

LICENCE

Chapter 826 GENERAL PROVISIONS - LICENCE

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SCHEDULE

Schedule 'A' - Pinball, Video Electronic Game Machine

WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern the licensing of various businesses and occupations in the Town;

AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the by-law relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;
- ensuring efficient and professional conduct of licensees;

AND WHEREAS purposes of health and safety will be served by this by-law through:

- ensuring that businesses serving food stuffs meet the health requirements;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Municipal Code - Public Notice.

Article 1 INTERPRETATION

826.1.1 Applicant - defined

“applicant” means a person applying for a licence under this Chapter.

826.1.2 Arcade game - defined

“arcade game” means a coin or token operated machine, device or contrivance or part thereof designed 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.

826.1.3 Bowling alley - defined

“bowling alley” means a premises where skittles or five-pin or ten-pin bowling takes place.

826.1.4 Commissioner - defined

“Commissioner” means the Commissioner of Planning and Development of The Corporation of the Town of Richmond Hill. By-law 189-05, 12 December, 2005.

826.1.4.1 Conveyance - defined

“conveyance” means a vehicle or a means of transport. By-law 11-09, 2 February, 2009.

826.1.5 Corporation - defined

“Corporation” means The Corporation of the Town of Richmond Hill.

826.1.6 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill. By-law 189-05, 12 December, 2005.

826.1.6.1 Handcart - defined

“handcart” means a small cart pushed or drawn by hand. By-law 11-09, 2 February, 2009.

826.1.7 Hawker - peddler - defined

“hawker” and “peddler” shall include any person who goes from place to place, or to a particular place, with goods, wares, merchandise or food-stuffs for sale, or who carries or displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards.

826.1.8 Licence - defined

“licence” means a licence issued by the Corporation under this Chapter.

826.1.9 Licence Hearings Committee - defined

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter. By-law 189-05, 12 December, 2005.

826.1.10 Licensing Officer - defined

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licences. By-law 145-08, 14 July, 2008.

826.1.11 Liquor licence - defined

“liquor licence” means a licence issued by the Alcohol and Gaming Commission.

826.1.12 Owner - defined

“owner” means a person who alone or with others has the right to possess or occupy a business premises licensed under this Chapter or actually does possess or occupy such a facility and includes a lessee.

826.1.13 Person - defined

“person” means an individual, firm, corporation, association or partnership.

826.1.14 Pinball - defined

“pinball” means a type of arcade game as defined in this Chapter.

826.1.15 Pinball - video game establishments - defined

“pinball, video or electronic game machine establishments” means any premises or part thereof containing one or more pinball, video or other mechanical or electronic game machines operating for gain.

826.1.16 Place of amusement - defined

“place of amusement” means any bowling alley, shooting gallery, roller skating rink, miniature golf course, golf driving range, dance hall, music hall, cabaret or any other place of amusement not specifically provided for herein.

826.1.17 To operate - defined

“to operate” when used in relation to pinball, video, or electronic game establishments includes to manage, supervise and otherwise be responsible for the control, management or supervision of a pinball, video or electronic game machine establishment or of any person employed or performing services therein, whether or not the person so operating such establishment is licensed or required to be licensed under this Chapter. By-law 189-05, 12 December, 2005.

826.1.18 Tobacco shop - defined

Tobacco shop means any premises or part thereof, or conveyance, or handcart, where tobacco, cigarettes, tobacco products or accessories are sold or offered for sale. By-law 11-09, 2 February, 2009.

826.1.19 Town - defined

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

Article 2**LICENCE - REQUIREMENTS****826.2.1 Licence - required - trades - callings - set out**

A licence from the municipality of the Town of Richmond Hill shall be taken out by all the trades, callings, businesses and occupations listed in Sections 826.2.2 through 826.2.8 inclusive authorizing them respectively to carry on their several trades, callings, businesses and occupations in the Town of Richmond Hill for which licence the person obtaining the same shall pay to the municipality at the time of taking out such licence the fee fixed by this Chapter and no person shall within the limits of the Town of

Richmond Hill carry on or engage in any of the said trades, callings, businesses or occupations until he or she has procured such licence to do so.

826.2.2 Bowling alley

The provisions of Section 826.2.1 apply to every person who operates a bowling alley. By-law 189-05, 12 December, 2005.

826.2.3 Tobacco shop - retail

The provisions of Section 826.2.1 apply to the keeper of every store, shop, conveyance or handcart where tobacco, cigars and cigarettes are sold by retail. By-law 11-09, 2 February, 2009.

826.2.4 Hawker - peddler - exemptions

The provisions of Section 826.2.1 apply to every person who goes from place to place or to a particular place with goods, wares, or merchandise for sale, or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards; provided, however, that no licence shall be required for hawking, peddling or selling goods, wares or merchandise:

- (a) to wholesale or retail dealers in similar goods, wares or merchandise; or
- (b) if the goods, wares or merchandise, are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or his or her agent or employee, having written authority so to do, in the municipality in which the grower, producer or manufacturer resides; or
- (c) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells the produce of his or her own farm; or
- (d) if the goods, wares or merchandise are hawked or sold by a person who pays business tax in the municipality, or by his or her employee, or by his or her agent; or
- (e) if the goods, wares, or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise; or
- (f) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.

