



**BEING A BY-LAW TO LICENSE, REGULATE AND GOVERN EMERGENCY CARE ESTABLISHMENTS IN THE TOWN OF COBOURG.**

**WHEREAS** Subsection 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, (“Municipal Act, 2001”) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues; and

**WHEREAS** Section 11(2) of the Municipal Act, 2001, permits a lower-tier municipality to pass by-laws respecting matters, such as the health, safety and well-being of persons and the protection of persons and property; and

**WHEREAS** Section 128 of the Municipal Act, 2001, permits a municipality to pass by-laws prohibiting and regulating with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

**WHEREAS** Section 129 of the Municipal Act, 2001, permits a municipality to pass by-laws prohibiting and regulating with respect to noise, vibration, odour, dust and outdoor illumination; and

**WHEREAS** Part IV – Licences of the Municipal Act, 2001, provides that a municipality may pass by-laws for licensing, regulating and governing any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality; and

**WHEREAS** Subsection 151(1) of the Municipal Act, 2001, provides that a municipality may establish a system of Licences with respect to a business and may prohibit the carrying on or engaging in the business without a licence, refuse, revoke or suspend a licence, impose conditions on a licence, and license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and

**WHEREAS** Subsection 391(1) of the Municipal Act, 2001, provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it; and

**WHEREAS** Sections 150(1) to 153 of the Municipal Act, 2001, a local municipality may exercise its power to license, regulate and govern any business and events carried on within the municipality; and

**WHEREAS** Section 425(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Municipal Act, 2001, is guilty of an offence; and

**WHEREAS** Section 426 of the Municipal Act, 2001, provides that 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 Act or under a by-law passed under the Act; and

**WHEREAS** Subsection 436(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law; and

**WHEREAS** Section 429(1) of the Municipal Act, 2001, provides that a municipality may establish a system of fines for offences under a by-law passed under the Municipal Act, 2001; and

**WHEREAS** Section 444 of the Municipal Act, 2001, provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention; and

**WHEREAS** the Council of the Corporation of the Town of Cobourg considers it desirable and necessary to licence, register, regulate and govern Emergency Care Establishments.

**NOW THEREFORE BE IT RESOLVED THAT THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF COBOURG ENACTS AS FOLLOWS:**

**1. Short Title**

1.1. This By-Law may be referred to as the "**Emergency Care Establishment By-law**".

**2. Scope and Interpretation**

2.1. Unless otherwise stated:

- a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
- b) a reference to a by-law refers to a by-law of the Town as it may be amended or replaced from time to time; and
- c) a reference to a section, paragraph, clause, or schedule is a reference to this By-law's section, paragraph, clause, or schedule.

2.2. Where the provisions of this By-law conflict with the provision of any other By-law in force in the Town, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

2.3. In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements adopted for the promotion of public health, safety, comfort, convenience and general welfare.

2.4. The headings in this By-law are for convenience only and do not form part of this By-law

2.5. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid

### 3. Definitions

3.1. For the purposes of this By-law the following terms are defined:

**“Administrative Penalty”** means an administrative penalty established by a Designated By-law.

**“Applicant”** includes a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension.

**“Building”** means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport.

**“By-law”** means this by-law and any schedule to this by-law as they may from time to time be amended.

**“Code of Conduct”** means the document provided by the E.C.E. that communicates expectations to shelter occupants of how the shelter engages, communicates and works with the surrounding community to foster a positive relationship, mitigate impacts and maintain the safety of neighboring residents including noise and nuisance mitigation and outlines the actions dealing with shelter occupants who violate Town By-laws, or who are violent or disorderly and provides guidance on Town bylaws and other information.

**“Council”** means the Town’s Council of the Town of Cobourg.

**“Delegated Power of Decision”** means a power or right conferred by or under a Town By-law to make a decision deciding or prescribing:

- a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party; or
- b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not.

