

CITY OF TORONTO

Bill 1757

BY-LAW -2019

To amend City of Toronto Municipal Code Chapter 545, Licensing.

Whereas authority is given to Council by the *City of Toronto Act, 2006* to pass by-laws regarding business licensing, consumer protection, and the health, safety, and well-being of persons;

Whereas Council wishes to amend certain requirements of food establishments to account for changes in the regulation of these businesses under the *Health Protection and Promotion Act*;

Whereas Council wishes to make various amendments to Chapter 545, Licensing, to consolidate or delete certain duplicative or obsolete provisions and to better align its general provisions with those found in Chapter 546, Licensing of Vehicles-for-Hire;

Whereas Council wishes to delegate authority to the Executive Director of Municipal Licensing and Standards to establish policies and guidelines with respect to the business licensing requirements under Chapter 545, Licensing, and to establish thresholds for criminal and background screening applicable to the issuance and renewal of licences under that chapter;

The Council of the City of Toronto enacts:

- 1.** City of Toronto Municipal Code, Chapter 545 is amended by:
 - A.** Adding a new definition of "FOOD" to § 545-1 as follows:

FOOD – Food or drink for human consumption and includes an ingredient or food or drink for human consumption.
 - B.** Deleting all references to the phrase "food or drink" and replacing them with the word "food".
 - C.** Moving the definitions of "EATING OR DRINKING ESTABLISHMENT" found in § 545-157D and "FOOD SAFETY INSPECTION NOTICE" and "FOOD SAFETY INSPECTION REPORT" found in § 545-157E to § 545-1.
 - D.** Deleting §§ 545-157 and replacing it with the following:

§ 545-157. Eating or drinking establishment licence applications; requirement to produce food safety inspection notice.

 - A.** Every application for a licence as an owner or keeper of an eating or drinking establishment shall be submitted by the Municipal Licensing and Standards Division to the Medical Officer of Health, and any report

received by the Municipal Licensing and Standards Division in response thereto shall be considered in the determination of whether or not the licence should be issued or refused in accordance with this chapter.

- B. Every owner or keeper of an eating or drinking establishment shall, when so requested by any person, produce the food safety inspection report or reports relating to the currently posted food safety inspection notice for such establishment.
- C. Every owner or keeper of an eating or drinking establishment shall forthwith notify the Municipal Licensing and Standards Division in writing of any change in the management or control of such establishment.

2. City of Toronto Municipal Code, Chapter 545 is amended by:

- A. Adding new definitions of "OWNER", "OPERATOR", and "DRIVER " to § 545-1 as follows:

OWNER – Any person who owns a business premises or vehicle, as the context requires, except as the term is otherwise defined within this chapter in which case that definition shall prevail.

OPERATOR – Any person who alone or with others operates, manages, supervises, runs, or controls a business, premises, or vehicle, as the context requires, and other like words shall be given a corresponding meaning.

DRIVER – The driver of a vehicle, including an owner who drives his or her own vehicle.

- B. Deleting the definitions of "OWNER", "MOTOR VEHICLE OWNER", "OPERATOR", "DRIVING SCHOOL OPERATOR", "OWNER or OPERATOR", "DRIVER", and "KEEPER" anywhere they appear in Articles II, III, XX, XXII, XLII, XLIV.
- C. Deleting all instances of the word "keeper" and replacing them with the word "operator".
- D. Deleting the definition of "INSTRUCTOR" from § 545-9.
- E. Deleting the definitions of "TO SOLICIT", and "PASSENGER" from § 545-16.
- F. Deleting all instances of the phrase "wagon," from § 545-224B.
- G. Deleting all instances of the phrase "or wagon" from § 545-226.
- H. Deleting the phrase "or horse-drawn wagon" from § 545-227.
- I. Deleting the phrase "wagon," from § 545-277.

- J.** Deleting § 545-224A and renumbering § 545-224B as § 545-224A.
 - K.** Deleting §§ 545-199, 545-200, and 545-201.
 - L.** Amending § 545-208G to read as follows:

No driver of a school bus carrying passengers shall smoke a cigar, cigarette, e-cigarette, tobacco, or other substance while driving the school bus.
 - M.** Amending the definition of "HOLISTIC SERVICES" in § 545-1 by deleting Part C, such that it reads as follows:

HOLISTIC SERVICES - Any modality used as a tool for therapeutic and wellness purposes, but does not include:

 - A. Body-rubs as defined by this chapter; and
 - B. Medical or therapeutic treatment performed or offered by persons otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario.
 - N.** Deleting the definitions of "ACUPUNCTURE" and "TRADITIONAL CHINESE MEDICINE" from § 545-1.
 - O.** Deleting §§ 545-12A(5), 545-172, 545-208J, 545-339, 545-372, 545-436, and 545-509.
 - P.** Deleting Appendix J, Notice.
 - Q.** Deleting the definition of "DRIVE-SELF CARTAGE VEHICLE" from § 545-1.
 - R.** Deleting § 545-2A(39).
- 3.** City of Toronto Municipal Code, Chapter 545 is amended by:
- A.** Adding a definition of "SCREENING CRITERIA" to § 545-1 as follows:

SCREENING CRITERIA - Licensing thresholds established by the Executive Director under his or her authority to establish policies and guidelines with respect to public safety and to establish thresholds for criminal and background screening, driving record checks, and other standards applicable to the issuance and renewal of all licences issued under this chapter, as published by ML&S.
 - B.** Renumbering § 545-7 (Offences) as § 545-8.5.
 - C.** Deleting §§ 545-4, 545-5, 545-6 and 545-8 replacing them with the following:

§ 545-3.1. Licences, applications and renewals.

