

CORPORATION OF THE TOWN OF AMHERSTBURG BY-LAW 2024-013

By-Law to amend By-Law 2023-066 (A By-Law to regulate Licensing in the Town of Amherstburg)

**WHEREAS** Section 129 of the Municipal Act, 2001, as amended, provides that the councils of local municipalities may pass by-laws for regulating or prohibiting with respect to noise;

**NOW THEREFORE** THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS;

1. That Section 2.1 of By-Law 2023-066 is hereby deleted and the following is substituted for it;

**2.1** No person shall carry on, conduct, operate, maintain, keep, or engage in any business set forth in subsections (1) – (19) below regardless of whether the business is being carried on wholly or partly within the Town, unless he first obtains the appropriate Town of Amherstburg licence to do so from the Issuer of Licenses. Licence renewals are subject to the renewal and expiration dates outlined in Appendix “A” of the General Provisions. Any person who, after the first day of the following months in any year as in Column B, commences to carry on any trade, occupation, calling or business for which a licence is required by this by-law and will expire as in Column A, shall obtain a licence for the balance of the licensing year upon payment of fee equal to one-half the fee set out in Schedule 1. (Amended Feb 12, 2024 B/L 2024-013)

Column A

Column B

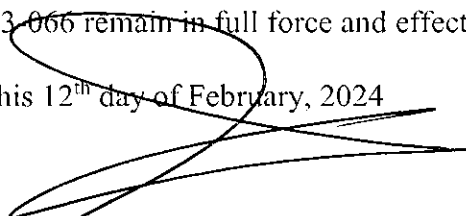
| Expiry Date of Licence                        | Half-Price Fee |
|---|----------------|
| January 31st                                  | October 1st    |
| February 28 <sup>th</sup> (29 <sup>th</sup> ) | November 1st   |
| May 31st                                      | February 1st   |
| August 31st                                   | May 1st        |
| October 31st                                  | July 1st       |
| November 30th                                 | August 1st     |

- (1) any person who owns or operates an AUTOMOBILE SERVICE STATION;
- (2) any person who owns or operates an Auction;
- (3) any person who presents, operates a CARNIVAL OR CIRCUS, or other like show usually exhibited by showmen, a roller skating rink or other like place of amusement, a merry-go-round, switchback railway, carousel, or other like contrivance;
- (4) any person who owns or operates a CAMPGROUNDS/TRAILER PARK;
- (5) any person who owns or operates a CATERER SERVICE;
- (6) any person who operates as a DOOR-TO-DOOR SALESPERSON;
- (7) any person who owns or operates a FOOD STORE;
- (8) any person who operates as a HAWKER OR PEDLAR;
- (9) any person carrying on the business of a HOSPITALITY FOOD SERVICE, HOSPITALITY FOOD SERVICE/ ANCILLARY LIQUOR SERVICE; HOSPITALITY LIQUOR SERVICE/ ANCILLARY FOOD SERVICE; HOSPITALITY/MIXED USE (FOOD/ LIQUOR) SERVICE, LUNCH COUNTER;
- (10) any person who owns or operates a LODGING HOUSE;
- (11) any person who owns or operates a business as a MOBILE VENDOR OF FOOD for food consumed by the public;
- (12) any person who deals in OLD GOLD OR OTHER PRECIOUS METALS or old jewellery for the purpose of reselling, exchanging or smelting the same and recovering the gold therefrom;

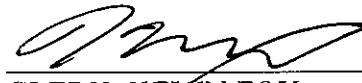
- (13) any person who keeps a PET SHOP where animals kept for sale;
- (14) any person who is the owner of a building or structure or a part thereof used as a PUBLIC HALL;
- (15) any person who is the owner or operator of a RETAIL/RESALE SHOP or carries on the business of a PAWNBROKER;
- (16) any person who is the owner of operator of a SALVAGE YARD;
- (17) any person who sells, offers to sell or advertises for sale in any way, any goods, wares or merchandise by way of SPECIAL SALE;
- (18) any person carrying on business of a TOBACCONIST including an automatic vending machine which sells tobacco;
- (19) any person carrying on business of a VAPOUR RETAILER.

1. That all over provisions of By-Law 2023-066 remain in full force and effect.

Read a first, second and third time and finally passed this 12<sup>th</sup> day of February, 2024



~~MAYOR MICHAEL PRUE~~  
DEPUTY MAYOR - CHRIS GIBB



CLERK, KEVIN FOX

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**  
**BY-LAW NO. 2023-066**  
**A BY-LAW TO REGULATE BUSINESS LICENSING IN THE TOWN OF**  
**AMHERSTBURG**

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

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

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

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

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

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

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

**AND WHEREAS** the Municipal Council for The Corporation of the Town of Amherstburg considers it necessary and desirable for the public to exercise its licensing powers for the purposes of:

- a) Health and safety including health and safety of service providers and consumers and patrons; and/or

- b) Nuisance control; and/or
- c) Consumer protection; and/or
- d) Suppressing conditions conducive to crime;

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

**AND WHEREAS** the Municipal Council for The Corporation of the Town of Amherstburg is of the opinion that the delegation of legislative powers under this by-law to the Manager of Licensing and Enforcement including without limitation the power to issue, revoke, suspend and impose conditions on a licence and prescribe operational standards to be imposed on licensees, including without limitation operational standards such as signage requirements, advertising requirements, hours of operation and records that are to be kept by licensees and the form and content thereof, are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

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

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

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Amherstburg licenses the following businesses for the following rationales:

**“Auctioneer”** for the purpose of ensuring that the business is not a nuisance to the surrounding properties and neighbourhood, and to protect the consumer who is purchasing the products being sold;

**“Automobile Service Station”** for the purpose of consumer protection to ensure that the work performed is consistent with industry standards;

**“Bed and Breakfast and Guest House Establishments”** for the purpose of protecting the health and safety of the persons staying in the house by ensuring that the building code regulations are met, as well as the required essentials such as plumbing and water are provided. For ensuring that the bed and breakfast and guest house establishment does not create a nuisance to the adjoining property or surrounding lands, and for consumer protection such that the persons staying in the house know whom to contact in the case of a problem or emergency with the building;

**“Body Modification”** for the purpose of protecting the health and safety of the persons attending the establishment by ensuring that building code regulations are met, as well as the required essentials such as a health inspection for consumer protection;

**“Campgrounds/Trailer Parks”** every tourist establishment comprising land used or maintained as grounds for camping or parking recreational vehicles with a service building or buildings and may include those retail facilities required to serve the guests of and visitors to the establishment. A Summer Camp within the meaning of the regulations under the Public Health Act or a camp operated by a charitable organization within the meaning of The Charitable Institutions Act, are not deemed camping establishments for the purpose of this by-law.

**“Carnival/Circus”** for the purpose of health and safety of the public;

**“Caterers”** to ensure that regulations are met for the handling and storage of food for sale to the public;

**“Door –to-Door Salesperson”** for the purpose of ensuring that the business is not a nuisance and to protect the consumer who is purchasing the products being sold;

**“Food Store”** to ensure that regulations are met for the handling and storage of food for sale to the public;

**“Hawker or Pedlar”** for the purpose of ensuring that the business is not a nuisance by hindering vehicles or pedestrian traffic and/or causing a hazard in any way and to protect the consumer who is purchasing the products being sold;

**“Hospitality Food/Liquor Service”** for the purposes of protecting the health and safety of the customers and to ensure the protection of the consumer.

