This By-law is a consolidated version and includes amendments made by those amending by-laws listed on the following page. This consolidation is prepared for purposes of convenience only and is not the official or legal version of the By-law. For accurate reference to the By-law, certified copies should be obtained through the City Clerk’s Office.
CITY OF HAMILTON

CONSOLIDATED BY-LAW NO. 07-170

Incorporating amendments made by:

By-Law No: Effective Date: Amendment
08-099 April 23, 2008 Amendment to Schedule 25, paragraph 64
08-131 May 28, 2008 Housekeeping and technical amendments
08-175 July 10, 2008 Replacement of Appendix 1 of Schedule 25 (Taxi Cabs)
08-186 August 7, 2008 City of Hamilton Licensing Committee name change to Hamilton Licensing Tribunal
08-225 September 24, 2008 Deletion of Schedule 15 (Public Baths)
08-255 October 29, 2008 Amendment to definition of Lodging House
08-267 November 12, 2008 Replacement of Schedule 1 (Adult Entertainment Establishments) and Replacement of Schedule 13 (Personal Aesthetic Services)
08-285 December 10, 2008 Amendment to Schedule 25, paragraph 64
09-024 January 28, 2009 Amendment to Schedule 25, subsection 20
09-026 February 11, 2009 Amendment to Schedule 25, subsection 20
09-039 February 25, 2009 Amendments to General Provisions, section 4; Schedule 13, section 3; and Schedule 25 subsection 20
09-040 February 25, 2009 Amendment to General Provisions, section 5
09-058 April 1, 2009 Replacement of Appendix 3 of Schedule 25
09-111 May 27, 2009 Amendments to General Provisions, section 11, paragraph 12, section 31, section 32; addition of Schedule 21.1 Hess Village Entertainment District; and repeal of By-Law 06-234
09-152 July 9, 2009 Replacement of Schedule 20 (Residential Care Facilities)
09-156 July 9, 2009 Housekeeping and technical amendments

Prepared: November 15, 2012
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CITY OF HAMILTON

CONSOLIDATED BY-LAW NO. 07-170

A By-law to License and Regulate Various Businesses

WHEREAS Council considers it in the public interest to enact a by-law to license regulate and govern various classes of businesses, and to repeal the existing City of Hamilton Licensing Code being City of Hamilton By-law No. 06-213, as amended;

AND WHEREAS Part IV of the Municipal Act, 2001 allows the enactment of by-laws to license, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses;

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 as this By-law and Municipal Act, 2001 provide;

AND WHEREAS the regulation of the businesses in this by-law, the requirement for a licence and the imposition of such conditions will aid in the application and enforcement of this by-law and other laws so as to assist in allowing, amongst other things, for the identification and qualification of the persons responsible for the operation of the business, the identification of the location of businesses, the regulation and inspection of equipment, vehicles, premises and other property used to carry on business, and allowing for the protection of persons dealing with or affected by such businesses and persons;

AND WHEREAS Council is satisfied that a public meeting and reasonable public notice have been given for enactment of this by-law in accordance with the Municipal Act, 2001;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
GENERAL PROVISIONS

DEFINITIONS and APPLICATION

1.(1) In this By-law:

(a) “applicant” means a person applying for a licence or renewal of a licence thereof under this By-law;

(b) "business" has the same meaning as provided in section 150 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended;

(c) "City" means the City of Hamilton as constituted by section 2 of the City of Hamilton Act, 1999, S.O. 1990, c.14, Schedule C;

(d) "City Council" or "Council" means the council of the City of Hamilton;

(e) "City Treasurer" means the treasurer of the City;

(f) "conditions" includes special conditions which are conditions 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;

(g) "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;

(h) “inspector” except where otherwise indicated means an employee of the Parking and By-law Services Division of the Planning and Economic Development Department who is assigned by the Issuer of Licences to enforce the provisions of this By-law;

(i) "Issuer of Licences" means the Director of Parking and By-laws Services of the Planning and Economic Development Department, or the persons the Director may designate from time to time to issue licences in his or her stead;
(j) "Licensing Tribunal" means the Hamilton Licensing Tribunal established under subsection 3(1);

(k) "person" includes an individual, partnership, corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(l) "policies" or "policy" means policies or a policy approved by Council under section 15;

(m) "private club" means an establishment which is maintained and operated by a not-for-profit corporation or unincorporated association solely for the benefit and enjoyment of its members, and which has adopted by-laws or policies regulating the admission of persons to the corporation or association, the classes and conditions of membership, the suspension and termination of membership, the qualification and membership of directors and their manner of election, and the holding of an annual general meeting of members, and which requires the payment of fees and dues by members on an annual basis, and which issues cards or other documents to members which state the name of the member and the date on which his or her membership expires;

(n) "Secretary" means the secretary of the Licensing Tribunal; and

(o) "Schedule" shall be a reference to one or all the Schedules listed in section 30, as the context requires.

(2) Except where otherwise provided, the provisions of this By-law apply to the engaging in or carrying on, in the City of Hamilton, of any of the businesses regulated by this By-law.

(3) This By-law is subject to the Retail Business Holidays Act, R.S.O. 1990, c. R.30.

ADMINISTRATION

2. Subject to the terms of this or other by-laws, or the directions of Council:
(a) Administration of this By-law shall be by the staff of the Parking and By-law Services Division of the Planning and Economic Development Department of the City;

(b) Enforcement of this By-law shall be by:

(i) persons assigned by the Issuer of Licences or Council for the purpose of enforcing the provisions of this By-law which shall include the following:

   a. municipal law enforcement officers; and

   b. inspectors appointed pursuant to the Building Code Act, 1992, S.O. 1992, c.23; and

(ii) police officers.

3.(1) A tribunal, composed of not fewer than three members of Council who are appointed by resolution of Council, is established pursuant to section 23.2 of the Municipal Act, 2001, under the name “Hamilton Licensing Tribunal”.

(2) The Licensing Tribunal shall select one of its members as a Chair.

(3) For the purposes of subsection (2), the Licensing Tribunal shall apply the by-laws of the Council and have the powers, duties and rights as applicable under the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22.

(4) There shall be a Secretary to the Licensing Tribunal, who may be assigned administrative duties by the Tribunal.

(5) The Secretary shall attend all meetings of the Licensing Tribunal and shall keep all necessary records and perform such other duties as may from time to time be required by the Licensing Tribunal.
4.(1) The duties of the Issuer of Licences include ensuring:

(a) that the applicant, except an applicant for a licence as an attendant under Schedules 1 or 4 or as a driver under Schedule 25, is the owner or operator of the business and "owner" or "operator", unless otherwise defined in the applicable Schedule, means a person who has responsibility for carrying out the business including but not limited to:

(i) having the right to possess or occupy the premises where the business is carried on;

(ii) having significant financial responsibility for the business such as responsibility for accounts payable and accounts receivable;

(iii) managing any employees of the business such as hiring or firing such employees;

(iv) having responsibility for the business under a permission granted by the federal or provincial governments such as a liquor licence (Liquor Licence Act) or a vendor's permit (Retail Sales Tax Act).

(b) that applications are on the form applicable to the category of licence applied for, 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) that the applicant has paid the fees required for the applicable licence(s) and application, for the term of the licence, prior to processing the application; and

(d) where a limited number of licences may be issued or transferred, that there is a licence approved or available for issuance or transfer.

(2) Where an application or applicant fails to comply with the requirements of paragraphs 1(a), (b) or (c), or the Issuer of Licences’ instructions in that regard, or where no licences are available to be issued or transferred under paragraph 1(d), the application shall not be processed and shall be returned to the applicant.

(3) Where the application is returned under subsection (2), the applicant may be:

(i) given the application and advised personally; or
(ii) sent the application by regular mail to the applicant's address as disclosed by the application or to their last known address and advised by an accompanying letter.

(4) When the Issuer of Licences has refused to issue a licence under section 12 and the applicant has not requested a hearing in accordance with subsection 13(1), no further application from the applicant for the same category of licence shall be processed by the Issuer of Licences for one year from the date of the refusal. Any such further application shall be returned to the applicant in accordance with subsection (3).

(5) Notwithstanding subsection (4), where the only reason for the refusal is the failure of premises to meet one or more requirements under this By-law, a further application may be processed if the premises, whether they are the same or different premises, meet all requirements under this By-law. Any such further application is subject to all of the requirements under this By-law including the requirements under this section.

(6)(a)

Notwithstanding any of the provisions of this By-law that apply to an applicant for a licence that is:

(i) a partnership, the Issuer of Licences may issue a licence to a partnership provided that at least one partner, or other individual affiliated with the partnership as determined by the Issuer of Licences, satisfies such applicable provisions;

(ii) a corporation, the Issuer of Licences may issue a licence to a corporation proved that at least one director, officer, or other individual affiliated with the corporation as determined by the Issuer of Licences, satisfies such applicable provisions.

(b) Paragraph (a) does not apply to Schedules 1, 4 or 25.
LICENCE APPLICATIONS AND FEES

5.(1) An applicant for a licence shall file the application, materials and fees, and in the case of a licensee renewing a licence, shall file the certifications, materials and fees, required to be supplied under the terms of this By-law.

(2) The applicant shall be responsible for ensuring that:

(a) all forms are properly completed and signed where necessary;

(b) truthful information is provided in forms required, or in responses supplied to enquiries made under this By-law;

(c) prior to issuance of the licence, any correction of information supplied under paragraph (a) or (b) is brought to the attention of the Issuer of Licences in writing; and

(d) all necessary and required information, materials and fees are delivered to the Issuer of Licences.

(3) An applicant may withdraw the application prior to issuance of the licence.

(4) A person issued more than one licence under this By-law for the same premises at the same time shall only be required to pay the fee for the licence with the highest fee.

(5) A person holding a current and valid licence under this By-law who is issued a further licence for the same premises shall only be required to pay the administration portion of the fee plus any inspection fee for the further licence.

(6) Notwithstanding subsections (4) and (5), a person issued a Tobacco Retailer licence under Schedule 27 of this By-law shall be required, under all circumstances, to the pay the fee for that licence.
6.1 The applicant shall make a written application for a licence, and shall include in or with the application:

(a) the particular class or classes of licence applied for;

(b) the full name, home address and telephone number of the applicant;

(c) any other information as may be required for the kind and class of licence by the Schedules, or as may be required by the Issuer of Licences to identify the applicant, the business and its owner or operator, and the nature of the business which the applicant proposes to license, including any premises or vehicle, cycle or cart to be used;

(d) where the application is for renewal of a licence, the applicant shall either supply completed and executed certifications on the form provided to the effect that there is no change to the information as supplied in the previous application and previous records of conviction required under this By-law, or shall provide either a new application or a written and signed list of the changes in the required information from the previous application, as may be requested by the Issuer of Licences; and

(e) applicants shall supply with the application, the following information:

(i) an applicant for a licence under

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Schedule 14 (Reserved)

Schedule 16 Public Garages - Classes A, B1, B2 and B3 only

Schedule 20 Residential Care Facilities

Schedule 22 Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses

Schedule 25 Taxicabs - Cab Broker only

Schedule 29 Trades

Schedule 30 Transient Traders

shall submit, as part of their application for a licence:

a. the applicant’s original criminal record, provided that if no original criminal record exists, the applicant shall submit instead original certification from the police that no such record exists; and

b. a list of any criminal or provincial offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original criminal record submitted.

(ii) an applicant for a licence under

Schedule 8 Limousines

Schedule 25 Taxicabs - Taxicab Driver and Taxicab Owner only

Schedule 28 Tow Trucks

shall submit, as part of their application for a licence:
a. the applicant's original criminal and driving records provided that if no original criminal record exists, the applicant shall submit instead original certification from the police that no such record exists; and

b. a list of any criminal, provincial or driving offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original criminal or driving record submitted.

(iii) a licensee under

Schedule 8    Limousines
Schedule 25    Taxicabs - Taxicab Driver and Taxicab Owner only

shall submit, as part of their application to renew a licence:

a. the applicant's original driving record; and

b. a list of any driving offences in all jurisdictions for which the applicant has been convicted and not pardoned and which do not appear on any original driving record submitted.

(iv) a licensee seeking to renew a licence for the classes set out in subparagraph (i) or (ii) above, where a change of information has been noted in the criminal, provincial or driving record as applicable, shall upon request of the Issuer of Licences submit the records and information required by subparagraph (i) or (ii) as applicable, with the application for renewal.

(2) The application and required materials shall be delivered in person by the applicant to the Issuer of Licences, together with the applicable fees.
(3) Where the applicant for a licence application is a partnership, the application shall include the names and addresses of all partners, and each partner shall supply the information required under subparagraphs (1)(e)(i) and (ii).

(4) Where the applicant for a licence is a corporation, the application shall include the names and addresses for all directors and officers, and each director and officer of the corporation shall supply the information required under subparagraphs 1(e)(i) and (ii).

(5) A criminal record, driving record or other document referred to in subparagraphs 1(e)(i) or (ii) shall be dated not more than 36 days prior to the date on which the application is filed with the Issuer of Licences.

(6) (a) Every person who is a licence holder under this By-law shall ensure that they renew the licence before it expires.

(b) In the event a licence holder fails to renew their licence before it expires, they may renew their licence no more than 60 days after it expires provided that they pay, in addition to the applicable licence fee, the applicable late payment fee.

(c) No licence shall be renewed more than 60 days after it expires.

(7) Where any premises or part thereof are to be used for a purpose requiring authorization by licence, the applicant shall ensure the application includes an accurate and complete description of such premises or of the part to be authorized to be so used, including the address and telephone number of the location, and shall make a separate application for each separate premises to be licensed.

(8) Where a motor vehicle is to be used for a purpose requiring authorization by licence, the applicant shall ensure the application includes a sufficient description of such vehicle, including the make, the model, the licence plate number, and the vehicle identification number, and shall make a separate application for each vehicle to be licensed.
7.(1) In this section, "licence" means a licence for a business of the following classes, which is not a renewal or transfer of a current and valid licence under this By-law: a flea market under Schedule 6, a lodging house under Schedule 9, any class of garage under Schedule 16, a public hall, bingo parlour, roller skating rink, billiard parlour or pool room under Schedule 17, a residential care facility under Schedule 20, or an eating establishment under Schedule 21.

(2) Every person seeking a licence for the proposed business, shall submit a plot plan in a form satisfactory to the Issuer of Licences, together with the fees and documents required for a zoning verification certificate, and submit the zoning verification certificate obtained as part of the application.

8.(1) The applicable licence fee for each class or type of licence shall be the fee prescribed for each Schedule in the User Fees and Charges By-law for such type or class of licence or application, and shall be considered an annual fee unless this By-law specifies otherwise.

(2) Subject to subsection (4), applicants and licensees shall pay the fees prescribed for the application and licence applied for, and their licence when issued shall expire one year later, on the anniversary of the date of issuance, unless the applicable Schedule or this By-law provides for a shorter term.

(3) Where a licence is renewed, before, on or after its date of expiry, the date of issuance as shown on the renewed licence shall be the date of expiry of the expired licence.

(4) Where a licence has been issued or renewed subject to the fulfillment of a condition imposed by the Issuer of Licences or the Licensing Tribunal, and the applicant or licensee has failed to fulfil such condition within the time specified, the applicant or licensee shall pay an additional fee of $100.00 before the licence may be continued.

(5) In spite of the expiry date determined under subsection (2), a licence shall expire:

(a) when the licence is revoked or suspended under this By-law;
(b) where the licensee ceases to be the owner or operator as defined in paragraph 4(1)(a);

(c) where the licence is issued to an individual, on the date of death of the individual, provided that a taxicab owner's licence issued under Schedule 25 shall expire in accordance with section 47 of that Schedule;

(d) where the licence is issued to a partnership or corporation, on the date of dissolution of the partnership or corporation;

(e) where any federal, provincial or municipal licence, including a permit, an approval, a registration or any other type of permission, required for the licensee to carry on or engage in their business has been revoked, suspended or has expired without renewal; or

(f) where the licensee has been prohibited from carrying on or engaging in their business under federal, provincial or municipal authority including under authority of a court order.

(6) Refunds of paid licence fees may be made, in the following amounts and circumstances:

(a) Where the applicant prior to processing the licence under section 11 withdraws an application for a licence, a refund of the licence fee may be made to the applicant;

(b) Subject to paragraph (e), where an application for a licence is withdrawn by the applicant after processing the licence under section 11 and before issuance, a refund of the licence fee may be made to the applicant;

(c) Subject to paragraph (e), where a licence or renewal of a licence is refused or denied, a refund of the licence fee may be made to the applicant;

(d) Where a licence is revoked, a refund may be made of the proportionate amount of the unexpired portion of the term of the licence; and
(e) In the case of an application for a licence other than a renewal, the processing fee as set out in the User Fees and Charges By-law is non-refundable, in the event the application is withdrawn or the licence is not issued, and for the sake of clarity in this subsection, "renewal" means renewal by the current licensee of the previous year's licence without change.

(7) The licensee, or the licensee's legal representative where the licensee has died, shall return the licence certificate, plate, sticker or photo identification to the Issuer of Licences:

(a) where a licence that has expired under paragraph (5)(a), unless the licence certificate has been returned to the City at the earlier request of the Issuer of Licences, within seven days of the date of approval of the suspension or revocation by Council;

(b) where a licence that has expired without renewal under subsection (2) or expired under paragraphs (5)(b), (c), (d) or (e), within seven days of the date of the expiry; or

(c) where the business licensed under this By-law ceases to operate, within seven days of the date it ceases to operate.

9. Fees shall be paid by the licensee for replacement of:

(a) a licence certificate,

(b) photo identification, and

(c) a licence plate,

in accordance with the User Fees and Charges By-law.
10. Where the City provides any form or other document to a person that requires the insertion of information, the form or document whether or not containing the inserted information in whole or in part, shall be and remain the property of the City.

ISSUANCE of LICENCES

11.(1) The Issuer of Licences upon receipt of a proper, completed application and payment of fees for a licence under this By-law shall circulate the application to such City or provincial departments or agencies as the Issuer of Licences deems necessary or as directed by Council, including but not limited to the Fire Department, Hamilton Police Services, the Planning and Economic Development Department, Public Health Services and the Public Works Department.

(2) Departments or agencies to which the application is provided under subsection (1) shall review obtainable information and provide the Issuer of Licences with comments or compliance reports on whether the information indicates non-compliance with an applicable law which the department or agency enforces and which applies to the proposed business, and where an inspection is made, shall provide the Issuer of Licences with a report on any non-compliance found as a result of that inspection.

(3) Where, under this By-law an applicant or licensee is to be tested, the City department responsible for the testing shall conduct the test or provide an opportunity for taking the test, and provide the Issuer of Licences with the test results.

(4) Applicants and licensees, as a condition of obtaining or continuing to hold a licence, shall permit inspections or inquiries by representatives of the departments or agencies circulated under subsection (1) as may be reasonably requested, and shall undertake the tests referred to in subsection (3).

(5) Fees which are required to be paid for the making of an inspection or the conducting of a test under subsections (3) and (4) as prescribed in the User Fees and Charges By-law may be collected by the Issuer of Licences before a licence is issued or renewed.
(6) The Issuer of Licences may send notice of the comments or other response from the departments or agencies received under this section to the applicant or licensee.

12.(1) The Issuer of Licences shall refuse to issue a licence or may recommend the suspension or revocation of a licence when:

(a) in the case of a refusal:
   (i) a policy under section 15 requires a refusal;
   (ii) any federal, provincial or municipal licence, including a permit, an approval, a registration or any other type of permission, required for the applicant to carry on or engage in their business has not been issued or has been suspended, revoked or has expired; or
   (iii) the applicant has been prohibited from carrying on or engaging in their business under federal, provincial or municipal authority including under authority of a court order;

(b) in the case of a recommendation:
   (i) the licensee has not actively carried on the business for which the licence was obtained within a reasonable period of time following the issuance or renewal of the licence; or
   (ii) a policy under section 15 becomes applicable and would require a refusal or the issuance of a conditional licence if the licensee were applying for a licence; or

(c) in the case of refusal or a recommendation, the applicant or the licensee:
   (i) has not met any of the requirements under this By-law including the applicable Schedule or any conditions on the licence;
   (ii) has provided information in an application or by other means that is false or misleading;
   (iii) has not paid any fee to be paid under this By-law including the applicable Schedule;
   (iv) has not paid any fine or court awarded costs resulting from a legal proceeding related to this By-law or the applicable Schedule;
   (v) has not complied with any prohibition or other court order resulting from any legal proceeding related to this By-law or the applicable
Schedule; or

(vi) in the opinion of the Issuer of Licences:

1. the operation of the applicant’s or licensee’s business would put the public safety at risk;

2. the operation of the applicant’s or licensee’s business is not or will not be carried on in compliance with the law; or

3. the conduct of the applicant or licensee (in the case of partnership, the conduct of its partners, employees or agents or in the case of a corporation, the conduct of its officers, directors, employees or agents) affords reasonable grounds for belief that the applicant or licensee will not carry on or engage in the business in accordance with the law or with honesty or integrity.

(2) The Issuer of Licences may issue a licence:

(a) upon conditions specified as required by a policy under section 15 when paragraphs 12(1)(a) and 12(1)(c) do not apply; or

(b) when paragraphs 12(1)(a), 12(1)(c) and 12(2)(a) do not apply.

13.(1)(a) When the Issuer of Licences refuses to issue a licence, the Issuer of Licences shall send a dated notice of refusal to the applicant and the Secretary which includes the grounds upon which the licence is being refused.

(b) An applicant who receives a notice of refusal is entitled to request a hearing before the Licensing Tribunal.

(c) A request by an applicant for a hearing shall be made in writing, accompanied by the applicable fee and delivered to the Secretary within 30 days of the date contained in the notice of refusal. The applicant shall also include the grounds for their request.

(2)(a) When the Issuer of Licences has recommended the suspension or revocation of a licence, the Issuer of Licences shall send a dated recommendation to suspend or revoke to the licensee and the Secretary which includes the grounds upon with the recommendation is being made.
(b) A licensee who receives recommendation to suspend or revoke is entitled to a hearing before the Licensing Tribunal.

14.(1) Where a request for a hearing meeting the requirements of paragraph 13(1)(c) or a recommendation to suspend or revoke has been delivered to the Secretary under paragraph 13(2)(a), a hearing shall be scheduled before the Licensing Tribunal and notice of the hearing date shall be given to the parties.

(2) The parties to a hearing to refuse a licence are the applicant and the City and to a hearing to suspend or revoke a licence are the licensee and the City.

(3) A notice of hearing shall include:
   (a) a statement of the time, date and purpose of the hearing; and
   (b) a statement that if the applicant or licence holder does not attend the hearing, the Licensing Tribunal may proceed in their absence without notice to them.

(4) A notice of refusal or a notice of hearing may be delivered personally to a person apparently in charge of a licensed premises, vehicle, cart or cycle or by sending it by prepaid registered mail to the last known address of the applicant or licensee on file with the City. Delivery by registered mail shall be deemed to have taken place five business days after the date of mailing.

15.(1) The Issuer of Licences shall use and apply the policies, where applicable, to the decision to deny or approve licences with or without conditions, or to recommend revocation or suspension of licences, which policies are attached as Appendices "A" and "B" to these General Provisions.

(2) Issuer of Licences may, at a hearing, recommend that a licence be refused, suspended or revoked or the imposition of conditions.

16.(1) The Licensing Tribunal shall hold a hearing at the time, date and place set out in a notice of hearing.
(2) A hearing shall be commenced by the Licensing Tribunal on or before 60 days from the date of delivery of a notice of hearing subject to a decision of the Licensing Tribunal to extend the time for commencing a hearing.

17.(1) Upon holding an appeal from a refusal to issue a licence or a hearing to suspend or revoke a licence, the Licensing Tribunal may:
   (a) uphold the refusal to issue the licence;
   (b) suspend or revoke the licence; or
   (c) attach conditions to the licence.

(2) Conditions attached to a licence may include but are not limited to requiring the applicant or licensee:
   (a) comply with by-laws or other laws and provide proof of such compliance;
   (b) pay a fine or other court awarded costs resulting from a legal proceeding related to this By-law or the applicable Schedule and to provide proof of such payment;
   (c) comply with a prohibition or other court order resulting from a legal proceeding related to this By-law or the applicable Schedule and to provide proof of such compliance;
   (d) change the hours of operation of their business;
   (e) take or re-take a test required under this By-law;
   (f) supply additional information on criminal, provincial or driving convictions or periodic updates of such convictions or both;
   (g) supply information to verify evidence given at their hearing; or
   (h) ensure that the persons carrying on their business do so in accordance with the law or with honesty and integrity.

(3) The Licensing Tribunal shall have regard to the following matters where relevant, as may be raised at a hearing:
   (a) this By-law and other applicable law;
(b) circumstances and facts raised by the evidence of the parties;
(d) if the business puts or could put public safety at risk; and
(e) if the business is or will be carried on in compliance with the law, and whether the conduct of the person (in the case of a partnership, the conduct of its partners, employees or agents or in the case of a corporation, the conduct of its officers, directors, employees or agents) affords reasonable grounds for belief that the person will not carry on or engage in the business in accordance with the law or with honesty or integrity.

(4) The Licensing Tribunal's decision in respect of refusing, suspending, revoking or attaching conditions to a licence is final.

18.(1) After the Licensing Tribunal has made a decision in respect of a hearing, notice of that decision shall be sent to the applicant or licensee by personal delivery or by registered mail to the last known address of the applicant or licensee on file with the City.

(2) Where the decision of the Licensing Tribunal is:
   (a) to issue a licence or conditional licence, the Issuer of Licences shall issue the licence or the conditional licence, on the terms directed by the Licensing Tribunal; or
   (b) to refuse or revoke a licence, any further hearing with respect to that licence shall be not considered for one year from the date of the Licensing Tribunal's decision.

GENERAL and OFFENCES

19.(1) Every licence certificate shall be in such form as may from time to time be authorized by the Issuer of Licences and shall show on its face:

   (a) the kind or class or classes of licence issued;
(b) the date of expiry;

(c) whenever the licence authorizes the use of any premises or part or parts thereof for the purpose of the licensed business, identification of such premises or part or parts; and

(d) wherever the licence authorizes the use of a vehicle, cycle or cart, identification of the vehicle, cycle or cart.

(2) Licence certificates may show conditions imposed on the licence.

(3) No licence certificate shall be valid until it is shown on the face of the certificate that the amount of the licence fee has been paid.

(4) The signature of the Issuer of Licences shall be affixed to each issued licence certificate, and a mechanical reproduction of the signature may be affixed in place of the original.

(5) On behalf of the City Clerk, the Issuer of Licences may sign a statement as to the licensing or non-licensing of any premises or person under this By-law as provided for under subsection 447.6(4) of the Municipal Act, 2001.

20. Every licence certificate, licence plate, identification card, form or document, shall be delivered forthwith to the City upon written or oral request of the Issuer of Licences or a licence inspector acting upon his or her direction.

21.(1) Every licence is personal to the holder thereof, and no licence is transferable without the consent in writing of the Issuer of Licences or Council.

(2) No licence is transferable unless a transfer is specifically provided for in the applicable Schedule.

(3) No licence authorizes the use of any premises or part thereof, or of any vehicle, cycle or cart, except that identified on the licence certificate or record of application.
22.(1) Where a licence authorizes the use of any premises or part thereof, for any purpose for which a licence is required under this By-law, the current licensee shall:

(a) post up the licence certificate; and

(b) keep the licence certificate posted up, in a position where it may readily be seen and read by persons entering the premises or part thereof.

(c) remove any licence certificate which is not current from any area which is accessible to persons entering the premises.

23. The licensee shall be responsible that the premises authorized to be used for the purposes of the licensed business are kept clean and orderly, and that every vehicle, cycle or cart authorized to be used for the purpose of the licensed business is so used only when in a clean and safe condition.

24. Persons carrying on or engaged in the businesses for which licensing is provided under this By-law, shall allow at any reasonable time, inspection of the places or premises used in the carrying on of the business and equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business, by persons authorized to enforce the provisions of this By-law.

25. A licensee who is issued a licence on the condition that the Licensee provide further criminal or driving records, shall supply the information required by subparagraphs 6(1)(e)(i) and (ii) as applicable, on the intervals required by the conditions imposed on their licence.

25a Every licence holder shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions or the Schedule under which their licence is issued.

26.(1) Every person engaging in or carrying on any business for which a licence is required by the provisions of this By-law shall be responsible that all applicable law, including all the provisions of this By-law and the applicable Schedule or Schedules regulating such business, are complied with.
(2) Licensees shall comply with all applicable law, including all the provisions of this By-law and the applicable Schedule or Schedules, and with conditions of their licences, and no licensee shall cause or permit their employee, agent or other persons carrying on or engaging in the business on their behalf, to fail to comply with all applicable law, including the provisions of this By-law and the applicable Schedule or Schedules, and with the conditions of their licences.

(3) Compliance with all applicable law, including the provisions of this By-law and its Schedules, and with the conditions of licences is a condition of an applicant or licensee obtaining, continuing to hold or renewing a licence.

26a. (1) A person assigned to enforce this By-law may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(a) this By-Law;
(b) a direction or order made under this By-Law;
(c) a condition of a licence issued under this By-Law; or
(d) an order made under s. 431 of the Municipal Act, 2001.

(2) A person assigned to enforce this By-law may, for the purposes of the inspection under subsection (1):

(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 in writing or otherwise as required by the person assigned to enforce this By-law from any person concerning a matter related to the inspection; or
(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.
(2.1) Any cost incurred by the City in exercising its authority to inspect under subsection (2), including but not limited to the cost of any examination, tests, sampling or photographs necessary for the purposes of the inspection, shall be paid by the person who is licensed or required to be licensed under this By-law to carry on the business being inspected.

(3) A person assigned to enforce this By-law may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001* where he or she has been prevented or is likely to be prevented from carrying out an inspection under subsections (1) and (2).

(4) If a person assigned to enforce this By-law is satisfied that a contravention of this By-Law has occurred, he or she 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 property on which the contravention occurred to discontinue the contravening activity.

(5) An order under subsection (4) shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and

(b) the date or dates by which there must be compliance with the order.

(6) If a person assigned to enforce this By-law is satisfied that a contravention of this By-law has occurred, he or she 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 property on which the contravention occurred to do work to correct the contravention.

(7) An order under subsection (6) shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;

(b) the work to be completed; and

(c) the date or dates by which the work must be complete.
(8) An order to discontinue contravening activity made under subsection (4) or an order to do work made under subsection (6) may be served personally or by registered mail to the last known address of:

(a) the owner or occupier of the property where the contravention occurred; and

(b) such other persons affected by it as person assigned to enforce this By-law making the order determines.

Service by registered mail shall be deemed to have taken place five business days after the date of mailing.

(9) In addition to service given in accordance with subsection (8), an order to discontinue contravening activity made under subsection (4) or an order to do work made under subsection (6) may be served by a person assigned to enforce this By-law by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.

(10) Where service cannot be given in accordance with subsection (8), sufficient service is deemed to have taken place when given in accordance with subsection (9).

(11) Where a person does not comply with a direction or a requirement, including an order, under this By-Law to do a matter or thing, the Issuer of Licences, with such assistance by others as may be required, may carry out such direction or requirement at the person’s expense.

(12) The City may recover the costs of doing a matter or thing under subsection (11) by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.

(13) The Issuer of Licences is authorized to give immediate effect to any direction or requirement where the costs of carrying out the direction or requirement do not exceed $10,000 and, where the costs do exceed $10,000, as the City’s Council may authorize.

26b. Pursuant to Section 431 of the Municipal Act, 2001, when a person has been convicted of an offence under this By-Law, any court of competent jurisdiction may, in addition to any other penalty or other remedy imposed, make an order prohibiting
the continuation or repetition of the offence.

27.(1) Every person who contravenes Schedules 1 or 4 and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and upon conviction liable to a fine not exceeding $25,000 or to imprisonment for a term not exceeding one year, or to both.

(2) Every person, including every person who fails to comply with an order made under section 26a., who contravenes this By-law, except Schedules 1 or 4, and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and upon conviction liable to a fine not exceeding $25,000.

(3) Where a corporation is convicted of an offence under subsection (1) or (2), the maximum penalty that may be imposed on the corporation is $50,000 and not as provided in those subsections.

28.(1) A notice given or required to be given to an applicant or licensee under this By-law, may be sent by facsimile, regular mail or registered mail to a number or address supplied by the applicant or licensee, or delivered personally to the applicant or licensee, or to a person in charge of the premises, vehicle, cart or cycle licensed or required to be licensed under this By-law.

(2) Notwithstanding any other section of this By-law, a notice of refusal to issue, or a notice of revocation or suspension of a licence is effective upon personal delivery to a person in charge of the business premises, vehicle, cart or cycle licensed.

SEVERABILITY AND SAVING

29. If a court of competent jurisdiction declares a part or the whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law.
30. The following Schedules form part of this By-law:

Schedule 1  Adult Entertainment Establishments
Schedule 2  Auctioneers
Schedule 3  Bed and Breakfasts, Hotels and Motels
Schedule 4  Body Rub Parlours
Schedule 5  Building Exterior Cleaners
Schedule 6  Food Service Vehicles
Schedule 7  Kennels and Pet Shops
Schedule 8  Limousines
Schedule 9  Lodging Houses
Schedule 10  Mobile Homes and Mobile Home Parks
Schedule 11  (Reserved)
Schedule 12  Pedlars
Schedule 13  Personal Aesthetic Services
Schedule 14  (Reserved)
Schedule 15  Personal Wellness Services
Schedule 16  Public Garages
Schedule 17  Public Halls and Places of Amusement
Schedule 18  Recreational Camping Establishments
Schedule 19  (Reserved)
Schedule 20  Residential Care Facilities
Schedule 21  Food Premises
Schedule 22  Salvage and Second-Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses
Schedule 23  Seasonal Produce Vendors
Schedule 24  Sign Posters and Bill Distributors, etc.
Schedule 25  Taxicabs
Schedule 26  Mobile Sign Leasing or Renting
Schedule 27  Tobacco Retailers
Schedule 28  Tow Trucks
Schedule 29  Trades
Schedule 30  
Transient Traders  

31. City of Hamilton By-law No. 06-213 and all amendments thereto are repealed upon the coming into force and effect of this by-law.

32. City of Hamilton By-law No. 06-234 is repealed.

33. This by-law may be referred to as the “City of Hamilton Licensing Code”. A reference to the City of Hamilton Licensing Code in this or any other City of Hamilton By-Law is deemed to be a reference to this By-Law.
34. This by-law comes into force and effect on the date it is passed and enacted.

PASSED and ENACTED this day of ,

______________________________     ________________________________
MAYOR                        CLERK
**APPENDIX “A”**

Departmental Policy Standard Character and Driving Record Criteria
For Conditional Issuance and Refusal of Mobile Licence Applications or Renewals

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 (Auctioneers), 8 (Limousines), 12 (Pedlars), 25 (Taxicabs-Taxicab Driver and Taxicab Owner only), 28 (Tow Trucks) and 30 (Transient Traders)</td>
<td></td>
</tr>
<tr>
<td>A</td>
<td>Refuse licence if 2 or more criminal convictions within 2 years of the application or renewal date</td>
</tr>
<tr>
<td>B</td>
<td>Refuse licence if 3 or more criminal convictions within 5 years of the application or renewal date</td>
</tr>
<tr>
<td>C</td>
<td>Refuse licence if convicted of a criminal offence where the sentence imposed was 5 years or longer</td>
</tr>
<tr>
<td>D</td>
<td>Issue conditional licence for 1 year if convicted of 1 criminal conviction within 5 years of application or renewal date.</td>
</tr>
<tr>
<td>E</td>
<td>Refuse licence if 1 Criminal Negligence or Impaired Driving convictions within 1 year of the application or renewal date</td>
</tr>
<tr>
<td>F</td>
<td>Refuse licence if 2 Criminal Negligence or Impaired Driving convictions (or 1 of each) between 1 and 4 years old from application or renewal date</td>
</tr>
<tr>
<td>G</td>
<td>Issue conditional licence for 1 year, if Criminal Negligence or Impaired Driving conviction, between 1 and 4 years old from application or renewal date</td>
</tr>
<tr>
<td>H</td>
<td>Refuse licence if either 6 demerit points lost or 4 driving convictions within 1 year of application or renewal date</td>
</tr>
<tr>
<td>I</td>
<td>Issue conditional licence for 6 months if 3 – 5 demerit points lost or 3 driving convictions within 1 year of application or renewal date</td>
</tr>
</tbody>
</table>

A conditional licence issued as a result of a criminal record is for a 1 year period (licence holder must submit an updated criminal abstract at 6 months and at 1 year).

A conditional licence issued as a result of a driving record is for a 6 month period (licence holder must submit an updated driving record at the end of the 6 month period). At annual licence renewal, an updated driving record is required for all mobile "driver" licence holders.

Prepared: November 15, 2012
Notwithstanding the policy, the Director of Parking and By-law Services may refuse an application for a licence above due to concerns of public safety being at risk. The licence applicant shall be informed of this decision in writing. It is a licence applicants right to appeal this decision to the Licensing Tribunal.
APPENDIX “B”

Departmental Policy Standard Character and Driving Record
Criteria For Conditional Issuance and Refusal of
Establishment and Trade Licence Applications or Renewals

<table>
<thead>
<tr>
<th></th>
<th>Criteria</th>
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<tbody>
<tr>
<td>A</td>
<td>Refuse licence if 2 or more criminal convictions within 2 years of the application or renewal date</td>
</tr>
<tr>
<td>B</td>
<td>Refuse licence if 3 or more criminal convictions within 5 years of the application or renewal date</td>
</tr>
<tr>
<td>C</td>
<td>Refuse licence if convicted of a criminal offence where the sentence imposed was 5 years or longer</td>
</tr>
<tr>
<td>D</td>
<td>Issue conditional licence for 1 year if convicted of 1 criminal conviction within last 5 years</td>
</tr>
</tbody>
</table>

A conditional licence issued as a result of a criminal record is for a 1 year period (licence holder must submit an updated criminal abstract at 6 months and at 1 year).

Notwithstanding the policy, the Director of Parking and By-law Services may refuse an application for a licence above due to concerns of public safety being at risk. The licence applicant shall be informed of this decision in writing. It is a licence applicants right to appeal this decision to the Licensing Tribunal.
SCHEDULE 1

ADULT ENTERTAINMENT ESTABLISHMENTS

PART I: DEFINITIONS

1. In this Schedule:

Adult Entertainment Establishment

“adult entertainment establishment” means any premises or part of a premises in which are provided, in pursuance of a business, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes an adult services entertainment establishment, an adult film store and an adult film theatre;

Adult Services Entertainment Establishment

“adult services entertainment establishment” means any premises or part of a premises in which adult services are provided by one or more individuals by means of physical movements, verbal expressions, or other forms of behaviour;

“adult services” means services appealing to or designed to appeal to erotic or sexual appetites or inclinations and includes but is not limited to:
(a) services of which a principal feature or characteristic is the nudity, or partial nudity of any person;
(b) services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement; or
(c) activities, facilities, performances, dances, exhibitions, viewings and encounters in an adult services entertainment establishment;
“attendant” means any person who provides adult services in an adult services entertainment establishment;

“business owner” means a person who owns or occupies or has the right to own or occupy, an adult services entertainment establishment and includes but is not limited to a lessee of an adult services entertainment establishment or of the premises in which the adult services entertainment establishment is located;

“main stage” means the primary area within an adult services entertainment establishment upon which services are presented, and excludes areas for the seating of customers;

“operator” means a person who operates, manages, supervises, controls or is responsible for the business of an adult services entertainment establishment;

“to provide” when used in relation to adult services includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings;

Adult Film Store and Adult Film Theatre

“adult film” means a film classified by the Ontario Film Review Board as “restricted” and approved by the Ontario Film Review Board as an “adult sex film”;

“adult film area” means the part of a Class B adult film store used for the provision of adult films;

“adult film store” means a Class A adult film store or a Class B adult film store;

“adult film theatre” means premises for which a Class B Exhibitor licence has been issued under the Film Classification Act, 2005 or its regulations;
“Class A adult film store” means:
(a) premises for which a Class B Retailer licence has been issued under the
Film Classification Act, 2005 or its regulations;
(b) premises where:
   (i) the number of adult films available from the premises exceeds 500; or
   (ii) the number of adult films available from the premises is more than
        20% of the films available from the premises which are not adult films;
        and
(c) does not include a Class B adult film store;

“Class B adult film store” means:
(a) premises for which a Class B Retailer licence has been issued under the
Film Classification Act, 2005 or its regulations;
(b) premises where:
   (i) the number of adult films available from the premises does not exceed
       500; and
   (ii) the number of adult films available from the premises is not more than
       20% of the films available from the premises which are not adult films;
       and
(c) does not include premises where the area displaying adult films is no more
    than 5% or 9.3 m², whichever is less, of the total area displaying films on the
    premises;

“film” means a moving image, including an interactive moving image such as a
video game, that may be generated for viewing from any thing including but not
limited to video tapes, video discs, film or electronic files.

“to provide” when used in relation to adult films includes to sell, offer to sell or
display for sale, or rental, or sample gift, by retail or otherwise such adult films, and
“providing” and “provision” have corresponding meanings;
“specified body area” means any one or more of the following:
(a) in the case of a female person, her areolas; and
(b) in the case of all persons, the genitals and the anus; and

“specified sexual activity” means any one or more of the following: actual or simulated sexual intercourse, masturbation, ejaculation, sodomy, bestiality, oral sexual intercourse, direct physical stimulation of unclothed genital organs, or flagellation or torture in the context of a sexual relationship or activity.

PART II: LICENCES

Adult Entertainment Establishment

2. No licence shall be issued to an applicant that is:

   (a) a corporation, if any one of the applicant’s officers, directors or shareholders is less than 18 years of age;
   (b) a partnership, if any one of the applicant’s partners is less than 18 years of age;
   (c) an individual, if the individual is less than 18 years of age.

Adult Services Entertainment Establishment

3. No person shall carry on or in engage in the business of a business owner or operator of, or an attendant in an adult services entertainment establishment without holding a current, valid licence issued under this By-law.

4. Only an individual may be issued an operator or an attendant licence.
5. A separate business owner licence or operator licence shall be taken out in respect of each adult services entertainment establishment.

6. (1) Where a business owner does not personally operate their adult services entertainment establishment, every person operating such establishment shall obtain a licence so to do, but nothing herein relieves such a business owner from the requirement that they obtain a licence as business owner of such establishment.

(2) A business owner who manages their own adult services entertainment establishment shall notify the Issuer of Licences of this at the time they obtain their licence so that their licence may be endorsed accordingly and the business owner shall notify the Issuer of Licences to have the said endorsement amended before engaging any operator to operate such establishment.

(3) An operator shall notify the Issuer of Licences of the name of the business owner whose adult services entertainment establishment they intend to operate at the time they obtain their licence so that their licence may be endorsed accordingly and the operator shall notify the Issuer of Licences to have the said endorsement amended before operating any other such establishment.

(4) The Issuer of Licences shall issue a photo identification card to each licensed business owner, licensed operator and licensed attendant. The licence holder shall be re-photographed every third year or sooner if required by the Issuer of Licences.

7. (1)(a) No adult services entertainment establishment shall be located and no adult services entertainment establishment licence shall be issued except for adult services entertainment establishments in areas as permitted by subsections 7(2) and 7(3).

(b) No more that two adult services entertainment establishment licences shall be issued.

(2) Council may consider a request to substitute a new location for an existing adult services entertainment establishment location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.
Despite subsection 7(2), the premises at the following municipal addresses licensed and in actual use as a adult services entertainment establishment on May 25, 2011, are each deemed to be a location where one adult services entertainment establishment is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:

(a) 92 Barton Street East, Hamilton;
(b) 1038 Barton Street East, Hamilton.

No new business owner licence shall be issued for a location listed in subsection 7(3).

When an adult services entertainment establishment business owner licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:

(a) the available business owner licence shall be advertised in the Hamilton Spectator newspaper and on the City’s website inviting the submission of applications within a specified period of time;
(b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
(c) the winner of the draw may be issued a business owner licence for an existing or new location provided that such existing or new location conforms to subsection 7(2) and is approved by Council.

No business owner shall have an interest, whether as a corporation, a partnership or an individual, in more than one adult services entertainment establishment business owner licence.

Adult Film Store and Adult Film Theatre

No person shall carry on the business of an adult film store or an adult film theatre without holding a current, valid licence issued under this By-law.
9. A separate licence shall be taken out in respect of each adult film store and each adult film theatre.

Class A Adult Film Store

10. (1)(a) No Class A adult film store shall be located and no Class A adult film store licence shall be issued except for Class A adult film stores in areas as permitted by subsections 10(2) and 10(3);

(b) no more that two Class A adult film store licences shall be issued.

(2) Council may consider a request to substitute a new location for an existing Class A adult film store location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.

(3) Despite subsection 10(2), the premises at the following municipal addresses licensed and in actual use as a Class A adult film store on May 25, 2011, are each deemed to be a location where one Class A adult film store is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:

(a) 8 Fennell Avenue West, Hamilton;

(b) 128 Parkdale Avenue North, Hamilton.

(4) No new licence shall be issued for a location listed in subsection 10(3).

(5) When a Class A adult film store licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:

(a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City’s website inviting the submission of applications within a specified period of time;
(b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and
(c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 10(2) and is approved by Council.

(6) No licence shall be issued under subsection 10(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid Class A adult film store licence.

**Adult Film Theatre**

11.(1)(a) No adult film theatre shall be located and no adult film theatre licence shall be issued except for adult film theatres in areas as permitted by subsections 11(2) and 11(3);
(b) no more than two adult film theatre licences shall be issued.

(2) Council may consider a request to substitute a new location for an existing adult film theatre location provided that any requested new location shall be located entirely within the area shown on Map 1 or the area shown Map 2 attached to and forming part of this Schedule.

(3) Despite subsection 11(2), the premises at 61 King Street East, Hamilton, in actual use as an adult film theatre on May 25, 2011, is deemed to be a location where one adult film theatre is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the licence holder maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law.

(4) A licence may be issued for the location listed in subsection 11(3) only if:
(a) an application is filed within 90 days of May 25, 2011; and
(b) the application is complete and otherwise complies with this By-law with the exception of subsection 11(5) of this Schedule which does not apply.
(5) When an adult film theatre licence has not been issued, expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:

(a) the available licence shall be advertised in the Hamilton Spectator newspaper and on the City’s website inviting the submission of applications within a specified period of time;

(b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and

(c) the winner of the draw may be issued a licence for an existing or new location provided that such existing or new location conforms to subsection 11(2) and is approved by Council.

(6) No licence shall be issued under subsection 11(5) to an applicant who has an interest, whether as a corporation, a partnership or an individual, in a current and valid adult film theatre licence.

INFORMATION TO BE PROVIDED BY APPLICANT

Adult Entertainment Establishment

12. On every application for a licence or for the renewal of a licence:

(a) the applicant shall attend in person, and not by an agent, at the office of the Issuer of Licences to file the application provided by the Issuer of Licences and shall furnish such information as the Issuer of Licences may direct;

(b) if the applicant is not an individual, the application shall be filed and updated from time to time as this By-law requires by an individual duly authorized by the applicant to sign such application on behalf of the applicant and to bind it, and the individual filing such application shall certify the truth and completeness of the information provided.

13. When filing an application for a licence, in addition to complying with the General Provisions of this By-law, an applicant shall file:
(a) if the applicant is a corporation:
   (i) a current certified copy of the corporation profile report;
   (ii) a list containing the full name of each officer, director and shareholder, the address of their ordinary residence, their telephone number and their date of birth;
   (iii) the name or names under which the applicant intends to carry on in the business; and
   (iv) the address of the corporation to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;

(b) if the applicant is a partnership:
   (i) a current certified copy of the limited partnerships report;
   (ii) the name or names under which the applicant intends to carry on in the business; and
   (iii) the address of the partnership to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;

(c) if the applicant is an individual:
   (i) the name of the individual, the address of their ordinary residence, their telephone number and their date of birth; and
   (ii) the address of the individual to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law.

14. When filing an application for a licence renewal, in addition to complying with the General Provisions of By-law No. 07-170, an applicant shall, at the time of making an application:
   (a) sign a form certifying that there are no changes to the information required to be filed under the General Provisions of By-law No. 07-270 or this Schedule;
   (b) if the applicant is a corporation, file every third year a copy of the last information return filed for the corporation and any changes or corrections to the information it contains; and
(c) if the licence is an adult services entertainment establishment business owner licence, a Class A film store licence or an adult film theatre licence, file every third year the information respecting the owner of the location as set out under subsections 16(b) for an adult services entertainment business owner or under subsections 18(b) and 18(c) for a Class A adult film store licence or for an adult film theatre licence.