826.2.5 Exemptions - bankruptcy - insolvency - fire sale

The provisions of this Chapter shall not apply to the sale of the stock of a bankrupt or insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by reason of fire, which is being sold or disposed of within the Town of Richmond Hill if the business was being carried on in the Town of Richmond Hill at the time of the bankruptcy, insolvency or fire so long as no goods, wares or merchandise are added to such stock, nor shall this Section apply to the sale of a business to a *bona fide* purchaser who continues the same.

826.2.6 Place of amusement - video arcade

The provisions of Section 826.2.1 apply to every person who owns, keeps or operates a pinball, video or electronic game machine establishment.

Article 3**GENERAL PROVISIONS****826.3.1 Expiry - annual - December 31**

All licences granted under this Chapter, unless they are expressed to be granted for a shorter period and unless the same shall become sooner revoked, shall be for the year current at the time of issuing thereof and shall expire on the 31st day of December next succeeding the date of the same.

826.3.2 Application - form prescribed - to Licensing Officer

Every application for a licence shall be made to the Licensing Officer upon such form or forms as may be from time to time provided for such purpose.

826.3.3 Issue - licence

Every licence shall be issued on behalf of the municipality and shall bear the signature of the Licensing Officer which may be written, lithographed or printed.

826.3.4 Investigation - by Licensing Officer - prior to issuing

The Licensing Officer shall before issuing a licence make or cause to be made all investigations which he or she deems necessary or which are required by law or by the Council.

826.3.5 Post - licence - conspicuous - produced on demand

Every person obtaining a licence under this Chapter, where the same applies to premises, shall keep his or her licence posted up in some conspicuous place on the premises in respect to which the licence is issued, and every person so licensed shall when so requested by the Licensing Officer or any person authorized by the Council, produce the licence for inspection.

826.3.6 Inspection - premises - books - records - at all times

The Licensing Officer or any person duly authorized by the Council may at all reasonable times inspect as much of any house, place or premises as is used for the carrying on of any trade, calling, business or occupation in respect to which any person has or is required to have a licence under this Chapter, and any such person so authorized may inspect the books, records and other documents of or relating to any such trade, calling, business or occupation.

[Next pages is 826.11]

826.3.7 Inspection - obstruction - hindrance - prohibited

No person who has or is required to have a licence under this Chapter shall obstruct or hinder the making of an inspection aforesaid, or cause or permit the same to be obstructed or hindered.

826.3.8 Partnership - application requirements

Where two or more persons carry on or engage in partnership in any of the trades, callings, businesses or occupations set out in Section 826.2.1, the licence may be issued in the name of one partner only, but when the application for licence is made, the name and address of each member of the partnership shall be set out herein.

826.3.9 Fee - licence - requirement

The respective licence fees for various licences issued under this Chapter are set out in Chapter 684 [Tariff of Fees].

826.3.10 Compliance - investigation - as required - to ensure

The Licensing Officer may make or cause to be made all investigations which he or she deems necessary, including the review of all pertinent approved restricted area by-laws and any other pertinent by-laws to ensure that the applications comply with same.

Article 4**PINBALL - VIDEO - ELECTRONIC GAME MACHINE****826.4.1 Maximum - two machines - no licence required**

Despite anything herein to the contrary, any premises or part thereof containing two or less pinball, video or electronic game machines shall be deemed not to be a pinball, video or electronic game establishment within the meaning of Section 826.1.1 so long as the use of such machine or machines is accessory, incidental or subordinate to the main use of the said premises or that part thereof.

826.4.6 Hours of operation

All pinball, video or electronic game establishments shall be closed and remain closed:

- (a) on Sunday at and during any time or hours between 9:00 p.m. local time and 8:00 a.m. local time of the next following day; and
- (b) on any other day of the week at and during any time or hours between 11:00 p.m. local time and 8:00 a.m. local time of the next following day.

826.4.7 Existing licence - Schedule 'A'

A listing of existing pinball, video and electronic game establishments, their locations and, where applicable, different opening hours for each shall be as set out in Schedule 'A' to this Chapter.

**Article 5
REPORT TO COUNCIL****826.5.1 Report to Council**

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 7 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

**Article 6
LICENCE NON-TRANSFERABLE
WITHOUT COUNCIL APPROVAL****826.6.1 Licence not transferable - upon recommendation**

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

**Article 7
GROUNDS FOR REFUSAL TO ISSUE
OR RENEW A LICENCE****826.7.1 Licence - entitlement**

An applicant is entitled to be licensed and a licensee is entitled to have his or her licence renewed.

826.7.2 Licence refused - financial position

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where, having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

826.7.3 Licence refused - past conduct of applicant

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

826.7.4 Licence refused - contrary to public interest

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the issuance of the licence or renewal of the licence would be contrary to the public interest.

