

**BY-LAW NO. 2714
OF
THE CORPORATION OF THE MUNICIPALITY OF CENTRAL ELGIN**

**BEING A BY-LAW TO PROVIDE FOR THE LICENSING AND REGULATION OF VARIOUS
BUSINESSES IN THE MUNICIPALITY OF CENTRAL ELGIN**

WHEREAS Council of the Corporation of the Municipality of Central Elgin considers it in the public interest to enact a by-law to license, regulate and govern various classes of businesses.

AND WHEREAS pursuant to the provisions of Part IV of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, the Council of the Corporation of the Municipality of Central Elgin may pass by-laws for licensing, regulating and governing businesses;

AND WHEREAS Section 10(2) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public including business licensing, the health, safety and well-being of persons in the municipality and the protection of persons and property;

AND WHEREAS Section 150 of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, allows a municipality to licence, regulate and govern any business wholly or partially carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS Part XII of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, enables municipalities to pass by-laws for imposing fees or charges for permits and services provided or done by them;

AND WHEREAS Section 444 of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS, pursuant to Section 150 of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, the Council for the Corporation of the Municipality of Central Elgin is exercising its licensing powers including imposing conditions, for the following reasons, as identified in Section 11 of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended:

- Economic, social and environmental well-being of the municipality;
- Health, safety and well-being of persons; and
- Protection of persons and property, including consumer protection.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CENTRAL ELGIN HEREBY ENACTS A BY-LAW AS FOLLOWS:

SHORT TITLE

This By-law shall be known and may be cited as the 'Business Licensing By-law.'

SECTION 1 - DEFINITIONS

For the purpose of this by-law:

- 1.1 "Additional Fee" shall mean a fee imposed by the Municipality on a Business at any time during the term of the licence for costs incurred by the Municipality attributable to the activities of the Business;
- 1.2 "Adult Entertainment Event" shall mean an occurrence conducted by a Person or Business providing Adult Entertainment Services within a facility other than an Adult Entertainment Parlour.
- 1.3 "Adult Entertainment Parlour (AEP)" shall mean any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, services appealing to or designed to appeal to erotic or sexual appetites or inclinations.
- 1.4 "Adult Entertainment Parlour Licensed under the *Liquor Licence Act*" shall mean any premises or part thereof in respect of which a licence or permit has been issued and is in full force and effect pursuant to the provisions of the *Liquor Licence Act*, in which is provided services appealing to or designed to appeal to erotic or sexual appetites or inclinations;
- 1.5 "Adult Entertainment Services" shall mean activities, facilities, performances, exhibitions, viewing and encounters in which:
 - (a) A principal feature or characteristic is the nudity or partial nudity of any person;
 - (b) A principal feature is appealing to erotic or sexual inclinations; or,
 - (c) the word "nude", "naked", "topless", "bottomless", "sexy", or any other word or any picture, symbol or representation having like meaning or implication is used in any sign or advertisement and without restricting the generality of the foregoing includes any performance, exhibition or activity involving striptease dancers, exotic dancers, table dancers, wet clothing contests, bikini contests, mud wrestling, jell-o wrestling or best body part contests.

But does not include an exhibition of film approved under the *Film Content Information Act*, 2020 S.O. 2020, c. 36, Sched. 12 as may be amended or replaced.
- 1.6 "Adult Entertainment Operator" shall mean a Person who alone or with others operates, manages, supervises, runs, or controls an Adult Entertainment Parlour.
- 1.7 "Appeal Committee" shall mean the Municipality of Central Elgin Appeal Committee.
- 1.8 "Applicant" shall include a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension.
- 1.9 "Attendant" shall mean any person other than a Licensed Adult Entertainment Operator who provides Adult Entertainment Services at an Adult Entertainment Parlour.
- 1.10 "Attendant Registration Form" shall mean a form completed by the Adult Entertainment Operator containing the legal name, address, date of birth, telephone number, stage name, and social insurance number of each Attendant.
- 1.11 "Business" means:

- (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:

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

For the purposes of this definition a Business shall be deemed to be carried on within the Municipality if any part of the Business is carried on within the Municipality;

- 1.12 "Clerk" shall mean the Clerk of the Corporation of the Municipality of Central Elgin.
- 1.13 "Council" shall mean the Council of the Corporation of the Municipality of Central Elgin.
- 1.14 "Child care" shall mean a building or part of a building which is occupied and used pursuant to a "child care" licence issued under the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched 1. ("CCEYA") but does not include child care whether licensed or not which is accessory to another use.
- 1.15 "Driver" shall mean the person driving or in control of a Horse Drawn Carriage.
- 1.16 "Drugs" shall be deemed to exclude patent medicines and prescription drugs required for medical purposes.
- 1.17 "Eating Establishment" shall have the same definition as in the current Municipality Zoning By-law and may include restaurant, drive-in restaurant or restricted business use.
- 1.18 "Food" shall mean anything served, offered, prepared, intended or held out as being available for human consumption and includes drink.
- 1.19 "Highway" shall mean a highway within the meaning of *The Municipal Act, 2001 S.O. 2001, c.25*, as amended and *Highway Traffic Act R.S.O. 1990, CHAPTER H.8*, as amended.
- 1.20 "Horse Drawn Carriage" shall mean a carriage, wagon, dray, or other conveyance or vehicle with a driver and drawn by horses, used primarily for sightseeing, charter purposes or hire for the conveyance of passengers on an hourly basis or for a fixed fee between any given locations.
- 1.21 "Licensee" shall mean the Applicant and holder of a business licence issued by the Municipality.
- 1.22 "Lot" shall mean a parcel or tract of land capable of being conveyed and described in a deed or other legal document which:
 - (a) is a whole lot described in accordance with and is within a registered plan of

subdivision, other than a registered plan of subdivision which has been deemed by the Municipality not to be a registered plan of subdivision under a By-law passed pursuant to *The Planning Act, R.S.O. 1990, c. P.13*, as amended; or

- (b) is a legally separated parcel of land in existence on the date of passing of this By-law, and which so continues to the relevant time; or
- (c) has received a final and binding consent to a conveyance pursuant to *The Planning Act, R.S.O. 1990, c. P.13*, as amended; or
- (d) is the whole remnant remaining to an owner or owners after a conveyance has been made with a final and binding consent pursuant to *The Planning Act, R.S.O. 1990, c. P.13*, as amended, but for the purpose of this clause no parcel or tract of land ceases to be a lot by reason only of the fact that a part or parts of it has or have been conveyed to the Municipality, the County or any municipality; or, Her Majesty in the Right of Ontario, Her Majesty in the Right of Canada; or for the construction of a transmission line as defined in *The Ontario Energy Board Act, 1998. S.O. 1998, CHAPTER 15*, as amended.

1.23 "Medical Officer of Health" shall mean the Medical Officer of Health of Southwestern Public Health.

1.24 "Municipality" shall mean the Corporation of the Municipality of Central Elgin.

1.25 "Officer" shall mean a Provincial Offences Officer as defined in section 1(1) of the *Provincial Offences Act, R.S.O. 1990, c.P. 33*, as amended or replaced, and which includes a Municipal Law Enforcement Officer appointed by Municipality of Central Elgin By-law, a Police Officer, person authorized by Council or an assigned individual with the responsibility for enforcing and administering this By-law.

1.26 "Operator" shall mean any person who occupy, manage, control, govern, or has responsibility for and control over the activity carried on, or within, a licensed business or a business that is required to be licensed.

1.27 "Owner" shall include a person who, alone or with others, owns or is a director or officer of a corporation, as prescribed in a corporate profile or assessment roll, which owns a licensed business or a business that is required to be licensed.

1.28 "Passenger" shall mean any person other than the driver who is seated or otherwise situated within a horse drawn carriage.

1.29 "Person" shall include an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate or a natural person.

1.30 "Place of Worship" shall mean a building or part of a building which is occupied and used for religious purposes.