15. Every licence holder shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of By-law No. 07-170 or this By-law, provided that no licence holder shall change or cause a change to be made to a floor plan without first obtaining the approval of the Issuer of Licences.

**Adult Services Entertainment Establishment**

16. When filing an application for a licence, an applicant for an adult services entertainment establishment shall file:

(a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;

(b) the name and address of the owner of the location as registered under the *Land Titles Act* or the *Registry Act*;

(c) documentation demonstrating the applicant’s right to possess or occupy the location and if the applicant is not the owner of the location as registered under the *Land Titles Act* or the *Registry Act*, the applicant shall file a copy of a lease or other document constituting or affecting their legal relationship with the owner of the location; and

(d) a detailed floor plan, drawn to scale and approved by the Issuer of Licences including but are not limited to depicting the location of one main stage and of seating areas, offices, cloak rooms, disc jockey areas, kitchen facilities, bar areas, dressing rooms, washrooms, storage areas and entrances/exits.
Adult Film Store and Adult Film Theatre

17. When filing an application for a licence, an applicant for an adult film store or an adult film theatre licence shall file a detailed floor plan, drawn to scale, of the adult film store or the adult film theatre that has been approved by the Issuer of Licences and the details of such floor plan shall include but are not limited to depicting the location of:

(a) entrances/exits to the adult film store or adult film theatre;
(b) for a Class B adult film store licence, entrances/exits to one adult film area; and
(c) for an adult film theatre licence, each lobby and each room where adult films are exhibited.

Class A Adult Film Store and Adult Film Theatre

18. When filing an application for a licence, an applicant for a Class A adult film store licence or an adult theatre licence shall file:

(a) the municipal address of one location from which the business is to be carried on and in respect of which a licence is sought;
(b) the name and address of the owner of the location as registered under the Land Titles Act or the Registry Act; and
(c) documentation demonstrating the applicant’s right to possess or occupy the location and if the applicant is not the owner of the location as registered under the Land Titles Act or the Registry Act, the applicant shall file a copy of a lease or other document constituting or affecting their legal relationship with the owner of the location.

EXPIRATION

Adult Entertainment Establishment

19. No licence issued under this By-law is transferable.
20. A licence issued under this By-law shall be deemed to have expired where:
(a) by transfer of existing shares (including as a result of the death of a shareholder), by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or
(b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner (including as a result of death) or the partnership is determined by the Issuer of Licences to have ceased to exist.

PART III: DUTIES OF LICENCE HOLDERS

Adult Entertainment Establishment

21. Every licence holder shall:

(a) produce their licence for inspection upon demand by a person assigned or appointed by the Issuer of Licences to enforce this By-law; and
(b) be civil in all dealings with the customers and members of the public.

Adult Services Entertainment Establishment

22. A business owner shall:

(a) not permit any person other than a licensed operator to operate the adult services entertainment establishment;
(b) not permit any person other than a licensed adult services entertainment establishment attendant to provide adult services in the adult services entertainment establishment;
(c) at all times when operating an adult services entertainment establishment, carry on their person their photo identification card.

23. An operator shall not operate an adult services entertainment establishment unless:

(a) the business owner is licensed under this By-law;
(b) they first notify the Issuer of Licences of the name of the business owner whose adult services entertainment establishment they intend to operate;
(c) they have the business owner’s name endorsed on their licence; and
(d) at all times when operating an adult services entertainment establishment, they carry on their person their photo identification card.

24. An adult services entertainment establishment business owner or operator shall:

**Premises**

(a) post their licence in a conspicuous place in the adult services entertainment establishment at all times;
(b) post a copy of the approved floor plan at all public entrances/exits and in the adult services entertainment establishment attendants’ dressing rooms;
(c) keep the premises in a clean and sanitary condition;
(d) display no more than two signs on the exterior premises of the adult services entertainment establishment that comply with paragraphs 24(d)(i) to (v) inclusive:
   (i) the signs shall not exceed 0.3 m² in area;
   (ii) the signs shall be illuminated only by a non-flashing indirect or interior means;
   (iii) one of the signs shall be located over the street door or in the lower front window bearing only the words “Licensed Adult Entertainment Establishment Licence - No. ____”, complete with the licence number inserted;
(iv) one of the signs shall have a depth of not more than 7.6 cm flat against a wall or door, bearing only the following information:

a. the business owner’s name as shown on the licence;

b. the name, if any, under which the business owner carries on business as endorsed on their licence;

c. the address of the adult services entertainment establishment;

d. the telephone number of the adult services entertainment establishment;

(v) the signs shall not include any other letters, marks, painting, contrasting colours, symbol, logo, or any mark whatsoever;

(e) except as otherwise provided in this section, not advertise or use advertising devices or permit any person to advertise or use advertising devices inside or outside the premises, including but not limited to any printed matter, oral or other communication or thing posted or distributed for the purpose of promoting their adult services entertainment establishment or the adult services provided therein;

(f) not carry on or permit the carrying on of the business unless the licensed business owner or a licensed operator is present at the adult services entertainment establishment;

(g) except where otherwise provided in this By-law, close or cause to be closed the adult services entertainment establishment at 2:00 a.m. and remain closed until 8:00 a.m. every day when the adult services entertainment establishment is open;

(h) post a sign in the adult services entertainment establishment attendants’ dressing rooms, at all public entrances/exits and in the washrooms that:

(i) includes the following statements:

- physical contact with the attendants is prohibited; and
- sexually transmitted infections can be passed on through unprotected sexual contact; and

(ii) can be easily read by any person approaching;
Adult Services

(i) retain the photo identification card of each adult services entertainment establishment attendant in their possession during the term of employment of the attendant and keep it in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;

(j) return each adult services entertainment establishment attendant’s photo identification card to the attendant upon the termination of their employment;

(k) not permit any person, other than a licensed adult services entertainment establishment attendant, to provide an adult service in the adult services entertainment establishment;

(l) not permit an adult services entertainment establishment attendant, while providing adult services, to have physical contact with another person’s body, or another person to have physical contact with an attendant;

(m) ensure that all adult services provided by an adult services entertainment establishment attendant are clearly visible from the main stage, without obstruction or obscuration by any thing, including but not limited to walls, curtains, glass, enclosures, structures, fog, or inadequate lighting; and

(n) ensure that no adult services are visible from the exterior of the premises.

25. An adult services entertainment establishment attendant shall not:

(a) provide any adult services unless their photo identification card is kept in a secure place in the adult services entertainment establishment where it may be produced for inspection as required;

(b) provide any adult services unless the business owner or the operator is licensed as business owner or operator of the adult services entertainment establishment;
(c) during the provision of adult services, have physical contact with another
person’s body, or permit another person to have physical contact with their
body;
(d) provide adult services which are not clearly visible from the main stage,
without obstruction or obscuration by any thing, including but not limited to
walls, curtains, glass, enclosures, structures, fog, or inadequate lighting;
(e) provide any adult services that are visible from the exterior of the premises.

**Adult Film Store**

26. An adult film store licence holder shall:
   (a) post their licence in a conspicuous place in the adult film store at all times;
   (b) keep the premises in a clean and sanitary condition;
   (c) not use exterior signs or advertisements for the adult film store which use a
       pictorial representation of a specified body area or a specified sexual activity;
   (d) advertise and carry on the business only under the name in which the licence
       is issued, or such other name as provided to the Issuer of Licences and
       endorsed on the licence; and
   (e) not permit the viewing of adult films on the premises.

**Class A Adult Film Store**

27. In addition to complying with section 26, a Class A adult film store licence holder
    shall:
    (a) not permit any person under the age of 18 years to enter or remain in such
        Class A adult film store;
    (b) not permit any employee under the age of 18 years to work in such Class A
        adult film store;
(c) post and keep posted at every public entrance/exit to the Class A adult film store, and in a prominent location inside such Class A adult film store, signs sufficient to indicate clearly to any person approaching the Class A adult film store, and to every person in the Class A adult film store, that no person under the age of 18 years is permitted to enter or remain in such Class A adult film store or any part of it; and

(d) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the premises;

Class B Adult Film Store

28. In addition to complying with section 26, a Class B adult film store licence holder shall:
   (a) display adult films only in an adult film area;
   (b) not permit any person under the age of 18 years to enter or remain in the adult film area;
   (c) not permit any employee under the age of 18 years to work in the adult film area;
   (d) post at every public entrance/exit to the adult film area signs sufficient to indicate clearly to any person approaching the adult film area that no person under the age of 18 years is permitted to enter or remain in such adult film area;
   (e) display adult films or adult film packaging which reveals a specified body area or a specified sexual activity so that they may not be viewed by any member of the public outside the adult film area;
   (f) ensure that adult films or adult film packaging which reveals a specified body area or a specified sexual activity while being transported from the adult film area to the cashier, if located outside the adult film area, are enclosed in an opaque bag or other container so that they are not visible; and
inform any employees of the Class B adult film store of the boundaries of the adult film area and the requirement that persons under the age of 18 years not be allowed to enter or remain in the designated area.

**Adult Film Theatre**

29. An adult film theatre licence holder shall:

(a) post their licence in a conspicuous place in the adult film theatre at all times;

(b) keep the premises in a clean and sanitary condition;

(c) not use exterior or interior signs or advertisements for the adult film theatre which use a pictorial representation of a specified body area or a specified sexual activity;

(d) advertise and carry on the business only under the name in which the licence is issued, or such other name as provided to the Issuer of Licences and endorsed on the licence;

(e) not permit any person under the age of 18 years to enter or remain in such adult film theatre;

(f) not permit any employee under the age of 18 years to work in such adult film theatre;

(g) post and keep posted at every public entrance/exit to the adult film theatre, and in a prominent location inside such adult film theatre, signs sufficient to indicate clearly to any person approaching the adult film theatre, and to every person in the adult film theatre, that no person under the age of 18 years is permitted to enter or remain in such adult film theatre or any part of it;

(h) ensure that every room where adult films are exhibited:

(i) contains seating for not less than 50 individuals; and

(ii) has direct access to a lobby; and

(i) ensure that the door to a room under subsection 29(h) is not equipped with a locking device of any kind, or with anything else which could delay anyone from obtaining access to the room.
SCHEDULE 2

AUCTIONEERS

1. In this Schedule

“auctioneer” means a person who sells or offers for sale goods, wares, merchandise or effects by public auction.

2. No person shall carry on the business, trade, or occupation of an auctioneer without a licence.

3. This Schedule does not apply to a sheriff or bailiff offering for sale goods or chattels seized on execution or distrained for rent.

4. Every auctioneer shall keep proper books of account of the business transacted as an auctioneer which shall include:

(a) names and addresses of persons depositing goods for sale;

(b) description of the goods;

(c) names and addresses of persons purchasing any goods;

(d) price at which the goods were sold; and

(e) accounting for the proceeds paid to the person entitled to the proceeds, less the commission and charges, agreed to with the auctioneer.

5. Every auctioneer, in the case of no sale, on payment of the auctioneer’s proper costs shall return the person’s goods on demand being made for those goods.

6. Every auctioneer shall comply with all the requirements of the Sale of Goods Act, R.S.O. 1990, c. S.1. and its regulations and any orders or regulations issued under the authority of any other statute of the Province of Ontario or of Canada.
7. An auctioneer shall not:

(a) conduct or permit to be conducted any mock auction;

(b) knowingly make or permit to be made any misrepresentation as to the nature content, quantity or value of any goods, wares, merchandise or effects which the auctioneer offers for sale;

(c) give away articles or sell articles for nominal amounts for the purpose of stimulating bidding;

(d) do any act that is calculated to or which may reasonably have the effect of confusing a purchaser as to the amount he or she pays for any article or articles;

(e) 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; or

(f) sell or offer for sale by auction any goods, wares, merchandise or effects on a reserve bid basis, without first having announced clearly to those in attendance a the auction the fact of such reserved bid.

8. An auctioneer shall not commence or continue any auction sale when the number of people on the premises exceeds the occupancy capacity as determined under the Ontario Building Code.
SCHEDULE 3

BED AND BREAKFASTS, HOTELS AND MOTELS

INTERPRETATION

1. In this Schedule:
   “bed and breakfast, hotel or motel” means a premises where one or more bedrooms are offered to members of the public who may pay for the use of a bedroom on any basis for 7 days or less and includes an inn but does not include a lodging house;
   “complaint record” means a record of each complaint received by a bed and breakfast, hotel or motel from a guest; and,
   “guest” means a member of the public who pays for a bed and breakfast, hotel or motel bedroom;

GENERAL

2. The Issuer of Licences is authorized to prescribe the format and content of any forms or other documents required under this Schedule.

LICENCE REQUIRED

3. No person shall operate a bed and breakfast, hotel or motel without a licence.

4. When submitting an application for a licence, an applicant for a licence under this Schedule shall:
   (a) submit a detailed premises plan, drawn to scale, of the bed and breakfast, hotel or motel that has been approved by the Issuer of Licences and the details of such premises plan shall include but are not limited to depicting the location, as applicable, of all buildings or other structures, parking areas and walkways on the property where the bed and breakfast, hotel or motel is
located and all entrances/exits, beds, dining areas and entertainment areas in the bed and breakfast, hotel or motel;

(b) upon first applying for a licence and every third year thereafter upon applying for a licence renewal, submit to the Issuer of Licences a certificate from the Electrical Safety Authority that the bed and breakfast, hotel or motel complies with the Ontario Electrical Safety Code;

(c) submit a certificate from the Fire Department that the bed and breakfast, hotel or motel complies with the applicable fire safety standards; and,

(d) submit a certificate of compliance under the Property Standards By-law.

5. No licence holder under this Schedule shall change or cause a change to be made to a premises plan without first obtaining the approval of the Issuer of Licences.

DUTIES OF OPERATOR

6. Every person operating a bed and breakfast, hotel or motel shall:

(a) when four or more bedrooms are offered to members of the public, ensure that either the operator or an employee who is responsible for the operation of the bed and breakfast, hotel or motel is present and available at the bed and breakfast, hotel or motel at all times;

(b) post in a conspicuous place in the bed and breakfast, hotel or motel:

(i) a current licence for the bed and breakfast, hotel or motel;

(ii) a notice stating the name of the operator or the employee who is present and available at the bed and breakfast, hotel or motel as required under subsection 6(a) and the telephone number where such operator or employee can be contacted immediately;

(c) keep a register in a form satisfactory to the Issuer of Licences that includes:

(i) the name and usual place of residence of each guest;

(ii) which bedroom the guest has paid to use;

(iii) the date and time the guest checks in; and,

(iv) the date and time the guest checks out;
(d) ensure that the register under subsection 6(c) is:
   (i) easily readable;
   (ii) not altered or deleted once completed;
   (iii) kept for a minimum of one year; and,
   (iv) made available to the Issuer of Licences upon request;

(e) ensure that each guest bedroom, at the entrance to the guest bedroom from the outside of a building or from a common hallway or stairway inside a building, is provided with a door and a lock which is of a type that can be:
   (i) secured by a guest when they are inside or outside of the bedroom; and,
   (ii) opened from the outside by the operator or an employee only when the guest is not inside the bedroom or when the guest is inside the bedroom but chooses not to secure it against entry from the operator or an employee;

(f) keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:
   (i) the date and time the complaint is received;
   (ii) the complainant’s name and telephone number, if provided;
   (iii) the complaint reviewer’s name;
   (iv) the details of the complaint;
   (v) the action taken in response to the complaint; and,
   (vi) the date and time the complainant is notified of the action taken;

(g) ensure that a complaint record under subsection 6(f) is:
   (i) easily readable;
   (ii) not altered or deleted once completed;
   (iii) kept for a minimum of one year; and,
   (iv) made available to the Issuer of Licences upon request;

(h) report any complaint concerning the safety of an individual immediately to the Issuer of Licences;

(i) be responsible for keeping the bed and breakfast, hotel or motel clean and orderly and maintained in all respects suitable for the purpose for which it is
used, and for keeping the bed and breakfast, hotel or motel adequately lighted and ventilated; and,

(j) ensure the bed and breakfast, hotel or motel meets all requirements of the Building Code Act, 1992 and its regulations, the Fire Protection and Prevention Act, 1997 and its regulations, the Health Protection and Promotion Act and its regulations and any applicable by-law.
SCHEDULE 4

BODY-RUB PARLOURS

PART I: DEFINITIONS

1. In this Schedule,

   (a) “body-rub”:

      (i) means the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person’s body or part of a person’s body appealing to or designed to appeal to erotic or sexual appetites or inclinations including but not limited to such kneading, manipulating, rubbing, massaging, touching or stimulating advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication; and

      (ii) does not include a body-rub performed for the purpose of medical or therapeutic treatment provided by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

   (b) “body-rub parlour” 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, or a personal aesthetic services as defined in Schedule 13;

   (c) “body-rubber” means a person required to obtain a licence under paragraph 2 (1)(b) of this Schedule;
(d) “operator” when used in reference to a body-rub parlour, refers to any person who alone or with others, operates, manages, supervises, runs or controls a body-rub parlour, and “operate”, “operation” and other words of like import or intent shall be given a corresponding meaning;

(e) “owner” when used in reference to a body-rub parlour means a person who alone or with others has the right to possess or occupy a body-rub parlour or actually does possess or occupy a body-rub parlour, and includes a lessee of a body-rub parlour or premises upon which a body-rub parlour is located; and

(f) “person authorized by the city” means an inspector appointed under this By-law, an inspector appointed under any by-law of the City, a public health inspector and the Medical Officer of Health.

PART II: LICENCES

2.(1) A licence authorizing such person to carry on the trade, calling, business or occupation shall be taken out by:

(a) every person who owns or operates a body-rub parlour; and

(b) every person, other than a person licensed pursuant to subsection (a), who performs, offers or solicits a body-rub in, at, or upon a body-rub parlour.

(2) No person shall own or operate a body-rub parlour or carry on or engage in the business of a body-rub parlour without a licence.

3.(1) (a) No body-rub establishment shall be located and no body-rub establishment licence shall be issued except for body-rub establishments in areas as permitted by subsections (2) and (3); and

(b) no more than two body-rub establishment licences shall be issued.

(2) Council may consider a request to substitute a new location for an existing body-rub parlour location provided that any requested new location shall be located entirely
within the area shown on Map 1 or the area shown on Map 2 attached to and forming part of this Schedule.

(3) Despite subsection 3(2), the premises at the following municipal addresses licensed and in actual use as a body-rub parlour on April 14, 2010, are each deemed to be a location where one body-rub parlour is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence and the business carried on therein is in compliance with this By-law and all other applicable law:

(a) 893 King Street East, Hamilton;

(b) 549 Kenilworth Avenue North, Hamilton.

(4) No new business owner licence shall be issued for a location listed in subsection 3(3).

(5) When a body-rub parlour business owner licence expires and is not or cannot be renewed or such licence is otherwise surrendered or revoked, then upon receipt of a complete application which otherwise complies with this By-law, the Issuer of Licences shall carry out a selection process for a licence as follows:

(a) the available business owner licence shall be advertised in the Hamilton Spectator newspaper and on the City’s website inviting the submission of applications within a specified period of time;

(b) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and

(c) the winner of the draw may be issued a business owner licence for an existing or new location provided that such existing or new location
conforms to subsection 3(2) and is approved by Council.

(6) No business owner shall have an interest, whether as a corporation, a partnership or an individual, in more than one body-rub parlour business owner licence.

4.(1) On every application for an owner's, operator's or body-rubber's licence or for the renewal thereof, the applicant shall attend in person and not by an agent at the office of the Issuer of Licences and shall complete the application form provided by the Issuer of Licences and shall furnish such information as the Issuer of Licences may direct.

(2) The Issuer of Licences shall issue a photo identification card to each licensed body rub attendant and body rub operator. The licensee shall be re-photographed if required so to do by the Issuer of Licences.

(3) Every applicant for an owner's licence shall, at the time of making an application, file a list showing the names of all operators and body-rubbers employed by or performing the services in the body-rub parlour and all such persons intended or expected by the applicant to be employed or to perform services in the body-rub parlour.

(4) On every application for an owner's, operator's or body-rubber's licence by an individual or by a corporation, the applicant shall state the following:

(a) if the applicant is an individual, his or her date of birth; or

(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 appellant or in any of the corporations referred to in section 5 of this Schedule.

(5) Every applicant referred to in subsection (5), and every shareholder, partner or other person referred to in this section or in sections 5, 6 or 7 of this Schedule, shall file or produce proof of his or her age, if required to do so by the Issuer of Licences and no such licence shall be issued unless the Issuer of Licences is satisfied that every such person is of the full age of eighteen years.
5.(1) Every corporation applying for an owner's or operator's licence shall file at the time of its application, a copy of its letters of incorporation or other incorporating document, duly certified by the proper government official or department, together with a Return in a form supplied by the city which Return shall contain a list of all of the shareholders of the corporation.

(2) 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 Issuer of Licences a Return in lieu thereof in a form supplied by the Issuer of Licences 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.

(3) All Returns required by subsection (2) shall be filed at the same time as the filing of the application for the licence.

(4) 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 city an Annual Return in a form supplied by the Issuer of Licences.

(5) Where a corporation is the holder of an owner's or operator's licence or licences, the corporation shall forthwith notify the Issuer of Licences 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 subsection (2), and the Issuer of Licences may, notwithstanding any other provision of this By-law, in his or her discretion, determine whether the licence or licences shall be revoked.
(6) 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 Issuer of Licences to have changed hands, such licence or licences shall, notwithstanding any other provision of this By-law, be terminated forthwith, and the Issuer of Licences may issue a new licence or new licences upon payment of the prescribed fee.

(7) 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 Issuer of Licences at the same time as the owner or operator an Annual Return as provided in subsection (4), 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.

(8) For the purpose of this section, “shareholder” and any words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation.

6.(1) Persons associated in a partnership applying for an owner's or operator's licence shall file with its application to the city a certification in writing signed by all the members of the partnership, which certification shall state the following:

(a) the full name of every partner and the address of his or her ordinary residence;

(b) the name or names under which they carry on or intend to carry on business;

(c) that the persons therein named are the only members of the partnership; and

(d) the mailing address for the partnership.
(2) If any member of a partnership applying for a licence is a corporation, such corporation shall, for the purposes of section 5 of this Schedule, 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.

(3) Every member of a partnership shall advise the Issuer of Licences 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, and the Issuer of Licences may, notwithstanding any other provision of this by-law, in his or her discretion, determine whether the licence or licences shall be revoked or terminated and whether or not a new licence should issue to the partnership as presently constituted.

7.(1) Every person applying for an owner's, operator's or body-rubber's licence who carried on or intends to carry on his or her business in or relating to a body-rubber parlour under a name or designation other than his or her own name or under his or her 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 applying for a licence, file a certification, which shall state the following:

(a) the applicant’s full name and the address of the applicant's ordinary residence;

(b) any name or designation under which the applicant carries on or intends to carry on business, and the date when the name or designation was first used by the applicant;

(c) that no other person is associated with the applicant in partnership;

(d) the date of the applicant’s birth; and

(e) the mailing address for the applicant’s business.

(2) A person to whom this section applies shall notify the Issuer of Licences immediately of any change in any of the particulars required to be filed under subsection (1).
8.(1) Every owner, operator or body-rubber applying for a licence must use his or her own legal name in making such application and subject to subsection (2) no such licence shall be issued to any person in any name other than his or her own legal name.

(2) Every owner, operator or body-rubber intending to use a name or designation other than his or her own may, at the time of the issue of his or her licence, or at the time at which he or she files notice of intention to use such name or designation, have endorsed on his or her licence such name or designation.

(3) No owner, operator or body-rubber shall carry on business under any name or designation other than his or her own unless he or she has filed notice of his or her intention to use such name or designation and no person shall use any name or designation in respect of a body-rub parlour or of any trade, calling, business or occupation carried on therein without first notifying the Issuer of Licences of such name or designation intended to be used and having such name endorsed upon his or her licence in accordance with subsection (2).

9.(1) No body-rub parlour may open for business or operate or be operated unless its owner is licensed as such under this By-law.

(2)
(a) Every person applying for an owner's licence shall file with the Issuer of Licences documentation demonstrating the applicant's right to possess or occupy the premises used as a body-rub parlour, and if such person is not the registered owner or owners in fee simple of the property upon which the body-rub parlour is located, such person shall file at the same time a copy of any lease, and of any other document constituting or affecting the legal relationship between the applicant and the registered owner or owners in fee simple of the real property.

(b) For the purpose of this section, “registered owner” means the owner as registered pursuant to the Land Titles Act or the Registry Act as the case may be.

(3) A Separate owner’s licence shall be taken out in respect of each body-rub parlour.
(4) Where an owner does not personally operate his or her body-rub parlour, every person operating such body-rub parlour shall obtain a licence so to do, but nothing herein relieves such an owner from the requirement that he or she obtain a licence as owner of such body-rub parlour.

(5) An owner or operator, subject to the provisions of this by-law, if his or her licence as an owner or operator is so endorsed, may perform body-rubs in the body-rub parlour of which he or she is the owner or operator.

(6) An owner who operates his or her own body-rub parlour shall notify the Issuer of Licences of this fact at the time he or she obtains his or her licence and the licence may be endorsed accordingly upon payment of the appropriate licence fee, and the applicant shall notify the Issuer of Licences and have the said endorsement amended before engaging any operator to operate the body-rub parlour.

10.(1) No owner of a body-rub parlour or premises shall permit any person other than a licensed operator to operate such body-rub parlour.

(2) No owner or operator shall permit any body-rub to be performed, offered, or solicited in the pursuance of a trade, calling, business or occupation, upon or at a body-rub parlour or pursuant to the operation by a body-rub parlour, by any person other than a licensed body-rubber or other person licensed or authorized under this by-law.

(3) No owner shall permit any person, other than him or himself, an employee of such owner or a person with whom that owner has contracted to operate the body-rub parlour or to perform, offer or solicit body-rubs in the body-rub parlour.

(4) No body-rubber or other person shall perform, offer or solicit body-rubs in any body-rub parlour unless the owner or operator of the body-rub parlour are licensed under this by-law.

(5) No operator not being the owner of a body-rub parlour shall operate the said parlour unless the owner of the body-rub parlour is licensed as owner under this by-law.
(6) No operator may operate a body-rub parlour unless he or she first notifies the Issuer of Licences of the name of the owner whose body-rub parlour he or she intends to operate and has endorsed upon his or her licence the said owner’s name, and every operator before operating any other body-rub parlour shall notify the Issuer of Licences of his or her intention so to do and have his or her licence endorsed accordingly.

11. A copy of every written contract of service, contract for services or other document constituting or pertaining to the relationship between owner and operator of a body-rub parlour or between owner or operator and a body-rubber performing services in a body-rub parlour, shall be filed with the Issuer of Licences and the original of any such document shall be delivered to or made available for inspection at any time by the Issuer of Licences, upon request, and shall be retained by the owner or operator for a period of six months after its termination.

12.(1) Repealed 2006.

(2) Every owner who operates his or her own body-rub parlour and every operator shall, during the term of his or her employment of a body-rubber or of a body-rubber’s services, retain such body-rubber’s licence in his or her possession, and shall post up the licence in a conspicuous place in the body-rub parlour and keep it so posted throughout the term of employment or of the contract for services.

(3) Every owner or operator referred to in subsection (1) who employs a body-rubber or the services of a body-rubber shall, within forty-eight hours, notify the Issuer of Licences in writing that he or she has so employed the body-rubber or the services of the body-rubber, and when such employment ceases it shall be the joint responsibility of the owner or operator and the body-rubber to notify the Issuer of Licences in writing to such effect within forty-eight hours of the cessation of employment or of the contract for services.

(4) No body-rubber shall perform any body-rubs or other services in a body-rub parlour unless his or her licence is posted up in compliance with subsection (2) and unless he or she has notified the Issuer of Licences that he or she is performing services in the body-rub parlour.
(5) Every owner and operator of a body-rub parlour shall ensure that every body-rubber performing services in a body-rub parlour owned or operated by him notifies the Issuer of Licences before such services commence, or so soon thereafter as is reasonably possible, and shall return the body-rubber’s licence to the body-rubber upon the termination of his or her employment.

13. Every owner, operator or body-rubber who changes his or her address shall, within two days after such change, attend at the office of the Issuer of Licences and notify the Issuer of Licences of such change of address and produce his or her licence for the change to be entered thereon.

14.(1) No owner’s licence shall be transferred, and if an owner sells, leases or otherwise disposes of the body-rub parlour or the premises or part thereof upon or in which a body-rub parlour is operated, to any person, the licence in respect of such body-rub parlour or premises shall be terminated forthwith.

(2) Subject to subsection (4) hereof, the Issuer of Licences may in his or her discretion issue an owner’s licence to the purchaser, lessee or other person obtaining an interest in a body-rub parlour or the premises or part thereof upon or in which a body-rub parlour has been operated, subject also to the following conditions:

(a) That the new applicant qualify under all of the other provisions of this Schedule, and that the applicant comply with all of the requirements of this Schedule relating to an owner;

(b) That the new applicant file with the Issuer of Licences the documents relating to ownership and to his or her right to possess or occupy the body-rub parlour, as required by subsection 9(2) of this Schedule;

(c) That the new applicant and the vendor file with the Issuer of Licences a notarized copy of a written agreement between the parties containing all the details of the dealings between the parties in respect of such body-rub parlour or premises;

(d) That the agreement contain a certification, in a form supplied by the Issuer of Licences by both the parties and a further certification by the solicitor for the purchaser in a form supplied by the Issuer of Licences.
(3) Notwithstanding subsections (1) and (2) hereof and any other provision of this Schedule, the Issuer of Licences may in his or her discretion refuse to issue a licence or licences to a purchaser, lessee or other person obtaining an interest in a body-rub parlour in a transaction under this section when the Issuer of Licences is of the opinion that it is not in the public interest, as determined by the City that such new licence or licences should be issued, and the City shall, upon demand from any party to the transaction, deliver written reasons for such decision.

(4) Upon the sale, lease or other disposition of a body-rub parlour, every operator’s licence issued in respect of such body-rub parlour shall be terminated forthwith, and the Issuer of Licences may, subject to the provisions of this Schedule, permit the purchaser, lessee or other person obtaining an interest in such body-rub parlour to operate the body-rub parlour by an endorsement to that effect upon an owner’s licence issued to such person or may issue a new operator’s licence to any person previously licensed as an operator in respect of the body-rub parlour.

15.(1) Every owner, operator or body-rubber, while engaged in his or her respective trade, calling, business or occupation in a body-rub parlour shall carry at all times on his or her person a plastic numbered identification card issued by the Issuer of Licences which shall remain the property of the City and remain in force and effect for the duration of the licence.

(2) The identification card shall contain a photograph of the owner, operator or body-rubber and such other information as the City requires for identification purposes.

(3) No owner, operator or body-rubber in any manner whatsoever directly or indirectly shall use the identification card for any purpose when such owner, operator or body-rubber is off the premises of the body-rub parlour.

PART III: REGULATIONS

16.(1) No premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of this by-law.
(2) No owner, operator or body-rubber shall perform or provide any service or services or permit the performing or providing of any service or services in any body-rub parlour which is constructed or equipped in contravention of subsection (1).

17. No premises or part thereof used as a body-rub parlour shall be used as a dwelling or for sleeping purposes.

18.(1) Every body-rub or other service performed in a body-rub parlour shall be given in an individual room or cubicle, but no owner or operator shall permit the door to any room or cubicle where body-rubs are or may be provided, to 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 a room or cubicle or which is obstructed in any way whatsoever.

(2) No person in a body-rub parlour shall perform a body-rub or provide any other service in a room, cubicle or other enclosure with a door or other means of access which is equipped or constructed with a locking device of any kind or which is equipped or constructed in such a way as to permit the obstruction, hindrance or delay of any person attempting to gain entry thereto or which is obstructed in any way whatsoever.

19.(1) Every owner who operates a body-rub parlour business and every operator shall keep proper records and books of account of all business transacted in, by or in respect of the body-rub parlour, which books shall give the amount of gross receipts for all services performed or provided in the said body-rub parlour, the name and address of the person upon whom the body-rub or other service is performed, the name and licence number of every body-rubber or other person performing services in the said body-rub parlour, including the date of commencement and the date of termination of such services, the amount of salary or commission paid to each body-rubber and all amounts paid by the owner to the operator, if any, or by the operator to the owner, in respect of such body-rub parlour or body-rub parlour business.
(2) Every owner to whom subsection (1) relates and every operator shall keep such books and records as are required by that subsection for at least one year after the information required by that subsection is entered therein, and the Issuer of Licences or any person duly authorized by him or her shall at all times have access to such records.

(3) Immediately before any services are provided in a body-rub parlour the body-rubber or person who is to provide the services shall give to the customer an itemized bill for such services, listing the services to be provided and the price to be paid for each.

(4) Upon payment of the bill referred to in subsection (3), the customer shall be given a written serially numbered receipt for the full amount paid and containing the full name and address of the customer and the licence number of the body-rubber.

(5) Every owner operating a body-rub parlour and every operator of a body-rub parlour shall ensure that the bill and receipt required by subsections (3) and (4) are provided to every customer of the body-rub parlour and shall retain and keep a copy of each such bill and receipt for at least one year after the services referred to therein are performed, and the Issuer of Licences or any person authorized by him or her shall at all times have access to such copies.

20. Every owner who operates his or her own body-rub parlour and every operator of a body-rub parlour shall comply with, and ensure compliance with, the following regulations:

(a) the premises shall be provided with adequate light and ventilation;

(b) the premises and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition;

(c) the premises shall be equipped with an effective utility sink;

(d) adequate toilet and washroom accommodation shall be provided, and there shall be separate such rooms for males and females, and no body-rubs or other services may be provided in any washroom or in any room containing a toilet;

(e) washrooms shall be equipped with:
(i) an adequate supply of hot and cold water;

(ii) an adequate supply of liquid soap in a suitable container or dispenser;

(iii) hot air dryers or individual clean towels for the use of each person using the washing facilities; and

(iv) a suitable receptacle for used towels and waste material;

(f) no washroom, toilet, sink or basin used for domestic purposes shall be used in connection with a body-rub parlour;

(g) adequate shower-bath rooms shall be provided, and in such rooms, and in all sauna-bath rooms, if any;

(i) the floors shall be disinfected at least once a week with a suitable disinfecting solution;

(ii) all services and attached accessories of the bath or shower enclosure must be self-draining;

(iii) all showers must have removable cleanable drain covers; and

(iv) floor surfaces both within and without the enclosure shall be of a non-slip type;

(h) if bathtubs or whirlpool baths are provided on the premises,

(i) a grab-bar or other convenient support shall be provided unless the walls of the tub or whirlpool bath enclosure are twenty-four inches in height or higher;

(ii) the bottom of the tub or whirlpool bath enclosure shall be of a non-slip type; and
(iii) the water serving all bathtubs, showers and hand basins used by patrons shall not have a temperature exceeding 48.89 degrees Celsius and shall be controlled by a device that regulates the temperature, and patrons shall not have access to this device;

(i) a total volume air change of ten times per hour shall be provided for all tub, shower or bath rooms;

(j) common foot baths shall not be provided on the premises;

(k) duckboards or cocoa matting shall not be used in the shower, bath or steam room and only liquid or powdered soap shall be used in the shower room;

(l) a notice shall be posted advising all patrons that a cleansing shower or bath must be taken by every person immediately prior to any body-rub being performed upon that person;

(m) every person immediately after taking a shower shall be provided with a fresh, clean, individual pair of paper slippers;

(n) every table, mat or other surface upon which persons lie or sit while being given or provided with a body-rub shall be clean and in good repair, and shall have a top surface of impervious material;

(o) every table, mat or other surface referred to in paragraph (n), before any person receives a body-rub thereon, shall be covered with a fresh, clean individual paper or cloth sheet;

(p) every sheet or towel, immediately after being used by any person, shall be deposited in a receptacle reserved for that purpose and shall not be utilized again for any purpose before being freshly laundered; and
(q) all massage or body-rub appliances and any other article or device applied to a customer’s body for or in connection with body-rubs shall be cleansed and disinfected after each individual use with a suitable disinfecting solution and no such appliance, article or device shall be used or available for use in a body-rub parlour unless it is so constructed as to be readily capable of being so cleansed or disinfected.

21.(1) No owner, operator or body-rubber shall perform or permit to be performed a body-rub in any body-rub parlour by or upon any person whom he or she has reasonable cause to suspect has been exposed to or is suffering from any communicable disease including any communicable skin disease.

(2) Every owner operating his or her own body-rub parlour and every operator shall take every reasonable precautions to ensure that persons whom the owner or operator has reasonable cause to suspect have been exposed to communicable diseases or who are suffering from such diseases, are not permitted to enter into the body-rub parlour.

(3) No owner or operator shall permit any body-rub to be given, performed, provided or received in any body-rub parlour in breach of any of the regulations contained in this Schedule.

22. No person who performs body-rubs in, upon or at a body-rub parlour shall hold, receive or handle any cash or currency used or received in connection with the business of the body-rub parlour or receive or hold any customer’s money or belongings, and every owner or operator, during the period in which the body-rub parlour is open for business, shall provide a person for such purposes, which person, during the period in which he or she is so employed, shall not provide any body rubs.

23.(1) No one may provide a body-rub or any other services in a body-rub parlour to a person who is or who appears to be under the age of eighteen years.

(2) No owner or operator shall permit any person actually or apparently under the age of eighteen to enter or remain in any body-rub parlour.
24.(1) No owner, operator, body-rubber, or other person shall provide a body-rub or any other service or services in a body-rub parlour to a person who is or who appears to be intoxicated by alcohol or a drug or to any person whose appearance or condition provides reasonable cause to believe that the provision of such services to such person may cause illness or injury to him.

(2) No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any body-rub parlour.

25.(1) No owner or operator shall pen such body-rub parlour for business or permit the same to be or to remain open for business or permit any body-rubs or services of any kind to be performed, offered or solicited in the said body-rub parlour at any time between the hours of 1:00 o’clock in the forenoon of any day and 8:00 o’clock in the forenoon of the same day.

(2) Subject to subsection (1), every owner who operates his or her own body-rub parlour and every operator of a body-rub parlour shall file with the Issuer of Licences a schedule showing the hours of business to be observed in the carrying on of operation of the body-rub parlour which schedule shall state specifically the opening and closing times of the said body-rub parlour for each day of the week.

(3) No person shall permit a body-rub parlour owned or operated by him or her to be open for business at any time other than the times set forth in a schedule filed with the Issuer of Licences pursuant to subsection (2).

(4) During the hours of business of a body-rub parlour set forth in the schedule filed with the Issuer of Licences in accordance with subsection 2, or at any time at which a body-rub parlour is open for business, or at any time at which a body-rubber is in attendance at a body-rub parlour, it shall be the responsibility of the owner and of the operator, if any, to ensure that the door or doors of other principal means of access into the body-rub parlour by the public shall be kept unlocked and available so that anyone coming into the body-rub parlour from the street or other public place may enter therein without hindrance or delay.
(5) Either the owner or an operator licensed in respect of such owner’s body-rub parlour shall be in attendance at such owner’s body-rub parlour at all of the times referred to in subsection (4), and no owner or operator shall permit a body-rub parlour owned or operated by him to open for business, to remain open for business, or any body-rubber to enter or remain therein, or any services to be performed, offered or solicited in such a body-rub parlour, unless this subsection is complied with.

26.(1) No owner, operator or body-rubber shall take, consume or have a liquor or a drug in his or her possession in a body-rub parlour, nor shall the use of liquor or a drug be apparent while he or she is in a body-rub parlour.

(2) For the purposes of subsection (1) the word “drug” does not include patent medicines and prescription drugs required for medicinal purposes.

(3) Notwithstanding subsection (1), every owner who operates his or her own body-rub parlour and every operator shall provide and maintain at all times at the body-rub parlour a first-aid kit as per Regulation 1101 under the Workplace Safety and Insurance Act.

27.(1) Every owner, operator and body-rubber shall, while engaged in his or her respective trade, calling, business or occupation in a body-rub parlour be properly dressed, neat and clean in his or her person and civil and well-behaved to members of the public with whom he or she is dealing.

(2) Every owner, operator or body-rubber performing a body-rub or any other service in a room, cubicle or other enclosure shall be attired in a light-coloured, durable, hygienic uniform.

28.(1) No owner, operator or body-rubber shall use or permit to be used any camera or other photographic or recording device in, upon or at a body-rub parlour by any person other than Issuer Licences or an inspector.

(2) No owner, operator or body-rubber shall perform or cause to be performed or permit to be performed a body-rub or any other service in a room, cubicle or other enclosure in which is installed a two-way mirror, window or closed-circuit television or in which there is an opening to an area outside the room, cubicle or other enclosure by any means whatsoever, except a doorway or operating ventilation system.
SCHEDULE 5

BUILDING EXTERIOR CLEANER

1. In this Schedule,

   (a) "building exterior cleaner" means a sandblaster, or other person who for gain uses a cleanser to clean or restore the exteriors of buildings or other structures;

   (b) "cleanser" means chemicals or pressurized air, water, steam, sand or other abrasive; and

   (c) "work area" means the area exterior to a building or structure being cleaned or restored that is occupied by a building exterior cleaner.

LICENCE REQUIRED

2. No person shall carry on business of building exterior cleaner without a licence under this by-law entitling him so to do.

DUTIES OF BUILDING EXTERIOR CLEANERS

3. Every building exterior cleaner shall comply with the following regulations:

   (a) provide and maintain barriers separating the work area from pedestrian traffic in the vicinity of the work area;

   (b) use barriers or other mechanical means to prevent any cleanser from spreading or diffusing beyond the work area;

   (c) keep and maintain public property adjacent to the work area free and clear of building debris and other materials which are used, created or distributed during the course of the work performed; and
(d) perform an inspection and clean up, after each work day and after the completion of the work, to remove all debris, sand, abrasive, residue, precipitant, solids, liquids or material which are used, created or distributed during the course of the work performed, from public or private property adjacent to or in the vicinity of the work area.

4. Every building exterior cleaner shall:

(a) by notice in writing delivered to the Issuer of Licences at least 7 days before commencing to use any cleanser on any building or structure, identify the location of the building or structure and the date and time that use of any cleanser will commence; and

(b) in the notice or at any time prior to commencing use of the cleanser, identify particulars of the cleanser, and the manner of its application.
SCHEDULE 6

FOOD SERVICE VEHICLES

INTERPRETATION

1.(1) In this Schedule,

“Certificate of Inspection” means a certificate in a form approved by the City’s Medical Officer of Health which sets out the results of an inspection conducted under the Health Protection and Promotion Act or its regulations;

“charity” means a registered charity as defined in the Income Tax Act (Canada) which has a registration number issued by the Canada Revenue Agency, or a successor agency;

“food service vehicle” means any vehicle from which refreshments are sold or offered for sale for consumption by the public and includes but is not limited to a cart, wagon, trailer, truck and bicycle, irrespective of the type of power employed to move the food service vehicle from one point to another, and:

(a) a Class A food service vehicle is a motorized or non-motorized food service vehicle that is used as a non-travelling, site-specific food premises including but not limited to a catering truck, chip truck or refreshment trailer.

(b) a Class B food service vehicle is a motorized food service vehicle that is used as a travelling food premises including but not limited to a catering truck, chip truck, ice cream truck, refreshment trailer or hot dog cart;

(c) a Class C food service vehicle is a non-motorized food service vehicle that is used as a travelling food premises from which pre-packaged frozen products exclusively are offered for sale including but not limited to an ice-cream cycle, yogurt cart or juice carts;

“food service vehicle plate” means a metal number plate issued by the Issuer of Licences to a food service vehicle operator with a current and valid food service vehicle licence;

“property” means a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act and does not include road allowance;
“public health inspector” means a public health inspector employed in the City’s Public Health Services Department;

“refreshment” means food or drink;

“residential local road” means an Urban Residential Local Road as described in the City’s Transportation Master Plan (May 2007) as amended or replaced from time to time; and

“special event” means a special event under the City’s Special Event Policy.

**LICENCE REQUIRED**

2. No person shall operate a food service vehicle without a licence.

3. Despite section 2, no licence is required for a food service vehicle operated by a charity or an educational, religious or youth sports organization for the purpose of raising funds during an event.

4. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall:

(a) submit:

(i) a list of the types of refreshments to be sold or offered for sale, specifying the source supplying the refreshments and identifying refreshments that will be refrigerated or heated as part of the operation of the food service vehicle;

(ii) a spill containment plan including a description of how and where grease and grey water will be disposed of;

(iii) a description of the type of food service vehicle to be licensed;

(iv) the location where the food service vehicle will be parked or stored when not in use;

(v) written approval from the property owner or owners where the food service vehicle will be located when selling or offering for sale refreshments;

(vi) for a food service vehicle that is subject to Director’s Order FS-056-06 (issued under the Technical Standards and Safety Act, 2000 and its regulations), as amended or replaced from time to time, a completed
inspection certificate and information fact sheet issued no more than 36 days before an application or renewal is submitted;

(vii) for a Class B food service vehicle, proof of current and valid motor vehicle insurance satisfactory to the Issuer of Licences with a third party liability limit of no less than $2,000,000 per occurrence; and

(viii) for a Class B or a Class C food service vehicle selling or offering for sale refreshments when on road allowance on other City property, proof of current and valid liability insurance satisfactory to the Issuer of Licences naming the City as an additional insured with a third party liability limit of no less than $2,000,000 per occurrence; and

(b) make the food service vehicle available for inspection as required by the Issuer of Licences.

5. A separate licence shall be issued for each food service vehicle and shall list each property, if any, where the food service vehicle will be located.

6. A licence to operate a food service vehicle shall not be issued until a public health inspector has informed the Issuer of Licences that all requirements under the Health Protection and Promotion Act and its regulations have been fully complied with.

7. In addition to issuing licences with a term of one year to applicants, as described in subsection 8(2) of the General Provisions, the Issuer of Licences may issue up to three licences with a term of up to four days to any one applicant in a calendar year.

DUTIES OF OPERATORS

8. Every person operating a Class A, Class B or Class C food service vehicle shall ensure that:

(a) only the food service vehicle and property, if any, for which the licence has been issued are used;

(b) the food service vehicle is equipped and maintained with:

(i) a clean compartment for the storage of food, and, in the case of a food service vehicle selling or offering for sale ice cream, frozen desserts or other frozen confections, the compartment shall be refrigerated; and
(ii) at least one suitable waste container;

(c) the food service vehicle is kept in a clean and orderly condition and maintained in all respects in a condition suitable of the purpose for which it is used;

(d) the food service vehicle is adequately lighted and ventilated;

(e) the food service vehicle plate is:

(i) affixed to the rear exterior of the food service vehicle or to another location on the food service vehicle approved in advance by the Issuer of Licences; and

(ii) plainly visible in its entirety at all times;

(f) only the items on the list submitted under paragraph 4(a)(i) are sold or offered for sale;

(g) no internal combustion engine associated with the operation of the food service vehicle idles for more than 3 minutes within 3 metres of a habitable room’s door, window or other opening measured from the nearest point of the exhaust venting to the nearest point of the habitable room’s door, window or other opening; and

(h) no accessory generator associated with the operation of the food service vehicle is used outside of the food service vehicle.

9. Every person operating a Class A food service vehicle shall ensure that:

(a) the food service vehicle is at least 1.5 metres from any property line; and

(b) in the Hess Village Entertainment District, the food service vehicle does not operate between 2:30 a.m. and 8 a.m.

