF AMUSEMENT, their LICENCE in respect of such PLACE OF AMUSEMENT shall, notwithstanding any other provision of this SCHEDULE, be revoked.

2.3 No PERSON may own or operate a PLACE OF AMUSEMENT:

- (a) in a vehicle of any kind, whether such vehicle is permanently parked in any location, or is capable of being moved;
- (b) located on a lot where any form of DWELLING is also located; and
- (c) located closer than three hundred metres (300m) to any SCHOOL, measured by the shortest distance between a SCHOOL's property line and the PREMISES.

2.4 Every OWNER and OPERATOR of a PLACE OF AMUSEMENT shall

- (a) obtain a separate LICENCE for each PLACE OF AMUSEMENT that they own and operate;
- (c) post in a conspicuous place in the PREMISES, a notice which indicates that disorderly conduct, loitering and gambling are not permitted;
- (d) keep the PREMISES in a clean and sanitary condition at all times;

- (e) maintain sufficient space between rows of amusement machines as to permit unimpeded access by patrons at all times to any door or other exit;
- (f) ensure that no amusement machine is located in such a manner as to impede access by patrons to any door or other exit; and
- (h) comply with the provisions of this SCHEDULE and all other laws.

2.5 No OWNER or OPERATOR of a PLACE OF AMUSEMENT shall:

- (a) permit the BUSINESS to remain open or permit the use of any amusement machine during any time other than between 9:00 a.m. and 12:00 midnight during any day;
- (b) permit the BUSINESS to remain open unless an OPERATOR of the BUSINESS who is no less than 18 years of age remain on the PREMISES at all times;
- (c) permit PERSONS younger than sixteen (16) years to use any Amusement Machine or to remain on any PLACE OF AMUSEMENT, unless accompanied by a parent or guardian, except on Monday to Friday between the hours of 4:00 p.m. to 9:00 p.m., and on Saturday and Sunday between 9:00 a.m. and 9:00 p.m.;
- (e) permit any gambling to take place on the PREMISES;
- (f) permit the sale or use of alcohol on the PREMISES, except in a PLACE OF AMUSEMENT Class B which is incidental to a BUSINESS licensed pursuant to the Alcohol and Gaming Commission of Ontario; and
- (g) carry on any trade, calling, BUSINESS or occupation pursuant to this By-law advertise or promote or carry on such trade, calling, BUSINESS or occupation under any name other than the name endorsed upon his license.

2.6 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this SCHEDULE shall be deemed to be a violation of the provisions of this SCHEDULE.

**SCHEDULE 6 - RELATING TO
AUCTIONEERS**

1. **DEFINITIONS:**

"AUCTIONEER" means any PERSON SELLING or putting up for sale goods, wares, merchandise or effects for public auctions.

2. **REGULATIONS:**

2.1 Every PERSON licensed or required to be licensed under this SCHEDULE shall:

- (a) post in a conspicuous manner at his auction room, his name and BUSINESS address as such AUCTIONEER and shall in all public advertisements of any nature used by him in the course of his BUSINESS include his name and BUSINESS address in such advertisements;
- (b) not conduct, or permit to be carried on in his PREMISES any mock auction, or shall knowingly and willfully make, or permit to be made, any misrepresentation as the quality or value of any goods, wares or merchandise which may be offered for sale by him;
- (c) keep good order in his auction room and offices, and shall keep proper books of account of the BUSINESS transacted by him as an AUCTIONEER, which books shall give the names and addresses of PERSONS depositing goods, wares or merchandise, with him for sale, the description of the same, the price for which the same may be 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 proper and legal commissions and charges; and shall in case no sale is made of such goods, on payment of this proper costs and charges, return such goods, to the PERSON or PERSONS entitled to receive the same on proper demand being made therefore. Provided that nothing contained in the section shall in any way affect or invalidate the claim of any AUCTIONEER for goods warehoused with him, and on which he shall have made advances;
- (d) keep all books kept by any AUCTIONEER, pursuant to the foregoing shall be open at all times during BUSINESS hours to the LICENSING OFFICER;
- (e) conduct all auctions in an organized and orderly fashion;
- (f) avail himself of the SERVICES of, or act in concert with, PERSONS known in the trade as "beaters", "boosters", or "shills" for the purpose of raising or stimulating bids; and

- (g) SELL or put up for sale by auction any goods, wares, merchandise, or effects on a reserve-bid basis without first having announced clearly to those in attendance at the auction the fact of such reserve bid.

2.2 Nothing in this SCHEDULE shall apply to a Sheriff or Bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

SCHEDULE 7 - RELATING TO BARBER AND HAIRDRESSING SHOPS

1. **REGULATIONS:**

1.1 No PERSON licensed or required to be licensed as the OWNER of a Barber or Hairdressing Shop OWNER shall actively engage in or permit or employ any PERSON to engage in the trade of a barber or hairdresser therein unless such PERSON is:

- (a) the holder of a current certificate of qualification as a barber or hairdresser pursuant to Regulations made under *The Apprenticeship Act*; or
- (b) registered with the Director of Apprenticeship as an apprentice barber or hairdresser under the *Apprenticeship and Tradesmen's Qualification Act*.

1.2 Every PERSON licensed as the OWNER of a barber shop or hairdressing shop shall comply with the following regulations in respect to the operation of such shop or establishment:

- (a) Adequate facilities shall be provided for a continuous supply of hot water;
- (b) All razors, scissors, combs and other instruments shall be properly cleaned and disinfected by immersion in water heated to the boiling point or in a solution of a suitable and efficacious recognized germicide before being used on a customer and shall not be used on any other customer without being disinfected again;
- (c) All hair brushes shall be immersed in a strong solution or a recognized disinfectant or water heated to the boiling point, rinsed in clear water and properly dried before being used on any customer, and all shaving brushes shall be cleansed in the same manner as hair brushes and shall be rinsed in very hot water or disinfected in such a manner as is approved by the appropriate MEDICAL OFFICER OF HEALTH before each and every use;
- (d) For shaving purposes, only powdered or liquid soap, shaving cream or other lathering appliances approved by the appropriate MEDICAL OFFICER OF HEALTH shall be used and, if prepared in a shaving mug, such mug shall be thoroughly cleansed each time before using;
- (e) On the back of every chair used for the purposes of his BUSINESS, there shall be placed a roll of clean paper in such a way as TO

PROVIDE a cover for the head rest. A fresh clean section of the said roll of paper shall be used for each customer;

- (f) Fresh, separate, INDIVIDUAL, clean neck bands or clean towels shall be placed around the neck of each customer immediately under the hair cloth;
- (g) Each towel or steamer used shall be INDIVIDUAL, fresh and clean, and after being used, such towel or steamer shall immediately be deposited in a receptacle reserved for the purpose and shall not again be utilize for any purpose before being freshly laundered;
- (h) No caustic or styptic pencils, powder puffs or sponges shall be used;
- (i) Alum or other astringent may be applied but only when in liquid or powdered form;
- (j) No customer shall be shaved whose neck or face is broken out with a rash, and no customer shall be served when the surface which is to be treated is inflamed or broken out with a rash;
- (k) No sink or basin used for domestic purposes shall be used in connection with any barber shop or hair dressing establishment;
- (l) No food or soft drinks, except small wrapped articles of confectionery such as chocolate bars, or chewing gum, shall be for sale or sold on the PREMISES and no food or beverages shall be served on the PREMISES free of charge;
- (m) Every PERSON licensed as aforesaid under this By-law shall, in his/her LICENSED PREMISES, to the satisfaction of the MEDICAL OFFICER OF HEALTH:
 - (i) provide proper lighting and ventilation;
 - (ii) keep the furnishings in a sanitary condition at all times;
 - (iii) keep an ample supply of running hot and cold water;
 - (iv) have available proper sanitary conveniences for all employees.
- (n) Every PERSON licensed under this By-law as the OWNER of a barber or hairdressing shop shall when actively engaged in such shop as a barber or hairdresser:
 - (i) wear a light coloured coat or smock of washable material which shall be kept clean and worn only in such establishment;
 - (ii) wash his/her hands with hot water and soap and scrub them carefully before attending to each customer;

- (iii) satisfy the said MEDICAL OFFICER OF HEALTH as to his/her freedom from communicable or transmissible disease and submit to such tests as the said MEDICAL OFFICER OF HEALTH may require; and
- (iv) every PERSON licensed under this By-law as the OWNER of a barber or hairdressing shop shall require every employee actively engaged in such shop as a barber or hairdresser to comply with the regulations set out in section 1.2 (h) and shall not employ or continue to employ any PERSON who does not comply.

**SCHEDULE 8 - RELATING TO BOWLING ALLEYS,
BILLIARDS, BAGATELLE ESTABLISHMENTS**

1. DEFINITIONS:

“BILLIARD OR BAGATELLE ESTABLISHMENT” means any PREMISES to which the public has access, which is equipped with more than one billiard, pool or bagatelle table offered for use by the public for hire or gain;

“BOWLING ALLEY” means any PREMISES to which the public has access, which is equipped with one or more lanes for bowling.

2. REGULATIONS:

2.1 Prior to the issue of such license, a certificate from the MEDICAL OFFICER OF HEALTH may be required certifying that the PREMISES to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto.

