

**The Corporation of the Municipality of Leamington  
By-law 50-24**

**By-law to provide for licensing and regulating businesses  
in the Municipality of Leamington**

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**The Corporation of the Municipality of Leamington  
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**By-law to provide for licensing and regulating businesses  
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**WHEREAS** the Municipal Act, 2001 S.O. 2001, c.25 (the "Act"), as amended, provides that a local municipality may license, regulate and govern any business, wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality; and

**AND WHEREAS** section 391(1) of the Act provides that a municipality may impose fees and charges on persons;

**AND WHEREAS** Council considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses;

**THEREFORE** the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

**DEFINITIONS**

1. For the purposes of this By-law and annexed Schedules and Appendices:

**"Adult Entertainment Attendant"** shall mean any Person other than a Licensed Adult Entertainment Owner or Operator who provides Adult Entertainment Services at an Adult Entertainment Establishment;

**"Adult Entertainment Establishment"** shall be a Licensed Premises and shall have the same meaning as in the Comprehensive Zoning By-law;

**"Adult Entertainment Event"** shall mean an occurrence conducted by a Person or Business providing entertainment appealing to or designed to appeal to erotic or sexual appetites or inclinations within a facility other than an Adult Entertainment Establishment;

**"Adult Entertainment Operator"** shall mean a Person who alone or with others operates, manages, supervises, runs, or controls an Adult Entertainment Establishment;

**"Adult Entertainment Owner"** shall mean a Person who owns or has possession of an Adult Entertainment Establishment;

**“Adult Entertainment Services”** shall have the same meaning as in the Comprehensive Zoning By-law;

**“Appeal Committee”** shall mean the committee established by Council to hear appeals from decisions of administrative officials made pursuant to a delegated power or duty;

**“Applicant”** shall mean a Person applying for or renewing a Licence;

**“Application”** shall mean the form of application, as provided by the Issuer of Licences;

**“Attendant Registration Form”** shall mean a form completed by the Attendant containing the legal name, address, date of birth, telephone number, stage name, and social insurance number of each Attendant;

**“Automobile Insurance”** shall mean the automobile insurance as described in Schedule 2;

**“Boarding/Rooming House”** shall mean a Licenced Premises which is a building or portion thereof in which lodging is provided for more than four (4) persons (which number shall include the owner or the owner’s agent if the owner or the owner’s agent lives within the Boarding/Rooming House), lodging, meals or both in return for remuneration or for the provision of services or some other form of consideration, but shall not include a hotel, hospital, group home dwellings, home for the young or the aged or institution if the hotel, hospital, home or institution is licensed, approved or supervised under any general or special Act or a dwelling on a farm that is used for the housing of farm workers and is inspected by the relevant public health authority as a condition of its use as such.”

**“Building Code Act”** shall mean the Building Code Act, 1992, S.O. 1992, c. 23, as amended, and the Regulations made thereunder;

**“Business”** shall mean any business carried on in the Municipality that is identified in Schedule 1 of this By-law 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) greenhouse or farming operations;
- c) the sale of goods by wholesale;
- d) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

**“Business Licence”** shall mean the licence to engage in a Business issued under this By-law, and the term “licensed” shall have a corresponding meaning;

**“Business Premises”** shall mean any land including any and all buildings or other structures thereon or any part thereof for which an Application is or has been made for a Business Licence and which is used or intended to be used in the operation of a Business and includes any Vehicle or conveyance that is used or intended to be used in the operation of the Business;

**“By-law”** shall mean the by-law to provide for licensing and regulating businesses in the Municipality;

**“Cash for Merchandise”** shall mean the Business of providing cash in exchange for goods previously owned by some other Person, including but not limited to coins, jewelry, gold or silver;

**“Caterer – Home Occupation”** shall mean a Person who prepares Food at their residential Dwelling for supply and consumption at another Premises.

**“Certificate of Automobile Insurance”** shall mean the certificate of automobile insurance as described in Schedule 2;

**“Certificate of Insurance”** shall mean the certificate of insurance as described in Schedule 2;

**“Certificate of Status”** shall mean a certificate issued by the Ontario government for Ontario companies and is also known as Certificate of Good Standing or Certificate of Compliance;

**“Certified Food Handler”** shall mean a Food Handler who holds a valid Provincial Food Handler Certification Card recognized by the Windsor-Essex County Health Unit;

**“Comprehensive Zoning By-law”** shall mean the comprehensive zoning by-law 890-09 passed by Council pursuant to section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended from time to time;

**“Council”** shall mean the Council of The Corporation of the Municipality of Leamington;

**“Day Sales”** shall mean the Business of the Sale of goods or merchandise for a one (1) to three (3) day, consecutive period from one specific location on Private Property where the use is permitted in the Comprehensive Zoning By-law, but does not include a Road Side Stand, as the same is defined in the Comprehensive Zoning By-law;

**“Door-to-Door Sales”** shall mean the attendance by any Person at a Premises for the purposes of selling, carrying on or engaging in any trade, business or occupation who attends a Premises for the purpose of selling, hiring, 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 for future delivery of any goods or services, with or without a formal written contract;

**“Dwelling”** shall have the same meaning as in the Comprehensive Zoning By-law;

**“Employee”** shall mean any Person working in or for the Licensed Business whether or not that Person receives remuneration for the work;

**“Fee”** shall mean the fee as set out in the Municipality’s by-law to provide for a tariff of fees, passed by Council, as amended from time to time;

**“Fire Protection and Prevention Act”** shall mean the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and the Regulations made thereunder;

**“Fire Chief”** shall mean the Fire Chief of the Municipality or his or her designate;

**“Food”** shall mean food or drink for human consumption and includes refreshments and confections;

**“Food Handler Certification Card”** shall mean a certification card issued to a Person for the successful completion of an Accredited Certified Food Handler Program recognized by the Ministry of Health and Long Term Care;

**“Food Vehicle – Class 1”** shall mean an outdoor wheeled contrivance not permanently affixed to the ground and capable of being moved, from which Food intended for immediate consumption is provided for Sale or sold, and includes a motorized, self-propelled vehicle (e.g. a food truck), a vehicle that is not self-propelled, but that can be easily towed (e.g. a food trailer) and a vehicle moved by human exertion (e.g. a food cart). Some other examples include, but are not limited to, a chip wagon, mobile food preparation vehicle, hot dog cart, or refreshment vehicle;

**“Food Vehicle – Class 2”** shall mean an outdoor wheeled contrivance not permanently affixed to the ground and capable of being moved, from which Food intended for immediate consumption is provided for Sale or sold, and includes a motorized, self-propelled vehicle (e.g. a food truck), a vehicle that is not self-propelled, but that can be easily towed (e.g. a food trailer) and a vehicle moved by human exertion (e.g. a food cart). Some other examples include, but are not limited to, a chip wagon, mobile food preparation vehicle, hot dog cart, or refreshment vehicle. The Food Vehicle -Class 2 is intended to be used for a limited purpose or specific event and shall operate from one specific location for up to a maximum of three (3) consecutive days.

**“General Liability Insurance”** shall mean the General Liability Insurance as described in Schedule 2;

**“Highway”** shall have the same meaning as in the Highway Traffic Act and shall include sidewalks and other Municipal Property ordinarily used for the passage of Vehicles and/or pedestrians within the geographic limits of the Municipality;

**“Highway Traffic Act”** shall mean the Highway Traffic Act, R.S.O. 1990, c. H. 8, as amended, and the Regulations made thereunder;

**“Home Occupation”** shall have the same meaning as in the Comprehensive Zoning By-law;

**“Ice Cream Cart”** shall mean a cart driven or propelled by any kind of power, from which Food specifically related to ice cream, frozen desserts or other frozen confections are provided for Sale or sold but does not include an Ice Cream Vehicle;

**“Ice Cream Vehicle”** shall mean a Food Vehicle from which Food specifically related to ice cream, frozen desserts or other frozen confections are provided for sale or sold, but shall not include an Ice Cream Cart;

**“Issuer of Licences”** shall mean the Director of Legal and Legislative Services, or his or her designate;

**“Land Maintenance By-law”** shall mean by-law 840-08 to prescribe standards for the maintenance of land passed by Council, as may be amended or replaced from time to time;

**“Licensed Premises”** shall be the Business Premises in respect to which a Business Licence has been issued;

**“Licensee”** shall mean any Person to whom a current Business Licence is issued;

**“Luxury Vehicle”** means an unaltered passenger motor vehicle meeting the Motor Vehicle Safety Act standards and having a designed seating capacity of not less than four (4) and not more than nine (9) persons, excluding the driver, belonging to the luxury, high performance and full-size models of Audi, BMW, Cadillac, Infinity, Jaguar, Land Rover, Lexus, Lincoln, Mercedes or other makes approved by the Issuer of Licences, with a minimum of four (4) doors, carpeted flooring, tinted power windows, power locks, a stereo system, climate control, a leather or superior quality upholstered interior, and deluxe wheels and wheel covers, and that is not equipped with a taximeter or a roof sign, and is not licensed as a taxicab pursuant to By-law 63-16, its successors, as amended if any.

