

LICENCE

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SCHEDULE

Schedule 'A' - Business Licence Procedure

WHEREAS *it is deemed expedient to exercise the powers conferred on Council by the Municipal Act, 2001, S.O. 2001, c. 25;*

AND WHEREAS *Council has determined that licensing owners and operators of amusement arcades protects consumers and contributes to their safety as there is the ability to require that certain minimal standards with respect to fire and building safety have been met;*

AND WHEREAS *Council has determined that the operation of amusement arcades contrary to zoning restrictions may cause a nuisance to surrounding property owners;*

AND WHEREAS *Council has determined that licensing owners and operators of amusement arcades protects consumers as there is a record of licence holders and the ability to require legal and honest operation of such businesses and to hold licensees responsible when the business is not conducted in accordance with the law or with integrity;*

AND WHEREAS *Council has determined that the ability to add conditions to, suspend, revoke or refuse licences encourages owners and operators of amusement arcades to comply with the by-law;*

AND WHEREAS *notice of a public meeting was given by advertisement in a local newspaper on November 26, 2004;*

AND WHEREAS *a public meeting was held on December 6, 2004 to allow any person attending to make representations with respect to this by-law.*

**Article 1
INTERPRETATION**

506.1.1 Amusement arcade - defined

“amusement arcade” means a place where coin or token operated arcade games are provided for public amusement, which accommodates three or more persons capable of playing simultaneously.

506.1.2 Amusement park - defined

“amusement park” means a commercial-recreation establishment located on lands having a minimum lot area of 10.0 hectares (24.7 acres); where multiple permanent buildings or structures have been erected for the purpose of recreation; and where one or both of the following classes of amusement or recreation are additionally provided:

- (a) mechanically or electrically operated rides;
- (b) a restaurant.

506.1.3 Arcade game - defined

“arcade game” means a coin or token operated machine, device or contrivance or part thereof designed for public amusement for the participation of one person, excluding a coin operated machine which provides musical entertainment, rides, food or drink, and a coin-operated billiard table. For the purpose of regulating the number of games, the number of arcade games shall be equal to the maximum number of players able to be accommodated at any one time.

506.1.4 Machine - defined

“machine” means the housing for one or more arcade games.

**Article 2
GENERAL PROVISIONS**

506.2.1 General provisions - Chapter 500

The provisions of Chapter 500 of the City of Kitchener Municipal Code shall apply to this Chapter. In the event of any conflict, the provisions of this Chapter shall apply.

506.2.2 Fees - Chapter 501

The fees for a licence under this Chapter shall be as set out in Chapter 501 of the City of Kitchener Municipal Code.

506.2.3 Schedule 'A' - Business Licence Procedure

The provisions of Schedule 'A' hereto shall form a portion of this Chapter.

506.2.4 Licence - required - owner - operator

No person shall act as an owner or an operator without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

506.2.5 Applicable - all locations - within - outside - City

The provisions of this Chapter apply to any trade, occupation, calling or business described herein that is carried on either wholly or partly within the City even if the business is being carried on from a location outside the City.

506.2.6 Classes of owner's licence

There shall be the following classes of owner's licences pursuant to this Chapter:

- (a) Class A 10 or more arcade games
- (b) Class B 6 to 9 arcade games
- (c) Class C 3 to 5 arcade games
- (d) Class D 10 to 16 arcade games as an accessory use to a restaurant located in a building having a minimum gross floor area of less than 10,000 square metres (107,642.62 square feet) in a D-1 or D-2 zone.
- (e) Class E 6 to 9 arcade games as an accessory use to a restaurant located in a building having a minimum gross floor area of less than 10,000 square metres (107,642.62 square feet) in a D-1 or D-2 zone.
- (f) Class F 3 to 5 arcade games as an accessory use to a restaurant located in a building having a minimum gross floor area of less than 10,000 square metres (107,642.62 square feet) in a D-1 or D-2 zone.
- (g) Class G 3 or more arcade games within an amusement park.

506.2.7 Washroom requirements - Class A or Class D licences

Every holder of a Class A or a Class D licence shall equip the amusement arcade with separate male and female washrooms, for the use of patrons, which shall comply with all standards of public health.

506.2.8 Washroom requirements - Class B - C - E - F licences

Every holder of a Class B, Class C, Class E or Class F licence shall equip the amusement arcade with a washroom, for the use of patrons, that shall comply with all standards of public health.

506.2.9 Machine - spacing - minimum clearances

Every owner of an amusement arcade shall ensure that there is clearance of 30.48 centimetres (1 foot) on either side of each machine and 122 centimetres (4 feet) in front of each machine.