1.31 "Port Stanley Outdoor Seasonal Vendor" shall mean a temporary vendor location from which wares are, offered, sold or otherwise made available for consumption by persons and includes:

- (a) Beach Chairs
- (b) Non-Motorized Boats
- (c) Beach Umbrellas

- (d) Water Toys
 - (e) Yoga Classes
 - (f) Massage
 - (g) Such other services as determined by the Municipality.
- 1.32 "Premises" shall mean any structure, building, vehicle or thing used in conjunction with a licence issued pursuant to the provisions of this By-law.
- 1.33 "Refreshment Vehicle" shall include a trailer and means any movable vehicle or vending unit or portable structure having no foundation other than wheels, jacks or skirtings and so designed or constructed within or from which food is prepared, offered, sold or otherwise made available for consumption by persons and includes:
- (a) Mobile Refreshment Unit, meaning a unit that is propelled by means other than an on-board motor or engine.
 - (b) Motorized Mobile Refreshment Vehicle, meaning a vehicle that is self-propelled by means of an on-board motor or engine.
 - (c) Stationary Refreshment Unit, meaning a unit that is operated from one lot and generally does move from location to location in order to serve its patrons.
- 1.34 "Sidewalk" shall mean those portions of a Highway set apart and improved for the use of pedestrians.
- 1.35 "Stabling Facilities" shall mean an area, approved by the Chief Building Official, suitable for resting, feeding, watering of horses and for storage and transport of the vehicles and equipment required for the licensed Horse Drawn Carriage operations.
- 1.36 "Temporary Outdoor Patio" shall mean a temporary expansion of outdoor retail and service areas on public sidewalks and parking stalls on municipal streets.
- 1.37 "To provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings.
- 1.38 "Vehicle" shall have the same meaning as defined in *Highway Traffic Act R.S.O. 1990, CHAPTER H.8*, as amended, and includes a motor Vehicle, trailer, bicycle and any Vehicle drawn, propelled or driven by any kind of power, including muscular power.

SECTION 2 – GENERAL PROVISIONS

- 2.1 No person shall either directly or indirectly carry on, conduct, operate, maintain, keep or engage in any of the following categories of business within the Municipality without a current licence issued by the Municipality:
- (a) Adult Entertainment Parlour
 - (b) Horse Drawn Carriages
 - (c) Port Stanley Outdoor Seasonal Vendors
 - (d) Refreshment Vehicle
 - (e) Temporary Outdoor Patios
- 2.2 No person shall carry on, conduct, operate, maintain, keep or engage in any of the categories of business within Section 2.1 in a dwelling unit or any building or part thereof used as a dwelling unit as defined in the Municipality of Central Elgin Zoning By-law, as may be amended or replaced.

- 2.3 No person shall use a premises for the purpose of business if it is not permitted or does not conform with the uses of the premises permitted under the applicable Zoning By-law or is not a legal non-conforming use.
- 2.4 No person shall operate a business that requires a licence under this By-law while their licence issued under this By-law is under suspension.
- 2.5 No person shall operate a business that requires a licence under this By-law at a location other than for which a licence is issued under this By-law.
- 2.6 No person shall operate a business that requires a licence under this By-law under any name other than the name endorsed on the licence issued under this By-law.
- 2.7 Every Licensee shall be responsible for the act or acts of any of its Employees or any Person associated with the Licensee in the carrying on of any of the Businesses authorized by the Licence in the same manner and to the same extent as though such act or acts were done by the Licensee.

SECTION 3 – LICENSING SYSTEM

- 3.1 The Municipality of Central Elgin system of licences with respect to businesses may:
- (a) prohibit the carrying on of or engaging in the business without a licence;
 - (b) refuse to grant a licence, refuse to renew a licence or to revoke or to suspend a licence;
 - (c) impose conditions, including special 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, to continue to hold or to renew a licence; or
 - (e) licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in the business.

LICENSING POWERS OF THE CLERK

- 3.2 The Clerk is authorized to administer the provisions of this By-law.
- 3.3 The Clerk may issue, refuse to issue, refuse to renew, to revoke or suspend a licence under the provisions of this By-law and without limiting the generality of the foregoing, may exercise discretion under this section to refuse to issue or revoke a license for:
- (a) A breach of the law;
 - (b) Anything which may be in any way adverse to the public interest;
 - (c) The belief that the Person will not carry on or engage in Business in accordance with the law or with honesty and integrity;
 - (d) Any other matter which the Clerk is authorized by law to consider; and/or,
 - (e) Any violation of the provisions of this By-law or a related By-law.

LICENCE SHALL BE DISPLAYED

- 3.4 No person holding a licence issued pursuant to this By-law shall fail to:

- (a) display the licence in a conspicuous place in or on the Premises;
- (b) display the licence in a conspicuous place in or on the Vehicle; or
- (c) maintain the licence on their person while conducting the business or activity for which the licence was issued.

3.5 Every person so licensed shall, when requested by any Officer, produce the licence for inspection.

TERM OF LICENCE

3.6 A licence issued under the provisions of this By-law shall be valid only for the period of time for which it was issued. All licences shall expire annually on December 31st, at 11:59 p.m.

3.7 A licence will automatically expire should a licensee's business be not active for a period of six (6) consecutive months.

NUISANCE CONTROL

3.8 Every Licensee under this By-law is responsible for the due performance and observance of all the provisions of this By-law and for compliance by employees and all other persons in or upon the premises which are Licensed under the provisions of this By-law.

3.9 Every Licensee under this By-law, in addition to any other provisions or requirements expressed elsewhere in this By-law, shall:

- (a) at all times maintain and keep safe, clean and in good condition and repair any object, vehicle, place of business or premises for which the licence is issued;
- (b) not breach or violate or cause, suffer, or permit any breach or violation of any By-law of the Municipality or of any local board thereof, or of any statute, Orders-in-Council, or Regulation of the Legislature of the Province of Ontario or the Parliament of Canada or of any Agency, Board or Commission thereof, in, upon, or in connection with the business or premises for which, or in relation to which, such licence was issued; and
- (c) not cause or commit any nuisance to arise in, or in connection with the object, vehicle, place of business or premises for which the licence was issued.

LICENCE FEES

3.10 All licence fees are for administrative cost recovery and are, therefore, non-refundable if the application is refused for any reason or is withdrawn by the Applicant prior to the issuance of a licence.

3.11 All licence fees shall be as set out in the Municipality of Central Elgin Rates & Fees By-law, as may be amended from time to time.

3.12 A duplicate licence may be issued by the Clerk to replace any licence previously issued which has been lost, stolen or destroyed and the Licence Replacement Fee shall be as set out in the Municipality of Central Elgin Rates & Fees By-law, as may be amended from time to time.

LICENCE APPLICATION – FULL INFORMATION REQUIRED

- 3.13 Every Applicant shall provide in full a complete application, at the time the application is submitted or the Clerk shall not accept the application.
- 3.14 Every Applicant shall provide in full a complete application, at the time the application is submitted, all of the information required on the application shall provide:
- (a) payment of the prescribed licence fees;
 - (b) any other document or information as may be required in any other Section of this By-law;
 - (c) the name under which the Applicant carries on or intends to carry on the business; and
 - (d) any other affidavit, document or information as may be requested by the Clerk at any time during the term of the licence.

LICENCE APPLICATION & LICENCE RENEWAL APPLICATION

- 3.15 Applications for all licences issued under the provisions of this By-law and applications for renewal of such licences:
- (a) shall be made to the Clerk on forms to be provided;
 - (b) when received by the Clerk, shall be stamped with the date and time of receipt and processed in the order in which they are received; and
 - (c) shall be processed giving priority to applications for renewal of licences for a particular year provided the application for renewal is received by the Clerk on or before the last business day of the Municipality in the year that the current licence is in-force. Should the application be received after the last business day of the Municipality in the year that the current licence is in-force then the application shall not be given priority as a renewal.

CONDITIONS FOR LICENSE ISSUANCE & RENEWAL

- 3.16 Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions, all of which shall be performed and observed by the Applicant and/or Licensee:
- (a) the Applicant or Licensee shall pay the applicable licence fee;
 - (b) the Applicant or Licensee shall not carry on activities that are in contravention of this By-law or any other Municipal By-law;
 - (c) the Applicant or Licensee shall pay in full, any fine for contravention of this By-law or any other Municipal By-law by himself or any of his operators or employees 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;
 - (d) the Applicant or Licensee shall not construct or equip the Premises so as to hinder the enforcement of this By-law;
 - (e) the Applicant or Licensee, or an individual who is a member of a partnership that is the Licensee, shall be a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resides in Canada;
 - (f) where the Applicant or Licensee 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 ten percent (10%) or more of its issued and

- outstanding voting and non-voting shares shall not afford reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (g) where the Applicant or Licensee is a corporation, or a partnership of which a member is a corporation, a majority of the members of the board of directors shall be Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily reside in Canada;
 - (h) where the Applicant or Licensee is a corporation, it shall, within fifteen (15) days after the event, notify the Clerk 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;
 - (i) the premises in which the business is located shall be in accordance with the requirements of the Building Code Act, 1992, S.O. 1992, c. 23, as amended and the Regulations thereunder, the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and Regulations thereunder, and any By-law of the Municipality or Elgin County prescribing standards for the maintenance and occupancy of property within the Municipality ;
 - (j) 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, 1992, S.O. 1992, c. 23, as amended, and the Regulations thereunder, the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and the Regulations thereunder, and any By-law of the Municipality of Central Elgin or Elgin County prescribing standards for the maintenance and occupancy of property within the Municipality;
 - (k) the Applicant or Licensee shall have a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the Applicant or Licensee to carry on the business;
 - (l) No Licensee shall discriminate against any member of the public, in the carrying on of the Business in respect of which the Licence is issued because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

LICENSE APPLICATION – SUBJECT TO APPROVAL

- 3.17 Every licence application will be subject to investigations by and comments or recommendations from such municipal or provincial departments or agencies as the Clerk deems necessary, or as directed by Council, including but not limited to:
- (a) Ontario Provincial Police,
 - (b) Southwestern Public Health
 - (c) Municipality of Central Elgin Fire Department,
 - (d) Central Elgin Planning Office,
 - (e) Municipality of Central Elgin Asset Management & Development Services Department.
 - (f) Municipality of Central Elgin Infrastructure & Community Services Department.