**“Municipal Property”** shall mean any property owned, leased or otherwise occupied by the Municipality, but does not include a Highway;

**“Municipality”** shall mean The Corporation of the Municipality of Leamington or geographic area of the Municipality of Leamington as the context suggests;

**“Obstruct”** shall mean to hinder, mislead, knowingly provide false information or make false claim or statement, or to prevent the execution of a duty;

**“Offence”** shall mean a conviction or the finding of guilt under any federal or provincial statute, including any regulation and the By-law or any other by-law of the Municipality;

**“Officer”** shall mean a police officer, a provincial offences officer, a municipal law enforcement officer or any other person as may be appointed by Council to enforce this By-law;

**“OFPR”** shall mean Ontario Food Premises Regulation 562/90, as amended from time to time;

**“Owner”** shall mean the Licensee, the registered owner, lessee or occupant of the Licensed Premises, an Employee or anyone present on the Licensed Premises with apparent control thereof;

**“Pawnbroker”** shall mean a Person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon;

**“Pawnbroker Act”** shall mean the Pawnbroker Act, R.S.O. 1990, c.P.6 and the regulations enacted thereunder as amended from time to time;

**“Person”** shall mean an individual, a partnership, or a corporation and the heirs, executors, administrators or other legal representatives of the Person, as the case may be;

**“Premises”** shall mean any land including any and all buildings or other structures thereon;

**“Private Property”** shall mean all property in the Municipality but does not include any Highway or Municipal Property;

**“Property Standards By-law”** shall mean by-law 622-05 prescribing standards for the maintenance and occupancy of all property passed by Council pursuant to section 15.1 of the Building Code Act, as may be amended or replaced from time to time;

**“Public Vehicles Act”** shall mean Public Vehicles Act, R.S.O. 1990, c. P.54, as amended, and the Regulations made thereunder;

**“Safety Standards Certificate”** shall mean a Safety Standards Certificate issued under the Highway Traffic Act;

**“Sale”** shall mean the exchange of a sum of money or other consideration for goods, services, or Food and sell has the corresponding meaning;

**“Salesperson”** shall mean any Person operating the following:

- Door-to-Door Sales
- Day Sales;

**“Sign By-law”** shall mean by-law 110-11 to regulate the size, use, location, construction and maintenance of signs within the Municipality passed by Council, and as may be amended or replaced from time to time;

**“Special Event”** shall mean an event as defined in the Municipality’s Special Event By-law 86-23 and issued a Special Event Permit by the Municipality;

**“Taxicab By-law”** shall mean by-law 63-16 to provide for licensing, regulating and governing of taxicab owners and taxicab drivers in the Municipality passed by Council, as may be amended or replaced from time to time;

**“Traffic By-law”** shall mean the by-law 4285-95 regulating traffic and parking in the Municipality passed by Council, as may be amended or replaced from time to time;

**“Transportation Agreement”** means a written contract executed by the holder of a Transportation Company Business Licence setting out the terms of operation to provide specialized services including, but not limited to, the transportation of school children or workers;

**“Transportation Vehicle”** means a Vehicle that transports individuals for compensation or reward and is not licensed as taxicab pursuant to By-law 63-16;

**“Uptown”** shall mean that area as shown in Schedule 3;

**“Vehicle”** shall mean 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;

**“Vulnerable Sector Check”** shall mean the original search results of a Police Vulnerable Sector Check, enhanced screening for those employed in positions working with vulnerable persons, from each police service’s jurisdiction in Canada in which the Applicant has been resident during the prior three hundred and sixty-five (365) days, dated no more than thirty (30) days prior to the submission of the Application.

## INTERPRETATION

2. The following Schedules and Appendices are attached hereto and form part of this By-law:

### Schedule 1 - Business Licences

- Appendix A – Adult Entertainment Owner
- Appendix A – Adult Entertainment Operator
- Appendix B – Boarding and Rooming House
- Appendix C – Cash for Merchandise
- Appendix D – Caterer – Home Occupation
- Appendix E – Food Vehicle – Class 1

Appendix F – Food Vehicle – Class 2  
Appendix G – Ice Cream Cart  
Appendix H – Ice Cream Vehicle  
Appendix I – Luxury Vehicle Service  
Appendix J – Pawnbroker  
Appendix K – Salesperson – Day Sales  
Appendix L – Salesperson – Door to Door  
Appendix M – Transportation Company

Schedule 2 – Insurance

Schedule 3 – Uptown

3. If any section, subsection, schedule, appendix or part, or parts of the By-law are declared by the Superior Court of Justice to be invalid, illegal or ultra vires, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
4. Unless otherwise defined, the words and phrases used in this By-law have their normal and ordinary meaning.
5. This By-law is gender-neutral and, accordingly, any reference to one gender includes the other.
6. References to items in the plural include the singular, as applicable, unless used with a number modifying the term.
7. Headings are inserted for convenience of reference purposes only, form no part of this By-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

## **EXEMPTIONS**

8. This By-law shall not apply to:
  - a) taxicab owners or taxicab drivers who have been issued a licence under the Taxicab By-law;
  - b) during the duration of the Special Event, the holder of a Special Event Permit issued in accordance with the Special Event Guide.
  - c) any Business not listed in Schedule 1 of this By-law.

## GENERAL PROVISIONS

9. No Person shall:
  - a) operate a Business, permit another Person to operate a Business, or hold themselves out as being licensed as a Business,
    - i. without a Business Licence;
    - ii. at a location other than the Licensed Premises;
    - iii. under any other name other than the one identified in the Business Licence;
    - iv. except in accordance with the provisions set out in the By-law; or
    - v. without complying with any and all conditions or restrictions placed on the Business Licence.
  - b) transfer or assign a Business Licence to any other Person or to any other location other than the Licensed Premises;
  - c) obtain a Business Licence by providing mistaken, false or incorrect information;
  - d) alter, erase or modify a Business Licence; or
  - e) permit the alteration, erasure or modification of a Business Licence.
10. A Person may be required to obtain more than one (1) Business Licence if a Person carries on more than one Business.
11. A Business Licence to operate on two (2) or more Businesses at one Premises by one Person may be issued on one (1) Business Licence form, but each Business shall be deemed to hold a separate Business Licence.
12. The requirement of a Licence under this By-law is in addition to and not in substitution for any other requirement to obtain a licence or licences under any other federal or provincial regulation and does not relieve any party from its obligations to comply with any other law.
13. The issuance of a Business Licence does not entitle the Licensee to a renewal thereof.

## LICENSING POWERS

14. The power to licence, regulate and govern a business includes the power:
- a) to prohibit the operating or engaging in the business without a licence;
  - b) to refuse to grant a licence or to revoke or suspend a licence;
  - c) to fix the expiry date of a licence;
  - d) to define classes of businesses and to separately licence, regulate and govern each class;
  - e) to impose conditions as a requirement of obtaining, continuing to hold or renewing a licence including conditions:
    - i. requiring the payment of licence fees;
    - ii. restricting the hours of operation of the business;
  - f) 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;
  - g) to impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
  - h) to licence, regulate or govern real and personal property used for the business and the persons operating it on or engaged in it; and
  - i) to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the operating or engaging in the business.

## ISSUER OF LICENCES

15. The Issuer of Licences shall be responsible:
- a) to perform or cause to be performed all of the administrative functions required by this By-law;
  - b) to make or cause to be made all investigations required to give effect to this By-law; and

- c) to receive, process and make a decision in respect of all Applications.
16. Notwithstanding any other provisions of this By-law, the Issuer of Licences may, in his or her sole discretion, issue or renew a Business Licence on a temporary basis, or may issue or renew a Business Licence subject to terms and conditions including special conditions as he or she deems necessary to give effect to this By-law and, such terms and conditions may include, but are not limited to, conditions to ensure public safety, or as are reasonably necessary in the public interest.

## **LICENCE FEES**

17. The Fee payable with an Application for a Business Licence or renewal thereof shall not be refunded in whole or part for any reason.
18. The Fee payable with an Application for a Business Licence shall not be pro-rated.
19. A Fee shall apply to any renewal of a Business Licence where the Licensee has not renewed the Business Licence before the expiry date.
20. A Fee shall apply in the event that an Application is not made at least fourteen (14) days prior to the date of commencement of the Business.
21. The Fee shall be in addition to any other fees imposed by any statute or regulation or by any other by-law of the Municipality.