**“Lodging House”** for the purpose of protecting the health and safety of the persons residing in the house by ensuring that the building code regulations are met, medication is dispensed correctly and basic human needs are provided. As well as the required essentials such as plumbing and water are provided, for ensuring that the lodging house does not create a nuisance to the adjoining property or surrounding lands, and for consumer protection such that the persons residing in the house know whom to contact in the case of a problem or emergency with the building;

**“Lunch Counter”** for the purposes of protecting the health and safety of the customers and to ensure the protection of the consumer;

**“Mobile Vendors of Food”** for the purposes of health and safety and ensuring that the vendor is following all required health regulations, and to ensure that the consumer does not become ill, and to ensure that the vendors are not hindering vehicle or pedestrian traffic and/or causing a hazard in any way and/or having a negative aesthetic impact on the Municipality which would fall under nuisance control;

**“Old Gold or Other Precious Metal Dealers”** for the purpose of consumer protection by ensuring that stolen jewellery is not being trade;

**“Pet Shop”** for the purpose of consumer protection to ensure that animals purchased are not prohibited to Canada or prohibited within the municipality by by-law and are in good health;

**“Petting Zoos”** for the purpose of consumer protection to ensure that animals are in good health

**“Public Hall”** for the purpose of the health and safety of persons who enter the hall and to ensure that the business is not a nuisance and the premise complies with Building and Fire code standards;

**“Retail/Resale and Pawnbroker Shop”** for the purpose of consumer protection by ensuring that stolen goods are not being traded;

**“Salvage Yard”** for the purposes of protecting the consumer purchasing items and to ensure that the building/yard is safe and healthy for the persons who enter and to ensure that it is not a public nuisance by having unnecessary debris;

**“Special Sale”** for the purpose of protecting the consumer from business operators misrepresenting special sales offers on goods, wares or merchandise in stock that are being cleared under certain circumstances;

**“Tobacconist”** for the purpose of health and safety to ensure that tobacco is not sold to persons eighteen or under;

**“Vape Product Retailers”** for the purpose of health and safety to ensure that vapour products are not sold to persons nineteen or under.

**SHORT TITLE  
BUSINESS LICENSING BY-LAW**

**PART 1- DEFINITIONS**

**1.1** In this By-law:

**“Animal Control By-law”** means the Animal Control By-law #2022-008 as amended from time to time, or repealed and replaced by another by-law dealing with animals;

**“Antique”** means any object or article which is at least 50 years old, is in limited supply, and is no longer made or manufactured in its existing state;

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

**“Auctioneer”** means a person conducting an auction; and,

(a) “Auction” means a publicly-held sale where goods are sold to the highest bidder.

(b) An Auctioneer’s Place of business is an Auction Establishment as defined in the Zoning By-law 1999-52 as amended.

**“Automobile Service Station”** means a building or place where gasoline, oil, propane, and grease for motor vehicles are stored or kept for sale, or where motor vehicles are stored, kept for sale or used for hire, or where motor vehicles may be oiled, greased, or washed or where repairs essential to the actual operation of motor vehicles are executed or performed or where vehicles are upholstered, painted or where the vehicle body is repaired. An Automobile Service Station is also a land use as defined in the Zoning By-law 1999-52 as amended;

**“Bankruptcy and Insolvency Act”** means the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B.3 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Bed & Breakfast or “Guest House”** means a home-based business for the temporary accommodation of the traveling public located within a single detached dwelling which is occupied on a full-time basis by the owner of such single detached dwelling or the principal shareholder (or one of them if more than one shareholder holds the greatest number of shares) of the corporation registered as the legal owner of the building, including during the time the Bed and Breakfast or Guest House is in operation, and shall contain at least one (1) bedroom for the exclusive use of the owner and at least two (2) accessory guest rooms for use in the Bed and Breakfast or Guest House operation, and shall mean and include any Bed and Breakfast or Guest House legally established under any predecessor by-law, but shall not include a Lodging House or a Hotel. Bed & Breakfast Establishment is a land use as defined in the Zoning By-law 1999-52 as amended;

a. “Hotel” shall mean a building or part of a building or group of buildings used for the purpose of providing sleeping accommodation for the traveling public, and shall include a motel or motor hotel, but shall not include a Lodging House, Bed and Breakfast or Guest House. Hotel is a land use as defined in the Zoning By-law 1999-52 as amended; and,

b. “Keeper” shall mean the person who has day-to-day responsibility for the operation, upkeep and maintenance of the Bed and Breakfast or Guest House on behalf of the owner, and the owner and Keeper may be one and the same person.

**“Body Modification”** means a premises, building or part of a building in which persons are engaged or employed in furnishing services and otherwise administering to the individual the personal needs of a person and includes, a tattoo parlour, body piercing establishments, or body scarification establishments;

- (a) “Body Piercing” means the practice of inserting ornaments or other items not required for medical purposes into human tissue, not including the ear, with a needle or other implement.
- (b) “Scarification” means the practice of cutting or abrading human skin to bring about permanent scarring and includes the placement of implants not required for medical purposes beneath the skin.
- (c) “Tattoo” means the practice of permanently depositing pigments not required for medical purposes into human skin by the use of a needle or other implement.

**“Building Code Act”** means Building Code Act 1992, S.O. 1992, c.23 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Business Day”** means any day excluding Saturdays, Sundays and statutory holidays.

**“Business”** means any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality and includes:

- (a) trades and occupations;
- (b) exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise;
- (c) the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader; and
- (d) the display of samples, patterns or specimens of goods for the purpose of sale or hire;

but does not include:

- (a) a manufacturing or an industrial business, except to the extent that it sells its products or raw material by retail;
- (b) the sale of goods by wholesale; or
- (c) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources;

**“Campground”** means a use consisting of at least five (5) camping sites, licensed under the provisions of The Municipal Act, as amended from time to time, and comprising land used or maintained for seasonal recreational activity as grounds for the camping or parking of a tent, tent trailer, motor home, travel trailer, or truck camper, but not a mobile home;

**“Campsite”** means an area of land in a tourist camp or trailer camp designated for the use of one camping vehicle or camping tent;

**“Camping Tent”** means any collapsible structure, which has a soft, readily foldable fabric or fabric-like material as its basic component and is designed to be used as temporary occupancy other than a small children's play tent and a tent used exclusively for dining purposes;

**“Camping Vehicle”** means any vehicle designed to be used as temporary accommodations on a tourist camp or trailer camp such as a travel trailer, a slide-in

camper, a chassis-mounted camper, tent trailer, and a motorized home. Such vehicles may be attached to a self-propelled motor vehicle for the purpose of either being towed or carried from place to place, or be capable of self-propulsion, provided that they are equipped to provide temporary occupancy;

“**Carnival**” means buildings, tents and booths for the purpose of games of skill, sideshows, refreshments booths and/or mechanical rides for children and adults;

“**Carrying on**” when used in relation to any trade, occupation, calling or business, includes promoting, advertising, soliciting for, or offering goods or services in connection with such trade, occupation, calling or business;

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

“**Cat**” means a carnivorous mammal commonly known as a felids catus;

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

“**Chief of Police**” means the Chief of the Windsor Police Service or a person delegated by them;

“**Clerk**” means the Town Clerk for the Town or a person delegated by them;

“**Circus**” means a variety show usually including feats of physical skill and performances by jugglers and clowns;

“**Company**” means a corporation with share capital;

“**Consumer Protection Act**” means the Consumer Protection Act, R.S.O. 1990, c. C.31 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

“**Council**” means the Municipal Council of The Corporation of the Town of Amherstburg;