2.2 Every PREMISES licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

SCHEDULE 9 - RELATING TO BODY RUB OWNERS, OPERATORS AND ATTENDANTS

1. **DEFINITIONS:**

“ATTENDANT” means a PERSON who, in pursuance of a trade, BUSINESS or occupation, provides body-rubs at a body-rub parlour;

"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 duly qualified, licensed or registered to do so under the laws of the Province of Ontario;

"BODY RUB PARLOUR" is included in the definition of 'ADULT ENTERTAINMENT PARLOUR' in the *Municipal Act, 2001* and includes any PREMISES or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, BUSINESS, or occupation, but does not include any PREMISES or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by PERSONS otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

"OPERATOR" includes a PERSON who, alone or with others, operates, manages, supervises, runs or directs the trade, calling, BUSINESS or occupation carried on at a body-rub parlour;

"SIGN" includes any SIGN as defined pursuant to TOWN By-law 2002-94 as amended;

"TO PROVIDE" when used in relation to body-rubs includes offering TO PROVIDE or causing or permitting the provision of a body-rub and “provides”, "providing" and "provision" have corresponding meanings;

“HEALTH AND SOCIAL CLUB” means a body-rub parlour, provided that the area used within a PREMISES operated by a HEALTH AND SOCIAL CLUB for the provision of body-rubs does not exceed 20% of the gross floor area of the premise and provided the gross floor area of the PREMISES is not less than 650.3 square metres (7,000 sq. ft.);

2. No PERSON may be an OWNER or OPERATOR of a body-rub parlour or be an ATTENDANT or provide any body-rub in a body-rub parlour except in compliance with the following regulations:

- (a) No PERSON may provide any SERVICES designed to appeal to erotic or sexual appetites in a body-rub parlour except in accordance with the provisions of

TOWN of Markham ADULT ENTERTAINMENT PARLOUR By-law No. 2002-287 (as amended or successor legislation thereto);

- (b) No PERSON may provide body-rubs in a body-rub parlour to any PERSON under the age of eighteen years and no PERSON under the age of eighteen years may be allowed to enter or remain in any part of a body-rub parlour;
- (c) Each OWNER or OPERATOR shall ensure that there is posted in a prominent location at the entrance to the body-rub parlour a SIGN indicating that no PERSON under the age of eighteen years may enter or remain in such PREMISES;
- (d) No OWNER or OPERATOR may permit any employee or PERSON under contract to work at a body-rub parlour unless such PERSON is at least 18 years of age and such PERSON has been instructed with regard to the regulations of this By-law and complies with these regulations;
- (e) No OWNER or OPERATOR may permit a body-rub parlour to be open for BUSINESS unless the OWNER or OPERATOR who is designated to be on duty by the OWNER is in attendance in PERSON;
 - (i) Every OWNER must designate one OPERATOR to be on duty during the time the OWNER is not in attendance;
- (f) With the exception of patent medicines and prescription DRUGS required for medicinal purposes, no PERSON may take, consume or have alcohol or DRUGS in their possession in a body-rub parlour;
- (g) No OWNER or OPERATOR may permit any PERSON who appears to be intoxicated by alcohol or a DRUG to enter or remain in a body-rub parlour;
- (h) No PERSON may advertise or promote a body-rub parlour or the provision of body-rubs at a body-rub parlour except in accordance with the provisions of this By-law respecting "SIGNS and Advertisements";
- (i) No OWNER or OPERATOR may permit a body-rub parlour to open or to remain open for BUSINESS except in compliance with the provisions of this SCHEDULE respecting "Hours of Operation";
- (j) No PERSON may own or operate a body-rub parlour except in compliance with the provisions of this By-law respecting "Locational Restrictions and Limitations on Number";
- (k) No PERSON may own or operate a body-rub parlour except in compliance with the provision of this By-law respecting "Design of PREMISES";
- (l) Every OWNER and OPERATOR designated to be on duty by the OWNER shall keep their license certificate issued in respect of a body-rub parlour posted in a

conspicuous place in the said PREMISES in a manner satisfactory to the LICENSING OFFICER at all times during the currency of the license;

- (m) No OWNER or OPERATOR may permit any ATTENDANT TO PROVIDE body-rubs at a body-rub parlour unless such ATTENDANT is licensed pursuant to the provisions of this By-law and their license has not expired, been revoked or suspended;
- (n) No ATTENDANT may provide a body-rub at a body-rub parlour unless there is in attendance at the PREMISES a licensed body-rub parlour OWNER or OPERATOR who does not provide body-rubs;
- (o) An OWNER shall enter into a written contract for SERVICES between every OPERATOR and every ATTENDANT at a body-rub parlour and such contracts shall be made available to a LICENSING OFFICER upon request for inspection at any time during BUSINESS hours of the body-rub parlour and during all times when body-rubs are provided, and shall be retained by an OWNER or OPERATOR for a period of six months after the termination or completion of such contract;
- (q) Every ATTENDANT at a BODY RUB PARLOUR shall be clothed in a manner such that each such PERSON'S pubic and genital area, and in the case of a woman, her breasts are fully covered by opaque material.
- (r) No OWNER, or OPERATOR may use or permit to be used any camera or other photographic or recording device at a body-rub parlour by any PERSON. Notwithstanding the foregoing, a public health inspector acting under the direction of the MEDICAL OFFICER OF HEALTH, the LICENSING OFFICER, a peace officer or a By-law Enforcement Officer may use a camera or other photographic or recording device at a body-rub parlour during the course of an inspection or investigation thereof. In addition, an OWNER or an OPERATOR may maintain a photographic device in the entrance lobby of the PREMISES for security purposes;
- (s) Every OWNER shall post and maintain in the lobby or entrance of the BODY RUB PARLOUR, in a manner that is satisfactory to the LICENSING OFFICER, a SIGN which provides as follows: "This PREMISES is licensed as a BODY RUB PARLOUR by the TOWN of Markham. The By-law regulating this PREMISES makes it an offence for any PERSON TO PROVIDE SERVICES in a body-rub parlour that are designed to appeal to erotic or sexual appetites.";
- (t) No ATTENDANT shall provide or offer TO PROVIDE SERVICES to any PERSON unless such PERSON'S pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;
- (u) No OWNER or OPERATOR shall permit any ATTENDANT TO PROVIDE or offer TO PROVIDE SERVICES to any PERSON unless such PERSON'S pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;

- (v) Every body-rub parlour OWNER and OPERATOR shall ensure that no SERVICES are provided at the body-rub parlour other than in accordance with the requirements of this By-law;
 - (w) No PERSON shall provide SERVICES in a body-rub parlour unless the OWNER of the body rub parlour holds a body-rub parlour LICENCE, which has not expired, been revoked or suspended;
 - (x) No PERSON shall be an OPERATOR of a body-rub parlour unless the OWNER of the body- rub parlour holds a body-rub parlour LICENCE, which has not expired, been revoked or suspended;
 - (y) Every ATTENDANT shall ensure the window provided to permit the observation of body-rubs by third parties remains unobstructed; and
 - (z) No PERSON, while acting as an OWNER or OPERATOR, shall perform any body-rub SERVICES.
3. No PERSON may erect or maintain any SIGN advertising a body-rub parlour or the body-rubs provided from such PREMISES except in accordance with TOWN By-laws, including TOWN SIGN By-law 2002-94 (as amended). Notwithstanding the provisions of TOWN SIGN By-law 2002-94 (as amended), no PERSON may erect or maintain any SIGN advertising a body-rub parlour except in accordance with the following additional regulations:
- (a) No PERSON may erect or maintain any of the following SIGNS in respect of a body-rub parlour or in respect of any body-rubs provided from such PREMISES;

- awning sign	- canopy sign
- projecting sign	- inflatable sign
- portable sign	- trailer sign
- ground or pylon sign,	- sandwich board sign
 - (b) No PERSON may circulate, post, distribute or cause to be circulated, posted, or distributed any poster, flyer, handbill or other form of printed SIGN on PREMISES or locations other than the body-rub parlour, with the exception of advertising located in a newspaper or in the Yellow Pages;
 - (c) Nothing within this By-law shall be deemed to constrain any PERSON from erecting or maintaining any SIGN or advertising on any interior wall of a body-rub parlour, provided the content of such SIGN is not visible from the exterior of the body-rub parlour;
 - (d) No PERSON may erect or maintain any SIGN or advertising in respect of a body-rub parlour which includes any letters, markings, symbols, pictures or representations except the name of the body-rub parlour as recorded on the application for license and any registered copyright logo or symbol, provided a

copy of such logo or symbol is filed with the LICENSING OFFICER as part of the licensing process;

4. No PERSON may be an OWNER or OPERATOR of a body-rub parlour except in accordance with the following regulations:
- (a) The OWNER or OPERATOR shall provide the LICENSING OFFICER with a floor plan showing the designated room or rooms for the provision of body-rubs and no PERSON may provide body-rubs in any other room, cubicle, enclosure or partitioned area located within the body-rub parlour. In the event that the OWNER or OPERATOR wishes to amend the floor plan, he shall first file with the LICENSING OFFICER a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the LICENSING OFFICER;
 - (b) Save and except for one room designated by the OWNER or OPERATOR for use as an office and one room designated by the OWNER or OPERATOR as a storage room, every OWNER or OPERATOR shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in a body-rub parlour is equipped or constructed with a locking device of any kind or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such area;
 - (c) During the hours of operation of a body-rub parlour the OWNER, OPERATOR and ATTENDANT shall ensure that the principal means of access into the body-rub parlour is unlocked and available so that anyone coming into the body-rub parlour may enter therein without hindrance or delay;
 - (d) No PREMISES or part thereof used as a body-rub parlour shall be used as a DWELLING or for sleeping purposes or contain therein any furniture which is commonly used or which may be used for sleeping purposes;
 - (e) Every body-rub parlour shall be equipped with a window to permit observation of the provision of body-rubs by third parties. The window must be 3" x 5" clear glass, located in the door to each massage room at a height of not less than 5 feet and not greater than 6 feet and must not be obstructed in any way;
 - (f) Every body-rub parlour shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility and that is uniformly distributed throughout the PREMISES;
 - (g) Every body-rub parlour and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition;
 - (h) Every body-rub parlour shall be equipped with an effective utility sink;
 - (i) Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth under the Ontario Building Code Act (as amended);