## **APPLICATION FOR A BUSINESS LICENCE**

22. Every Applicant for a Business Licence or for a renewal thereof, shall complete and submit the Application to the Issuer of Licences, which Application shall be signed by:
- a) if the Applicant is an individual, the individual;
  - b) if the Applicant is a partnership, at least one partner; and
  - c) if the Applicant is a corporation, the officer or director having the signing authority to bind the corporation.
23. Every Application for a Business Licence or renewal thereof, shall be accompanied by:
- a) if the Applicant is an individual or a partnership, two (2) pieces of valid identification as acceptable to the Issuer of Licences with at least one (1)

piece containing photo identification from the individual or all partners in the partnership;

- b) if the Applicant is a corporation, a copy of the incorporating document, a list of the names and addresses of all current signing officers of the corporation, and a copy of a Certificate of Status; except, however, a Certificate of Status shall not be required to be submitted with an Application for a renewal of a Business Licence;
  - c) an indemnity, in a form satisfactory to the Issuer of Licences;
  - d) the applicable Fee;
  - e) proof that the Business Premises is in compliance with the Municipality's Comprehensive Zoning By-law; the Building Code Act, the FPPA, and the Property Standards By-law, if applicable.
  - f) if the Vehicle used in the Business weighs over eleven thousand (11,000) kilograms, a copy of a valid Commercial Vehicle Operator's Registration issued by the Ministry of Transportation;
  - g) Businesses that are set out in Schedule 1, those documents as set out in the corresponding Appendix; and
  - h) any other document that may be specifically requested by the Issuer of Licences.
24. A Business Licence is only valid for the Licensed Premises and the named Licensee.
25. Where a Person operates a Business at more than one Licensed Premises or from more than one Vehicle, the Person shall have a Business Licence for each Licensed Premises or each Vehicle as the case may be.
26. If a sketch of the layout is provided as part of the Application, a Business shall not expand beyond the area identified in the sketch at the time the original Business Licence was issued.
27. A Business Licence is valid only for the duration that the Business operates at the Licensed Premises.
28. Licences issued pursuant to this By-law are conditional on compliance by the Licensee with all municipal by-laws and other applicable laws.

29. A Business Licence remains the property of the Municipality, whether in the lawful possession of a Licensee or not. No Licensee shall enjoy a vested right in the continuance of a Licence. Upon the expiry, cancellation, or suspension of a Licence the Licence shall immediately be returned to the Issuer of Licences.
30. Every Licensee shall:
- a) post the Business Licence in a conspicuous place at the Licensed Premises;
  - b) carry the Business Licence on his or her Person when engaged in a Business where the Licensee travels from place to place to perform his or her Business;
  - c) produce the Business Licence for inspection upon request by any Person;
  - d) permit an Officer or the Issuer of Licences to enter the Licensed Premises to conduct an inspection as may be deemed necessary in order to ascertain compliance with this By-law;
  - e) permit the Officer or the Issuer of Licences to inspect any Vehicle operated, provided or used in the Business;
  - f) notify the Issuer of Licences within seven (7) days of any change of information from the information provided within the last Application submitted;
  - g) notify the Issuer of Licences within seven (7) days of any sale, transfer or termination of the Business.
  - h) comply with the provisions of the By-law and all applicable laws, including but not limited to the Municipality's Comprehensive Zoning By-law; and
  - i) comply with the conditions and restrictions placed on the Business Licence.

## **EMPLOYEE ACTS**

31. Every Licensee shall be responsible for the act or acts of any of his or her Employees or agents in the operating of any of the Businesses authorized by his or her Business Licence in the same manner and to the same extent as though such act or acts were done by the Licensee.

## GROUNDS FOR REFUSAL TO ISSUE OR RENEW A BUSINESS LICENCE

32. The Issuer of Licences may refuse to issue or renew a Business Licence to an Applicant if:
- a) The Applicant does not meet all of the requirements of this By-law.
  - b) The Application or other document provided to the Issuer of Licences by or on behalf of the Applicant contains a false statement or provides false information.
  - c) The past or present conduct of the Applicant, or of any partner where the Applicant is a partnership, or any director, officer or shareholder of the corporation where the Applicant is a corporation, or any person who the Issuer of Licences reasonably believes exercises control over the Applicant or the Business Premises is such that the Issuer of Licences reasonably believes that the issuance or renewal of a Business Licence would be adverse to the public interest.
  - d) The Issuer of Licences believes that operating the Business may be adverse to the public interest.
  - e) The Issuer of Licences has reasonable grounds to believe that the Applicant will not comply with any federal or provincial statute or regulation or this By-law.
  - f) The Applicant is indebted to the Municipality by way of fines, penalties, judgements, outstanding property taxes, or any other amounts owing.
  - g) The Applicant is in default in payment of any fine arising from a conviction for an offence under a municipal by-law, federal or provincial law, or a judgment of a court of competent jurisdiction.
  - h) The Business Premises or intended Business Premises do not comply with the Comprehensive Zoning By-law, the Building Code Act, the Fire Protection and Prevention Act and/or the Property Standards By-law or the Business Premises or the intended Business Premises are otherwise dangerous or unsafe.
  - i) The Business Premises is subject to an order, or orders, made pursuant to or by:
    - i. the Property Standards By-law;

- ii. the Land Maintenance By-law;
  - iii. the Building Code Act, or any regulations made thereunder;
  - iv. the Fire Protection and Prevention Act; and/or
  - v. the Medical Officer of Health.
- j) The Applicant is not entitled to a Business Licence for any other reason set out in this By-law.
33. The Issuer of Licences may deny the issuance or renewal of a Business Licence where the Applicant has been convicted of an Offence.

### **APPEAL OF DECISION NOT TO ISSUE OR RENEW A BUSINESS LICENCE OR CONDITIONS IMPOSED UPON A BUSINESS LICENCE**

34. Where the Issuer of Licences refuses to issue or renew a Business Licence or imposes a condition on a Business Licence, upon payment of the applicable Fee, an Applicant may appeal the decision of the Issuer of Licences to the Appeal Committee.
35. The Issuer of Licences shall provide notice, in writing, to the Applicant of a decision to refuse to issue or renew a Licence. The notice shall:
- a) set out the grounds upon which the issuance of the said Licence is refused; and
  - b) state that the Applicant may appeal the decision to refuse to issue or renew a Business Licence by requesting a hearing before the Appeal Committee within fourteen (14) days of receipt of the decision; and set out the process that the Applicant or Licensee must follow in order to request such hearing as set out in the Rules of Procedure of the Appeal Committee.

### **GROUND FOR SUSPENDING OR REVOKING A BUSINESS LICENCE**

36. The Issuer of Licences may revoke or suspend a Business Licence at any time where:
- a) the Business Licence was issued in error or was based on incorrect or incomplete information provided by the Applicant or based on a false statement or false information;

- b) the conduct of any Licensee, or of any partner, in the case of any Licensee which is a partnership, or any director, officer or shareholder of the corporation, if the Licensee is a corporation, provides the Issuer of Licences reasonable grounds to believe that the Licensee will not comply with any federal or provincial statute or regulation or the By-law;
- c) the Licensee has breached a condition of the Licence;
- d) the Licensee would not be entitled to a Business Licence for any other reason set out in the By-law;
- e) the Licensee is carrying on an activity that is in contravention of this By-law, or any other by-law, federal or provincial statute or regulation;
- f) the Applicant is in default in payment of any fine arising from a conviction for an offence under a municipal by-law;
- g) the Issuer of Licences is of the opinion that the Business carried on by the Licensee poses a threat to the health and safety of the public; and/or
- h) the Issuer of Licences is of the opinion that the revocation or suspension is otherwise in the public's interest.

### **HEARING REGARDING SUSPENSION OR REVOCATION OF A BUSINESS LICENCE**

37. Where the Issuer of Licences believes that grounds exist to suspend or revoke a Business Licence, the Issuer of Licences shall provide notice, in writing, to the Licensee that a hearing of the matter will be held before the Appeal Committee. The notice shall:
- a) in the case of a suspension of a Business Licence:
    - i. set out the grounds for suspending the Business Licence;
    - ii. set out the steps that the Licensee must take in order for the Issuer of Licences to cancel the suspension of the Business Licence;
    - iii. set out the time within which those steps described in subsection 37 a) iii must be taken;
    - iv. state that failure to complete the steps required to be taken within the time set out shall result in a revocation of the Business Licence;

- v. set out the process that the Licensee must follow in order to be heard as a party before the Appeal Committee as set out in the Rules of Procedure of the Appeal Committee; and
  - vi. provide the date, the time and the place of the hearing.
- b) in the case of a revocation of a Business Licence:
- i. set out the grounds for revoking the Business Licence;
  - ii. set out the process that the Licensee must follow in order to be heard as a party before the Appeal Committee as set out in the Rules of Procedure of the Appeal Committee; and
  - iii. provide the date, the time and the place of the hearing.

### **SUSPENSION OF BUSINESS LICENCE WITHOUT A HEARING**

38. Notwithstanding subsection 37, if the Issuer of Licences is satisfied that the continuation of the Business Licence poses an immediate danger to the health or safety of any person or to any property, the Issuer of Licences may, for the time and on such conditions as he or she considers appropriate, without a hearing, suspend a Business Licence subject to the following:
- a) before suspending the Business Licence, the Issuer of Licences shall provide the Licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them; and
  - b) the suspension shall not exceed fourteen (14) days.

### **RETURN OF BUSINESS LICENCE**

39. Every Business Licence is, at all times, the property of the Municipality; is non-transferable unless stated otherwise in this By-law; and shall be valid only in respect of the Person and the specific Business Premises identified therein, as the case may be.
40. When a Business Licence has expired, been suspended or revoked, the Licensee shall return the Business Licence to the Issuer of Licences forthwith upon the expiry, suspension or the revocation, as the case may be, failing which, a Licensee shall, upon demand, produce the same to an Officer or the Issuer of Licences.