506.2.10 Machine - obstructing entrance - exits - prohibited

No person shall place a machine so as to obstruct access to the entrances to and the exits from the premises.

506.2.11 Hours of operation

The hours of operation of each Class D, Class E or Class F amusement arcade shall be limited to 6:00 p.m. to 2:00 a.m.

506.2.12 Arcade games - erotic - sexual - prohibited

Arcade games that are designed to appeal to erotic or sexual appetites are prohibited in amusement arcades.

506.2.13 Licence - location specific

Every licence issued pursuant to this Chapter applies only with respect to the specified location.

506.2.14 Operation - licence suspended - revoked - prohibited

No person shall operate or permit to be operated an amusement arcade or any amusement arcade within an amusement park while a licence issued under this Chapter is suspended or revoked by Council.

506.2.15 Condition of licence - compliance

No person shall violate any condition that Council places on a licence issued under this Chapter.

**Article 3
ENFORCEMENT**

506.3.1 Fine - for contravention - person

Every person other than a corporation who contravenes any provision of this Chapter and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding Twenty-Five Thousand Dollars (\$25,000).

506.3.2 Fine - for contravention - corporation

Every corporation that contravenes any provision of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Fifty Thousand Dollars (\$50,000).

**Article 4
VALIDITY**

506.4.1 Severability

It is hereby declared that each and every of the foregoing Sections of this Chapter is severable and that, if any provisions of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

**Article 5
REPEAL - ENACTMENT**

506.5.1 By-law - previous

By-law 2000-223, section 3 of By-law 2001-233, section 3 of By-law 2001-239, section 1 of By-law 2001-241, section 4 of By-law 2002-233 and the contents of the previous Chapter 506 are hereby repealed as of January 1, 2005.

506.5.2 Effective date

This Chapter comes into force and effect on January 1, 2005. By-law 2004-229, 6 December, 2004.

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SCHEDULE

Schedule 'A' - Business Licence Procedure

1. Upon receipt of a complete licence application the Manager of Licensing shall either issue or renew a licence hereunder or shall refer the matter to Council or a Committee of Council where appropriate under the provisions of this Chapter or any other by-law of Council.
2. Save as otherwise provided herein, every licence issued or renewed pursuant to this Chapter shall be issued in the name of Council by the Manager of Licensing.
3. The Manager of Licensing shall not process an application where that application is incomplete. An application will be deemed incomplete where:
 - (a) required information has not been provided on the application form;
 - (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
 - (c) the prescribed licence fee is unpaid; or
 - (d) the Manager of Licensing has received an unsatisfactory report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City and the conditions causing the report to be unsatisfactory have not been remedied.
4. Where the Manager of Licensing receives an incomplete application, the Manager of Licensing shall, where an address or other contact information has been provided, notify the applicant that the application is incomplete and of the steps required to complete the application.
5. Where the Manager of Licensing decides an application is incomplete, the applicant shall have the right to appeal that decision to Council or a Committee of Council.
6. If the Manager of Licensing is unable to determine whether an application is incomplete, he/she may refer the matter to Council or a Committee of Council for consideration.
7. The Manager of Licensing may refer an application or a licence to Council or a Committee of Council where:

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- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
 - (b) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
 - (c) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
 - (d) without limiting the generality of Section 7(c), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
 - (e) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met; or
 - (f) the provisions of this Chapter provide grounds not to issue or renew in the circumstances.
8. When any matter has been referred or appealed to Council or a Committee of Council, the applicant or licensee shall be given reasonable notice of the time and place of the hearing and shall be invited to make submissions.
9. When any matter has been referred or appealed to Council or a Committee of Council, after due consideration of the application or licence and after Council or a Committee of Council has heard such representations as the applicant or licensee and staff may care to make, Council may direct that the licence be issued or renewed, or may refuse, suspend, revoke or add conditions to a licence where:

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- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
- (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
- (c) the application is incomplete or the prescribed licence fee is unpaid;
- (d) the Manager of Licensing receives an unfavourable report regarding an investigation carried out pursuant to Chapter 500 of the City of Kitchener Municipal Code or any other by-law of the City;
- (e) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
- (f) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (g) without limiting the generality of Section 9(f), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
- (h) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met;
- (i) the provisions of this Chapter provide grounds not to issue or renew in the circumstances; or

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- (j) the applicant or licensee has consented to the refusal, suspension, revocation or adding of conditions to the licence.
10. Where a licensee is convicted of an offence under any federal or provincial Act, any regulation made thereunder, or any by-law of the City in relation to or during the carrying on of the trade, calling, business or occupation licensed hereunder, the licence may be suspended forthwith by Council until such time as the matter can be heard and finally determined by Council. By-law 2004-229, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.