- (j) 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 towels in a suitable container or dispenser;
 - (iv) a suitable receptacle for used towels and waste material;
 - (k) In all shower-bathrooms, if any, and in all sauna-bath rooms, if any:
 - (i) the floors shall be disinfected at least once a week with a disinfecting solution approved by the MEDICAL OFFICER OF HEALTH;
 - (ii) all surfaces and attached accessories of the bath or shower enclosure must be self-draining;
 - (iii) all showers must have removable cleanable drain covers;
 - (iv) floor surfaces both within and without the enclosures shall be of non-slip type;
 - (l) Every OWNER and OPERATOR shall provide and maintain at all times at the body-rub parlour a first-aid kit equipped in a manner satisfactory to MEDICAL OFFICER OF HEALTH; and
 - (m) Every body-rub parlour shall be constructed in accordance with the Ontario Building Code (as amended) and every APPLICANT for an OWNER'S license shall provide the LICENSING OFFICER with such drawings as may be required to assess compliance in this regard.
5. (a) No OWNER or OPERATOR may permit a body-rub parlour to be open for BUSINESS and no ATTENDANT at a body-rub parlour shall provide body-rubs in a body-rub parlour except between the hours of 9:00 a.m. and 9:00 p.m. on any given day:
- (b) Every OWNER, OPERATOR and ATTENDANT shall ensure the hours of operation of the body-rub parlour are posted on a SIGN in a conspicuous place, visible from the outside of the PREMISES; and
- (c) The provisions of section 6(a) of this By-law are not applicable to a HEALTH AND SOCIAL CLUB.
6. No PERSON may own or operate a body-rub parlour:

- (a) within five hundred (500) meters of any residential zone in existence when the application for license is submitted to the TOWN;
 - (b) within five hundred (500) meters of any SCHOOL, church or child day care centre in existence when the application for license is submitted to the TOWN;
 - (c) within one (1) kilometre of any other body-rub parlour in existence at the time when the application is submitted to the TOWN, regardless of whether such other body-rub parlour is licensed or not.
- 7. The number of body-rub parlours which may be licensed within the TOWN of Markham shall be limited to ten (10).
- 8. Every body-rub parlour license shall have endorsed thereon the location of a body-rub parlour and such endorsement shall be for one location only and such license shall be valid only for the location endorsed thereon.
 - (a) Every body-rub parlour OWNER'S, OPERATOR'S and ATTENDANT'S license shall have endorsed thereon the location of the body-rub parlour which they own or at which they work and such license shall be valid only for the locations endorsed thereon; and
 - (b) Where an OPERATOR or ATTENDANT requires the endorsement of an additional location after issuance of a license, the OPERATOR or ATTENDANT must first produce a copy of the written contract for SERVICES with the OWNER of the additional location.
- 9. Every APPLICANT shall appear in PERSON before a LICENSING OFFICER and shall complete such license application forms as may be provided from time to time by the LICENSING OFFICER in accordance with the requirements of this By-law and shall provide all information requested thereon, such information to include a Canadian Police Clearance Letter dated within thirty (30) days of the date of the application. In the case of a body parlour owned by a partnership such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners and in the case of a body-rub parlour owned by a corporation, such appearance shall be made by an officer of the corporation and not by an agent thereof.
- 10. Every APPLICANT for a license, where such APPLICANT is a natural INDIVIDUAL, shall provide two (2) passport size photographs, which must be taken within thirty (30) days of the license application. Where the APPLICANT is a corporation, such photographs shall be taken of an officer of the corporation. Where the APPLICANT is a partnership, such photograph shall be taken of one of the partners.
- 11. Every APPLICANT shall provide the LICENSING OFFICER with a written contract for SERVICES between an OWNER of the body-rub parlour and the APPLICANT and signed by the licensed OWNER of the body-rub parlour contained in the application.

12. Every APPLICANT for an ATTENDANT'S license shall provide the LICENSING OFFICER with a medical certificate from a qualified doctor dated within thirty (30) days of the date of the application, indicating that the APPLICANT is free from communicable or transmissible diseases.
13. At the time of submission of their application, every APPLICANT shall pay to the TOWN the fee set forth in By-law No. 2002-292 as amended, provided such fee shall not be reduced in the event that the period for which the license is granted is less than one year. Fifty percent of such fee is refundable in the event that an application is not accepted for licensing.
14. Receipt of the application and/or the license fee by the TOWN shall not represent approval of the application for the issuance of a license nor shall it obligate the TOWN to issue such license.
15. The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
16. Every PERSON shall comply with the provisions of this By-law applicable to him whether or not he is licensed under this By-law.

SCHEDULE 10 – CHARITY CLOTHING DONATION BINS

1. **DEFINITIONS:**

“CHARITY” shall mean a registered CHARITY as defined in subsection 248(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), or successor legislation, that has a registration number issued by the Canada Revenue Agency, or successor agency.

“CLOTHING DONATION BIN” shall mean any receptacle used for the purpose of collecting clothing, donated by the public, on an ongoing basis and as part of the regular activity of the OPERATOR which is a registered CHARITY.

“LAND” shall mean grounds, yards and vacant and developed lots.

“WORK ORDER” shall mean an order issued under this by-law to the OWNER of a property requiring the OWNER who contravened the by-law or who caused or permitted the contravention or the OWNER of the LAND on which the contravention occurred to do work to correct the contravention.

2. **REGULATIONS**

2.1 Every applicant for a licence and for the renewal of a licence issued under this By-law must be a registered CHARITY under the *Income Tax Act*, R.S.C. 1985, c. 1 and in addition to the standard licensing requirements shall:

- (a) provide proof of insurance in an amount of at least two million (\$2,000,000) dollars;
- (b) provide a letter of permission from the property owner for installation of said donation boxes on the property; and
- (c) provide a sketch and description of the location on the private property for the proposed CLOTHING DONATION BIN.

2.2 No OWNER shall place a CLOTHING DONATION BIN:

- (a) on any street or property owned or maintained by the TOWN; or
- (b) on any property zoned residential or industrial.

2.3 CLOTHING DONATION BINS shall only be placed:

- (a) on private property in a common area, grouped together and approved by and to the satisfaction of the TOWN; and
- (b) set back 1 metre from all property lines, so as not to restrict sight lines from nearby driveways or pathways.

- 2.4 Every OWNER who operates more than one CLOTHING DONATION BIN shall, subject to the provisions of this By-law and subject to the payment of the fee prescribed in the *Licensing Permit and Service Fee By-law*, obtain a separate endorsement of his or her licence for every CLOTHING DONATION BIN he or she operates.
- 2.5 No OWNER shall operate a CLOTHING DONATION BIN in any location other than the location in respect of which the licence or endorsement has been issued.
- 2.6 An OWNER who wishes to move a CLOTHING DONATION BIN may apply for an amendment to the licence or endorsement issued in respect of such CLOTHING DONATION BIN by:
- (a) paying the fee prescribed in the *Licensing Permit and Service Fee By-law*; and
 - (b) providing proof satisfactory to the LICENSING OFFICER or his or her designate that the OWNER has permission from the property owner to operate the CLOTHING DONATION BIN at that location.
- 2.7 Every OWNER shall ensure that the CLOTHING DONATION BIN is clean, in good repair and is free of graffiti and shall ensure that all areas immediately adjacent to the CLOTHING DONATION BIN are clean and free of garbage.
- 2.8 Every OWNER shall:
- (a) display the name of the OWNER in a conspicuous place on the clothing drop box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
 - (b) affix and maintain the sticker issued by the TOWN on a conspicuous part of the CLOTHING DONATION BIN throughout the period for which the licence or endorsement is valid;
 - (c) provide a list of the number and locations of all of his or her CLOTHING DONATION BINS in the TOWN; and
 - (d) ensure that the information filed under Subsection (c) is complete and accurate at all times and shall forthwith notify TOWN of any changes to the information filed.
- 2.9 An M.L.E.O. may enter upon any LAND at any reasonable time with proper identification to determine if the licensee is complying with the provisions of this by-law.
- 2.10 Where a CLOTHING DONATION BIN is not maintained in accordance with the requirements of this Bylaw:
- (a) the TOWN may serve the OWNER a WORK ORDER in writing directing the OWNER of the CLOTHING DONATION BIN to bring the CLOTHING DONATION BIN into conformance with the requirements of this By-law; and

- (b) the OWNER shall repair, remove or clean up all contraventions identified on the WORK ORDER within seven (7) days of the WORK ORDER being served.

2.11 The WORK ORDER from the TOWN may be:

- (a) served personally upon the OWNER or
- (b) mailed by regular mail to the last known address of the OWNER according to the current assessment rolls.

2.12 If served by regular mail, a WORK ORDER under subsection 12(b) shall be deemed to have been served on the fifth day after mailing.

2.13 Where an OWNER, having been served with a WORK ORDER, fails to comply with the WORK ORDER within the time specified, an *M.L.E.O.* or the TOWN'S employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto the LAND at a reasonable time and carry out any or all of the work described in the WORK ORDER.

2.14 The municipal service fees for the administration and enforcement of this By-law shall be in accordance with the *Town's Licensing Permit and Service Fee By-law* and any revisions thereto.