## **EXPIRY, RENEWAL AND SURRENDER OF A BUSINESS LICENCE**

41. Unless renewed or revoked, a Business Licence issued or renewed under this By-law shall expire annually on March 31<sup>st</sup>, except where provided otherwise in this By-law.
42. Each Licensee shall be required to renew the said Business Licence prior to the expiry of the Business Licence, failing which, the Licensee shall cease the operation of the Business.
43. Where a Person fails to renew the Business Licence within ninety (90) days after the expiry of such Business Licence, the Person shall no longer be entitled to renew said Business Licence, but shall apply for a new Business Licence.
44. A Licensee may surrender a Business Licence by delivering notice, in writing, together with the Licence to the Issuer of Licences.

## **LOST OR DESTROYED LICENCE**

45. Lost, destroyed or defaced Business Licence may be cancelled and replaced by the Issuer of Licences upon the completing and submitting of an Application by the Licensee accounting for the original Business Licence to the satisfaction of the Issuer of Licences and upon payment of the applicable Fee.

## **INSPECTIONS**

46. The Municipality may enter upon any Premises or into any Vehicle at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - a) the By-law;
  - b) an order of the Municipality made under the By-law;
  - c) a condition of Business Licence issued under this By-law; or
  - d) an order made under section 431 of the Municipal Act.
47. For the purposes of conducting an inspection pursuant to section 46 of this By-law, the Municipality may:
  - a) require the production for inspection of documents or things, or copies of any document or thing, relevant to the inspection;

- b) require the production for inspection of any Vehicle(s) relevant to the inspection;
  - c) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - d) require information from any Person concerning a matter related to the inspection; and,
  - e) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
48. No Person exercising a power of entry on behalf of the Municipality shall enter or remain in any room or place actually being used as a Dwelling unless:
- a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under section 438 of the Municipal Act, a warrant issued under section 439 of the Municipal Act or a warrant issued under section 386.3 of the Municipal Act;
  - b) an order issued under section 438 of the Municipal Act is obtained;
  - c) a warrant issued under section 439 of the Municipal Act is obtained;
  - d) a warrant issued under section 386.3 of the Municipal Act is obtained; or
  - e) the delay necessary to obtain an order under section 438 of the Municipal Act, to obtain a warrant under section 439 of the Municipal Act or to obtain the consent of the occupier would result in immediate danger to the health or safety of any Person.
49. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this By-law.
50. A refusal to consent to enter or remain in a room or place actually used as a Dwelling does not constitute hindering or obstruction within the meaning of this section unless the Municipality is acting under an authority set out in section 48 above.
51. In the case of a Home Occupation, a refusal to consent to enter or remain in a room or place of that portion of the Dwelling not suspected to be used as a

Business Premises, except where necessary for the purpose of gaining access to the suspected Business Premises, does not constitute hindering or obstruction.

## NOTICES

52. Any notice required by this By-law may be served personally or by regular mail sent:
- if to the Licensee: To the address included on the Licensee's Application, or any change to that address which has been provided by the Licensee
- if to the Issuer of Licences: 111 Erie Street North  
Leamington, Ontario  
N8H 2Z9
53. If a notice is served by regular mail, the service shall be deemed to have been made on the fifth (5<sup>th</sup>) day after the day of mailing.

## ENFORCEMENT PROVISIONS

54. No Person shall Obstruct or attempt to Obstruct any Officer or the Issuer of Licences or any other person having authority for the enforcement or administration of this By-law.
55. Any Officer or the Issuer of Licences may, during apparent business hours, enter upon or into a Business Premises for the purpose of inspecting the Business Premises and any and all records of a Licensee that are relevant to the purposes of the administration and / or the enforcement of this By-law.
56. Every Person who contravenes any section of the By-law is guilty of an offence and, upon conviction, is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c.P. 33.
57. Notwithstanding section 56 of this By-law, every Person who contravenes any provision of this By-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.00.
58. Notwithstanding section 56 of this By-law, a corporation that contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable for a fine not exceeding \$50,000.00.

- 59. The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.
- 60. If the fine remains unpaid the fine shall be deemed to be unpaid taxes for the purposes of section 351 of the Act.

**REPEAL / TRANSITION**

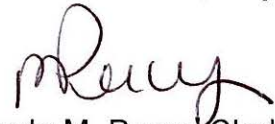
- 61. By-law 05-19 and all amendments thereto is hereby repealed on the date this By-law comes into force and effect.
- 62. Notwithstanding Section 61, the provision of these by-laws, as amended, shall be deemed to continue in force and effect with respect to any and all order, appeals or prosecutions issued, filed or commenced under these by-laws, and any assessment, rate, charge, tax, fee, liability or penalty outstanding under these by-laws may be collected as if the by-law had not been repealed.
- 63. A licence issued under any by-law listed in Section 61 above, shall be deemed to be a Licence under this By-law and shall be subject to all provisions of this By-law, but shall expire date stated on the licence.
- 64. If an act has been validly commenced pursuant to the predecessor to this By-law and whether or not the authority for such act exists pursuant to this By-law, such act may be continued to its conclusion and, if necessary, the portions of the predecessor to this By-law necessary to permit such act to be concluded shall be deemed to remain in effect for the purposes of bringing such act to a conclusion.

This By-law shall come into full force and effect upon the final passing thereof.

Read a first, second and third time and finally enacted this 25th day of June, 2024



Hilda MacDonald, Mayor



Brenda M. Percy, Clerk

**SCHEDULE 1  
BUSINESS LICENCES**

<b>Business Description</b>	<b>Appendix</b>
Adult Entertainment Owner	A
Adult Entertainment Operator	A
Boarding and Rooming House	B
Cash for Merchandise	C
Caterer – Home Occupation	D
Food Vehicle – Class 1	E
Food Vehicle - Class 2	F
Ice Cream Cart	G
Ice Cream Vehicle	H
Luxury Vehicle Service	I
Pawnbroker	J
Salesperson - Door to Door Sales maximum 3 consecutive days	K
Salesperson - Day Sales - maximum 3 consecutive days	L
Transportation Company	M

## **APPENDIX A ADULT ENTERTAINMENT**

### **Adult Entertainment Owner - Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for Business Licence for an Adult Entertainment Owner, or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection of the Adult Entertainment Establishment conducted by the Fire Chief dated within one year of the Application for Licence or renewal thereof;
  - b) proof of an inspection of the Adult Entertainment Establishment conducted by the Windsor-Essex County Health Unit dated within one (1) year of the Application for Business Licence or renewal thereof;
  - c) a sketch in the form acceptable to the Issuer of Licences, which clearly shows the building or part of the building to be used as an Adult Entertainment Establishment, including identification of the stage;
  - d) Certificate of Insurance; and
  - e) a list of all services provided for a fee at the Adult Entertainment Establishment. This list shall include all of the respective fees charged for services, if any, including admission fees and any other payment charged in respect of entry to the Adult Entertainment Establishment. If any charge is based on a computation of time, the hourly rate shall be shown on the list.
2. Where an Owner intends to be, or is also the Operator of an Adult Entertainment Establishment, he or she shall require both an Adult Entertainment Owner and Adult Entertainment Operator Licence.

### **Adult Entertainment Operator – Application – Accompanying Documents**

3. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for an Adult Entertainment Operator Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) proof satisfactory to the Issuer of Licences that the individual is at least eighteen (18) years of age; and
  - b) a Vulnerable Sector Search.

### **Attendant Registration Form**

4. Every Adult Entertainment Operator shall require every Adult Entertainment Attendant to complete an Attendant Registration Form prior to such Attendant providing Adult Entertainment Services in the Adult Entertainment Establishment.
5. An Attendant Registration Form is valid for one (1) year from the date it is completed.
6. No Licensee, Adult Entertainment Owner, Adult Entertainment Operator, Adult Entertainment Attendant or any other Person shall falsify any information contained within the Attendant Registration Form.
7. Every Adult Entertainment Operator shall obtain, review and verify that the information provided to him/her by the Attendant is consistent with the information contained on the Attendant Registration Form.
8. Every Adult Entertainment Operator shall retain an original copy of the Attendant Registration Form, together with legible photocopies of identification provided by the Attendant, for a minimum of three (3) years.
9. An Adult Entertainment Owner shall, upon notice of an Officer or the Issuer of Licences, produce a copy of the Attendant Registration Forms, for inspection.