INCOMPLETE APPLICATION

- 3.18 Any business licence application that does not comply with the provisions from Section 3.16 shall be deemed incomplete and shall be returned pursuant to Section 3.24 of this

By-law.

- 3.19 Any licence application that has not received approvals from all municipal or provincial departments or agencies as the Clerk deems necessary within ninety (90) days from the date of the filing of the application, due to the Applicant's inability to comply with the requirements to become licensed, shall be deemed to be incomplete unless the application is referred to the Appeal Committee.

INFORMATION HELD BY CLERK IS OPEN TO INSPECTION

- 3.20 Any application, comment, recommendation, information, document or thing in the possession of the Clerk pursuant to the provisions of this By-law shall be made available by the Clerk for an inspection:
- (a) by any person or Officer employed in the administration or enforcement of this By-law; and
 - (b) by any other person upon the consent, satisfactory to the Clerk, 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. R.S.O. 1990, CHAPTER M.56, as amended.*

RECORDS TO BE KEPT AS REQUIRED

- 3.21 No person shall fail to keep any and all of the records required to be kept under the provisions of any Section of this By-law.
- 3.22 Records that are required by any Officer to be kept under the provision of any Section of this By-law shall be produced upon request.

NOTICE

- 3.23 Every Applicant or Licensee shall notify the Clerk in writing within ten (10) days of any change in his business address or mailing address and shall be sent to:

Municipality of Central Elgin
Clerk
450 Sunset Drive
St. Thomas, ON
N5R 5V1

- 3.24 Any notice or request made pursuant to this by-law may be given in writing by regular mail or email and is effective:
- (a) On the date on which a copy is hand delivered to the Person to whom it is addressed; or
 - (b) On the fifth (5th) day after a copy is sent by regular mail to the Person's last known address; or
 - (c) On the fifth (5th) day after a copy is sent by email to the Person's email address used in the Entrance Permit Application Form.
- 3.25 For the purpose of Section 3.24 of this By-law, the Applicant or Licensee's last known

address shall be deemed to include those provided pursuant to Section 3.13 of this By-law as they may be changed pursuant to Section 3.23 of this By-law.

TRANSFER OF LICENSE IS PROHIBITED

- 3.26 Every licence, at all times, is owned by and is the property of the Municipality 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 or otherwise dealt with.

CONTRAVENTION OF OTHER LAWS PROHIBITED

- 3.27 The issuance or renewal of a licence under this By-law is not intended and shall not be construed as permission or consent by the Municipality for the Licensee to contravene or to fail to observe or comply with any law of Canada or Ontario or any other By-law of the Municipality or the County of Elgin.
- 3.28 If there is a conflict between a provision in this By-law and a provision of any other By-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall apply.

REVOCATION OF LICENSE

- 3.29 The Clerk may revoke a licence:
- (a) which is voluntarily surrendered by the Licensee for revocation;
 - (b) at any time when the Licensee fails to meet any provision of this By-law, any other Municipal By-law, any Federal or Provincial Statute or other Legislation;
or
 - (c) that was obtained by any mistake or misstatement.

NOTICE OF LICENCE REFUSAL, REVOCATION OR SUSPENSION

- 3.30 Where the Clerk decides to refuse to issue, to refuse to renew, to revoke or suspend a licence, the Clerk shall give notice of the decision for refusal to the Applicant, together with the reason(s) for the decision, as well as to such other persons, civic departments, boards, commissions, authorities or agencies as appear to have an interest in the decision.
- 3.31 In the matter of a suspension, the Licensee shall have the opportunity to respond to the reasons for suspension in writing, unless in the opinion of the Clerk an immediate suspension is required.

REQUEST FOR A HEARING

- 3.32 Every Applicant within ten (10) days of receipt of a Notice of Licence Refusal, Revocation or Suspension from the Clerk pursuant to Section 3.29 of this By-law may appeal the Licence Refusal, Revocation or Suspension and request a hearing before the Appeal Committee. Such request for a hearing shall be in writing and shall be accompanied by the Hearing Fee as set out in Municipality of Central Elgin Rates & Fees By-law, as may be amended from time to time. Where a decision has been made

to suspend a licence, and subject to Section 3.31, a request for a hearing that is in compliance with this By-Law shall operate as a stay of the suspension pending the decision of the Appeal Committee.

Notice of Hearing - Content

- 3.33 Where the Clerk receives a written request for a hearing in compliance with Section 3.32 of this By-law the Clerk shall schedule a hearing before the Appeal Committee and prepare a Notice of Hearing. The Clerk shall provide Notice of Hearing to the Applicant. The Notice of Hearing shall:
- (a) contain a reason or reasons for the refusal, suspension or revocation;
 - (b) specify the time, place and purpose of the hearing of the Appeal Committee at which the refusal, suspension or revocation will be considered;
 - (c) inform the Applicant that the Applicant is entitled to attend the hearing and make submissions regarding the decision and that, in the Applicant's absence, the Appeal Committee may proceed to consider the decision and the Applicant will not be entitled to any further notice in the proceeding;
 - (d) be given at least ten (10) days notice prior to the date of the Appeal Committee Hearing.

SUSPENSION – INTERIM – HEARING PENDING

- 3.34 Notwithstanding Section 3.33, where there is a request for a hearing to the Appeal Committee, the Clerk may, where the Clerk considers it to be necessary and in the public interest, immediately suspend the licence for a period not exceeding fourteen (14) days.

SUSPENSION – INTERIM NOTICE CONTENT

- 3.35 The Notice of Hearing in Section 3.33 of this By-law shall inform the Applicant of any interim suspension under Section 3.34 of this By-law.

HEARING PROCEDURES

- 3.36 At a Hearing, the Appeal Committee, at minimum:
- (a) shall afford the Applicant an opportunity, to make submissions in respect of the matter that is the subject of the Appeal Committee Hearing;
 - (b) shall afford any person, department, board, authority or agency given notice under Section 3.33 of this By-law and in attendance at the hearing, or any other person at the discretion of the Appeal Committee, an opportunity to make submissions in respect of the matter that is the subject of the Appeal Committee hearing;
 - (c) may close a portion of the hearing to the Applicant for the purposes of receiving confidential legal advice;
 - (d) may close a portion of the hearing for the purpose of deliberations;
 - (e) may close all or a portion of the hearing to the public if the Appeal Committee is of the opinion that intimate financial or personal matters may be disclosed of such a nature, having regards to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the hearing be open to the public;

- (f) shall give due consideration to the submissions made to it;
- (g) shall take such action to refuse, suspend or revoke the application or licence, or not to refuse, suspend or revoke the application or licence, as the Appeal Committee considers proper in the circumstances;
- (h) shall give written notice of its decision to the Applicant, and to any person, department, board, authority or agency in attendance at the hearing, together with reasons for its decision; and,
- (i) shall follow any rules of practice or procedure that may be authorized and adopted by the Appeal Committee from time to time.

HEARING – REFUSAL – SUSPENSION – REVOCATION

- 3.37 At the hearing, the Appeal Committee may suspend, revoke or refuse to issue or refuse to renew any license that may be issued under the provisions of any Section of this By-law:
- (a) where the Applicant is in breach of a condition of the licence or of this By-law;
 - (b) if a report is filed subsequent to the date of the issuance of the licence or by any department or agency which provided its approval originally to the issuance of the licence which indicates that a licensed premises no longer complies with any of the provisions of this By-law; upon such grounds as are set out in this By-law; and
 - (c) if the conduct of the Applicant affords reasonable cause to believe that the Applicant will not carry on or engage in the business in accordance with the law or with honesty and integrity.