“**Dog**” means a carnivorous mammal commonly known as a genus canis;

“**Door-to-Door Salesperson**” means a person carrying on or engaging in any trade, business or occupation who attends at residential property for the purpose of selling, hiring or offering to sell or hire any goods or services, showing for the purpose of sale or hire of samples, patterns or specimens of any goods, or for the purpose of the taking of orders to future delivery of any goods or services, with or without a formal written contract, where such attendance has not been solicited or requested by the occupants of such property but this definition shall not include a licensed real estate agent/broker;

“**Drug**” means any drug excluding patent medicines and prescription drugs required for medicinal purposes;

“**Egress**” means a continuous path of travel provided for the escape of persons from any point in a building or contained open space to a separate building, an open public thoroughfare, or an exterior open space protected from fire exposure from the building and having access to an open public thoroughfare and includes exits and access to exits;

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



**“Essex County Humane Society”** means the Essex County Humane Society incorporated by Letters Patent dated the 6th day of September, 1949 for the purpose of providing effective means for the prevention of cruelty to animals and the protection thereof;

**“Exit”** means that part of a means of egress, including doorways that lead from the floor area it serves, to a separate building, an open public thoroughfare, or an exterior open space protected from fire exposure from the building and having access to an open public thoroughfare;

**“Fire Chief”** means the Chief of Amherstburg Fire Department or a person delegated by them;

**“Fire Protection and Prevention Act”** means Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Fireworks By-law”** means Fireworks by-law #2017-092 as amended from time to time, or repealed and replaced by another by-law dealing with fireworks;

**“Food”** means a substance excluding liquor taken into the body to maintain growth;

**“Food Handler”** means a person certified through a food handling training course provided by the Windsor-Essex County Health Unit;

**“Food Store”** means any premises where food or milk is processed, prepared, stored, handled, displayed, sold or offered for sale, but does not include a private residence from which food is not sold or offered for sale. Food Store is also a land use as defined in the Zoning By-law 1999-52 as amended;

**“Hawker or Pedlar”** "Hawker" or "Pedlar" includes:

(a) any person who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards; and

(b) any retailer which has an employee or agent who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards;

(c) but excludes a consumer show open to the public or a trade show open by invitation or registration only, the primary purposes of which are the display of goods and products and not the direct sale of them and activities of real estate agents or brokers.

**“Health Insurance Act”** means the Health Insurance Act, R.S.O. 1990, c. H.6 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Health Protection and Promotion Act”** means Health Protection and Promotion Act, R.S.O. 1990, c. H.5 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Highway Traffic Act”** means Highway Traffic Act, R.S.O. 1990, c.H.8 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Holiday”** includes New Year’s Day, Good Friday, Easter Monday, Christmas Day, the birthday or the day fixed by proclamation of the Governor General for the celebration of the birthday of the reigning Sovereign, Victoria Day, Dominion Day, Labour Day, Remembrance Day, and any day appointed by proclamation of the Governor General or Lieutenant Governor as a public holiday or for a general fast or thanksgiving, and when any holiday, except Remembrance Day, falls on a Sunday, the day next following is in lieu thereof a holiday;

**“Hospitality Food Service”** means a restaurant or takeout restaurant that does not serve liquor. Eating Establishment and Restaurant-Fast Food Restaurant are also land uses defined in Zoning By-law 1999-52 as amended;

**“Hospitality Food Service/Ancillary Liquor Service”** means a restaurant which serves both food and liquor but whose liquor sales monetarily exceed 50% of its gross sales. Restaurant is a land use as defined in the Zoning By-law 1999-52 as amended;

**“Hospitality/Mixed Use (Food/Liquor) Service”** means a restaurant that is a Hospitality Food Service/Ancillary Liquor Service establishment from 4:01 o’clock a.m. to 8:00 o’clock p.m., and is a Hospitality Liquor Service/Ancillary Food Service establishment at all other times. Restaurant and Tavern are land uses defined in Zoning By-law 1999-52 as amended;

**“Income Tax Act”** means Income Tax Act, R.S.C. 1985, c. 1 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Keeper”** means the owner or operator of a pet shop licensed as such under this bylaw;

**“Land Titles Act”** means the Land Titles Act, R.S.O. 1990, c.L.5 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Licensee”** means any holder of any licence issued under this by-law;

**“Licence Manager”** means the manager of Licensing and Enforcement or a person delegated by them;

**“Liquor”** means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

**“Liquor Licence Act”** means Liquor Licence Act, R.S.O. 1990, c. L.19 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Local”** generally means within the boundaries of the municipality of The Town of Amherstburg but when in reference to obtaining a police clearance means the municipality in which applicant normally resides;

**“Local Retailer”** shall mean any individual or business which provides for the selling or offering for sale of goods or services at a building or structure located within the Town of Amherstburg which is subject to property tax in the Town;

**“Lodging House”** shall mean and include any house or other building or portion thereof in which more than three persons are harboured, received or lodged for hire, with or without meals but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if the hotel, hospital or institution is licensed, approved

or supervised under any general or special Act. Lodging House is a land use as defined in the Zoning By-law 1999-52 as amended;

**“Lunch Counter”** means a building or structure or part thereof where meals or meal portions, as an accessory use excluding beverages, are prepared and sold over a counter for consumption within the building or structure or off the premises;

**“Medical Officer of Health”** means the Medical Officer of Health for the Windsor-Essex Health Unit or a person delegated by them;

**“Mobile Vendor of Food”** means a person who sells food from a vehicle, cart, basket or other container, which is not intended to be stationary and may be moved from place to place. Food Vehicle or Trailer are land uses in Zoning By-law 1999-52 as amended;

**“Municipality”** means the geographic area known as the Town of Amherstburg;

**“Municipal Act”** means Municipal Act, 2001, S.O. 2001, c.25 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Municipal Freedom of Information and Privacy Protection Act”** means Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Newspaper”** means a daily or weekly publication on folded sheets; contains news and articles and advertisements;

**“Obtain”** means to purchase, receive or take in exchange or pledge;

**“Old Gold”** means gold or any other precious metal, including platinum and silver, which is not newly minted, and includes old jewelry or similar articles intended to be smelted, dismantled, sold or exchanged;

**“Ontario Building Code”** means Ontario Building Code, O. Reg. 403/97 as amended being regulations made under section 34 of the Building Code Act;

**“Owner”** means:

(a) with respect to premises, the registered owner of the land on which the premises is situated and includes a trust acting on behalf of the registered owner, the estate of the registered owner and a person with a leasehold interest in the land or premises;

(b) with respect to a business, the person that carries on the trade, business, or occupation and whose name appears on the licence issued for such trade, business or occupation under this By-law;

**“Parking”** means allowing a vehicle to remain stationary on a street or in a parking lot;

**“Parking By-law”** means the Traffic By-law #2011-069 being a by-law to regulate vehicular parking within the limits of the Town of Amherstburg on municipal streets, municipal parking lots and private properties as amended from time to time, or repealed and replaced by another by-law dealing with parking;

**“Pawnbroker”** means a person who exercises the trade of receiving or taking by way of pawn or pledge, any goods for the repayment of money lent thereon as defined in the Pawnbroker Act;

**“Pawnbroker Act”** means the Pawnbroker Act, R.S.O. 1990, c. P.6 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Person”** means any individual, company, firm, organization, partnership, body corporate or politic, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

**“Pet Shop”** means a premise where animals or birds for use as pets are sold, adopted or kept for sale or adoption as may be permitted in Schedule P1 of this By-law;