### **Regulations**

10. Every Person who has been issued a Business Licence for an Adult Entertainment Owner or an Adult Entertainment Operator shall:
  - a) have a system in place at the Adult Entertainment Establishment that determines that each Person entering the Adult Entertainment Establishment is eighteen (18) years of age or older;
  - b) at the request of the Issuer of Licences, provide evidence as to the age of any Attendant in the Adult Entertainment Establishment;
  - c) operate an Adult Entertainment Establishment in a clean and sanitary condition, and in compliance with the OFPR;
  - d) comply with the requirements of the Windsor-Essex County Health Unit;
  - e) maintain and keep in force General Liability Insurance;

- f) not permit any person other than a licensed Operator to operate such Adult Entertainment Establishment;
  - g) not permit any Person who has not completed an Attendant Registration Form to provide Adult Entertainment Services at the Adult Entertainment Establishment;
  - h) not permit any Person under the age of eighteen (18) years of age to enter or remain in the Adult Entertainment Establishment;
  - i) not employ a Person under the age of eighteen (18) years of age in an Adult Entertainment Establishment; or
  - j) not use or permit to be used any Premises or part thereof used as an Adult Entertainment Establishment to be used as a dwelling or for sleeping purposes.
11. No Licensee shall, in respect of any Adult Entertainment Establishment operated by such Persons, permit any Attendant, while providing Adult Entertainment Services as an Attendant, to be touched by any Person for whom the Attendant is performing Adult Entertainment Services on the breast, pubic area or buttocks and no such Attendant shall permit any such Person to touch his or her breast, pubic area or buttocks while performing such Adult Entertainment Services.
12. No Licensee shall, in respect of any Adult Entertainment Establishment operated by such Persons, permit any Attendant, while providing Adult Entertainment Services as an Attendant, to touch any Person for whom the Attendant is performing Adult Entertainment Services on the pubic area and no such Attendant shall touch any such Person on his or her pubic area while performing such Adult Entertainment Services.
13. No Licensee shall, in respect of any Adult Entertainment Establishment operated by such Persons, permit any Attendant, while providing Adult Entertainment Services as an Attendant, to touch any other Attendant on the pubic area and no such Attendant shall touch any other Attendant on his or her pubic area while performing such Adult Entertainment Services.
14. No Licensee shall, in respect of any Adult Entertainment Establishment operated by such Persons, permit any Attendant, while providing Adult Entertainment Services as an Attendant, to engage in or permit any anal or vaginal penetration and no such Attendant shall engage in or permit any anal or vaginal penetration while performing such Adult Entertainment Services.

15. No Licensee shall permit any Attendant to perform any Adult Entertainment Services other than within full view without obstruction of walls, curtains, or other enclosures, devices or objects, and open to all customers.
16. No Attendant shall perform any Adult Entertainment Service other than within full view without obstruction of walls, curtains, or other enclosures, devices or objects, and open to all customers.
17. No Person shall place or cause to be placed any sign, advertising or advertising device, including any printed material, posted or used outside the Business Premises for the purpose of promoting the Adult Entertainment Establishment, or any photograph, drawing or other artistic rendering Adult Entertainment Services designed to appeal to erotic or sexual appetites or inclinations.

### **Adult Entertainment Event**

18. No Person or Business shall operate an Adult Entertainment Event within the Municipality of Leamington.

## **APPENDIX B BOARDING/ROOMING HOUSE**

### **Application - Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for a Boarding/Rooming House, or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection of the Boarding/Rooming House conducted by the Fire Chief indicating that there are no contraventions of the Fire Code and dated within thirty (30) days of the Application for Licence or renewal thereof;
  - b) Vulnerable Sector Check of the owner or operator;
  - c) A sketch of the interior of the Boarding/Rooming House, which indicates the following:
    - i. Identification of each room of area and its purpose;
    - ii. any rooms not being used for the purposes of the Boarding/Rooming House;
    - iii. location of each external ingress or egress;
    - iv. units of measurement for each room or area, including the height;
    - v. location of each door and window in every bedroom;
    - vi. the location of each bed in every bedroom;
    - vii. number of separate showers, bathtubs (with or without showers), toilets and sinks;
  - d) a Fire Safety Plan; and
  - e) Certificate of Insurance.

### **Regulations**

2. Every Person who has been issued a Business Licence for a Boarding/Rooming House shall:
  - a) maintain and keep in force General Liability Insurance;

- b) establish and maintain parking spaces, the size of which shall be in accordance with the Comprehensive Zoning By-law and the location of which shall be in accordance with a sketch approved by the Municipality;
- c) ensure that no cooking appliances of any kind and no gas or oil-fire heating appliances other than those specifically designed and authorized by the Building Code are installed or maintained in any area of the Boarding/Rooming House;
- d) ensure the Boarding/Rooming House is maintained in a clean and hygienic manner;
- e) provide a kitchen with food storing, preparing and cooking facilities;
- f) provide living space (living space may include a bedroom, lobby, kitchen, dining room, living room, recreation room, hallway and laundry room, but does not include a cellar, stairway, closet or bathroom) with a minimum area of eighty (80) square feet of floor space per person (any part of the living space having a height of less than seven (7) feet shall not be considered in computing the required floor space);
- g) provide basic furnishing such as tables, chairs and beds, compatible with the maximum occupancy;
- h) not permit a bedroom within any cellar, lobby, hallway, closet, bathroom, laundry, stairway or kitchen;
- i) not permit a bedroom to be used unless:
  - i. it is fully enclosed with a wall and door separating the bedroom from other living spaces;
  - ii. it has a minimum of sixty (60) square feet of floor space per person (any part of the bedroom having a height of less than seven (7) feet shall not be considered in computing the required floor space);
  - iii. it contains a window, the size and location of which is in accordance with the Fire Code and Building Code;
  - iv. each bed is at least six (6) feet apart from any other bed;
  - v. no part of any bed overlaps an unprotected source of heat, a window or a door;
  - vi. each bed is not more than two (2) deep from a window; and

- vii. each bed is at least twelve (12) inches above the floor.

## APPENDIX C CASH FOR MERCHANDISE

### Application – Accompanying Documents

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Cash for Merchandise Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) Certificate of Insurance.

### Regulations

2. Every Person who has been issued a Business Licence for a Cash for Merchandise Business shall:
  - a) maintain and keep in force General Liability Insurance;
  - b) keep a register in which shall be entered a record of all merchandise and goods obtained;
  - c) ensure that the registry:
    - i. be in the English language written in ink in a plain, legible hand or done by electronic means;
    - ii. be made at the time of obtainment or immediately thereafter;
    - iii. include the date and hour of the obtainment;
    - iv. contain a full description of the goods or merchandise, without limiting the generality of the foregoing including materials, size, and inscription;
    - v. contain the price paid for the goods or merchandise; and
    - vi. contain a photograph of the merchandise or goods, clearly showing each piece and any identifying marks, and linking photograph to the registered item.
  - d) retain the register and pictures for one year.
  - e) deliver or cause to be delivered to the Ontario Provincial Police, a complete copy of the register of the purchases, containing information as set out in this Schedule when requested by the Ontario Provincial Police;

- f) the goods or merchandise shall be kept on the Business Premises until such time as the goods or merchandise are sold;
  - g) upon any Person offering to him or her goods or articles of any kind, which he or she has cause to suspect have been stolen or otherwise unlawfully obtained, report the facts known to him or her to the Ontario Provincial Police promptly;
  - h) ensure that at all times while the Business Premises is open, there are clearly visible and functioning high-resolution security cameras so as to view, monitor and record each entrance and exit of the Premises and all the public spaces inside the Business Premises; and
  - i) make and retain all video and digital records from the security cameras for at least thirty (30) days and make the video and digital records available immediately to the Ontario Provincial Police upon request and at no cost.
3. No Licensee shall alter, sell, exchange, repair, dispose of or in any way part with possession of any goods or articles of any kind howsoever obtained, until after the expiration of fifteen (15) business days, meaning days on which the Licensee is ordinarily open for business, from the date of obtaining the goods or articles of any kind and during those fifteen (15) business days such goods or articles of any kind obtained shall remain on the Premises, or such other location as approved by the Issuer of Licences, in respect to which the License is issued and shall be kept separate from any other goods or articles of any kind obtained.

**APPENDIX D**  
**Caterer – Home Occupation**

**Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for a Caterer – Home Occupation or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection of the Business Premises conducted by the Windsor-Essex County Health Unit dated within one (1) year of the Application for Business Licence or renewal thereof;
  - b) proof of an inspection of the Business Premises conducted by the Fire Chief dated within one (1) year of the Application for Licence or renewal thereof;
  - c) a copy of a valid Food Handler Certification Card for at least one (1) employee supervising the preparation, processing, packaging, service or storage of food;
  - d) a list of the Vehicle(s) to be used together with a copy of the current passenger motor vehicle permit (ownership) issued in the Applicant's name for each Vehicle;
  - e) a Certificate of Automobile Insurance in respect of each Vehicle to be used in the Business; and
  - f) a Certificate of Insurance.
  - g) Proof that the Applicant resides in the Dwelling.
  - h) A sketch of the entire Dwelling floor plan (all levels) with the dimensions, which indicates the units of measurement for all levels of the home, including the proposed area for the Business and its measurements.
  - i) a sketch showing current parking and proposed off-street parking associated with the Business.
  - j) Proof that the Business is clearly secondary and subordinate to the main use of the Dwelling as a private residence.

## Regulations

2. Every Person who has been issued a Business Licence for a Caterer – Home Occupation shall:
  - a) establish and maintain a Business Premises within the geographical boundaries of the Municipality that is in compliance with the Comprehensive Zoning By-law; the Building Code Act, the FPPA and the Property Standards By-law;
  - b) ensure that any Vehicle to be used in the Business shall be in good mechanical condition at all times;
  - c) ensure that any Vehicle to be used in the Business has large visible letters, with the name of the Business clearly marked on the said Vehicle;
  - d) ensure that there is at all times, when operating, at least one (1) Employee has obtained the Food Handler Certification Card;
  - e) operate the Business in a clean and sanitary condition, and in compliance with the OFPR;
  - f) comply with the requirements of the Windsor-Essex County Health Unit;
  - g) maintain adequate pest control measures to keep the Business Premises free of rodents and insects;
  - h) maintain and keep in force General Liability Insurance;
  - i) maintain and keep in force Automobile Insurance in respect of each Vehicle to be used in the Business;
  - j) comply with the Smoke-Free Ontario Act and Ontario Regulation 48/06;
  - k) not permit any live animal, bird or other fowl with the exception of a service animal in any room where Food is prepared, stored or displayed; and
  - l) not serve or sell, or permit to be served or sold, any alcoholic beverages without providing proof of a valid licence issued by the Alcohol and Gaming Commission of Ontario to the Issuer of Licences.