2.15 Service fees for the administration and enforcement of this By-law may be applied when a contravention has been confirmed by an *M.L.E.O.*

SCHEDULE 11 – DRIVEWAY PAVING CONTRACTORS

1. DEFINITIONS:

“CONTRACTOR” means a DRIVEWAY PAVING CONTRACTOR;

“DRIVEWAY” means a defined area that is paved or treated with a stable surface that provides access for motor vehicles from a public or private street to a PRIVATE GARAGE or PARKING PAD;

“DRIVEWAY PAVING CONTRACTOR” means a PERSON engaged in the BUSINESS of PAVING or sealing DRIVEWAY surfaces on privately owned property which may include municipal boulevards adjacent to such private property, including the altering of property in preparation for PAVING;

“PARKING PAD” means an open area of land other than a DRIVEWAY, that is paved or treated with a stable surface used for the parking of motor vehicles;

“PAVING” is the surface of a DRIVEWAY or PARKING PAD constructed using materials such as asphalt, concrete and interlocking stone;

“PRIVATE GARAGE” means an enclosed building or part thereof, designed and used for the storage of one or more motor vehicles.

2. DEFINITIONS:

2.1 Every application for a LICENCE shall include:

- (a) a certificate of liability insurance in a minimum amount of two million dollars (\$2,000,000) endorsed TO PROVIDE the LICENSING OFFICER at least ten (10) days notice in writing prior to cancellation, expiration or change of the policy, and the TOWN of Markham named as an additional insured party;
- (b) valid Clearance Certificate issued by Workplace Safety and Insurance Board of Ontario applicable to the APPLICANT’S BUSINESS;
- (c) a copy of the stationary the APPLICANT intends to use in making contracts, including such information as the CONTRACTOR’S name, address and telephone number;
- (d) a copy of the H.S.T. Registration applicable to the APPLICANT’S BUSINESS;

- (e) completion of a training and education session provided by the LICENSING OFFICER; and

2.2 Every PERSON licensed or required to be licensed under this By-law shall:

- (a) have printed or otherwise DISPLAYED on both sides of all vehicles owned, leased or operated during the course of BUSINESS, in figures no less than 10 centimetres (4 inches) in height, the DRIVEWAY PAVING CONTRACTOR'S name and LICENCE number;
- (b) have printed on all BUSINESS stationery, forms, bills, statements and advertising materials, the DRIVEWAY PAVING CONTRACTOR'S name, BUSINESS address, telephone number and license number;
- (c) enter into a written contract with the PERSON for whom the work is being done before commencing any work, such contract to include;
 - i) name, address, telephone number and LICENCE number of the LICENSEE;
 - ii) the name and phone number of the PERSON for whom the work is being done;
 - iii) the address where the work is to be done;
 - iv) a description of the materials and SERVICES to be supplied, including the depth of asphalt, concrete, gravel or other material to be applied (this description may be supplemented by a sketch);
 - v) an area site plan indicating the dimensions of DRIVEWAY on the property to be paved;
 - vi) the itemized price for the materials and SERVICES to be supplied;
 - vii) detailed statement of the terms of payment;
 - viii) warranties or guaranties, if any; and
 - ix) the estimated date of completion.
- (d) give a copy of the contract referred to in subsection 2.2 (c) to the PERSON for whom the work is being done;
- (e) ensure that all materials or substances used by the CONTRACTOR are contained on the property for which the contract applies;
- (f) obtain written permission for the placement of materials on the property other than that for which the contract applies;
- (g) obtain all permits and approvals required by law prior to the commencement of any work; and

- (h) comply with all laws, including TOWN of Markham By-laws as amended.

2.3 No PERSON shall:

- (a) carry on the BUSINESS of a CONTRACTOR in the TOWN without a LICENCE to do so issued by the TOWN of Markham;
- (b) hold themselves out as being licensed to carry on the BUSINESS of a CONTRACTOR if the PERSON is not so licensed; and
- (c) carry on BUSINESS of a CONTRACTOR under any name other than the name for which the LICENCE is issued.

SCHEDULE 12 - RELATING TO DRY CLEANERS

1. **DEFINITIONS:**

“DRY CLEANING DEPOT” means any PREMISES used for the purpose of collecting, receiving or returning clothes or material upon which cleaning work is to be or has been done whether or not such dry cleaning depot is part of or connected with PREMISES wherein such cleaning work is carried out.

2. **REGULATIONS:**

- 2.1 All such PREMISES, which are not the principal or controlling PREMISES, shall have a SIGN containing the name and address of the principal PREMISES controlling such DRY CLEANING DEPOT or for whom the cleaning work is received.

SCHEDULE 13 - RELATING TO FOOD PREMISES

1. **DEFINITIONS:**

“EATING ESTABLISHMENT” means a building or place where food and drink are prepared and offered for sale for takeout or to be consumer on the PREMISES; and

“FOODSTUFFS” means an edible commodity meant for human consumption and shall include but not be limited to items dispensed from vending machines.

SCHEDULE 14 - RELATING TO THE SALE AND DISCHARGE OF FIREWORKS

1. **DEFINITIONS:**

“EXPLOSIVES ACT” means the *Explosives Act* c.E-17 R.S.C. 1993, as amended and regulations thereto;

“FIRECRACKER” means a pyrotechnic device that explodes when ignited and does not make any subsequent FIRECRACKER or visible effect after the explosion but does not include paper caps containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flare or marine rockets;

“FIREWORKS” means FIRECRACKER FIREWORKS, FAMILY FIREWORKS and THEATRICAL FIREWORKS;

“FIREWORKS, FIRECRACKER” means high-hazard FIREWORKS for recreation, including FIRECRACKERS, that are classified under Class 7, Division 2, Subdivision 1 under the *Explosives Act* and the Explosives Regulations made thereunder and includes, but is not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and pigeons;

“FIREWORKS FAMILY means low-hazard FIREWORKS for recreation that are classified under Class 7, Division 2, Subdivision 2 of the *Explosives Act* and the Explosives Regulations made thereunder, and includes but is not limited to FIREWORKS showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers, and other similar devices, but does not include Christmas crackers and paper containing not more than twenty five one-hundredths of a grain of explosive on average per cap, devices for use with such caps, safety flares or marine rockets;

“FIREWORKS, PROHIBITED” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink, or key chain pistols auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers; throw down and step on torpedoes, and crackling balls; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake FIRECRACKERS and other trick devices or practical jokes, as included on the most recent list of PROHIBITED FIREWORKS, as published from time to time under the *Explosives Act*;

“FIREWORKS SUPERVISOR” means a PERSON certified as a technician under the *Explosives Act* to conduct FIRECRACKERS of FIREWORKS;

“FIREWORKS THEATRICAL” means an authorized explosive of a class set out in Section 6 of the *Explosives Act*, Explosives Regulations (C.R.C. c.599), that is made, manufactured or used to produce a pyrotechnic THEATRICAL effect in connection with a motion picture, theater or television production or with a, or as a performance, before a live audience;

“MAGAZINE” means MAGAZINE as defined in the *Explosives Act*.

“MOBILE SALES PREMISES” means a mobile or portable premise from which FIREWORKS are sold and includes a trailer, roadside stand and a motor vehicle;

“PERMIT” means a permit TO DISCHARGE FIREWORKS issued pursuant to this By-law;

“TO DISCHARGE”, when used in relation to FIREWORKS, PROHIBITED FIREWORKS and FIRECRACKERS, includes firing, igniting, exploding and setting-off such articles; and

“TO SELL” includes offering for sale, causing or permitting to be sold and possessing for the purpose of sale.

2. REGULATIONS:

2.1 No PERSON shall SELL FIREWORKS unless:

- (a) the FIREWORKS are included on the most recent list of authorized explosives as published from time to time by the Explosives Branch of Natural Resources Canada, or their successors;
- (b) the FIREWORKS are DISPLAYED for sale in a package, glass case or other suitable receptacle away from inflammable goods;
- (c) the FIREWORKS are DISPLAYED in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door;
- (d) all vendors of FIREWORKS in the TOWN of Markham must FIRECRACKER and make available to purchasers of FIREWORKS, a manufacturer’s brochure outlining the safe handling of FIREWORKS;
- (e) within 6 metres of every location from which FIREWORKS are sold or stored for the purposes of sale shall be designated and posted as a “non-smoking” area and no PERSON may smoke or ignite any flammable material, or have in his possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device in such area;
- (f) to any PERSON under the age of eighteen years; and

- (g) any employee TO SELL FIREWORKS without first instructing such employee in the regulations of this By-law and ensuring that such employee complies with these regulations.
- 2.2 In addition to the regulations affecting the sale of FIREWORKS, no PERSON shall SELL FAMILY FIREWORKS unless:
- (a) the FIREWORKS are DISPLAYED for sale in lots that do not exceed 25 kilograms each in gross weight;
 - (b) the FIREWORKS are DISPLAYED in a place where they are not exposed to the rays of the sun or to excess heat or adjacent to any exit door;
 - (c) the FIREWORKS DISPLAYED in any shop window are mock samples only and shall not contain explosive composition.
- 2.3 No PERSON shall:
- (a) SELL FAMILY FIREWORKS or possess FAMILY FIREWORKS for the purpose of sale, except on Victoria Day, Canada Day, and each of the seven days immediately preceding Victoria Day and Canada Day; and
 - (b) any unsold FIREWORKS must be returned to the manufacturer within seven days immediately following Victoria Day and Canada Day.
- 2.4. In addition to the regulations affecting the sale of FIREWORKS, no PERSON shall SELL FIREWORKS from a MOBILE SALES PREMISES except in accordance with the following regulations:
- (a) the weight of FIREWORKS stored at the MOBILE SALES PREMISES cannot exceed 1,000 kilograms unless the vendor is licensed by Natural Resources Canada Explosives Division;
 - (b) not less than two (2) SIGNS must be posted in prominent locations on the outside of the MOBILE SALES PREMISES indicating that PERSONS may not smoke or ignite any flammable material, or have in their possession any lighted match, lighter, pipe, cigar, cigarette, open flame or spark emitting device within 6 metres of the MOBILE SALES PREMISES;
 - (c) may not be located within twenty (20) meters of any road or occupied parking space and may not be located within forty (40) metres of any occupied building, or any DWELLING or gas station;
 - (d) the public shall not be permitted to enter any MOBILE SALES PREMISES for the purpose of purchasing FIREWORKS unless there are at least two operational doors providing means of access to and egress from the MOBILE SALES PREMISES;