**“Director”** means the person from time to time performing the functions of the Town’s Director, Legislative Services.

**“Emergency Care Establishment or E.C.E”** means an institutional use that provides a means of immediate, temporary accommodation and assistance for a short term period, generally less than one week for the majority of the residents.

**“Emergency Care Establishment Property”** means the lot on which an E.C.E. sits and includes each Building on the Lot on which the Emergency Care Establishment is situate.

**“E.C.E. Operator”** means a registered owner of the property on which the E.C.E is located.

**“Hearing Officer”** means each person from time to time appointed pursuant to the Town’s Hearing Officer By-law.

**“Licence”** means an authorization under this By-law to carry on a business, activity, matter or thing specified herein and the document,

certificate, plate or card issued which provides evidence of such authority as the context may allow.

**“Local Contact”** means, a Person whose contact information is provided to the Town who is authorized by the Emergency Care Establishment Operator to take all necessary steps to resolve urgent issues related to an E.C.E.

**“Manager”** means the person from time to time performing the functions of the Town’s Manager, Municipal Law Enforcement and Licensing Services.

**“Nuisance”** means excess or unlawful use of one’s property to the extent of unreasonable annoyance or inconvenience to a neighbour or to the public, including but not limited to noise, noxious odours, and traffic.

**“Officer”** means:

- a) the Director;
- b) the Manager;
- c) each person from time to time appointed as a municipal law enforcement officer to enforce a Town by-law or a by-law of a Municipality;
- d) each assistant to the Fire Marshal employed by the Town or by a Municipality; and
- e) a police officer employed by Cobourg Police Service, the Ontario Provincial Police or the Royal Canadian Mounted Police.

**“Operate”** means to be engaged in the provision of a service, activity, matter or thing, offer to provide a service, activity, matter or thing, or facilitate the offer of a service, activity, matter or thing, whether directly or indirectly, associated with an Emergency Care Establishment.

**“Order”** means an order issued under this By-law.

**“Owner”** includes all Persons shown by the records in the Registry Office or the Land Titles Office to be the owner at law of the subject Property and also includes a Person who, alone or with others, or through others:

- a) Provides the services of a Emergency Care Establishment;
- b) Manages or controls an Emergency Care Establishment;
- c) Has responsibility for or control over the condition of a Emergency Care Establishment, or the Property, or the activities carried on there or control over Persons authorized to enter that Property.

**“Person”** includes a natural person, partnership, association, firm or corporation and, where a Penalty Notice has been given to more than one Person, includes each such Person.

**“Property”** means all land, buildings and structures within the legal boundary lines of a property, including without limitation, yards, parts of a building or structure, mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected and includes vacant property, real property and chattel.

**“Property Standards Order”** means an order made pursuant to subsection 15.2(2) of the Building Code Act, 1992 as deemed confirmed or as confirmed or modified by the Town’s Property Standards Committee, by a Municipality’s Property Standards Committee or by a judge of the Superior Court of Justice pursuant to section 15.3 of the Building Code Act, 1992.

**“Proceeding”** means a proceeding before a Hearing Officer and includes a Hearing.

**“Town”** means The Corporation of the Town of Cobourg or the geographic area of the Town of Cobourg as the context requires.

**“Town Clerk”** means the Town’s Clerk.

**“Trade”** includes an activity, matter, thing, business, calling or occupation and “carrying on a trade” shall include any act of:

- a) selling any goods or providing services; and
- b) soliciting business or offering or exposing goods or providing services for sale or hire