**“Police Record Check”** means a vulnerable criminal information report that is a result of a search of the local police records where the Applicant resides and the national databases maintained by the Canadian Police Information Centre;

**“Place of business”** means any place, premises or location, or part thereof, in which a business is carried on, and includes a shop, store or office, an office in a dwelling unit which is accessible to the public and, where there is no such place, premises or locations from which the business is carried on, it includes a vehicle or other equipment used for the purpose of carrying on the business;

**“Premise”** means land, including any and all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of the business;

**“Principal”** for the purpose of this bylaw means the most important part;

**“Provincial Offences Act”** means Provincial Offences Act, R.S.O. 1990, c. M. 56 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Public Hall”** or **“Hall”** means a building or structure or any part thereof used or offered for use as a place of public assembly for any purpose, but does not include a theatre within the meaning of the Theatres Act;

**“Refreshment Vehicle Structure”** means a refuse container, beverage cooler, tables and chairs used in conjunction with the operation of a refreshment vehicle. This includes all objects including cases and containers separate from the refreshment vehicle used directly or indirectly for the provision of refreshments for consumption by the public;

**“Registered Charitable Organization”** shall mean any charity that is registered or is eligible to be registered with the Federal Government and has a registered charity number that has been issued;

**“Registry Act”** means Registry Act, R.S.O. 1990, c. R.20 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Restaurant”** means a building or structure or part thereof used primarily for the preparation and serving of food and beverage to patrons for immediate consumption therein or within a physically defined open air, sit down eating area located on the same lot therewith including taverns. As an accessory use, a restaurant may offer entertainment, exclusive of a dance floor. Restaurant is a land use as defined in the Zoning By-law 1999-52 as amended;

**“Retail/Resale Shop”** means a building or any part thereof used for the purpose of buying, selling or otherwise dealing in used goods of all kinds excluding scrap or salvage material or antiques or works of art. Retail Store is a land use as defined in the Zoning By-law 1999-52 as amended;

**“Salvage Yard”** means premises or part thereof used for receiving, storing, or dealing in scrap or salvage material. Salvage Yard or Scrap Yard are land uses as defined in Zoning By-law 1999-52 as amended;

**“Sewer Use By-law”** means the Sewer Use By-law #2016-007 as amended from time to time, or repealed and replaced by another by-law dealing with sewers;

**“Smoking By-law”** means the Smoking By-law #2016-113 as amended from time to time, or repealed and replaced by another by-law dealing with smoking;

**“Special Sale”** shall be deemed to mean any sale or intended sale at retail described by the use of any of the following words or expressions, or any enlargement, contraction or combination thereof:

Bankrupt, moving out, fire, insolvent, selling out, smoke, trustee, lease expiring, water damage, receiver, closing out, creditor liquidation, discontinuing, forced;

or any other similar word or words that represent, hold out or advertise that any goods, wares or merchandise are to be disposed of in a manner that is not in the ordinary course of retail business;

**“Take-out Restaurant”** means a building, structure or part thereof where food, prepared on or off the premises, is offered for sale to the public, and where the food is ordered for delivery or pick-up with consumption of all food occurring off the premises. Fast Food Restaurants also a land use as defined in the Zoning By-law 1999-52 as amended;

**“Tavern”** means a restaurant which serves both food and liquor but whose liquor sales monetarily exceed 50% of its gross sales. As an accessory use, a tavern may offer entertainment, exclusive of a dance floor. Tavern is a land use as defined in the Zoning By-law 1999-52 as amended;

**“Technical Standards and Safety Act”** means the Technical Standards and Safety Act, 2002, S.O. 2000, c.16 and the Regulations enacted there under as amended from time to time or any Act and Regulation enacted in substitution therefore;

**“Tobacco Control Act”** means the Tobacco Control Act, 1994, S.O. 1994, c. 10;

**“Tobacconist”** means a person who keeps for sale tobacco in any form;

**“To Provide”** when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and “providing” and “provision” have corresponding meanings;

**“Treasurer”** means the Treasurer of The Corporation of the Town of Amherstburg;

**“Vehicle”** means a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle, cart and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a streetcar;

**“Veterinarian”** a person registered and entitled to practise veterinary science under the Veterinarians Act as amended;

**“Work order”** means an order or written order to comply issued under a Town of Amherstburg By-law to a licensee or property owner requiring who contravened this bylaw or who caused or permitted a contravention or the owner of property on which the contravention occurred to do work to correct the contravention;

**“Zoning Administrator”** means the officer or employee of the Corporation charged with the duty of enforcing the provision of the Zoning By-law.

## PART 2

### LICENSES

**2.1** No person shall carry on, conduct, operate, maintain, keep, or engage in any business set forth in subsections (1) – (19) below regardless of whether the business is being carried on wholly or partly within the Town, unless he first obtains the appropriate Town of Amherstburg licence to do so from the Issuer of Licenses. Licence renewals

are subject to the renewal and expiration dates outlined in Appendix “A” of the General Provisions. Any person who, after the first day of the following months in any year as in Column B, commences to carry on any trade, occupation, calling or business for which a licence is required by this by-law and will expire as in Column A, shall obtain a licence for the balance of the licensing year upon payment of fee equal to one-half the fee set out in Schedule 1. (Amended Feb 12, 2024 B/L 2024-013)

Column A

Column B

| Expiry Date of Licence                        | Half-Price Fee |
|---|----------------|
| January 31st                                  | October 1st    |
| February 28 <sup>th</sup> (29 <sup>th</sup> ) | November 1st   |
| May 31st                                      | February 1st   |
| August 31st                                   | May 1st        |
| October 31st                                  | July 1st       |
| November 30th                                 | August 1st     |

- (1) any person who owns or operates an AUTOMOBILE SERVICE STATION;
- (2) any person who owns or operates an Auction;
- (3) any person who presents, operates a CARNIVAL OR CIRCUS, or other like show usually exhibited by showmen, a roller skating rink or other like place of amusement, a merry-go-round, switchback railway, carousel, or other like contrivance;
- (4) any person who owns or operates a CAMPGROUNDS/TRAILER PARK;
- (5) any person who owns or operates a CATERER SERVICE;
- (6) any person who operates as a DOOR-TO-DOOR SALESPERSON;
- (7) any person who owns or operates a FOOD STORE;
- (8) any person who operates as a HAWKER OR PEDLAR;
- (9) any person carrying on the business of a HOSPITALITY FOOD SERVICE, HOSPITALITY FOOD SERVICE/ ANCILLARY LIQUOR SERVICE; HOSPITALITY LIQUOR SERVICE/ ANCILLARY FOOD SERVICE; HOSPITALITY/MIXED USE (FOOD/ LIQUOR) SERVICE, LUNCH COUNTER;
- (10) any person who owns or operates a LODGING HOUSE;
- (11) any person who owns or operates a business as a MOBILE VENDOR OF FOOD for food consumed by the public;
- (12) any person who deals in OLD GOLD OR OTHER PRECIOUS METALS or old jewellery for the purpose of reselling, exchanging or smelting the same and recovering the gold therefrom;
- (13) any person who keeps a PET SHOP where animals kept for sale;
- (14) any person who is the owner of a building or structure or a part thereof used as a PUBLIC HALL;
- (15) any person who is the owner or operator of a RETAIL/RESALE SHOP or carries on the business of a PAWNBROKER;
- (16) any person who is the owner of operator of a SALVAGE YARD;
- (17) any person who sells, offers to sell or advertises for sale in any way, any goods, wares or merchandise by way of SPECIAL SALE;
- (18) any person carrying on business of a TOBACCONIST including an automatic vending machine which sells tobacco;
- (19) any person carrying on business of a VAPOUR RETAILER.