10. Every person operating a Class B or Class C food service vehicle shall ensure that:

(a) the food service vehicle is in a safe mechanical condition before it is driven;

(b) the food service vehicle is not driven if it is in an unsafe mechanical condition;

(c) all statutes, regulations and by-laws governing driving, parking or stopping the food service vehicle are complied with at all times;

(d) the business name of the food service vehicle operator is displayed:
on both sides of the food service vehicle or on another location as approved in advance by the Issuer of Licences;

(ii) in letters and numbers at least 18 centimetres in height;

(iii) in a colour that contrasts with the background colour; and

(iv) so as to be plainly visible in its entirety at all times;

(e) the food service vehicle is moved at the verbal or written request of the Issuer of Licences or an officer appointed or assigned to enforce this Schedule, if, in the opinion of the Issuer of Licences or an officer the location:

(i) is or may become undesirable for safety reasons; or

(ii) interferes with normal access to any property;

(f) the food service vehicle does not stop on road allowance to sell or offer for sale refreshments:

(i) within 30 metres along any abutting road allowance, measured from the point of intersection of the perpendicular projection of the limits of the food premises (including any outdoor patio) and the road allowance to the nearest point of the food service vehicle;

(ii) within 6 metres of an intersection;

(iii) within 100 metres of any park, school or hospital, measured along the most direct road allowance route from the nearest point of the park, school or hospital boundary to the nearest point on the food service vehicle;

(iv) within 100 metres of the boundary of a special event measured along the most direct road allowance route from the nearest point of the special event boundary to the nearest point on the food service vehicle, except when approved as part of a special event;

(vi) for more than 15 minutes at any one location on a residential local road or for more than 3 hours at any one location on any other road and with not less than 250 metres separating the previous location from the next location, measured along the most direct road allowance route from the nearest point of the previous location to the nearest point of the next location; or
(vii) to a customer who is standing on the travelled portion of a road allowance, not including a sidewalk;

(g) the food service vehicle does not operate:
(i) on a residential road between 8 p.m. on one day and 8 a.m. on the next day; or
(ii) on any other road between 1 a.m. and 8 a.m.;

(h) a location log is kept for each day the food service vehicle is operated in a form satisfactory to the Issuer of Licences that includes the following information about each location on road allowance the food service vehicle stops to sell or offer for sale refreshments:
1. the street name;
2. the municipal address of the nearest property;
3. the nearest intersection; and
4. the time the stop began and ended:
(ii) the location log is kept for at least one year; and
(ii) the location log is made available to the Issuer of Licences upon request;
(i) there is no crying of wares, sounding of chimes or use of similar means to attract attention:
(i) while the food service vehicle is in motion; or
(ii) for more than 5 seconds at intervals of not less than 5 minutes;
(j) all children and customers are safely away from the food service vehicle before putting it in motion; and
(k) the food service vehicle is not washed or repaired while on a road allowance except, in the case of repair, when repair is necessary to move the food service vehicle off the road allowance.

11. Every person operating a Class B food service vehicle shall ensure that:
(a) the food service vehicle is driven by a person holding a current, valid provincial driver’s licence;
(b) the food service vehicle is equipped and maintained with:
(i) a “WATCH FOR CHILDREN” warning sign in readily legible black
letters at least 15 centimetres high on a yellow background:
1. affixed to the rear exterior of the food service vehicle; and
2. plainly visible in its entirety at all times;

(ii) a minimum of two amber lights on top, placed as to be readily visible by a person 1.5 metres in height standing 1.2 metres in front of or behind the vehicle, that flash when the food service vehicle stops to sell or offer for sale refreshments;

(iii) a rear bumper having an angled cover on top designed and placed so as to prevent a child from standing or sitting on top; and

(iv) waste receptacles, placed upon arrival when the food service vehicle stops to sell or offer for sale refreshments and removed together with all waste collected in the waste receptacles or accumulated in the surrounding area upon leaving.

POSTING OF CERTIFICATES OF INSPECTION
12.(1) Every person operating a food service vehicle shall ensure that:

(a) a public health inspector is not obstructed when:

(i) posting a Certificate of Inspection in a clearly visible and conspicuous location on the food service vehicle;

(ii) removing a Certificate of Inspection which has been posted on the food service vehicle;

(b) no one other than a public health inspector posts or removes a Certificate of Inspection on the food service vehicle.
SCHEDULE 7

KENNELS AND PET SHOPS

INTERPRETATION

1. In this Schedule,

   (a) "kennel" means any lot, building or structure used at any time for the registered
   pure-bred breeding, raising, keeping, training or boarding of four or more dogs,
   and shall meet the requirements of the applicable zoning by-law; and

   (b) "pet shop" means a place where animals or birds are sold or offered for sale,
   for use as pets.

LICENCE REQUIRED

2. No person shall operate a kennel or pet shop without a licence.

3. The operator of a kennel or pet shop shall ensure that:

   (a) all animals are adequately fenced or caged to prevent them from running at
   large;

   (b) no animal is kept in a cage of inadequate size; and

   (c) all animals are fed and supplied with water regularly and kept in a clean, healthy
   condition free from vermin and disease.

4. Any person authorized by the Issuer of Licences may inspect the premises of any
kennel or pet shop to ensure that the health and safety of the animals is being
maintained.
SCHEDULE 8

LIMOUSINES

1. In this Schedule,

   (a) “City” means the City of Hamilton;

   (b) “driver’s licence” means a licence issued to a limousine driver under this Schedule, and “licensed driver” has a corresponding meaning;

   (c) “limousine” means a vehicle for hire for the transportation of passengers, at a flat rate by agreement, that does not contain a taxi-meter;

   (d) “limousine driver” means a person who is licensed under this Schedule to drive a limousine;

   (e) “limousine owner” means a person who is the owner of a limousine;

   (f) “owner” includes the owner of a limousine or a purchaser of a limousine, under contract, agreement, understanding or arrangement; and

   (g) “owner’s licence” means a licence taken out by a limousine owner authorizing the use of the vehicle as a limousine.

PART 1

ADMINISTRATION

2.(1)

   (a) Every person who is and carries on business as;

       (i) a limousine owner, or

       (ii) a limousine driver
shall obtain from the City a licence authorizing that person to carry on or engage in the trade, calling or business of conveying passengers for hire in a limousine.

(b) Paragraph (1)(a)(ii) shall not apply to a limousine driver who holds a current and valid taxi-cab driver’s licence duly issued by the City.

(2) No person shall carry on or engage in the trade, calling or business of conveying passengers for hire in a limousine without the vehicle and driver having the licences required in subsection (1).

(3) Where a person is required to obtain a licence under subsection (1),

(a) a separate licence certificate shall be issued for each licence applied for; and

(b) a separate licence certificate shall be issued for each limousine.

(4) Every licence certificate issued to a limousine owner shall clearly identify,

(a) the one vehicle in respect of which the licence was issued; and

(b) the term of the licence, including its expiry date.

(5) Every licence certificate issued to a limousine driver shall clearly identify the term of the licence, including its expiry date.

3.(1) Every vehicle licensed under this section shall be operational and functional within 30 days of the issuance of the licence.

(2) No limousine shall display a roof sign bearing the words “taxi-cab”, “taxi”, or “cab”.

4. No limousine licence shall be transferable.
5.(1) Subject to other compliance with this Schedule and By-law, a limousine licence shall be issued to an applicant for a limousine owner’s licence where,

(a) the limousine seats not less than 6 and not more than 9 passengers, including the driver; and

(b) the limousine has a wheel base of not less than 110 inches.

(2) Every limousine owner and every limousine driver licensed to operate a limousine shall charge a fare of not less than,

(a) $60.00 for every hour or part thereof; or

(b) $110.00 per diem.

6.(1) Every applicant for a limousine owner’s licence or a renewal thereof shall attend at the office of the Issuer of Licences and make and file an application on a form, prescribed by the Issuer of Licences, in person and not by an agent or representative.

(2) Where a limousine is owned by,

(a) a partnership, a partner shall attend for the purpose of subsection (3); or

(b) a limited company, the chief operating officer of the company shall attend for the purpose of subsection (3).

(3) Every application for renewal of a limousine owner’s licence shall be accompanied by a completed trip record, as required under subsection (s) of Section 12, for the current year during which the limousine licence is in full force and effect.

(4) Failure to comply with the requirements of subsection (3) may cause the application for renewal to be denied.
7.(1) Every applicant for a limousine driver’s licence or a renewal thereof shall attend at the office of the Issuer of Licences and make and file an application on a form, prescribed by the Issuer of Licences, in person and not by an agent or representative, except where the applicant is the holder of a current taxi cab driver’s licence under this by-law.

(2) Every applicant for a licence as a limousine driver shall hold a minimum of a Class “G” licence issued under the Highway Traffic Act.

(3) Notwithstanding any other provision of this Schedule, no limousine driver’s licence shall be issued to an applicant unless the applicant has a photo identification taken by the City.

8.(1) Before a licence is issued, the limousine owner or limousine driver shall, if required by the City, provide a medical certificate signed by a duly qualified medical practitioner in the Province of Ontario, certifying that the owner or driver of the limousine is physically and mentally fit to drive a limousine.

(2) Every limousine owner and every limousine driver shall provide a medical certificate signed by a duly qualified medical practitioner in the Province of Ontario as to the health of the owner or driver from time to time as the City may require.

9. Every limousine owner and every limousine driver shall be at least eighteen years of age.

10. Every limousine owner and every limousine driver shall notify the Issuer of Licences within 6 days of a change of address and produce his or her licence for the changes of address to be entered.

11. No licensee who is the holder of a licence as a limousine owner shall enter into any written agreement or oral agreement, directly or indirectly, permitting or acquiescing in the operation of the limousine for which the licence was issued, by any other person who is not a licensed limousine driver.
PART 2

LIMOUSINE OWNERS

12. Every limousine owner shall comply with the following subsections:

(a) Before acting as a driver of a limousine owned by him,

   (i) comply with all the requirements for the issuance of a limousine driver's licence except payment of a licence fee for a driver's licence.

(b) Before issuance of an owner's licence provide the City, in writing, with the following information in respect of every vehicle to be used as a limousine,

   (i) clear identification of the vehicle, including the make and serial number,

   (ii) certificate of ownership,

   (iii) certificate of insurance,

   (iv) Safety Standard Certificate issued under the Highway Traffic Act, within thirty-six (36) days of the inspection date, and

   (v) such other particulars as the City may request.

(c) For each limousine for which the owner holds a licence, and before use of the limousine,

   (i) obtain a policy of insurance in respect of the limousine in an amount not less than $500,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of one or more persons or from loss or damage to property resulting from any one accident;

   (ii) provide a special endorsement to the policy of insurance referred to in clause (i), for passenger hazard in an amount not less than $500,000, exclusive of interest and costs;
(iii) cause to be endorsed on the policy of insurance referred to in clause (i), that the City shall be given at least ten days prior notice of any cancellation, expiration or change in the amount of the insurance or in terms of the policy; and

(iv) deposit a certified true copy of the policy of insurance and all endorsements with the City.

(d) Maintain the policy of insurance, referred to in subsection (c) of this section, in force and effect during the entire period for which the licence is issued.

(e) Use or permit to be used a limousine only where prior to its use;

(i) the owner has produced a registration issued under the Highway Traffic Act, in respect of the class of motor vehicle to be used as a limousine;

(ii) the City has been informed of any changes in the motor vehicle registration; and

(iii) the owner has submitted the motor vehicle to the City for approval and has obtained authorization for the vehicle to be used.

(f) Subject to the Highway Traffic Act, not use or permit to be used any limousine that does not have affixed to the vehicle.

(i) a City licence plate having an identity number and clear indication that the limousine is licensed for use as a limousine; or

(ii) a duplicate licence plate, as may be supplied by the City at the expense of the owner of a limousine where the original licence plate has been lost, defaced or destroyed.
(g) Affix to the back of each limousine in a manner and in a position approved by the City any limousine licence plate issued by the City and maintain the licence plate only in the approved position during the period for which the licence is in force and effect.

(h) Use a limousine to be submitted for inspections from time to time by such person and at such times and places as the City may designate.

(i) Such improvements or repairs to the limousine, its equipment or any component thereof as may be required by the City and within such time period specified by the City, to such standards as may be approved by the Licensing Tribunal.

(j) Immediately check for mechanical defects in the limousine reported by a driver.

(k) Not operate or permit to be operated as a limousine any vehicle not in good mechanical condition.

(l) Not operate or permit to be operated as a limousine any vehicle unless a Motor Vehicle Safety Certificate on a form and in a manner approved by the Province of Ontario has been filed with the City in a manner and frequency approved by the Licensing Tribunal.

(m) Not employ or permit any person other than a licensed limousine driver or licensed taxi-cab driver employed by the limousine owner to operate his or her limousine.

(n) Use the limousine for the separate carrying of parcels, letters, documents, goods or chattels.

(o) Provide to the Issuer of Licences at the time that the licence is issued, a Schedule of Fees to be charged in respect of the use of the vehicle and its driver.

(p) Charge fees for the use of the vehicle and its driver in accordance with the Schedule of Fees referred to in subsection (o).

(q) Ensure that a licensed limousine driver operating the owner’s limousine charges fees in accordance with the Schedule of Fees referred to in subsection (o).
(r) Notify the Issuer of Licences in writing of any proposed change in the Fee Schedule prior to invoking such change.

(s) Maintain a trip record in the form required by the Issuer of Licences or on any reasonable facsimile thereof, which shall be kept in the licensed limousine at all times and prepared immediately upon conclusion of every trip and which shall contain the following information:

(i) the name and address of the person hiring the limousine;

(ii) the time of the commencement of the trip and the time of the conclusion of the trip;

(iii) the address of the place of origin of the trip and the address of the place of final discharge of the passengers at the conclusion of the trip; and

(iv) the fee charged.

(t) Ensure that a driver operating the owner’s vehicle maintains a trip record as required by subsection (o).

(u) Keep all trip records referred to in subsection (o), for a period of at least twelve months.

(v) Permit any person authorized to enforce this by-law to inspect any and all trip records on the premises or to remove any and all trip records from the premises for the purpose of inspection.

13. Every limousine driver shall comply with the following subsections:

(a) Not drive a limousine unless a valid limousine driver’s licence has been issued to him or her.

(b) Operate a limousine only if the limousine is,
(i) in clean condition as to its interior and exterior;
(ii) in good repair as to its interior and exterior;
(iii) dry as to its interior;
(iv) free from mechanical defects;
(v) in fit condition for the purpose for which the vehicle is used; and
(vi) in safe driving condition.

c) Examine the limousine for any defects immediately before the limousine is to be driven.

d) Not drive a limousine unless the limousine plate issued by the City is affixed as required by this Schedule, to the limousine for which it was issued.

e) Carry his or her limousine driver’s licence with him or her at all times while operating the limousine.

f) Immediately produce for inspection, the limousine driver’s licence and the Province of Ontario driver’s licence, upon request to do so by a licence inspector or police officer.

g) Not drive a limousine with luggage or other material piled or placed in a manner that obstructs the view of the limousine driver.

h) Not carry in a limousine used for hire a greater number of occupants or persons than the manufacturer’s rated seating capacity for that vehicle, inclusive of driver.

(i) Affix and maintain affixed when driving a limousine, a photo identity card in a place in the limousine approved by the Licensing Tribunal in such a manner that the photograph and name are plainly visible and readable by a passenger in the back seat.
(j) Not drive a limousine unless the City’s current limousine licence number is displayed as required by this Schedule.

(k) Not make repairs to the limousine while upon a public street unless the repairs are immediately required to render the limousine operable.

(l) While in charge of a limousine,

   i) maintain his or her person in a neat and clean appearance; and

   ii) be civil, well-behaved and polite in manner.

(m) Immediately upon termination of any hiring or other engagement of the limousine,

   (i) search the limousine for any property lost or left therein;

   and

   (ii) deliver any lost or left property over to the owner of same; or

   (iii) where the owner cannot be found, deliver the lost or left property to the licence authority along with any and all relevant information concerning the property.

(n) Not permitted, while in charge of a limousine, any person other than the owner or an employee of the owner of the limousine to drive the limousine.

(o) Immediately report to the owner of the limousine,

   (i) any defect of which the limousine driver is or becomes aware;

   (ii) any accident in which the limousine driver was involved while operating the limousine; and
(iii) any enforcement tickets or summons issued to the limousine driver by an enforcement officer for violations occurring while operating the limousine.

(p) Charge fees in accordance with the Schedule of Fees provided to the Issuer of Licences by the owner of the limousine under subsection (o) of section 12.

(q) Maintain a trip record in accordance with subsection (s) of Section 12.

14. No person, including the driver, shall smoke a cigarette, cigar, pipe or any tobacco-using devices.

15. No owner, driver or other person shall use or cause to be used or arrange for the use of, directly, indirectly at any time by agreement or understanding or otherwise a limousine in substitution for a taxi-cab.
SCHEDULE 9

LODGING HOUSES

INTERPRETATION

1. Definitions:

“lodging house” means a house or other building or portion thereof in which four (4) or more persons are or are intended to be harboured, received or lodged for hire, where lodging rooms are without kitchen facilities for the exclusive use of the occupants and where each occupant does not have access to all of the habitable areas in the building, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if the hotel, hospital, home or institution, is licensed, approved or supervised under a general or special Act other than the Municipal Act, 2001.

LICENCE REQUIRED

2. No person shall operate a lodging house without a licence under this by-law for the keeping and operation of that house.

MISCELLANEOUS REQUIREMENTS FOR LODGING HOUSES

3.(1) The keeper of a lodging house shall ensure that the lodging house is so designed, constructed, equipped and maintained as to be in compliance with applicable laws and this by-law, and available and suitable for the use of residents, and, without restricting the generality of the foregoing:

There shall be at least one water closet, one wash basin, and one bath tub or shower bath in a separate room or compartment, for every seven residents, based on the lodging house capacity for residents or the actual occupancy, whichever is greater.

(2) Without restricting the generality of subsection (1), the keeper of a lodging house shall ensure:
(a) That the building and all facilities are maintained and used in accordance with the standards provided in this by-law, and that the same and all equipment, furniture and furnishings are kept in good repair and in clean and sanitary condition, and available for use by residents;

(b) That each resident of the lodging home is supplied with a separate lockable mail box;

(c) That a register is maintained at the lodging house, with the name and signature of all residents, their usual residence or if none their last residence, the date of entry to and date of departure from the lodging house, and type of identification produced by the resident to the operator or staff of the lodging house;

(d) That there is provided at all times an adequate supply of clean towels for each individual, and other customary toilet supplies, and that all water-closet accommodation and toilet accommodation is provided without extra charge; and

(e) That there is posted along with the licence certificate a notice signed by the operator, giving his or her name, address and telephone number, and the name, address and telephone number of the employee or agent in charge of the particular premises, along with the emergency telephone numbers for Fire, Police, Building and Public Health Services Departments.

(3) Subject to subsection (4), a person applying for or transferring a lodging house licence shall provide with the application, for each lodging house property, a certificate of compliance issued to the person under the applicable property standards by-law.

(4) A lodging house licence holder applying for renewal of the licence shall comply with subsection (3), unless there is a certificate of compliance issued to the licence holder under the applicable property standards by-law, the date of which is no more than three years before the date of renewal.

(5) A person applying for a licence shall attend a training session conducted by or on behalf of the City, prior to issuance of a licence.
INSPECTION

4. The Medical Officer of Health, a municipal law enforcement officer, or a police officer may at all reasonable times make inspection of any lodging house and of the records required to be kept, and the Medical Officer of Health may delegate such duty to a subordinate.
SCHEDULE 10

MOBILE HOMES AND MOBILE HOME PARKS

INTERPRETATION

1. In this schedule,

(a) “building inspector”, shall mean a building inspector of the City of Hamilton;

(b) “drinking water”, shall mean water made available which is fit for human consumption as certified by the Ontario Ministry of Health;

(c) “Fire Chief”, shall mean the Chief of the City of Hamilton Fire Department;

(d) “hydro inspector”, shall mean the Inspector of Hydro One Inc.;

(e) “Medical Health Officer”, shall mean the medical officer of health of the City of Hamilton;

(f) “mobile home”, shall mean a single family trailer type dwelling, providing space standards substantially equal to those laid down in the Canadian Code for Residential Construction (Residential Standards for 1970), designed to be transported on its own wheels, and chassis to a mobile home lot, and may be supported on wheels, jacks, posts or piers, or with a permanent foundation. It is designed to be connected to service utilities so as to be suitable for year-round long-term occupancy;

(g) “mobile home (single-wide)”, shall mean a unit designed to be towed in a single load;

(h) “mobile home (double-wide)”, shall mean a mobile home consisting of two sections, separately towable, but designed to be joined together into one integral unit;
(i) **“mobile home lot”**, shall mean a parcel of serviced land in a mobile home park for the placement of a mobile home and for exclusive use of the occupants;

(j) **“mobile home pad”**, shall mean a prepared area within a mobile home lot upon which the mobile home unit is sited;

(k) **“mobile home park”**, shall mean a development not having a registered subdivision plan of lots, managed by a mobile home park operator, and having one or more mobile homes or lots with individual mobile homes, may be rented. Ownership and responsibility for the maintenance of internal roads, underground services, communal areas and buildings, with general park management, snow clearance, garbage collection, and similar requirements rests with the operator;

(l) **“operator”**, shall mean the owner, lessee or persons designated by the owner to operate a mobile home park;

(m) **“service buildings”**, shall mean those permanent buildings necessary for the convenience of mobile home residents or park patrons and the maintenance of the development;

(n) **“site plan”**, shall mean a scaled graphic illustration of the proposed mobile home park and shall include internal lotting and road patterns, location of all buildings, structures, and servicing facilities to be constructed, location of ingress and egress points to the park, location of designated recreation areas and any other requirements to be determined from time to time by the City; and

(o) **“Trailer”** shall mean any vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle and for the purposes of this By-law shall include a mobile home.

**LOCATION OF MOBILE HOMES**

2.(1) No mobile home shall be located in the City, except in an approved mobile home park, or where otherwise permitted by by-law.
(2) Mobile home parks may be established within the City by a zoning by-law.

(3) A building permit shall be obtained by the mobile home park owner for each mobile home placed in the mobile home park.

LICENSING

3.(1) No person shall operate or maintain a mobile home park or own land or lease land upon which a mobile home park is situated within the City, unless a licence has been obtained pursuant to the provisions of this By-law.

(2) A licence shall be obtained by applying to the Issuer of Licences upon forms to be provided by him. Applications for licences for new parks or for alterations or additions to parks shall be accompanied by four copies of the site plan of the proposed Mobile Home Park alterations or addition.

(3) In addition the approvals required as listed in Appendices A and B, the application shall be circulated for approval to the appropriate Conservation Authority and the Niagara Escarpment Committee where applicable.

(4) All reports shall be submitted to Council with the licence application and no licence shall be issued without the consent of Council.

(5) The licence so issued shall not be transferable, but in the event of change in the ownership of the park a new application shall be made and new reports from the appropriate authorities shall be obtained.

(6) When the application is for a new mobile home park, or for construction, alteration or extension of an existing mobile home park, the application shall include the following:

   (a) name and address of owner;

   (b) name and address of operator;
(c) location and legal description of the mobile home park; and

(d) complete plans and specifications of the proposed park and a site plan showing, but not limited to, the following:

(i) the area and dimensions of the tract of land;

(ii) the number, location, and size of all mobile home lots;

(iii) the location and width of roadways and walkways;

(iv) the location of water and sewer lines and gas mains;

(v) plans and specifications of the water supply and refuse and sewage disposal facilities;

(vi) plans and specifications of all buildings constructed or to be constructed within the mobile home park; and

(vii) the location and details of the lighting and electrical systems.

(7) All new mobile home parks or extensions to existing mobile home parks will require the signing of a site plan agreement prior to the granting of a licence or necessary building permits.

(8) The operator or person maintaining the mobile home park shall be responsible for maintaining the mobile home park, its facilities and equipment in accordance with the terms of this By-law.

(9) The owner, or his or her appointed agent, shall make application for a Mobile Home Park licence or a renewal thereof. This licence shall be renewed on the first day of April in each year of operation.
(10) No operator shall carry on business of a mobile home park until such licence has been obtained from the Issuer of Licences. Once issued, no part of the licence fee shall be refunded and said licence shall expire on the thirty-first day of March of each year.

(11) The licence, together with a copy of this by-law, shall be posted in a conspicuous place in the office of or on the premises of the mobile home park and shall be readily available for inspection by an appointed official of the Corporation, the Police and tenants of the park.

(12) Mobile homes placed on lots in accordance with this By-law shall be connected to the utilities provided.

(13) The Mobile home park owner shall be responsible for the collection of all taxes from the mobile home park tenants and for payment of same to the Clerk or Treasurer of the City of Hamilton. Upon termination of the lease of any tenant in the mobile home park, the owner of the mobile home park shall immediately notify the City of Hamilton.

STANDARDS FOR MOBILE HOME PARKS

4.(1) For each mobile home lot there shall be at least fifty square feet of centrally located, fenced, play space for children. This may be part of the ten percent open space requirement.

(2) The mobile home park site shall be adequately drained so as to prevent the ponding of any surface water on any part thereof and to prevent the development of soft or muddy ground.

(3) No exterior individual antenna on mobile homes shall be permitted. A communal TV tower shall be provided by the operator, together with underground services to each lot.

(4) All electrical facilities and equipment installed to service the park shall meet the approval of the Hydro Inspector and wiring shall be placed underground.
(5) All mobile home parks shall be equipped with at least one public telephone to which there shall be public access at all times.

(6) No space shall be rented for residential use of a mobile home in any mobile home in any mobile home park for periods of less than ninety days.

STANDARDS FOR MOBILE HOME LOTS

5.(1) All mobile homes shall be located on a mobile home lot when inhabited. No more than one mobile home shall be located on each mobile home lot.

(2) The minimum area provided on each serviced lot shall be four thousand square feet with a minimum frontage of forty feet for single-wide mobile homes, and five thousand square feet with a minimum frontage of fifty feet for double-wide mobile homes.

(3) No mobile homes shall be parked less than twenty-five feet from any other mobile home provided however, that if the mobile homes are parked end to end, the end to end clearance between mobile homes shall not be less than ten feet and no mobile home shall be parked closer than ten feet from any building within the park or closer than five feet from any lot boundary or closer than forty feet from any boundary line of the park.

(4) Each mobile home lot shall be clearly and visibly marked with a name or number corresponding to that shown on the site plan.

(5) Every mobile home lot shall have frontage upon a road having a minimum width of eighteen feet for one-way traffic and twenty-four feet for two-way traffic.

(6) All parking requirements shall be provided off the street. A minimum of one gravelled parking space shall be provided for each mobile home lot and one additional space for visitor parking for each four lots shall also be provided.
(7) No additions or accessory structures shall be permitted on individual mobile home lots, other than carports, shelters against sun and rain and tenant storage facilities. Such additions shall not restrict or diminish the means of egress from the mobile home. They shall be designed and constructed so as not to degrade the appearance of the mobile home and shall be constructed of material, or shall be so finished that the resistance to fire is at least equivalent to that offered by the exterior cladding of the mobile home. No outside storage shall be permitted.

(8) Mobile homes located on-site shall be skirted. The skirting shall be vented and so designed and constructed as to not degrade the appearance of the mobile home, and shall be of a material or so finished that the resistance to fire is at least equivalent to that offered by the mobile home exterior cladding. An easily removable access panel with minimum width of four feet to allow access to the area enclosed by the skirting, shall be provided.

STANDARDS FOR MOBILE HOMES

6.(1) All mobile homes shall be mobile homes which have received certification by the Canadian Standard Association, or equivalent standards, with respect to vehicular, structural, plumbing, gas, oil, and electrical requirements of CSA Standard Z-240, or equivalent standard.

(2) No operator shall permit the placement in any mobile home park of any mobile home which has not received the aforesaid certification, and failure to comply with this section shall be deemed to be an offence.

(3) No operator shall permit the installation of any of any mobile home at a mobile home park whose installation does not comply with the Ontario Building Code, and failure to comply with this section shall be deemed to be an offence.

(4) Each mobile home shall have a minimum floor area of 500 square feet.

DRIVEWAY AND PARKING AREA MATERIALS IN A MOBILE PARK

7. All driveways and parking areas in a mobile home park shall be constructed in accordance with applicable zoning by-laws.
PEDESTRIAN WALKWAYS IN A MOBILE HOME PARK

8.(1) Individual walks shall provide access to each mobile home pad from a street or parking space connected to the street. Common walks shall be located in areas where pedestrian traffic is concentrated. For example, the park entrance, park office and service buildings.

(2) Walkways shall have a minimum width of two feet for individual lots and three feet for common walkways, and shall be constructed of concrete or other hard surface material or of cinders or fine crushed stone.

ILLUMINATION IN A MOBILE PARK

9. All walkways shall be lighted from sunset to sunrise to an illumination level of 0.5 foot candles. Fixture height shall not exceed fifteen feet nor be less than eight feet, and in no case shall fixture spacing along walkways exceed one hundred feet.

PLANTING AND FENCING IN A MOBILE HOME PARK

10. A site plan to be presented with the application for a licence to establish, extend, or operate a mobile home park, shall contain areas for planting or fencing. There shall be either fences or hedges between mobile home lots and the service buildings, and screening between the mobile home park and any highway on which the mobile home park has frontage or flankage.

GARBAGE DISPOSAL FOR A MOBILE HOME PARK

11.(1) Each mobile home park shall provide for garbage removal in accordance with the by-laws of the City. All garbage containers, other than the one to be kept with each mobile home on each mobile home lot, shall be kept in a central garbage receptacle having a concrete floor so constructed and drained that it can be properly washed out and properly serviced and is fly proof and at all times kept clean and sanitary by means of washing and the use of chloride of lime or other suitable disinfectant.
(2) Each mobile home lot shall be provided with a covered garbage can, which may be kept inside or at the rear of the mobile home.

(3) No person within a mobile home park shall deposit or discharge or permit the deposit or discharge of any solid or liquid waste or refuse of any kind in or about the park except in aforesaid garbage receptacles.

(4) No operator shall permit any refuses or litter to remain in or about the mobile home park save in the proper receptacles, and he/she shall provide for the collection of garbage from each mobile home at least once weekly.

SERVICE AND AUXILIARY BUILDINGS IN A MOBILE HOME Park

12.(1) A mobile home park shall be equipped with a park operator’s office or other suitable facility for:

(a) the reporting of problems of tenants concerning park facilities or other areas within the park operator’s responsibility;

(b) the pick-up of mail for each mobile unit where individual postal delivery to each mobile home lot is not available; and

(c) other facilities as necessary or desirable.

(2) The following buildings and facilities shall be provided:

(a) laundry building;

(b) sanitary facilities;

(c) storage building (required if individual tenant storage sheds cannot be erected);

(d) indoor and outdoor recreation structures;
(e) service buildings shall be constructed not closer than fifty feet from any mobile home lot; and

(f) toilet, bathing and laundry facilities and all rooms or buildings in which they are installed, shall be kept in clean and sanitary condition. Walls and ceilings shall have an improved washable finish permitting ease of cleaning.

(3) All sanitary sewerage facilities to be proved shall meet the approval of the Ministry of the Environment.

(4) All service buildings shall be open and kept adequately lighted at night. They shall be properly heated between the first day of October and the first day of May in each year.

(5) All buildings shall be constructed in accordance with the Building Permit issued by the City.

(6) All windows and other openings shall, between the first day of May and the first day of October in each year, be adequately screened.

(7) Laundry facilities shall be required in mobile home parks designed to accommodate twenty or more mobile homes. Laundry facilities, where provided, shall consist of washers and dryers, in a centrally located service building. There shall be at least one washer per twenty mobile home lots, and one dryer per forty mobile home lots. A laundry sink shall be installed in every building containing laundry facilities.

FIRE PROTECTION IN A MOBILE HOME PARK

13. The operator shall ensure that all buildings and structures in the mobile home park, including but not limited to all mobile homes, meet all requirements of the Fire Code under the Fire Protection and Prevention Act, 1997.
ANIMALS IN A MOBILE HOME PARK

14. No owner or person in charge of any dog, cat or other pet shall permit it to run at large or commit any nuisance within the limits of the mobile home park.

WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

15. Shall conform to the requirements and standards of the City, Medical Officer of Health of the City and the Ministry of the Environment.

REGISTER OF TENANTS IN A MOBILE HOME PARK

16. The operator shall maintain a register containing a record of all the owners and occupants of mobile homes located within the mobile home park, the register to be available for inspection at all times by law enforcement officer, public health officers, the Building Inspector, the Fire Chief, and all other officers whose duties necessitate the acquisition of the information contained in the register which may not be destroyed for a period of seven years following the date of registration and such register shall contain the following information;

(a) the name and address of each occupant;

(b) the make, model, licence number and year of each motor vehicle and mobile home;

(c) the province or state issuing such licence;

(d) the date of arrival and departure of each mobile home;

(e) the name and age of all children of school age; and

(f) the number or name of the lot occupied.
SCHEDULE 11

DELETED – REPEALED 2012
SCHEDULE 12

PEDLARS

INTERPRETATION

1. In this Schedule,

“pedlar” means a person who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards.

LICENCE REQUIRED

2. No person shall carry on business as a pedlar without a licence under this By-law, entitling him or her so to do.

LICENCE PLATE

3. Every pedlar while using a vehicle in his or her business shall keep affixed thereto, on the right-hand side thereof in such a manner as always to be readily visible from that side, the current licence plate for said vehicle, and no other licence plate on that side.

MISCELLANEOUS REQUIREMENTS

4. No pedlar shall;

(a) hold any show or entertainment in any street or public place;

(b) place or maintain any stand, stall or booth in any street or other public place;

(c) use in his or her business any horse or other animal not in sound condition and well-cared for;
(d) being the holder of a pedlar’s licence, allow any other person to use his or her licence certificate;

(e) stop in any place in a highway or on a vacant lot adjacent to such highway to sell goods, wares or merchandise; or

(f) shall sell goods, wares or merchandise out-of-doors without written permission from the property owner of commercially-zoned lands within the City.

5. Every pedlar shall;

(a) upon the request of a licence inspector,

   (i) produce written proof, acceptable to the licence inspector, that he or she has the permission of the owner of the property on which goods, wares, or merchandise are being offered for sale or exposed, to use the property for such purposes; and

   (ii) produce his or her current licence issue to carry on business as a pedlar;

(b) comply with the requirements of the applicable zoning by-law.
SCHEDULE 13

PERSONAL AESTHETIC SERVICES

PART I: DEFINITIONS

1. In this Schedule:

   (a) “personal aesthetic service” means a service provided for any part of the human body where there is a risk of exposure to blood and includes, but is not limited to, hairdressing, barbering, manicure, pedicure, tattooing, micro-pigmentation, body-waxing, body-piercing and electrolysis services.

   (b) A personal aesthetic service does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

PART II: LICENCE

2.(1) No person shall carry on a personal aesthetic service business without a licence.

   (2) Every person required to obtain a licence under this Schedule shall obtain a separate licence in respect of each premises where a personal aesthetic service business is carried on.

PART III: DUTIES OF LICENCE HOLDERS

3. Every person who carries on a personal aesthetic service business shall comply with the “Ministry of Health Infection Control in Personal Services Settings Protocol”, 2008, as amended from time to time, and the requirements of the Medical Officer of Health.
4. No person who carries on a personal aesthetic service business shall permit their employee or any person to provide a personal aesthetic service for a customer or any person who they reasonably suspect has been exposed to or is suffering from a communicable disease.

5. Every person who carries on a personal aesthetic service business shall keep the personal aesthetic service business in a clean and sanitary condition to the satisfaction of the Medical Officer of Health.

PART IV: ENFORCEMENT AND INSPECTION

6. A Public Health Inspector or a Municipal Law Enforcement Officer appointed under any City by-law or any other person assigned or appointed by the Issuer of Licences or the Medical Officer of Health may enforce the provisions of this Schedule and may, at all reasonable times, inspect a personal aesthetic service business.
SCHEDULE 14

DELETED – REPEALED 2012

Prepared: November 15, 2012
SCHEDULE 15

PERSONAL WELLNESS SERVICES ESTABLISHMENTS

PART I: DEFINITIONS

1. In this Schedule,

   (g) “alternative massage” means the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person’s body or part of a person’s body, but does not include such services:

   (i) performed for the purpose of medical or therapeutic treatment provided by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; or

   (ii) appealing to or designed to appeal to erotic or sexual appetites or inclinations including but not limited to such services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication;

   (h) “personal wellness services establishment” means any premises or part thereof where an alternative massage is performed, offered or solicited in pursuance of a business;

   (i) “operator” means a person who operates, manages, supervises, controls or is responsible for the business of a personal wellness services establishment;

   (d) “to provide”, when used in relation to an alternative massage or a service that appeals to or is designed to appeal to erotic or sexual appetites or inclinations including but not limited to services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication, includes to furnish, perform, solicit, or give such alternative massage or service and “providing” and “provision” have corresponding meanings;
PART II: LICENCES

GENERAL

2. No person shall carry on or engage in the business of an operator of a personal wellness services establishment without holding a current, valid licence issued under this By-law.

INFORMATION TO BE PROVIDED BY APPLICANT

3. On every application for a licence or for the renewal of a licence:

   (a) the applicant shall file the application provided by the Issuer of Licences and shall furnish such information as the Issuer of Licences may direct; or

   (b) if the applicant is not an individual, the application shall be filed and updated from time to time as this By-law requires by an individual duly authorized by the applicant to sign such application on behalf of the applicant and to bind it, and the individual filing such application shall certify the truth and completeness of the information provided.

4. When filing an application for a licence, in addition to complying with the General Provisions of this By-law, an applicant shall file:

   (a) a detailed floor plan, drawn to scale, of the personal wellness services establishment that has been approved by the Issuer of Licences and the details of such floor plan shall include but are not limited to depicting the location of reception areas, offices, rooms where alternative massages are provided, washrooms, storage areas and entrances/exits;

   (b) an itemized list describing each service that will be provided, what services may be provided during a single appointment and how appointments will be scheduled;

   (c) information on the training and/or the experience of the operator and their employees with respect to each service that will be provided, as
requested by the Issuer of Licences;

(d) if the applicant is a corporation:

(i) a current copy of the corporation profile report;

(ii) a list containing the full name of each officer, director and shareholder, the address of their ordinary residence, their telephone number;

(iii) the name or names under which the applicant intends to carry on in the business; and

(iv) the address of the corporation to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;

(e) if the applicant is a partnership:

(i) a current copy of the limited partnerships report;

(ii) a list containing the full name of each partner, the address of their ordinary residence, their telephone number;

(iii) the name or names under which the applicant intends to carry on in the business; and

(iv) the address of the partnership to which the Issuer of Licences may send or deliver any notice or other document required or authorized by law;

(f) if the applicant is an individual:

(i) the name of the individual, the address of their ordinary residence, their telephone number; and
(ii) the address of the individual to which the Issuer of Licences may send or deliver any notice of other document required or authorized by law.

5. When filing an application for a licence renewal, in addition to complying with the General Provisions of this By-law, an applicant shall, at the time of making an application:

(a) sign a form certifying that there are no changes to the information required to be filed under the General Provisions or this Schedule;

(b) if the applicant is a corporation, file every third year a current copy of the corporation profile report;

(c) if the applicant is a partnership, file every third year as current of the limited partnerships report.

6. Every licence holder shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions or this Schedule, provided that no licence holder shall change or cause a change to be made to a floor plan without first obtaining the approval of the Issuer of Licences.

EXPIRATION

7. No licence issued under this Schedule is transferable.

8. Where:

(a) by a transfer of existing shares, by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or

(b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner or the partnership is determined by the Issuer of Licences to have ceased to exist,
a licence issued under this Schedule shall be deemed to have expired.

PART III: DUTIES OF OPERATORS

9. Every operator shall:

Premises

(a) not equip the personal wellness services establishment so as to impede the enforcement of this By-law;

(b) on each day when the personal wellness services establishment is open for business, open or cause it to be opened only between the hours of 7:00 a.m. and 10:00 p.m.;

(c) post their licence in a conspicuous place in the personal wellness services establishment at all times;

(d) keep the premises in a clean and sanitary condition;

(e) ensure that each advertisement of the personal wellness services establishment legibly bears the words “Licensed Personal Wellness Services Establishment, Licence No. ____”, complete with the licence number inserted;

Alternative Massage

(f) not permit any service to be provided to a customer or any person that appeals to or is designed to appeal to erotic or sexual appetites or inclinations including but not limited to services advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication;

(g) ensure any service provided complies with the “Ministry of Health Infection Control in Personal Services Settings Protocol”, 2008, as amended from
time to time, and with any other requirements of the Medical Officer of 
Health; and

Records

(h) keep a record of each alternative massage provided, which record shall:

(i) include the name of the person who provided the alternative 
massage and the time and date of the alternative massage;

(ii) be kept for at least one year after the date of the alternative 
massage; and

(iii) be produced upon demand to a person assigned or appointed by 
the Issuer of Licences to enforce this Schedule.

PART IV: ENFORCEMENT AND INSPECTION

10. A person assigned or appointed by the Issuer of Licences to enforce this 
Schedule may, at all reasonable times, inspect a personal wellness services 
establishment.
SCHEDULE 16

PUBLIC GARAGES

1. In this Schedule,

(a) "landscaped area" shall mean an area of land provided and maintained on the same lot on which the building, structure or use is situated, no part of which shall be other than:

(i) fully and completely open and exposed to natural light and air and unobstructed above the surface; and,

(ii) used exclusively for scenic, recreational or like uses; and,

Provided that not less than 50% of which shall be natural earth comprised of the natural planting of grass lawns, trees, shrubs and flowers in such manner as to establish and enhance the beautification of the landscaped area and any building or structure on the same lot, and may include a planting strip, but shall not include area used for parking space, manoeuvring space, access or egress driveways or any other vehicular purpose of any kind, nor any area occupied by an accessory building, nor any open space beneath, within or on the roof of any building;

(b) "planting strip" means an area of land growing ornamental shrubs or trees or both, suitable to the soil and climatic conditions of the area of land for the sole purpose of providing a visual barrier or buffer; and

(c) "public garage" means a public garage, parking facility, automobile service station or car wash.

2.(1) No person shall in the City of Hamilton, carry on the business of a public garage without first paying the amount of the licence fee and obtaining a licence under this By-law, entitling him or her so to do.

(2) Subject to subsection 2(3), every person required to obtain a licence under this
Schedule shall be required to obtain a separate licence and comply with the requirements applicable to each class or licence category, for each class of public garage carried on from the garage.

CLASSES OF LICENCE

3.(1) Any licence entitles the licensee to carry on only such class or classes of public garage as may be specified, and the licensee shall not be entitled to carry on or engage in any class of public garage for which he has not been granted a licence.

(2) The various classes of public garage shall be as follows:

(a) “Garage A” a building or place where motor vehicles are stored or kept for sale;

(b) (i) “Garage B1” a building or place used as a motor vehicle repair shop, including body and fender repairs;

(ii) “Garage B2” a building or place used as a motor vehicle repair shop excepting body and fender repairs; and

(iii) “Garage B3” a building or place used as a motor vehicle repair shop for body and fender repairs only;

(c) “Garage C” an automobile service station, or a building or place where gasoline or oils are stored or kept for sale, except a retail store where any such gasoline or oils are sold in sealed containers only;

(d) “Garage D” a parking station or a parking lot, provided that the renting of parking space for not more than five motor vehicles, by the operator of an automobile service station licensed as such under this By-law, shall not bring any such automobile service station within this class; and

(e) “Garage E” a building or place used for washing or cleaning motor vehicles, excepting a licensed public garage without special equipment capable of washing or cleaning more than fifteen motor vehicles in one day.
4.(1) For the purpose of this section, “car wash” means a building or place used for washing or cleaning motor vehicles as defined in paragraph 3(2)(e).

(2) “car wash, manual”, shall mean a vehicle wash wherein the motor vehicle does not move during washing or is washed only manually by a person but without insertion of a coin into a vending machine or receptacle to commence or continue the washing process.

(3) “car wash, mechanical”, shall mean a vehicle wash wherein the vehicle is driven or towed into the washing bay and does not move during any one or more phases of the washing process and is washed by equipment that is stationary or moves about the vehicle, but without the insertion of a coin into a vending machine or receptacle to commence or continue the washing process.

(4) “car wash, coin-operated”, shall mean a vehicle wash wherein the vehicle is washed either manually or mechanically only upon the insertion of a coin in a vending machine or receptacle to commence or continue the washing process.

(5) “car wash, high-speed mechanical”, shall mean a vehicle wash wherein the vehicle is moved by, on, or along a conveyor system during different phases of the washing process.

APPLICATION FOR LICENSE

5.(1) Every application for a public garage licence shall be in writing and shall show the applicant’s name and postal address, the name and address of the public garage or proposed public garage, the class or classes of licence applied for, and a sufficient description of the premises used or proposed to be used, together with sufficient particulars of his arrangements for carrying on the business, and shall be filed with the Issuer of Licences, together with six true copies.
(2) Save where a similar licence was in force for the previous year with respect to the same premises and there is no change in the relevant information, the application shall be accompanied by a satisfactory plot plan signed by the applicant, with six true copies, based on a registered plan of survey if any, and otherwise in accordance with the actual property lines, drawn to a scale of ten feet to the inch where the area of the site is 25,000 square feet or less, and otherwise to a scale of twenty feet to the inch.

(3) In the case of a parking lot, the plan shall be substantially in accordance with the form of plot plan and showing,

(a) location of the premises, position of adjacent street lines, sidewalks, boulevards, fire hydrants, poles and driveways, and the position and type of use of adjacent buildings, structures and premises, all according to scale and including an indication of the north point;

(b) the drainage system and type and specifications of surfacing of all outdoor areas to which motor vehicles will have access, together with complete grade levels and the location and dimensions of all catch-basins and other drainage facilities, the location and dimensions of all fuel pumps and islands, and of all barriers, signs, poles, trees, buildings, structures and things above the level of the paving, and of all access driveways, manoeuvring space and parking spaces, entrances, exits and ramps;

(c) in the case of any building or structure, the location of the vehicular and pedestrian entrances and exits, the entrance and exit driveways, the location and grade of ramps within the premises giving access to or from the ground level, the location and size of receiving and exit areas, and where parking tickets or car washing tickets are to be issued, the location and nature of ticket-issuing points; and

(d) landscaping, paving, fencing, markings, bumpers/wheel barriers and lighting here such is required under the applicable zoning by-law.

(3) The form of every plot plan other than one for a parking lot shall also be in accordance with the scale and general principles above provided for parking lots.
(4) In the case of an application for a licence to operate a public garage under a Garage B1, Garage B2 or Garage B3 licence, the applicant shall submit a copy of a current valid Certificate of Approval issued by the Ministry of the Environment pursuant to Section 9 of the Environmental Protection Act, R.S.O. 1990, c. E.19.

6. Whenever a licence has been granted for any public garage and the business so authorized has not yet been commenced as a regular business within one calendar year following the issuing of the licence, a public garage licence shall not again be issued for the location in question unless and until a new application has been made and the circumstances of the delay dealt with in a report to the Licensing Tribunal accompanying the application for a new licence; and in the case of every public garage licence issued, the following words shall appear on the face of the licence:

“If the business authorized by this licence has not been commenced on a regular basis within twelve months from date of issue, a new licence will not be issued until the circumstances of the delay have been reviewed by the Hamilton Licensing Tribunal.”

MISCELLANEOUS REGULATIONS FOR ALL PUBLIC GARAGES

7.(1) Every public garage shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and without restricting the generality of the foregoing,

(a) all grades and drainage facilities shall be such as to prevent drainage to any street, sidewalk or other adjoining land;

(b) all lighting facilities shall be such as not to cause annoyance from direct glare, to persons on the street or on adjoining land;

(c) all means of ingress and egress shall be in accordance with the plans submitted with the application for licence, or as subsequently authorized and, wherever there is a public sidewalk or curb, shall be by means of an approach ramp installed in accordance with the provisions of the Streets By-law 86-77 as amended; and
(d) every sign shall be so located, and shall have such content, colour and design as not to create any unusual hazard or confusion to any pedestrian or to any driver of a motor vehicle.

(2) The operator of every public garage shall be responsible,

(a) that all signs and required facilities are maintained in conformity with the requirements hereinbefore set forth;

(b) that save as may be otherwise lawfully authorized by a licence to use part of the boulevard for the parking of vehicles and motor vehicles, no part of any street, public lane or other public place is used for the parking or manoeuvring of motor vehicles, or in any other manner as if it were part of the public garage premises;

(c) that there is no outside storage except of whole motor vehicles in operating condition;

(d) that the premises are kept in an orderly and clean condition, without any scrap, debris or refuse left lying about; and

(e) that prompt report is made to the Hamilton Police Service, of any motor vehicle which there may be reason to suspect is either stolen or abandoned.