**“Zoning By-law”** means a by-law passed by the Town pursuant to section 34 of the *Planning Act* (Ontario).

#### **4. Licensing Requirements**

- 4.1. No person shall operate, advertise, broker or permit the operation, advertising, or brokering of a Emergency Care Establishment in the Town without a valid E.C.E. licence.
- 4.2. A person who receives a licence for an E.C.E. must comply with the regulations set out as applicable to the E.C.E. being carried on. Failure to comply with the regulations constitutes an offence.
- 4.3. An agent, trustee or representative of persons operating an E.C.E. in the Town for which a licence is required shall also be personally liable for the compliance of his principal, beneficiary or persons he represents in connection with this bylaw. Failure by such a person to comply with this section constitutes an offence.
- 4.4. A licence shall be obtained for each location from which an E.C.E. trade is carried on. Failure to comply with this section constitutes an offence.
- 4.5. Licences issued pursuant to this By-law are conditional on compliance by the licensee with all municipal by-laws, including, but not limited to, the Zoning Bylaw and Property Standards By-law, and compliance with all Provincial and Federal Laws and Regulations.
- 4.6. Without limiting paragraph 4.1 of this By-law no Person shall permit the promotion or advertising of an E.C.E. as being available for occupancy or permit to be offered to any Person a right to occupy an E.C.E. except an E.C.E. in respect of which a licence has been issued and maintained in good standing pursuant to this Bylaw.

#### **5. Application Procedure**

- 5.1. An application for a licence or renewal of a licence shall be made at the office of the Director or Manager on the form prescribed and the Director or Manager may prescribe any information to be given



therein and other necessary papers to be completed or submitted by the applicant in conjunction with the application.

- 5.2. Without limitation, the Director or Manager may require an applicant to provide each applicant's name, address, telephone number, facsimile transmission number and e-mail address.
- 5.3. The Director or Manager may require affidavits in support of an application.
- 5.4. The Director or Manager may cause such investigations to be undertaken respecting an application for licence as the Director or Manager determines are relevant to the application.
- 5.5. If the investigation discloses that:
  - a) the applicant's premises or property are the object of an order to comply made under the Property Standards By-law 18-99, Boulevard By-law 052-2014, Lot Maintenance By-law 060-2017, Snow and Ice Removal By-law 081-2014, Nuisance By-law 048-2016 or the Waste Collection Bylaw 2018-22, each as amended from time to time, or an order made under current Building Codes or discloses non-compliance with the Zoning By-law or any parking requirements of the Corporation;
  - b) the applicant's premises or place of business requires corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
  - c) the applicant's premises or place of business requires corrective action pursuant to an order of the Fire Chief to ensure the fire safety;
  - d) the applicant is incompetent in a manner that affects the safety, health or welfare of the public;
  - e) the applicant has been found to have discriminated against a member of the public contrary to The Human Rights Code;
  - f) the applicant is indebted to the Town in respect of fines, penalties, judgments or any another amounts owing, including awards of legal costs and disbursements and including outstanding property taxes and late payment charges against all properties owned by the applicant in any capacity (legally, beneficially or otherwise) and where the applicant is a corporation, against all properties owned by an officer, or shareholder of the applicant, where such amounts outstanding are, cumulatively, \$10,000 or more; or
  - g) notwithstanding the preceding clause f), the applicant is indebted to the Town in respect of an administrative penalty imposed pursuant to section 25; or
  - h) the applicant is in breach of this or some other Town by-law or law of Ontario or Canada,

the Director or Manager may deny the application. Otherwise, the Director or Manager may grant a licence and may also impose any conditions the Director or Manager sees fit as a condition of obtaining, continuing to hold or renewing the licence.