PART 3

GENERAL PROVISIONS

3.1 Licensing – Powers

The power to licence, regulate and govern a business, trade or occupation includes the power,

- (1) to prohibit the carrying on of or engaging in the business without a licence;
- (2) to refuse to grant a licence or to revoke or suspend a licence;
- (3) to fix the expiry date for a licence;
- (4) to define classes of businesses and to separately licence, regulate and govern each class;
- (5) to impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, including but not limited to the following conditions:
  - (a) requiring the payment of licence fees;
  - (b) restricting the hours of operation of the business;
  - (c) allowing at any reasonable time, the municipality to inspect places or premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying on of the business;
  - (d) prohibiting places or premises used for the business to be constructed or equipped so as to hinder the enforcement of the by-law;
  - (e) requiring the premises of the business, or part of the premises, to be accessible to persons with disabilities.
- (6) to impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (7) to impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (8) to licence, regulate or govern the place or premises used for the business and the persons carrying it on or engaged in it;
- (9) to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of or engaging in the business;
- (10) to exempt any business or person from all or any part of the by-law; and
- (11) without limiting anything in clauses (a) to (e), to require the payment by a licensed business of additional fees at any time during the term of the license for costs incurred by the municipality attributable to the activities of the business.

### **3.2 Administration of by-law**

Town Council hereby appoints the Manager of Licensing and Enforcement for the Town to administer this by-law, and to engage such Officers, clerks and staff as may be necessary to carry out the administrative functions of this by-law including the enforcement thereof.

### **3.3 Enforcement – Manager of Licensing and Enforcement**

The enforcement of this by-law is assigned to members of the Police Service as employed by the Town of Amherstburg and to persons under the supervision of the Manager of Licensing and Enforcement for the Town of Amherstburg or any Provincial Offences Officers appointed by Town Council.

### **3.4 Part 3 – applies to – all other parts**

All of the regulations contained in this Part of this by-law shall apply to all licenses required under the provisions of this by-law.

### **3.5 Licence – display**

- (1) No person holding a licence issued pursuant to this by-law shall fail to:
  - (a) with respect to premises, display the licence in a conspicuous place in or on the said premises; or
  - (b) with respect to a vehicle, display the licence in a conspicuous place in or on the said vehicle; or
  - (c) with respect to an individual, maintain the licence on their person while conducting the activity for which the licence was issued and when so requested by an Inspector, as authorized under this by-law, produce his licence for inspection.

### **3.6 Licence – application**

- (1) Applications for all licenses issued under the provisions of this by-law and applications for the renewal of such licenses:
  - (a) Shall be made to the Manager of Licensing and Enforcement on forms to be provided;
  - (b) When received by the Manager of Licensing and Enforcement, will be stamped with the date of receipt and processed in the order in which they were received; and
  - (c) will be processed giving priority to applications for renewal of licenses for a particular year provided the application for renewal is received by the Manager of Licensing and Enforcement on or before the last business day of the expiration date as set out in section 2.1 herein. When a renewal deadline expires on a Saturday, Sunday or holiday, the act or proceeding may be done or taken on the day next following that is a business day.

### **3.7 Licence-application-full information-required**

- (1) Every applicant shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as:
  - (a) payment of the prescribed licence fee set out in Schedule “1” of this by-law; and
  - (b) any other document or information as may be required in any other Part of this by-law.
- (2) No person shall give false or incorrect information for the purpose of obtaining a licence or certificate.

### **3.8 Licence – application – subject to approval**

Every application will be subject to investigations approvals from such municipal or provincial departments or agencies as the Manager of Licensing and Enforcement deems necessary, or as directed by Town Council, including but not limited to: Police Services, Windsor/Essex County Health Unit, Fire and Rescue Services Department, Building and Development Department, Environmental Services Department and Licensing and Enforcement Department.

### **3.9 Contravention – other laws- prohibited**

The issuance or renewal of a licence is not intended and shall not be construed as permission or consent by the Town for the holder of the licence to contravene or to fail to observe or comply with any law of Canada or Ontario or any by-law of the Town.

### **3.10 Revocation – licence- surrendered – voluntarily**

The Manager of Licensing and Enforcement may revoke a licence that is voluntarily surrendered by the holder for revocation.

### **3.11 Licence – property of Town – transfer-prohibited**

Every licence, at all times, is owned by and is the property of the Town and is valid only in respect of the person and the premises or of the person named therein and for the nature of business stated in the licence, and no licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

Every metal plate shall be and remain the property of the Town and shall be returned to the Town whenever required by the Manager of Licensing and Enforcement.

### **3.12 Information – held by Manager of Licensing and Enforcement – open to inspection**



- (1) Any application, comment, recommendation, information, document or thing in the possession of the Manager of Licensing and Enforcement pursuant to the provisions of this by-law shall be made available by the Manager of Licensing and Enforcement for an inspection:
  - (a) by any person employed in the administration or the enforcement of this by-law; and
  - (b) by any other person upon the consent, satisfactory to the Manager of Licensing and Enforcement, of the person, civic department, board, commission, authority or other agency which produced or submitted the application, comment, recommendation, information, document or thing; subject only to the limitations imposed by the Municipal Freedom of Information and Protection of Privacy Act.

### **3.13 Inspections – Police and other designated persons**

- (1) Any act or duty to be performed by the Chief of Police under this by-law may be performed by any police officer authorized by the Chief of Police to do so.
- (2) Any member of the Town's Police Services or any person designated by the Council of the Town to enforce this by-law may, at all reasonable times and upon producing proper identification, enter and inspect any premises or any part of any premises licensed under the provisions of this by-law.
- (3) The Manager of Licensing and Enforcement, or his/her representative, is authorized to:
  - (a) inspect,
    - (i) those parts of any house, place or premises which may be used for the carrying on of any trade, calling, business or occupation;
    - (ii) goods, wares, merchandise, articles, books, records or other documents of or relating to any trade, calling, business or occupation;
    - (iii) every vehicle and other personal property used or kept for hire in carrying on the business;
  - (b) require that each vehicle and other personal property used or kept for hire in carrying on the business be submitted for inspection;
  - (c) ensure that each licensee produce his vehicle for inspection at the time and place so designated.

### **3.14 No person –Obstruct- person who enforces**

No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.

### **3.15 Records –to be kept – as required**

No person shall fail to keep any and all of the records required to be kept by under the provisions of any section of any Part of this by-law.

### **3.16 Deficiencies – specified- notice to – applicant**

Where any determination is made that any premises or person named in the application does not receive the approvals required by this by-law, the reasons for the lack of the required approvals shall be specified, and the Manager of Licensing and Enforcement or designates shall notify the applicant of all such reasons.

### **3.17 Licence – not to be transferred or renewed –where by-law contravened**

No licence shall be issued to any person in respect of any premises in which the carrying on or operation of the business for which the application is being made is in contravention of any by-law of the Town, or any applicable Provincial or Federal legislation.

### **3.18 Licence-Fees-term of- expiry**

Every person applying for a business licence shall pay at the time of obtaining the said licence the appropriate fee provided in Schedule 1 to this by-law. A licence issued under the provisions of this by-law shall be valid only for the period of time for which it was issued in accordance with expire terms set out in section 2.1 herein and subject to fees as contained in Schedule 1 to this by-law.