ADDITIONAL REQUIREMENTS FOR PARKING STATIONS AND PARKING LOTS

8.(1) Every parking station and parking lot shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and, without restricting the generality of the foregoing,

(a) a permanent durable and dustless surface that is graded, drained, and paved with concrete or asphalt or a combination of concrete and asphalt shall be provided and maintained on all outside areas to which motor vehicles will have access;
(b) save as may be otherwise lawfully authorized by a licence to use part of the 
boulevard for the parking of vehicles and motor vehicles, all parking spaces and all 
outside areas to which motor vehicles have access, except exits and entrances, 
shall be provided with barriers, so designed, constructed, located and otherwise 
suitable as to prevent any part of a motor vehicle from projecting over any part of a 
street, public lane or other public place, or within three inches of the boundary of 
any other adjoining land;

c) there shall be provided at each entrance where it may readily be seen by every 
driver of a motor vehicle about to enter the premises, a suitable sign no nearer to 
the ground than seven feet, and no farther from the ground than twelve feet, 
bearing in clear and legible letters and figures no less than four and no more than 
twelve inches high, the name of the operator, his business address, and the hours 
and rates for the parking of motor vehicles;

d) there shall be provided the required sanitary facilities except where the medical 
officer of health is satisfied that they are not necessary and has given a written 
waiver which remains unrevoked;

(e) all open areas, except areas required to be landscaped, shall be paved with 
asphalt or concrete, and so graded or drained as to ensure that surface water will 
not escape to neighbouring lands;

(f) every lighting facility shall be so designed, installed and maintained as to ensure 
that light is deflected away from all lands designated for residential uses, and any 
lighting of signs shall similarly be so deflected; and

(g) lighting shall be provided to a minimum level of 5 foot candles, as measured by 
readings taken at three feet from the ground, in all areas used for parking and 
access of vehicles as well as those areas used for pedestrian access to and from 
the parking areas.

(2) The operator of every parking station and parking lot shall be responsible,

(a) that all signs and required facilities are maintained in conformity with all applicable 
provisions hereinbefore set forth;
(b) that every entrance, exit, and access aisle is kept unobstructed for its full length and width, and that all entry, parking and discharge of vehicles is conducted only as indicated on the plans submitted with the application for licence or as subsequently authorized; Provided that this clause shall not be deemed to prohibit a suitable ticket office or automatic control device which does not contribute to congestion or unreasonably obstruct any means of ingress or egress;

(c) that except in the case of a metered or automatically controlled parking station or parking lot, a competent attendant is on duty at all times during business hours as indicated on the sign;

(d) that while no parking spaces are available, a suitable notice announcing that fact is prominently displayed at the entrance; and

(e) that no person is allowed to loiter about the premises.

(3) Subject to subsection (4), the operator of every parking station and parking lot shall provide and maintain the facilities as set out in the approved plot plan required by section 5 of this Schedule, which shall be a condition of obtaining or continuing to hold the licence.

(4) The operator of an existing licensed parking station or parking lot on the date of enactment of this Schedule, whose existing facilities pertaining to landscaping, paving, fencing, markings, bumpers/wheel stops and minimum lighting are not in accordance with the requirements as set out in this Schedule, as a condition of obtaining and continuing to hold a licence, shall:

(a) provide a satisfactory plot plan in accordance with section 5 notwithstanding the exemption contained therein; and

(b) within one year of the date of enactment of this Schedule, provide the facilities as required, in accordance with the approved plot plan.
ADDITIONAL REQUIREMENTS FOR SALES LOTS

9. (1) Every place where motor vehicles are stored or kept for sale shall be so designed, constructed and equipped as to be suitable in all respects for the purposes for which it is used or intended to be used, and, without restricting the generality of the foregoing,

(a) all outside areas to which motor vehicles will have access shall be suitably surfaced with asphalt or concrete, or with crushed stone or slag or other as suitable material so treated as to make it dust free and prevent it from spilling or spreading onto any street or other adjoining land; and

(b) save as may be otherwise lawfully authorized by a licence to use part of the boulevard for the parking of vehicles and motor vehicles, all parking or storage areas shall be equipped with barriers as hereinbefore required for a parking lot, so designed, constructed and located, and otherwise suitable, as to prevent any part of a motor vehicle from projecting over any part of a street allowance or public lane, or within three inches of the boundary of any other adjoining land.

(2) The operator of every place where motor vehicles are stored or kept for sale shall be responsible, that all signs and required facilities are maintained in conformity with all applicable provisions hereinbefore set forth.

10. Every building or place used for washing or cleaning motor vehicles, except a licensed public garage without special equipment capable of washing or cleaning more than fifteen motor vehicles in one day, shall be in all respects suitable for the purpose, and, without restricting the generality of the foregoing,

Wash-racks

(a) Every wash-rack and other equipment for washing or cleaning motor vehicles, except steam-cleaning equipment, shall be located within a building; and

Surfacing

(b) All outside areas to which motor vehicles will have access shall be suitably surfaced with,
(i) hot-mix asphalt on macadam base; or

(ii) concrete; or

(iii) other as hard-surfaced and otherwise suitable material not including loose crushed stone or slag.
SCHEDULE 17

PUBLIC HALLS AND PLACES OF AMUSEMENT

LICENCE REQUIRED

1. In this Schedule;

   (a) “amusement machine” means a machine, device or contrivance activated by mechanical or other action or any other means by the user thereof with a view to achieving a desirable result through skill or chance or a combination of both, in terms of points, score, measurement of any other characteristic of the machine, device or contrivance but does not include a pinball machine;

   (b) “amusement machine parlour” means a premises or place on a premises where four or more amusement machines are kept for the amusement of the users thereof;

   (c) “billiard parlour” means a premises or place on a premises on which there is one or more billiard tables or pool tables for hire or gain;

   (d) “bingo parlour” means a premises or place on a premises used as a public hall for the assembly of persons playing bingo;

   (e) “Certificate of Inspection” means a certificate in a form approved by the Medical Officer of Health which sets out the results of an inspection or inspections conducted under the Health Protection and Promotion Act or its regulations;
(f) "pinball machine" means a machine in which a ball, object, thing, or image, or symbol or sign becomes mobile or otherwise active or visible upon being activated or called into existence or use by mechanical or other action or any other means so as to mechanically or otherwise project the ball, object, thing, or image, or symbol or sign through skill or part skill and part chance of the user thereof, upon or under a surface, or on a screen or other viewing surface within a full or part enclosure or not within an enclosure, with a view to achieving a desirable result in terms of points, score, measurement or any other characteristic of the machine, device or contrivance;

(g) "pinball machine parlour" means a premises or place on a premises where four or more pinball machines are kept for the amusement of the users thereof;

(h) "place of amusement" includes a bingo parlour, pinball parlour, amusement machine parlour and all other places of amusement;

(i) "proprietary club" means all clubs other than those in which the use of any billiard, pool or bagatelle table is only incidental to the main objects of the club;

(j) "public hall" means premises or a part thereof, including a portable building or tent, used as a place of assembly which is operated as a business, where members of the public gather for the purpose of any meeting, dancing or entertainment, but does not include premises used solely for religious purposes or a theatre within the meaning of the Theatres Act, R.S.O. 1990, c. T-6, as amended; and

(k) "public health inspector" means a public health inspector employed in the Public Health Services Department.

2.(1) No person shall for profit or gain, and no proprietary club shall, directly or indirectly, keep or have any billiard, pool, or bagatelle table on or about the premises which the person or club controls, including a house or place of public entertainment or resort, without a licence entitling the person to do so.
(2) Subsection 2(1) does not apply to a restaurant or public hall licensed under this By-law, where not more than two billiard, pool, or bagatelle tables are located on or about the premises, and the use of such tables is incidental to the principal business of the restaurant or public hall.

3.(1) Except as otherwise permitted, no person shall carry on or operate without a separate licence for:

(a) an exhibition held for hire or gain;

(b) a music hall;

(c) a bowling alley;

(d) rolling skating rink;

(e) skate boarding facility;

(f) indoor bicycle facility;

(g) motor vehicle racing track;

(h) a public hall; or

(i) any place of amusement.

(2) Every person who operates a place of amusement shall take out a separate licence for each of the following:

(a) a bingo parlour.

(b) a pinball parlour.

(c) an amusement machine parlour.
(d) any other place of amusement.

4.(1) Without a separate licence to do so, no person shall carry on or operate:

(a) an exhibition of waxworks;

(b) a menagerie;

(c) circus-riding; or

(d) any other like shows usually exhibited by showmen including a carnival.

(2) Except as otherwise permitted, no person shall carry on or operate without a separate licence for:

(a) a merry-go-round;

(b) a switchback railway;

(c) a carousel; or

(d) any other like contrivances.

5. No licence shall be required for any exhibition or traveling show or any other show or performance held in a licensed public hall.

6. Every application for a licence for any public hall or place of amusement shall include particulars of the financial responsibility of the applicant.

7. Every application for a licence for any public hall or place of amusement shall include a Certificate of Compliance as issued by the Planning and Economic Development Department pursuant to the Property Standards By-law.

8. Every application for a licence for any public hall or place of amusement shall include proof of liability insurance.
GENERAL REQUIREMENTS

9. Every person carrying on or operating any exhibition, show, public hall, place of
amusement or amusement contrivance for which a licence is required under this
Schedule shall be responsible that the following requirements are observed, namely;

(a) A Certificate of Compliance, as issued by the Parking and By-Law Services
Division of the Planning and Economic Development Department, pursuant
to the Property Standards By-law, for the premises used for carrying on the
exhibition, show, public hall, place of amusement or amusement contrivance,
shall be provided to the City on a bi-annual basis prior to that year’s renewal
licence being issued;

(b) Proof of liability insurance in the amount of not less than $1,000,000.00 in
accordance with the Amusement Devices Act, R.S.O. 1990, c.A.20, and the
regulations there under, or as required by the Issuer of Licences, shall be
provided to the City prior to a licence being issued or renewed;

(c) There shall not be published, displayed or distributed any advertising matter
which is vulgar or indecent;

(d) The premises shall be kept clean and orderly and maintained in all respects
reasonably suitable for the purpose for which they are used, and, in particular,
while open for business and for the period of at least one-half hour before and
after, the same shall be kept suitably lighted and ventilated, adequate sanitary
facilities shall be available, and no snow or ice shall be allowed to accumulate
on any fire escape or other means of egress in such manner or to such an
extent as to create any unnecessary danger;

(e) Except as hereinafter otherwise provided or as otherwise specifically
authorized by law or as provided by by-law, the hours or operation of the
premises shall comply with the regulations as set out by the Alcohol & Gaming
Commission of Ontario;
(f) Subject to the terms and conditions of the charitable gaming licence, a public hall which may be used to conduct a Monte Carlo event under a provincial charitable gaming licence is permitted to open for the licensed event as per the regulations as set out by the Alcohol and Gaming Commission of Ontario;

(g) There shall not be allowed in or about the premises any disorderly or unseemly conduct;

(h) All necessary measures shall be taken to prevent any obstruction of the highway by patrons;

(i) In case of fire, panic or other emergency or untoward incident, the police and fire departments shall be notified promptly, and there shall be taken such other precautionary or protective measures as may be reasonable needful under the circumstances.

(j) No amusement ride shall be operated unless the licence holder has submitted to the Issuer of Licences:

   (i) a licence to carry on the business of operating amusement devices issued by the Director under the Amusement Devices Act; and

   (ii) a current permit for each amusement device signed by an inspector employed by the Technical Standards and Safety Authority.

SPECIAL REGULATIONS

Bowling Alleys

10.(1) Notwithstanding the provisions of section 7 of this Schedule respecting hours, the business hours of a bowling alley on Monday, Tuesday, Wednesday, Thursday and Friday may be extended until one o’clock in the morning of the following day, but the keeper shall be responsible, that no person under the age of fourteen years shall be allowed to be on the premises after nine o’clock in the afternoon or before eight o’clock in the forenoon of any day unless accompanied by one of his or her parents or a responsible adult.
Public Halls

(2) Every keeper of a public hall shall be responsible that the following requirements are observed, namely:

Undesirable Activities

(a) No indecent or disorderly performance or other such undesirable activity shall be allowed in or about the licensed facility; and

Dances

(b) When dancing is held in a public hall, other than a bona fide private dance held by a private person or a bona fide religious, charitable, patriotic or fraternal organization, notwithstanding the provisions of subsection 9(5) of this Schedule respecting hours, the hours of operation of the premises shall comply with the regulations as set out by the Alcohol and Gaming Commission of Ontario.

Provided that nothing herein shall be deemed to prohibit the continuance of any dance on New Year's Eve, until three o'clock of the following morning.

Bingo Parlours

(3) Notwithstanding any provision of this Schedule, a person shall carry on or conduct the hours of operation of a bingo parlour in compliance with the regulations as set out by the Liquor Licence Act and its regulations.

11. The premises of the following places of amusement or entertainment shall be closed and remain closed on all other days except Saturday, as follows:

(a) Roller Rinks, from one o'clock in the forenoon until six o'clock in the forenoon of the same day.
(b) Billiard Parlours, from three o’clock in the forenoon until eight o’clock in the forenoon of the same day, except that any pinball machine and amusement machine on the premises shall be closed and remain closed from twelve o’clock midnight until eight o’clock in the forenoon of the following day.

12. No person to whom a licence has been issued to carry on or engage in the business of a billiard parlour shall permit or cause to be permitted any person less than 14 years of age to be within the billiard parlour after nine o’clock in the afternoon and before eight o’clock in the forenoon of the following day.

13.(1) No person shall erect, construct, operate or maintain a race track for the purposes of racing motor vehicles, except go-karts, or motor cycles or conduct or take part in races between any type of motor vehicles, except go-karts, within the city without a licence having been obtained to do so, and except in accordance with the provisions of this by-law.

(2) No such race track shall be erected or operated in the City except within that part of the Fifth Concession bounded on the east by Brock Road and on the west by the Town line between the former Township of West Flamborough and Beverly.

(3) (a) No track shall be erected upon a parcel of land having an area of less than forty-five acres, and such parcel of land shall be fenced with a fence of height of at least four feet constructed of standard heavy weight 9 gauge wire farm fence or heavier.

(b) In addition to the aforementioned fence, the Licensee shall also place chicken wire along the farm fence from a point commencing at the pit area to the northern boundary of the property.

(4) The licensee shall implement and maintain a tree planting program, whereby commencing at the race tracks’ frontage on Concession 5, cedar trees shall be planted around the perimeter of the race track property.

(a) Any track shall have a surface paved with hot asphalt or concrete, and no racing shall be conducted upon any surface other than a surface paved as aforesaid.
(b) The paved surface of the track shall be located at a minimum distance of one hundred and forty feet from any outside boundary of the parcel of land upon which the track is located.

(c) The paved surface of the track shall be enclosed completely on its outside boundaries with wire fence and concrete guards of a type and design adequate to prevent cars from running off track, provided, however, that openings shall be permitted where necessary for the entrance and exit of cars from the track itself.

(5) A grandstand shall be provided of a seating capacity of at least six thousand persons and any standing room facilities shall be subject to adequate safety protection for the spectators.

(a) The grandstand and any spectators seating accommodation shall be constructed of steel or concrete or a combination of these materials, and shall be located on permanent concrete foundations, and shall not be of a temporary or portable type. Wooden flooring and wooden seats and wooden stairways may be used.

(b) No new structures, buildings, or enclosures shall be located beneath the grandstand, unless an adequate fire resistance rating is maintained and sufficient air space exists between the roof of any such building and the grandstand floor.

(c) For every one thousand seats contained in the stands, the following washroom accommodation shall be required;

(i) one male water closet, three urinals for males, one wash basin for males; and

(ii) three water closets for females, and one wash basin for females.
(6) Police supervision shall be supplied by the Licensee by hiring police for the purposes of maintaining order on the site, and for the purpose of regulating traffic, to ensure that there shall be no congestion on leaving the track.

(a) A minimum of two police officers shall be provided at least 2 hours prior to the scheduled end of the races. These police officers shall be posted at the corner of Brock Road and Fifth Concession Road West, one-half hour before the completion of the day's racing events, to provide traffic control on all race days, and shall remain there as long as deemed necessary.

(b) In addition to police supervision, the Licensee shall provide a minimum of two security guards to assist in maintaining order on the site, including the grandstands, entrance areas, pit area and parking areas. Security shall remain until patrons and drivers have left the site following the conclusion of the days racing events.

14.(1) No motor vehicles shall be operated on the track, either for practice, testing or racing, except on a day on which races are to be held, and races shall not be held more than one night per calendar week, not to exceed 25 nights per calendar year, save as provided in subsection 14(2).

(2) In addition to the regular racing nights provided for in subsection 14(1), the Licensee shall be permitted to hold races on 8 additional nights per calendar year and the Licensee shall disclose in writing and in advance the dates of such 8 additional nights to the Issuer of Licences.

(3) On the additional racing dates permitted in subsection 14(2) the hours of operation will be as follows;

(a) On five of the eight permitted additional race dates, racing, practicing and testing shall not be permitted to commence before 4:00 p.m. or after 10:45 p.m.

(b) On three of the eight permitted additional race dates, racing, practicing and testing shall not be permitted to commence either:
(i) before 4:00 p.m. or after 10:45 p.m.;

or

(ii) before 12:00 noon or after 6:45 p.m.

(c) Racing, practicing and testing will not be permitted during the afternoon hours and evening hours, as specified in paragraph 14(3)(b), of the same race date.

(4) Races will not be permitted on more than two consecutive dates.

(5) The Licensee shall record the start and finish times of the last race on each race night and submit this record to the Issuer of Licences at the end of the race season.

(6) The Licensee shall report the holding of each of the eight additional racing nights provided for in subsection 14(2) to the City within 48 hours of the holding of each of the additional racing nights. This report shall be in writing and shall be directed to the Issuer of Licences.

(7) Two ambulances shall be provided at every race meet and no race shall proceed unless at least one of the ambulances is still in attendance.

(8) Fire protection shall be provided by the Licensee at all meets. The following minimum equipment shall be provided;

(a) one extinguisher in the pit area;

(b) three extinguishers properly located around the track; and

(c) a fire extinguisher shall also be provided in each booth or room for the sale of refreshments and two additional extinguishers shall be provided beneath the grandstand, or these shall be accessible at all times when races are been conducted. A properly qualified individual shall be assigned to attend each of the foregoing extinguishers.
15. All wrecked motor vehicles must be removed from the premises within twenty-four hours.

16. The Licensee shall provide at least two tow-trucks in attendance at all race meets and for one hour after the race meets for the purpose of being available to remove obstructions caused by accidents in leaving the premises.

17. Adequate parking facilities for the purpose of parking spectators’ cars shall be provided for every four seats in the grandstand.

18. Internal roads leading to sodded parking areas shall be properly graded, drained, gravelled, and maintained at all times, and shall be treated to prevent dust.

19. All parts of the premises including the part surrounded by the paved track and parking areas shall be planted with grass and kept cut at all times, and suitably landscaped.

20. An adequate sewage disposal system shall be provided and maintained. The Licensee shall comply with the provisions of the Health Protection and Promotion Act and the directions of the Medical Health Officer there under.

21. The track during operations shall be illuminated in a manner adequate to provide for safety.

22. All parking areas, entrance roads, pathways, and the stand shall be adequately at all times while the race track is being operated.

23. Alcoholic beverages shall be prohibited at a Motor Vehicle Race Track except on premises licensed under the Alcohol and Gaming Commission of Ontario. This prohibition shall be posted at all entrances, in the pit area and on race track fencing.

24. Upon the breach by a licensee of any of the provisions hereof the right to hold races shall be automatically forthwith suspended until the breach is remedied.
25. As of the commencement of the race season in 2001, all motor vehicles will require mufflers. The standard for the mufflers will be a Magnaflow 11219 muffler or equivalent.

26. Overnight camping is strictly prohibited.

27. The tower lights will be extinguished within fifteen minutes after the completion of the final race.

28. Notwithstanding section 14, practicing and testing of motor vehicles shall be permitted during race season on Tuesdays; with race cars not being permitted on site before 2:00 p.m.; and practicing and testing not to commence before 3:00 p.m. and to be completed no later than 6:00 p.m.

**POSTING OF CERTIFICATES OF INSPECTION**

29.(1) Every person who carries on the business of a public hall shall permit a public health inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at all entrances by which members of the public may enter the premises.

(2) Every person who carries on the business of a public hall shall permit a public health inspector at any reasonable time to remove a Certificate of Inspection which has been posted on the premises.

(3) When a Certificate of Inspection has been removed by a public health inspector under subsection (2), the person who carries on the business of a public hall shall not post a copy of the Certificate of Inspection or a facsimile of the certificate at any location on the premises.
SCHEDULE 18

RECREATIONAL CAMPING ESTABLISHMENTS

LICENCE REQUIRED

1. In this schedule:

(a) "building inspector" means a building inspector of the City;

(b) “campsite” means a parcel of land in a recreational camping establishment designed and intended for accommodation of a recreational vehicle or tent;

(c) “fire chief” means the Chief of the Hamilton Fire Department;

(d) “medical officer of health” means the Medical Officer of Health of the City of Hamilton or a person authorized by him or her;

(e) “members of the public” means person who, while utilizing the facilities and amenities provided by a recreational camping establishment, maintain their ordinary and usual place of residence elsewhere;

(f) “motorhome” means a self-propelled vehicle that includes as an integral part a temporary accommodation for travel, vacation or recreation;

(g) “operator” means every person who by himself or his agents owns or operates a recreational camp;

(h) “person” includes a firm or corporation to whom or to which the context applies;

(i) “potable” means water which is fit for human consumption and satisfies the health related parameters of the Ministry of Environment Ontario Drinking Water Standards;
(j) “recreational camping establishment” means any land in or upon which trailers, motor homes, recreational vehicles, truck campers or campsites are parked, placed, located kept or maintained as the case may be for the temporary occupancy or accommodation of members of the public while they are engaged in recreational activities, whether or not a fee or charge is paid or made in connection with the use of such land;

(k) “recreational vehicle” means a vehicle designed to be utilized as temporary accommodation for travel, vacation or recreational use including, but not restricted to, motorhome, trailers and truck campers;

(l) “site plan” means a scaled graphic illustration of the proposed recreational camping establishment which shall include any details required by the city;

(m) “tent” means a collapsible shelter of canvas or other fabric stretched and sustained by poles;

(n) “trailer” means any vehicle constructed for the purpose of being drawn or propelled by a motor vehicle for use as a temporary accommodation for travel, vacation or recreation; and

(o) “truck camper” means a structure mounted on the bed or chassis of a truck, with or without an over-cab section, for use as a temporary accommodation for travel, vacation or recreation.

2. No person shall own or operate a recreational camping establishment without a current licence under this By-law.

3. Each applicant for an Recreational Camping Establishment licence shall complete the prescribed form, pay all fees and provide such information as Council requires including, but not limited to,

   (a) name and address of the owner;

   (b) name and address of the operator;
(c) location and legal description of the recreational camping establishment;

(d) complete plans and specifications of the existing or proposed Recreational Camping Establishment; and

(e) a site plan including, but not limited to,

(i) the area and dimensions of the tract of land;

(ii) the number, location and size of all campsites;

(iii) the location and width of roadways and walkways;

(iv) the relationship of the proposal to all surrounding land uses;

(v) the design of all common recreational facilities;

(vi) the location of water and sewer lines and river pipes;

(vii) plans and specifications of the water supply and sewage disposal facilities;

(viii) plans and specifications of all buildings constructed or to be constructed within the recreational camp, (pursuant to the application);

(ix) the location and details of lighting and electrical systems; and

(x) the location and details of all signage.

4. Each application submitted for an existing or new Recreational Camping Establishment or for alterations or additions to existing camping establishment shall;

(a) be accompanied by ten copies of the site plan of the camp, the proposed new camp or the proposed alteration or addition; and

(b) be circulated for comment by the Issuer of Licences to;
(i) the Public Health Services Department;
(ii) the appropriate Hydro One Inc.;
(iii) the Building Inspector;
(iv) the Planning Department;
(v) the Fire Chief;
(vi) the Ministry of the Environment;
(vii) the applicable Conservation Authority; and
(viii) the Ministry of Natural Resources.

5. No licence for a new Recreational Camping Establishment shall be issued and no alterations or additions shall be permitted to existing Recreational Camping Establishments prior to the registration of a new Site Plan Agreement or an amendment to an existing Site Plan Agreement.

6.(1) Every corporation applying for an owner’s or operator’s licence shall file with its application,
(a) a copy of its incorporating documents duly certified by the issuing authority; and
(b) a Return in Form 5 supplied by the Issuer of Licences containing a list of all the shareholders of the corporation;
(c) where the shares of the corporation applying for a licence are held in whole or in part by another corporation, the corporation applying for the licence shall file all such Returns for all corporations owning shares until the names of all living individuals are shown and identified as shareholders of any or all corporations having an interest directly or indirectly in the shares of the applicant corporation; and
(d) the Returns mentioned in subsection b), shall be filed with the Issuer of Licences at the same time as the filing of the application.

7.(1) Upon approval, a licence will be issued effective for the calendar year and shall be renewable annually upon payment of the prescribed annual fee.

(2) Recreational Vehicles remaining in the Recreational camping establishment for all or part of the term of the licence shall not be utilized as accommodation except between April 15 and October 31 of the same year.

8. Every person owning or operating a recreational camping establishment shall follow all requirements of the Environmental Protection Act and its regulations and any orders or regulations issued under the authority of any other statute, regulation or by-law.

9. Every person licensed under this by-law is responsible for the observance and performance of all the provisions of this by-law by himself and all others in respect of the place or premises with whom he has a contractual relationship.

10. The licence, together with a copy of this by-law, shall be posted in a conspicuous place in the office or on the premises of the recreational camping establishment.

SITE DESIGN CRITERIA

CAMPSITE REQUIREMENTS

11. Campsites in recreational camping establishments may be used by recreational vehicles, trailers, motor homes, truck campers, tents and motor vehicles, provided that any vehicle bears a current licence plate. If any vehicle does not have a current licence plate it shall be removed immediately from the camping establishment.

12. All recreational vehicles and tents within a camping establishment shall be located on a campsite. Only one removable, non-permanent, pre-fabricated modular addition to a recreational vehicle, shall be permitted.
13. Campsites shall be of such elevation, distance and angle in relation to internal camp streets and the lot access such that placement and removal of recreational vehicle units can be accomplished without impingement on other property or allowing the body chassis of the recreational vehicle to make contact with the ground.

14. Each campsite shall be permanently marked with a lot number and shall have its boundary delineated.

15. Each campsite intended for the placement of a recreational vehicle shall be properly graded and compacted so as to be durable, level and adequate in accordance with accepted engineering practices, for the support of maximum anticipated loads under varying weather conditions.

16. The internal yard requirements of each campsite within the Recreational Camping Establishment shall be,

(a) minimum campsite area, including parking area: 186 sq. meters

(b) minimum lot frontage: 9 meters

(c) minimum lot driveway width: 3.7 meters

(d) minimum clearance between the door side of a Recreational Vehicle or Motor Vehicle and any other Recreational Vehicle, building or extension: 6 meters

(e) minimum clearance between any Recreational Vehicle or Motor Vehicle and any internal street: 3 meters

(f) minimum distance between internal streets, external roadways, except when joining: 7.6 meters
Notwithstanding the above requirements, any Recreational Camping Establishment existing on the date of the passage of By-law 01-156 shall not be required to comply with this section, provided that, in the opinion of the City and any department circulated with a copy of the site plan for the recreational camping establishment under Section 4 of this By-law, the camping establishment does not create any hazard to health or safety.

17. The operator of a recreational camping establishment shall not allow the recreational camp to consist, at any time, of more campsites than in the proportion of thirty-eight campsites for each hectare of land identified in the registered site plan agreement.

RECREATIONAL AREAS

18. Recreational areas shall be suitably graded and shall include play facilities for the use of children.

COOKING AREAS

19. All cooking areas within a recreational camping establishment including barbecue pits, fireplaces, wood burning stoves and incinerators shall be located, constructed, maintained and used so that no fire hazards or smoke nuisance will be created. Fire extinguishers requested by the Fire Chief shall be provided.

SCREENING

20. All recreational camping establishments adjacent to industrial, commercial, institutional or residential land uses shall provide visual screening by fences or natural growth along the adjacent property boundary.

STREETS AND WALKWAYS INTERNAL TO THE RECREATIONAL CAMPING ESTABLISHMENT

21. Any internal streets shall comply with the following,
(a) all internal streets shall be reasonably smooth and free from mud, dust or standing water and shall provide a sound driving surface,

(b) all roadways are to be constructed of a granular “A” or granular “C” material, as specified by the Ministry of Transportation, to a depth of 150 mm,

(c) street widths shall not be less than,

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(d) minimum cul-de-sac or dead-end street turning circle shall have a 15 meters radius, and

(e) the maximum grade shall be ten percent.

Notwithstanding the above requirements, any recreational camping establishment on date of the passage of By-law 01-156 shall not be required to comply with subsections (c), (d), and (e) of this section provided that, in the opinion of the City and any department circulated with a copy of the site plan for the recreational camping establishment under Section 4 of this By-law, the camping establishment does not create any hazard to health or safety.

22. All walkways shall comply with the following,

(a) walkways shall provide a sound walking surface, reasonably smooth and free from mud, dust or standing water at all times when the camp is in operation;

(b) minimum walkway width shall be one meter, and

(c) all walkways leading from an internal street to a service or recreational building used at night shall be illuminated between sunset and sunrise.
SANITARY FACILITIES

23. Every toilet convenience, bathroom, privy, washroom, semi-private bathroom, plumbing installation, sewage disposal system and equipment used in the maintenance thereof shall comply with the Health Protection and Promotion Act, the Environmental Protection Act, all their regulations and any orders or regulations issued under the authority of any statute, regulation or by-law.

In addition to the above, every applicant and licence holder shall ensure that the Recreational Camping Establishment is provided with sanitary facilities in sufficient quantity, location and condition satisfactory to the City and the Public Health Services Department.

WATER SUPPLY

24. Every operator of a recreational camp shall ensure that the water supply of each camp operated by him is,

(a) obtained from a source or sources approved by the medical officer of health,

(b) sufficient to meet the requirements of the campers and employees of the camping establishment, and

(c) potable.

25. For unserviced lots potable water shall be available at a station designed exclusively for the supply of such water.

REFUSE HANDLING & DISPOSAL

26. Every applicant and licence holder shall ensure that the Recreational Camping Establishment is provided with refuse handling and disposal equipment and collection methods to ensure that in the opinion of the City and the Public Health Services Department, a clean and sanitary environment is provided and that refuse is properly disposed of. Furthermore, every Recreational Camping Establishment is to provide bins for the recycling materials which are able to be recycled, and shall provide for the collection of such recyclable material.
27. Recreational vehicle sewage disposal stations or sanitary stations for the purpose of removing and disposing of wastes from holding tanks shall be located in accordance with setbacks established by the regulations under the Environmental Protection Act to the satisfaction of the Public Health Services Department. Notwithstanding the above requirements, any Recreational Camping Establishment existing on the date of the passage of By-law 01-156 shall not be required to comply with this section, provided that, in the opinion of the City and any department circulated with a copy of the site plan for the recreational camping establishment under Section 4 of this Schedule, the camping establishment does not create any hazard to health or safety.

28. Each recreational vehicle sewage disposal station shall consist of a drainage basin constructed of impervious material containing a disposal hatch, self-closing cover and related washing facilities. Such stations should be provided on the basis of one for every one hundred self-contained units or fractional part thereof.

FIRE PROTECTION

29. The operator shall ensure that all buildings and structures in a recreational camping establishment meet all requirements of the Fire Code under the Fire Protection and Prevention Act, 1997.

REGISTRATION

30. Each camp operator shall maintain records of persons, motor vehicles and recreational vehicles accommodated in the recreational camp. Such registers shall contain the following information,

(a) the name and home address of each person staying at the Recreational Camping Establishment,

(b) the licence number and the name of the registered owner of each recreational vehicle or motor vehicle staying at the Recreational Camping Establishment,

(c) the name or number of the campsite occupied, and
(d) the date of arrival and departure of each person accommodated.

31. An entry in the register described in section 31 shall be preserved for at least three years from the date of entry.

32. The owner/operator of the Recreational Camping Establishment shall, upon reasonable notice, produce the register for inspection on the premises by the Issuer of Licences.
SCHEDULE 19

DELETED – REPEALED 2012
PART I: INTERPRETATION

1. In this Schedule:

   “activities of daily living” means the activities of an individual that maintain their sufficient nutrition, hygiene, warmth, rest and safety;

   “additional care” means community services such as long term care services, or rehabilitative services that can be provided to a tenant either in the residential care facility or in the community;

   “ambulatory” means in respect of an individual, that they are independently mobile, by mechanical or any other means, or with minimal assistance of another person;

   “attic” means the space between the roof and the ceiling of the top storey of a residential care facility or between a dwarf wall and a sloping roof of a residential care facility, which is not finished in such a way as to provide suitable habitation for tenants;

   “basement” means a storey of a residential care facility located below the first storey which is more than 50 per cent below grade or which is not finished in such a way as to provide suitable habitation for tenants;

   “care services” means advice, information, or supervision provided to tenants in the activities of daily living and may also include:

       (a) periodic personal care, as required, such as the giving of medications, bathing assistance, assistance with feeding, incontinence care, dressing assistance, assistance with personal hygiene, and ambulatory assistance;
       (b) provision of recreational or social activities, housekeeping, laundry services, and assistance with transportation;
       (c) personal emergency response services, including assistance in evacuating
under emergency conditions due to mental limitations and/or developmental handicaps and limitations of the tenants;

“drug” means any substance or mixture of substances manufactured, sold or represented for use in:

(a) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in an individual; or

(b) restoring, correcting or modifying of organic functions in an individual;

“Guidelines” means the guidelines for the operation of facilities licensed under this Schedule, which the Medical Officer of Health is authorized to issue under subsection 57(a);

“long term care facility” means a nursing home under the Nursing Homes Act, an approved charitable home for the aged under the Charitable Institutions Act or a home under the Homes for the Aged and Rest Homes Act provided that on the day the Long-Term Care Homes Act, 2007 comes into force, “long term care facility” means a place that is licensed under that Act;

“Officer” means:

(a) a building inspector of the Building Division of the Planning and Economic Development Department;

(b) an inspector of the Fire Department;

(c) a public health inspector employed in the Public Health Services Department;

(d) a registered nurse employed in the Public Health Services Department;

(e) an officer appointed by the Issuer of Licences.

“operator” means a person licensed under this Schedule to operate a residential care facility;
“physician” means a legally qualified medical practitioner;

“prescribed”, when used with reference to a drug or mixture of drugs, means that a legally qualified medical practitioner or a dentist has directed the dispensing of the drug or mixture of drugs to a named individual;

“prescription drug” means a drug that may be dispensed by a pharmacist only upon the direction of a physician or dentist;

“rehabilitative services” means services for a person with a physical, mental, or developmental handicap, and includes,

(a) homemaker services,

(b) day care,

(c) training and rehabilitation,

(d) casework and counselling, and

(e) training in life skills;

“residential care facility” means a residential complex that is:

(a) occupied or intended to be occupied by four or more persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy; or

(b) licensed or required to be licensed under the Retirement Homes Act, 2010,

and the term “facility” has a corresponding meaning.

“residential care facility information package” means an information package that contains the information required to be contained in an information package under section 140 of the Residential Tenancies Act, 2006 including notice that a complaint
about the operation of the facility may be made by telephoning the City of Hamilton’s Public Health Services at 905-546-2063;

“single facility incident” means a situation, or the likelihood of an impending situation, which could reasonably be expected to have an abnormal effect on the health, safety, welfare, or personal property of one or more tenants of a facility, and which, because of its nature or magnitude, requires a controlled and co-ordinated response by the operator;

“tenant of a facility” means a person, other than an operator or employee, who

(a) resides in a residential care facility, and to whom the operator provides care services;

(b) is ambulatory; and

(c) has decreased physical or mental functional ability;

and the term “tenant” has a corresponding meaning; and

“volunteer” means a person, other than an operator or an employee, who, as part of an organized volunteer program, provides services or work at a residential care facility for no wage or salary.

PART II: LICENSING

GENERAL

2. No person shall operate a residential care facility without a licence.

2.1 The following provisions of this Schedule do not apply with respect to tenants subject to the Retirement Homes Act, 2010 but only to the extent that tenants of the same facility not subject to the Retirement Homes Act, 2010 are unaffected:

subsection 5(1)(e);
section 7;
subsection 12(c);
paragraphs 12(f)(ii) to (v);
subsection 12(g);
section 13 to the extent that the section applies to volunteers;
section 15;
section 16;
section 17;
sections 32 to 53.

3. A licence shall not be issued for a facility established after October 1, 1980, which is situated in a location where, at any hour, the noise level exceeds 58 decibels.

4. The authorized capacity of a facility, as determined by the Medical Officer of Health, and the provisions of the applicable zoning by-laws, shall be endorsed on the licence issued to the facility.

INFORMATION TO BE PROVIDED BY APPLICANT

5.(1) Every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, before the licence may be issued:

(a) a signed form certifying that the applicant is at least eighteen years of age at the time of application;

(b) a copy of an Ontario Secondary School Graduation Diploma or evidence satisfactory to the Issuer of Licences of equivalent standing from the Ontario Ministry of Education and Training;

(c) evidence satisfactory to the Issuer of Licences of employment experience in work comparable to the administration of the facility which they propose to operate;

(d) a premises plan of the residential care facility showing all buildings or other structures, parking areas and walkways on the property where the residential care facility is located and all entrances/exits, bedrooms, beds, clothes closets, dining areas, sitting rooms and toilet facilities, sitting rooms in the residential care facility;
and

(e) a single facility incident plan satisfactory to the Medical Officer of Health which shall include the premises plan under paragraph (d).

(2) Paragraph (1)(b) does not apply to a person who was the holder of a licence to operate a residential care facility under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force.

6. Every applicant for a licence or a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licences before the licence is issued or renewed, the following:

(a) upon applying for a licence and every third year thereafter, upon applying for a licence renewal, a certificate from the Electrical Safety Authority that the facility complies with the *Ontario Electrical Safety Code*;

(b) a certificate from the Medical Officer of Health, that the facility complies with the applicable health and safety standards in this Schedule;

(c) a certificate from the insurer of the facility, that the insurance coverage required under subsection 12(i) of this Schedule is in effect for the facility; and

(d) documentation as required under section 14 as to the age and education of the operator’s employees.

7. Every applicant for a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licence before the licence is renewed an updated single facility incident plan satisfactory to the Medical Officer of Health.

8. Where the applicant for a licence or for a licence renewal is a corporation or a partnership, at least one officer or director of the corporation or one partner of the partnership shall submit, in respect of themselves, the certificates or other documents required to be submitted by an individual under the General Provisions of this By-law or
under this Schedule.

9. Every operator shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of this By-law or this Schedule.

EXPIRATION

10. No licence issued under this Schedule is transferable.

11. Where:

   (a) by a transfer of existing shares, by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or

   (b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner or the partnership is determined by the Issuer of Licences to have ceased to exist,

   a licence issued under this Schedule shall be deemed to have expired.

PART III: OPERATOR

GENERAL

12. The operator shall:

   (a) ensure that the applicable provisions of this Schedule, including the Guidelines, are complied with;

   (b) provide a certificate from the Electrical Safety Authority that the facility complies with the Ontario Electrical Safety Code as required by the Issuer of Licences;

   (c) keep a copy of the single facility incident plan in the facility in a readily accessible location;
(d) ensure that there are no firearms and no prohibited or restricted weapons, as set out in federal statutes, regulations, Orders in Council or otherwise by the federal government, kept in the facility;

(e) ensure that access to a telephone is available at all times within the facility;

(i) for employees and volunteers; and

(ii) for tenants of the facility:
  1. with its own, separate line;
  2. in a private setting, not including a lobby, hallway or passageway;
  3. where a tenant using the telephone cannot be easily overheard;

(f) post in a conspicuous place in the facility:

(i) the current licence for the facility;

(ii) a notice stating the name of the operator or an employee who is present at the facility and has the primary duty of supervising the tenants as required under paragraph 17(2)(a);

(iii) a notice stating the operator’s name, address and telephone number, and the name, address and telephone number of the employee who has been designated under paragraph 17(2)(a);

(iv) a notice stating the operator is licensed by the City of Hamilton and that a complaint about the operation of the facility may be made by telephoning the City of Hamilton at 905-546-2063;

(v) rules for the conduct of employees and tenants of the facility;

(vi) a notice of the collection of personal information in a form approved by the Issuer of Licences which contains:

  1. the legal authority for the collection of personal information about tenants
and employees of the facility by Officers;

2. the principal purpose or purposes for which the personal information is intended to be used; and

3. the title, business address and business telephone number of an officer or employee of the City who can answer questions from individual tenants and employees of the facility about the collection of their personal information;

(g) comply with all applicable access to information and protection of privacy legislation;

(h) ensure that the authorized capacity of the facility is not exceeded; and

(i) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from the operation of the facility, with an inclusive limit of at least one million dollars ($1,000,000) per claim or occurrence, is in force at all times when one or more tenants is present in the facility.

(j) where both tenants who are subject to the Retirement Homes Act, 2010 and tenants who are not subject to the Retirement Homes Act, 2010 reside in the facility, ensure that:

   (i) an up-to-date list of tenants who are not subject to the Retirement Homes Act, 2010 is maintained; and

   (ii) the person with the primary duty of supervising the tenants under paragraph 17(2)(b) provides the list and identifies tenants who are not subject to the Retirement Homes Act, 2010 immediately upon the request of an Officer.

EMPLOYEES AND VOLUNTEERS

13.(1) The operator shall give every employee and volunteer a notice of the collection of information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about employees and volunteers, at the time when an individual commences employment or volunteering at the facility.
(2) The notice under subsection (1) shall also contain:

(a) the legal authority for the collection of personal information about employees or volunteers by Officers;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from an employee of or a volunteer at the facility about the collection of the employee’s or volunteer’s personal information.

(3) Where the operator has not given an employee or volunteer a notice under subsection (1), the operator shall give the employee or volunteer a letter in a form approved by the Issuer of Licences and the Medical Officer of Health which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Issuer of Licences.

(4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to an employee or volunteer within seven days after being directed to do so by an Officer.

14. The operator shall provide evidence satisfactory to the Issuer of Licences, within seven days after an employee commences employment, that the employee:

(a)(i) is sixteen years of age but less than eighteen years of age; or

(ii) eighteen years of age or older;

(b) if the employee is eighteen years of age or older;

(i) has an Ontario Secondary School Certificate, or equivalent standing; or
(ii) employment experience, satisfactory to the Issuer of Licences, in comparable work;

(c) whose duties require communication with the tenants, is able to communicate clearly and effectively with the tenants.

15.(1) The operator shall provide evidence satisfactory to the Issuer of Licences within thirty days after an employee commences employment that the employee has successfully completed of the new staff in-service orientation training as described in the Guidelines.

(2) Where an employee’s duties involve the supervision of tenants, the operator shall provide evidence satisfactory to the Issuer of Licences within thirty days of each six month period after the employee commences employment that the employee has successfully completed at least five hours of continuing education as described in the Guidelines.

16. The operator shall provide evidence satisfactory to the Issuer of Licences, within seven days after an employee commences employment or a volunteer commences volunteering, that the employee or volunteer has had a negative TB test not more than thirty days before commencing employment or volunteering.

RESPONSIBILITY FOR OPERATION AND SUPERVISION

17.(1) In this section “employee” means an employee who is eighteen years of age or older.

(2) The operator shall ensure:

(a) that one employee is designated as the individual responsible for the operation of the facility and can be contacted immediately at the telephone number posted for that employee under subsection 12(f) at any time when the operator cannot be contacted immediately at the telephone number posted for the operator under subsection 12(f);
(b) that at all times, the operator or an employee is present at the facility who has the primary duty of supervising the tenants and is able to carry out this duty without interference, including but not limited to any interference caused by other duties or by distractions; and

(c) the safety of the tenants while the tenants are at the facility.

OPERATIONS AND MAINTENANCE

Water Supply

18. The operator shall ensure that there is an adequate supply of potable and of hot water:

(a) which can provide at least 227.303 litres (50 gallons) for each tenant and employee, per day;

(b) of at least .362 kilograms pressure per square centimetre (8 pounds per square inch), when a fixture is in use; and

(c) for water serving all bath tubs, showers and hand basins used by tenants, of a temperature of not more than 49° Centigrade (120° Fahrenheit) and controlled by a device, inaccessible to the tenants, that regulates the temperature.

Bedrooms and Storage

19. The operator shall ensure that:

(a) a bedroom for a tenant or tenants in a facility established before October 1, 1980 provides a minimum of 16.8 cubic meters (600 cubic feet) of air space and 6.96 square meters (75 square feet) of floor space for each tenant;

(b) a bedroom for a tenant or tenants in a facility constructed, renovated, added to or altered on or after June 1, 1980 provides a minimum, exclusive of the space provided for built-in or portable clothes closets, of:

(i) 10.22 square meters (110 square feet) of floor space in a single-bed unit,
provided that this area may be reduced to 9.30 square meters (100 square feet) where the facility provides a living room and one or more dining area;

(ii) 16.72 square meters (180 square feet) of floor space in a two-bed unit;

(iii) 25.08 square meters (270 square feet) of floor space in a three-bed unit;

(iv) 29.73 square meters (320 square feet) of floor space in a four-bed unit;

(c) a bedroom for more than one tenant shall be arranged so that all beds are at least .91 meters (3 feet) apart;

(d) a bedroom for one or more tenants:

(i) has one or more windows to the outside that:

1. except where another means of ventilation is provided, can be opened to provide an open area of at least 5% of the floor area of the room;

2. is not less in total area than 10% of the floor area of the room; and

3. is screened from May 1 to October 31;

(ii) is not to be part of a lobby, hallway, passageway, closet, bathroom, stairway, basement, attic, kitchen, storage room, boiler room, laundry room, activity room, utility room, chapel, sitting room, administrative office, or tenant examination room;

(e) a bedroom is provided with a door and a lock which is of a type that can be:

(i) secured by the tenant or tenants of the bedroom when they are inside or outside of the bedroom; and

(ii) opened from the outside by the operator or an employee in case of an emergency;

(f) every bed provided for a tenant of a facility is of a minimum width of 91.44 centimetres (36 inches);
(g) a bedroom in a facility in respect of which a licence was not issued under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force, does not contain more than two beds;

(h) where more than one bed is located in a bedroom, a moveable partition is provided between the beds to ensure the privacy of each tenant, unless the tenants who occupy the bedroom jointly inform the operator that they do not require such a partition;

(i) sufficient clean towels, face cloths and bed linen are provided for use of the tenants of a facility, with a supply of such linen:

   (i) available at all times in the facility: and

   (ii) changed at least one a week;

(j) a clothes closet is provided for each tenant in their bedroom;

(k) secure storage space, no less than 0.15 m³ in size and accessible only to the tenant and the operator, is provided for each tenant; and

(l) a rack on which to hang towels and face cloths is provided for each tenant.

**Dining Area**

20. The operator shall ensure that one or more dining areas is provided, with a minimum floor space of 1.85 square meters (20 square feet) per tenant and capable of accommodating at least one half of the authorized capacity of the facility at one time.

**Sitting Rooms**

21. The operator shall ensure that:

   (a) one or more sitting rooms is provided within each facility;
(b) the minimum total space for a sitting room shall be the greater of:

(i) an area equal to 1.39 square meters (15 square feet) of floor space for each tenant; or

(ii) 11.148 square meters (120 square feet).

**Toilet Facilities**

22. The operator shall ensure that:

(a) a toilet room or bathroom are not within, or open directly into, any dining room, kitchen, pantry, food preparation room, or storage room;

(b) a toilet is not located within a bedroom;

(c) toilet facilities are provided in at least the following ratios:

(i) for an authorized capacity of four to seven tenants: one wash basin, one flush toilet, and one bath tub or shower;

(ii) for an authorized capacity of a fraction of seven tenants beyond the first seven: one wash basin and one flush toilet; and

(iii) for an authorized capacity of each additional seven tenants beyond the first seven: one wash basin, one flush toilet, and one bath tub or shower;

(d) a bathroom, toilet, or shower room is provided with a door and a lock which is of a type that can be readily released from the outside in case of an emergency;

(e) one bathroom toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where one or more such persons have been admitted to the facility as tenants;

(f) the bottom of each bath tub is furnished with non-skid material; and
(g) each bath tub and each toilet is furnished with at least one grab bar or similar device of a type that will ensure the safety of tenants.

Waste

23. The operator shall ensure that waste is stored in receptacles which are:

(i) insect and rodent-proof;

(ii) water-tight;

(iii) provided with a tight-fitting cover; and

(iv) kept clean.

Lighting

24. The operator shall ensure that lighting of the exterior and interior of the facility complies with ANSI/IESNA RP-28-07 (the “Recommended Practice for Lighting and the Visual Environment for Senior Living” approved by the Illuminating Engineering Society of North America) as amended or replaced from time to time.