## 6. E.C.E. Licence Application Requirements:

- 6.1. In addition to all other requirements of the Emergency Care Establishment Licensing By-law, the Director or Manager may refuse to accept an application for an E.C.E. Operator licence unless the application is submitted on forms approved by the Director or Manager and includes the following respecting the E.C.E.:
- a) Evidence of compliance with Zoning By-Law 085-2003, as amended;
  - b) Evidence that all property owners are aware of, consent to and authorize the E.C.E. use;
  - c) Evidence that all property owners within a 500 meter radius are aware of the E.C.E. use. For the purposes of this subsection, the distance shall be measured from the perimeter of the E.C.E. Property for which the licence is sought to the perimeter of the next nearest Property within the 500 meter radius;
  - d) An operational plan outlining specific measures to comply with Town By-laws and applicable law including but not limited to:
    - i) A Crime Prevention Through Environmental Design Assessment to maintain the safety and security of the property and surrounding community which shall include such elements as lighting, security, video surveillance, and landscaping features;
    - ii) Operational policies, procedures and strategies to facilitate how the shelter engages, communicates and works with the surrounding community to foster a positive relationship and mitigate impacts to, and maintain the safety of, neighboring residents including noise and nuisance mitigation;
    - iii) The provision of both on-site and mobile security 24 hours/7 days per week to manage issues involving shelter occupants on the property and such circumstances involving shelter occupants in the surrounding 500 meter radius;
    - iv) A lot maintenance plan identifying locations of waste receptacles, garbage facilities and the frequency or maintenance schedule to address litter, waste accumulation and debris arising from the activity of the E.C.E. or its shelter occupants on the property and in the surrounding 500 meter radius;
    - v) A designated outdoor smoking area located and designed in accordance with all applicable law including the Town's Smoking By-law and the Smoke-Free Ontario Act;
    - vi) A parking plan identifying sufficient parking resources for staff, volunteers, suppliers and visitors to ensure compliance with existing parking restrictions both on street and on site;
    - vii) A Code of Conduct in alignment with a good neighbour policy and in accordance with the Town's Nuisance By-law.
  - e) A floor plan of the building that identifies and describes, minimally:
    - i) All exits;

- ii) All windows;
  - iii) All rooms, and identifying which rooms will be used for sleeping quarters;
  - iv) All spaces and common areas and;
  - v) A site plan showing without limitation the location and number of all parking spaces, garbage and waste storage areas, smoking areas, enclosures, accessory buildings, and fences;
- f) The provision of occupancy reports detailing the number of occupants and remaining available spaces as required by the Director or Manager;
- g) Proof of insurance specific to the rental nature of the property that includes a liability limit of no less than two million dollars (\$2,000,000.00) per occurrence for property damage and bodily injury, and identifies that an E.C.E. is being operated on the property, with the Town being added as additional insured. The applicant shall provide the Town with a certificate of insurance in a form acceptable by the Town. The insurance coverage required must be endorsed to the effect that the Town shall be given at least fifteen (15) days' notice in writing of any cancellation or material variation to the policy;
- h) The contact information for a Local Contact who is available to respond to matters involving the E.C.E. at all times within a period of no greater than one (1) hour from the time of contact by telephone or email;
- i) A statement by the applicant attesting to the accuracy, truthfulness and completeness of the application and other items, including but not limited to, that:
- i) if the E.C.E. is a leased or rented premises, the E.C.E. use is permitted by the associated property owner;
  - ii) the E.C.E. is in compliance with various legislation as required by the Town of Cobourg, including the Building Code Act, 1992, S.O. 1992, c. 23 or any regulations made under it, including the Building Code O. Reg. 332/12; all Town of Cobourg municipal by-laws, including Property Standards By-law 18-99, as amended, and Zoning By-law 085-2003, as amended; and the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, or any regulations made under it, including the Fire Code, O. Reg. 213/07;
  - iii) the E.C.E. has and will continue to have working smoke alarms on each level of the E.C.E. and carbon monoxide alarms on all levels where sleeping occurs, and that the E.C.E. will have instructions in a location approved by the Town advising occupants of what to do in the event of an emergency and these instructions will include a copy of the E.C.E. floor plan submitted with the application;
  - iv) the E.C.E. Operator will provide all shelter occupants with a copy of the Code of Conduct (provided by the E.C.E.) and shall request that all Occupants abide by the Code of Conduct;



- v) an acknowledgment that inspections or audits may be required.