### **3.19 Licence-administrative fee –licence refused or withdrawn**

All business licence fees are non-refundable if the application is refused for any reason or is withdrawn by the applicant prior to the issuance of a licence.

### **3.20 Licence – application deemed expired**

Any business licence application that has not received approvals from all municipal or provincial departments or agencies as the Manager of Licensing and Enforcement deems necessary within 60 days from the date of the filing of the application, because of the applicant's inability to comply with the requirements to become licensed, shall be deemed to have expired unless the application is referred to the CAO under section 3.28 of this bylaw.

### **3.21 Licence – duplicate licence**

Where an original licence has been lost or destroyed, the Manager of Licensing and Enforcement, upon receipt of a police report to that effect furnished by the original holder thereof or by some person having the authority to act on behalf of the licensee, may issue a duplicate licence to the licensee upon payment of the fee set out in Schedule 1 to this by-law.

### **3.22 Licence – notification of change**

- (1) Every licensee shall notify the Manager of Licensing and Enforcement within seven (7) days:
  - (a) Of any change in his business or home address;
  - (b) Sale, transfer or termination of his business;
  - (c) Retirement;
  - (d) In the situation where the licensee obtained a licence on the basis of the employee's certificate, the termination of the employee's employment.

### **3.23 Issuance, Renewal – fees- terms of – expiry**

Every person applying for renewal of a business licence shall procure such licence from the Licensing and Enforcement Dept. in accordance to the deadline schedule contained in Appendix "A" attached hereto, and shall, at the time of filing the application for such licence, pay the licence fee shown in Schedule 1 of this by-law, provided, however, that where a licence is renewed after the deadline, the applicant shall be liable to pay the licence fee established by this by-law together with the penalty of 50% over the base fee.

### **3.24 Issuance, Renewal – Conditions**

- (1) Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold, and renewing a licence, all of which shall be performed and observed by the applicant, holder of the licence or by the operator of the business:
  - (a) the applicant or licence holder shall pay the applicable licence fee;
  - (b) the applicant or licence holder shall allow, at any reasonable time, the Town to inspect the places and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying out of the business;

- (c) the applicant or licence holder shall ensure that the places or premises used for the business are not constructed or equipped so as to hinder the enforcement of this by-law;
- (d) the conduct of the applicant or the licence holder affords reasonable cause to believe that the applicant or license holder will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (e) the applicant or licence holder, or an individual who is a member of a partnership that is the holder of the licence, shall be a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada or a person permitted to work in Canada as determined by Citizen and Immigration Canada;
- (f) where the applicant or licence holder is a corporation, or a partnership of which a member is a corporation, the conduct of its officers or directors or of a shareholder who owns or controls 10 per cent or more of its issued and outstanding voting and non-voting shares shall not afford reasonable cause to believe that the applicant or licence holder will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (g) where the applicant or licence holder is a corporation, it shall, within 15 days after the event, notify the Manager of Licensing and Enforcement in writing where there is a change in an officer or director of the corporation or where there is a change in the controlling interest;
- (h) the premises in which the business is located shall be in accordance with the requirements of the Building Code Act and the Regulations there under, the Fire Protection and Prevention Act, and the Regulations there under, and any by-law of the Town prescribing standards for the maintenance and occupancy of property within the Town;
- (i) where premises in which the business is located are altered and a building permit is required to carry out the alterations, the premises, as altered, shall be in accordance with the Building Code Act and the Regulations there under, the Fire Protection and Prevention Act, and the Regulations there under, the Regulations falling within the jurisdiction of the Medical Officer of Health, and any by-law of the Town prescribing standards for the maintenance and occupancy of property within the Town;
- (j) the use of the premises for the purpose of the business is permitted or conforms with the uses of the premises permitted under the applicable zoning by-law or is a legal non-conforming use;
- (k) the owner or operator shall have a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the owner or operator to carry on the business;
- (l) the applicant or license holder shall not carry on activities that are in contravention of this by-law;
- (m) the applicant or license holder shall not fail to pay any part of a fine for a contravention of this bylaw after the fine becomes due and payable under section 66 of the Provincial Offences Act, including any extension of time for payment ordered under that section;
- (n) evidence that their existing photograph is satisfactory;
- (o) evidence of their residence address;
- (p) insurance requirements, pursuant to the provisions of this by-law, shall be kept in force by the licensee for the period for which his licence is in effect inclusive of any renewal thereof. The Licensing Officer shall, upon receipt of notice that a policy of insurance is to expire on a stated date, notify the licensee that unless further proof of insurance is filed on or before that day, a recommendation shall be made to the Manager of Licensing and Enforcement that the licence be suspended or revoked.
- (q) Every licensee shall be responsible for the act or acts of any of their employees or any person associated with the licensee in the carrying on of any of the trades, businesses or occupations authorized by their licence in the same manner and to the same extent as though such act or acts were done by the licensee

### **3.25 Licensing powers – Manager of Licensing and Enforcement – issue or renew**

- (1) Upon receipt of an application in the prescribed form for a licence or renewal thereof, shall make or cause to be made all investigation required by law and if the investigation disclose any reason to believe that the applicant is not of good character or that the carrying on of the said trade, calling, business or occupation will be likely to result in a breach of the law or be in any way adverse to the public interest, the Licensing Officer shall recommend to the Manager of Licensing and Enforcement that it not issue or renew the licence or that it impose conditions on the issuance of a licence, otherwise, the Licensing Officer shall recommend to the Manager of Licensing and Enforcement that it issue or renew the licence.
- (2) Where, in the opinion of the Licensing Officer, the carrying on of a trade, calling, business or occupation by a licensee will likely result in a breach of the law or be adverse to the public interest, the Licence Officer shall recommend to the Manager of Licensing and Enforcement that it suspend, revoke or impose conditions on the licence.

### **3.26 Licensing powers – Referral.**

- (1) At any time before the Licensing Officer either issues or renews a licence, or recommends to refuse to issue or to refuse to renew a licence, he/she may, or he/she shall on the request of the applicant, refer the application for such issuance or renewal of a licence to the Manager of Licensing and Enforcement
- (2) Where there is a referral to the Licensing Officer pursuant to this section, the Manager of Licensing and Enforcement shall hold a meeting for the purpose of directing the Licensing Officer to issue or renew the licence, or not to issue or renew the licence, and the Manager of Licensing and Enforcement, when directing the Licensing Officer, may require the imposition of conditions.

### **3.27 Recommendation – Manager of Licensing and Enforcement – Refuse to issue, refuse to renew, suspension, place conditions, revocation – notice – meeting request**

Where the Licensing Officer intends to recommend to the Manager of Licensing and Enforcement that it refuse to issue, refuse to renew, place conditions, revoke or suspend a licence, he/she shall give notice of his intended recommendation to the applicant or licence holder, together with the reason for his intended recommendation, as well as to such other persons, civic departments, boards, commissions, authorities or agencies as appear to have an interest in the recommendation.

### **3.28 Suspension – interim – pending – during meeting**

The Manager of Licensing and Enforcement, without holding a hearing, may suspend a licence for not more than two weeks if the licensee has been convicted of a criminal offence, provided that the suspension is made within thirty days of the conviction, and notwithstanding that an appeal has been taken from the conviction;

No suspension of a licence by the Manager of Licensing and Enforcement is effective after the expiration of two weeks from the date of suspension or after the next meeting of the Town Council following the suspension, whichever occurs first.