- A. Completion of application forms and required documents.
- (1) On an application for a licence, or renewal of a licence, respecting any of the businesses or occupations mentioned in § 545-2A, a person authorized to bind the applicant shall complete the prescribed forms and shall furnish to ML&S such information as the Executive Director may direct, together with all applicable fees.
 - (2) Every owner and every operator of a body-rub parlour applying for a licence pursuant to § 545-2A(7) shall deliver to ML&S with the application payment in full, by cash or certified cheque, or the licence fee required by this chapter to be paid in respect of such licence.
 - (3) The payment required by Subsection A(2) shall, if the licence is granted, be applied toward the payment of the licence fee for the licence period in respect of which the licence is issued.
 - (4) The payment required by Subsection A(2) shall, if the licence is not granted, not be returned to the applicant.
- B. Where a business or occupation referred to in § 545-2A is carried on by multiple persons, the licence may be issued to the applicant only, but, those persons shall be required to provide their names and addresses, and shall be required to acknowledge that they may be held jointly and severally responsible for each other's actions regarding the business.
- C. ML&S shall, upon receipt of an application for a licence or its renewal, investigate as necessary with respect to the application and shall:
- (1) If there are reasonable grounds to believe that the applicant may not be entitled to the issuance or renewal of a licence based on § 545-4, or by reason of any other provision of this chapter, send notice of this fact to the applicant by mail or email at the address as shown on the application form; or
 - (2) Subject to the provisions of this chapter, issue or renew the licence.
- D. A notice sent in accordance with Subsection C(1) shall include:
- (1) A statement that the applicant may request a hearing of the application before the Toronto Licensing Tribunal by delivering a written request for a hearing to ML&S within 30 days of the date of the notice; and

- (2) A statement that if no hearing request is delivered, the application will be denied.
 - (3) Where ML&S receives a hearing request for a hearing from an applicant in accordance with Subsection D(1), the application shall be referred promptly to the Toronto Licensing Tribunal for a hearing.
- E. If an applicant has applied for renewal of the licence and has remitted all applicable fees, the licence shall be deemed to continue:
- (1) Until the renewal is granted; or
 - (2) If the licensee is sent a notice under Subsection C(1), until the time for requesting a hearing has expired or, where a hearing has been requested, until the Toronto Licensing Tribunal has disposed of the application.
- F. The Executive Director may issue and renew licences on a multi-year basis and require the payment of corresponding multi-year licensing fees.
- G. Validity of endorsements.
- (1) Where a person holding a licence under this chapter is issued an endorsement to permit additional business activity under the licence, that business activity shall be started within 60 days of the issuance of the endorsement and carried on continuously afterward.
 - (2) In the event that the relevant business activity is not started as required by this section or is discontinued for a continuous period of time of at least 30 days, the endorsement shall be deemed to be expired and the licensee shall be required to pay a fee to amend the licence as required by this chapter.
 - (3) No person shall obtain or use an endorsement except as required by this section.

§ 545-4. Grounds and administrative thresholds for denial of licence.

- A. An applicant for a licence or for the renewal of a licence, is, subject to the provisions of this chapter, entitled to the licence or renewal, except where:
- (1) The conduct of the applicant affords reasonable grounds to believe that the applicant has not carried on, or will not carry on, the business in accordance with law and with integrity and honesty; or

- (2) There are reasonable grounds to believe that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any law; or
 - (3) The applicant is a corporation and its conduct or the conduct of its officers, directors, employees, or agents affords reasonable grounds to believe that its business has not been, or will not be, carried on in accordance with law and with integrity and honesty; or
 - (4) There are reasonable grounds to believe that the premises, equipment, or facilities in respect of which the licence is required have not complied, or will not comply, with the provisions of this chapter or any other law; or
 - (5) The conduct of the applicant or other circumstances afford reasonable grounds to believe that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health or safety.
- B. In addition to the grounds set out in Subsection A, ML&S shall refuse to issue or renew a licence where an applicant has not met the screening criteria.
- C. Where an applicant is a corporation or a partnership, Subsection B shall apply to any of the officers or directors of the corporation or partners in the partnership.

§ 545-5. General licence issuance provisions.