**APPENDIX E**  
**FOOD VEHICLE – CLASS 1**

**Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for a Food Vehicle, or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for Licence of both the Food Vehicle and any Premises used to prepare Food;
  - b) proof of an inspection conducted by the Fire Chief dated within thirty (30) days of the Application for Licence of both the Food Vehicle and any Premises used to prepare Food;
  - c) a copy of a valid Food Handler Certification Card for at least one (1) Employee supervising the preparation, processing, packaging, service or storage of food;
  - d) a copy of ownership for the Food Vehicle including the Vehicle identification number and the Ontario licence plate number as issued by the Ministry of Transportation for each Vehicle, if applicable;
  - e) a Certificate of Automobile Insurance;
  - f) a photo of the Food Vehicle and a description of the type of Vehicle;
  - g) the location of the Food Vehicle which shall:
    - i. be on Private Property, which Private Property shall be zoned Commercial, Recreational, Industrial or Agricultural pursuant to the Comprehensive Zoning By-law; and
    - ii. be subject to a site plan approved by the Municipality pursuant to section 41 of the Planning Act, R.S.O 1990, c.P.13;
  - h) a sketch depicting the exact location the Food Vehicle will operate on Private Property. The sketch shall be to scale and include layout dimensions as required by the Issuer of Licences;
  - i) a list of the types of Food to be provided for Sale;

- j) Certificate of Insurance;
- k) the location where the Food Vehicle will be parked or stored when not operating the Business, which location shall be in compliance with the Comprehensive Zoning By-law; and
- l) proof that the Food Vehicle complies with the Technical Standards and Safety Act, 2000.

## **Regulations**

2. Every Person who has been issued a Business Licence for a Food Vehicle shall:
- a) have a Business Licence for each location the Food Vehicle carries on Business;
  - b) maintain and keep in force Automobile Insurance;
  - c) maintain and keep in force General Liability Insurance;
  - d) park or store the Food Vehicle only at the location identified in the Application;
  - e) ensure that any sign or advertising device is in accordance with the Sign By-law;
  - f) ensure that a garbage receptacle is placed outside of the Food Vehicle and is collected and disposed of in a proper and sanitary manner;
  - g) not operate Business as a Food Vehicle on Private Property unless written permission is provided by the owner of the Private Property where the Food Vehicle will operate from;
  - h) not operate on Private Property after the expiry of the written authorization in respect to the said Private Property;
  - i) not operate on Business as a Food Vehicle in a location other than the exact location approved by the Issuer of Licences as set out in the Business Licence;
  - j) operate a Food Vehicle in a clean and sanitary condition, and in compliance with the OFPR;
  - k) comply with the requirements of the Windsor-Essex County Health Unit;

- l) not operate as a Food Vehicle within three hundred feet (300') of:
  - i. the customers' entrance to an Eating Establishment, or
  - ii. the customers' entrance to a place where Food is offered for sale, if the Food Vehicle offers for sale similar Food as does the Eating Establishment or place where Food is offered for sale, unless the Eating Establishment has provided its consent in writing.
- m) not operate a Food Vehicle within twenty (20) feet of the entrance to any building or within fifty (50) feet of a bus stop;
- n) not operate a Food Vehicle in front of any window of any building so as to obstruct the view from such building through such window or the view from outside the building through such window to any display within the building;
- o) not operate a Food Vehicle within a sight visibility triangle as described in the Comprehensive Zoning By-law;
- p) not use tables, chairs or benches unless such use is permitted under the Licence; and
- q) ensure that there is at all times, when operating, at least one (1) Employee that has obtained the Food Handler Certification Card.

**APPENDIX F**  
**FOOD VEHICLE – CLASS 2 (3 Day Limit)**

**Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for a Food Vehicle, or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for Licence of both the Food Vehicle and any Premises used to prepare Food;
  - b) proof of an inspection conducted by the Fire Chief dated within thirty (30) days of the Application for Licence of both the Food Vehicle and any Premises used to prepare Food;
  - c) a copy of a valid Food Handler Certification Card for at least one (1) Employee supervising the preparation, processing, packaging, service or storage of food;
  - d) a copy of ownership for the Food Vehicle including the Vehicle identification number and the Ontario licence plate number as issued by the Ministry of Transportation for each Vehicle, if applicable;
  - e) a Certificate of Automobile Insurance;
  - f) a photo of the Food Vehicle and a description of the type of Vehicle;
  - g) the location of the Food Vehicle which shall:
    - h) be on Private Property, which Private Property shall be zoned Commercial, Recreational, Industrial or Agricultural pursuant to the Comprehensive Zoning By-law; and
    - i) a sketch depicting the exact location the Food Vehicle will operate on Private Property. The sketch shall be to scale and include layout dimensions as required by the Issuer of Licences;
  - j) a list of the types of Food to be provided for Sale;
  - k) Certificate of Insurance;
  - l) the location where the Food Vehicle will be parked or stored when not operating the Business, which location shall be in compliance with the Comprehensive Zoning By-law; and

- m) proof that the Food Vehicle complies with the Technical Standards and Safety Act, 2000.

## **Regulations**

- 2. Every Person who has been issued a Business Licence for a Food Vehicle shall:
  - a) have a Business Licence for each location the Food Vehicle carries on Business;
  - b) maintain and keep in force Automobile Insurance;
  - c) maintain and keep in force General Liability Insurance;
  - d) park or store the Food Vehicle only at the location identified in the Application;
  - e) ensure that any sign or advertising device is in accordance with the Sign By-law;
  - f) ensure that a garbage receptacle is placed outside of the Food Vehicle and is collected and disposed of in a proper and sanitary manner;
  - g) not operate Business as a Food Vehicle on Private Property unless written permission is provided by the owner of the Private Property where the Food Vehicle will operate from;
  - h) not operate on Private Property after the expiry of the written authorization in respect to the said Private Property;
  - i) not operate on Business as a Food Vehicle in a location other than the exact location approved by the Issuer of Licences as set out in the Business Licence;
  - j) operate a Food Vehicle in a clean and sanitary condition, and in compliance with the OFPR;
  - k) comply with the requirements of the Windsor-Essex County Health Unit;
  - l) not operate as a Food Vehicle within three hundred feet (300') of:
    - i. the customers' entrance to an Eating Establishment, or

- ii. the customers' entrance to a place where Food is offered for sale, if the Food Vehicle offers for sale similar Food as does the Eating Establishment or place where Food is offered for sale, unless the Eating Establishment has provided its consent in writing.
- r) not operate a Food Vehicle within twenty (20) feet of the entrance to any building or within fifty (50) feet of a bus stop;
- s) not operate a Food Vehicle in front of any window of any building so as to obstruct the view from such building through such window or the view from outside the building through such window to any display within the building;
- t) not operate a Food Vehicle within a sight visibility triangle as described in the Comprehensive Zoning By-law;
- u) not use tables, chairs or benches unless such use is permitted under the Licence; and
- v) ensure that there is at all times, when operating, at least one (1) Employee that has obtained the Food Handler Certification Card.

## **APPENDIX G ICE CREAM CART**

### **Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for an Ice Cream Cart (Motorized and Non-Motorized), or for a renewal thereof, shall be accompanied by:
  - a) a list of Employees employed by the Licensee;
  - b) proof of an inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for Licence of the Ice Cream Cart;
  - c) Vulnerable Sector Check for each Employee; and
  - d) Certificate of Insurance.

### **Regulations**

2. Every Person who has been issued a Business Licence for an Ice Cream Cart shall:
  - a) not operate in the Uptown;
  - b) not operate or permit the operation of an Ice Cream Cart on Municipal Property, unless permitted as a condition in the Licence;
  - c) not operate an Ice Cream Cart in contravention of the Highway Traffic Act or the Traffic By-law;
  - d) not operate an Ice Cream Cart in a manner that interferes with the normal use of a sidewalk by pedestrians;
  - e) stop for longer than 10 minutes at one location;
  - f) not Sell within 30 metres of an intersection;
  - g) not Sell within three hundred (300) feet of the customers' entrance to an Eating Establishment;
  - h) not Sell within twenty (20) feet of the entrance to any building or within fifty (50) feet of a bus stop;

- i) not Sell within 100 metres of any land occupied by a school on a school day between the hours of 8:00 AM and 4:00 PM unless with the written consent of the school;
- j) not ring bells, or chimes or make any other recognizable sounds at any one location for more than twenty (20) seconds;
- k) not operate or permit to be operated an Ice Cream Cart unless the Ice Cream Cart is in good state of repair.
- l) maintain and keep in force General Liability Insurance;
- m) ensure that a garbage receptacle is placed on the Ice Cream Cart and is collected and disposed of in a proper and sanitary manner;
- n) wear clean clothes, be clean and neat in appearance and have clean hands;
- o) only operate an Ice Cream Cart between the hours of 10:00 AM and 9:00 PM.