## 7. Licence Conditions

- 7.1. In addition to other requirements of the By-law, each of the following is a condition as a requirement of continuing to hold a license as an E.C.E. Operator:
  - a) E.C.E. Operators must notify the Town of any changes to the information provided at the time of licence application or renewal;
  - b) Insurance respecting the E.C.E. must be maintained that is specific to the nature of the property and includes a liability limit of no less than two million dollars (\$2,000,000.00) per occurrence for property damage and bodily injury, and identifies that an E.C.E. is being operated on the property, with the Town being added as additional insured. The applicant shall provide the Town with a certificate of insurance in a form acceptable by the Town. The insurance coverage required must be endorsed to the effect that the Town shall be given at least fifteen (15) days' notice in writing of any cancellation or material variation to the policy;
  - c) Town-approved instructions advising occupants of what to do in the event of an emergency must be posted and maintained in a location approved by the Town, and include a copy of the floor plan submitted with the application;
  - d) Smoke alarms and carbon monoxide alarms (in this section, 'alarms') shall be placed and maintained as follows:
    - i) working smoke alarms must be on each level of the E.C.E.;
    - ii) working carbon monoxide alarms must be on all levels of the E.C.E. where sleeping occurs;
    - iii) alarms shall be maintained in good working order,
    - iv) alarms shall be less than ten (10) years old,
    - v) alarms shall be tested annually, and
    - vi) a written record of tests must be kept for a period of six (6) years and available at any time upon request by the Town;
  - e) E.C.E. Operators must give the Fire Chief, Director, Manager, or any member of Town staff authorized by the Fire Chief, Director or Manager, access to the E.C.E. at any reasonable time for the purposes of conducting an inspection to confirm compliance with regulations;
  - f) E.C.E. Operators and associated E.C.E.'s must ensure compliance with all applicable law, including but not limited to:
    - i) the Health Protection and Promotion Act, 1990, R.S.O. 1990, c. H.7 (Ontario) and its regulations;
    - ii) the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 (Ontario) and its regulations;
    - iii) the Building Code Act, 1992, S.O. 1992, c. 23 (Ontario) and its regulations;

- iv) Zoning By-law 085-2003, as amended;
  - v) Property Standards By-law 18-99, as amended;
  - vi) Lot Maintenance By-law 060-2017, as amended;
  - vii) Noise By-law 011-2011, as amended;
  - viii) Nuisance By-law 048-2016, as amended;
  - ix) Snow and Ice Removal By-law 081-2014, as amended;
  - x) Parking By-law , 030-2022 as amended; and
  - xi) Waste Collection By-law 2018-22, as amended.
- g) E.C.E. Operators must provide each occupant with the Code of Conduct; and
  - h) E.C.E. Operators shall ensure that their Local Contact is available to respond to matters involving the E.C.E. within one (1) hour from the time of contact by telephone or email by any Person at all times.

## **8. Hearings Officer**

- 8.1. Where a person is denied a licence by the Director or Manager or is dissatisfied with any condition imposed by the Director or Manager in relation to a licence, the person may request a review by the Hearings Officer of the Director's or Manager's denial or condition in accordance with this paragraph 8.1.
- a) The person's right to request a review expires on the tenth (10th) day after notice of the Director's decision is given to the person at which time the Director's decision is final and not subject to review.
  - b) The hearing of the review request under clause 8.1 shall not be scheduled until the person has paid the fee from time to time prescribed by the Town's General Fees and Charges By-law.
  - c) The person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the review request under clause 8.1.
  - d) The Hearings Officer shall not make a determination with respect to a review request under clause 8.1 unless the Hearings Officer has given each of the person and the Director an opportunity to be heard.
  - e) The Hearings Officer may deny the application. Otherwise, the Hearings Officer may grant a licence and may also impose any conditions the Hearings Officer sees fit as a condition of obtaining, continuing to hold or renewing the licence.
  - f) The decision of a Hearings Officer and any condition imposed by the Hearings Officer in relation to a licence granted by the Hearings Officer are final and not subject to review including review by any Court.
- 8.2. Except as otherwise herein provided, licences shall be issued for a period not exceeding one year.