- (e) more than fifteen (15) customers are not permitted in a MOBILE SALES PREMISES at the same time;
- (f) any portable power supply to the mobile sales trailer must be located not less than twelve (12) metres from the MOBILE SALES PREMISES;
- (g) with the exception of its entrance and exit, every MOBILE SALES PREMISES shall have a “no encroachment zone” of at least 6 metres established around its perimeter by means of a barrier, such as snow fencing or pylons or other material satisfactory to the LICENSING OFFICER to exclude the public from this area; and
- (h) every vendor of FIREWORKS from a MOBILE SALES PREMISES shall keep their LICENCE certificate issued in respect of this By-law posted in a conspicuous place on the MOBILE SALES PREMISES, at all times during the currency of the LICENCE.

**SCHEDULE 15 - RELATING TO PUBLIC GARAGES,
INCLUDING CAR REPAIRS, GASOLINE SALES,
CAR WASHES AND CAR RENTAL AGENCIES**

1. **DEFINITIONS:**

PUBLIC GARAGE includes a parking station or parking lot where a charge is made for such service, a building or place where motor vehicles are hired or kept or used for hire, a building or place where gasoline or oils are stored or kept for sale, a building or place used as a motor vehicle repair shop and a building or place used for washing or cleaning motor vehicles.

2. **REGULATIONS:**

2.1 Every PREMISES licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

3.1 No PERSON shall:

- (a) permit the engine of a motor vehicle in any building to run unless adequate ventilation is provided to ensure dilution of any carbon monoxide fumes;
- (b) permit the drainage of surface processed water across any sidewalk or pedestrian way;
- (c) permit any vehicle to remain continuously without lawful excuse at or upon the PREMISES for more than 24 hours unless he reports such occurrence forthwith to the nearest police station; and
- (d) use or permit his PREMISES to be used for the purpose of wrecking motor vehicles.

SCHEDULE 16 - RELATING TO GOLF DRIVING RANGES

1. DEFINITIONS:

“GOLF DRIVING RANGE” means a place where people practise hitting golf balls.

2. REGULATIONS:

2.1 A description of the place where the GOLF DRIVING RANGE is to be located, its frontage, depth and the distance from the place of driving to the boundary of the adjoining property; and

- (a) Whether or not any buildings are to be erected on the proposed range, and if so, a general description of such buildings;
- (b) Any provisions that have been made for the protection of the adjoining property OWNERS from damage by reason of the operation of the GOLF DRIVING RANGE.

SCHEDULE 17 - RELATING TO HORSE RIDING ESTABLISHMENTS

1. DEFINITIONS:

“ASSISTANT INSTRUCTOR” means a PERSON who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience with HORSEs in the immediately preceding five (5) years and who is supervised by an INSTRUCTOR;

“ASSISTANT INSTRUCTOR” means a PERSON who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience riding and working with HORSEs at a TRAIL RIDING ESTABLISHMENT, in the immediately preceding five (5) years;

“DRUG” means a substance as listed in SCHEDULEs I, II, III, IV, or V to the Controlled DRUGs and Substances Act S.C. 1996, c.19, as may be amended from time to time;

“HORSE RIDING ESTABLISHMENT” means the carrying on of BUSINESS in the equine industry and is further divided into the following disciplines:

“TRAIL RIDING ESTABLISHMENT” means the carrying on of a BUSINESS where HORSEs are let out for hire for recreational riding for payment, either at a permanent or temporary location;

“INSTRUCTIONAL RIDING ESTABLISHMENT” means the carrying on of a BUSINESS where HORSEs are let out for hire for providing instruction for payment, either at a permanent or temporary location or where instruction is provided in HORSE riding where the HORSE is boarded or part boarded by such establishment;

“HEAD TRAIL GUIDE” means a PERSON who has attained the age of eighteen (18) years and has at least three (3) consecutive year’s experience in assisting/or leading trail rides during the immediately preceding five (5) years;

“HORSE” means any animal of the equine species;

“INSTRUCTOR” means a PERSON who has attained the age of eighteen (18) years and has at least five (5) consecutive year’s experience in riding or HORSE training in the immediately preceding seven (7) years or a PERSON who has been certified by the Ontario Equestrian Federation, Canadian Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman’s Association, the British Horse Society, or other credited Equine Association or Institution;

“LEAD LINE RIDE” means a single HORSE led by a walking adult holding the HORSE’s lead rope;

2. REGULATIONS:

2.1 No PERSON shall carry on the BUSINESS of a TRAIL RIDING ESTABLISHMENT:

- (a) and rent a HORSE to a PERSON under the age of eighteen (18) years unless that PERSON is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider’s head by an attached harness, at all times while that PERSON is mounted on a HORSE;
- (b) and rent a HORSE to a PERSON unless that PERSON is wearing properly fitting, hard and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;
- (c) and conduct trail riding with less than one (1) HEAD TRAIL GUIDE for the first six (6) PERSONS and an ASSISTANT INSTRUCTOR for every additional six (6) PERSONS;
- (d) and conduct trail riding without a HEAD TRAIL GUIDE or ASSISTANT INSTRUCTOR carrying, at all times, a two-way communication device where its signal will be received by another HEAD TRAIL GUIDE or ASSISTANT INSTRUCTOR who is not also on the same trail ride;
- (e) and permit more than one PERSON to ride a HORSE at the same time except for disabled riders with special needs within a designated controlled environment;
- (f) and rent a HORSE unless that HORSE is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider’s size and ability;
- (g) and rent a lame, sick or blind HORSE,
- (h) and rent a HORSE unless the HORSE is a minimum of three (3) years of age and the HORSE has one (1) year of schooling unless that PERSON is the OWNER of that HORSE; and provided that HORSEs rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian;
- (i) and permit any PERSON with less than fifty-two (52) hours riding experience to mount or dismount a HORSE for the purpose of trail riding unless that HORSE is held at the bridle by an employee or volunteer of the PERSON carrying on the BUSINESS and who is supervised by a HEAD TRAIL GUIDE; or

- (j) and rent to a PERSON to ride a HORSE where that PERSON is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a DRUG on any PREMISES used for the carrying on of the BUSINESS of a TRAIL RIDING ESTABLISHMENT.

2.2 No PERSON shall carry on the BUSINESS of an INSTRUCTIONAL RIDING ESTABLISHMENT:

- (a) and instruct a PERSON under the age of eighteen (18) years to ride a HORSE unless that PERSON is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider's head by an attached harness, at all times while that PERSON is mounted on a HORSE;
- (b) notwithstanding Section 2.16, for the purposes of dressage or precision riding performed as part of a special event where ceremonial dress is worn by all riders, the requirements under Section 2.16 will not apply;
- (c) and rent a HORSE to a PERSON unless that PERSON is wearing properly fitting, hard and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;
- (d) and permit more than one PERSON to ride a HORSE at the same time except for special needs instructions for disabled riders;
- (e) and rent a HORSE unless that HORSE is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
- (f) and rent a lame, sick or blind HORSE;
- (g) and instruct a PERSON to ride a HORSE unless the HORSE is a minimum of three (3) years of age and has one (1) year of schooling unless that PERSON is the OWNER of that HORSE; and provided that HORSEs rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian;
- (h) and permit any PERSON with less than fifty-two (52) hours riding experience to mount or dismount a HORSE for the purpose of instructional riding unless that HORSE is held at the bridle by an employee or volunteer of the PERSON carrying on the BUSINESS and who is supervised by an INSTRUCTOR; or
- (i) and rent to a PERSON to ride a HORSE where that PERSON is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a DRUG on any PREMISES used for the carrying on of the BUSINESS of a INSTRUCTIONAL RIDING ESTABLISHMENT.

- 2.3 Provided that Subsections 2.16 and 2.16 of this By-law shall not apply where a rider has been provided with proper functioning and appropriately sized hooded stirrups, safety stirrups which are designed to prevent a rider's foot from passing through or becoming wedged in the stirrup or stirrups which are designed to break-away when a rider falls from the HORSE.
- 2.4 No PERSON shall instruct PERSONS in the riding of HORSEs at an INSTRUCTIONAL RIDING ESTABLISHMENT unless:
- (a) they have attained the age of eighteen (18) years and they have at least five (5) consecutive year's experience in riding or training HORSEs during the immediately preceding seven (7) years; or
 - (b) they have attained the age of eighteen (18) years and they have been certified by the Canadian Equestrian Federation, Ontario Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman's Association, British Horse Society or other credited Equine Association or Institution.
 - (c) Notwithstanding the provisions of Section 19 of this By-law, a PERSON shall be permitted to assist in the instruction of PERSONS in the riding of HORSEs at an INSTRUCTIONAL RIDING ESTABLISHMENT where:
 - i) they have attained the age of sixteen (16) years
 - ii) they have at least three (3) consecutive year's experience with HORSEs in the immediately preceding five (5) years; and
 - iii) they are under the supervision of an INSTRUCTOR who meets the qualifications as provided for of this By-law.
- 2.5 No PERSON shall conduct or lead a trail ride at a TRAIL RIDING ESTABLISHMENT unless they have attained the age of eighteen (18) years and they have at least three (3) consecutive year's experience assisting or leading trail rides in the immediately preceding five (5) years. All HEAD TRAIL GUIDEs employed by a TRAIL RIDING ESTABLISHMENT must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the PREMISES.
- 2.6 No PERSON shall assist the HEAD TRAIL GUIDE on a trail ride at a TRAIL RIDING ESTABLISHMENT unless they have attained the age of sixteen (16) years and they have at least three (3) consecutive year's experience riding or working with HORSEs at a TRAIL RIDING ESTABLISHMENT in the immediately preceding five (5) years. All ASSISTANT INSTRUCTORS employed by a TRAIL RIDING ESTABLISHMENT must hold a current certification in first aid and cardiopulmonary resuscitation.