Ventilation

25. The operator shall ensure that every room shall be adequately ventilated by natural or mechanical means and shall be so designed and installed that it meets the applicable requirements of the Ontario Building Code.

Ramps and Stairways

26. The operator shall ensure that guard, handrail and slip-resistance requirements for ramps and stairways shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.
Floors

27. The operator shall ensure that non-skid finishes and coverings are installed on every floor.

Balconies

28. The operator shall ensure that balustrades for balconies shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

Construction and Zoning

29. The operator shall ensure that:

(a) no construction, renovation, addition or alteration of a facility is carried out, except in compliance with this Schedule, ANSI/IESNA RP-28-07 as amended or replaced from time to time, the Ontario Building Code, the Ontario Fire Code, and under a valid building permit; and

(a) the applicable zoning by-laws are complied with.

30. The operator:

(a) shall submit to the Issuer of Licences an operational plan, addressing the operation of their facility during construction, renovation, addition or alteration, a minimum of 90 days before commencing such construction, renovation, addition or alteration; and

(b) shall not commence construction, renovation, addition or alteration of a facility until the Issuer of Licences has given them written approval of the operational plan submitted under subsection (a).

General Health and Safety

31. The operator shall ensure that:
a. the facility is kept in a clean and sanitary condition, including but not limited to providing for professional pest control as needed;

(b) the facility is free from hazards to the safety of tenants of the facility, employees, volunteers or visitors;

(c) the facility is supplied with heat in accordance with City of Hamilton By-law 04-091 with respect to the supply of adequate and suitable heat for rental residential premises;

(d) all food storage, preparation and service areas meet the requirements of the Food Premises Regulation under the *Health Protection and Promotion Act*; and

(e) the facility meets all requirements of the Building Code under the *Building Code Act, 1992* and of the Fire Code under the *Fire Protection and Prevention Act, 1997*.

**PART IV: ADMISSION OF TENANTS**

32.(1) The operator shall give every individual a notice of the collection of personal information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about tenants before obtaining an assessment of the individual under section 33.

(2) The notice under subsection (1) shall also contain:

(a) the legal authority for the collection of personal information about tenants by inspectors;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from a tenant of the facility about the collection of his or her personal information.
(3) Where the operator has not given a individual the notice under subsection (1) and the individual has been admitted as a tenant, the operator shall give the individual a letter in a form approved by the Issuer of Licences and the Medical Officer of Health, which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Issuer of Licences.

(4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to a tenant within seven days after being directed to do so by a registered nurse employed in the Public Health Services Department.

33. (1) Prior to admitting an individual as a tenant of a facility, the operator shall obtain an up-to-date assessment from a physician or other member of a regulated health profession employed by a referring agency designated in the Guidelines, which provides an opinion as to the level of care services the individual requires.

(2) An operator shall determine on the basis of the assessment referred to in subsection (1), and the criteria for admission set forth in the Guidelines, whether the level of care services which is provided in the home is adequate to meet the individual’s needs in relation to the activities of daily living.

34. An operator shall not admit an individual as a tenant who is not ambulatory, who for the protection of themselves or others requires placement in a locked unit or who requires a level of care services which the operator is not authorized to provide in the facility, except in accordance with the Guidelines.

35. An operator shall not admit an individual as a tenant without:

(a) their consent; or

(b) the consent in writing of their next-of-kin, or attorney for personal care, as the case may be, if the individual has been declared mentally or physically incapable of giving consent.

36. The operator shall enter into a written tenancy agreement with each individual who is admitted as a tenant of the facility and shall give each such individual a residential care facility information package prior to entering into the tenancy.
agreement.

PART V: CARE SERVICES

37. The operator shall provide care services to each tenant in a facility in accordance with the Guidelines.

DRUGS

38. The operator shall ensure that all prescription drugs:

   (a) are kept in one or more locked drug cabinets, unless the drug requires refrigeration, or must be kept with the tenant for immediate use; and

   (b) are made available only:
       (i) to those tenants for whom they have been prescribed, as directed by a physician;
       (ii) in a unit-dose medication dispensing system as described in the Guidelines.

39. The operator shall allow self-medication by the tenants of a facility under specified conditions set out in the Guidelines.

40. If a tenant is prescribed a drug that is a controlled substance as defined in the Controlled Drugs and Substances Act (Canada) and the operator has not completed a medication course as described in the Guidelines within the preceding twelve months, then they shall complete such a medication course no more than thirty days after the drug has been prescribed.

NUTRITIONAL CARE

41. The operator shall ensure that the tenants of a facility are served daily sufficient food of good quality and adequate nutritional and caloric value as described in the Guidelines.

INFECTION CONTROL
42. The operator shall ensure that all requirements for the control of infectious diseases that are set forth in Guidelines are complied with, including recommendations for tuberculosis screening, immunization programs, reporting requirements, and outbreak control measures.

**MEDICAL CARE**

43.(1) Each tenant of a facility or their next-of-kin, or attorney for personal care, as the case may be, shall arrange for emergency medical care for the tenant, as required.

(2) Where the tenant, their next-of-kin, or attorney for personal care is unable to arrange for emergency medical care, or where such emergency medical care is unavailable, the operator shall arrange for emergency medical care for the tenant.

44. The operator shall allow a tenant’s physician or a member of a regulated health professional who is providing care or treatment to a tenant to enter the facility at any reasonable time for the purpose of attending to the health of the tenant.

**ADDITIONAL CARE**

45.(1) Wherever the tenant’s physician, the operator, the Medical Officer of Health, or a member of a regulated health profession who is employed by a referring agency designated in the Guidelines, determines that a tenant requires additional care services for their special needs and the tenant, their next-of-kin, or attorney for personal care has not arranged for such additional care, the operator shall ensure that such additional care is made available to the tenant while the tenant continues to reside in the facility.

(2) In ensuring that additional care services are provided under subsection (1), the operator shall:

(a) consult with the tenant, their next-of-kin, attorney for personal care and/or a community worker, and prepare a plan which shall include a description of the health issue and the services being provided to address that health issue and which may include additional care services, such as additional personal care services and/or rehabilitative services;
(b) ensure that additional personal care services are provided through a referral to a community care access centre or to a private community agency;

(c) where the tenant requires rehabilitative services, support the tenant’s rehabilitative goals in the facility and in the community, which may include assisting tenant with meal preparation, laundry, household duties and self-medication.

46. The operator or the employee designated under paragraph 17(2)(a) shall inform the tenant, as soon as possible, of the provisions of section 148 of the *Residential Tenancies Act, 2006* and may arrange for the transfer of the tenant:

(a) to a long term care facility or other appropriate living arrangement, with the agreement of the tenant, where an operator is informed by:

(i) a community care access centre that a tenant of a facility is eligible for admission to a long term care facility;

(ii) the tenant’s physician or the Medical Officer of Health, that the tenant no longer requires the level of care services which the facility is authorized to provide; or

(iii) the tenant’s physician or the Medical Officer of Health, that the tenant requires a level of care services that the operator is not authorized to provide; or

(b) to a long term care facility, with the agreement of the tenant, where a tenant requires placement in a locked unit for the protection of themselves or others.

47. The operator shall ensure that no facility is equipped with a locked unit provided that the Operator of any facility with a locked unit on date of passage shall make the necessary changes such as removing locks as soon as possible to eliminate such locked units.
48.(1) Where a tenant is transferred from a residential care facility to a long term care facility or to another facility licensed under this By-law, the operator shall request the tenant, or, if they are unable to act, their next-of-kin or attorney for personal care, to complete an authorization in Form 1 for the release of information pertaining to the tenant to the long term care facility or other licensed residential care facility.

(2) Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, the operator shall complete a transfer in Form 2.

PART VI: RECORDS AND REPORTS

49.(1) The operator shall maintain an up-to-date, alphabetical list of the tenants of a facility which includes the name, sex, date of birth, age and date of admission of each tenant.

(2) The operator shall maintain a separate file for each tenant, which contains the following information:

(a) sex, date of birth, age, date of admission and date of discharge or death;

(b) name, address and telephone number of next-of-kin;

(c) name and telephone number of the tenant’s attorney for personal care, if any;

(d) the name and telephone number of the tenant’s physicians;

(e) completed assessment;

(f) the name, address and telephone number of any community agency which is providing support to the tenant;

(g) tuberculin or chest x-ray testing results, and the dates thereof;

(h) a brief medical history of the tenant, in respect of the care services provided by
the operator under the tenancy agreement (section 36) or any additional care services made available by the operator (subsection 45(1)), from the date of their admission, including medication information, laboratory results, physicians’ orders and staff notes or other records necessary to determining the level of care services provided;

(i) a residential care facility information package;

(j) particulars of each accident suffered by the tenant while in the facility; and

(k) any completed Form 1, Form 2 or Form 3.

50. The operator shall make a record in Form 3 of every occurrence with respect to a tenant of assault, injury or of death that has been reported to coroner, and shall place the completed Form 3 in the tenant’s file and keep it available for inspection by the Medical Officer of Health.

51. The operator shall ensure that any document or other record of any kind which contains personal information about a tenant, other than the personal information described in subsections 49(1) and (2) and section 50, is maintained in a file which is separate from the file which is maintained pursuant to subsection 49(2) or any other provisions of this Schedule or the Guidelines.

52. The operator shall ensure that any document or other record of any kind which contains personal information about the performance of duties by an employee of their facility, other than personal information described in sections 14, 15 and 16 and subsections 12(f), is maintained in a file which is separate from the file which is maintained pursuant to the provisions of this Schedule or the Guidelines.

53. The operator shall ensure that documents or records which are kept pursuant to this Schedule or the Guidelines are kept for at least one year after the tenant, employee or volunteer ceases to be a tenant, employee or volunteer respectively.
PART VII: INSPECTION AND ENFORCEMENT

54.(1) The Medical Officer of Health, the General Manager of Planning and Economic Development, the Chief Fire Prevention Officer, the Chief of the City of Hamilton Police, the Issuer of Licences, or an Officer, at all reasonable times, may inspect any facility and the list of tenants required by subsection 49(1) where that subsection is applicable.

(2) The Medical Officer of Health or a member of a regulated health profession authorized by them, at all reasonable times, may inspect the file of any tenant required by subsection 49(2) where that subsection is applicable.

55. The operator shall allow the Medical Officer of Health or a member of a regulated health profession authorized by them, as often as they deem reasonably necessary, to make inspections of the facility and its operation in order to determine compliance with this Schedule.

56. The Medical Officer of Health, the Issuer of Licences, the General Manager of Planning and Development and the Chief Fire Prevention Officer are authorized to enforce the provisions of this Schedule which are within their respective jurisdiction, and to serve such notices and make and serve such orders as may be necessary to ensure compliance by the operator.

57. The Medical Officer of Health may:

(a) issue Guidelines for the operation of facilities licensed under this By-Law, including any matters relating to the health, safety, and well-being of the tenants of a facility, and shall provide a copy of any such Guidelines and any subsequent additions or revisions to the operator of each facility licensed under this By-Law;

(b) prescribe the format and content of any forms or other documents required under this Schedule;

(c) designate the referring agencies which may employ a member of a regulated health profession for the purposes of making an assessment under subsection 33(1) and making a determination under subsection 45(1).
SCHEDULE 21

FOOD PREMISES

INTERPRETATION

1. In this Schedule,

“bar/nightclub” means a food premises when:

(i) the primary purpose of the food premises is any one or more the following:
   1. serving alcohol to customers;
   2. entertaining customers by playing live or recorded music; or
   3. accommodating dancing by customers; and

(ii) the food premises provides seating in a licensed area, as set out in the food premises’ liquor licence, for less than 65% of customers who are served with food or drink;

“Certificate of Inspection” means a certificate in a form approved by the Medical Officer of Health which sets out the results of an inspection or inspections conducted under the Health Protection and Promotion Act or its regulations;

“farmer” means a farmer as defined in the Farming and Food Production Protection Act, 1998;

“food premises” means a premises where food or drink for human consumption is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, not including a premises that is:

a. a dwelling unit, except a dwelling unit used as a food premises home business;

b. entirely exempt from R.R.O. 1990, Reg. 562 entitled “Food Premises” under section 2 of that Regulation;

c. in part exempt from R.R.O. 1990, Reg. 562 entitled “Food Premises” under section 3 of that Regulation; or
d. operated by a farmer, selling or offering for sale primarily produce from his or her agricultural operation;

“Hess Village Entertainment District” means the geographic area in the City bordered by Caroline Street to the East, Main Street to the South, Queen Street to the West and King Street to North as shown in the map attached as Appendix A to this Schedule;

“Hess Village Entertainment District licence holder” means the holder of a licence under this Schedule who, under that licence, operates a bar/nightclub at premises located in the Hess Village Entertainment District;

“home business” means a use conducted as a business in a dwelling unit which is secondary to the use of the dwelling unit as a private residence;

“public health inspector” means a public health inspector employed in the Public Health Services Department;

“security guard” means a person:

(i) whose exclusive responsibility or duty while engaged or hired by a bar/nightclub is to guard or patrol the premises for the purpose of ensuring orderly conduct and protecting persons or property; and

(ii) who is licensed as a security guard under the Private Security and Investigative Securities Act, 2005; and

“Special Duty Police Officer” means a police officer who is a member of Hamilton Police Services.

LICENCE REQUIRED

2. No person shall operate a food premises without a licence.

3. When submitting an application for a licence, an applicant for a licence under this Schedule shall submit a detailed premises plan, drawn to scale, of the food premises that has been approved by the Issuer of Licences and the details of
such premises plan shall include but are not limited to depicting the location, as applicable, of parking areas, queuing areas, walkways, smoking areas, patios, seating areas, offices, cloak rooms, dance areas, disc jockey areas, kitchen facilities, bar areas, washrooms, storage areas and entrances/exits.

4. No licence holder under this Schedule shall change or cause a change to be made to a premises plan without first obtaining the approval of the Issuer of Licences.

DUTIES OF OPERATOR

5. Every person operating a food premises shall be responsible for keeping the premises clean and orderly and maintained in all respects suitable for the purpose for which they are used, and for keeping the premises adequately lighted and ventilated.

PUBLIC HEALTH APPROVAL

6. A licence to operate a food premises shall not be issued until a public health inspector has informed the Issuer of Licences that all requirements under the Health Protection and Promotion Act and its regulations have been fully complied with.

POSTING OF CERTIFICATES OF INSPECTION

7.(1) Every person who operates a food premises shall permit a public health inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at all entrances by which customers may enter the premises.

(2) Where a premises described in subsection (1) does not have an entrance by which customers may enter the premises, the person who operates a food premises shall permit a public health inspector to post a Certificate of Inspection in a clearly visible and conspicuous location at the pick-up window or other location in the premises from which customers are served.

(3) Every person who operates a food premises shall permit a public health inspector at any reasonable time to remove a Certificate of Inspection which has been posted at the premises.
(4) When a Certificate of Inspection has been removed by a public health inspector under subsection (3), the person who operates a food premises shall not post a copy of a Certificate of Inspection or any facsimile of the certificate at any location on the premises.

DUTIES OF BAR/NIGHTCLUB OPERATORS

8. In addition to complying with sections 2 to 7 inclusive of this Schedule,

(a) no person shall operate a food premises as a bar/nightclub, unless upon applying for a licence and every third year thereafter, upon applying for a licence renewal, they have submitted to the Issuer of Licences a certificate from the Electrical Safety Authority that the premises complies with the Ontario Electrical Safety Code;

(b) no person shall operate a food premises as a bar/nightclub unless, before the operation of the bar/nightclub commences, they have submitted to the Issuer of Licences:

(i) a noise control plan, satisfactory to the Issuer of Licences, which includes a description of:
   1. the maximum volume levels for music within the premises;
   2. the wattage of the music or sound-producing systems used on the premises; and
   3. the sound insulation methods or mechanisms used within the building; and

(ii) a crowd control plan, satisfactory to the Issuer of Licences, which includes a description of the manner in which people seeking entry or re-entry to the premises may line up outside of the premises prior to entry, including:
   1. the location of such line ups;
   2. the maximum number of people permitted to be in such line ups; and
   3. the procedures used to monitor the line ups; and
(iii) the name and telephone number of the person(s) designated as the individual responsible for the operation of the bar/nightclub who can be contacted immediately at the telephone number submitted;

(c) every person who operates a food premises as a bar/nightclub shall, at all times when the bar/nightclub is open, ensure that:

(i) the bar/nightclub is operated in accordance with the noise control plan under paragraph (b)(i) and the crowd control plan under paragraph (b)(ii);
(ii) a person designated as the individual responsible for the operation of the bar/nightclub under paragraph (b)(iii) is at the premises;
(iii) the premises are staffed with at least one security guard for every 100 customers in attendance at the premises; and
(iv) all security guards wear identification or clothing by which they can readily be identified as security guards; and

(d) every person who operates a food premises as a bar/nightclub shall, at all times, ensure that all areas immediately adjacent to the premises are clean and free of waste and shall install and maintain containers for the deposit of waste.

HESS VILLAGE ENTERTAINMENT DISTRICT

9. Sections 10 to 13 inclusive of this Schedule apply to Hess Village Entertainment District licence holders who operate their food premises as bar/nightclubs, as the Hess Village Entertainment District:

(a) has the highest concentration, in terms capacity, of bars/nightclubs, many with outdoor patios, in the City; and

(b) from April 15 to November 15 each year has a large number of individuals attending such bars/nightclubs resulting in:

(i) significant noise, litter and other nuisances, such as urination in public places in and around the Hess Village Entertainment District;
(ii) line-ups to enter the bars/nightclubs that pose a safety risk to pedestrian and vehicular traffic, including inhibiting the flow of traffic along Hess Street; and

(iii) additional issues related to nuisance and safety resulting from the large number of individuals in attendance and the consumption of alcohol, in particular when such bars/nightclubs close and these individuals exit en masse.

10. Hess Village Entertainment District licence holders shall retain a minimum of 10 Special Duty Police Officers for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending November 15 each calendar year.

11. Notwithstanding section 10, the Chief of Hamilton Police Services, or his or her designate, may:

(a) change the commencement date of April 15 or the ending date November 15 by giving 48 hours prior notice to each Hess Village Entertainment District licence holder;

(b) suspend the requirement to retain Special Duty Police Officers for any day or time period where he or she decides that such Special Duty Police Officers are not required for public safety, nuisance control or public protection or where such Special Duty Police Officers are not available;

(c) after consultation with the Issuer of Licences, increase or decrease the number of Special Duty Police Officers by giving 30 days prior written notice to each Hess Village Entertainment District licence holder.

12. Every Hess Village Entertainment District licence holder shall contribute a pro rated share, based on the total capacity of their premises under their liquor licence, to the cost of the Special Duty Police Officers required under section 10, as may be changed under section 11, and their licence shall be conditional on such contribution being paid in full in a timely fashion.
13. Every Hess Village Entertainment District licence holder shall submit to the Issuer of Licences, when submitting an application to renew their licence or at such other times as the Issuer of Licences may require, a certificate from Hamilton Police Services evidencing their compliance with section 12.
SCHEDULE 22

SALVAGE AND SECOND-HAND GOODS, PAWNBROKER, AND JEWELLERY AND PRECIOUS METALS BUSINESSES,

DEFINITIONS

1. In this Schedule:

   “antiques” means furniture or other goods commonly recognized as collectable because of their quality, value or age, and reproductions of such goods, but does not include bicycles, coins, electronic goods, jewellery, musical instruments, precious gems, precious metals, time pieces or tools;

   “bicycle” includes but is not limited to a unicycle or a tricycle;

   “electronic goods” includes but is not limited to:
   (a) digital/video cameras, computers, facsimile machines, DVD/CD/video players or recorders, mp3 music players, stereos, televisions;
   (b) the components of electronic goods; or
   (c) the forms of media played or otherwise used by electronic goods such as DVDs, CDs or videos;

   “jewellery” means articles of personal adornment made in whole or part of precious gems or precious metals;

   “operator” means a person who owns, operates, manages, supervises, controls or is responsible for a business;

   “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 who is subject to the Pawnbrokers Act;

   “precious metals” include but are not limited to gold, platinum or silver;

   “jewellery and precious metals business” means a business purchasing jewellery or precious metals for the purpose of smelting the jewellery or precious metals;

   “purchase”, in all its forms, includes but is not limited to taken in exchange, received on consignment, redeemed on a pawn ticket or otherwise received;
“salvage” means metal scrap, used or wrecked motor vehicles or used or wrecked motor vehicle parts;

“salvage business” means a business purchasing or selling salvage and includes but is not limited to a motor vehicle wrecking yard;

“second-hand goods” means second-hand bicycles, coins, electronic goods, jewellery, precious gems, musical instruments, time pieces or tools;

“second-hand goods business” means a business purchasing or selling second-hand goods including but not limited to an antique market or a flea market vendor;

“visual barrier” means a barrier that acts as a screen consisting of:

(a) a wall or a fence;

(b) a continuous planting of suitable and healthy trees or shrubs;

(c) an earth berm; or

(d) any combination of the above; and

“works of art” means paintings, photographs, sculpture and other products of artisans commonly recognized as collectable because of their quality or value, but does not include jewellery, precious gems, time pieces or coins.

APPLICATION OF SCHEDULE

2. This Schedule does not apply to:

(a) the business of purchasing or selling antiques or works of art; or

(b) a charitable corporation.

3. With the exception of subsections 5(1), 5(2) and 5(3) and section 9, this Schedule does not apply to any purchase or sale that is subject to the Pawnbrokers Act.

4. This By-law does not require recording or reporting the purchase or sale of used tires or metal scrap, or require the retention of any such goods for any specified period, but this exception does not extend to a used or wrecked motor vehicle or a used or wrecked motor vehicle part.

LICENSING

5.(1) No person shall operate a jewellery and precious metals business, pawnbroker
business, salvage business or a second-hand goods business without a licence.

(2) Every person required to obtain a licence shall obtain a separate licence for each jewellery and precious metals business, pawnbroker business, salvage business or second-hand goods business.

(3) In addition to complying with the General Provisions of this By-law, a person applying for:

(a) a pawnbroker business licence shall provide security to the satisfaction of the City Treasurer in accordance with section 6 of the Pawnbrokers Act;

(b) a salvage business licence shall provide proof satisfactory to the Issuer of Licences that the salvage business has all applicable approvals required under the Environmental Protection Act and its regulations and that such approvals are current and valid;

(4) A licence may be issued to authorize a salvage business licence holder or a second-hand goods business licence holder to deal in one or more classes of salvage or second-hand goods and no person shall deal in any class of goods not authorized under the applicable licence.

RECORDS

6.(1) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall ensure that, without delay, at the time when any jewellery, precious metals, salvage or second-hand goods are purchased by their jewellery and precious metals business, salvage business or second-hand goods business, a record of the purchase is made and such record shall include:

(a) the date and time of the purchase;

(b) the price or other consideration given;

(c) the name of the manufacturer or maker, if any;

(d) any identifying number or mark, including but not limited to the VIN number and licence plate number, if any, of a used or wrecked motor vehicle;
(e) the name, birth date and address of the person from whom the
jewellery, precious metals, salvage or second-hand goods were purchased;
and
(f) the item or items of identification examined.

(2) Every jewellery and precious metals business operator, salvage business operator
or second-hand goods business operator shall ensure that a record of purchase
under subsection 6(1):
(a) up to and including July 1, 2013, is made by hand or electronically, either as
approved in advance by the Issuer of Licences;
(b) after July 1, 2013, is made electronically, as approved in advance by the
Issuer of Licences;
(c) is easily readable and in English;
(d) is not altered or deleted once completed;
(e) is protected from loss or destruction; and
(f) is kept for a minimum of one year.

(3) (a) Every jewellery and precious metal business operator, salvage business
operator or second-hand goods business operator shall deliver to the
Hamilton Police Service, before 2:00 p.m. on any day when the business is
open, a copy of all records, not including the names, birth dates and
addresses of the persons from whom the jewellery, precious metals, salvage
or second-hand goods were purchased, made since the last record was so
delivered.

(b) No jewellery and precious metals business operator, salvage business
operator or second-hand goods business operator shall include the name,
birth date or address of the person from whom the jewellery, precious metals,
salvage or second-hand goods were purchased in a record delivered to the
Hamilton Police Service under paragraph 6(3)(a).

(c) Every jewellery and precious metals business operator, salvage business
operator or second-hand goods business operator shall only deliver the
name, birth date and address of the person from whom the jewellery,
precious metals, salvage or second-hand goods were purchased to an enforcement agency upon the enforcement agency making a request in writing and such request shall indicate that it is being made to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

(4) Every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator who has reasonable cause to suspect that jewellery, precious metals, salvage or second-hand goods offered to them or their employee or agent has been stolen or otherwise unlawfully obtained shall without delay report the matter to the Hamilton Police Service.

(5) When a used or wrecked motor vehicle is purchased, every salvage business operator shall produce, at the request of the Issuer of Licences or an Officer, the vehicle portion of the permit issued for the motor vehicle or the notice from the Ministry of Transportation that the motor vehicle has been destroyed.

REGULATIONS
Jewellery and Precious Metals/ Salvage/ Second-Hand Goods Businesses - No Purchase

7.(1) No jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall purchase or shall permit the purchase of jewellery, precious metals, salvage or second-hand goods from a person appearing to be under:

(a) the age of 18 years; or

(b) the influence of alcohol or drugs.

(2) Before jewellery, precious metals, salvage or second-hand goods are purchased from a person, every jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall ensure they, their employee or agent examines one or more item of identification that:

(a) includes the name, birth date, address and photograph of the person; and

(b) reasonably appears to belong to the person and to have been issued by a
government.

**Jewellery and Precious Metals/Salvage/Second-Hand Goods Businesses - Retention Period**

8.(1) Every jewellery and precious metals business operator, salvage business operator or second-hand goods operator shall retain jewellery, precious metals, salvage and second-hand goods on the premises of their business in an unchanged condition and, in the case of salvage and second-hand goods, exposed to public view, for a period of at least 30 days after the day on which the jewellery, precious metals, salvage or second-hand goods are purchased.

(2) During the 30 day period under subsection 8(1), no jewellery and precious metals business operator, salvage business operator or second-hand goods business operator shall sell or otherwise dispose of or permit the sale or other disposal of the jewellery, precious metals, salvage or second-hand goods.

**Pawnbroker Business – Compliance with Pawnbrokers Act**

9. Every pawnbroker business operator shall comply with the Pawnbrokers Act.

**Salvage Business – Visual Barrier**

10.(1) Every salvage business operator shall install and maintain a visual barrier of not less than 2 m in height between any outdoor area used for their salvage business and all adjoining properties including all adjoining road allowance.

(2) Every salvage business operator shall ensure that material related to the use of a property as a salvage business that is not located indoors is:

(a) enclosed within the visual barrier under subsection 10(1);

(b) located not less than 1 m from the visual barrier under subsection 10(1); and

(c) where located between 1 m and 5 m from the visual barrier under subsection 10(1), no higher than the visual barrier.

(3) Every salvage business operator shall ensure that all activity related to the use of their premises that is not located indoors is enclosed within the visual barrier under
subsection 10(1).

(4) Every salvage business operator shall ensure that any opening in the visual barrier under subsection 10(1) for ingress or egress is covered by a gate that:
   (a) is the same height as the visual barrier;
   (b) does not open over a traveled portion of road allowance including a sidewalk; and
   (c) is kept clear of obstructions so that the gate may be opened fully at any time.

(5) Every salvage business operator shall ensure a visual barrier under subsection 10(1) or an opening in a visual barrier under subsection 10(4) comply with any other applicable by-law.

(6) Where a zoning by-law, site plan or subdivision agreement entered into under the Planning Act requires a visual barrier, the requirement in such zoning by-law, site plan or subdivision agreement prevails in the event of a conflict with subsections 10(1) to 10(4), both inclusive.
SCHEDULE 23

SEASONAL PRODUCE VENDORS

1. In this Schedule:

   “seasonal produce vendor” means a person who sells or offers for sale seasonal produce, including, but not be limited to, fresh fruits and vegetables and Christmas trees, at a location on privately owned property.

2.(1) No person shall carry on the business, trade or occupation of a seasonal produce vendor without a licence.

   (2) A licence is not required for selling seasonal produce:

   (a) to wholesale or retail dealers in seasonal produce;

   (b) which is grown in the City and is sold by the grower or his or her agent or employee at the premise of the grower where the seasonal produce is grown;

   (c) by an agent of the grower acting on behalf of a dealer who is licensed in respect of premises used for the sale of such seasonal produce pursuant to this Schedule;

   (d) by an agent of the grower acting on behalf of a dealer who pays business tax in the City in respect of premises used for the sale of such seasonal produce; or,

   (e) to persons, organizations, associations or groups who contribute to the enrichment of community life within the City provided that the person, organization, association or group which purchases the produce is directly responsible for the retail operation and that all proceeds derived from the sale are used to further the enrichment of community life in the City.
3. The applicant for a seasonal produce vendor’s licence shall provide the Issuer of Licences with:

(a) written proof that he or she has the permission of the owner of the property upon which seasonal produce will be offered for sale, to use the property for such purposes, at the time the application is filed; and

(b) verification from the Building Services Division of the Planning and Economic Development Department of the City, that the use of the property upon which seasonal produce will be offered for sale, is permitted under the applicable zoning by-law.

4. A seasonal produce vendor:

(a) shall not place any signs, stands, or other things used in connection with the sale of seasonal produce on a road allowance;

(b) shall not place any stand or fresh produce within 4.5 meters of any lot line abutting a road allowance;

(c) shall not place any signs advertising the sale of the seasonal produce on the property which are not in compliance with the sign by-law;

(d) shall ensure that any signs advertising the sale of seasonal produce shall be located on the property in such a manner as to comply with the sign by-law; and

(e) shall ensure that all seasonal produce, and signs, stands, or other things used in connection with the sale of seasonal produce are removed from the property when the seasonal produce is no longer being offered for sale on each day during the term of the licence.
5. A licence for seasonal produce vendor shall not be issued for a period which exceeds 45 days in duration.
SCHEDULE 24

SIGN POSTERS AND BILL DISTRIBUTORS, ETC.

LICENCE REQUIRED

1. No person shall carry on or engage in any of the following businesses or occupations:

   (a) bill poster;

   (b) advertising sign painter;

   (c) bulletin board painter;

   (d) sign poster; or

   (e) bill distributor,

   without a licence under this by-law entitling him or her so to do.

MISCELLANEOUS PROHIBITIONS

2.(1) No person shall post up or distribute any poster, picture or handbill that is indecent or that tends to corrupt morals.

   (2) No person required by the provisions of this Schedule to be licensed shall distribute any poster, picture, handbill, printed matter or other paper whether printed or not,

       (a) by handing the same to any person in any highway or other public place;

       (b) by depositing the same in or on any motor vehicle;

       (c) by depositing the same on any lawn, veranda or other such place; or
(d) by depositing the same into any street, alley, park or other public place,

and every such person shall be responsible for any such act of his or her servant or agent.

3. (1) No person shall distribute posters, pictures, or handbills, or any other printed or written material except during the hours of 8 o’clock in the forenoon, and 6 o’clock in the afternoon.

(2) No person shall distribute posters, pictures or handbills, or any other printed or written material to any property where the property owner or tenant has filed a request with the City that the aforementioned not be distributed.
SCHEDULE 25

TAXI CABS

DEFINITIONS AND INTERPRETATION

1.(1) In this Schedule:

(a) “accessible taxicab” means a motor vehicle approved for use as a taxicab by the Issuer of Licences and originally constructed or subsequently modified to permit the loading, transportation and off-loading of persons confined to a wheelchair, or similar device used to assist the disabled, without transfer and which motor vehicle complies with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the Highway Traffic Act;

(b) “accessible taxicab driver” means a licensed taxicab driver whose taxicab driver’s licence has been endorsed by the Issuer of Licences to permit the licensee to drive an accessible taxicab in the City of Hamilton;

(c) “accessible taxicab owner” means a licensed taxicab owner whose taxicab owner’s licence has been endorsed by the Issuer of Licences to permit the operation of an accessible taxicab in the City of Hamilton;

(d) “applicant” means a person applying for a licence or renewal thereof under this Schedule;

(e) “authorized sign” means a parking sign as described in this Schedule;

(f) “By-Law” means By-Law 07-170 unless the context refers otherwise;
(g) “carry on” when used in reference to a taxicab or to a taxicab brokerage business means to continuously operate, engage, drive, or make a taxicab available for the conveyance of passengers for hire or reward and includes waiting for, accepting, or dispatching orders;

(h) “City” means the City of Hamilton;

(i) “Tribunal” means the Licensing Tribunal of the City;

(j) “continuously operate” means to drive a licensed taxicab and/or to make the taxicab available to the public for the conveyance of passengers for a minimum of eight (8) hours per day for at least five (5) days per calendar week throughout the calendar year save and except for suspensions of operation due to necessary repairs provided that they are made within fourteen (14) calendar days or due to necessary vehicle replacement due to fitness or age reasons provided that it is completed within thirty (30) calendar days;

(k) “conveyance” means to carry, transport, transfer or move;

(l) “Council” means the Council of the City of Hamilton;

(m) “disabled” means any physically, emotionally or mentally handicapped person who is unable because of mobility impairment to use a regular public transit facility;

(n) “disabled passenger” means a passenger who is physically disabled;

(o) “dispatch” means the communication of an order or information in any manner between a taxicab broker and a taxicab driver;

(p) “driver’s licence” means a licence issued to a taxicab vehicle driver under this Schedule and “licensed driver” has a corresponding meaning;

(q) “dues” means any amount of money charged by a taxicab broker to a taxicab owner to receive orders from the taxicab broker;
(r) “fare” means the amount of money displayed on the taxicab meter at the conclusion of a trip, or the flat rate allowed under this Schedule for the trip, together with any additional charges allowed under this Schedule and, where the context so requires, shall also refer to the Tariff/Fare rates set out in Appendix “1” of this Schedule;

(s) “Fees Schedule” means the User Fees and Charges By-law, as amended from time to time;

(t) “fleet” means one or more taxicabs being dispatched by one taxi broker or owned by the same person;

(u) “fleet owner” means the owner of a fleet;

(v) “grossly unclean person” means a person covered in an amount of dirt and/or other material so excessive that if transported by the driver, the state of the person could leave the interior of the vehicle in a unclean state;

(w) “highway” includes a road allowance, a common and public highway, street, avenue, parkway, boulevard, square, place, bridge, viaduct or trestle, designed and intended for or used by the general public for the passage of vehicles;


(y) “Issuer of Licences” means the Issuer of Licences of the Planning and Development Department, Parking and By-Law Services Division, of the City of Hamilton or his or her designates;
(z) “lease” means any contract, agreement, understanding or other arrangement whereby an owner permits another person to manage, operate, control, have custody of, or otherwise employ his or her taxicab and owner’s plate, other than permitting a driver to drive the taxicab for one normal driver’s shift where the taxicab is returned to the owner at the end of such shift; and “to lease a taxicab” includes the act of any owner in entering into or becoming a party to such a contract, agreement, understanding or other arrangement. Without limiting the generality of the foregoing, “lease” also includes a power of attorney, management contract and any other arrangement or agreement whereby any person other than an owner is allowed to exercise or does exercise any of the rights set out herein;

(A) “lease agreement” means a written agreement wherein a limited interest in a licence is temporarily transferred by a taxicab owner, and containing terms and conditions prescribed in section 49 and any other terms and conditions not contrary to this Schedule;

(B) “lessee” means a person who is either a licensed taxicab owner or taxicab driver under this Schedule and who has entered into a lease with a licensed taxicab owner through which the person acquires certain rights from the owner and under takes to fulfill certain responsibilities with respect to the use of the taxicab owner’s licence, licence plate and vehicle and shall have all the obligations and duties of a taxicab owner in this Schedule;

(C) “lessor” means a taxicab owner licensed under this Schedule and who has entered into a lease with a licensed taxicab owner or taxicab driver through which the owner gives certain rights but maintains the responsibility to ensure that the lessee carries on or engages in the conveyance of passengers while in compliance with the provisions of this Schedule;

(D) “licence” means the document issued, pursuant to this Schedule, to an applicant for same by the City as evidence of being licensed under this Schedule;

(E) “licensee” means any person licensed under this Schedule;
(F) “licensed” means licensed under this Schedule;

(G) “motor vehicle” means an automobile and any other vehicle propelled or driven other than by muscular power, but does not include the cars of electric or steam railways, or a motorized snow vehicle, traction engine, farm tractor, self propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act R.S.O. 1990 c.H. 8;

(H) “Municipal Act, 2001” means the Municipal Act, 2001, S.O. 2001, c. 25, as amended, and any regulations there under;

(I) “new taxicab owner’s licences” means taxicab owner’s licences issued after the original date of enactment of this Schedule, May 28, 2003, save and except renewals or approved transfers of taxicab owner’s licences existing at the date of the enactment of this Schedule;

(J) “Officer” means a Provincial Offences Officer, a Municipal Law Enforcement Officer appointed by the Council and a Police Officer;

(K) “order” means a request for the conveyance of passengers by a taxicab received by a taxicab broker;

(L) (i) “owner” means owner of a taxicab plate; and

(ii) “owner’s plate” means a metal vehicle licence plate bearing a number specific to a vehicle issued to a taxicab owner under this Schedule;

(M) “passenger” means any person in a taxicab other than the driver;

(N) “party” means any person who has an interest in any premise or vehicle licensed under this Schedule and includes the City;
(O) “person” includes an individual, partnership, corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(P) “Priority List” means the list of applicants for a taxicab owner licence maintained by the Issuer of Licences and made available to the public with names set out thereon in chronological order as to the date and time of receipt;

(Q) “public place” means places to which the public is invited and include parking lots, plazas, municipal properties and road allowances;

(R) “registered owner” means the person shown to be the owner of a motor vehicle according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

(S) “revoke” means to withdraw or rescind;

(T) “Schedule” means Schedule 25 to By-Law 07-170;

(U) “spare vehicle” means a vehicle that has been authorized by the Issuer of Licenses to be used as a taxicab in substitution for a vehicle for which an owner’s licence has been issued, pursuant to the provisions of this Schedule;

(V) “sub-lease” means an agreement between a lessee and a person under which the lessee provides certain rights that he or she has acquired from a licensed owner and where the person undertakes to fulfil certain responsibilities to the lessee;

(W) “Tariff card” means the card issued by the Issuer of Licences setting out the tariff/fares set out in Appendix “1” and shall at all time be and remain the property of the City;

(X) “taxicab” has the following meanings:
(i) for the purposes of Sections 2 and 11, a motor vehicle as defined in the *Highway Traffic Act*, used for the conveyance of passengers for hire, compensation or reward.

(ii) a motor vehicle as defined in the *Highway Traffic Act*, used for the conveyance of passengers for hire, compensation or reward for one specific trip exclusively of one person or group of persons, that is approved for use by the Issuer of Licences and equipped with a taximeter and four (4) accessible doors and has a seating capacity of not less than four (4) persons, including the driver, and not more than ten (10) persons, including the driver, and may include a van type vehicle having not less than three doors;

(iii) a vehicle with the following characteristics: providing transportation on demand, where the location of boarding of the passenger and the destination is unknown in advance of the request of the passenger, where the passenger chooses the destination, where there are no set routes, schedules or stops for boarding, and where any repeat or regular trips by a passenger or passengers are made based on the passengers need or needs for transportation without a relation to the special features of the vehicle;

(Y) “taxicab broker” means any person who carries on the business of accepting calls, orders and/or dispatching taxicabs that are used for hire;

(Z) “taxicab driver” means a person who is licensed as such or required to be licensed as such under this Schedule and includes a taxicab owner who drives a taxicab;

(AA) “taxicab owner” means a person who is licensed as such or required to be licensed as such under this Schedule and includes a lessee, licensed under this Schedule, of a taxicab owner’s vehicle;
(BB) “taximeter” means a measuring device used in a taxicab to calculate the fare payable for a meter trip;

(CC) “taxicab stand” means a stand or place on a highway or area of land set aside or assigned by the City for the purpose of providing a site for use by a taxicab or taxicabs while it is waiting for, picking up, or otherwise carrying on or engaged in the conveyance of passengers and that is marked by authorized signs;

(DD) “trip” means the distance and time traveling or the distance and time to be traveling measured from the time and point at which the passenger first enters the taxicab or when the meter is first engaged to the time and point at which the passenger finally leaves the taxicab or the meter is disengaged;

(EE) “trip sheet” means the written record of the details of each trip of a taxicab as prescribed in this Schedule; and

(FF) “vehicle” means a motor vehicle.

(2) In this Schedule 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 so requires.

SCOPE and APPLICATION OF SCHEDULE

2.(1) The licensing and fare provisions of this Schedule shall apply to the owners and drivers of taxicabs while waiting for or carrying on or being engaged in the conveyance of passengers originating from any point within the City and to taxicab brokers if any part of the business is carried on within the City even where the business premises of the brokerage business is located outside the City.
(2) This Schedule shall apply to brokers, owners and drivers of taxicab vehicles kept or used for hire in the City of Hamilton. The tariff/fare rates contained in Appendix “1” attached hereto and forming part of this Schedule shall apply respectively for use of taxicabs wholly within the City or to any point not more than 5 kilometres beyond its limits.

(3) This Schedule shall apply to any person who is operating a “taxicab” or an “accessible taxicab” of any type defined in this Schedule when engaged in the provision of a motor vehicle for hire that is licensed and regulated by the provisions of this Schedule.

EXEMPTIONS

3. The licensing and fare provisions of this Schedule shall not apply to the owners and drivers of taxicabs while:

(a) engaged in the conveyance of goods or passengers from any point within the City to any point beyond the boundaries of the City where the conveyance is made to an airport owned and operated by the Crown in Right of Canada by a taxicab bearing a valid and subsisting plate issued in respect of the airport under the Government Airport Concession Operations Regulations under the Department of Transport Act (Canada); and

(b) engaged in the conveyance of a disabled person, pursuant to a written contract provided the provisions of Section 50 of this Schedule are complied with.

4. No person shall be required to be licensed under the provisions of this Schedule for the operation of an ambulance or a funeral hearse.

5. The operation of a motor vehicle that has seating for 10 or more persons excluding the driver, does not require a licence under this Schedule.

6. A conveyance by means of a motor vehicle that:
(a) is owned by the City of Hamilton, the Hamilton Street Railway Company or the Disabled and Regional Transit System (hereinafter called “DARTS”); and

(b) is operated by or on behalf of the City of Hamilton as part of a public transportation service, including a public transportation service for the transportation of senior citizens or disabled persons

is exempt from Schedule 8 and Schedule 25.

6a. A conveyance by means of a motor vehicle that:

(a) is not owned by the City of Hamilton, the Hamilton Street Railway Company or DARTS; and

(b) is operated by or on behalf of the City of Hamilton as part of a public transportation service, including a public transportation service for the transportation of senior citizens or disabled persons

is exempt only from the fare provisions of this Schedule and not from any other provision under Schedule 8 or Schedule 25.

6b. For the purposes of section 6 and section 6a, “owned” includes any arrangement for possession and control of a motor vehicle.

7. The transportation of students for hire, to and from school within the City of Hamilton where the vehicle used is a school bus that is licensed under the Public Vehicles Act, R.S.O. 1990, c.54 does not require a licence under Schedules 8 or 25 of By-Law 07-170, as amended. In this Schedule, the words “school” and “school bus” shall have the meanings provided in subsection 175(1) of the Highway Traffic Act.
8. A motor vehicle licensed under the Public Vehicles Act, being used for the transportation of children, deemed to be of special need by the school board or other authority in charge of the school hiring the transportation, does not require a licence under Schedules 8 and 25 of By-Law 07-170, as amended.

In this Schedule, a reference to “special need” shall be deemed a reference to needs as provided for in writing in the Transportation Policy of the Board of Education for the City of Hamilton, and The Hamilton-Wentworth Roman Catholic Separate School Board Transportation Policy and Regulations of such school board or other authority in charge of the school, as may be amended or added to from time to time, or as a board or other authority may accommodate under section 190 of the Education Act, R.S.O. 1990, c.E.2.

9. A motor vehicle providing transportation under contract exclusively for children, and operating in a manner distinct from taxicab is exempt from the requirement for an owner’s or driver’s licence under Schedules 8 and 25 of By-Law 07-170, as amended;

For the purposes of the foregoing, the following meanings shall apply:

(a.) “contract” means a written agreement to provide regular transportation services, for the taking of passengers to and from a specific location or to accommodate a need in common to the passengers in addition to transportation, with a term of at least one month, with fees for service fixed in the agreement and not by the metering of time or mileage of actual trips, and includes an agreement with a facility as opposed to the passengers; and

(b.) “manner distinct from taxicab” means lacking one or more characteristics of a taxicab.

SHORT TITLE

10. This Schedule shall be known as “A By-Law to Regulate Taxicabs and Taxicab Drivers, Owners and Brokers”.

Prepared: November 15, 2012
GENERAL PROHIBITIONS

11.(1) No person shall act as or hold oneself out to be a driver of a taxicab or to otherwise carry on or engage in the conveyance of passengers for hire or compensation within the City unless licensed as a driver under this Schedule.

(2) No person shall act as or hold oneself out to be the owner of a taxicab or otherwise carry on or engage in the conveyance of passengers for hire or compensation within the City unless licensed as an owner under this Schedule.

(3) No person shall act as or hold oneself out to be a broker of a taxicab or otherwise carry on or engage in the business of accepting orders and dispatching taxicabs for the conveyance of passengers within the City unless licensed as a taxicab broker under this Schedule.

(4) No person shall use or operate a motor vehicle to convey persons for hire or compensation or otherwise carry on or engage in the conveyance of passengers within the City except under the authority of a taxicab driver or taxicab owner's licence.

(5) No person shall represent or cause to be represented that he or she is licensed as a driver, owner or broker of a taxicab if he or she is not licensed under this Schedule.

(6) No person, other than a driver of a taxicab licensed under this Schedule, shall park a vehicle at any stand marked as a taxicab stand by authorized signs.

(7) No person licensed under this Schedule, when requested to do so by an Officer, shall fail to produce or deliver his or her licence and/or any other relevant documents or things required by this Schedule.

(8) No person shall obstruct an Officer while engaged in duties under this Schedule.

(9) No person shall operate a taxicab or act as a driver, owner or broker of a taxicab while such person’s licence is under suspension.
(10) No person licensed as an owner or a broker of a taxicab pursuant to this Schedule shall acquiesce in or permit a driver, whose licence is under suspension, to drive a taxicab under the power or control of such owner or broker.

(11) No owner, operator or driver shall permit or allow any person to smoke in a taxicab.

(12) Except when an on-board camera is being serviced in accordance with this Schedule and the City’s Access and Privacy Policy for Security Cameras in Taxicabs:

(c) no person shall damage, tamper with or obstruct the view of such on-board camera;

(d) no taxicab driver, taxicab owner or taxicab broker shall permit any person to damage, tamper with or obstruct the view of such on-board camera.

GENERAL DUTIES – TAXICAB DRIVERS/OWNERS/BROKERS

12.(1) There shall be taken out by every driver, owner and broker of a taxicab, a licence from the City authorizing such person to carry on or to engage in the conveyance of passengers for hire or compensation in the City.

(2) Where a person is required to obtain a licence under subsection (1),

(a) a separate licence certificate shall be issued for each licence applied for, and

(b) a separate licence certificate shall be issued for each taxicab.

(3) Every licence certificate issued to a taxicab owner or a taxicab broker shall clearly identify the one vehicle in respect of which the licence was issued to such taxicab owner or taxicab broker.
(4) Every driver, owner and broker of a taxicab shall report to the Issuer of Licenses and/or an Officer, as required, pursuant to the provisions of this Schedule.

(5) Every driver, owner and broker of a taxicab shall provide to the Issuer of Licenses and any Officer enforcing this Schedule, upon request and/or when required pursuant to this Schedule, all records and documents required to be prepared, retained and/or produced pursuant to this Schedule.

(6) Every driver, owner and broker of a taxicab shall provide to the Issuer of Licences and any Officer enforcing this Schedule, upon request and/or when required pursuant to this Schedule, an address within the City of Hamilton for service for any documents or notices to be provided pursuant to this Schedule or by Law.

(7) For the provision of this Section owner shall include the lessee.