8.3. No Person shall be Licensed by the Director or Manager if that Person has been convicted of an offence, for which a pardon has not been granted, pursuant to any one or more of Parts V (Sexual Offences), VIII (Offences Against Persons) or IX (Offences Against Property) of the Criminal Code of Canada R.S.C. 1985 c. C46, as amended.

a) In the event that an applicant has been convicted of a criminal offence other than those listed in section 8.3, he or she may be issued a new licence at the discretion of the Director.

8.4. An applicant who has been denied a Licence by the Director pursuant to section 8.3 or 8.3 (i) may request that his application be heard by the Hearings Officer to request that the Hearings Officer, in his discretion, issue the Licence in question. Upon request, the Director shall refer the matter to the Hearings Officer. The Hearings Officer shall hold a hearing in the presence of the applicant, and the rules in section 18 apply with necessary modifications.

## **9. Licence Fee**

9.1. The fee for obtaining an Emergency Care Establishment licence or renewal of a licence shall be as set out in the Town's General Fees and Charges By-law. No fee is refundable except in the event that a licence is revoked in which case the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.

## **10. Duplicate Licence**

10.1. A duplicate licence may be issued by the Director to replace any licence previously issued which has been lost, stolen or destroyed.

## **11. Posting Licences**

11.1. Where a licensee carries on a business or trade from a fixed place of business, the licensee shall post the licence obtained under this by-law in a conspicuous place at such fixed place of business and every person so licensed shall, when requested by any person authorized by Council, produce the licence for inspection. Failure by a licensee to comply with this section shall constitute an offence.

## **12. Partnerships and Corporations and Unincorporated Associations**

12.1. A partnership, corporation, association or combination thereof shall be considered as a single applicant for any one trade at one place of business.

12.2. On any application by a partnership, the licence shall be issued in the name under which business is carried on by the applicant. The names and addresses of all partners shall be listed on the application form.

12.3. Any application by a corporation shall contain the names and addresses of the officers and directors of the corporation.

12.4. A change in composition of the members of a partnership or in the officers and/or of a corporation shall be reported to the Director within fifteen days. Failure to comply with this section constitutes an offence.

## **13. Change of Address**

13.1. Each applicant or, where a licence has been issued, each licensee shall advise the Director or Manager of any change in any information

provided pursuant to paragraph 6.1 of this By-law by providing to the Director notice of such change within fifteen (15) days of the date of such change. Failure to comply with this section constitutes an offence.

#### **14. Licence Term and Transfer**

- 14.1. Every Licence issued under this By-law shall expire within one (1) year of being issued, unless otherwise revoked or suspended prior to that date.
- 14.2. Each Licensee shall be required to renew the said Licence prior to the expiry of the original Licence issued under this By-law, and failing such renewal, the Licensee must discontinue the operation of his or her business upon the expiry of the Licence.
- 14.3. Every Licence is valid only in respect of the person who was issued the Licence. No person may assign, modify, sell, or transfer, any Licence issued under this Bylaw.
- 14.4. No person may operate a Emergency Care Establishment under a Licence issued to another person.
- 14.5. A person wishing to renew a Licence shall comply with the application requirements of this by-law.

#### **15. No Vested Right**

- 15.1. No person shall enjoy a vested right in the continuance of a licence and upon issuance, renewal, cancellation or suspension, a licence shall remain the property of the Town.

#### **16. Licensees to Use Name on Licence**

- 16.1. It shall constitute an offence for a person licensed to carry on a trade under this by-law to advertise or carry on such trade under any other name than the one endorsed on his or her or its licence.