- 2.7 No PERSON shall instruct or assist in the instruction of PERSONS in the riding of HORSES at an INSTRUCTIONAL RIDING ESTABLISHMENT or conduct or lead or assist in the conducting or leading of a trail ride at a TRAIL RIDING ESTABLISHMENT while taking, consuming, and possessing or being, or appearing to be, intoxicated by alcohol or a DRUG.
- 2.8 No PERSON shall carry on the BUSINESS of a TRAIL RIDING ESTABLISHMENT and rent to a PERSON under the age of ten (10) years a HORSE for the purpose of trail riding.
- 2.9 Notwithstanding the provisions of this By-law, a PERSON who carries on the BUSINESS of a TRAIL RIDING ESTABLISHMENT may rent to a PERSON who has attained the age of at least six (6) years to LEAD LINE RIDE a HORSE where the HORSE is led by a capable walking adult who is in control of the HORSE.
- 2.10 Where the PERSON is under the age of six (6) years, the LEAD LINE RIDE will be led by a capable walking adult who is in control of the HORSE and accompanied by a walking spotter.
- 2.11 No PERSON shall carry on the BUSINESS of a HORSE RIDING ESTABLISHMENT on PREMISES without keeping that portion of the said PREMISES ordinarily used for the riding of HORSEs clear of all ground and over-hanging obstructions. Where said obstructions cannot be cleared, the PERSON carrying on the BUSINESS of a HORSE RIDING ESTABLISHMENT shall barrier these obstructions such that HORSEs and riders will not come in contact with them.
- 2.12 Prior to beginning instruction or conducting or leading a trail ride, the INSTRUCTOR, HEAD TRAIL GUIDE or an ASSISTANT INSTRUCTOR assigned to that instruction or ride, as the case may be, shall examine the condition and fit of all equipment to be used by each rider to ensure that it is clean, supple, well-fitting, secure and fully functional.
- 2.13 Prior to conducting or leading a trail ride, the HEAD TRAIL GUIDE or an ASSISTANT INSTRUCTOR assigned to the ride, as the case may be, shall provide basic information on the handling of a HORSE and the basics of riding a HORSE.
- 2.14 A PREMISES which contains a TRAIL RIDING ESTABLISHMENT shall contain a SIGN, to be created and erected at the expense of the LICENCE application/holder, with lettering a minimum of one half (½) inch in height and the location of which shall be as approved by the Municipal CLERK, and which is in the form as prescribed by SCHEDULE "A".
- 2.15 A PREMISES which contains an INSTRUCTIONAL RIDING ESTABLISHMENT shall contain a SIGN, to be created and erected at the expense of the licensed application/holder, with letter a minimum of one half (½)

inch in height and the location of which shall be approved by the Municipal CLERK, and which is in the form as prescribed by Appendix “B”.

- 2.16 All HEAD TRAIL GUIDE^s and ASSISTANT INSTRUCTORS employed by a TRAIL RIDING ESTABLISHMENT must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the PREMISES. A qualified first aid provider, with current certification in first aid and cardiopulmonary resuscitation, must be available whenever lessons are being conducted at an INSTRUCTIONAL RIDING ESTABLISHMENT and a fully stocked first-aid kit must be maintained on the PREMISES.

SCHEDULE 18 - RELATING TO PUBLIC HALLS

1. **DEFINITIONS:**

“PUBLIC HALL” means a building, including a portable building or tent with a seating capacity of over one hundred PERSONS, that is offered for use or used as a place of public assembly, but does not include a theatre within the meaning of the *Theatres Act*, or a building, except a tent, used solely for religious purposes.

2. **REGULATIONS:**

2.1 No LICENCE fee shall be payable under this By-law by any religious organization in respect of a hall used for entertainment given or held by it, but every such hall shall in all other respects comply with this By-law.

2.2. In addition to any other requirements in this By-law, every application for a PUBLIC HALL LICENCE shall be accompanied by:

- (a) a statement on the form provided giving such particulars as to the location, size and construction of the hall, together with a plan of the proposed seating arrangement, as may be required;
- (b) a certificate signed by the Fire Chief or his designee certifying that he has inspected the building in respect of which the application is made and has found that it is in accordance with this By-law as to fire safety precautions;
- (c) a certificate signed by the Building Director or his designee certifying that the operation of a hall in the location applied for is approved by him and that he is satisfied with the proposed use of the building or part thereof as a PUBLIC HALL and with the proposed methods of operations;
- (d) a certificate dated within three months of the application signed by the local inspector of the Hydro certifying that the electrical wiring has been inspected and found satisfactory; and
- (e) a certificate from the MEDICAL OFFICER OF HEALTH, may be required certifying that the PREMISES to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto;

2.3. The issue of every PUBLIC HALL LICENCE shall be subject to the following CONDITIONS:

- (a) the LICENSING OFFICER or other PERSON designated by the municipality may, at any time, order the evacuation of a PUBLIC HALL when the occupants

of the PUBLIC HALL are, in his opinion, endangered by a hazardous condition, and the LICENSING OFFICER or other such designated PERSON may enter the hall at any time in order to ascertain such condition;

- (b) The LICENSEE of a PUBLIC HALL shall not permit a greater number of PERSONS to enter or be in the hall at any time than the stated maximum capacity on the LICENCE, which maximum capacity shall be determined by the number of seats provided; and
- (c) The OWNER of every PUBLIC HALL shall FIRECRACKER in a prominent place in the entranceway, placards with the following wording on letters not less than two inches high:

"OCCUPANCY OF THIS HALL BY MORE THAN____PERSONS IS DANGEROUS AND UNLAWFUL".

with the blank filled in with the maximum capacity as stated on the LICENCE and placards stating the location of the nearest telephone, the telephone number of the fire department and the location of the nearest fire alarm box or fire hall.

- 2.4. Metal containers with self-closing covers shall be provided and conveniently placed for the deposit of used paper towels and rubbish and the contents of every such container shall be emptied and disposed of immediately following the use of the hall.

SCHEDULE 19 - RELATING TO SALVAGE SHOPS AND YARDS

1. DEFINITIONS:

“SALVAGE YARD” includes a building or place used as an automobile wrecking yard;

“SALVAGE SHOP” includes a building or place used for the collection, purchase, keeping or SELLING of SECOND HAND GOODS and merchandise such as waste paper, rags, bones, bottles, bicycles, automobile tires, old metal, scrap material, appliances, furniture, clothing, jewellery, sporting goods, and other articles of value;

“SECOND HAND DEALER” includes PERSONS who go from house to house or along highways for the purpose of collecting, purchasing or obtaining SECOND HAND GOODS.

2. REGULATIONS:

2.1 Every PREMISES licensed under this By-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

2.2 No PERSON shall:

- (a) purchase, take in exchange or receive any goods, article or thing from any PERSON who appears to be under the age of eighteen (18) years or from any PERSON who appears to be under the influence of liquor;
- (b) 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 clear days, exclusive of Sundays and holidays, from the date of purchase or such exchange, and during these fifteen days the goods or articles so obtained shall remain on the PREMISES in respect to which the license is issued and kept in a separate location from goods previously purchased, and shall be subject to inspection at any time during BUSINESS hours by the LICENSING OFFICER who may be accompanied by such other PERSONS as in his judgment may be necessary for the identification of goods reported or suspected of having been stolen;
- (c) make an entry in a book to be kept for that purpose at the time of purchase or immediately thereafter of all articles purchased. The entry shall include the date and hour of purchase, a full description of the article, the price paid therefor, the name, address and a description (such as complexion - fair or dark - height, weight, age, colour of hair) of the PERSON from whom the purchase was made

and in cases of automobiles, the make, model, serial number and license plate number and in the cases of SALVAGE YARDS in addition to the foregoing entry the license number of the vehicle or vehicles making delivery of salvage to the yard; and such book shall be made available for inspection to any police officer at anytime.

SCHEDULE 20 - RELATING TO RETAILERS OF SECOND-HAND GOODS

1. DEFINITIONS:

“GARAGE SALE” means a sale of goods from a residential premise where the sale lasts no longer than two (2) days, the sale from that premise occurs no more than two (2) times per year and the SECOND HAND VENDOR is either the user of the goods sold, or is one of not more than three (3) households conducting a sale of goods used by the members of those households or is a tenant or condominium association relating to a residential building;

“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 and “PAWNBROKER” includes a PERSON who offers a buy-back service in relation to such articles;

“SALVAGE YARDS” means a yard or premise in which bicycles, automobile tires, old metal and other scrap material and salvage is received, purchased, taken in, processed or otherwise dealt with and includes an automobile wrecking yard or premise;

“SECOND HAND GOODS” means any article that has been used for the purpose for which it was designed and which is offered to or taken by a PAWNBROKER or a SECOND HAND VENDOR for resale;

“SECOND HAND VENDOR” means a PERSON who carries on the BUSINESS of SELLING goods by way of RETAIL that have previously been used for the purpose for which such goods were designed and “SECOND HAND VENDOR” includes the OPERATOR of a SALVAGE YARD and any PERSON who travels from place to place TO SELL SECOND HAND GOODS;

“SELLER” means a PERSON who SELLS or who offers TO SELL any SECOND HAND GOODS to a PAWNBROKER or a SECOND HAND VENDOR.