APPEAL COMMITTEE – DECISION – IMMEDIATE EFFECT - FINAL

- 3.38 A decision of the Appeal committee to refuse to issue, refuse to renew, to suspend or to revoke an application or licence takes effect immediately upon the rendering of such decision by the Appeal Committee.
- 3.39 A decision of the Appeal Committee shall be final and binding. There are no further appeals to the decision of the Appeal Committee.

Section 4 – Insurance

- 4.1 Every Proof of Insurance required pursuant to the provisions of this By-law shall be kept in force by the Licensee for the period for which the Licence is in effect inclusive of any renewals thereof.
- 4.2 No Licensee who is required to file Proof of Insurance with the Clerk shall fail to maintain in force and to renew the same in a timely manner and to pay the premium due thereon.
- 4.3 Where the Licensee fails to provide up-to-date Proof of Insurance, or where a Proof of Insurance is cancelled or expires, the associated Licence will automatically be suspended coincidentally with the expiration of the Proof of Insurance.

Section 5 - Inspection and Enforcement Powers

- 5.1 The Clerk and Officers are hereby authorized to inspect:

- (a) As much of any place or Premises as is used for the carrying on of the Business;
 - (b) Any books, records or other documents of or relating to any such Business, or
 - (c) Each Vehicle operated, provided or used in the Business.
- 5.2 No Person shall obstruct, hinder, or otherwise interfere with any of the inspections or enforcement activities referred to in this section.
- 5.3 For the purposes of Section 5.1(b), the Licensee shall produce any books, records or other documents of or relating to any such Business to the Clerk when requested.

Section 6 – Offence and Penalty Provisions

- 6.1 Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties prescribed in the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, for each offence.
- 6.2 A director or officer of a corporation who knows, permits or causes the corporation to violate any provision of this by-law is guilty of an offence, and upon conviction is liable for the penalties prescribed in the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, for each offence.
- 6.3 When a Person has been convicted of an offence under this By-law, any court of competent jurisdiction may, in addition to any other penalty imposed on the Person convicted, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

Section 7 – Administration

- 7.1 Unless otherwise indicated, the administration of this By-law is assigned by Council to the Clerk who may delegate the performance of their functions under this By-law from time to time as occasion requires.
- 7.2 A Licence remains the property of the Municipality, whether in the lawful possession of the Licensee or not. No Licensee shall enjoy a vested right in the continuance of the Licence. Upon the issuance, cancellation, or suspension of a Licence, the Licence shall be immediately returned to the Clerk.
- 7.3 In this By-law, unless the contrary intention is indicated, words used in the singular shall include the plural and words used in any pronoun or term indicating a particular gender identity shall include all gender identities, where applicable.
- 7.4 The regulations contained in Section 3 of this By-law shall apply to all licences required under the provisions of this By-law.
- 7.5 An Officer shall be responsible for the enforcement of this By-law.
- 7.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or the Clerk while exercising any power or performing any duty under this By-law.
- 7.7 In the event any section or provision of this By-law is held invalid, the remainder of the By-law shall continue in force.

7.8 The following By-laws shall be repealed in their entirety:

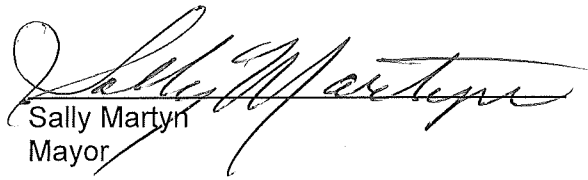
- (a) By-law No. 0350 – Adult Entertainment By-law
- (b) By-law No. 1475 – Horse & Carriage By-law
- (c) By-law No. 1725 – Outdoor Vendors By-law
- (d) By-law No. 1818 – Outdoor Vendors By-law
- (e) Village of Belmont By-law No. 93-09 – Refreshment Vehicles
- (f) Township of Yarmouth By-law No. 3458 – Refreshment Vehicles

7.9 This by-law shall take effect on the date of passage by Council.

READ a FIRST, SECOND and THIRD TIME and finally passed this 13th day of June, 2022.



Paul Shipway
CAO/Clerk



Sally Martyn
Mayor

Appendix 'A' – Refreshment Vehicles

- 1.1 Every licence that is issued for the first time and every renewal thereof, is subject to Section 3 of this By-law, as well as the following conditions of obtaining, continuing to hold or renewing a licence, all of which shall be performed or observed at all times while the licence is in force.
- 1.2 No Person shall carry on, conduct, operate, maintain, keep or engage in the operation of a Refreshment Vehicle within the Village of Port Stanley.
- 1.3 No Person shall carry on, conduct, operate, maintain, keep or engage in the operation of a Refreshment Vehicle on any public highway, public land or Residential Zone, or any other zone where such use is not permitted, within the Municipality of Central Elgin.
- 1.4 No Person shall carry on, conduct, operate, maintain, keep or engage in the operation of a Refreshment Vehicle on any lot that is not zoned to permit an Eating Establishment as defined in Section 1.1 of this By-law.
- 1.5 Every application for a Refreshment Vehicle licence shall be accompanied by:
 - (a) a photograph and detailed scale drawing of the Refreshment Vehicle;
 - (b) a site plan drawn to scale that depicts the lot on which it is proposed to place the Refreshment Vehicle including particulars of the location of the Refreshment Vehicle in relation to the lot limits of the lands and to any improvements on the lands.
 - (c) a copy of the most recent Southwestern Public Health Food Safety Inspection Report issued by Southwestern Public Health.
 - (d) if the vehicle is fitted with propane or natural gas, a current certificate issued within thirty (30) days of the licence application by a provincially-authorized propane or natural gas fitter, as the case may be, certifying that the Vehicle to which the licence application relates complies with the applicable equipment and performance statements as prescribed by the Province of Ontario;
 - (e) the consent in writing of all owners of each lot on which it is proposed to operate the Refreshment Vehicle;
 - (f) the legal description and municipal address of the lot on which the Refreshment Vehicle is proposed to operate including, a copy of an instrument that evidences ownership of the lot;
 - (g) confirmation from the Central Elgin Planning Office that the proposed location of the Refreshment Vehicle complies with the applicable Zoning By-law
 - (h) confirmation from the Municipality's By-law Department and Municipality Building Department that any signs comply with the Municipal Sign By-law, where applicable.
 - (i) confirmation from the Municipal Fire Department that the Refreshment Vehicle complies with the Fire Department inspection and approval to ensure compliance with the Fire Code (this may also require installation of a kitchen (fire) suppression system);
- 1.6 No owner or operator of a Refreshment Vehicle shall permit the Refreshment Vehicle to be operated except pursuant to a licence issued pursuant to this By-

law and except pursuant to the following conditions, each of which is a condition as a requirement of continuing to hold the licence:

- (a) each operator is clean and wears headgear that confines the Operator's hair;
 - (b) each operator washes their hands thoroughly before handling food;
 - (c) each operator wears clean clothes that are neat in appearance;
 - (d) the Refreshment Vehicle is clean, sanitary, in good repair and sufficiently constructed so as to protect against contamination of food;
 - (e) the floor of the Refreshment Vehicle is constructed of material that is impervious and washable;
 - (f) the Refreshment Vehicle is equipped with no fewer than three (3) refuse containers for solid wastes of which no fewer than two (2) are available to the public, of which one shall be a recycling container;
 - (g) each recycling and refuse container shall be equipped with a self-closing lid, maintained at all times in a clean and sanitary condition and is emptied when full and at least once daily;
 - (h) the Refreshment Vehicle is equipped with a waste tank for the disposal of liquid wastes including waste water and used cooking oil;
 - (i) the liquid waste tank is equipped with a functioning gauge that provides an accurate and easily readable measurement of the quantity of liquid waste in the tank;
 - (j) no liquid waste is disposed of except into the liquid waste tank and further disposed of in accordance with the Ministry of the Environment requirements;
 - (k) Every person operating a Refreshment Vehicle shall provide and maintain a multi-purpose dry chemical fire extinguisher with a minimum rating of 2A10BC, if the Refreshment Vehicle contains equipment fueled by propane or natural gas;
- 1.7 No person shall locate or operate a Refreshment Vehicle in a manner that adversely impacts the parking allocation of the Municipality of Central Elgin Zoning By-law;
- 1.8 No person shall operate a Refreshment Vehicle without first obtaining a TSSA Mobile Food Service Equipment Annual Inspection of the Refreshment Vehicle, as required by law, and maintain an up-to-date TSSA Certificate of that inspection in the Refreshment Vehicle at all times that the Refreshment Vehicle is in operation.