**GENERAL DUTIES – ISSUER OF LICENCES**

13. The Issuer of Licences shall be responsible:

(a) to receive and process all applications for licences and for the renewal of licences to be issued under this Schedule;

(b) to recommend the issuance and renewal of licences for applicants who meet the requirements of this Schedule;

(c) to enforce the provisions of this Schedule;

(d) to generally perform all of the administration functions required by this Schedule;

(e) upon receipt of an application for a licence or renewal thereof or a leasing agreement proposal made pursuant to this Schedule, make or cause to be made all investigations required by law, this Schedule or by the Tribunal relative to such application;
(f) be responsible for the issuance, suspension and revocation of all licences pertaining to this Schedule;

(g) when required, provide to applicants for licences under this Schedule the appropriate examination paper to be completed;

(h) maintain a record of all licences issued including the name and address of each licensee and the number of taxicabs owned by each licensee;

(i) maintain a record of each vehicle licensed hereunder including the make, model, year, serial number, the Provincial licence plate number, the taxicab owner plate number, and the date of the issuance of each licence;

(j) issue a licence plate to each licensed taxicab owner;

(k) issue a Tariff card to each licensed taxicab driver; and

(l) issue a photo identification card to each licensed taxicab driver.

**LICENSING PREREQUISITES – TAXICAB DRIVERS**

14. No person shall be licensed or have a licence renewed as a taxicab driver:

(a) unless such person attends in person and not by agent or representative at the Issuer of Licences offices of the City and completes a written application for such a licence or a renewal thereof;

(b) unless such person pays all required fees pursuant to the User Fees and Charges By-law to the Issuer of Licences;

(c) unless such person pays all outstanding fines and/or penalties imposed in accordance with the Municipal Act, 2001 and/or the Provincial Offences Act to the Issuer of Licences for contravention(s) of this Schedule and/or By-Law 07-170;
(d) unless such person completes all application forms required under this Schedule, or as required by the Issuer of Licences from time to time, and files same with the Issuer of Licences;

(e) unless such person fully completes an application for a taxicab driver's licence in a form prescribed by and available from the Issuer of Licences;

(f) unless such person provides proof to the Issuer of Licences that:

   (i) he or she is at least eighteen (18) years of age and a citizen of Canada, a landed immigrant, or produces a valid work permit to work as a taxicab driver, issued by the Government of Canada.

   (ii) he or she holds in his or her name a current, valid, full Class “G” Provincial motor vehicle driver’s licence issued by the Province of Ontario under the provisions of the Highway Traffic Act; which is in good standing according to the laws of the Province of Ontario and Canada and the records of the Ministry of Transportation.

   (iii) he or she is able to speak, read and write the English language; and

   (iv) they have completed the approved service and skills training program(s) required by the Issuer of Licences under this Schedule;

(g) unless such person provides a letter of intent to employ from a licensed taxicab owner, lessee or taxicab broker for whom he or she will be driving;

(h) unless such person provides a Police Security Clearance Record Check and a Ministry of Transportation driver’s abstract, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Issuer of Licences;
(i) unless such person meets the requirements of sections 11, 62, 63,
68 and 69 of this Schedule relating to driver duties; and

(j) where an investigation conducted under subsection 13(e) of this Schedule
reveals that an applicant is not entitled to be licensed under section 35 of this
Schedule.

SERVICE AND SKILLS TRAINING PROGRAM

15. No person shall be licensed as a taxicab driver:

(a) unless the applicant for a licence, before a licence is issued, undertakes and
successfully completes a service and skills training program, as prescribed by
the Issuer of Licences, including an in-car component, as well as in-class tests
and sessions encompassing geography, customer service, tourism, hospitality,
defensive driving, communication skills, cab maintenance, Schedule 25
provisions and monetary transactions. Without limiting the foregoing, the
applicant for a licence, before a licence is issued, shall demonstrate a
satisfactory knowledge of,

(i) the operation of a taxicab and of this Schedule and By-Law 07-170, as
it relates to taxicabs;

(ii) the laws and regulations pertaining to traffic and motor vehicles;

(iii) the relationship between taxicab drivers and limousines drivers in
respect of passengers including duties, behaviours, appearance,
decorum;

(iv) the use of the equipment part of taxicabs including two-way radio,
taximeter, required emergency equipment and roof lights;

(v) the use of trip sheets, making damage reports and record keeping;
and
(vi) the location of streets, public buildings, hospitals, transportation terminals, points of interest and use of street guides;

(b) In the interim, prior to the implementation of the service and skills training program by the City set out in subsection 15(a), the applicant for a licence, before a licence is issued, shall undertake and successfully complete one or more written tests set by the Issuer of Licences pertaining to his or her knowledge of,

(i) the operation of a taxicab and of this Schedule and By-Law 07-170, as it relates to taxicabs;

(ii) the laws and regulations pertaining to traffic and motor vehicles;

(iii) the relationship between taxicab drivers and limousines drivers in respect of passengers including duties, behaviours, appearance, decorum;

(iv) the use of the equipment part of taxicabs including two-way radio, taximeter, required emergency equipment and roof lights;

(v) the use of trip sheets, making damage reports and record keeping; and

(vi) the location of streets, public buildings, hospitals, transportation terminals, points of interest and use of street guides;

16. Notwithstanding the provisions of subsection 15(a), taxicab drivers licensed on May 28, 2003 shall be required to undertake and complete an updating service and skills training program, as prescribed by the Issuer of Licences, before May 29, 2006 unless the Issuer of Licences determines, in his or her opinion, that circumstances warrant that a driver should undertake and complete the updating service and skills training program at or within an earlier time period or should undertake and complete the full service and skills training program before renewal of his or her licence;
17. Only those persons successfully completing the required service and skills training program will be issued a taxi driver licence or renewal thereof in the City of Hamilton, and all such drivers shall be required to undergo updating or re-testing as deemed necessary by the Issuer of Licences;

18.(1) Notwithstanding any other provision of this Schedule, no licence shall be issued to an applicant nor any licence renewed unless such person applying, if required to undertake and complete any testing, updating or re-testing program, including but not limited to those programs stipulated in subsections 15(a) and (b),

(a) receives a mark of at least seventy-five percent (75%) on the first attempt in each section of the written tests and other examinations of such program; or

(b) receives a mark of at least eighty-five percent (85%) on the second or any subsequent attempt in each of the written tests and other examinations of such program.

(2) Only three (3) attempts to successfully undertake and complete the interim testing program, as set out in subsection 15(b), may be made by an applicant for a licence. This provision shall not limit the right of an applicant to attempt the service and skills training program set out in subsection 15(a).

19. The City shall undertake a regulatory role in the provision of the driver service and skills training and testing programs with the administrative role being carried out by educational institutions approved by the Issuer of Licences.

LICENSING PREREQUISITES – TAXICAB OWNERS

20. No person shall be licensed as a taxicab owner or have such a licence renewed:

(a) unless such person attends in person and not by agent or representative at the Issuer of Licences offices of the City and completes a written application for such a licence or a renewal thereof,
(i) where the applicant is a partnership, a partner shall attend for the purpose of subsection 20(a);

(ii) where the applicant is a corporation the application shall be completed and filed personally by an officer or director of the Corporation having signing authority for the purpose of subsection 20(a);

(b) unless such person pays all required fees pursuant to the User Fees and Charges By-law and completes and submits all application forms required under this Schedule with the Issuer of Licences;

(c) unless such person fully completes an application for a taxicab owner's licence in a form prescribed by and available from the Issuer of Licences;

(d) unless:

(i) such person has undertaken and successfully completed the service and skills training program prescribed by the Issuer of Licences under subsection 15(a). Where the person is a corporation, the person holding shares carrying at least fifty-one percent (51%) of the voting rights attached to all shares of the corporation for the time being issued and outstanding shall have undertaken and successfully completed the service and skills training program prescribed by the Issuer of Licences under subsection 15(a);
(ii) if no one person holds at least fifty-one percent (51%) of the voting rights of the corporation, then the minority shareholder, holding the greatest percentage of the voting rights attached to all shares of the corporation for the time being issued and outstanding, shall have undertaken and successfully completed the service and skills training program prescribed by the Issuer of Licences under subsection 15(a). Where among the minority shareholders there are more than one minority shareholder holding the greatest percentage of the voting rights attached to all shares of the corporation for the time being issued and outstanding, the corporation shall designate the minority shareholder among such group who shall have undertaken and successfully completed the service and skills training program prescribed by the Issuer of Licences under subsection 15(a) of this Schedule.

(iii) This subsection takes effect on September 30, 2009.

The successful completion of the service and skills training program under this subsection shall be determined in accordance with section 19.

(e) unless such person files with the Issuer of Licences proof that he or she holds a current passenger motor vehicle permit which is in good standing and was issued only in the applicant’s name by the Ontario Ministry of Transportation for the motor vehicle of which he or she is the owner;

(f) unless such person produces and files with the Issuer of Licences, either an Ontario Ministry of Transportation Vehicle Inspection Report, showing that the vehicle to be licensed has been approved and accepted, within the previous thirty-six (36) days, or a safety standards certificate issued under the Highway Traffic Act R.S.O. 1990, c. H. 8 within thirty-six (36) days of application;
(g) unless such person produces and files with the Issuer of Licences, a copy of a current and valid Ontario Standard Automobile Insurance policy for the vehicle for which such person is the owner and the policy shall be endorsed to provide that the Issuer of Licences will be given at least thirty (30) days' notice in writing prior to any cancellation, expiration or change in the coverage amount or terms of the policy and the policy shall have a third party liability limit of no less than $2,000,000.00 per occurrence, exclusive of interest and costs, indemnifying and protecting the owner and the public, including passengers and goods carried in such vehicles, inclusive of public liability and property damage;

(h) unless, where the applicant is an individual or a partner of a partnership, such person provides proof that he or she is at least eighteen (18) years of age;

(i) unless, where the applicant is a corporation, the applicant has submitted to the Issuer of Licences a copy of the incorporating documentation, a copy of the last initial notice/notice of change which has been filed with the appropriate government department and a Certificate of Status issued by the Ministry of Consumer and Business Services;

(j) unless, where the applicant is a corporation, the applicant has provided details of the corporate ownership in a form acceptable to the Issuer of Licences;

(k) unless, where the applicant is a partnership, the applicant has provided details of the partners and interests in the partnership of each such partner in a form acceptable to the Issuer of Licences;

(l) unless such person provides a Police Security Clearance Record check, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Issuer of Licences,

   (i) in the case of a partnership, the Police Security Clearance Record check shall be of each partner; and

   (ii) in the case of a corporation, the Police Security Clearance Record check shall be of each officer, director and shareholder;
(m) unless the vehicle registered in the persons name meets the requirements of sections 53 to 58, inclusive, of this Schedule relating to vehicle approval;

(n) unless such person provides on his or her own or in conjunction with a licensed taxicab broker, a suitable office for the carrying on or engaging in his or her business and keeps the same orderly, clean and neat;

(o) unless the applicant, and in the case of a Corporation an officer of the Corporation, files with the Issuer of Licences a valid certificate of completion of an approved service and skills training program required pursuant to this Schedule by the Issuer of Licences;

(p) unless the applicant for a taxicab owner's licence has been directly and actively engaged in taxicab industry for a period of at least twelve (12) months preceding the date of application;

(i) For the purposes of subsection 20(p), “directly and actively engaged in the taxicab industry” shall mean active for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period, preceding the date of application for a licence, in the City of Hamilton taxicab industry in the capacity of a licensed taxicab driver, a licensed taxicab owner, a licensed taxicab broker, a taxicab dispatcher, a taxicab telephone service operator or a taxicab business mechanic;

(ii) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfill the requirements of subsections 20(p), the applicant may complete and file with the Issuer of Licences in lieu thereof a certification so stating, together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario and such other evidence as the Issuer of Licences may require and a certification that he or she has actually engaged in the taxicab industry on a full time basis in the City as,
 a licensed taxicab driver,
 a licensed taxicab owner,
 a licensed taxicab broker,
 a taxicab dispatcher,
 a taxicab telephone service operator, or
 a taxicab business mechanic,

for a period of not less than one (1) year immediately preceding the onset of the medical disability and during any period that the applicant was able to be so actively engaged during the year preceding the date of application and is, at the date of application, fit to undertake active engagement in the management or day to day operations of his or her taxicab(s) as defined in subsection 20(q)(i).

(q) unless the applicant for the renewal of a taxicab owner’s licence has been directly and actively engaged in the management or day to day operations of his or her taxicab for a period of at least twelve (12) months preceding the date of application;

(i) For the purposes of subsection 20(q), “directly and actively engaged in the management or day to day operations of his or her taxicab(s)” shall mean active for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period, preceding the date of application for a licence or renewal thereof, in the City of Hamilton in the capacity of a licensed taxicab owner;
(ii) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfil the requirements of subsections 20(q), the applicant may complete and file with the Issuer of Licences in lieu thereof a certification so stating, together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario and such other evidence as the Issuer of Licences may require and a certification that he or she has actually engaged in operating a taxicab on a full time basis in the City as a licensed taxicab owner for a period of not less than one (1) year immediately preceding the onset of the medical disability and during any period that the applicant was able to be so actively engaged during the year preceding the date of application and is, at the date of application, fit to resume active engagement in the management or day to day operations of his or her taxicab(s).

(r) Every holder of a taxicab owner’s licence shall provide proof that he or she renewed his/her taxicab plate licence in the year 2000.

(s) unless such person meets the requirements of Sections 11, 64, 65, 68 and 69 of this Schedule relating to owner duties; and

(t) where an investigation conducted under subsection 13(e) of this Schedule reveals that the applicant is not entitled to be licensed under Section 35 of this Schedule.

(u) For the provision of this Section, owner shall include the lessee.

(v) That thirty (30) new taxicab owner plates be issued at three (3) plates per year over the next ten (10) years commencing January 2005; with an evaluation being undertaken by staff in 2007, and bi-annually throughout the ten year phase-in to assess the impact of issuance on the taxicab industry. These plates are non transferable except in accordance with Subsection 29(8) of this Schedule.
LICENSING PREREQUISITES – ACCESSIBLE TAXICAB OWNERS

21. Each applicant for an accessible taxicab owner licence or renewal thereof shall:

(a) be a licensed taxicab owner with the City of Hamilton in accordance with the provisions of this Schedule and meet the prerequisites thereof;

(b) submit his or her taxicab owner licence to the Issuer of Licences for endorsement to permit the use of the taxicab as an accessible taxicab.

21a.(1) In 2013, sixteen new accessible taxicab owner licences shall be issued:

(a) first to individuals on the Priority List, in accordance with sections 29 and 30, modified as necessary; and

(b) secondly, if any accessible taxicab owner licences remain, to members of the public, with the Issuer of Licences carrying out the selection process for a licence as follows:

(i) the available licences shall be advertised in the Hamilton Spectator newspaper and on the City’s website inviting the submission of applications within a specified period of time;

(ii) a draw shall be conducted from all of the submitted, complete applications which otherwise comply with this By-law; and

(iii) the winner(s) of the draw may be issued a licence.

(2) In 2014, any of the 16 accessible taxicab owner licences not issued in 2013 and the number of accessible taxicab owner licences, if any, required to meet the taxicab to population ratio in paragraph 25(1)(b) shall be issued in accordance with paragraphs 21a.(1)(a) and (b).

(3) The issuance of accessible taxicab owner licences under this section shall be subject to all of the provisions of this By-law, modified as necessary, applicable to the issuance of taxicab owner licences except that an individual
on the Priority List shall be struck from the Priority List only if he or she is issued an accessible taxicab owner licence under subsections 21a.(1) or (2).

(4) In addition to complying with the provisions of this By-law applicable to accessible taxicab owners, accessible taxicab owners shall comply with all of the provisions, modified as necessary, applicable to taxicab owners.

(5) In addition to complying with the provisions of this By-law applicable to accessible taxicab drivers, accessible taxicab drivers shall comply with all of the provisions, modified as necessary, applicable to taxicab drivers.

(6) No accessible taxicab owner shall operate or permit the operation under authority of his or her licence of a vehicle other than an accessible taxicab approved in advance by the Issuer of Licences.

**LICENSING PREREQUISITES – TAXICAB BROKERS**

22. No person shall be licensed as a taxicab broker or have such a licence renewed:

(a) unless such person attends in person and not by agent or representative at the Issuer of Licences offices of the City and completes a written application for such a licence or a renewal thereof and where the applicant is a corporation, the application shall be completed and filed personally by an officer or director of the Corporation having signing authority;

(b) unless such person pays all required fees pursuant to the User Fees and Charges By-law and completes and submits all application forms required under this Schedule with the Issuer of Licences;

(c) unless such person fully completes an application for a taxicab broker’s licence in a form prescribed by and available from the Issuer of Licences;
(d) unless, where the applicant is an individual or a partner, such person provides proof that he or she is at least eighteen (18) years of age;

(e) unless such person provides a Police Security Clearance Record check, dated no later than thirty-six (36) days prior to the application for a licence or renewal thereof, to the Issuer of Licences,

(i) in the case of a partnership, the Police Security Clearance Record check shall be of each partner; and

(ii) in the case of a corporation, the Police Security Clearance Record check shall be of each officer, director and shareholder;

(f) unless, where the applicant is a corporation, the applicant has submitted to the Issuer of Licences a copy of the incorporating documentation, a copy of the last initial notice/notice of change which has been filed with the appropriate government department and a Certificate of Status issued by the Ministry of Consumer and Business Services;

(g) unless, where the applicant is a corporation, the applicant has provided details of the corporate ownership in a form acceptable to the Issuer of Licences;

(h) unless, where the applicant is a partnership, the applicant has provided details of the partners and interests in the partnership of each such partner in a form acceptable to the Issuer of Licences;

(i) unless such person provides proof to the Issuer of Licences that the premises from which he or she intends to operate, carry on or engage in the business of a taxicab broker, on his or her own or in conjunction with a licensed taxicab owner, are situated within the limits of the City and will continue to be so situated throughout the term of his or her licence and are suitable for the operation of, carrying on or engaging in the taxicab broker business and that such premises will be kept orderly, clean and neat and comply with applicable zoning;
(j) unless such person provides proof to the Issuer of Licences that he or she has a satisfactory system for receiving and dispatching calls for the taxicabs operating within his or her fleet, and that such system will not interfere with the operation of the taxicabs of another taxi broker, taxicab owner or fleet;

(k) where, on application for renewal of a broker’s licence, the licensee has not complied with Sections 11, 66, 67, 68 and 69 of this Schedule or where the licensee has not returned the licence issued for the year immediately prior to renewal; and

(l) where an investigation conducted under subsection 13(e) of this Schedule reveals that the applicant is not entitled to be licensed under section 35 of this Schedule.

**LICENCE FEES**

23. The licence fees to be paid to the City for those licences referred to in this Schedule shall be as outlined in the User Fees and Charges By-law.


**LIMITATIONS**

25.(1) The following limitations are imposed on the issuance of taxicab owner licences in the City:

(a) A licence issued under the provisions of this Schedule shall expire one year from the date of issue or on the date specified on the licence, unless renewed or previously suspended or revoked,

(b) The issuance of new taxicab owner’s licences shall be in accordance with the current ratio of taxicab owners’ licences to population of one (1) taxicab owner’s licence per 1,170 population.
(2) Notwithstanding any other provision of this Schedule, no taxicab owner’s licence shall be issued, except for renewals or approved transfers, until Council authorizes the issuance of licences for that year.

(3) Notwithstanding any other provision of this Schedule, Council may authorize the issuance of additional temporary licences for major special events in the City, as determined by Council, expiring upon the termination of the event.

(4) Every licence and licence plate issued under this Schedule is the property of the City and no person shall enjoy a vested right to a licence issued under this Schedule.

EXISTING PRIORITY LISTS

26. Any and all names on the taxicab owner’s licence Priority Lists for the former City of Hamilton and the former City of Stoney Creek, existing at the original time of passage and enactment of By-law 03-128, May 28, 2003, shall be transferred to the Priority List of this Schedule and in the same order of priority as was in existence at such time.

CLOSURE OF PRIORITY LIST

27.(1) No names shall be added to the Priority List and the Issuer of Licences shall not receive or process any application for entry to the list, subject to the powers of the Issuer of Licences under this Schedule and the powers of Council.

(2) No transfers or changes of position on the Priority List shall be permitted.

STAYING ON PRIORITY LIST
28.(1) Persons whose names are on the Priority List shall renew their entry on the list on or before September 30 of each year, by paying the prescribed fee and attending before the Issuer of Licences, to confirm his or her entry on the Priority List as accurate by filing with the Issuer of Licences a sworn declaration to that effect or amend the details of such entry.

(2) The Issuer of Licences may receive and process all renewals and fees from persons on Priority List.

(3) A person who fails to renew their entry on the Priority List, as required by subsection 28(1) herein, on or before September 30 shall attend before the Issuer of Licences to pay the prescribed renewal fee together with a late filing fee in accordance with the Fees Schedule and to confirm his or her entry on the Priority List as accurate by filing with the Issuer of Licences a certification to that effect or amend the details of such entry, no later than December 31 of that same year, so as to have their entry maintained on the Priority List, failing which the person’s name and entry shall be struck from the Priority List.

(4) Where a person fails to meet the requirements of this section for staying on the Priority List and renewal, the Issuer of Licences shall delete their name from the Priority List.

(5) Service of any documents on an applicant on the Priority List shall be made to the last recorded address filed by the applicant with the Issuer of Licences.

(6) Upon a transfer of a licence or a change in ownership of a licence or interest thereof being approved pursuant to section 46 of this Schedule, the names of the transferor and transferee shall be struck off the Priority List.

(7) The Issuer of Licences shall remove the name of a taxicab owner or a taxicab driver from the Priority List immediately upon his or her death.
(8) An applicant for a taxicab owner’s licence on the Priority List must be directly and actively engaged in the taxicab industry, as defined in paragraph 20(p)(i), at all times to have his or her name remain on the Priority List and to remain on the Priority List:

(a) the applicant must annually complete and file with the Issuer of Licences, a certification confirming that he or she was directly and actively engaged in the Hamilton taxicab industry in the capacity of a licensed taxicab driver, a licensed taxicab owner, a licensed taxicab broker, a taxicab dispatcher, a taxicab telephone service operator or a taxicab business mechanic, for an average of at least 35 hours per week during at least forty (40) weeks of the previous twelve (12) month period;

(b) where an applicant has on account of illness, injury or other medical reasons been unable to meet or fulfil the requirements of paragraph 28(8)(a), the applicant may complete and file with the Issuer of Licences in lieu thereof, a certification so stating together with supporting documentation including a medical certificate from a physician certified to practice in the Province of Ontario, and a certification that he or she has actually engaged in operating a taxicab on a full time basis in the City as,

(i) a licensed taxicab driver,

(ii) a licensed taxicab owner,

(iii) a licensed taxicab broker,

(iv) a taxicab dispatcher,

(v) a taxicab telephone service operator, or

(vi) a taxicab business mechanic,

for a period of not less than two (2) consecutive years immediately preceding the onset of the medical disability.
(c) Where an applicant elects to file a certification under paragraph 28(8)(b), the applicant shall provide evidence, to the satisfaction of the Issuer of Licences, of the medical disability from not less than two duly licensed medical practitioners of the applicant's choice and, if required by the Issuer of Licences, shall submit to a medical examination by a medical practitioner selected by the Issuer of Licences and the City of Hamilton Human Resources Division.

(d) Nothing in this subsection 28(8) shall operate to relieve an applicant from any other applicable conditions or requirements of this Schedule.

(e) Where an applicant fails to meet the requirements of paragraphs 28(8)(b) and (c) or the requirements of paragraph 28(8)(a), as the case may be, his or her name shall be deleted from the Priority List and no licence shall be issued to that applicant.

**ISSUANCE OF OWNER’S LICENCES FROM PRIORITY LIST**

29.(1) The Issuer of Licences may send a notice to the persons whose names appear on the Priority List, starting with the person with the earliest application date and continuing in chronological order, as they become eligible to apply for a taxicab owner's licence in accordance with subsection 20(v) of this Schedule or as otherwise directed by Council, provided that if two or more persons have the same application date, both or all of them shall be eligible to apply for a taxicab owner's licence.

(2) If an applicant fails to provide the Issuer of Licences with a current and valid mailing address on the original application or any amendments thereto, the Issuer of Licences shall not be required to make any additional effort to locate the applicant or a forwarding address for the applicant. The applicant shall be deemed notified three (3) days after the notice is mailed to the applicant in accordance with this section.
(3) A person who is entered on the Priority List, after being notified or deemed notified by the Issuer of Licences under subsections 29(1) and 29(2), shall submit a completed application with the Issuer of Licences within fourteen (14) days of the date of the said notice together with the following:

(a) proof of compliance with sections 12 and 14 of this Schedule;

(b) a certification, in a form prescribed by and available from the Issuer of Licences, that he or she has actively engaged in operating a taxicab full-time in the City as:

(i) a taxicab owner;
(ii) a taxicab driver;
(iii) a taxicab dispatcher;
(iv) a taxicab business mechanic; or
(v) a taxicab telephone service operator,

for a period of not less than two (2) full and consecutive years immediately preceding the date of filing the completed application; and

(c) either,

(i) a certified true copy by the Canada Revenue Agency of income tax returns for two consecutive years immediately preceding the date of filing the completed application; and/or

(ii) any one of, or any combination of the following in respect of the two consecutive years immediately preceding the date of filing the completed application:

   o a certified copy of record of employment,
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- statements of insurable earnings as issued by the Canada Employment Insurance Commission,
- statements of contributions to the Canada Pension Plan as issued by the Canada Revenue Agency,
- monthly charge statements as issued by a taxicab broker operating in the City of Hamilton,
- original trip records, or
- such other or equivalent documentation as the Issuer of Licences may accept.

(d) In the case of a taxicab driver, for all purposes of paragraphs 29(3)(a) and 29(3)(b), “one full year” shall mean not less than 1400 hours in a full year;

(e) In the case of a taxicab dispatcher or telephone service operator, for the purpose of paragraphs 29(3)(a) and 29(3)(b), “one full year” shall mean not less than 1400 hours in a full year;

If the applicant fails to submit with the Issuer of Licences the required documentation in the stipulated time, the application shall be voided, no licence issued and the applicant struck from the Priority List.

(4) (a) The Issuer of Licences shall issue the licence to an applicant who complies with subsection 29(3) and all other applicable provisions of this Schedule and By-law.
(b) If the Issuer of Licences refuses a licence for any reason other than
the applicant’s failure to submit the required documentation or to do so in the
stipulated time, both under subsection 29(3), the applicant is entitled to a
hearing before the Licensing Tribunal and the hearing shall be in accordance
with the General Provisions of this By-law which provide for a hearing when an
application is refused.

(c) When, under this section, a taxicab owner’s licence is:
(i) issued by the Issuer of Licences after a Licensing Tribunal hearing;
(ii) refused by the Issuer of Licences when no Licensing Tribunal hearing
has taken place, because such a hearing has not been requested or for
some other reason;
(iii) refused after a Licensing Tribunal hearing has taken place,
the applicant whose licence has been issued or refused shall be struck from the Priority
List.

(5) No taxicab owner issued a new licence after May 28, 2003 shall lease or give up
possession, custody or control of his or her licensed taxicab for a period of five (5)
years from the date of issuance of his or her licence from the Priority List except to
drivers engaged by the taxicab owner on an individual shift basis in accordance with
this Schedule and except in the case of a vehicle replacement in accordance with
this Schedule.

(6) No person on the Priority List as of May 28, 2003 who is issued a new owner’s
licence shall sell, transfer or give up any control or interest of
or in the said owner’s
licence for a period of five (5) years from the date of issuance of such licence.

(7) Subsections 29(5) and 29(6) do not apply to a taxicab owner issued a new licence
from the Priority List who is sixty-five (65) years old or older and he or she shall be
subject to all other applicable provisions of this Schedule and By-law.

(8) Subsections 29(5) and 29(6) do not apply to a taxicab owner issued a new licence
from the Priority List who dies during the five (5) year period after his or her licence
is issued and the estate of a taxicab owner shall be subject to all the other
applicable provisions of this Schedule and By-law.
EFFECTIVE ISSUE FROM PRIORITY LIST

30.(1) When an owner’s licence and plate is issued from the Priority List or as a result of a draw under section 21a, the applicant who has been approved for the issuance of a licence shall, within thirty (30) days of the date of being notified by the Issuer of Licences of the available taxicab owner’s licence, affix the licence plate to a vehicle registered in his or her name that shall be continuously operated as a taxicab and put his or her taxicab into operation in accordance with this Schedule.

(2) In the event that the applicant fails to meet the thirty (30) day period set out in subsection 30(1):
   (a) his or her application for the licence shall be voided;
   (b) he or she shall be ineligible for the licence;
   (c) his or her name shall be struck from the Priority List; and
   (d) the next person on the Priority List shall become eligible for the licence.

NO VESTED INTEREST OR BINDING EFFECT

31.(1) The Priority List shall not oblige the City to issue a licence to anyone on the list, regardless of being at the top or the earliest entry, nor give any such person a vested interest in a taxi owner licence and its use shall be solely for establishing the order of priority of persons seeking a taxi owner’s licence.

(2) Notwithstanding the provisions of sections 26, 27, 28, 29 and 30, Council may, delete names of individuals from the Priority List.

TIME FOR RENEWAL
32.(1) Every licensee shall apply for renewal of a driver’s, owner’s or taxicab broker’s licence before the expiry date of the licence. Where an application for renewal of a driver’s, owner’s or taxicab broker’s licence is not delivered to the Offices of the Issuer of Licences in the manner prescribed by this Schedule prior to the expiry date of the licence, the licence shall be deemed to have been abandoned. Any licensee who makes application for renewal of a licence after one month after the expiry date of the licence shall do so as a new applicant.

(2) The Issuer of Licences may forward a renewal notice to all licensees, to the last address filed by the licence holder with the Issuer of Licences. The Issuer of Licences shall not be required to make any additional effort to locate a forwarding address for the licensee.

(3) The failure to receive a notification of renewal shall not relieve a licensee from the responsibility to renew a licence issued under this Schedule within the time frame and in the manner as prescribed in subsection 32(1) of this section.

33. DELETED – REPEALED 2011

34. DELETED – REPEALED 2011

35. DELETED – REPEALED 2011

36. DELETED – REPEALED 2011

37. DELETED – REPEALED 2011

38. DELETED – REPEALED 2011

39. DELETED – REPEALED 2011

40. DELETED – REPEALED 2011

41. DELETED – REPEALED 2011

42. DELETED – REPEALED 2011

**FEES NON-REFUNDABLE**
43. Unless otherwise provided in this Schedule, any fee required to be paid pursuant to the Fees Schedule shall not be refunded.

RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION

44.(1) When a licence has been revoked or suspended, the holder of the licence shall return the licence and, if applicable, owner’s plate to the Issuer of Licences within twenty-four (24) hours of service of written notice of the decision of the Licensing Tribunal and the Issuer of Licences or Officer may enter upon the business premises or vehicles of the licensee for the purpose of receiving, taking or removing the said licence and owner’s plate.

(2) When a person has had his or her licence revoked or suspended under this Schedule, he or she shall not refuse to deliver up or in any way obstruct or prevent the Issuer of Licences or Officer from obtaining the licence and the owner’s plate in accordance with subsection (1) of this section.

DESTRUCTION or LOSS OF OWNER’S PLATE or PRESCRIBED CARDS

45. When an owner’s plate, the Tariff card, the Taxicab Passengers’ Bill of Rights card, the Taxicab Driver’s Bill of Rights card, the driver’s photo identification or the licence is defaced, destroyed or lost, the licensee shall, within seventy-two (72) hours, apply to the Issuer of Licences for a replacement and shall pay the appropriate fee for same, and the Issuer of Licences may issue a replacement.

TRANSFER OF OWNER’S LICENCE

46.(1) For the purposes of this section, “transfer” shall include any transfer, sale or other form of disposition of an interest in a taxicab owner’s licence including but not limited to the transfer of a partnership interest in a partnership or the controlling interest of a corporation, which holds a taxicab owner’s licence, or an interest of a sole owner of a taxicab owner’s licence.
(2) The licence issued to a taxicab driver or taxicab broker under this Schedule is not transferable.

(3) The licence issued to a taxicab owner under this Schedule is not transferable except as otherwise provided for in this Schedule and only upon the approval of the Issuer of Licences.

(4) The name of the holder of a taxicab owner’s licence shall not be changed or transferred unless and until:

(a) the applicant for a transfer of a taxicab owner’s licence or name change has filed with the Issuer of Licences:

   (i) a complete application for transfer of the holder of a taxicab owner’s licence or name change in a form prescribed by and available from the Issuer of Licences;

   (ii) proof that the proposed new holder of the taxicab owner’s licence has complied with the prerequisites of this Schedule for obtaining a taxicab owner’s licence;

   (iii) a duly executed copy of a written agreement between the holder of the owner licence and the proposed new holder of the taxicab owner’s licence containing all details of their dealings concerning the taxicab owner’s licence and, where applicable, the taxicab vehicle, equipment and taximeter, and any other thing included in the agreement pursuant to which the current holder of the taxicab owner’s licence agrees to have the proposed new holder of the taxicab owner’s licence replace him or her as the holder of such licence; and
(iv) two (2) sworn affidavits, one made by the current holder of the taxicab owner’s licence and the other made by the proposed new holder of the taxicab owner’s licence setting out the true consideration for the taxicab owner’s licence and, where applicable, the taxicab vehicle, equipment and taximeter and shall also include the interest of the current holder and the interest of the proposed new holder in the licence and licence plate, goodwill, if any, and any other thing included in the agreement and any other details as requested by the Issuer of the Licenses.

(b) the proposed transferor of the taxicab owner’s licence or name change pays to the Issuer of Licences the required transfer fee as set out in the Fees Schedule;

(5) The Issuer of Licences shall give notice to the current holder of the taxicab owner’s licence of the approval or refusal of such taxicab owner’s application for change or transfer of the holder of such taxicab owner’s licence.

(6) Where an application for change or transfer of the holder of a taxicab owner’s licence has been approved by the Issuer of Licences, a replacement taxicab owner’s licence will be issued to the proposed new holder of the taxicab owner’s licence.

(7) The purchase of the controlling interest of a corporation which holds a taxicab owner’s licence by any person shall be deemed a transfer of the taxicab owner’s licence, provided that such transfer shall be carried out in compliance with requirements of this Schedule and shall not be effective until approved by the Issuer of Licences.

(8) Where the transfer of the taxicab owner’s licence is not approved by the Issuer of Licences, the current licensed taxicab owner may sell his or her vehicle and its equipment to any person, however, upon such sale, the taxicab owner’s licence issued in respect of such vehicle shall be terminated unless the owner replaces such vehicle and all required equipment within thirty (30) days from the effective date of such sale in accordance with sections 59 and 60 of this Schedule.
(9) Where an application to transfer a licence is not approved by the Issuer of Licences, any administrative fee incurred shall not be refunded, subject to the authority of Council.

(10) Where a corporation is the holder of a taxicab owner's licence or licences, the corporation shall forthwith notify the Issuer of Licences in writing of any and all transfers of existing shares and of the issue of any and all new shares of the capital stock of the corporation.

(11) Where, as a result of the transfer of existing shares or by the issue of new shares of a corporation, the Issuer of Licences has reasonable grounds to believe that the corporation may not be entitled to the continuation of its licence in accordance with this Schedule, the Licensing Tribunal may determine whether the licence or licences shall be revoked or have conditions placed on it.

(12) Where, by the transfer of issued shares in, or by the issuance of new shares of, a corporation holding one or more taxicab owner's licences, the controlling interest in such corporation is sold, transferred or acquired, such licence or licences shall be deemed transferred, and the parties thereto shall comply with the requirements in this Schedule in respect to a transfer of the Issuer of Licenses may issue a new licence or new licences upon payment of the prescribed fee.

(13) The Licensing Tribunal may, in its discretion, refuse to transfer or issue a new licence or licences to a transferee in a transaction under this section if it determines that it is not in the public interest so to do or for any other reason which it is authorized by law to consider upon such application.

(14) Nothing in this section shall obligate the City to approve the transfer of the licence.
DEATH OF LICENCE HOLDER

47.(1) In the event of the death of the holder of a taxicab owner’s licence, the heirs, executors, administrators, successors or other legal representatives shall have a period of six (6) months within which to arrange for the change or transfer of the name of the holder of the owner licence in accordance with section 46 of this Schedule, without the licence being revoked, provided that the death of the licensee was reported to the Issuer of Licences within thirty (30) days of its happening.

(2) If the licence expires within the aforementioned period of six (6) months, the heirs, executors, administrators, successors or assigns or other legal representatives may renew the licence on the condition that it will expire on the termination of the aforementioned period of six (6) months.

(3) Nothing in this section shall relieve the transferor and transferee from compliance with the provisions of this Schedule including but not limited to those in respect to the transfer of a licence.

NOTIFICATION OF CHANGE OF INFORMATION

48.(1) When a licensee changes his or her name or address or any information relating to his or her licence, such licensee shall notify the Issuer of Licences within six (6) days of the change of information relating to the licence and shall return the licence immediately to the Issuer of Licences for amendment.

(2) When the licensee is a corporation and there is any change in the relevant information on the application or licence, including but not limited to names or addresses of Officers or directors, location of the corporate head office or change in the ownership of shares, the licensee shall report the change to the Issuer of Licences within six (6) days of the change and if necessary, the licence shall be returned immediately to the Issuer of Licences for amendment.
LEASING

49.(1) Except as provided in this section, no taxicab owner shall lease his or her taxicab and taxicab owner’s plate.

(2) A taxicab owner may lease or renew a lease of his or her taxicab owner’s plate, provided that:

(a) a leasing agreement proposal has been filed with the Issuer of Licences and approval has been granted together with payment of the fee prescribed by the Issuer of Licences;

(b) the proposal contains a lease agreement which provides for lease of the taxicab owner’s plate

(c) where a leasing agreement proposal is filed with the Issuer of Licences, the agreement must be in writing, signed by the parties thereto and specify the following:

   (i) the date of execution of the leasing agreement and its effective date;

   (ii) the name and address of the lessee and lessor;

   (iii) a full description of the vehicle which is the subject of the lease, including the serial number, the make, model, serial number and year of the motor vehicle, the Provincial plate number, and the number of the taxicab owner’s licence and plate issued by the Issuer of Licences in respect of such vehicle;

   (iv) the motor vehicle permit number issued pursuant to the Highway Traffic Act;

   (v) the term and expiry or termination date of the leasing agreement;
(vi) the terms and conditions under which the lessee has the right to possession and control of the vehicle under specified terms and conditions;

(vii) all of the lessor’s and lessee’s rights to early termination of the leasing agreement;

(viii) the consideration and the signatures of the lessee, the lessor and the witnesses thereto;

(ix) a statement that the leasing agreement is considered null and void in the event that the owner or lessee either by a written or verbal agreement sub-leases the taxicab or transfers responsibility for the operation of the taxicab to a third party;

(x) the Revenue Canada G.S.T. account number of the lessee;

(xi) the taxicab owner is responsible for maintenance of and insurance on the vehicle; and

(xii) under the terms of the lease the taxicab owner provides a motor vehicle equipped, inspected, approved and registered in accordance with this Schedule;

(d) the lessee is licensed by the City as a taxicab driver and has successfully completed the approved service and skills training program recognized and approved by the Issuer of Licences and required under this Schedule;

(e) the lease pertains to one vehicle, and expires upon the sale, replacement or other disposition of such vehicle save and except a vehicle replacement made in accordance with this Schedule; and
(f) the plate issued to such taxicab owner by the Issuer of Licences is affixed to the right side of the rear bumper of the taxicab which is the subject of the lease in a conspicuous position or at a location and in a manner as the Issuer of Licences may require, and remains affixed thereto throughout the term of the lease.

(g) In the event of a renewal of a leasing agreement, which has been approved by the Issuer of Licences, the taxicab owner shall file with the Issuer of Licences satisfactory evidence of the renewal of same in a form prescribed by the Issuer of Licences.

(3) Where a proposal for a leasing agreement is filed by a taxicab owner in accordance with the provisions of this Schedule and where the proposal meets all the requirements as provided for in this section, the Issuer of Licences may approve the proposed leasing agreement.

(4) Where the Issuer of Licences denies or refuses to approve a proposed leasing agreement, written notice, in accordance with subsection 36(3) of this Schedule, shall be given to the taxicab owner by the Issuer of Licences.

(5) Where the Issuer of Licences denies or refuses to approve a proposed leasing agreement, the taxicab owner may appeal the decision to the Licensing Tribunal for consideration within fourteen (14) days of the receipt or deemed receipt of written notice of the denial or refusal set out in subsection 49(4). The Licensing Tribunal shall cause an investigation to be conducted under subsection 13(e) of this Schedule and where an investigation reveals that the proposal should not be approved because the lessee or lessor is unlikely to or unable to comply with section 35 of this Schedule or where the proposal does not comply with subsection (2) of this section, the Licensing Tribunal may deny or refuse to approve the proposed leasing agreement or approve the proposal on specified terms and conditions.

(6) Where a proposal to lease is not approved by the Licensing Tribunal, any administrative fees incurred shall not be refunded.
(7) No lessee shall sub-lease or purport to sub-lease a taxicab vehicle to any person.

(8) No taxicab owner shall, by a term in a lease or otherwise, acquiesce in or permit any lessee or other person to sub-lease or purport sub-lease his or her taxicab vehicle.

(9) Any person licensed under this Schedule who enters into or purports to enter into any lease or purported lease of a taxicab, other than in accordance with this section, shall, in addition to any penalty to which he or she may be liable under this Schedule, be required to attend before the Issuer of Licences to show cause why his or her licence should not be suspended or revoked.

(10) 
(a) Every owner shall notify the Issuer of Licences and the lessee in writing of the expiration or other sooner termination of any lease to which he or she is a party or of any change in custody and control over his or her taxicab, at least fifteen (15) days prior thereto; and provide proof of service upon the lessee by way of a sworn affidavit.

(b) Every lessee shall notify the Issuer of Licences and the lessor in writing of the expiration or other sooner termination of any lease to which he or she is a party or of any change in custody and control over his or her taxicab, within fifteen (15) days prior thereto; and provide proof of service upon the owner by way of a sworn affidavit.

(11) Every taxicab owner and lessor shall:

(a) ensure that every driver or lessee and every other person involved in the operation of his or her vehicle complies in full with the requirements of this Schedule;

(b) maintain knowledge at all times of the identity of any person having custody of or control over his or her taxicab; and
(c) provide full information to the Issuer of Licences or his or her designates, as to any of the facts or records required to be maintained or provided by him or her pursuant to this Schedule, forthwith upon a request travelling by the Issuer of Licences or his or her designate.

(12) Every taxicab owner shall ensure that every lease filed with the Issuer of Licences sets out fully and accurately all of the facts and terms required by this Schedule and that such information is kept fully up-to-date and accurate.

(13) No taxicab owner shall enter into or be a party to more than one lease at any one time with respect to any one of his or her taxicabs.

(14) No person shall enter into or be a party to any agreement or transaction purporting to transfer, assign, lease or otherwise convey rights over a taxicab licence or plate, or give or receive any consideration or remuneration travelling, except as part of a transaction permitted by this Schedule.

(15) No lessor having an authorized lease agreement respecting a taxicab owner’s licence and/or vehicle approved for use as a taxicab shall acquiesce in, allow or permit a lessee to fail to continuously operate the vehicle for which a taxicab owner’s licence has been issued.

(16) The Issuer of Licences shall have the authority to refuse to approve a lease agreement and/or rescind or withdraw approval of a lease agreement that does not meet or continue to meet the requirements of this Schedule or on such other grounds as are consistent with the grounds of refusal set out in section 35 of this Schedule.

(17) The lessee shall affix the taxicab plate on the vehicle within forty-eight (48) hours of the approval of the lease agreement.

(18) All lessees must have and maintain a current City of Hamilton taxicab driver’s licence.
(19) An administration fee shall be charged to a lessee of a taxicab for the late registration of a lease agreement with the Issuer of Licences in accordance with the User Fees and Charges By-law.

(20) A taxicab owner or lessee shall not undertake more than one lease agreement per owner’s plate at any time in the City of Hamilton.

(21) As of May 29, 2008, a taxicab broker shall not act as an agent or party to any lease agreement.

**CONTRACT AGREEMENTS**

50.(1) Subject to Section 156(2) of the *Municipal Act, 2001*, any owner or driver of a taxicab is exempt from the fare provisions of this Schedule while engaging in the conveyance of physically, emotionally, or mentally disabled persons, provided:

(a) the conveyance is made pursuant to a written contract;

(b) the written contracts contain the following information:

   (i) specifies the date and point of commencement and the point of destination of each conveyance;

   (ii) specifies the charge for each conveyance;

   (iii) specifies the frequency of the conveyance; and

   (iv) specifies the nature of the handicap of the person(s) being conveyed.

(c) the written contracts or copies thereof are filed with the Issuer of Licences upon request;

(d) the taxicab providing the conveyance is licensed by the City or the municipality where the conveyance originates and/or ends.
MEDICAL CERTIFICATE

51. The Issuer of Licences or an Officer may require a licensed driver, at any time, to provide the Issuer of Licences or such Officer with a certificate, prepared by a duly qualified medical practitioner, attesting to whether or not the licensee is physically fit and able to operate a taxicab, if the Issuer of Licences or such Officer considers it in the public interest, upon reasonable grounds.

RE-PHOTOGRAPHING OF DRIVERS

52. If at any time the driver’s photograph(s) required on the application for a driver’s licence issued under this Schedule does not have a reasonable likeness and/or clear image of the driver because of physical changes to the appearance of the driver, the passage of time, the poor quality of the photography or the deterioration of the photograph or photo identification card, the Issuer of Licences may require that the driver attend at the Issuer of Licences office of the City for another photograph of himself or herself.

TAXICAB METER

53.(1) Every owner of a taxicab shall have affixed to each taxicab, in respect of which such owner is licensed, a taxicab meter for registering distance travelled, waiting time and computing the fares to be paid, and each taxicab meter shall be:

(a) submitted by such person to the Issuer of Licences for testing, inspection and sealing in each year and at such other times as directed by the Issuer of Licences;

(b) illuminated between dusk and dawn;

(c) located in a position clearly visible to all passengers in the taxicab;
(d) adjusted in accordance with the rates prescribed by Appendix ‘1’ (Taxicab Tariff/Fares) of this Schedule;

(e) used only when the seal thereon is intact;

(f) used for not longer than one year without re-testing and resealing; and

(g) kept in good and accurate working condition at all times.

TAXICAB METER ROAD TEST

54. Where an Officer is not available to road test and approve the taxicab meter on a weekend or statutory holiday because the Officer’s services have been requested outside of the regular business hours of the Issuer of Licences, the licensed taxicab owner or the licensed taxicab driver who has had the taxicab meter repaired or replaced, may operate the taxicab for a period of up to twenty-four (24) consecutive hours from the date and time of such repair or replacement, provided that licensed taxicab driver has in his or her possession a certificate or receipt for the repair or installation of the taxicab meter, signed by the person who made the repairs or installation and the receipt sets out the date, time and nature of the repairs or installation and has notified the Issuer of Licences immediately of the repair or replacement of the taxicab meter.

RIGHT OF INSPECTION OF VEHICLES

55.(1) The Issuer of Licences or any Officer may, at any time, enter in and inspect the vehicle(s) of any licensee to insure that the provisions of this Schedule have been complied with.
(2) Upon an inspection under subsection (1), the Issuer of Licences or an Officer is entitled to request and have produced all relevant licences and permits and to have access to all invoices, vouchers, appointment books and trip sheets 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 examining and reproducing or photocopying, provided a receipt is given to the licensee and the documents are returned to the licensee within forty-eight (48) hours of any such removal.

**VEHICLE INSPECTION**

56(1) Every taxicab owner licensed under this Schedule shall submit his or her vehicle to the Issuer of Licences for mandatory inspections for compliance with this Schedule, at the taxicab owner’s expense, in accordance with sections 55, 56 and 57.

(2) Inspections shall be conducted by Officers and will include and not be limited to:

(a) taxicab meter accuracy road tests (where required);

(b) visual exterior and interior inspections of the taxicab vehicle;

(c) assessment of mechanical fitness and safety; and

(d) driver and owner record examinations of documents required to be maintained under this Schedule.

(3) In addition to the inspections referred to under subsection (1) and (2) herein, each licensed owner shall provide at the time of renewal and at such other times as directed by the Issuer of Licences, at the taxicab owner’s expense, either:

(a) an Ontario Ministry of Transportation Vehicle Inspection report, showing that the vehicle has been accepted within the past thirty-six (36) days, or;
(b) a Safety Standards Certificate issued under the Highway Traffic Act within thirty-six (36) days of the inspection date.