### **3.29 Refusal – suspension – revocation – notice of meeting – content**

- (1) Where the Licensing Officer has recommended to the Manager of Licensing and Enforcement that a licence not be issued or renewed or that a licence be suspended, revoked or conditions imposed on the licence, the Licensing Officer shall refer the application and his/her reasons for his recommendation to the Manager of Licensing and Enforcement and shall give the applicant notice, in writing, of such action, said notice to be served personally or by registered mail

to the applicant at the address shown on the application. The notice of the hearing shall:

- (a) contain a reference to section 150 of the Municipal Act, under which the hearing will be held;
- (b) contain a reason or reasons for the proposed refusal, suspension or revocation;
- (c) specify the time, place and purpose of the meeting with the Manager of Licensing and Enforcement at which the proposed refusal, suspension or revocation will be considered;
- (d) inform the affected applicant or the affected holder of the licence that he is entitled to attend the meeting and make submissions regarding the proposal and that, in his absence, the Manager of Licensing and Enforcement may proceed to consider the proposal, and the applicant or affected holder of the licence will not be entitled to any further notice in the proceeding;
- (e) afford the affected applicant or the affected holder of the licence a reasonable opportunity, before the meeting, to show or achieve compliance with all lawful requirements for the retention of the licence; and
- (f) be given at least 7 days notice prior to the date of the meeting with the Manager of Licensing and Enforcement.

### **3.30 Refusal – suspension – revocation – by Manager of Licensing and Enforcement**

(1) If it is determined that an application does not meet the requirements of this by-law, the Licensing Officer will refuse to issue the licence and will refund the licence fee.

(2) If, at any time, the Licensing Officer determines, as a result of evidence that is provided, that the operation of a licensed business does not conform with the requirements of this by-law, it may suspend or revoke the licence.

(3) The Licensing Officer may refuse to grant, suspend or revoke a licence to any application who:

- (a) has submitted an incomplete application; or
- (b) the Town believes, with reasonable grounds, has made statements on the application that are false; or
- (c) has past breaches of this by-law, or any predecessors thereof and the Issuer of Licences determines that it is not in the public's interest to grant such a licence to the applicant; or
- (d) has failed to comply with any condition as imposed by Council; or
- (e) has past behaviour or conduct that creates reasonable grounds to believe that the applicant may not carry on the business with honesty and integrity; or
- (f) the Town believes, with reasonable grounds, has a financial situation that indicates that the business will not be conducted in a financially responsible manner; or
- (g) has failed to comply with the requirements of this by-law or other applicable by-laws of the Town or of any local board thereof, or of any Statute, Order-in-Council, or Regulation of the Provincial Legislature or the Parliament of Canada, or of any Agency, Board of Commission thereof, in, upon or in connection with the applied for licensed activity of the business or premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the licensed activity; or
- (h) is in a geographic location that does not meet land use requirements; or

- (i) has outstanding fines or penalties owing to the Town of Amherstburg or has not paid the required licence application fee as set out the Town's User Fee By-law as amended from time to time; or
  - (j) has outstanding realty taxes owing to the Town of Amherstburg; or
  - (k) owns real property which is leased to a tenant with outstanding realty taxes owing to the Town.
- (4) Upon revocation of a licence the owner shall return the licence to the Town within fifteen (15) days. Should the licensee fail to return the said licence within the specified time limit, the Town has the authority to enter onto the premises to ensure its recovery.
- (5) No person shall operate any business or premises contrary to any licence suspension or terms and conditions thereto or where such licence has been revoked.

### **3.31 Notice and Appeal**

- (1) Where the Licensing Officer refuses to grant a licence, suspends, or revokes a licence, the said Issuer of Licences shall notify the applicant in writing of such decision and the said notice shall set out the grounds upon which the issue of the said licence is refused and shall state that the Applicant or Licensee may appeal such decision by filing an appeal with the Clerk of the municipality within fifteen (15) days as set out in this by-law.
- (2) Where the Manger of Licensing and Enforcement refuses to grant a licence, suspends, or revokes a licence under this by-law the Applicant or Licensee may appeal this decision to the Council of the Corporation by filing with the Clerk an appeal, in writing, of the said decision within fifteen (15) days of being notified of the decision of the Licensing Officer.
- (3) Upon receipt of an appeal from the applicant the Clerk and Council shall follow the procedure set out in this by-law.
- (4) The Council of the Corporation may, after the appropriate hearing is conducted grant a licence, refuse to grant a licence, revoke a licence or suspend a licence and may make any suspension of licence subject to such terms or conditions as Council may prescribe and a decision made pursuant to the exercise of these powers is final and binding upon the applicant or any licensee.
- (5) Council, in considering whether or not to grant a licence, to renew a licence, or to revoke or suspend a licence shall have regard to the following:
- i. Whether the submitted licence application is complete and true;
  - ii. Whether or not the Applicant or Licensee and the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of a business which is licensed or which is required to be licensed, pursuant to this by-law, complies with all requirements hereof;
  - iii. Whether or not the Applicant or Licensee has failed to promptly remedy any reasonable concern with regard to those matters set out in this by-law or has committed past breaches of this by-law or any predecessor thereof;
  - iv. Whether or not the Applicant or Licensee has failed to comply with any requirements of any other applicable by-law of the Town or any local board thereof or of any statute, Order-in-Council, or Regulation of the Provincial Legislature or the Parliament of Canada, or of any Agency, Board or Commission thereof, in, upon or in connection with the licensed activity or the premises, facilities, equipment, vehicles and other property used or kept for hire in connection with the licensed activity;
  - v. Whether or not the Applicant or Licensee has any outstanding fines imposed under the Provincial Offences Act for the contravention of any provision of this by-law;
  - vi. Whether the applicant owns real property which is leased to a tenant and has any outstanding realty taxes owing to the Town in respect of the business or premises in question.

- (6) Council shall comply with the following procedure in determining whether or not to grant a licence, to renew a licence, or to revoke or suspend any licence under this by-law:
- (i) The Clerk shall place the matter on the agenda of Council's next meeting to fix a date and time for such matter to be considered and shall mail a Notice of Hearing to the Licensee (at his last known address as shown in the records of the Licensing Officer or the current year's Assessment Roll) and to any other person who has applied to be heard.
  - (ii) Such Notice shall be mailed at least (15) fifteen days prior to the date and time fixed for the hearing;
  - (iii) At the hearing Council shall receive a report, either verbally, or in writing, from the Manager of Licensing and Enforcement and from such other officers or employees of the Corporation who may be involved in the matter being considered by Council;
  - (iv) Upon the hearing the Council shall consider such material and evidence as may be relevant and hear such evidence or reports as to Council as may seem just and relevant;
  - (v) Council may, in its sole discretion, afford any other person who applies to be heard and who appears to have an interest in the matters under discussion, an opportunity to present material and evidence relevant to the issue and may examine any person presenting evidence or a report to Council;
  - (vi) For the purposes of this Section a quorum of Council shall be a majority of the members of Council and a decision by the majority of members present shall be the decision of Council;
  - (vii) Council and the Manager of Licensing and Enforcement may, after having heard all of the evidence and submissions made to it by the Applicant/Licensee, retire and resume deliberations as a Committee of the Whole, to reach its decision;
  - (viii) The decision made by Council sitting as the Committee of the Whole shall be confirmed in open Council by resolution immediately following the meeting of the Committee of the Whole and a certified copy of such resolution shall be mailed to the Licensee, to any person who has appeared before Council and requested that a copy of the resolution be provided to them.