Section 2 - Insurance

- 2.1 Every Owner of a Refreshment Vehicle shall maintain valid liability insurance coverage in an amount not less than five million dollars (\$5,000,000) per occurrence.
- 2.2 Such Refreshment Vehicle liability insurance coverage shall be in the name of the Owner and shall name the Municipality of Central Elgin as an additional insured thereunder.
- 2.3 A Certificate of Insurance satisfactory to the Clerk shall be provided as proof that insurance is in place for the term of the licence.

- 2.4 The Owner of a Refreshment Vehicle shall indemnify and save harmless the Municipality of Central Elgin for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Municipality resulting from the negligent acts, omissions and/or breach of contract in the performance of the Owner's obligations under this By-law.

Section 3 – Exemptions

- 3.1 The requirement for a licence permitting the operation of a Refreshment Vehicle is waived by the Municipality of Central Elgin for the following:
- (a) those charitable, non-profit groups, associations or corporations who sell food and refreshments outdoors, to the general public, from barbeque-style cooking equipment, for the purpose of fund-raising as part of a special event; provided they have permission from the property owner.
 - i. Section 3.1(a) of this Appendix shall not be applicable to lands within the Village of Port Stanley.
 - (b) those Refreshment Vehicles and concessions that operate through the duration of the various annual fairs, exhibitions and other events sanctioned and/or approved by the Municipality, or operate in a Farmers Market currently holding membership in the Farmers' Market Ontario ® organization.
 - (c) Those persons authorized by the Municipality to operate on municipal lands.

Appendix 'B' – Port Stanley Outdoor Seasonal Vendor

- 1.1 Every licence that is issued for the first time and every renewal thereof, is subject to Section 3 of this By-law, as well as the following conditions of obtaining, continuing to hold or renewing a licence, all of which shall be performed or observed at all times while the licence is in force.
- 1.2 No Person shall carry on, conduct, operate, maintain, keep or engage in the operation of a Port Stanley Outdoor Seasonal Vendor in a location not assigned to the Licensee by the Municipality.
- 1.3 No Person shall carry on, conduct, operate, maintain, keep or engage in the operation of a Port Stanley Outdoor Seasonal Vendor outside the hours of 10:00 AM until sunset daily from Victoria Day weekend through Labour Day weekend.
- 1.4 No Person shall carry on, conduct, operate, maintain, keep or engage in the setup of a Port Stanley Outdoor Seasonal Vendor prior to 9:30 AM from the outset of the Victoria Day weekend through Labour Day weekend.
- 1.5 No Port Stanley Outdoor Seasonal Vendor shall encroach on the beach, the clear passage of pedestrians or other designated public areas as may be designated by the Clerk from time to time.
- 1.6 No Port Stanley Outdoor Seasonal Vendor shall occupy public benches or block

pedestrian access to benches in any way.

- 1.7 Every Port Stanley Outdoor Seasonal Vendor shall place their own refuse in a suitable container that shall be cleared at the end of each day by the Port Stanley Outdoor Seasonal Vendor, and the area shall be restored to its original state free of waste.

Section 2 – Allocation of Vendor Location

- 2.1 Port Stanley Outdoor Seasonal Vendor locations will be allocated by the Municipality as follows:
 - (a) Port Stanley Outdoor Seasonal Vendors renewing a license prior to expiration of the current licence will receive priority for utilization of the existing licensed location.
- 2.2 The Municipality shall have sole, absolute and unfettered discretion to determine the number of and location of Port Stanley Outdoor Seasonal Vendor locations.

Section 3 - Insurance

- 3.1 Every Port Stanley Outdoor Seasonal Vendor shall maintain valid liability insurance coverage in an amount not less than five million dollars (\$5,000,000) per occurrence.
- 3.2 Such Port Stanley Outdoor Seasonal Vendor liability insurance coverage shall be in the name of the Owner and shall name the Municipality of Central Elgin as an additional insured thereunder.
- 3.3 A Certificate of Insurance satisfactory to the Clerk shall be provided as proof that insurance is in place for the term of the licence.
- 3.4 The Port Stanley Outdoor Seasonal Vendor shall indemnify and save harmless the Municipality of Central Elgin for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Municipality resulting from the negligent acts, omissions and/or breach of contract in the performance of the Owner's obligations under this By-law.

Appendix 'C' – Horse Drawn Carriages

- 1.1 Every licence that is issued for the first time and every renewal thereof, is subject to Section 3 of this By-law, as well as the following conditions of obtaining, continuing to hold or renewing a licence, all of which shall be performed or observed at all times while the licence is in force.
- 1.2 All Drivers of a Horse Drawn Carriage must have a valid 'G' Driver's License and only trained carriage drivers shall be employed.
- 1.3 A maximum of five annual Horse Drawn Carriage Operator licences will be

available each year.

- 1.4 Every Horse Drawn Carriage Operator shall display at all times in the vehicle a copy of the Horse Drawn Carriage Operator and Driver Commitment pursuant to Section 3 of this Appendix.
- 1.5 Each Horse Drawn Carriage shall be a four-wheel carriage with an adequate braking system that, at minimum, allows the Horse Drawn Carriage driver to obey traffic laws and maintain the safety of passengers and the Horse Drawn Carriage at all times.
- 1.6 Each Horse Drawn Carriage must have a slow moving vehicle sign affixed to the rear of the Carriage.
- 1.7 Each Horse Drawn Carriage shall be correctly balanced so that the weight of the vehicle is no hardship on the team of horses.
- 1.8 All Horse Drawn Carriage equipment used must be well fitting, in good repair and suitable for use with draught animals.
- 1.9 For day time operations between sunrise and sunset, the Horse Drawn Carriage shall be equipped with a slow moving triangle sign and proper reflectors to ensure the Horse Drawn Carriage is visible to other motorists.
- 1.10 For night operations, the Horse Drawn Carriage shall have adequate running lights, brake lights and head lights installed and operational.
- 1.11 Only well trained carriage horses demonstrated by experience in an urban setting shall be used for Horse Drawn Carriage operations.
- 1.12 A horse shall work a maximum of six hours a day with appropriate breaks to eat and rest. In calculating the six-hour time limit, there shall be included any time in the same day during which the horse is used to draw a carriage for any purpose, other than for the purpose of getting to and from the stable area housing such horses.
- 1.13 When the horse is resting as required under these conditions, the said horse shall have its harness removed throughout the period of rest; the horse shall be groomed; and the horse shall be provided water.
- 1.14 Every owner shall allow every horse used in the operation of any carriage owned by him or her at least twenty-four (24) consecutive hours of rest in every seven days.
- 1.15 No horse or team of horses shall draw more than one and one half times their own weight while pulling a properly equipped Horse Drawn Carriage.
- 1.16 A licensed veterinarian shall certify, after due and proper inspection, the good health of each horse before it is placed into service. A minimum of two such health inspections shall be required for each horse each calendar year.

- 1.17 Unless written approval is given by a licensed veterinarian, no horse having tendon cuts, fresh leg cuts, open sores or wounds or any disease or ailment shall be permitted to be in service on the streets within the Municipality.
- 1.18 Each horse shall have its hooves properly trimmed and shod for street surfaces. Without limiting the generality of the foregoing, every horse shall be shod with rubber shoes or with cork, leather or other form of buffer or padding on its hooves.
- 1.19 Each horse shall be groomed daily and not have fungus, dandruff, or a dirty coat.
- 1.20 No driver may use more than a light touch of the whip upon any horse, and no driver or other person may forcefully strike a horse or make movements or noise intended to frighten or harm a horse.
- 1.21 No driver shall permit a horse to pull a carriage at a speed faster than a slow trot, except in emergency situations.
- 1.22 No horse shall be subject to any condition or treatment, whether in service or out of service, which will impair the good health and physical condition of that horse.
- 1.23 The Operator must immediately remove from a street any excrement dropped by a horse used to pull the horse drawn carriage, dispose of the material appropriately and wash the area down with water.
- 1.24 The Licensee must establish in at least one location that is acceptable to the Municipality, the facilities to water and feed the horse and to provide suitable stabling facilities for their horses, as well as appropriate storage and transport for their equipment in areas defined and approved by the Chief Building Official.
- 1.25 A Licensee may use a horse to pull a Horse Drawn Carriage only if that horse is stabled outside of the Municipality or on a property where the applicable zoning by-law permits a stabling use.
- 1.26 The Municipality of Central Elgin does not provide stabling or storage facilities.
- 1.27 Adequate water shall be provided in stables and stalls at all times while any horse is present.
- 1.28 Ventilation adequate to ensure the health and comfort of horses shall be provided in stable and stall areas.
- 1.29 Bedding in stalls and stables shall be kept at least six inches deep and shall not show wetness under the pressure of any horse's hooves.
- 1.30 Adequate and leak-free roofing is required for any stable or stall area in which horses are housed.
- 1.31 Each individual horse shall have a stall large enough for the animal to safely

turn around, but in no case shall any individual horse be kept in a stall less than 10 square metres in area.