## APPENDIX H ICE CREAM VEHICLE

### Application – Accompanying Documents

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for an Ice Cream Vehicle, or for a renewal thereof, shall be accompanied by:
  - a) proof of an inspection of the Ice Cream Vehicle conducted by the Fire Chief dated within thirty (30) days of the Application for Licence or renewal thereof;
  - b) proof of an inspection of the Ice Cream Vehicle conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for Business Licence or renewal thereof;
  - c) a copy of ownership for the Ice Cream Vehicle;
  - e) vehicle identification number and the Ontario licence plate number as issued by the Ministry of Transportation for each Vehicle;
  - f) a photo of the Ice Cream Vehicle and a description of its type;
  - g) a list of the types of Food to be provided for Sale;
  - h) Certificate of Automobile Insurance for the Vehicle;
  - i) Certificate of Insurance;
  - j) list of employees employed by the Licensee;
  - k) Vulnerable Sector Check for the Applicant and each Employee employed by the Applicant;
  - l) a copy of a valid Food Handler Certification Card for at least one (1) Employee supervising the preparation, processing, packaging, service or storage of food; and
  - m) the location where the Ice Cream Vehicle will be parked or stored when not in use.

## Regulations

2. Every Person who has been issued a Business Licence for an Ice Cream Vehicle shall:
  - a) not operate or permit the operation of an Ice Cream Vehicle on Municipal Property unless authorized by the Issuer of Licences;
  - b) not operate an Ice Cream Vehicle on Private Property unless written permission is provided by the owner of the property where the Ice Cream Vehicle will be operated;
  - c) not operate an Ice Cream Vehicle in a manner that interferes with the normal flow of traffic;
  - d) not revisit the same area in the same two hour period;
  - e) not stop for longer than ten (10) minutes at one location;
  - f) not Sell within thirty (30) metres of an intersection;
  - g) not Sell within one hundred (100) metres of any land occupied by a school on a school day between the hours of 10:00 AM and 4:00 PM, unless with the written consent of the school;
  - h) not ring bells, or chimes or make any other recognizable sounds at any one location for more than twenty seconds;
  - i) only operate an Ice Cream Vehicle between the hours of 10:00 AM and 9:00 PM;
  - j) not operate or permit to be operated an Ice Cream Vehicle unless the Ice Cream Vehicle is in good state of repair;
  - k) maintain and keep in force Automobile Insurance for each Vehicle to be used;
  - l) maintain and keep in force General Liability Insurance;
  - n) not operate an Ice Cream Vehicle in contravention of the Highway Traffic Act or the Traffic By-law;
  - o) not operate an Ice Cream Vehicle within three hundred (300) feet of:
    - i. the customers' entrance to an Eating Establishment, or

- ii. the customers' entrance to a place where similar Foods are offered for sale;
- p) ensure that any sign or advertising device is in accordance with the Sign By-law;
- q) ensure that a garbage receptacle is placed outside of the Ice Cream Vehicle and is collected and disposed of in a proper and sanitary manner;
- r) park or store the Ice Cream Vehicle at the location identified in the Application; and
- s) ensure that there is at all times, when operating, at least one (1) Employee that has obtained the Food Handler Certification Card.

## APPENDIX I LUXURY VEHICLE SERVICE

### Application – Accompanying Documents

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Business Licence for a Luxury Vehicle Service, or for a renewal thereof, shall be accompanied by:
  - a) a list of Employees employed by the Licensee;
  - b) proof satisfactory to the Issuer of Licences that the Applicant and all Employees hold a valid Class “G” Driver’s Licence issued by the Province of Ontario according to the records of the Ministry of Transportation;
  - c) a copy of the current passenger motor vehicle permit (ownership) issued in the Applicant’s name for all Vehicles;
  - d) an original current Safety Standards Certificate dated no more than thirty (30) days prior to the submission of the Application for all Vehicles;
  - e) a copy of any work order or other documentation issued in the processing or granting of the Safety Standards Certificate; and
  - f) Certificate of Automobile Insurance for each Vehicle.

### Regulations

2. Every Person who has been issued a Business Licence for a Luxury Vehicle Service shall:
  - a) keep and maintain a Business Premises and any additional location within the geographical boundaries in the Municipality that is open and accessible to the public and that is in compliance within the Comprehensive Zoning By-law; the Building Code; the FPPA and the Property Standards By-law, and establish and maintain parking spaces, the size of which shall be in accordance with the Comprehensive Zoning By-law and the location of which shall be in accordance with a site plan approved by the Municipality; the number of which shall be sufficient to accommodate every Vehicle owned by the licence holder and the Employees of the Licensee; the location of which shall be at the Business Premises or additional location; and in no case located on municipally owned lands or highways;

- b) maintain and keep in force a policy of Automobile Insurance in respect of each Vehicle; and
- c) maintain the Vehicle in a neat and clean condition.
- d) Vehicles shall not have a roof sign or markings indicating it is or is similar to a Taxicab.

## **APPENDIX J PAWNBROKER**

### **Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Pawnbroker Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) Certificate of Insurance; and
  - b) security in a form satisfactory to the Issuer of Licences, in the sum of \$2,000.00 as required by the Pawnbrokers Act, R.S.O. 1990, c. P.6, as amended.

### **Regulations**

2. Every Person who has been issued a Business Licence for a Pawnbroker shall:
  - a) maintain and keep in force General Liability Insurance; and

**APPENDIX K  
SALESPERSON – DAY SALES (3 day limit)**

**Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Sales Person – Day Sales Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) written authorization from the registered owner of the Private Property on which the Sales Person – Day Sales will operate;
  - b) proof of an inspection conducted by the Windsor-Essex County Health Unit dated within thirty (30) days of the Application for Business Licence approving the sale of Foods, if applicable;
  - c) a description of the goods, wares or merchandise to be sold or offered for sale under the Business Licence; and
  - d) where Day Sales occur outside of a permanent structure, the Licensee shall provide the Issuer of Licences with a sketch depicting the exact location of where the Day Sales will occur on the property at the time of application for the Licence.

**Regulations**

2. Every Person who has been issued a Business Licence for a Salesperson – Day Sales shall:
  - a) not hawk, peddle or sell any goods, wares or merchandise in any manner as to impede or confine vehicular or pedestrian traffic;
  - b) not hawk, peddle or sell any goods, wares or merchandise in any location that is within six (6) meters of any driveway, curb, entranceway or exit point, or within fifteen (15) meters of any intersection; and
  - c) operate only in the exact location approved on the Business Licence.

**APPENDIX L**  
**SALESPERSON – DOOR TO DOOR SALES (3 day limit)**

**Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Sales Person – Door to Door Sales Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) Vulnerable Sector Check for each Employee conducting Door-to-Door Sales;
  - b) a list of Employees conducting Door to Door Sales; and
  - c) a list and full description of the goods, wares or merchandise to be sold or offered for sale under the Business Licence.

**Regulations**

2. Every Person who has been issued a Business Licence for a Salesperson – Door to Door Sales shall:
  - a) not conduct Door to Door Sales between the hours of 8:00 PM and 8:00 AM.

## **APPENDIX M TRANSPORTATION COMPANY**

### **Application – Accompanying Documents**

1. In addition to the requirements as set out in Sections 22 and 23 of this By-law, every Application for a Transportation Company Business Licence, or for a renewal thereof, shall be accompanied by:
  - a) a list of Employees employed by the Licensee;
  - b) proof satisfactory to the Issuer of Licences that the Applicant and all Employees hold a valid Class “G” Driver’s Licence issued by the Province of Ontario according to the records of the Ministry of Transportation, and in the case of drivers of vehicles with eleven (11) or more passengers, but not more than twenty four (24) passengers, a valid Class “F” Driver’s Licence issued by the Province of Ontario according to the records of the Ministry of Transportation;
  - c) a copy of the current passenger motor vehicle permit (ownership) issued in the Applicant’s name for all Transportation Vehicles;
  - d) an original current Safety Standards Certificate dated no more than thirty (30) days prior to the submission of the Application for all Transportation Vehicles;
  - e) a copy of any work order or other documentation issued in the processing or granting of the Safety Standards Certificate; and
  - f) a Certificate of Automobile Insurance for each Transportation Vehicle.

### **Regulations**

2. Every Person who has been issued a Business Licence for a Transportation Company shall:
  - a) keep and maintain a Business Premises and any additional location within the geographical boundaries in the Municipality that is open and accessible to the public and that is in compliance within the Comprehensive Zoning By-law; the Building Code; the FPPA and the Property Standards By-law, and establish and maintain parking spaces, the size of which shall be in accordance with the Comprehensive Zoning By-law and the location of which shall be in accordance with a site plan approved by the Municipality; the number of which shall be sufficient to accommodate every Transportation Vehicle owned by the licence holder and the Employees of the Licensee; the location of

which shall be at the Business Premises or additional location; and in no case located on municipally owned lands or highways;

- b) identify the vehicle as a Transportation Vehicle together with individual serial numbering on each vehicle;
- c) ensure that the Transportation Vehicle is being operated in accordance with the terms of the Transportation Agreement;
- d) ensure that the operator of the Transportation Vehicle has in his or her possession a copy of the Transportation Agreement during any period of operation;
- e) maintain and keep in force a policy of Automobile Insurance in respect of each Transportation Vehicle; and
- f) maintain the Transportation Vehicle in a neat and clean condition.