#### **17. Revocation and Suspension**

- 17.1. The Hearings Officer may revoke, suspend, impose any conditions upon, or refuse to issue or renew any licence to any person under this by-law.
- 17.2. The Hearings Officer may, in exercising the discretion mentioned in paragraph 17.1, consider any matter raised under paragraphs 4.4, 4.5, or any other matter that relates to the general welfare, health or safety

#### **18. Hearing by Hearings Officer**

- 18.1. The Hearings Officer shall not make a decision under paragraph 17.1 without first affording the person or applicant the opportunity to be heard.
- 18.2. After such opportunity to be heard is afforded the person or applicant, the Hearings Officer may make any decision in respect of which the hearing was held or the opportunity for hearing afforded without holding a further hearing or affording further opportunity for a hearing in such matter.

18.3. The Statutory Powers Procedure Act applies to any hearing conducted pursuant to this paragraph.

18.4. A decision by the Hearings Officer to revoke, suspend or refuse a licence shall be effective when notice of the decision has been given to the person or applicant.

## **19. Notices**

19.1. Any notice pursuant to this By-law may be given in writing in any of the following ways and is effective:

- a) on the date a copy is personally delivered to the Person to whom it is addressed;
- b) on the third (3rd) day after a copy is sent by regular mail or by registered mail to the Person's last known address;
- c) upon confirmation of the successful transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number;
- d) upon sending a copy by e-mail transmission to the Person's last known e-mail address;
- e) upon a copy being posted on the door of any building or structure on the Person's property or, where no building or structure exists, on a stake erected by the Officer on the Person's property; or
- f) on the date a copy is placed on or affixed in any manner to a Person's Motor Vehicle.

## **20. Exemptions**

20.1. The Director may exempt any person from all or any part of the Emergency Care Establishment By-law where the Director is satisfied that the granting of the exemption would maintain the general intent and purpose of the By-law.

20.2. The Director may impose such conditions as the Director determines are appropriate in relation to an exemption granted by the Director.

20.3. Where a person is denied an exemption by the Director or is dissatisfied with any condition imposed by the Director in relation to an exemption, the person may request a review by the Hearings Officer of the Director's denial or condition in accordance with this paragraph 20.3.

- a) The person's right to request a review expires on the tenth (10th) day after notice of the Director's decision is given to the person at which time the Director's decision is final and not subject to review.
- b) The hearing of the review request under clause 20.3(i) shall not be scheduled until the person has paid the fee from time to time prescribed by the Town's General Fees and Charges By-law.
- c) The person shall be given seven (7) days' notice of the date, time and place of the hearing of the review request under clause 20.3(i).



- d) The Hearings Officer shall not make a determination with respect to a review request under clause 20.3(i) unless the Hearings Officer has given each of the person and the Director an opportunity to be heard.
- e) The Hearings Officer may affirm the Director's decision or, alternatively, may exempt the person from all or any part of the Emergency Care Establishment By-law where the Hearings Officer is satisfied that affirming the Director's decision or granting an exemption would maintain the general intent and purpose of the E.C.E. By-law.
- f) The Hearings Officer may impose such conditions as the Hearings Officer determines are appropriate in relation to an exemption granted by the Hearings Officer.
- g) The decision of a Hearings Officer and any condition imposed by the Hearings Officer in relation to an exemption granted by the Hearings Officer are final and not subject to review.

## **21. Inspection and Orders**

- 21.1. An Officer may at any reasonable time, enter upon and inspect the land of any person to ensure that the provisions of this By-law are complied with, in accordance with section 436(1) of the Municipal Act, 2001.
- 21.2. For the purposes of conducting an inspection pursuant to this By-law, an Officer may:
  - a) require the production for inspection of documents or things relevant to the inspection;
  - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - c) require information from any person concerning a matter related to the inspection; and
  - d) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 21.3. Any cost incurred by the Town in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the owner of the property where the inspection takes place.
- 21.4. No person shall prevent, hinder, or obstruct, or attempt to prevent, hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law.
- 21.5. Where an Officer has reason to believe that any provision of this By-law or any condition of a License has been contravened, the Officer may issue an Order requiring an Owner, Licensee or such any other person who contravened this By-law or who caused or permitted the contravention to discontinue the contravention or to do work or take action to correct the contravention.
- 21.6. The Director or Manager may suspend a License until such time as an Order under subsection 22.5 is complied with.