- (a) Ceilings in stalls and stables must be at least three metres feet from the bedding and flooring.
- (b) Food shall be kept free of contamination.

- 1.32 Horses must not be left unattended on County and Municipal and streets.
- 1.33 Parking and loading arrangements must comply with the Municipality's parking by-law. Operators may use designated areas as defined and approved by the Clerk.
- 1.34 It shall be unlawful for any horse-drawn carriage to willfully impede the normal flow of traffic on any Municipality or County street at any time. Horse-drawn carriages will be required to pull immediately to the nearest curb area when one or more vehicles are unable to safely pass or continue in normal traffic flow.
- 1.35 Drivers and Operators must cooperate fully with any By-law Enforcement Officer, Police officer, and/or Ontario SPCA officials.
- 1.36 Horses and equipment must be removed from County and Municipality streets when not in use.

Section 2 - Insurance

- 2.1 Every Owner of a Horse Drawn Carriage shall maintain valid liability insurance coverage in an amount not less than five million dollars (\$5,000,000) per occurrence.
- 2.5 Such Horse Drawn Carriage liability insurance coverage shall be in the name of the Owner and shall name the Municipality of Central Elgin as an additional insured thereunder.
- 2.6 A Certificate of Insurance satisfactory to the Clerk shall be provided as proof that insurance is in place for the term of the licence.
- 2.7 The Owner of a Horse Drawn Carriage shall indemnify and save harmless the Municipality of Central Elgin for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Municipality resulting from the negligent acts, omissions and/or breach of contract in the performance of the Owner's obligations under this By-law.

SECTION 3 - CRIMINAL REFERENCE CHECK

- 3.1 No Person shall obtain a licence without first submitting an original Criminal Reference Check for the Applicant and its operators and employees, which is dated thirty (30) days or less before the date of the licence application, all at the Applicant's own expense.
- 3.2 Where the Applicant or Licensee is a corporation, or a partnership the Applicant or Licensee shall provide a Criminal Reference Check for all of its operators and

employees who are proposed to be engaging in the licensed business, which is dated thirty (30) days or less before the date of the licence application, all at the Applicant's own expense.

- 3.3 During the term of the licence the Licensee shall provide the Clerk with an original Criminal Reference Check for any and all new operators or employees, before the operator or employee conducts business for which the licence was issued, which is dated thirty (30) days or less before the date of submission to the Clerk, all at the Applicant's own expense.
- 3.4 The Clerk shall refuse to issue a licence to any person or shall refuse to renew or to revoke or suspend a licence to any Licensee who employs any person;
- (a) who has been convicted of any offence included in Sections 150-174 of the Criminal Code of Canada R.S.C.1985,C-46, as amended, (Sexual Offences), for which a pardon has not been granted;
 - (b) who has been convicted of any offence under the Controlled Drugs and Substances Act, S.C.1996,c.19, as amended, or its predecessor or successor legislation, for which a pardon has not been granted;
 - (c) who has any unpaid fines outstanding arising from a conviction for an offence under this By-law;
 - (d) who has submitted false information or documents in support of an application for a licence; or
 - (e) who has not satisfied all of the requirements of this By-law.
- 3.5 The Licensee shall not employ any persons convicted of a crime during the term of the licence that would cause the Clerk to refuse the application if that person were the Applicant.
- 3.6 In the event that an Applicant or its employees has been convicted of a criminal offence other than those listed in Section 3.4, the Applicant may be issued a new licence at the discretion of the Clerk, acting reasonably.

Section 4 – Horse Drawn Carriage Operator & Driver Commitment

- 4.1 Every Horse Drawn Carriage Passenger has the right to an Operator and a Driver who is:
- (a) licensed by the Municipality of Central Elgin,
 - (b) knowledgeable,
 - (c) knows the major routes and destinations in the Municipality of Central Elgin,
 - (d) is courteous and helpful,
 - (e) offers a safe ride,
 - (f) knows and obeys all traffic laws,
 - (g) physically assists passengers into their vehicle and with their belongings,
 - (h) provides, upon request, a receipt with the date and time and the fare charged.

Appendix 'D' – Adult Entertainment Parlour

- 1.1 Every licence that is issued for the first time and every renewal thereof, is subject to

Section 3 of this By-law, as well as the following conditions of obtaining, continuing to hold or renewing a licence, all of which shall be performed or observed at all times while the licence is in force.

- 1.2 No person shall own an Adult Entertainment Parlour within the Municipality of Central Elgin unless that person has obtained a licence to do so and such licence shall be known as an Adult Entertainment Parlour Owner's Licence (A.E.P. Owner's Licence).
- 1.3 No person shall operate an Adult Entertainment Parlour within the Municipality of Central Elgin unless that person has obtained a licence to do so and such licence shall be known as an Adult Entertainment Parlour Operator's Licence (A.E.P. Operator's Licence).
- 1.4 No person shall be an Attendant in an Adult Entertainment Parlour within the Municipality of Central Elgin unless that person has obtained a licence to do so and such licence shall be known as an Adult Entertainment Parlour Attendant's Licence (A.E.P. Attendant's Licence).
- 1.5 No person shall be both an owner/operator of an Adult Entertainment Parlour unless that person has obtained a licence known as an Adult Entertainment Parlour Owner's/Operator's Licence (A.E.P. Owner's/Operator's Licence). Where a person has obtained an A.E.P. Owner's/Operator's Licence, they are not required to obtain a separate A.E.P. Operator's Licence nor an A.E.P. Owner's Licence in addition to the A.E.P. Owner's/Operator's Licence.
- 1.6 Where an owner does not personally operate the Adult Entertainment Parlour, every person operating such Adult Entertainment Parlour shall obtain an A.E.P. Operator's Licence, but nothing herein relieves such an owner from the requirement to obtain an A.E.P. Owner's Licence.
- 1.7 A separate AEP Owner's or AEP Owner's/Operator's licence shall be taken out in respect of each Adult Entertainment Parlour.
- 1.8 No person shall be licensed under this by-law unless they are eighteen (18) years of age or over, and a citizen of Canada or a landed immigrant of Canada.
- 1.9 No person shall enjoy a vested right in the continuance of a licence and the value of a licence shall be the property of the Municipality of Central Elgin and shall remain so, irrespective of the issue, renewal or revocation thereof.
- 1.10 No licence issued under the provisions of this by-law shall be transferred.
- 1.11 Only a natural person may apply for an AEP's Attendant's Licence.
- 1.12 On every application for an AEP Owner's Licence, AEP Operator's Licence, and AEP Owner's/Operator's Licence where the applicant is a corporation, or a partnership, the person attending at the office of the licensing officer shall be an officer or director of the corporation or one of the partners in the partnership.
- 1.13 If any member of a partnership applying for an AEP Owner's, Operator's or AEP Owner's/Operator's Licence is a corporation, such corporation shall be deemed to be a

corporation applying for a licence and if such licence is issued to the partners such corporation shall be deemed to be a corporation applying for or holding an AEP Owner's Licence, AEP Operator's Licence or AEP Owner's/Operator's Licence, as the case may be.

- 1.14 Every natural person applying for an AEP Owner's Licence, AEP Operator's Licence, AEP Owner's/Operator's Licence or an AEP Attendant's license shall submit two (2) passport size photographs of the person's face, one of which shall be attached to the licence and the other shall be filed with the Clerk, and upon application for renewal of any licence, the applicant shall furnish new photographs, if required to do so by the licensing officer.
- 1.15 Every person applying for a licence must use that person's legal name in making the application, and subject to this by-law, no licence shall be issued to any person in any name other than that person's legal name.
- 1.16 Every owner, operator, owner/operator, or Attendant intending to use a name, alias or designation other than the person's legal name for business purposes shall, at the time of issue of the licence or at the time at which the person files with the licensing officer notice of intention to use such name or designation, have endorsed on the licence such other name or designation, provided that the licensing officer is satisfied that that person has the right to use such name. The person may not carry on business in an Adult Entertainment Parlour or provide Adult Entertainment Services in a name that is not endorsed on the licence.
- 1.17 Every person applying for an AEP Owner's Licence or AEP Owner's/Operator's Licence shall file with the licensing officer documentation satisfactory to the licensing officer demonstrating the applicant's right to possess or occupy the premises to be used as the Adult Entertainment Parlour, and if such person is not the registered owner on title to the real property upon which the Adult Entertainment Parlour is to be located, such person shall file with the licensing officer at the same time a copy of a lease, if any, and a copy of any other document constituting or affecting the legal relationship between the said applicant and the registered owner or owner on title to the real property.
- 1.18 Every applicant for an AEP Owner's Licence or AEP Owner's/Operator's Licence shall, at the time of making the application or at time of renewal, file with the licensing officer a floor plan in a form acceptable to the licensing officer, which clearly shows the building to be used as an Adult Entertainment Parlour, including identification of a main stage. Each Adult Entertainment Parlour shall have no more than one main stage. The AEP Owner's and AEP Owner's/Operator's licence shall apply to the building depicted on the floor plan, which shall be annexed to and shall form part of the AEP Owner's or AEP Owner's/Operator's Licence.