2. REGULATIONS:

- 2.1 The provisions of this SCHEDULE are not applicable to SECOND HAND VENDOR’S who are engaged in the sale of goods for charitable purposes, who are engaged in the sale of goods as part of a GARAGE SALE, whose SECOND HAND GOODS consist primarily of used books, maternity wear or infant’s accessories, whose SECOND HAND GOODS consist of used automobiles or whose SECOND HAND GOODS consist of articles purchased new and rented out in the normal course of BUSINESS by the SECOND HAND VENDOR.

- 2.2. The provisions of this SCHEDULE are not applicable to SECOND HAND VENDORS whose sale of goods is conducted by auction; provided such PERSONS are licensed pursuant to the applicable AUCTIONEER's licensing SCHEDULE of the TOWN.
- 2.3 A SECOND HAND VENDOR whose principle BUSINESS is the sale or exchange of new and used electronic games shall:
- (a) ensure that SECOND HAND GOODS are received only in exchange for new or used goods simultaneously with the same PERSON;
 - (b) obtain and record photo identification from PERSONS over 16 years of age who provide SECOND HAND GOODS for exchange;
 - (c) ensure that an electronic tracking system is used to record and store for no less than seven (7) years all information related to the exchange or sale of SECOND HAND GOODS, including the identification of the PERSONS involved in such transactions; and
 - (d) permit or cause to permit the inspection of information contained in this system by PERSONS described in section 6.3 of this SCHEDULE.
- 2.4. No PERSON may be a PAWNBROKER or a SECOND HAND VENDOR or operate a Premise except in accordance with the following regulations:
- (a) No PERSON may receive SECOND HAND GOODS from any PERSON who is under the age of eighteen (18) years or from any PERSON who appears to be under the influence of alcohol or illegal DRUGS;
 - (b) No PERSON may receive SECOND HAND GOODS from any PERSON on a "holiday" as defined in the *Interpretation Act*, R.S.O. 1990, c.I.11 or between the hours of 9:00 p.m. on one evening and 9:00 a.m. on the following day. For the purposes of this subsection, "holiday" shall not include a Sunday;
 - (c) No PAWNBROKER or SECOND HAND VENDOR may permit any employee to work at a Premise without first instructing such employee in the regulations of this SCHEDULE and ensuring that such employee complies with these regulations. Every PAWNBROKER and SECOND HAND VENDOR shall be responsible for the acts or omissions of its employees in the carrying on of the sale of SECOND HAND GOODS and the BUSINESS conducted from the Premise in the same manner and to the same extent as though such acts or omissions were the acts or omissions of the PAWNBROKER or SECOND HAND VENDOR.
 - (d) Every PAWNBROKER and every SECOND HAND VENDOR shall keep their license certificate issued in respect of this SCHEDULE posted in a conspicuous place in the PREMISES in a manner satisfactory to the LICENSING OFFICER, at all times during the currency of the license;

- (e) No PAWNBROKER or SECOND HAND VENDOR may engage any employee for the purpose of acquiring or SELLING SECOND HAND GOODS without first providing a LICENSING OFFICER with a police clearance letter relating to that employee and every PAWNBROKER and SECOND HAND VENDOR shall keep a record of all PERSONS employed by them for the purpose of acquiring or SELLING SECOND HAND GOODS; and
 - (f) In circumstances where a SELLER refuses TO PROVIDE identification as required in this By-law, or where identifying features of the SECOND HAND GOODS presented by a SELLER have been removed or obliterated, or in other circumstances which might lead to the inference that the SECOND HAND GOODS have been stolen, the PAWNBROKER or SECOND HAND VENDOR shall not purchase such goods, shall attempt to ascertain the identity of the SELLER and shall contact the nearest police station as soon as is practicable to report such circumstances.
- 2.5 No PAWNBROKER or SECOND HAND VENDOR may receive any second hand good without first obtaining identification as required in this SCHEDULE.
- 2.6 For the purpose of identifying the SELLER, the PAWNBROKER or SECOND HAND VENDOR must be presented by the SELLER with at least two (2) pieces of identification and at least one piece of identification must be listed below and must be integrated with a photograph of the SELLER:
- (a) a valid driver's LICENCE;
 - (b) a passport issued by the government of origin
 - (c) a "Bring Your Identification Card" issued by the Alcohol and Gaming Control Commission;
 - (d) a Certificate of Indian Status issued by the Government of Canada;
 - (e) a Certificate of Canadian Citizenship issued by the Government of Canada; or
 - (f) a CONDITIONS Release Card issued by Correctional Services of Canada.
- 2.7 Where SECOND HAND GOODS are obtained by a PAWNBROKER or a SECOND HAND VENDOR from a GARAGE SALE, the recipient shall record the address of the GARAGE SALE.
- 2.8 Where SECOND HAND GOODS are obtained by a PAWNBROKER or a SECOND HAND VENDOR from an auction, the recipient shall record the name and address of the AUCTIONEER and, where such information is available, the name and address of the former OWNER of the goods being auctioned.

2.9. No PAWNBROKER or SECOND HAND VENDOR may receive any SECOND HAND GOODS without first maintaining a legible record of the following information:

- (a) the day, month, year and time of the transaction;
- (b) the full name, sex, date of birth, address and approximate height and weight of the SELLER;
- (c) the full particulars of both pieces of the SELLER's identification required to be presented pursuant to this SCHEDULE;
- (d) a detailed description of each Second Hand Good that is reasonably sufficient to identify it, including make, model, serial numbers, markings or other identifying features as applicable;
- (e) the price paid by the PAWNBROKER or SECOND HAND VENDOR or the value of goods exchanged for the Second Hand Good; and
- (f) the name of the employee who conducted the transaction

2.10 In circumstances where the SECOND HAND GOODS consist of a number of related or similar materials in the nature of a collection, the PAWNBROKER or SECOND HAND VENDOR shall record the exact number of articles received and any identifying features of such goods. In circumstances where more than ten (10) such related or similar goods are received, the exact number of articles received shall be recorded and the identifying features of the ten (10) most valuable articles in the collection shall be recorded.

2.11 In circumstances where a system is in place with the York Region Police Department for the automated recording of transactions in SECOND HAND GOODS and where the annual number of transactions in SECOND HAND GOODS occurring at any Premise exceeds 500, which transactions shall include acquisitions or dispositions of such goods, the LICENSING OFFICER may require a LICENSEE to subscribe to and pay all costs associated with maintaining an automated recording of such transactions in a manner which communicates with the system maintained by the York Region Police Department.

2.12 Where more than twenty (20) SECOND HAND GOODS are purchased by a SECOND HAND VENDOR from any PERSON as part of a single transaction, which SECOND HAND GOODS do not consist of a number or collection of related or similar materials, notwithstanding the provisions of subsection 5.1(4) a SECOND HAND VENDOR shall not be required to record a detailed description of each second hand good for which was paid less than ten (\$10.00) and shall not be required to record a detailed description of each second hand good that is offered by the SECOND HAND VENDOR for re-sale at less than thirty (\$30.00) dollars.

- 2.13 If a SECOND HAND VENDOR obtains an independent appraisal of value relating to any Second Hand Good, the SECOND HAND VENDOR shall retain a copy of the appraisal for not less than thirty (30) days after the appraised Second Hand Good is re-sold.
- 2.14 No PAWNBROKER or SECOND HAND VENDOR may SELL, exchange, alter, melt or otherwise dispose of any Second Hand Good within the earlier of thirty (30) days from the date of obtaining possession thereof or thirty (30) days after providing an automated transaction record relating to such Second Hand Good as required in this By-law and, during this period, such goods shall be kept in the Premise used by the PAWNBROKER or SECOND HAND VENDOR for the sale of SECOND HAND GOODS and shall be separate from and not commingled with other SECOND HAND GOODS in the same PREMISES.
- 2.15 Every PAWNBROKER and every SECOND HAND VENDOR shall during the regular operating hours of the Premise and at all times when SECOND HAND GOODS are provided therein make available for inspection by the LICENSING OFFICER, a By-law enforcement officer or a peace officer, the original of any document or record referred to in this By-law and shall provide a photocopy thereof upon request.
- 2.16 Every PAWNBROKER and every SECOND HAND VENDOR shall, at all times during the regular operating hours of the Premise and at all times when SECOND HAND GOODS are provided therein, permit the entry by and the inspection of the Premise and of the SECOND HAND GOODS of the PAWNBROKER or the SECOND HAND VENDOR by the LICENSING OFFICER, a By-law enforcement officer or a police officer, together with such other PERSONS who may be necessary to identify potentially stolen SECOND HAND GOODS.
- 2.17 In circumstances where a peace officer suspects that specified SECOND HAND GOODS were stolen, the police officer shall be entitled, upon providing a receipt therefor, to remove such SECOND HAND GOODS for the purpose of criminal investigation, provided such SECOND HAND GOODS are either returned within sixty (60) days or further retained by means of a Court Order.