(4) Notwithstanding section 57, where an Officer believes that a previously approved vehicle no longer meets the inspection and vehicle requirements of this Schedule, such Officer or the Issuer of Licences may at any time direct the licensed owner to submit his or her vehicle to an Officer or the Issuer of Licences for the purpose of conducting a re-inspection of the taxicab to ensure compliance with the provisions of this Schedule, at the taxicab owner’s expense.

(5) When the licensed owner meets the requirements of this section and the vehicle requirements in this Schedule, the vehicle shall be deemed to be approved for use as a taxicab.

TAXICAB VEHICLE STANDARDS AND INSPECTIONS

57(1) A taxicab vehicle shall not be more than six years old, excluding the manufactured year, at any time subject to the following age restrictions and exemptions:

(a) a licensed taxicab vehicle previously approved by the Issuer of Licences shall meet all of the vehicle requirements contained in this Schedule;

(b) DELETED – REPEALED 2006;

(c) DELETED – REPEALED 2006;

(d) notwithstanding the age restriction set out in subsection 57(1) any taxicab vehicle fuelled by an alternative fuel, as determined by the Issuer of Licences from time to time, shall be permitted one additional year of service to seven years of age, excluding the manufactured year.

(2) To operate as a licensed taxicab, the vehicle shall be subject to the following mechanical fitness and safety inspections to be licensed or to have a licence renewed, as follows:
(a) taxicab vehicles from one (1) to less than three (3) years of age, excluding the manufactured year, shall be required to undergo mechanical fitness and safety inspections by City of Hamilton inspectors and provide a safety standards certificate issued under the Highway Traffic Act one time per year or at such greater frequency as may be required by the Issuer of Licences;

(b) taxicab vehicles three years of age to a maximum of six years of age, excluding the manufactured year, shall be required to undergo mechanical fitness and safety inspections by City inspectors and provide safety standards certificates issued under the Highway Traffic Act two times per year or at such frequency as may be required by the Issuer of Licences.

**SPARE VEHICLES**

58(1) The owner of one or more spare vehicles may, with approval of the Issuer of Licences, register a vehicle or vehicles with the Issuer of Licences for use as a spare vehicle.

(2) Every taxicab owner of a spare vehicle that is used to substitute for a taxicab in respect of which an owner's licence has been issued, shall comply with all of the requirements for a licensed taxicab vehicle under this Schedule.

(3) The use of a spare taxicab vehicle shall be limited to operate for no more than seven (7) consecutive days.

(4) The taxicab owner shall notify the Issuer of Licences prior to placing a spare vehicle in use and identify the licensed taxicab vehicle which the spare vehicle is replacing.

(5) The taxicab owner shall be limited to one (1) spare vehicle per five (5) licensed taxicab vehicles owned by such taxicab owner to a maximum of nine (9) spare vehicles.
(6) The owner of a spare taxicab vehicle(s) must submit such spare taxicab vehicle(s) to the Issuer of Licences for inspection and determination of compliance with the vehicle requirements of this Schedule prior to the taxicab owner’s licence being approved for issuance or renewal and, at any time during the term of a licence, upon the request of the Issuer of Licences.

(7) Every driver of a spare vehicle that is used to substitute for a taxicab in respect of which an owner’s licence has been issued, shall comply with the provisions of this Schedule applicable to a taxicab driver.

(8) A vehicle previously authorized as a taxicab by the Issuer of Licences, may be continued to be used as a spare vehicle only provided that it does not exceed seven years in age, excluding the manufactured year.

REPLACEMENT VEHICLE APPROVAL

59. Every taxicab owner who ceases to use his or her taxicab vehicle of which an owner’s licence has been issued and acquires another vehicle to be used as a replacement for the licensed taxicab vehicle shall ensure that such replacement vehicle complies with all of the requirements for a licensed taxicab vehicle under this Schedule. No replacement vehicle shall be approved until the taxicab owner first complies with the taxicab disposal requirements in section 60 for the vehicle which is being replaced.

DISPOSAL OF TAXICAB

60.(1) When the licensed owner disposes of or otherwise ceases to use as a taxicab a vehicle approved for use under section 56 of this Schedule, he or she shall immediately remove from such vehicle:

(a) the roof light,

(b) the taxicab meter,

(c) all identifying decals or markings,
(d) fender or side numbers and letters and

(e) all other items which make the vehicle appear to the public to be a taxicab.

**TARIFFS**

61.(1) The rates for fares to be charged by the owners or drivers of taxicabs for the conveyance of passengers wholly within the City or to any point not more than 5 kilometres beyond its limits, shall be exactly as shown in Appendix “1” (Taxicab Tariff/Fares) attached hereto and forming part of this Schedule, and no higher or lower amount than that contained in the said tariff shall be charged or payable, whether such rates and charges are determined by distance or by time; provided that an owner and a customer may enter into a written contract for services that extends for the period of a year or more on runs between fixed points at an agreed tariff, and that the terms of such contract shall be filed with the Issuer of Licences within ten (10) days from the effective date of the contract and be in accordance with the provisions of this Schedule with the exception of the tariffs set out in Appendix “1”.

(2) Nothing contained in this Schedule shall prevent the driver of a taxicab from making a charge to be negotiated with a passenger prior to the trip, for parcel handling, and such charge shall not be required to be recorded on the trip record, and shall not apply to luggage or baggage accompanying a passenger or passengers transported between any transportation terminal and the pick-up or destination point of the passenger or passengers.

(3) At the conclusion of a trip, the driver of a taxicab shall call the passenger’s attention to the amount of the fare registered on the meter and place the meter in a non-recording position.

(4) No owner or driver of a taxicab shall be entitled to recover or receive any fare or charge from any person unless the current Tariff card is on display in the holder provided therefore.
(5) Each taxicab driver shall ensure that when more than one passenger is being transported in a taxicab, and said passengers have different destinations, the taximeter is re-flagged after each destination. The individual or individuals shall then be responsible for the fee registered on the taximeter at the point of their particular destination.

(6) When a passenger first enters a taxicab, the taximeter shall be immediately placed in operation and shall remain so placed throughout the trip or until such trip extends to a point 5 kilometres beyond the limits of the City. The shortest and quickest possible route shall be taken to the destination if within the said limit of 5 kilometres beyond the limits of the city, unless the passenger designates another route. If a trip extends beyond such 5 kilometres limit hereinbefore referred to, the driver and the passenger may agree before the start of the trip to a flat rate, but the taximeter must remain in a recording position at all times within such limit.

(7) The amount of the adjustment shall not exceed the percentage annual increment in the Taxi Cost Index (TCI) as set out in Appendix 6.

**DUTIES OF A TAXICAB DRIVER**

62.(1) No licensed taxicab driver shall fail to:

(a) ensure that the Tariff card, Taxicab Passenger’s Bill of Rights, Taxicab Driver’s Bill of Rights and taxicab driver’s photo identification is in place and maintained in place in the holder required to be provided in the taxicab pursuant to this Schedule which such driver is operating;

(b) when operating a taxicab, be neat and clean in personal appearance and personal hygiene;

(c) when operating a taxicab, be civil and behave courteously;
(d) turn off any radio, tape player or any other sound producing mechanical device in his or her taxicab and turn down the volume on any two-way radio or cell phone in his or her possession or control, used for receiving or confirming calls for his or her taxicab services, upon being requested to do so by any passenger, and having done so, shall leave such devices in the off or turned down position, as the case may be, until termination of the trip with that passenger;

(e) maintain the interior and exterior of the taxicab within his or her control in a clean and tidy condition;

(f) keep in his or her taxicab a current street guide or map of the City and surrounding area;

(g) when operating a taxicab, punctually keep all his or her appointments and engagements, and no licensed taxicab driver shall make any appointment if a previous engagement would prevent such driver from fulfilling it;

(h) except when the driver has a previous order or engagement when operating a taxicab, serve the first person who may lawfully require the service of his or her taxicab at any place within the City and at any time during his or her work shift, whether day or night, except when the person:

   (i) is unruly or disorderly;

   (ii) refuses to give his or her destination;

   (iii) is in possession of an animal other than a seeing-eye dog;

   (iv) is eating or drinking any food or beverage and refuses to dispose of same prior to entry into the taxicab vehicle;

   (v) has not paid a previous fare or cancellation fee;
(vi) is, in the reasonable belief of the driver, unable or unwilling to pay the fare and has been unable or unwilling to satisfy the driver that he or she has the funds to pay the fare;

(vii) is a grossly unclean person;

(viii) in the reasonable belief of the taxicab driver, poses a threat to his or her personal safety; or

(ix) is smoking and refuses to extinguish the cigarette, cigar or pipe or other smoking product and/or instrument prior to entry into the taxicab vehicle

(i) when operating a taxicab, upon the request of any passenger or whenever there is a dispute over the fare, provide a complete receipt for the fare or charge made and paid, indicating thereon:

   (i) the place of pick up and discharge of such passenger;

   (ii) the taxicab driver’s name;

   (iii) the number of his or her taxicab driver licence;

   (iv) the identifying number on the taxicab vehicle;

   (v) the number of the taxicab owner’s licence for the vehicle;

   (vi) the Provincial Motor Vehicle Permit Number for the taxicab; and

   (vii) that it is a “Taxicab” receipt;
(j) when operating a taxicab, take due care of all property delivered or entrusted to him or her and accepted by him or her for conveyance or safekeeping, and immediately upon termination of any hiring or engagement, search the interior of his or her vehicle for any property lost or left therein and forthwith deliver to the person owning the same all money or property left in his or her taxicab; or if the owner of the money or property cannot be at once found, deliver all of the said money and property to the nearest City of Hamilton Police and report all information pertaining thereto in his or her knowledge, possession and belief;

(k) at the conclusion of a trip, call the passenger’s attention to the amount of the fare registered on the meter and place the meter in a non-recording position;

(l) ensure that when more than one passenger is being transported in a taxicab, and said passengers have different destinations, the taximeter is re-flagged after each destination. The individual or individuals shall then be responsible for the fee registered on the taximeter at the point of their particular destination;

(m) take the shortest in distance and most practical route to the destination provided by the passenger, unless the passenger directs the taxicab driver to take another route;

(n) while operating a taxicab, keep and maintain at all times in such taxicab sufficient bills and coins such that change may be provided to passengers of such taxicab;

(o) be permitted to engage the taxicab meter before the passenger enters the vehicle, only after the taxicab driver has notified the passenger of his or her arrival and has waited at least five (5) minutes after the taxicab driver has notified the passenger of his or her arrival;

(p) engage the taxicab meter at the commencement of the trip and keep it engaged throughout the trip, unless otherwise exempted under this Schedule;
(q) when operating a taxicab, keep a daily trip sheet, in the form attached to Appendix “2”, or as approved by the Issuer of Licences, containing the following information:

(i) the name, address and taxicab driver’s licence number of the driver;

(ii) the date;

(iii) the number and date of issue of the taxicab owner’s licence issued pursuant to the provisions of this Schedule;

(iv) the location, date and time of the beginning and end of every trip made trip and the number of passengers carried;

(v) the amount of the fare collected for each trip; and

(vi) the meter readings at the start and finish of each working period;

(r) provide the owner of the vehicle with a copy of the trip sheets daily;

(s) retain a copy of the daily trip sheet for a least twelve (12) months and make them available for inspection at the request of the Issuer of Licences;

(t) make his or her trip record and all information as to passengers carried available to any Officer and to the Issuer of Licences when requested to do so;

(u) notify the Issuer of Licences in writing within six (6) days of a change of address and produce his or her licence for that change of address to be entered;

(v) each day, before commencing the operation of a taxicab, examine the vehicle for mechanical defects, interior or exterior damage, and a jack and usable spare tire and wheel and shall report forthwith any defects found to the owner of the vehicle;
(w) each day, upon completion of the operation of a taxicab, return the vehicle to his or her employer and report all defects and all accidents to the owner;

(x) report forthwith to his or her employer and the Issuer of Licences any accident in which he or she was involved while operating his or her employer's cab;

(y) at the expiration of his or her work period return the cab to his or her employer and shall not at any time abandon the cab or permit any other person to drive same;

(z) when operating a taxicab, carry at all times and produce on request of an Officer, the driver's licence issued under this Schedule and his or her Ontario driver's licence;

(A) when operating a taxicab, carry and display a current Tariff card at all times and produce same on request of an Officer or a passenger;

(B) when a dispute arises with a passenger about the fare, refer the dispute to Issuer of Licences;

(C) when operating a taxicab:

(i) only enter a taxicab stand by taking his or her position at the end of any line formed by the taxicabs already at the stand;

(ii) while waiting at a taxicab stand or at any other public place:

➢ not obstruct or interfere in any way with the normal use of the taxicab or public place, or interfere with the surrounding traffic patterns;

➢ be sufficiently close to his or her taxicab to have it under observation at all times;

➢ not wash the taxicab; and
not make repairs to his or her taxicab, unless the repairs are immediately necessary.

(iii) subject to the Taxicab Passengers’ Bill of Rights, not pick up any passenger within sixty (60) meters of a taxicab stand when there is one or more taxicabs at the stand:

- unless an arrangement has been previously made with the passenger to pick him or her up at that location; or,

- unless the passenger exhibits a preference for that taxicab, and the chosen taxicab driver notifies the driver of the first taxicab on the taxicab stand;

(D) provide the medical certificate, as required by the Issuer of Licences, pursuant to section 51 of this Schedule; and

(E) in addition to complying with all other requirements of this Schedule with respect to taxicab drivers, every licensed accessible taxicab driver shall:

(i) ensure that all wheelchairs being transported within the taxicab are securely fastened so as to prevent them from moving when the taxicab is in motion;

(ii) ensure that the accessible taxicab he or she is operating:

- is equipped with an extra tire, wheel and jack ready for use for that vehicle;

- is in compliance with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the Highway Traffic Act; and
➢ has wheelchair tie down that comply with the regulations set out in subsection (ii) above;

(iii) ensure that only a person licensed under the provisions of this Schedule as an accessible taxicab driver, and whose licence is endorsed by the Issuer of Licences, is permitted to drive an accessible taxicab under his or her control;

(iv) keep accurate, daily, records of the number of trips made for disabled passengers and for non-disabled passengers; and

(v) give priority to the use of the accessible taxicab by disabled passengers, and then permit its use for non-disabled passengers.

**DRIVER PROHIBITIONS**

63.(1) No licensed driver shall;

(a) operate a taxicab where the number of passengers carried exceeds the manufacturer’s seating capacity rating and no more than the maximum insured capacity for the vehicle;

(b) operate a taxicab where seat belts are not available for use by each passenger carried;

(c) operate a taxicab with luggage or any object placed in, hung on or attached to the vehicle in such a manner as will obstruct the drivers view;

(d) be under the influence of any intoxicant or take, consume or have in his or her possession any alcohol, drugs or intoxicants while in charge of or operating a taxicab nor shall the use thereof by him or her be apparent while he or she is operating or is in charge of such vehicle;
(e) operate a taxicab for more than 12 consecutive hours during any period of 24 consecutive hours;

(f) operate a taxicab other than as a taxicab;

(g) use any fare or Tariff card while operating a taxicab other than the Tariff card issued by the City;

(h) remove, exchange, lend or otherwise dispose of a Tariff card issued by the City;

(i) while operating a taxicab take on any additional passengers after the vehicle has departed from any one starting point, except under the following circumstances:

   (i) when done at the request of a passenger already in the taxicab; or

   (ii) in an emergency situation; or

   (iii) an accessible taxicab, when engaged in the conveyance of disabled persons.

(j) operate a taxicab which does not have an owner’s plate affixed thereto;

(k) operate a taxicab where the owner of the taxicab is not licensed as an owner under this Schedule;

(l) when operating a taxicab permit a passenger to stand while the vehicle is in motion;

(m) when operating a taxicab recommend hotels, restaurants or other like facilities unless requested to do so by the passengers;

(n) operate a taxicab when the taxicab meter is not in accordance with the then existing current tariff/fare rates set out in this Schedule;
(o) operate a taxicab when the taxicab meter does not operate properly;

(p) operate a taxicab when the taxicab meter seal has been broken, altered or removed unless authorized under section 54;

(q) operate a taxicab without door side numbers and/or letters and/or a roof light as required by this Schedule;

(r) operate a vehicle which is not approved for use as a taxicab by the Issuer of Licences;

(s) operate a taxicab unless such vehicle:

   (iv) is equipped with a spare tire and jack, ready for use for that vehicle;

   (v) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;

   (vi) is clean, dry and in good repair as to its interior; and

   (vii) is clean and in good repair as to its exterior, free from exterior body damage and with a well maintained exterior paint finish.

(t) recover or receive any fare or charge from any passengers or persons who had demanded his or her services which is greater or less than the fare, tariff or charge authorized by this Schedule save and except for a tip or gratuity, or otherwise as authorized under this Schedule;

(u) when operating a taxicab recover or receive any fare or charge from any person to whom he or she has refused to show the Tariff card;
(v) when operating a taxicab, make any charge for time lost through defects or inefficiency of the taxicab or the incompetence of the driver;

(w) when operating a taxicab, make any charge for the time elapsed due to early arrival of the taxicab in response to a call for the taxicab to arrive at a fixed time;

(x) when operating a taxicab, induce any person to engage his or her taxicab by any misleading or deceiving statement or representation to that person about the location or distance of any destination named by that person;

(y) knowingly drive about the streets in his or her cab any person for the purpose of soliciting from the cab for acts of prostitution or for the purpose of any illegal act;

(z) solicit any person to take or use his or her taxicab by calling out or shouting. The person wishing to use or engage a taxicab shall be left to choose without interruption or solicitation;

(A) employ or allow any runner or other person to assist or act in concert with such driver in obtaining any passenger or baggage at any of the public taxicab stands, railway stations or elsewhere in the said City;

(B) DELETED – REPEALED 2006;

(C) carry any passenger who is under the influence of any intoxicant while his or her taxicab is occupied by a person who is not accompanying the person so under the influence;

(D) carry any person while on duty or subject to call, other than the person or persons employing his or her services, unless first approved by that person;

(E) smoke in a taxicab;

(F) transport liquor, spirits, beer or any other alcoholic beverage except in strict compliance with the applicable legislation;
(G) when requested by the Issuer of Licences, fail to return or surrender any licence issued under this Schedule;

(H) overcrowd a public taxicab stand, nor back onto the same nor push or displace any taxicab already in the stand. (A driver who wishes to enter a public taxicab stand with his or her taxicab shall do so by taking his or her position at the end of any line formed by other taxicabs already in the stand and when a driver is either first or second in line in such stand, he or she shall remain in the driver's seat of his or her taxicab ready to be hired);

(I) while carrying on or engaged in the conveyance of passenger(s) stop, stand or park a taxicab on any highway except as authorized by law; or

(J) take on any additional passenger after the cab has departed with one or more passengers from any starting point except at the request of a passenger already in the cab or with the approval of the Issuer of Licences due to special emergency conditions;

**OWNER’S DUTIES**

64.(1) No licensed owner or lessee shall fail to:

(a) hold a separate taxicab owner licence for each vehicle used or kept for hire as a taxicab;

(b) obtain and maintain in good standing a taxicab driver’s licence issued in accordance with this Schedule;

(c) keep at all times in the taxicab of which he or she is the owner, the original, or a traveling copy of the original, of each of the following documents:

(i) the motor vehicle registration issued under the Highway Traffic Act and current Ontario Ministry of Transportation passenger Motor Vehicle Permit issued for that taxicab;
(ii) the current taxicab owner’s licence issued in accordance with this Schedule;

(iii) when operating the taxicab, the current taxicab driver’s licence issued under this Schedule; and

(iv) the certificate of liability insurance for the vehicle, in accordance with this Schedule;

(d) for each taxicab for which the owner holds a licence, and before use of the taxicab,

(i) obtain and maintain a policy of insurance in respect of the taxicab in full force and effect during the entire period of time for which the licence is issued and in full force and effect in an amount not less than $2,000,000.00, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of one or more persons or from loss or damage to property resulting from any one accident;

(ii) provide a special endorsement to the policy of insurance referred to in paragraph (i), for passenger hazard in an amount not less than $2,000,000.00, exclusive of interest and costs;

(iii) cause to be endorsed on the policy of insurance referred to in paragraph (i), that the City shall be given at least thirty (30) days prior notice of any cancellation, expiration or change in the amount of the insurance or in terms of the policy; and

(iv) deposit a certified true copy of the policy of insurance and all endorsements with the City;
(e) obtain, place and maintain therein or thereon, for each vehicle licensed pursuant to this Schedule, the following:

(i) a current Tariff card, Taxicab Passengers' Bill of Rights card, Taxicab Driver's Bill of Rights card and driver's photo identification in a holder securely affixed on the upper portion of the rear of the driver's seat of the vehicle in a location clearly visible to the passenger(s) or in a manner approved by the Issuer of Licences;

(ii) the taxicab owner's plate securely affixed to the left rear trunk, or at a location and in a manner approved by the Issuer of Licences; and

(iii) the owner's plate number for that taxicab displayed in contrasting colours in letters of at least 15cm affixed on both side doors or at a location and in a manner approved by the Issuer of Licences;

(f) inform the Issuer of Licences forthwith of any changes in the motor vehicle registration of the taxicab;

(g) have in his or her vehicle a taxi meter of the type approved and road tested by the Issuer of Licences or Officer and mounted in a position approved by the Issuer of Licences or Officer so that it is clearly visible to the passengers in the front and rear seats of the taxicab;

(h) have on his or her vehicle an electrically illuminated roof sign which is securely attached to the top of the taxicab in a manner approved by the Issuer of Licences or Officer and wired to the taxicab meter and working in conjunction with the taxicab meter so that it is not illuminated when the meter is engaged and is illuminated when the headlights are on and the meter is in the vacant status;

(i) ensure that each vehicle for which he or she is licensed is, in its interior, neat, clean, dry and in good repair; and, on its exterior, clean and in good repair, free from exterior body damage and has a well-maintained paint finish;
(j) repair any mechanical defect in the taxicab, reported to such owner by a licensed driver or directed by the Issuer of Licences or an Officer to be repaired;

(k) report forthwith to the Issuer of Licences any accident in which his or her taxicab was involved;

(l) submit each licensed taxicab for mechanical fitness and safety inspection by a qualified and licensed automobile mechanic, approved by the Issuer of Licences, annually, at such other time or times prescribed by this Schedule and as requested to do so by an Officer or the Issuer of Licences, and submit to the Issuer of Licences a valid Safety Standards Certificate issued in accordance with the Highway Traffic Act at the time of the taxicab licence renewal or transfer;

(m) submit each licensed taxicab for general inspection and approval by the Issuer of Licences or an Officer pursuant to subsection 57(2) of this Schedule, and at such other time or times when requested to do so by either of them;

(n) each taxicab must be equipped with an emergency lighting warning system mounted on the exterior of the vehicle as approved by the Issuer of Licences to provide safety for the taxicab driver;

(o) equip each licensed taxicab with:

(i) a Global Positioning System; and

(ii) an onboard camera on or before May 1, 2010;

(o.1) ensure that before the on-board camera required under paragraph 64(1)(o)(i) is serviced, the contractor has entered into a confidentiality agreement with the City as provided for in the City's Access and Privacy Policy for Security Cameras in Taxicabs;
(p) ensure that taxicab drivers in his or her employ retain the daily trip records referred to in this Schedule for a period of time not less than twelve (12) months, that such records shall be open to inspection by any person authorized by the Issuer of Licences and that such records may be removed and retained by the Issuer of Licences for a reasonable time and copied by the Issuer of Licences or any person authorized by the Issuer of Licences;

(q) retain copies of the daily trip sheet submitted by the licensed driver of the taxicab to the owner for at least twelve (12) months and make them available for inspection, copying and retention at the request of and by the Issuer of Licences or any person authorized by the Issuer of Licences;

(r) employ or use only the services of taxicab drivers licensed under this Schedule;

(s) carry on or engage in or otherwise continuously operate or make his or her taxicab available for service within the City during the term of his or her licence;

(t) notify the Issuer of Licences in writing within six days of a change of address;

(u) in the case of a corporation or partnership, notify the Issuer of Licences immediately upon a change in ownership of the individual holding shares of the company;

(v) make application to the Issuer of Licences for re-qualification under the provisions of this Schedule for a taxicab owner licence should a threshold percentage of twenty percent of the company shares change ownership;

(w) before acting as a taxicab driver, comply with all the requirements for the issuance of a taxicab driver's licence under this Schedule, except that payment of the fee for issuance of a driver’s licence shall not be required;

(x) require all drivers using or operating the owner’s licensed taxicab to comply with the requirements of this Schedule applicable to taxicab drivers;
(y) in addition to complying with all other requirements of this Schedule with respect to taxicab owners, every licensed accessible taxicab owner shall:

(i) keep accurate records of the number of trips made monthly for disabled passengers and for non-disabled passengers and submit the records for each month to the Issuer of Licences no more than 10 business days after the last day of each month;

(ii) ensure that the accessible taxicab he or she is operating:

- is equipped with an extra tire, wheel and jack ready for use for that vehicle;

- has approved wheelchair tie down;

(iii) in addition to all of the other general taxicab owner responsibilities prescribed by this Schedule, ensure that only a person licensed under the provisions of this Schedule as an accessible taxicab driver, whose licence has been endorsed by the Issuer of Licences, is permitted to drive an accessible taxicab under his or her control;

(iv) ensure that before using, or permitting to be used, any vehicle that is licensed under the provisions of this Schedule as an accessible taxicab, that the said vehicle complies with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the Highway Traffic Act, and all other pertinent federal and provincial regulations as established from time to time; and

(v) ensure that priority is given to the use of the accessible taxicab by disabled passengers, and thereafter permit the taxicab to be used for non-disabled passengers; and
(z) ensure that any vehicle for which the taxicab plate is to be used shall be in compliance with this Schedule

OWNER PROHIBITIONS

65.(1) No licensed owner or lessee shall:

(a) operate or permit the operation of a vehicle not owned by him or her under the authority of his or her owner’s plate and licence;

(b) employ any person to operate his or her taxicab who does not hold a valid taxicab driver licence issued pursuant to this Schedule;

(c) fail to continuously operate the vehicle for which a taxicab owner’s plate has been issued;

(d) operate or permit the operation of a vehicle of which he or she is the owner where the vehicle is not approved for use as a taxicab under the provisions of this Schedule;

(e) operate or permit the operation of a taxicab of which he or she is the owner, without attaching the current taxicab owner’s plate for that taxicab in the manner prescribed under the provisions of this Schedule;

(f) fail to have a vehicle which has been approved by the Issuer of Licences for the owner’s plate issued pursuant to this Schedule unless otherwise exempted in this due to repair or replacement of such vehicle;

(g) fail to affix the taxicab owner’s plate to the vehicle approved for use as a taxicab by the Issuer of Licences;
(h) operate or permit the operation of a taxicab of which he or she is the owner while displaying any owner's plate issued by the licensing authority of any other municipality;

(i) fail to submit the vehicle for inspection when required to do so by the Issuer of Licences or an Officer under sections 55 and 56 of this Schedule;

(j) permit any driver to operate such owner's taxicab for any period in excess of 12 hours during any period of 24 consecutive hours;

(k) operate or permit the operation of a taxicab where such vehicle has mechanical defects;

(l) operate or permit the operation of a taxicab where such vehicle has substantial exterior body damage or rust;

(m) operate or permit the operation of a taxicab of which the owner is in affiliation with a taxicab broker who is not licensed under this Schedule;

(n) operate or permit the operation of a taxicab of which he or she is the owner while displaying or bearing any sign, emblem, decal, ornament or advertisement, on or in his or her vehicle except in a form approved by the Issuer of Licences;

(o) operate or permit the operation of a taxicab, of which he or she is the owner, which displays or bears advertising, unless in accordance with the Advertising Prerequisites contained in subparagraph 65(1)(o)(i) and such other advertising prerequisites and guidelines as may be established by the Issuer of Licences from time to time;

(i) An owner may operate or permit the operation of a taxicab which displays or bears advertising provided that;

➢ the content of the advertising shall not be of an obscene, racist, sexist or discriminatory nature;
- all advertising, advertising signs and sign holders shall be securely mounted to the taxicab in such a manner as to prevent the sign, holder and any advertising materials exhibited thereon from loosening, separating or coming free during the operation of the taxicab;

- no advertising, advertising sign or sign holder on the rooftop or exterior of a taxicab shall, in any way, block, hamper, obstruct or obscure the view of any person of the taxicab licence number, taxicab licence plate, name of the owner of the taxicab and, where applicable, its broker;

- no advertising, advertising sign or sign holder shall be placed or located on any window of the taxicab;

- the number of interior advertisements or advertising signs shall not exceed five (5);

- no interior advertisement or advertising sign shall exceed twenty-six centimetres by thirty-one centimetres (26cm x 31cm) in size;

- no interior advertising, advertising sign or sign holder shall be placed or located in such a way as to obstruct or obscure the vision of the driver or obstruct or hamper the driver’s operation of the taxicab, in any way, or obstruct or obscure the view, from all passenger seats, of the driver’s photo identity card, the taxicab meter, the driver’s taxicab licence, the tariff/fare card, the Passengers’ Bill of Rights card and the Driver’s Bill of Rights card;

- the number of exterior advertisements or advertising signs shall not exceed one (1);

- exterior advertisements or advertising signs shall only be placed or located on the rear end of the taxicab;
➢ exterior advertisements or advertising signs shall not exceed sixteen centimetres by ninety-two centimetres (16cm x 92cm) in size;

➢ the number of rooftop mounted signs shall not exceed one (1);

➢ a rooftop mounted sign shall be illuminated;

➢ a rooftop mounted sign not exceed one hundred and twenty-two centimetres in length, seventy-nine centimetres in width, and forty-six centimetres in height (122cm L x 79cm W x 46cm H); and

(ii) any exterior advertisement painted on a vehicle or secured on a rooftop advertising sign, not in accordance with the advertising prerequisites contained in paragraph 65(1)(o) but previously approved by the Issuer of Licences as of May 28, 2003, shall be removed from the taxicab at the earlier of the date upon which the taxicab is repainted, replaced, or May 28, 2005;

(p) operate or permit the operation of a taxicab of which he or she is the owner unless equipped with a taxicab meter which has been tested, sealed and approved by the Issuer of Licences or Officer unless authorized under section 54;

(q) operate or permit to operate a taxicab when the taximeter is out of order or defective in any way or the taximeter seal is broken, altered or not intact unless authorized under section 54;

(r) use or permit to be used any taxicab licence issued to such owner pursuant to this Schedule for any vehicle other than the vehicle for which the licence was issued;

(s) knowingly drive or permit to be driven about the streets in his or her cab any person for the purpose of soliciting from the cab for acts of prostitution or conducting or soliciting any illegal acts;
(t) operate, or permit to be operated, a taxicab which was constructed or subsequently modified to permit the loading, transportation and off-loading of those individuals confined to a wheelchair, or similar device used to assist the physically disabled, without transfer, which does not comply with Regulation 629 of the Revised Regulations of Ontario, 1990 (Vehicles for the Transportation of Physically Disabled Persons) made under the *Highway Traffic Act*;

(u) when requested by the Issuer of Licences, fail to return or surrender any licence, owner’s plate, or other documentation or identification, issued by the Issuer of Licences pursuant to this Schedule, to the Issuer of Licences;

(v) when requested by the Issuer of Licences, fail to surrender to the Issuer of Licences any daily trip sheets prescribed and required by this Schedule;

(w) lease or otherwise lend an owner’s licence issued under this Schedule or a vehicle approved for use as a taxicab unless approval by the City has been granted;

(x) by a written or verbal agreement sub-lease the taxicab or transfer the responsibility for the operation thereof to a third party;

(y) enter into any written or oral agreement, directly or indirectly, permitting or acquiescing in the operation of the taxicab for which the licence was issued, by any other person who is not a licensed taxicab driver; or

(z) shall permit his or her taxicab plate or the operations thereof to be used on a vehicle that does not comply with this Schedule

**TAXICAB BROKER DUTIES**

66.(1) Every licensed taxicab broker shall:

(a) maintain an office, from which the taxicab brokerage is operated;
(b) require all taxicab owners who have entered into arrangements with such broker for the provision of taxicab brokerage services to affix to the side doors of the vehicle identification numbers and letters in a form approved by the Issuer of Licences;

(c) provide to the Issuer of Licences the name of every owner and driver required to be licensed under this Schedule with which he or she has entered into any arrangement for the provision of taxicab brokerage services;

(d) keep a record of all owners operating taxicabs in association with him or her such record to show the number of taxicabs operated by each owner, including his or her name and address and the number of the licence issued under this Schedule in respect of each;

(e) notify the Issuer of Licences, in writing, within ten (10) days of any additions or deletions from the list provided under subsection (3) of this section;

(f) carry on or engage in or otherwise continuously operate the taxicab brokerage business within the City;

(g) require all owners and drivers of taxicabs operating within the broker’s taxi fleet to comply with the requirements of this Schedule;

(h) maintain an accurate record of all requests for the hire of a taxicab along with the following information for each taxicab dispatched:

   (i) the number of the taxicab owner licence issued under the provisions of this Schedule;

   (ii) the date and time of receipt of the order and of the dispatching;

   (iii) the name and taxicab driver licence number of the driver; and

   (iv) the address to which such taxicab is dispatched, and retain these records for a twelve (12) month period;
(i) dispatch a taxicab to any person requesting service within the municipality, unless the person requesting service has not paid for a previous trip and these facts are verified by the broker;

(j) post in a conspicuous location in the business office, viewable by the public, the licence issued under this Schedule;

(k) at the direction of the Issuer of Licences not dispatch calls to any taxicab, if the licensed owner or licensed driver, in the opinion of the Issuer of Licences, has contravened any section of this Schedule;

(l) at the request of the Issuer of Licences, provide a list showing the number of taxicabs available for service to the public on any particular day, including the times when it was last available for service on that day and also including the number of dispatched calls serviced by each such taxicab;

(m) employ or use only the services of an owner or driver licensed under this Schedule; and

(n) Post and maintain a copy of the Ontario Human Rights Commission’s publication entitled “Declaration of Management Policy”, on bulletin boards and on other similar locations provided for the regular posting of written notices to drivers or owners of taxicabs operating from the brokerage.

**TAXICAB BROKER PROHIBITIONS**

67.(1) No licensed taxicab broker shall:

(a) dispatch a taxicab for the purpose of carrying on or engaging in the conveyance of passengers within the City where the owner or driver of the taxicab does not hold a licence for their respective calling issued under this Schedule;

(b) accept orders for, or in any way dispatch or direct orders to a taxicab, licensed under this Schedule:
(i) when the activity would be illegal under a provincial or federal statute; or

(ii) where the fare is less than that permitted under this Schedule.

(c) accept orders for, or in any way dispatch or direct orders to a taxicab where the owner of which is not licensed under this Schedule, for a pick-up location within the boundaries of the City;

(d) be permitted to have exclusive rights to any taxicab stand in the City;

(e) enter into an agreement for the provision of brokerage services with a taxicab driver or a taxicab owner who is already affiliated with another taxicab broker;

(f) charge a fare or enter into an agreement to charge a fare which is not in accordance with the approved tariff/fare set out in Appendix “1” to this Schedule;

(g) when requested by the Issuer of Licences, fail to return or surrender any licence issued under this Schedule; or

(h) fail to carry on or engage in the taxicab brokerage business for which the taxicab brokerage licence has been issued.

PROMOTIONAL SCHEMES

68.(1) No taxicab broker, taxicab owner, taxicab lessee or taxicab driver shall participate or acquiesce in any promotional scheme or practice of which the purpose, result or effect is to directly or indirectly subsidize the rates, tariffs or fares prescribed in this Schedule, unless in accordance with this section or with the written consent of the Licensing Tribunal.

(2) A taxicab broker may undertake, participate or acquiesce in a promotional scheme provided that all of the following conditions are met:
(a) a detailed description including a sample of any voucher or coupon to be used together with a copy of all proposed advertising or promotional material related to the scheme or practice is filed, in advance, with the Issuer of Licences for approval;

(b) the Issuer of Licences has approved the promotional scheme or practice and any voucher or coupon and advertising or promotional material to be used;

(c) no more than one (1) promotional scheme or practice has been participated, acquiesced in or permitted, in the current calendar year, by the taxicab broker or any taxicab owner, lessee or driver in such broker’s service, in association with such broker, or in any arrangement to provide taxicab vehicle use or taxicab driving services for or to such broker;

(d) all vouchers or coupons and all advertising or promotional material related to the scheme or practice clearly indicate the start date and expiry date for each promotional scheme or practice;

(e) no promotional scheme or practice undertaken shall be in effect for a period of more than thirty (30) days or have an expiry date later than thirty (30) days from its effective start date;

(f) the taxicab broker does not accept or permit any taxicab owner, taxicab lessee or taxicab driver to accept a voucher or coupon or like instrument related to the promotional scheme or practice beyond its expiry date;

(g) the taxicab broker does not accept or permit more than one (1) voucher or coupon or like instrument to be used or credited against a tariff, fee or rate prescribed in this Schedule per trip per vehicle regardless of the number of passengers in a taxicab vehicle;

(h) the taxicab broker does not issue or make available a voucher or coupon or like instrument with a value more than One ($1.00) Dollar in Canadian funds;
(i) the promotional scheme or practice is only at the cost of the taxicab broker not directly or indirectly at the cost or expense of a taxicab owner, taxicab lessee or taxicab driver; and

(j) the taxicab broker has not violated or contravened any of the Promotional Scheme terms and conditions set out in this section, in the past five (5) years.

(3) An owner, lessee or driver of a taxicab may participate or acquiesce in a promotional scheme or practice of a taxicab broker that is authorized under this section.

(4) A broker of a taxicab may only undertake, participate or acquiesce in a promotional scheme or practice in accordance with subsection 68(2) unless the broker obtains the written consent and approval of the Licensing Tribunal.

(5) With the exception of subsection 68(3), an owner, lessee, or driver of a taxicab may only undertake, participate or acquiesce in a promotional scheme or practice with the written consent and approval of the Licensing Tribunal.

CUSTOMER SERVICE

69.(1) A taxicab driver, owner and broker shall ensure that:

(a) a Taxicab Passengers’ Bill of Rights in the prescribed form, as set out in Appendix “4”, for all taxicabs, is displayed on the upper portion of the rear of the driver’s seat in a position clearly visible to the passenger(s) to inform Taxicab passengers of their rights;

(b) a Taxicab Driver’s Bill of Rights in the prescribed form, as set out in Appendix “5”, for all taxicabs, is displayed on the upper portion of the rear of the driver’s seat in a position clearly visible to the passenger(s) to inform Taxicab passengers of the rights of the Taxicab Driver; and

(c) a taxicab Tariff card and Taxicab Driver photo identification card is displayed as prescribed in this Schedule.
(2) Every broker shall post in a conspicuous place in their place of business, clearly visible to the public, the City customer complaints/compliments hotline telephone number and follow-up and resolution process prescribed by the Issuer of Licences.

ADMINISTRATION AND ENFORCEMENT

70.(1) This Schedule shall be administered and enforced by the Director, Parking and By-law Services, Planning and Economic Development Department with delegation of the enforcement to any Officer.

(2) A Municipal Enforcement Officer has the authority, if the Officer is in the opinion that the vehicle contravenes the Schedule or public safety is at risk, to:

(a) remove a taxicab from service;

(b) remove the City of Hamilton taxi plate from the taxicab;

(c) remove the roof sign; and

(d) remove the taxicab meter.

71. DELETED – REPEALED 2011

72. DELETED – REPEALED 2011

73. DELETED – REPEALED 2011

74. DELETED – REPEALED 2011

75. DELETED – REPEALED 2011

76. DELETED – REPEALED 2011

Prepared: November 15, 2012
77. **DELETED – REPEALED 2011**

78. **DELETED – REPEALED 2011**

79. **DELETED – REPEALED 2011**

80. **DELETED – REPEALED 2011**

**SEVERABILITY**

81. Notwithstanding that any section or sections of this Schedule, or any part or parts thereof, may be found by any court of law to be invalid or illegal or beyond the power of the Council to enact, such section or sections or part or parts thereof shall be deemed to be severable, and all other sections of this Schedule, or parts thereof, are separate and independent therefrom and enacted as such.

**APPENDICES**

82. Appendices “1”, “2”, “3”, “4”, “5” and “6” attached hereto form part of this Schedule.
SCHEDULE 25

Appendix 1 (Taxicab Tariff/Fares)

Meter and By Agreement Rates

The Meter and By Agreement Rates as approved by Council are set as follows:

- For the first 71.4 meters or part thereof: $3.20
- For each additional 71.4 meters or part of thereof: $0.13 ($1.82/km)
- For waiting time while under engagement: $0.13 per each 14 (fourteen) seconds
- Livery or meter cabs by agreement (per hour): $37.00

Senior Citizens receive a 10% reduction on the above Meter Rates calculated on the highest FULL Dollar registered on the taxi meter.

The above rates include the Harmonized Sales Tax.

In accordance with section 68 of this By-law, promotional discount fares are prohibited subject to the written consent of the Issuer of Licences.
### SCHEDULE 25
### APPENDIX 2

**Taxi Trip Sheet**

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<tr>
<th>Date</th>
<th>Start Shift Time</th>
<th>End Shift Time</th>
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Drivers Name ________________  Taxicab # ____________

Broker ________________

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<tr>
<th>From</th>
<th>Starting Odometer</th>
<th>Destination</th>
<th>Arrival Odometer</th>
<th>Charged Flat Rate</th>
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Prepared: November 15, 2012
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**Equipment Faults:** Brakes

**Exhaust System**

**Cleanliness & Damage:**
- Interior
- Exterior

**Driver Comments:**
- Owners signature:
- Date:

**Check:**
- Oil
- Transmission Fluid

**Other:**
- Lights
- Radio
- Meter
SCHEDULE 25

APPENDIX 3

DELETED – REPEALED 2011
SCHEDULE 25

APPENDIX 4

PASSENGER BILL OF RIGHTS

1. The passenger has the right to:
   
   (a) a professional and knowledgeable taxicab driver who is licensed
   
   (b) a driver who provides a safe ride
   
   (c) a taxicab driver provides a silent ride if desired
   
   (d) a taxicab driver who knows the major streets and destinations
   
   (e) a taxicab driver who is courteous and provides assistance
   
   (f) a taxicab driver who speaks and understands English
   
   (g) a taxicab driver who knows the Taxi By-law and traffic laws

2. The passenger has the right to an effective customer complaint process.

3. The passenger has the right to direct a taxicab driver on the route to be taken.

4. A clean, safe, air-conditioned and smoke-free taxicab.

5. A free ride if the meter is not in a ‘recording’ position.

6. Obtain a receipt that shows the date, time, the taxicab driver’s name, identification number and fare charge.

7. Taxi Drivers Licenses are to be displayed inside the taxi and the passenger has a right to see it.
8. A passenger has thirty days to file a signed complaint. The complaint must be in writing and include your name, address and telephone number, and address the complaint to:

   Municipal Law Enforcement
   77 James Street North, Suite 400
   Hamilton, ON   L8R 2K3

   If you have any questions you may call 905.546.2350
SCHEDULE 25

APPENDIX 5

TAXICAB DRIVER BILL OF RIGHTS

1. Taxicab Driver has the following rights:

   (a) a clean, safe, licensed, air-conditioned and smoke-free taxicab;

   (b) fair and equitable dispatch service;

   (c) access to a service and skills training program;

   (d) a taxicab driver can refuse a customer if the customer requests the taxi driver to carry any passengers or baggage, which the taxi driver is incapable of carrying;

   (e) can refuse a customer if they are drunk or disorderly;

   (f) can refuse a customer if the customer is unable to pay for the fare or if the customer owes money from a previous ride;

   (g) can refuse a customer if the customer requests the driver to carry an animal or baggage, which might be detrimental to the repair, cleanliness or sanitary condition of the taxi (with the exception to seeing eye dog); and

   (h) taxi driver’s responsibility to check his taxi after a customer has departed to ensure the customer has not left any belongings in the taxi – if the customer has left something behind the driver is to make every reasonable attempt to return the belonging to the owner. If the owner cannot be found belonging is to be turned over to the Taxi Broker's Office.
APPENDIX 6

TAXI COST INDEX

City of Hamilton’s Basis for Taxi Meter Rate Adjustments

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SCHEDULE 26

MOBILE SIGN LEASING OR RENTING

PART 1.0
DEFINITIONS

1.1 In this Schedule:

“advertising device” means any object displayed so as to attract public attention to any goods, services, facilities or events, including but not limited to flags, banners, pennants, and lights;

“copy” means the graphic content of a sign surface in either permanent or changeable letter, pictorial, symbolic, or numeric form;

“display” in any form includes “erect” and “locate”;

“Mobile Sign” means a sign that is temporary, is capable of being readily moved from one location to another, and may be part of or attached to a wheeled trailer or frame without wheels;

“Mobile Sign permit” means a sign permit issued for the display of a Mobile Sign under the Hamilton Sign By-law;

“person” includes an individual, association, proprietorship, partnership, syndicate, company, corporation, firm, business, authorized agent, trustee and the heirs, executors or other legal representatives, or any combination of the foregoing; and,

“sign” means any surface, structure and other component parts, which are used or capable of being used as a visual medium or display to attract attention to a specific subject matter for identification, information or advertising purposes and includes an advertising device.
PART 2.0
GENERAL PROVISIONS

2.1 No person shall carry on the business of leasing or renting Mobile Signs without holding a current valid licence issued under this By-law including this Schedule.

2.2 For the purpose of section 2.1, a person who carries on the business of leasing or renting Mobile Signs from a location outside the City shall be deemed to be carrying on business in the City if the person leases or rents Mobile Signs that are displayed in the City.

2.3 Every person who carries on the business of leasing or renting Mobile Signs shall ensure that all required permits are obtained prior to placement of a Mobile Sign and that its placement is in accordance with any permit issued.

2.4 In the event of a conflict between a provision of this Schedule and any other provision of this By-law, the provision in this Schedule prevails.

PART 3.0
LICENCE APPLICATIONS

3.1 In addition to any of the items required in the “LICENCE APPLICATIONS AND FEES” Part of the General Provisions of this By-law, the applicant shall, at the time of filing the application, deliver to the Issuer of Licences the following:

(a) if the applicant is a corporation, a certified copy of the incorporating document showing the names and addresses of all Directors, Officers and Shareholders;

(b) if the applicant is a registered partnership, a certified copy of the registered Declaration of Partnership, showing the names and addresses of all partners; and

(c) a certification that all Mobile Signs to be leased or rented shall have the name and phone number of the licensee affixed to the Mobile Sign at a clearly visible location.
PART 4.0
GROUNDs FOR REFUSAL TO ISSUE OR RENEW A LICENCE

4.1 In addition to the grounds listed in section 12 of the General Provisions of this By-law, the Issuer of Licences shall refuse to issue or renew a licence where, having regard to the applicant’s financial position, the applicant cannot be reasonably expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

PART 5.0
PROHIBITIONS

5.1 No person shall:

(a) publish or cause to be published any representation that the person is licensed under this Schedule if the person is not so licensed;

(b) display or permit the display of a Mobile Sign that does not have the name and phone number of the licensee under this Schedule, if a licence is required, affixed to the Mobile Sign at a clearly visible location;

(c) display or permit the display of a Mobile Sign other than in accordance with all of the applicable provisions of the City’s by-laws respecting signs before February 1, 2007 and with the Hamilton Sign By-law on and after February 1, 2007; or

(d) fail to ensure that the message board on a Mobile Sign is secured with a locking mechanism to prevent any person, other than the licensee under this Schedule or the Mobile Sign permit holder under the Hamilton Sign By-law, from having access to the message board.

PART 6.0
CHANGES IN INFORMATION

6.1 Every licensee shall notify the Issuer of Licences, in writing, within 6 days after the event, of any change to the information contained in their application.
6.2 Where a change has occurred in the name or business name of a licensee, the licensee shall attend within 6 days of the date of the change at the office of the Issuer of Licences to have the licence and licence records amended accordingly.
SCHEDULE 27

TOBACCO RETAILERS

1. (1) Subject to subsection (3), the keeper of any premises where tobacco, cigars or cigarettes are offered for sale by retail shall obtain and maintain in good standing a licence from the City under this Schedule, authorizing the sale from the premises of tobacco, cigars or cigarettes by retail.

(2) No person shall sell tobacco, cigars or cigarettes by retail from any premises, unless a licence has first been obtained for that store under subsection (1).

(3) All persons selling tobacco, cigars or cigarettes by retail from any premises shall comply with all aspects of the Smoke-Free Ontario Act.