Section 2 - Insurance

- 2.1 Every Owner of a Adult Entertainment Parlour shall maintain valid liability insurance coverage in an amount not less than five million dollars (\$5,000,000) per occurrence.
- 2.2 A Certificate of Insurance satisfactory to the Clerk shall be provided as proof that insurance is in place for the term of the licence.

- 2.3 The Owner of an Adult Entertainment Parlour shall indemnify and save harmless the Municipality of Central Elgin for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Municipality resulting from the negligent acts, omissions and/or breach of contract in the performance of the Owner's obligations under this By-law.

Section 3 – Location

- 3.1 No licence will be issued or renewed under this by-law unless the Adult Entertainment Parlour is located on land and in a building or structure in which its use is duly permitted under applicable Municipality of Central Elgin zoning by-law(s).
- 3.2 No person shall operate or permit to be operated an Adult Entertainment Parlour if the lot on which such Adult Entertainment Parlour is located is within 500 metres, measured in a continuous path over the shortest distance, from a dwelling unit as defined in the applicable Zoning By-law, a school, a place of worship, a day nursery or a public park or a Residential or Open Space Zone.
- 3.3 An Adult Entertainment Parlour shall only be permitted within a freestanding, single use building or structure.

Section 4 – Restriction on Number

- 4.1 Subject to the provisions of this by-law Adult Entertainment Parlours may operate in the Municipality of Central Elgin.
- 4.2 The number of AEP Owner's and AEP Owner's/Operator's Licences which may be granted in the Municipality of Central Elgin shall be limited to a total of two (2) licences.
- 4.3 No person or related person as defined by section 251 (2) of the *Income Tax Act* of Canada shall have more than one AEP Owner's or AEP Owner's/Operator's Licence for an Adult Entertainment Parlour in the Municipality of Central Elgin.

Section 5 – General Operating Conditions

- 5.1 No Owner, Operator, or Owner/Operator shall permit any person under the age of eighteen (18) years to enter or remain in any Adult Entertainment. This section shall not be deemed to prohibit any person from entering or remaining in any premises licensed as an Adult Entertainment Parlour, except when the services of an Attendant are being provided in such premises.
- 5.2 Without limiting the generality of any other provision of this by-law, every Owner, Operator and Owner/Operator shall furnish to the licensing officer a list setting out the names of every Operator and Attendant who intend or are expected to operate or provide Adult Entertainment Services, as the case may be, at the Adult Entertainment Parlour and shall not permit any person not on such list, and/or without a licence, to operate or provide Adult Entertainment Services, as the case may be, at the Adult Entertainment Parlour, and shall update such list on a daily or other basis as is required to comply with this requirement.

- 5.3 No Operator or Owner/Operator shall operate an Adult Entertainment Parlour other than the Adult Entertainment Parlour endorsed on the licence and at the location endorsed thereon.
- 5.4 Either the owner, where the owner is a natural individual, or one of the owners, where the owner is a partnership or corporation, or an operator or owner/operator licensed in respect of such owner's Adult Entertainment Parlour shall be in attendance at such owner's Adult Entertainment Parlour during all opening hours, and no owner, operator or owner/operator shall permit an Adult Entertainment Parlour owned or operated by him to open for business, or remain open for business, or any Attendant to perform Adult Entertainment Services or remain therein, or any service to be provided at such Adult Entertainment Parlour unless this section is complied with. For greater clarity, where an owner is a Person that is not a natural person, such Owner shall not permit an Adult Entertainment Parlour owned or operated by the Owner to open for business, or remain open for business, or permit any Attendant to enter or remain therein, or any Adult Entertainment Service to be provided at such Adult Entertainment Parlour unless an Operator licensed in respect of the Adult Entertainment Parlour is in attendance.
- 5.5 For purposes of section 5.4 an owner, operator or owner/operator shall be deemed not to be in attendance at an Adult Entertainment Parlour where such person is not physically present in the part of the premises constituting the Adult Entertainment Parlour, whether or not such person is present in another part of the premises.
- 5.6 No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug(s) to enter or remain in any Adult Entertainment Parlour operated by such owner or operator.
- 5.7 No owner or operator shall permit any riotous, quarrelsome, violent or disorderly conduct to occur on the premises or in the adjacent washrooms, liquor and food preparation areas and storage areas under the control of the owner or operator.
- 5.8 Despite anything herein to the contrary, every owner who operates their own Adult Entertainment Parlour and every operator shall provide and maintain at all times at the Adult Entertainment Parlour operated by them a first-aid kit equipped in a manner satisfactory to the medical officer of health.
- 5.9 No owner, operator, owner/operator or entertainer shall cause, permit, allow or provide any services in the Adult Entertainment Parlour at any time other than the following:
- (a) On any day, other than a Sunday, before 2 p.m. and after 2:00 a.m. of the following day, or
 - (b) On a Sunday, before 4:00 p.m. and after 2:00 a.m. the following day.
- 5.10 No owner, operator, owner/operator or entertainer shall use or permit to be used any camera or other photographic or recording device, including the camera or video recording functions of a smartphone in, upon or at an Adult Entertainment Parlour by any person other than an officer described in the by-law.
- 5.11 No owner, operator, owner/operator shall in respect of any Adult Entertainment Parlour owned or operated by such owner, operator or owner/operator, permit any Attendant, while providing services as an Attendant, to touch, or be touched by, or have physical contact with, any person or animal in any manner whatsoever involving any part of that

person's body.

- 5.12 No Attendant shall, while providing services as an Attendant, touch or have physical contact with, any person or animal in any manner whatsoever involving any part of that person's body, or allow any other person to touch or have physical contact with such Attendant.
- 5.13 All Adult Entertainment Services provided by an Attendant shall be provided within view of the main stage, without obstruction by walls, curtains or any other enclosures, and no Adult Entertainment Services shall be provided or offered in any cubicle, private room or other area partitioned from any room or rooms where such services are provided to patrons generally.
- 5.14 An owner, operator or owner/operator shall not cause, permit or allow the door of any room or cubicle in an Adult Entertainment Parlour, to be equipped or constructed with a locking device of any kind, except for a toilet cubicle, or a storage room or office.
- 5.15 During the hours of business of an Adult Entertainment Parlour, or at any time which an Attendant is in attendance at an Adult Entertainment Parlour, the owner, operator or owner/operator shall ensure that the door or doors or other principal means of access into the Adult Entertainment Parlour by the public are kept unlocked so that anyone may enter or exit the Adult Entertainment Parlour without hindrance or delay.
- 5.16 Every contract of service, contract for services or other arrangement constituting or pertaining to the relationship between owner and operator of an Adult Entertainment Parlour shall be in writing and shall be made available for inspection at any time by an officer described in this by-law upon request, and shall be retained by the owner or operator for a period of six months after its termination.
- 5.17 Every agreement or arrangement pertaining to the operation of an Adult Entertainment Parlour by an operator or an owner/operator, for the provision of services by an Attendant at an Adult Entertainment Parlour, shall be in writing, and every such contract of service, contract for services or other document constituting or pertaining to the relationship between an owner, operator or owner/operator of an Adult Entertainment Parlour and an Attendant, shall be filed with the licensing officer before the commencement of operation or provision of services, as the case may be. Every document pertaining to any arrangement for the provision of services by an Attendant at an Adult Entertainment Parlour shall contain:
- (a) the full legal name of the Attendant
 - (b) the name of any other name, alias or performance pseudonym under which the Attendant performs or may perform
 - (c) Attendant's date of birth
 - (d) Attendant's permanent and any temporary address, as may be applicable; and,
 - (e) Attendant's social insurance number or other document evidencing entitlement to work in Canada; and,
 - (f) shall have fixed thereto a facial photograph of the Attendant taken within the past six months, of a size not less than three inches in length and two-and-a-half inches in width.
- 5.18 The owner, operator and owner/operator of an Adult Entertainment Parlour shall

ensure that the contract of services or other document referred to in sections 5.16 and 5.17 is available for inspection by the licensing officer or any officer described in this by-law, upon request, and shall retain such contract or other document for a period of six months after termination thereof.