826.7.5 Licence refused - activities in contravention

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

826.7.6 Licence refused - use of premises

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where there are reasonable grounds for belief that the nature, condition or use of the premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this Chapter or any other law.

826.7.7 Licence refused - applicant provides false information

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant, contains a false statement or provides false information.

826.7.8 Licence refused - information provided - accuracy

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the information provided to the Town by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the Town sufficient to allow the council to conclude that the licence should be granted or maintained as valid and subsisting.

826.7.9 Licence refused - fee not paid

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the fee payable in respect of the licence applied for has not been paid.

826.7.10 Licence refused - applicant - non-compliant

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a licence.

826.7.11 Licence refused - applicant is corporation - conditions

Notwithstanding Section 826.7.1, a licence may not be issued or renewed where if the applicant or licensee is a corporation,

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
- (c) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
- (d) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter .

Article 8

COUNCIL'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE

826.8.1 Council's power to refuse to issue or renew a licence

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Article 7.

Article 9

REFUND OF FEE ON REFUSAL TO ISSUE OR RENEW A LICENCE

826.9.1 Licence not issued - refund of fee

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50% of the application processing fee.

Article 10

ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS

826.10.1 Licence issued - terms and conditions

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 826.17.1 of this Chapter.

Article 11
COUNCIL'S POWER TO REVOKE
OR SUSPEND A LICENCE

826.11.1 Licence revoked or suspended

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Article 7 of this Chapter.

Article 12
REFUND OF FEE ON REVOCATION OF A LICENCE

826.12.1 Licence revoked - refund of fee

When a licence is revoked under Section 826.11.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

826.12.2 Refund of fee - not applicable

The provisions of Section 826.12.1 do not apply when the unexpired part of the term is less than four months.

Article 13
CANCELLATION OF A LICENCE

826.13.1 Licence - cancelled

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

Article 14
APPEALS TO THE LICENCE HEARINGS COMMITTEE

826.14.1 Licence refused - recommendation to Council

When an applicant or a licensee is not entitled to be licensed or to have his or her licence renewed for any of the grounds set out in Article 7, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 826.10.1, that Council issue a licence on terms and conditions.

826.14.2 Licence refused - written notice

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

826.14.3 Written notice - contents

The written notice to be given under Section 826.14.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer;
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

Article 15
NOTICE OF HEARING

826.15.1 Notice of hearing

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

Article 16
SERVICE OF WRITTEN NOTICE

826.16.1 Written notice - service

The written notice referred to in Sections 826.14.2, and 826.14.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

826.16.3 Written notice - service - via registered or certified mail

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

Article 17
HEARING BEFORE THE LICENCE
HEARINGS COMMITTEE

827.17.1 Licence Hearings Committee - applicant does not attend
When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

826.17.2 Recommendation to Council
At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

Article 18
COUNCIL AUTHORITY AFTER THE HEARING

826.18.1 Recommendation - Licence Hearing Committee - decision
Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

Article 19
RETURN OF THE LICENCE AFTER
REVOCATION OR SUSPENSION

826.19.1 Licence revoked - suspended - returned - Licensing Officer
When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

826.19.2 Licence revoked - Licensing Officer to obtain licence
When a person has had his or her licence revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, in accordance with Section 826.19.1.

Article 20
TRANSITION

826.20.1 By-law - previous

A licence issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter only until the earlier of its expiry or its revocation.

Article 21
SEVERABILITY

826.21.1 Validity

If a court of competent jurisdiction declares any provision, or any part of a provision of this Chapter to be invalid or to be of no force and effect, it is the intention of the Council in enacting this Chapter, that each and every other provision of this Chapter authorized by law, be applied and enforced in accordance with its terms, to the extent possible according to law.

Article 22
ENFORCEMENT

826.22.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and, upon conviction is liable to a fine and other penalties imposed pursuant to the *Provincial Offences Act*, as amended.

826.20.1 By-law - previous

Chapter 826 of the Town of Richmond Municipal Code respecting General Provisions - Licensing be repealed in its entirety and replaced with the new Chapter 826. By-laws 11-01, 111-03, and 212-03 be repealed.

826.20.2 Expiry

This Chapter shall expire five years after the date of its enactment. By-law 189-05, 12 December, 2005.

GENERAL PROVISIONS - LICENCE

SCHEDULE

Schedule 'A' - Pinball, Video Electronic Game Machine

Pinball, Video or Electronic Game Machine Establishments

Location	Permitted Opening Hours if different than as set out in Section 826.4.6
9625 Yonge Street - Unit 2	no change
10909 Yonge Street - Unit 3	Monday to Friday - 4 p.m. - 11 p.m. Saturday and Sunday - 12 p.m. - 11 p.m.
8725 Yonge Street	Monday to Friday - 4 p.m. - 11 p.m., holidays and school holidays excepted Friday and Saturday nights, holidays, school holidays and the night preceding holidays and school holidays - 12 p.m. - 1 a.m.

By-law 189-05, 12 December, 2005; Schedule 'A'.