3. No Person,

- a) being the holder of a Business Licence for a Transportation Company, shall permit another person to operate a Transportation Vehicle, except where:
  - i. the operation of the Transportation Vehicle is in accordance with the terms of a Transportation Agreement, a copy of which together with proof of compliance are in the possession of the operator and both of which are provided by the operator for inspection when required by an Officer;
- b) shall offer, arrange or offer to arrange the transportation of passengers in a Transportation Vehicle, except where,
  - i. the operation of the Transportation Vehicle is in accordance with the terms of a Transportation Agreement, a copy of which together with proof of compliance are in the possession of the operator and both of which are provided by the operator for inspection when required by an Officer;
  - ii. the operation of the Transportation Vehicle is as part of a public bus transportation system operated by or authorized by the Municipality;
  - iii. the operation of the Transportation Vehicle is authorized on behalf of a school or school board as defined by the Education Act, R.S.O. 1990, c. E.2;

- iv. the operation of the Transportation vehicle is as a public vehicle as defined by the Public Vehicle Act and in accordance with the operating licence issued thereunder; or
  - v. the operation of the Transportation Vehicle is for the purpose of transporting only passengers with mobility disabilities.
- c) shall operate, permit to be operated, offer, arrange or offer to arrange the transport of passengers in a Transportation Vehicle which is not subject to a Business License for a Transportation Company, except where,
- i. the operation of the Transportation Vehicle is part of a public bus transportation system operated by or authorized by the Municipality;
  - ii. the operation of the Transportation Vehicle is authorized on behalf of a school or school board as defined by the Education Act, R.S.O. 1990, c. E.2;
  - iii. the operation of the Transportation Vehicle is as a public vehicle as defined by the Public Vehicles Act and in accordance with the operating licence issued thereunder; or
  - iv. the operation of the Transportation Vehicle is for the purpose of transporting only passengers with mobility disabilities.

4. No Person,

- a) shall operate a Transportation Vehicle;
- b) being the Owner of a Transportation Vehicle, permit another Person to operate a Transportation Vehicle; or
- c) arrange or offer to arrange the transportation of passengers in a Transportation Vehicle,
- d) purporting to do so in accordance with a Transportation Agreement unless that Transportation Agreement has been delivered to and approved by the Issuer of Licences.

## **SCHEDULE 2 INSURANCE**

### **Automobile Insurance**

1. Automobile Insurance shall be underwritten by an insurer licensed to conduct business in the province of Ontario and shall include the following:
  - a) Standard OAP 1 Automobile policies of insurance which include a limit of liability in the minimum amount of \$2,000,000.00 per accident exclusive of interest and costs, which includes 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; and
  - b) any standard OPCF endorsements required by the Issuer of Licences.

### **Certificate of Automobile Insurance**

2. The Certificate of Automobile Insurance shall confirm the policy of Automobile Insurance, including the details of the Vehicle covered and state that coverage will not be suspended, voided, cancelled, or reduced or in limits except after thirty (30) days (ten (10) days if cancellation is due to non-payment of premium) of prior written notice being delivered to the Municipality.

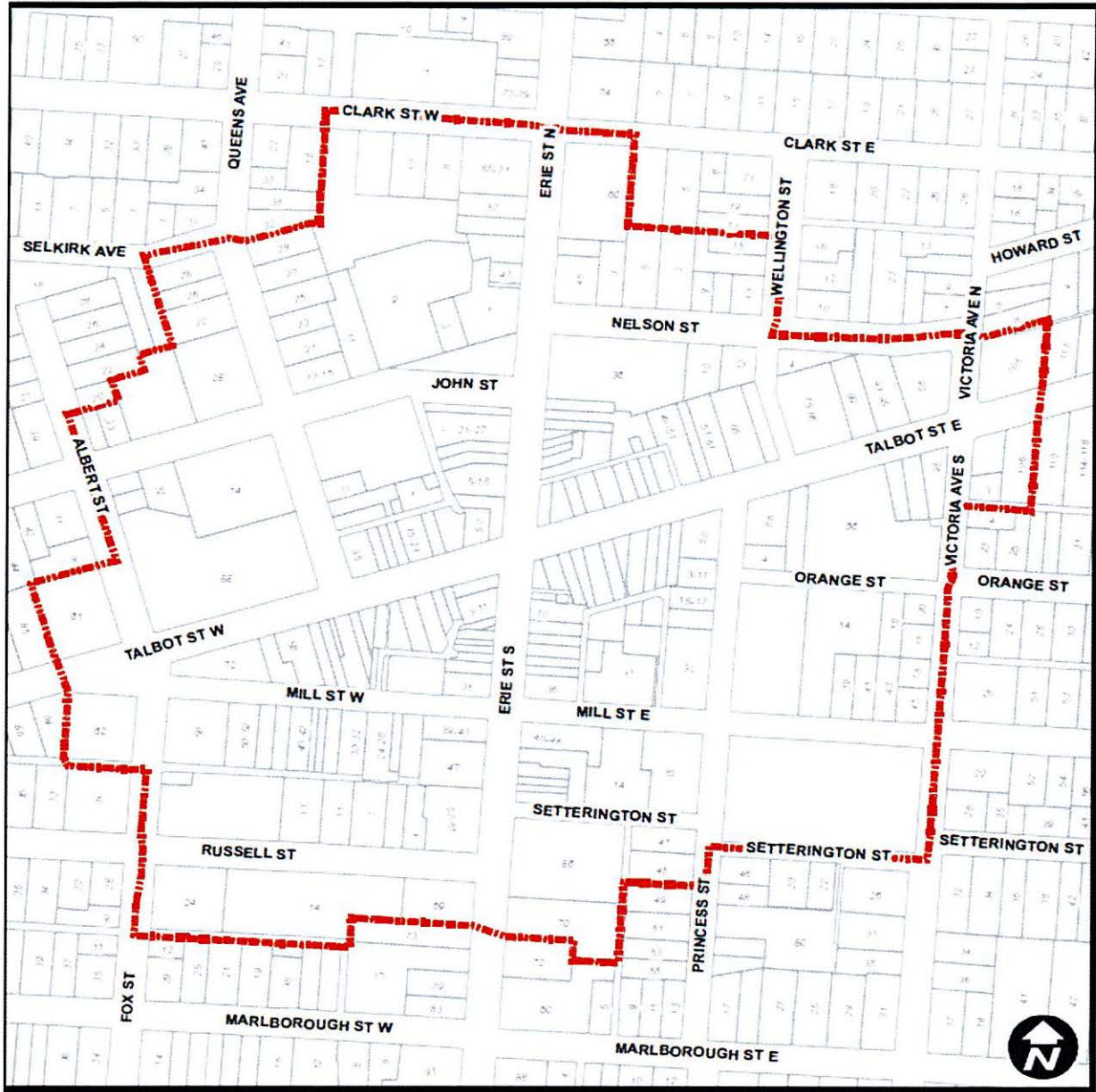
### **General Liability Insurance**

3. General Liability Insurance shall be underwritten by an insurer licensed to conduct business in the province of Ontario and include the following provisions:
  - a) a limit of liability in the minimum amount of \$2 million per occurrence which coverage shall include but not be limited to bodily injury including death, personal injury and property damage;
  - b) a provision for cross liability in respect of the named insured.


### **Certificate of Insurance**


4. The Certificate of Insurance shall confirm the policy of General Liability Insurance and state that coverage will not be suspended, voided, cancelled, or reduced or in limits except after thirty (30) days (ten (10) days if cancellation is due to non-payment of premium) of prior written notice being delivered to the Municipality.

# SCHEDULE 3 MAP – UPTOWN BOUNDARIES



**Legend**

 Uptown BIA

 Parcels

<b>Title:</b> Municipality of Leamington Uptown Business Improvement Area							
	Scale: 1:3,200 0 30 60 120 Meters						
<b>COPYRIGHT</b> <small>This document is not a Legal Plan of Survey and the user of this map assumes all risks associated with it. All efforts have been made to ensure completeness and accuracy, however no guarantee can be made.</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Prepared For:</td> <td>Date: May 25, 2016</td> </tr> <tr> <td>Prepared By: GIS Services</td> <td>File No: N/A</td> </tr> <tr> <td colspan="2"><b>Notes:</b> <small>This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization. 111 Erie Street North, Leamington, Ontario, N0L 2Z5 TEL: (519) 326-0791 FAX: (519) 326-2451</small></td> </tr> </table>	Prepared For:	Date: May 25, 2016	Prepared By: GIS Services	File No: N/A	<b>Notes:</b> <small>This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization. 111 Erie Street North, Leamington, Ontario, N0L 2Z5 TEL: (519) 326-0791 FAX: (519) 326-2451</small>	
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