7. The decision of Council shall be subject to such terms as Council may impose and shall be final.

### **3.32 Standards – maintained**

No person licensed under the provisions of this by-law shall fail to maintain, on a continuous basis, the standards and requirements that were necessary to obtain the original approval of the licence application, or have been imposed since the issuance of the licence.

### **3.33 Offences – convictions and fines**

(1) Every person who contravenes any of the provisions of this by-law, other than those provisions dealing with adult entertainment parlours, and every director or officer of a corporation who concurs in the contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.

(2) 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.

(3) Pursuant to Section 440 of the Municipal Act, if any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the Provincial Offences Act, including any extension of time for payment ordered under that section, the Town Treasurer or his or her designate may give the person against whom the fine was imposed written notice specifying the amount of the fine

payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. The notice shall be sent by registered mail to be delivered to that person at the person's residence or place of business.

(4) If the fine referred to in subsection (4) herein remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed to be unpaid taxes for the purposes of Section 351 of the Municipal Act.

### **3.34 Other**

(1) In this by-law where the time for doing any act or taking any proceeding expires on a Saturday, Sunday or holiday, the act or proceeding may be done or taken on the day next following that is a business day.

(2) If a Court of competent jurisdiction should declare any section or a part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

(3) This by-law includes the Schedules hereto annexed and Appendix A – Deadline Dates that are hereby declared to form a part of this by-law.

(4) For the purpose of licensing businesses, trades, callings and occupations in the Town of Amherstburg this by-law replaces by-law 2009-044 which is hereby repealed on the December 11, 2023.

(5) This by-law shall come into force and take effect on December 11, 2023

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Michael Prue – Mayor

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Kevin Fox – Clerk

First Reading – December 11, 2023  
Second Reading – December 11, 2023  
Third Reading – December 11, 2023



## Appendix "A"

## List of Deadline Dates for Licence Categories

| Deadline                  | Licence Category                                  |
|---------------------------|---|
| January 31 <sup>st</sup>  | Mobile Vendor of Food                             |
| January 31 <sup>st</sup>  | Bed & Breakfast                                   |
| February 28 <sup>th</sup> | Lunch Counter                                     |
| February 28 <sup>th</sup> | Hospitality Food Service                          |
| February 28 <sup>th</sup> | Hospitality Food Service/Ancillary Liquor Service |
| February 28 <sup>th</sup> | Hospitality Liquor Service/Ancillary Food Service |
| February 28 <sup>th</sup> | Hospitality Mixed Use (Food/Liquor) Service       |
| February 28 <sup>th</sup> | Food Store  |
| February 28 <sup>th</sup> | Tobacconist                                       |
| February 28 <sup>th</sup> | Vape Retailer                                     |
| April 30 <sup>th</sup>    | Hawker or Pedlar                                  |
| April 30 <sup>th</sup>    | Campgrounds/Trailer Park                          |
| May 31 <sup>st</sup>      | Caterers  |
| May 31 <sup>st</sup>      | Pet Shops   |
| May 31 <sup>st</sup>      | Petting Zoos                                      |
| October 31 <sup>st</sup>  | Automobile Service Station                        |
| October 31 <sup>st</sup>  | Old Gold Dealers                                  |
| October 31 <sup>st</sup>  | Public Hall                                       |
| October 31 <sup>st</sup>  | Retail/Resale Shop/Pawnbroker                     |
| October 31 <sup>st</sup>  | Lodging House                                     |
| November 30 <sup>th</sup> | Salvage Yard                                      |
| November 30 <sup>th</sup> | Body Modification                                 |



The Corporation of the Town of Amherstburg

Licensing & Enforcement Dept.

Business Licence Fees

| Initial Licence                                       |        | Administration | Zoning Inspection | Building Inspection | Fire Inspection | Enforcement | Office Expense Overhead | Corporate Support Overhead |
|---|--------|----------------|-------------------|---------------------|-----------------|-------------|-------------------------|----------------------------|
| Auctioneer  | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Auto Service Station – Car Wash                       | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Auto Service Station – Gas and/or Oil for Sale        | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Auto Service Station – Vehicles Used for hire         | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Auto Service Station – Storage/Sales                  | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Auto Service Station – Repair/Paint and/or Upholstery | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Bed & Breakfast                                       | 117.00 | 50             | 85                | 100                 | 24.5            | 23.50       | 35                      | 435                        |
| Body Modification                                     | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Campgrounds/Trailer Parks                             | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Carnival/Circus                                       | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Caterers  | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Door-to-Door Salesperson                              | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |
| Food Store  | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Hawker/Pedlar   | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Hospitality - Food                                    | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Hospitality - Food/Liquor                             | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Hospitality - Liquor/Food                             | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Hospitality - Lunch Counter                           | 117.00 | 50             | 85                | 100                 | 24.5            | 23.50       | 35                      | 435                        |
| Lodging House   | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Mobile Vendor Of Food - Class 1                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Mobile Vendor Of Food - Class 2                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Mobile Vendor Of Food - Class 3                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Mobile Vendor Of Food - Class 4                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Mobile Vendor Of Food - Class 5                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |
| Old Gold Dealer                                       | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Pet Shop  | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Petting Zoos  | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Public Hall   | 117.00 | 50             | 85                | 100                 | 24.5            | 23.50       | 35                      | 435                        |
| Retail/Resale/Pawnbrokers                             | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Salvage Yard  | 117.00 | 50             |                   | 100                 | 24.5            | 23.50       | 35                      | 350                        |
| Special Sale  | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Tobacconist   | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |
| Vape Product Retailer                                 | 117.00 | 50             |                   |                     | 24.5            | 23.50       | 35                      | 250                        |

| Renewal Licence                                       |        | Administration | Zoning Inspection | Building Inspection | Fire Inspection | Enforcement | Office Expense Overhead | Corporate Support Overhead |  |
|---|--------|----------------|-------------------|---------------------|-----------------|-------------|-------------------------|----------------------------|--|
| Auctioneer  | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Auto Service Station – Car Wash                       | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Auto Service Station – Gas and/or Oil for Sale        | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Auto Service Station – Vehicles Used for hire         | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Auto Service Station – Storage/Sales                  | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Auto Service Station – Repair/Paint and/or Upholstery | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Bed & Breakfast                                       | 117.00 |                | 85                | 100                 | 24.5            | 23.50       | 35                      | 385                        |  |
| Body Modification                                     | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Campgrounds/Trailer Parks                             | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Carnival/Circus                                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Caterers  | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Door-to-Door Salesperson                              | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Food Store  | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Hawker/Pedlar   | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Hospitality - Food                                    | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Hospitality - Food/Liquor                             | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Hospitality - Liquor/Food                             | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Hospitality - Lunch Counter                           | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Lodging House   | 117.00 |                | 85                | 100                 | 24.5            | 23.50       | 35                      | 385                        |  |
| Mobile Vendor Of Food - Class 1                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Mobile Vendor Of Food - Class 2                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Mobile Vendor Of Food - Class 3                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Mobile Vendor Of Food - Class 4                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Mobile Vendor Of Food - Class 5                       | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Old Gold Dealer                                       | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Pet Shop  | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Petting Zoos  | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Public Hall   | 117.00 |                | 85                | 100                 | 24.5            | 23.50       | 35                      | 385                        |  |
| Retail/Resale/Pawnbrokers                             | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Salvage Yard  | 117.00 |                |                   | 100                 | 24.5            | 23.50       | 35                      | 300                        |  |
| Special Sale  | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Tobacconist   | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |
| Vape Product Retailer                                 | 117.00 |                |                   |                     | 24.5            | 23.50       | 35                      | 200                        |  |