- 5.19 Making a false or intentionally misleading recital of facts, statement or representation in any such agreement shall be deemed a violation of the provisions of this by-law.

SECTION 6 - CRIMINAL REFERENCE CHECK

- 6.1 No Person shall obtain a licence without first submitting an original Vulnerable Sector Criminal Reference Check for the Applicant and its operators and employees, which is dated thirty (30) days or less before the date of the licence application, including vulnerable sector screening, all at the Applicant's own expense.
- 6.2 Where the Applicant or Licensee is a corporation, or a partnership the Applicant or Licensee shall provide a Vulnerable Sector Criminal Reference Check, including vulnerable sector screening, for all of its operators and employees who are proposed to be engaging in the licensed business, which is dated thirty (30) days or less before the date of the licence application, all at the Applicant's own expense.
- 6.3 During the term of the licence the Licensee shall provide the Clerk with an original Criminal Reference Check, including vulnerable sector screening, for any and all new operators or employees, before the operator or employee conducts business for which the licence was issued, which is dated thirty (30) days or less before the date of submission to the Clerk, all at the Applicant's own expense.
- 6.4 The Clerk shall refuse to issue a licence to any person or shall refuse to renew or to revoke or suspend a licence to any Licensee who employs any person;
- (a) who has been convicted of any offence included in Sections 150-174 of the Criminal Code of Canada R.S.C.1985,C-46, as amended, (Sexual Offences), for which a pardon has not been granted;
 - (b) who has been convicted of any offence under the Controlled Drugs and Substances Act, S.C.1996,c.19, as amended, or its predecessor or successor legislation, for which a pardon has not been granted;
 - (c) who has any unpaid fines outstanding arising from a conviction for an offence under this By-law;
 - (d) who has submitted false information or documents in support of an application for a licence; or
 - (e) who has not satisfied all of the requirements of this By-law.
- 6.5 The Clerk may refuse to issue a licence to a person that has a record of convictions that causes the Clerk reasonable doubt that the requirements of this By-Law will be complied with.
- 6.6 The Licensee shall not employ any persons convicted of a crime during the term of the licence that would cause the Clerk to refuse the application if that person were the Applicant.
- 6.7 In the event that an Applicant or its employees has been convicted of a criminal offence other than those listed in Section 6.4, the Applicant may be issued a new licence at the

discretion of the Clerk, acting reasonably.

Section 6 - Signage

- 7.1 No owner or operator of an Adult Entertainment Parlour shall place or permit to be placed any sign, or other advertising device on any premises occupied by an Adult Entertainment Parlour, save and except a sign or any other advertising device containing the words 'Adult Entertainment Parlour', and the name under which the business is operated provided such name does not include any of the following words: "nude", "naked", "topless", "bottomless", "sexy", "nu" or any other word or any picture, symbol or representation having like meaning or implications.
- 7.2 Should any section or sub-section of this by-law or any part or parts thereof be found by-law to be illegal or beyond the power of the Council to enact, such section or sub-section or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

Appendix 'E' – Temporary Outdoor Patio

- 1.1 Every licence that is issued for the first time and every renewal thereof, is subject to Section 3 of this By-law, as well as the following conditions of obtaining, continuing to hold or renewing a licence, all of which shall be performed or observed at all times while the licence is in force.
- 1.2 Every application for a Temporary Outdoor Patio licence shall include a drawing with sufficient detail as to the dimensions, siting and pedestrian or vehicular traffic flows in immediately abutting areas, for review and acceptance by the Director of Infrastructure & Community Services, who shall have unfettered discretion in deciding whether or not such temporary outdoor patio shall be accepted.
- 1.3 A Temporary Outdoor Patio may be permitted to utilize the entire municipal sidewalk fronting the corresponding business out to the curb line, provided that a 1.5 m clear width pedestrian corridor is installed in the parallel parking stall portion along the edge of the roadway, subject to the conditions of section 1.8 of this Appendix.
- 1.4 A Temporary Outdoor Patio may be permitted on a parallel parking area as long as a clear pedestrian path is maintained on the existing municipal sidewalk, subject to the conditions of section 1.8 of this Appendix.
- 1.5 A Temporary Outdoor Patio may not be permitted if there are no on-street parking stalls fronting the business or for any health and safety reason in the sole and absolute discretion of the Municipality.
- 1.6 A Temporary Outdoor Patio may be permitted onto landscaped and hardscaped areas and in parking areas on private commercial property, subject to the following requirements:
- (a) The Temporary Outdoor Patio shall not impede emergency vehicle access, general vehicular circulation through the majority of the parking area, pedestrian accessibility throughout the development including

that it shall not reduce the number of accessible parking spaces, garbage collection, and any other necessary service vehicle access to the property.

- 1.7 A Temporary Outdoor Patio may require a building permit depending on the proposed extended patio and pedestrian corridor.
- 1.8 A Temporary Outdoor Patio or pedestrian corridor located on municipal parking stalls on municipal streets shall include the following design features:
- (a) If the pedestrian corridor is intended to ramp down from the curb to the asphalt surface, the ramp sections shall be designed such that they have a minimum 1.5 m by 1.5 m landing flush with curb height. The ramp down from the landing shall be parallel with the curb (1:12 slope) and utilize the asphalt parking area adjacent to the curb as the pedestrian corridor.
 - (b) If the pedestrian corridor is intended to be raised (i.e. level with the top of curb), the sidewalk shall be constructed with treated lumber or a similar material and have a non-slip finish and a minimum unobstructed width of 1.5 m (4.9 ft.).
 - (c) If the raised pedestrian corridor is constructed in sections or connected to an adjoining property's raised sidewalk, the sections shall be flush with each other and where they meet the curb. There shall be no gaps or cracks greater than 12 mm (0.5 in.) between sections or where they join the curb.
 - (d) Patios located within the parking stall area shall not extend more than 2.5 m from the curb face towards the vehicle travel lane. A 1.5 m clear- width pedestrian corridor shall be maintained on the existing sidewalk between the parking patio and the corresponding business area and be free of any encumbrances such as tree wells, garbage cans, and furniture.
 - (e) A guardrail, fence, or barricade is required to provide protection for pedestrians from the vehicle travel lanes for the full length of the pedestrian sidewalk bypass corridor or the parking patio. The protection shall be constructed of materials free of splinters and consist of a top and bottom rail supported by vertical posts securely fastened to the supporting structure or be of a self-supporting construction substantial enough to provide adequate protection for pedestrians. Additional traffic curbs may be required if deemed necessary by the Municipality.
 - (f) Reflective tape shall be installed along the full length of the railing, fence, or guardrail facing toward vehicular traffic. In addition, all corner posts must have reflective tape installed vertically to increase the visibility of the outside corners of the pedestrian corridor for vehicles.
 - (g) The installation shall allow for the free flow of water along the gutter by providing a clear space at least 152 mm (6 in.) wide immediately adjacent to the curb and at least 51 mm (2 in.) high.
- 1.8 Patio expansion of service and retail sales areas located in landscaped areas and parking lots on private commercial property shall include the following design features:
- (a) The extended service/sales area shall not impede emergency vehicle access, general vehicular circulation through the majority of the parking area, pedestrian handicapped accessibility throughout the development, garbage collection, and any other necessary service vehicle access to the property.

Section 2 – Allocation of Temporary Outdoor Patios

- 2.1 The Municipality shall have sole, absolute and unfettered discretion to determine the number of and location of Temporary Outdoor Patio locations.

Section 3 – Insurance

- 3.1 Every Temporary Outdoor Patio shall maintain valid liability insurance coverage in an amount not less than five million dollars (\$5,000,000) per occurrence.
- 3.2 Such Temporary Outdoor Patio liability insurance coverage shall be in the name of the Owner and shall name the Municipality of Central Elgin as an additional insured thereunder.
- 3.3 A Certificate of Insurance satisfactory to the Clerk shall be provided as proof that insurance is in place for the term of the licence.
- 3.4 The Temporary Outdoor Patio owner shall indemnify and save harmless the Municipality of Central Elgin for all losses, costs, damages, charges and expenses whatsoever that may be incurred, sustained or paid by the Municipality resulting from the negligent acts, omissions and/or breach of contract in the performance of the Owner's obligations under this By-law.