- 21.7. An Order under subsection 21.5 shall include:
- a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
  - b) the date by which there must be compliance with the Order and the work to be done or the conduct to be discontinued by that date.
- 21.8. Every person shall comply with an Order made pursuant to subsection 21.5.
- 21.9. No person who has notice of an Order shall assist in any way in the violation of the terms of an Order, regardless of whether said person is named in the Order.
- 21.10. Where the person or persons to whom an Order is issued fails to perform the work or action required by the Order within the time stipulated in the Order, the Town may without further notice perform such work or action as it deems appropriate.
- 21.11. Where the Town undertakes work or any action or work pursuant to section 21.10, the person or persons shall be jointly and severally responsible for all costs of the Town incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the Town, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll of property held by the Licensee, owner or other person in the manner provided for therein.
- 21.12. Where an Order is posted, no person may remove the Order without the written authorization of the Town.

## **22. Licence Production**

- 22.1. Every person licensed under this By-law shall, when requested by a Municipal Law Enforcement Officer, or any person acting under their lawful authority, immediately produce their Licence, and other relevant documents required under this By-law.

## **23. Schedules Shall Apply**

- 23.1. Every person applying for or holding a licence under this by-law shall be subject to all relevant regulations contained in the schedules hereinafter set out and such schedules form part of this by-law.

## **24. Penalties**

- 24.1. Each Person who contravenes any provision of this By-law is guilty of an offence for each day or part of a day that the contravention occurs or continues.
- 24.2. Each director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence for each day or part of a day that the contravention occurs or continues.
- 24.3. On conviction, each Person is liable to a fine of:
- a) not less than \$500 and not more than \$100,000;and

b) for each day or part of a day that the offence continues, a fine of not less than \$500 and not more than \$100,000.

24.4. Where a Person is convicted of an offence of operating without a licence required by this By-law, the Person is, in addition to any other fine or penalty, liable to a special fine not exceeding the gross revenues received by or on behalf of the Person during the period and in respect of the activity for which a licence was required. This special fine is designed to eliminate or reduce any economic advantage or gain from contravening this By-law.

## **25. Administrative Penalties**

25.1. Administrative Penalty Process By-law 079-2022 applies to each administrative penalty issued pursuant to this By-law.

25.2. Subject to paragraph 25.3, each person who contravenes any provision of this Bylaw, including any provision of its Schedules, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 079-2022, be liable to pay to the Town an administrative penalty in the amount of \$250 for each day on which the contravention occurs or continues.

25.3. Each person who, without a licence under this By-law, undertakes an activity for which the person requires a licence under this By-law, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 079-2022, be liable to pay to the Town an administrative penalty in the amount of \$500 for each day on which the contravention occurs or continues.

25.4. No Person shall fail to comply with any provision or standard of this By-law.

## **26. Delegation**

26.1. For the purpose of subsection 23.2(4) of the Municipal Act, 2001, it is the opinion of Council that the powers delegated to the Hearings Officer and to the Director or Manager pursuant to this By-law are of a minor nature.

## **27. General**

27.1. In the event that any previous by-law is inconsistent with this by-law, this bylaw shall prevail.

27.2. The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or by contract.

27.3. In the event any provisions of this by-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

27.4. No proceeding for damages or otherwise may be commenced against the Town, a member of Council or an officer, employee or agent of the Town or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

**28. Effective Date**

28.1. That this By-law shall come into effect on the xx<sup>th</sup> day of Month, 2024.

READ and finally passed in Open Council this xx<sup>th</sup> day of Month, 2024.

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Lucas Cleveland, Mayor

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Brent Larmer, Clerk