(4) Where a person being the owner and operator of a premises, is the holder of a licence under this Schedule as the keeper of such premises, no employee of the premises need obtain a separate licence.

2. For the purposes of this Schedule, the following definitions apply:

(a) "keeper" shall mean a person responsible for the care and management of a premises selling tobacco, cigars or cigarettes, and shall include the owner and operator of the store;

(b) "licence holder" shall mean the keeper of a premises who holds a current and valid licence under this Schedule; and

(c) "premises" shall include any building, booth, or stall, or a portion thereof where goods are exposed for sale, and shall include a shop.

REGULATIONS

3.(1) A licence holder under this Schedule shall:
(a) display in the premises at all times all signs, as required by the Smoke-Free Ontario Act respecting the sale of tobacco, cigars or cigarettes;

(b) require employees of the premises to read the sign required in paragraph (a), prior to commencing work involving the sale of tobacco, cigars or cigarettes, and instruct employees to bring any removal or defacement of the required signs to the immediate attention of the licence holder;

(c) replace with a new sign as required in paragraph (a), any sign which has been removed or destroyed, or where the prescribed message or part thereof has been defaced; and

(d) use for the required signs the sign available from the City, or substitute a sign of equal or greater overall size and letter size and complying in all other respects with requirements of this Schedule.

4.(1) A licence holder under this Schedule shall provide at least one container for the disposal of refuse, located at the exterior of his or her premises, for the use of customers.

(2) The licence holder shall empty the containers required in subsection (1), and any other garbage or ash containers provided for customers, to eliminate overflow of the contents, and shall remove any spillage from the containers.
SCHEDULE 28

TOW TRUCKS

DEFINITIONS

1. In this Schedule:

“compensation” means any form of payment;

“complaint record” means a record of each complaint received by a tow truck business operator or their employee or agent about a towing service they have provided;

“Highway Traffic Act” means the Highway Traffic Act and its regulations;

“registered owner” means the person shown to be the owner of a tow truck according to the records maintained by the Registrar of Vehicles for the Province of Ontario;

“tow truck” means a motor vehicle which is designed, modified or used for pulling, towing, carrying, or lifting a motor vehicle or trailer, be it damaged, disabled, abandoned, or otherwise, with or without the assistance or use of lifts, winches, dollies, trailers, or similar equipment;

“tow truck driver” means an individual who drives a tow truck at any time when the tow truck is providing or available to provide a towing service;

“tow truck business operator” means a person who carries on the business of providing one or more towing service;

“tow truck plate” means a decal, issued by the Issuer Licences, to a tow truck business operator with a current and valid tow truck business operator licence;

"towing service" the provision or offer of provision of a tow truck for compensation including but not limited to:

(a) assisting the owner, operator, driver or passenger of a motor vehicle or trailer through the use of the equipment on or used in conjunction with the tow truck for the pulling, towing, carrying, or lifting of a motor vehicle or trailer; or
(b) conveying the owner, operator, driver or passenger of a motor vehicle or trailer in a tow truck;

“towing service rate card” means a rate card approved by the Issuer of Licences that includes a tow truck business operator’s rates for towing services and contact information;

“trip record” means a record of each trip providing a towing service from the time:

(a) a motor vehicle or trailer; or
(b) an owner, operator, driver or passenger of a motor vehicle or trailer, is picked up to the time they are dropped off.

APPLICATION OF SCHEDULE

2. This Schedule does not apply to a tow truck service that consists only of dropping off in the City:

(a) a motor vehicle or trailer; or
(b) an owner, operator, driver or passenger of a motor vehicle.

GENERAL PROHIBITIONS

3.(1) No person shall act as or hold himself or herself out to be a tow truck driver or shall engage in the business of a tow truck driver unless he or she holds a current and valid tow truck driver licence under this Schedule.

(2) No person shall act as or hold themselves out as a tow truck business operator unless they hold a current and valid tow truck business operator licence under this Schedule.

(3) No tow truck business operator shall permit a person who does not hold current and valid tow truck driver licence under this Schedule to drive a tow truck under the tow truck business operator’s power or control.

LICENSING

General

4. Every tow truck driver and tow truck business operator shall hold the applicable current and valid licence under this Schedule.

5. The Issuer of Licences is authorized to prescribe the format and content of any
forms or other documents required under this Schedule.

Drivers

6. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck driver licence, not including an applicant for a licence renewal, shall provide proof satisfactory to the Issuer of Licences that the applicant:
   (a) holds a current and valid motor vehicle driver’s licence for the tow truck being driven issued by the Province of Ontario;
   (b) has successfully completed Ontario Traffic Council Book 7 training no more than three years before the date of the application; and
   (c) will be working for a licensed tow truck business operator should the tow truck licence be issued.

Operators

7. In addition to complying with the General Provisions of this By-law with respect to licence applications, an applicant for a tow truck business operator licence, not including an applicant for a licence renewal, shall
   (a) submit a list of each tow truck including the make, model, year of manufacture and Vehicle Identification Number;
   (b) submit a list of the rates for tow truck services that includes but is not limited to setting out:
      (i) the rates for:
          1. towing;
          2. boosting a battery;
          3. changing a tire;
          4. opening a locked vehicle without a key;
          5. righting an overturned vehicle or trailer;
          6. other services;
      (ii) if applicable, how distance, time, weight or other variable factors are used to calculate a rate;
   (c) submit contact information including but not limited to an address, telephone number and at least one of a facsimile number, e-mail address or cell phone
(d) provide proof satisfactory to the Issuer of Licences that
  
  (i) the applicant is the registered owner of all tow trucks to be used; and
  
  (ii) all tow trucks to be used: 
  
  1. are dual rear-wheeled trucks; 
  
  2. have been issued either: 
     
     a. an Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance; or 
     
     b. a Safety Standard Certificate issued under the Highway Traffic Act, 
     
     no more 36 days before the proof is provided; and 
     
  3. are insured in a manner satisfactory to the Issuer of Licences; 

  and

  (e) make all tow trucks available for inspection, at the tow truck business operator's expense, as directed by the Issuer of Licences.

INSPECTIONS AND APPROVED TOW TRUCKS

8. The Issuer of Licences:

  (a) may specify the establishments where an inspection of a tow truck is to be carried out; and 

  (b) shall specify what the inspection is to consist of, which may include but is not limited to: 

      (i) a visual exterior and interior inspection of the tow truck; 

      (ii) an assessment of mechanical fitness and safety of the tow truck.

9. For so long as:

  (a) a tow truck business operator’s tow truck is on the list submitted under subsection 7(a): 

  (b) a tow truck business operator complies with subsections 11(e) to 11(k); and 

  (c) all inspections, reports and certificates show that a tow truck business operator’s tow truck complies with this Schedule, 

  the tow truck shall be deemed to be approved by the Issuer of Licences.
REQUIREMENTS

Drivers

10. A tow truck driver shall:

**General**

(a) not drive a tow truck unless:

   (i) the registered owner of the tow truck is a tow truck business operator licence holder; and

   (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;

(b) carry and produce upon request of an Officer, the tow truck driver’s tow truck driver licence and vehicle driver’s licence issued by the Province of Ontario;

(c) comply with all applicable statutes, regulations and by-laws with respect to traffic and parking including but not limited to the Highway Traffic Act and the City’s traffic and parking by-laws and with the Hamilton Highway Non-Solicitation By-law;

**Condition of Tow Truck**

(d) not drive a tow truck unless it is equipped with:

   (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;

   (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;

   (iii) a device for securing the steering wheel of a motor vehicle;

   (iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;

   (v) a safety vest;

   (vi) a broom;

   (vii) a shovel;

   (viii) a waste container at least 75 litres in volume;
(ix) a first aid kit;

(x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;

(xi) a pry bar of no less than 1.5 metres in length;

(xii) two wheel blocks;

(xiii) flares or reflector kits;

(xiv) flashlight;

(xv) wheel wrenches;

(xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;

(xvii) rope;

(xviii) booster cables;

(xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and

(xx) at least 9 kilograms of absorbent material.

(e) maintain:

(i) the interior of the tow truck in a clean, tidy and dry condition; and

(ii) the exterior of the tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;

(f) ensure the tow truck plate is:

(i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and

(ii) plainly visible in its entirety at all times;

(g) obtain a photo identification card issued by the Issuer of Licences and keep the photo identification card and the towing service rate card displayed in the holder provided for this purpose;

(h) not display a photo identification card other than that issued by the Issuer of Licences or a towing service rate card other than that approved by the Issuer of Licences;
(i) each shift before starting and after finishing the shift, examine the tow truck for mechanical defects, interior or exterior damage and report any defects immediately to the tow truck business operator;

(j) not drive a tow truck unless the tow truck:
   (i) meets the standards required for the issue of an acceptance under an Ontario Ministry of Transportation Vehicle Inspection report, or meets the standards for the issue of a Safety Standards Certificate of mechanical fitness;
   (ii) is maintained in accordance with subsection 7(b); and
   (iii) is free from mechanical defect;

(k) report any incidents involving damage or injury during a trip immediately to the tow truck business operator and the Issuer of Licences;

**Tow Services**

(l) not provide any tow service to an individual who has care, charge or control of a motor vehicle or trailer unless the driver has first:
   (i) given to the individual a towing service rate card with:
      1. each tow truck service offered checked off;
      2. the total estimated cost of the tow truck services offered, including applicable taxes, entered;
      3. if applicable, the location of the storage yard where the motor vehicle or trailer will be dropped off; and
   (ii) received from the individual a signed and dated copy of the towing service rate card under paragraph 10(l)(i) authorizing the driver to provide the checked off tow truck services.

(m) not request or be paid a rate
   (i) which is greater than a rate listed on the tow service rate card; or
   (ii) arising from a failure of the tow truck or the tow truck driver;

(n) keep a trip record for each trip in a form satisfactory to the Issuer of Licences that includes:
   (i) the date;
   (ii) the time the call for tow truck services is received;
(iii) the time the tow truck arrives and the location;
(iv) the time of pick-up;
(v) the time of drop-off and the location;
(vi) the total cost of the tow truck services provided; and
(o) behave courteously.

**Tow Truck Business Operators**

11. A tow truck business operator shall:

**General**

(a) not permit their tow truck to be driven unless:
   (i) the driver is a tow truck driver licence holder; and
   (ii) the tow truck has been approved for use as a tow truck by the Issuer of Licences;
(b) ensure that a tow truck driver driving their tow truck complies with all applicable provisions of this Schedule and By-law;
(c) keep at all times in their tow truck an original or copy of:
   (i) the tow truck’s motor vehicle registration issued under the Highway Traffic Act and the current Ontario Ministry of Transportation passenger Motor Vehicle Permit;
   (ii) the tow truck owner licence; and
   (iii) proof of the insurance required under this Schedule;
(d) ensure that their tow truck is at all times during the term of tow truck business owner licence insured in a manner satisfactory to the Issuer of Licences;

**Condition of Tow Truck**

(e) ensure their tow truck is equipped with:
   (i) a winching or hoisting device of sufficient capacity to safely lift a motor vehicle or trailer;
   (ii) a tow cradle, tow-bar or tow-sling maintained to ensure the safe lifting and towing of a motor vehicle or trailer;
   (iii) a device for securing the steering wheel of a motor vehicle;
(iv) a 4.5 kilogram fire extinguisher with a rating of 10-B:C kept in working order and securely mounted at a place readily accessible to the driver;
(v) a safety vest;
(vi) a broom;
(vii) a shovel;
(viii) a waste container at least 74 litres in volume;
(ix) a first aid kit;
(x) an intermittent amber warning light system consisting of at least one light which is clearly visible in directions from a distance of at 100 metres;
(xi) a pry bar of no less than 1.5 metres in length;
(xii) two wheel blocks;
(xiii) flares or reflector kits;
(xiv) flashlight;
(xv) wheel wrenches;
(xvi) two tow safety chains no less than 2.7 metres in length with links made of steel no less than 8 mm in diameter;
(xvii) rope;
(xviii) booster cables;
(xix) magnetic towing lights to be attached to the rear of the motor vehicle or trailer being towed to provide illumination and signal braking; and
(xx) at least 9 kilograms of absorbent material.

(f) maintain:
(i) the interior of their tow truck in a clean, tidy and dry condition; and
(ii) the exterior of their tow truck in a clean and tidy condition including but not limited to being free from body damage and having a well-maintained paint finish;

(g) ensure the tow truck plate is:
(i) affixed to the rear exterior of the tow truck or to another location on the tow truck approved in advance by the Issuer of Licences; and
(ii) plainly visible in its entirety at all times;

(h) display the name and telephone number of the tow truck business and tow truck plate number:
   (i) on both sides of the tow truck or on another location as approved in advance by the Issuer of Licences;
   (ii) in letters and numbers at least 18 centimetres in height;
   (iii) in a colour that contrasts with the background colour; and
   (iv) so as to be plainly visible in their entirety at all times;

(i) ensure that at all times when their tow truck is being used or is available for use it is free from mechanical defects;
   (i) when reported by a tow truck driver licence holder; or
   (ii) as directed by an Officer;

(j) report any incidents of damage or injury involving their tow truck immediately to the Issuer of Licences;

(k) provide a current Ontario Ministry of Transportation Vehicle Inspection Report showing approval and acceptance or a current Safety Standards Certificate issued under the Highway Traffic Act for the tow truck at such time as prescribed by this Schedule or as requested by the Issuer of Licences;

Towing Services

(l)(i) retain trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) for at least one year; and

(ii) make trip records and the signed and dated copies of the towing service rate cards under paragraph 10(l)(ii) available to the Issuer of Licences upon request;

(m)(i) keep a complaint record for each complaint in a form satisfactory to the Issuer of Licences that includes:

   1. the date and time the complaint is received;
   2. the complainant’s name and telephone number, if provided;
   3. the employee’s name;
   4. the complaint reviewer’s name;
   5. the details of the complaint;
6. the action taken in response to the complaint; and
7. the date and time the complainant is notified of the action taken;

(ii) report any complaint concerning the safety of an individual immediately to the Issuer of Licences;
(iii) retain complaint records for at least one year; and
(iv) make complaint records available to the Issuer of Licences upon request.
SCHEDULE 29

TRADES

PART I: GENERAL

1 In this Schedule,

(a) “construction” means any work in the erection, installation, or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and “construct” has a similar, grammatical meaning;

(b) “contractor” means any person who agrees with a member of the public or another contractor to carry out any work in a trade regulated under this Schedule;

(c) “person” includes an individual alone or in association with a partnership, firm or corporation and each of them as an entity;

(d) “regular place of business” means the land or building or part of a building used for a fixed or permanent place of business, and where such business address appears in governmental assessment, taxation, planning or engineering records or the address is registered with the Provincial Ministry of Consumer and Commercial Relations. The place of business applies to a contractor or master tradesperson licensed or required to be licensed under this Schedule. A contractor’s regular place of business may also be designated for a master who is on that contractor’s payroll;

(e) “Trades Examining Board” means the Board established pursuant to this Schedule and which shall be responsible for examining the level of competence of any tradesperson regulated by Parts V and VI applying for the issuance or renewal of a licence under this Schedule; and
(f) “tradesperson” means a person licensed or required to be licensed under this Schedule and engaged in, occupied in or retained to carry out work in the trades of building repair, drain repair, plumbing, heating, air-conditioning and ventilation or sprinkler and fire protection installer in the City.

PERSONS REQUIRING A LICENSE

2. Subject to section 4, every person engaged, occupied or retained in the City to carry out work in each of the trades of building repair, drain repair, plumbing, heating, air-conditioning and ventilation, sprinkler and fire protection installer shall, before being engaged, occupied or retained in the aforesaid trades apply for and obtain annually a licence pursuant to this Schedule, as a:

(a) Building Repair Contractor or Master Builder Repairer;

(b) Drain Repair Contractor or Master Drain Installer;

(c) Heating, Air-conditioning and Ventilation Contractor or Master Warm Air Heating, Air Conditioning and Ventilation installer in one or more specialized areas of steam fitter, refrigeration and air-conditioning mechanic, oil burner mechanic, or sheet metal worker;

(d) Plumbing Contractor or Master Plumber; or one or more of the above designated trades persons;

(e) Sprinkler and Fire Protection Installer Contractor or Master Sprinkler and Fire Protection Installer.

PROHIBITION

3. Subject to section 4, no person shall within the City, carry on or engage in or be retained or offer to carry out work in any of the trades or occupations named in section 2, without first having obtained a licence under this By-law to do so.
PERSONS NOT REQUIRING A LICENSE

4. The provisions of this Schedule do not apply to any person:

(a) holding a valid registration under the Tarion Warranty Corporation for work carried out on a construction project pursuant to such warranty save and except where such person is also a plumber, or heating, air conditioning and ventilation installer, drain layer or sprinkler and fire protection installer;

(b) who does work for his or her own benefit and not for hire in or about the dwelling or dwelling unit in which such person resides or in which the spouse of such person is the owner;

(c) carrying out work in the trades of building repair, drain repair, plumbing or heating, air conditioning and ventilation, sprinkler and fire protection installer in relation to the construction of a commercial, industrial, institutional, or residential building which has been designed by and is under the supervision of a Professional Engineer or an Architect licensed to practice in Ontario; or

(d) engaged in or occupied in any one of the trades governed by this By-law as a journeyman or apprentice under the supervision of a master of such trade.

(e) engaged in or occupied in any one of the trades governed by this By-law as a journeyman or apprentice carrying out in-house work for a single institution, business or other organization.

APPLICATION FORMS

5. The Issuer of Licences shall, upon receipt of an application under Part V or Part VI, make or cause to be made any necessary investigations concerning the application, and shall refer the application to the Trades Examining Board to determine the eligibility of the applicant to be licensed, and, upon receipt of an application under Part III, Part IV, Part V, Part VI of Part VII may obtain any expert advice which he or she deems necessary to determine whether it is appropriate to issue a licence.
LICENCES

6.(1) The Issuer of Licences, upon compliance by the applicant with all the other provisions of this Schedule, shall issue to the applicant a number and licence for a trade regulated under this Schedule, together with a photograph of the licence holder, and the licence card and number shall be carried by the licence holder whenever engaged in trades work governed by this Schedule;

(2) Licence number or business name of the licence holder shall be displayed, or both may be displayed, by the licence holder in any advertising for the trade by such person.

INSPECTION OF LICENCES

7. Each licence holder under this Schedule, when requested to do so by the Issuer of Licences or any Inspector, or by any member of the public retaining the services of a tradesperson, shall produce for inspection, such licence, identification card and photograph.

INSPECTIONS OF RECORDS

8. The Issuer of Licences or an inspector may require any contractor or master tradesperson licensed or required to be licensed under this Schedule to produce the trades records of such tradesperson or other relevant documentation for the purpose of determining whether such tradesperson is validly licensed under this By-law, or whether a provision of this By-law has been or is being contravened;

TRANSFER OF LICENCE AND EXAMINATION OF APPLICANTS

9. A contractor’s or master’s licence issued under this By-law shall not be transferred to another person, and such licence shall be valid only from the place of business indicated thereon.
9.1 The Issuer of Licences may at any time require an examination of a Part V or Part VI licence holder by the Trades and Examining Board.

PLACE OF BUSINESS

10. A contractor is not required to have a regular place of business in Ontario provided that the contractor employs a master tradesperson licensed under this By-law who has a regular place of business or residence in Ontario.

APPLICATION OF SCHEDULES AND STATUTES

11. Every person holding a contractor’s or master’s licence under this By-law and every tradesperson carrying on or engaging in the trade or occupation in respect of which a licence is issued, shall observe and comply with and be governed by all the provisions set out in the provisions of this Schedule, and also all the provisions of the Trades Qualification And Apprenticeship Act and the regulations there under which relate to such person’s trade and occupation.

RENEWALS

12. The Issuer of Licences may renew a licence under Part V or Part VI without requiring an examination of the licence holder by the Trades Examining Board where a valid licence under this Schedule was held by the licence holder in the immediate proceeding year.

REVOCATION AND SUSPENSION OF LICENSES

13.(1) Upon suspension or revocation of a licence issued under this Schedule, the licence holder shall return to the Issuer of Licences all photographs, numbers and licence cards issued by the Issuer of Licences within seven days of the date the notice of suspension or revocation of the licence is given by the Issuer of Licences.

(2) Upon receipt of the findings by the Trades Examining Board, the Issuer of Licences within five days, shall make a decision on the application for the issuance of a licence, and shall notify the applicant in writing of the decision within three days of such decision being made.
TRADES EXAMINING BOARD

14.(1) Trades Examining Board is established to be comprised of such persons as appointed by the Issuer of Licences. The function of the Board shall be to make findings concerning the competence of contractors and masters and other tradespersons in their respective trades and occupations regulated under this Schedule and referred to it by the Issuer of Licences.

(a) The findings of the Board shall state whether the applicant is eligible to be licensed and shall be sent to the Issuer of Licences;

(b) The Board shall meet at the call of the Chairman upon three days notice, but not less than once annually;

(c) The Board shall consist of two panels of three members each, one panel each for the Building Repair and the Drain Repair trades regulated under this Schedule;

(d) Each panel of the Board shall consist of three qualified tradespersons from each trade regulated under this By-law, one of whom may be an Inspector. A majority vote of the designated panel shall be deemed to be a finding of the Board.

CERTIFICATE OF QUALIFICATION

15. A person holding a valid Certificate of Qualification issued by the Province of Ontario, or holding an equivalent inter-provincial Certificate, each for a minimum of two years, shall be eligible to make application for a master’s licence for the plumbing trade, the heating, air conditioning and ventilation trade and the sprinkler and fire protection installer trade.

PART III: PLUMBING CONTRACTORS AND PLUMBING MASTERS

INTERPRETATION
16. In this Schedule,

(a) "plumbing Contractor" means a person engaged in the business of contracting with a member of the public or another contractor for the placing, installing, maintaining, repairing or replacing of any pipe, fixture or other device, equipment or facility of a plumbing system or in other plumbing work, and includes any person who solicits for plumbing work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do plumbing work by himself or through another qualified person, or as being a plumbing contractor, and who has a regular place of business in Ontario;

(b) “Plumbing Master” means a person who has been issued a Certificate of Qualification in the plumbing trade under Trades Qualification And Apprenticeship Act and is aware of and knowledgeable in the general regulations under the Trades Qualification And Apprenticeship Act, and operates in a manner pursuant to the requirements required by the said Act and Regulations there under and is skilled in the planning, superintending and installing, maintenance and repair of plumbing equipment and who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself, or by journeyman tradesmen under his or her supervision performs the trade of plumber; and

(c) “Plumbing” includes any procedure, method, matter or thing referred to described in the Building Code Act 1992, and amendments thereto from time to time; and plumbing work has a corresponding meaning;

APPLICATION OF SCHEDULE

17. The provisions of this Schedule shall apply to all persons engaging in any plumbing occupations, as:

(a) Plumbing Contractor;

(b) Plumbing Master.
LICENCE REQUIREMENTS

18.(1) No person shall carry on the business of a plumbing contractor without a plumbing contractor's licence issued pursuant to this Schedule, entitling him or her so to do, and, is or has a licensed plumbing master in his or her employ.

(2) No person shall engage in the occupation of a plumbing master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.

(3) Before commencing any work, or upon completion of the work, a form of written agreement (including an invoice or written firm estimate of work to be done), shall be entered into by a plumbing contractor with the person for whom the work is to be done, containing the name and address of the contractor and customer and an itemized price or firm estimate of the goods and services to be provided.

APPLICATION FOR LICENSE

19. Where the application is for a plumbing contractor's licence, the application shall include:

(a) The name and address of a licensed plumbing master who is employed by the plumbing contractor and the name of the person who has applied for a plumbing master's licence, or the applicant contractor who is also a master plumber;

(b) The business address of the plumbing contractor;

(c) The name and address of the owner, partners or company officers responsible for the operation of the plumbing contractor’s business;

(d) The name of the Insurance Company providing the public liability and property damage coverage for the Plumbing Contractor and all tradespersons employed or retained by him, during the currency of the licence.
20. Where the application is for a plumbing master’s licence, an application shall be made to the Issuer of Licences and shall include:

(a) The applicant’s qualifications as outlined in the application form, evidence that he or she is the holder of a Certificate of Qualification as a plumber for the minimum of two years, and the address of his or her regular place of business in Ontario;

(b) The address of the plumbing master’s employer or one’s own address if self-employed may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a plumbing contractor’s licence under this By-law;

DISQUALIFICATION OF CONTRACTOR

21.(1) When the plumbing master whose name appears on a plumbing contractor’ certificate is no longer regularly employed by the plumbing contractor, the contractor shall within three days notify the Issuer of Licences, in writing, the name and address of the master who will thenceforward be responsible, or with particulars of his or her arrangements pending the engaging of a master to be in charge.

(2) It shall be an offence for any plumbing contractor to have any plumbing work performed by him or her when there is not in his or her employ a licensed plumbing master whose name and address have been furnished to the Issuer of Licences in writing.

(3) It shall be an offence for a plumbing master to carry on the work of a plumbing master for more than one plumbing contractor for the same period of time unless authorized in writing by the Issuer of Licences for a maximum of 60 days or by the Licensing Tribunal for a longer period;

(4) It shall be an offence for a plumbing contractor to perform or have performed any plumbing work without employing a tradesperson holding a valid master’s licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.
22. The licence number issued to a plumbing contractor by the Issuer of Licences or the business name of the plumbing contractor shall be displayed in any advertising by such person for that trade.

PART IV: HEATING, AIR CONDITIONING, AND VENTILATION
CONTRACTOR AND MASTER WARM AIR HEATING, AIR CONDITIONING AND VENTILATION INSTALLER

INTERPRETATION

23.(1) In this Schedule,

(a) “Heating, Air Conditioning and Ventilating Contractor” means a person engaged in the business of contracting for the installation, maintaining, repairing, or replacing of warm air heating or cooling equipment or refrigeration or ventilation equipment and systems of any kind, and the distribution, piping and ductwork including the installation of oil tanks and oil gas burners, and includes any person who solicits for heating or cooling work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do heating or cooling work by himself or through another qualified person, or as being a heating, ventilating and refrigeration and cooling contractor, and who has a regular place of business in Ontario;

(b) “Heating, Air Conditioning and Ventilating and Refrigeration” means the lay out, assembly, installation, repairs, and manufacturing in the field, any cooling or refrigeration or heating/cooling combination system for residential, commercial, institutional, or industrial purpose and included the manufacturing, fabrication, assembly, installation or service of a ferrous and non-ferrous sheet metal work and further includes the installation of piping that conveys gas or the tubing of any air handling system.

As part of this interpretation “Air Conditioning” is interpreted to mean, by all definitions:

The simultaneous control of;
(i) Temperature, (Heating, or cooling air);

(ii) Humidity, (humidifying or dehumidifying air);

(iii) Cleanliness, (Mechanical or Electronic air cleaning); and

(iv) Air Motion (The proper air distribution within a building with related (fresh air) for comfort conditions; and

(c) "Master Warm Air Heating, Air Conditioning and Ventilation Installer" means a person who has been issued a Certificate of Qualification in the trade of Sheet Metal or Refrigeration, Air-conditioning Mechanic or as a Steam Fitter or as an Oil Burner Mechanic or Gas Fitter under the Energy Act for a minimum of two years.

APPLICATION OF SCHEDULE

24.(1) The provision of this Schedule shall apply to all persons engaging in any Heating, Air Conditioning, Refrigeration or Ventilation work as:

(a) Heating, Air Conditioning, and Ventilation Contractor;

(b) Master Warm Air Heating, Air Conditioning and Ventilation Installer; or

(c) The holder of a Certificate of Qualification under the Trades Qualification And Apprenticeship Act as a Refrigeration and Air Conditioning Mechanic, a Steam Fitter or Sheet Metal Worker, or qualified as an Oil Burner Mechanic or Gas Fitter under the Energy Act;

(2) Every licensee hereunder shall observe and comply with and be governed by this Schedule and all the provisions of the Trades Qualification And Apprenticeship Act and the Regulations there under related to the trade regulated under this Schedule.
LICENCE REQUIRED

25.(1) No person shall carry on the business of a Heating, Air Conditioning, and Ventilation Contractor, without a Contractor’s licence under this By-law, entitling him or her so to do and has a licensed Master Warm Air Heating, Air Conditioning, and Ventilation installer in one or more of the trades mentioned in section 24(c) his or her employ;

(2) No person shall engage in the occupation of a Master Warm Air Heating, Air Conditioning, and Ventilation installer, unless he or she is the holder of a current valid licence under this schedule entitling him or her so to do in one or more of the trades mentioned in section 24(c);

(3) Before commencing any work, or upon completion of the work, a form of written agreement shall be entered into by a Heating, Air Conditioning, and Ventilation Contractor with the person for whom the work is to be done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided;

26. Where the application is for a heating, air conditioning, refrigeration and ventilation contractor’s licence the application shall include:

(a) the name and address of a licensed master warm air heating, air conditioning, and ventilation installer who will be in the contractor's employ or the name of the person who has applied for a master heating, air conditioning and ventilation installer’s licence;

(b) the business address of the heating, air conditioning and ventilation contractor;

(c) the name and address of the principals of the company responsible for the operation of the business; and

(d) the name of the Insurance Company providing the public liability and property damage coverage for the Contractor and all tradespersons employed or retained by him, during the currency of the licence;
27. Where the application is for a Master Warm Air Heating, Air Conditioning and Ventilation installers licence, an application shall be made to the Issuer of Licences and shall include:

(a) the applicant’s qualifications as outlined in the application form, and provide evidence that he or she has a minimum of two years experience in the field of heating, air conditioning, refrigeration and ventilation and that he or she is a holder of a Certificate of Qualification for a minimum of two years as a Refrigeration and Air Conditioning Mechanic, a Steam Fitter or Sheet Metal worker or qualified as an Oil Burner Mechanic or Gas Fitter under the Energy Act; and

(b) the address of the Master Warm Air Heating, Air Conditioning, and Ventilation installer, if self-employed, and the address of the Master installer and employer if employed by a contractor, may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a Heating, Air Conditioning, Refrigeration and Ventilation Contractor’s licence under this By-law.

DISQUALIFICATION OF CONTRACTOR

28.(1) When the Master Warm Air Heating, Air Conditioning, and Ventilation installer, whose name appears on a Heating, Air Conditioning, and Ventilation Contractor’s certificate is no longer regularly employed and in actual charge of the work, the contractor shall within three days notify the Issuer of Licences, in writing, of the name and address of the Master who will henceforward be in charge, or with particulars of his or her arrangements pending the engaging of a Master to be in charge of the Contractor’s work.

(2) It shall be an offence for any Heating, Air Conditioning, and Ventilation Contractor to have any Heating, Air Conditioning, Refrigeration and Ventilation work performed by him or her when there is not in his or her employ a licensed Master Warm Air Heating, Air Conditioning and Ventilation installer to be responsible for the work whose name and address have been furnished to the Issuer of Licences, in writing.
(3) It shall be an offence for a Master Warm Air Heating, Air Conditioning and Ventilation installer to carry on the work of a Master Warm Air Heating, Air Conditioning and Ventilation installer for more than one Heating, Air Conditioning and Ventilation Contractor for the same period of time unless authorized in writing by the Issuer of Licences for a maximum of 60 days or by the Licensing Tribunal for a longer period.

(4) It shall be an offence for a Heating, Air Conditioning and Ventilation Contractor to perform or have performed any Heating, Air Conditioning, Refrigeration or Ventilation work without employing a tradesperson holding a valid master’s licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.

29. The licence number issued to a Heating, Air Conditioning, and Ventilation Contractor by the Issuer of Licences or the business name of the Heating, Air Conditioning, and Ventilation Contractor shall be displayed in any advertising for that trade of such person.

PART V: DRAIN REPAIR CONTRACTORS AND DRAIN INSTALLER MASTERS

INTERPRETATION

30.(1) In this Schedule,

(a) “Drain Repair Contractor” means a person engaged in the business of contracting for the repairing, constructing or installing or drainage works or systems or who engages in the business of cleaning drains or contracting for installing weeping tile beds and septic tank systems, and includes any person who solicits for drain work and who in anyway advertises, or holds himself out to the public, as doing or contracting to do drain repair and installation work by himself or through another qualified person or as being a drainlayer contractor, and who has a regular place of business in Ontario;
(b) "Drain Installer Master" means a person who supervises work for a drain contractor, who is skilled in the planning, superintending and performing of drain repair and installation work and who is familiar with the laws, rules and regulations governing the same, and who has a regular place of business in Ontario;

(c) 'Drain work" means and includes any work of drain laying, weeping tile installing, septic tank installing, drain reconstruction or repairing, or removing tree roots or other obstructions from drains or private drain connections by mechanical or other means; and

(d) "Drain Repair Examining Panel" means the examining board appointed by Council under the provisions of this Schedule.

APPLICATION OF SCHEDULE

31.(1) The provisions of this Schedule shall apply to all persons engaging in any of the following drain work, namely;

(a) Drain Repair Contractor;

(b) Drain Installer Master.

(2) The provisions of this Schedule shall not apply to the performance by a plumber licensed hereunder and doing plumbing or drainage work or cast iron or other metal plumbing work outside a building or doing the installation of septic tanks.

LICENCE REQUIRED

32. (1) No person shall carry on the business of a drain repair contractor without a drain repair contractor's licence under this By-law, entitling him or her so to do and with a licensed drain installer master or a tradesperson experienced in drain laying and repair in his or her employ who is in actual charge of the work.
(2) No person shall engage in the occupation of a drain installer master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.

(3) Before commencing any work or upon completion of the work a form of written agreement shall be entered into by a drain repair contractor with the person for whom the work is to be done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided.

APPLICATION FOR LICENSE

33. Where the application is for a drain repair contractor’s licence, the application shall include:

(a) the name and address of a licensed drain installer master who will be responsible for the drain repair contractor’s work or the name of the person who has applied for a drain installer master’s licence, in the event that the applicant contractor is also a master installer;

(b) the business address of the drain repair contractor;

(c) the name and address of the owner, partners or company officers responsible for the operation of the business; and

(d) the name of the Insurance Company providing the public liability and property coverage for the contractor and all persons employed or retained by him, during the currency of the licence.

34. Where the application is for a drain installer master’s licence, an application shall be made to the examining board and shall include:

(a) the applicant’s qualifications as outlined in the application form, to include evidence that he or she has a minimum of two years experience in the field of drain installing and repair, and the address of his or her regular place of business in Ontario; and
(b) the address of the drain installer master’s employer may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a drain repair contractor’s licence under this By-law.

EXAMINATION BY DRAIN REPAIRS EXAMINING PANEL

35. (1) Every applicant for a drain installer master’s licence shall be examined by the Drain Repairs Examining Panel of the Trades Examining Board as hereinafter constituted, touching his or her knowledge of the provisions of this By-law and of all relevant codes and standards relating to the planning and Installation of drain systems and equipment used in connection therewith.

(2) No licence shall be issued under this Schedule unless the results of the examination are satisfactory to the examining panel.

(3) The Drain Repair Examining Panel of the Board shall not be required to receive or entertain any application for an examination within a period of less than three months following the failure of the applicant to pass a previous examination for a similar licence.

DRAIN REPAIR PANEL OF TRADES EXAMINING BOARD

36. (1) Recommendations for members to the Drain Repair Examining Board will be received by the Tribunal from an official inspection agency under the authority of a Province of Ontario Act or a municipality or a drain repair trade organization in the City.

(2) The members of the Drain Repair Examining Panel shall hold office for the balance of the calendar year in which they have been appointed and until their successors have for cause, been appointed, unless their term is terminated sooner, for cause, and shall receive such remuneration for their services as may be fixed by the City Council.

(3) It shall be the duty of the Drain Repair Examining Panel to supply the results of every examination to the Issuer of Licences.
DISQUALIFICATION OF CONTRACTOR

37.(1) When the drain installer master whose name appears on a drain repair contractor's certificate is no longer regularly employed and responsible for the work, the contractor shall within three days notify the Issuer of Licences, in writing, with the name and address of the master who will thenceforward be in charge, or with particulars of his or her arrangements pending the engaging of a master to be in charge.

(2) It shall be an offence for any drain repair contractor to have any drain work performed when there is not responsible for the work a licensed, drain installer master or tradesperson experienced in the drain laying and repair whose name and address have been furnished to the Issuer of Licences in writing.

(3) It shall be an offence for a drain installer master to carry on the work of a drain installer master for more than one drain repair contractor or for the same period of time unless authorized in writing by the Issuer of Licences for a maximum of 60 days or by the Licence Tribunal for a longer period.

37. The licence number issued to a drain repair contractor by the Issuer of Licences or the business name of the drain repair contractor shall be displayed in any advertising for that trade of such person.

PART VI: BUILDING REPAIRS CONTRACTORS AND BUILDING REPAIRS MASTERS

INTERPRETATION

39. In this schedule,
(a) “Building Repairs Contractor” means a person engaged in the business of carrying out repairs or renovations of buildings, and includes any person who solicits for such work or who in any way advertises or holds himself out to the public as doing or contracting to do building repairs by himself or by another qualified person or as being a building repairs contractor, and who has a regular place of business in Ontario;

(b) “Building Repairs Master” means a person who is skilled in the planning and superintending of repairs and renovations of buildings and who is familiar with the laws, rules and regulations governing the same, and who has a regular place of business in Ontario;

(c) “Building” means a structure consisting of a wall, roof and floor or any one or more of them, or a structural system serving the function thereof including all the works, fixtures, and service systems appurtenant thereto;

(d) “Repairs and renovations” means to do anything in the erection, installation, extension or replacement of a part of a building and includes the installation of a building unit fabricated or moved from elsewhere; and

(e) “Building Repairs Examining Panel” means the examining board appointed under the provisions of this Schedule.

APPLICATION OF SCHEDULE

40. The provisions of this Schedule shall apply to all persons engaging in building repairs and renovations, namely

(a) Building Repairs Contractor;

(b) Building Repairs Master.
LICENCE REQUIREMENTS

41.(1) No person shall carry on the business of a building repairs contractor without a building repairs contractor's licence under this By-law entitling him so to do and is or has a licensed building repair master in his or her employ who is in actual charge of the work.

(2) No person shall engage in the occupation of a building repairs master unless he or she is the holder of a current valid licence under this Schedule entitling him or her so to do.

(3) Before commencing any work or upon completion of the work, a form of written agreement (including a written firm estimate or detailed invoice of work and repairs to be done) shall be entered into by a building repairs contractor with the person for whom the work is to be done, containing the name and address of the buyer and seller and an itemized price or firm estimate of the goods and services to be provided.

APPLICATION FOR LICENCE

42. Where the application is for a building repairs contractor's licence, the application shall include:

(a) the name and address of a licensed master who will be responsible for the building repairs contractor's work or the name of the person who has applied for a building repairs master's licence, in the event that the master is also a contractor;

(b) the business address of the building repairs contractor;

(c) the name and address of the owner, partners or company officers responsible for the operation of the business; and

(d) the name of the Insurance Company providing public liability, and property damage coverage for the building repairs contractor and all persons employed or retained by him or her during the currency of his or her licence.
43.(1) Where the application is for a building repairs master’s licence, an application shall be made to the Building Repairs Examining Panel and shall include:

(a) the applicant’s qualifications as outlined in the application form, to include evidence that he or she has a minimum of two years experience in the field of building construction, and the address of his or her regular place of business in Ontario; and

(b) the address of the master builder’s employer may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a building repairs contractor’s licence under this By-law.

(2) Every applicant for a building repairs master’s licence shall be examined by the Building Repair Examining Panel of the Trades Examining Board as hereinafter constituted, touching his or her knowledge of the provisions of this Schedule and of all relevant codes and standards and By-laws relating to the planning and installation of building systems and equipment used in connection therewith;

(3) No licence shall be issued under this Schedule unless the results of the examination are satisfactory to the examining panel or previous qualification for a licence under this Schedule is satisfactory to the examining panel;

(4) The Building Repairs Examining Panel shall not be required to receive or entertain any application for an examination within a period of less than three months following the failure of the applicant to pass a previous examination for a similar licence.

BUILDING REPAIRS PANEL OF THE TRADES EXAMINING BOARD

43.(1) Recommendations for members to the building repairs examining panel will be received by the Tribunal from an official inspection agency under the authority of a Province of Ontario Act or a municipality or a building trade organization in the City.
(2) The members of the Building Repairs Examining Panel shall hold office for the balance of the calendar year in which they have been appointed and until their successors have been appointed, unless their term is terminated sooner, for cause, and shall receive remuneration for their services as may be fixed by the Council.

(3) It shall be the duty of the Building Repairs Examining Panel to supply the results of every examination to the Issuer of Licences.

DISQUALIFICATION OF CONTRACTOR

45.(1) When the building repairs master whose name appears on a building repairs contractor’s licence certificate is no longer regularly employed and responsible for the work, the contractor shall within three days notify the Issuer of Licences, in writing, with the name and address of the master who will thenceforward be in charge, or with particulars of his or her arrangements pending the engaging of a master to be in charge.

(2) It shall be an offence for any contractor to have any building and renovation work performed when there is not in actual charge of the work a licensed building repairs master whose name and address has been furnished to the Issuer of Licences in writing.

(3) It shall be an offence for a building repairs master to carry on the work of a building repairs master for more than one building repairs contractor for the same period of time unless authorized in writing by the Issuer of Licences for a maximum of 60 days or by the Licence Tribunal for a longer period.

46. The licence number issued to a building repair contractor by the Issuer of Licences or the business name of the building repair contractor shall be displayed in any advertising for that trade of such person.

PART VII: SPRINKLER AND FIRE PROTECTION INSTALLER CONTRACTORS AND SPRINKLER AND FIRE PROTECTION INSTALLER MASTERS
INTERPRETATION

47. In this Schedule,

(a) "Sprinkler and Fire Protection Installer Contractor" means a person engaged in the business of contracting with a member of the public or another contractor for the planning, laying out, installing or maintaining of piping systems to protect against fires, and includes any person who solicits for sprinkler and fire protection installer work, and who in any way advertises, or holds himself out to the public, as doing or contracting to do sprinkler and fire protection installer work by himself or through another qualified person, or as being a sprinkler and fire protection installer contractor, and who has a regular place of business in Ontario; and

(b) "Sprinkler and Fire Protection Installer Master" means a person who has been issued a Certificate of Qualification in the sprinkler and fire protection installer trade under Trades Qualification And Apprenticeship Act and is aware of and knowledgeable in the general regulations under the Trades Qualification And Apprenticeship Act, and operates in a manner pursuant to the requirements required by the said Act and Regulations there under and is skilled in the planning, laying out, installing or maintaining of piping systems to protect against fires and who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself or herself, or by journeyman tradesmen under his or her supervision performs the trade of sprinkler and fire protection installer.

APPLICATION OF SCHEDULE

48. The provisions of this Schedule shall apply to all persons engaging in any sprinkler and fire protection installer occupations, as a:

(a) Sprinkler and Fire Protection Installer Contractor;

(b) Sprinkler and Fire Protection Installer Master.
LICENCE REQUIREMENTS

49.(1) No person shall carry on the business of a sprinkler and fire protection installer contractor without a sprinkler and fire protection installer contractor’s licence issued pursuant to this Schedule, entitling him or her so to do, and, is or has a licensed sprinkler and fire protection installer master in his or her employ.

(2) No person shall engage in the occupation of a sprinkler and fire protection installer master unless he or she is the holder of a current valid licence issued pursuant to this By-law entitling him or her so to do.

(3) Before commencing any work, or upon completion of the work, a form of written agreement (including an invoice or written firm estimate of work to be done), shall be entered into by a sprinkler and fire protection installer contractor with the person for whom the work is to be done, containing the name and address of the contractor and customer and an itemized price or firm estimate of the goods and services to be provided.

APPLICATION FOR LICENCE

50. Where the application is for a sprinkler and fire protection installer contractor’s licence, the application shall include:

(a) The name and address of a licensed sprinkler and fire protection installer master who is employed by the sprinkler and fire protection installer contractor and the name of the person who has applied for a sprinkler and fire protection installer master’s licence, or the applicant contractor who is also a master sprinkler and fire protection installer;

(b) The business address of the sprinkler and fire protection installer contractor;

(c) The name and address of the owner, partners or company officers responsible for the operation of the sprinkler and fire protection installer contractor’s business;

(d) The name of the Insurance Company providing the public liability and property
damage coverage for the sprinkler and fire protection installer contractor and all tradespersons employed or retained by him or her, during the currency of the licence.

51. Where the application is for a sprinkler and fire protection installer master’s licence, an application shall be made to the Issuer of Licences and shall include:

(a) The applicant’s qualifications as outlined in the application form, evidence that he or she is the holder of a Certificate of Qualification as a sprinkler and fire protection installer for the minimum of two years, and the address of his or her regular place of business in Ontario;

(b) The address of the sprinkler and fire protection installer master’s employer or his or her own address if self-employed may be accepted to meet the requirements of having a regular place of business in Ontario if the employer is the holder of a sprinkler and fire protection installer contractor’s licence under this By-law;

DISQUALIFICATION OF CONTRACTOR

52.(1) When the sprinkler and fire protection installer master whose name appears on a sprinkler and fire protection installer contractor’s certificate is no longer regularly employed by the sprinkler and fire protection installer contractor, the contractor shall within three days notify the Issuer of Licences, in writing, of the name and address of the master who will thenceforward be responsible, or with particulars of his or her arrangements pending the engaging of a master to be in charge.

(2) It shall be an offence for any sprinkler and fire protection installer contractor to have any sprinkler and fire protection installer work performed by him or her when there is not in his or her employ a licensed sprinkler and fire protection installer master whose name and address have been furnished to the Issuer of Licences in writing.

(3) It shall be an offence for a sprinkler and fire protection installer master to carry on the work of a sprinkler and fire protection installer master for more than one sprinkler and fire protection installer contractor for the same period of time unless authorized in writing by the Issuer of Licences for a maximum of 60 days or by the Licensing Tribunal for a longer period;
(4) It shall be an offence for a sprinkler and fire protection installer contractor to perform or have performed any sprinkler and fire protection installer work without employing a tradesperson holding a valid master’s licence or Certificate of Qualification issued by the Province of Ontario, to perform such work.

53. The licence number issued to a sprinkler and fire protection installer contractor by the Issuer of Licences or the business name of the sprinkler and fire protection installer contractor shall be displayed in any advertising by such person for that trade.
SCHEDULE 30

TRANSIENT TRADERS

1. In this Schedule,

   (a) “trade” means trade, business, or occupation; and

   (b) “transient trader” means a person who offers goods, wares or merchandise for sale in any manner in the City,

      (i) other than on a permanent basis, or

      (ii) on a permanent basis if the total time the person has operated the business on a permanent basis and the time the person continuously resided in the City immediately before beginning to operate the business on a permanent basis is less than three months.

   A person who commences business by offering of goods, wares or merchandise for sale at a particular location, may still qualify as a transient trader, whether or not the trade is conducted with the use of a building or fixtures.

2. Every transient trader shall obtain and maintain in good standing a licence authorizing the transient trader to carry on or engage in his or her trade.

3. No transient trader shall commence the sale of goods, wares or merchandise until a licence has been issued under section 2.

4. Every applicant for a licence or a renewal thereof shall make the application in person and not by an agent or representative.

5. Every transient trader shall pay a licence fee before commencing trade in the City.
6. (1) Every applicant for a transient trader's licence shall as part of the application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise that the transient trader proposes to sell or offer for sale under such licence.

(2) A licence issued under subsection (1) is only permission for the particulars supplied by the applicant under this section, and any change in the classes of goods sold will require a new or separate application.

(3) Every applicant for a transient traders licence shall, as part of the application, provide a letter of permission for the owner of the property where the applicant proposes to do business as a transient trader. The aforementioned property shall be in compliance with all requirements and provisions of the applicable Zoning By-law.

7. (1) The licences issued under this Schedule shall expire three months from the date of issuance.

(2) The licence fee shall be applied on account of taxes payable on the land used for the purposes of or in connection with the business if the land is owned by the person carrying on the business during the year in which the licence was issued and five years thereafter.

(3) Every transient trader shall cause their licence to be prominently and permanently displayed in the transient trader's place of business during the full term in which the transient trader is carrying on business as a transient trader and in default thereof is guilty of an offence.

8. This Schedule does not apply to:

(a) The sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire, so long as no goods, wares or merchandise are added to such stock;
(b) The sale of a business to a purchaser who continues the business; or

(c) A registered charitable organization or non-profit group or corporation selling goods, wares or merchandise, the whole of the proceeds from which are donated to, or used directly for charitable objects.