SCHEDULE 21 - RELATING TO SIGN INSTALLERS AND THE ISSUANCE OF SIGN PERMITS

1. DEFINITIONS:

“MOBILE SIGN” means a SIGN that is designated so as to be capable of being readily moved from one location to another, and is usually built on a trailer or other solid framework with wheels and may include a double faced readograph type SIGN.

“MOBILE SIGN INSTALLER” means a PERSON licensed or required to be license that is in the BUSINESS of installing SIGNS that are moved from one location to another, and is usually built on a trailer or other solid framework with wheels and may include a double faced readograph type SIGN.

2. REGULATIONS

- 2.1 A PERSON who, from a location outside the TOWN carries on the BUSINESS of leasing or renting MOBILE SIGNS, shall be deemed to be carrying on BUSINESS in the TOWN if the PERSON locates or permits the location of mobile SIGNS in the TOWN.
- 2.2. Every PERSON who leases or rents a MOBILE SIGN that is to be located in the TOWN shall ensure that all required permits are obtained, prior to placement of the SIGN and that its placement is in accordance with any permit issued.

SCHEDULE 22 - RELATING TO THE CONDUCT OF SPECIAL SALES EVENTS

1. **DEFINITIONS:**

“SPECIAL SALE” includes any sale or offer TO SELL goods, wares and merchandise at RETAIL from a location at which the use of the PREMISES for RETAIL sales is PROHIBITED or is not a permitted use under By-laws passed by the COUNCIL under Section 34 of the *Planning Act*.

2. **REGULATIONS:**

2.1 No PERSON shall SELL, offer TO SELL or advertise for sale in any way, any goods, wares or merchandise by way of SPECIAL SALES unless such PERSON is the holder of a LICENCE issued under this By-law for such purpose.

2.2 Each application for a LICENCE under the By-law shall be accompanied by:

- (a) the name, address and phone number of the APPLICANT, OPERATOR, and registered OWNER of the PREMISES;
- (b) the municipal address, legal description, and unit number(s) of the PREMISES at which the special sale is to occur;
- (c) a description of the goods to be sold, including the quantity and value of the goods;
- (d) identification of any goods that may be hazardous;
- (e) a floor plan, indicating the total area of the PREMISES, showing the arrangement of goods for sale, exits, and entrances to the PREMISES;
- (f) dates when the SPECIAL SALE is to occur and the dates of the LICENCE extension(s) when the application is for a LICENCE extension; and
- (g) a statutory declaration of the APPLICANT or OPERATOR and if the APPLICANT or OPERATOR is not the OWNER of the goods to be sold, that the APPLICANT is authorized TO SELL goods on behalf of the OWNER.

2.3 The OPERATOR shall produce such books, records or other documents or information as the LICENSING OFFICER shall consider necessary to corroborate any of the statements contained in the application, both before and after the LICENCE is issued and shall permit the LICENSING OFFICER, at any reasonable hour, to inspect the goods to be sold and to enter and inspect the PREMISES in which such goods are located or in which the sale will be held.

- 2.4 Every LICENCE issued under this By-law except shall expire four (4) days after the date of issue and the OPERATOR is entitled to apply for and receive, two further LICENCE extensions for additional (4) day periods, provided there is a minimum (3) day break between each extension and there is no more than thirty consecutive (30) days in the LICENCE period.
- 2.5 There shall be a minimum one hundred eighty (180) day period between each LICENCE issued at the same municipal address.
- 2.6 All advertising material distributed or published with respect to a SPECIAL SALE, including each radio or television broadcast, shall contain a statement that such sale is held under the authority of this By-law and shall state the number and expiry date of the LICENCE issued hereunder.
- 2.7 The LICENCE shall be permanently posted on the PREMISES while the SPECIAL SALE is held.
- 2.8 Notwithstanding anything herein contained, the LICENSING OFFICER is under no obligation to issue a LICENCE or a LICENCE extension under this By-law if:
- (a) any of the information or particulars set forth in the application or statutory declaration of the APPLICANT or the OWNER is false;
 - (b) the SPECIAL SALE is advertised or conducted in the application or in any manner contrary to the provisions of this By-law; and
 - (c) the OPERATOR refuses to produce any books, documents, records or other information requested by the inspector, or refuses to permit the LICENSING OFFICER to inspect any goods or PREMISES in accordance with the provisions of this By-law.

SCHEDULE 23 - RELATING TO TEMPORARY VENDORS

1. DEFINITIONS

“Designated Area” means an area designated for the purpose of selling products there from and may include an area designated for the parking of a vehicle or a portable display unit for the purpose of selling products there from;

“Mobile Vendor” means:

- (a) a hawker or pedlar or any person who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards; and
- (b) any corporation, partnership or association which has an employee or agent who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards

“Portable Display Unit” means a push cart or other portable display unit not to exceed 2.32 square metres in dimension approved by this by-law for the purpose of selling products;

“Products” include goods, wares, crafts, jewellery, refreshments, foodstuffs, merchandise or any other items whatsoever;

“Retail” or “retail sale” means the sale of products in the ordinary course of business;

“Sell” means to sell for retail, offer for retail sale, display, place or expose any products for retail sale;

“Vehicle” means a vehicle or push cart from which products are sold; and

“Vending” means: the supplying of any good or service.

2. TYPES OF LICENCES

2.1 The Licensing Officer may issue the following types of licenses in connection with the business of selling products from a portable display unit or selling products by going place to place or to a particular place

- (a) Designated Area Vendor:

- (b) Designated Area Vehicle Vendor
- (c) Designated Area Portable Display Unit
- (a) Hawker or Pedlar.

3. NUMBER OF LICENCES

- 3.1 A mobile vendor who is the owner or lessee of more than one vehicle that is utilized for selling products shall be issued a vehicle licence plate for each vehicle that is owned or leased and operated for the purpose of vending.

4. AFFIXING THE LICENCE PLATE AND RENEWAL STICKER

- 4.1 No mobile vendor who is the owner or lessee of a vehicle that is utilized for selling products shall fail to affix in a secure and visible manner to the exterior of the vehicle the mobile vendor licence plate(s) issued by the Licensing Officer or as otherwise approved by the Licensing Officer.
- 4.2 No mobile vendor who is the owner or lessee of a vehicle that is utilized for selling products shall fail to affix in a secure manner the licence renewal sticker to the licence plates issued by the Licensing Officer.

5. LICENSING REQUIREMENTS FOR MOBILE VENDOR

- 5.1 In addition to the general requirements for licensing established under the Town of Markham Mobile Business Licensing By-law, every applicant for a mobile vendor licence and for the renewal of a mobile vendor licence shall:
 - (a) provide the Harmonized Sales Tax (H.S.T.) number registered to the applicant or licensee;
 - (b) within forty-eight (48) hours of any change in address, incorporating or partnership documents or other individual information, attend at the offices of the Licensing Section and furnish the Licensing Section with the particulars of the new information, and return their licence for replacement if required;
 - (c) provide a list to the Licensing Section of each vehicle to be operated as a vehicle in the mobile vendor business, identifying the same by the make, model year, provincial licence plate number and vehicle identification number (V.I.N.) if any;
 - (d) submit all vehicles to be operated in the mobile vendor business for inspection on the date and at the time scheduled by the Licensing Officer.

6. MOBILE VENDOR PROHIBITIONS

- 6.1 No mobile vendor shall sell, or cause or offer to sell at any time any product unless such person is in possession of a licence issued pursuant to this by-law.
- 6.2 Any person may apply for a mobile vendor licence:
- (a) to sell products in a designated area specified in the licence;
 - (b) to sell products from a vehicle to be parked in a designated area specified in the licence; or
 - (c) to sell products from a portable display unit to be located in a designated area specified in the license, and
 - (d) to go place to place with products for sale, or to carries and expose samples, patterns or specimens of an product that will be delivered in the municipality afterwards.
- 6.3 The issuance of a mobile vendor licence shall be subject to the following conditions:
- (a) the applicant shall identify the proposed location for the designated area, and shall provide a letter from the property owner or property manager permitting the use of his/her land for the proposed use;
 - (b) every owner of a vehicle or cart operating by propane shall file annually with the Town of Markham, a propane inspection certificate signed by a certified propane inspector, confirming that the inspection has been done in accordance with the National Standard of Canada CSA-B149.5-05, and further, all companies performing this task shall be a registered contractor under the *Technical Standards and Safety Act* under the direction of the Ministry of Consumer Services.
- 6.4 The proposed location for the designated area shall comply with the following criteria:
- (a) no portion of the designated area shall be located on a highway or part thereof;
 - (b) no portion of the designated area shall be located directly in front of an entrance or exit from a building;
 - (c) the designated area shall be located only on land zoned by the applicable zoning by-law to permit a commercial or industrial use;
 - (d) the designated area shall not be located within 500 metres of a business establishment or another designated area in which similar products are sold;

- (e) the designated area shall not be located within 50 metres of a signalized intersection; and
- (f) the designated area shall be set back at least 15 metres of a highway.

6.5 Notwithstanding Section 10 of this Schedule, a licensed vendor may apply for permission to sell products in a Town park. Such permission shall be in writing from the appropriate department of the Town of Markham and may be subject to restrictions at the discretion of the Town.

7. EXEMPTIONS

7.1A licence to sell products shall not be required if:

- (a) the products are sold by a Registered Charitable Organization, or a Town of Markham Service Club at a location approved by the Town; and
- (b) the products sold are in conjunction with and part of a community festival of the Town of Markham and the vendor has received permission in writing from the organizers of the festival to sell within the celebration area.

SCHEDULE 24 - RELATING TO TOBACCO SHOPS

1. DEFINITIONS:

“Tobacco Shop” means any store or shop where tobacco, cigars or cigarettes are sold by RETAIL.