- A. Notwithstanding any decision of or statement by the Toronto Licensing Tribunal, the Executive Director, or any employee of ML&S, no person shall be licensed to carry on or engage in a business for which a licence is required until he or she has paid all applicable fees in respect of such licence and has received the physical licence, plate, or other evidence of the licence provided for in this chapter.
- B. The Executive Director shall approve the form of and sign or mechanically reproduce his or her signature on all licences issued under this chapter.
- C. Validation stickers.
- (1) Where this chapter provides for a plate bearing an identifying number to be issued for use on a vehicle in respect of any class of licence, the Executive Director may authorize the issuance and use

of an approved form of validation sticker on such plate in respect of any period for which the licence is issued.

- (2) A plate with a validation sticker affixed to it in accordance with this section is valid for the licence period for which the sticker was issued.
- (3) Where the Executive Director has authorized the issuance and use of a validation sticker under Subsection C(1):
 - (a) Every person to whom such a class of licence is issued shall:
 - [1] Obtain such sticker from ML&S at the time such licence is issued;
 - [2] Affix the sticker to the top right-hand corner of the plate issued by ML&S for the vehicle in respect of which the licence is issued; and
 - [3] Maintain the sticker on the plate throughout the period for which the licence is valid.
 - (b) The use of a plate that does not bear a validation sticker as required by this section shall be deemed to be a breach of any provision of this chapter that requires a plate to be affixed to or maintained on a vehicle.

D. Licence to be posted on premises or carried by licensee.

- (1) Every person obtaining a licence under this chapter that applies to premises shall post his or her licence in a conspicuous place on the premises in respect of which the licence is issued, and shall produce it for inspection when asked by ML&S.
- (2) Every person obtaining a licence under this chapter that applies to his or her occupation shall carry such licence with him or her when engaged in the occupation for which the licence is issued, and shall produce it for inspection when asked by ML&S.

E. Licences non-transferable; advertisement of alternate business name prohibited.

- (1) No person shall enjoy a right in the continuance of a licence and at all times the value of a licence shall be the property of the City.
- (2) No licence shall be transferred except in accordance with this chapter.

- (3) No person licensed under this chapter shall advertise, promote, or carry on business under any name other than that endorsed upon his or her licence.
- F. Any licence holder who changes his or her address shall, within 48 hours after such change, notify ML&S of his or her new address and, if requested by the Executive Director, attend at ML&S' offices and produce his or her licence for the change to be entered on it.
- G. Where any person holding a licence under this chapter applies for an amendment to the licence at any time other than renewal of the licence, he or she shall pay a fee.
- H. Upon suspension or revocation of a licence issued under this chapter, the licensee shall return to ML&S the licence, and any plate or other evidence of such licence issued under this chapter, and ML&S shall have access to any premises, vehicle, or other property for the purpose of receiving or taking the licence, plate, or other such evidence, and no person shall in any way prevent or hinder the receiving or taking of same.
- I. Notice of the revocation of any licence may be given by ML&S by written communication to the licensee at the address provided by the licensee, and upon such notice, the licence revoked shall terminate and be of no further effect.

§ 545-6. Term and renewal of licences.

- A. All licences issued under this chapter shall be valid for one year and renewed on the anniversary of the date upon which the licence was first issued or, where a person holds more than one licence, the Executive Director may allow for the harmonization of renewal dates.
- B. A person may apply to renew a licence issued under this chapter by submitting an application to ML&S in a form and manner approved by the Executive Director together with all applicable fees.
- C. At any time, ML&S may require the holder of a licence to file with ML&S documentary evidence that the applicant satisfies the requirements of this chapter.
- D. Where persons holding a licence issued under this chapter fails to apply for renewal of their licence by the date set out in Subsection A, they shall pay a late renewal administration fee in addition to the annual licence fee.
- E. Where a person holding a licence issued under this chapter fails to renew it within 90 days of the specified renewal date, the licence shall be

cancelled and the person shall be required to apply for a new licence under this chapter and pay all applicable fees.

- F. Where a person licensed under this chapter fails to renew his or her licence in accordance with this section, any plate issued or supplied in respect of such licence shall be returned to and remain with ML&S until the licence is renewed.

§ 545-7. ML&S authority to refer matters to the Toronto Licensing Tribunal.

At any time, ML&S may refer to the Toronto Licensing Tribunal for a hearing any matter in respect of which a licence may be refused, suspended, revoked, or have conditions imposed on it under this chapter, including the failure by a licensee, or where the licensee is a corporation or partnership, any officer, director, employee, or agent of the corporation or partner in the partnership, to comply with the screening criteria.

§ 545-8. Toronto Licensing Tribunal mandate.

A. Mandate of the Toronto Licensing Tribunal.

- (1) The Toronto Licensing Tribunal is created as a quasi-judicial adjudicative body empowered to hear evidence and submissions and make independent decisions and shall perform the duties that are assigned to it under this chapter.
- (2) City Council has delegated its decision-making powers to the Toronto Licensing Tribunal to determine whether a licence under this chapter should be issued, refused, suspended, revoked, or have conditions placed upon it.
- (3) This chapter sets out City Council's objectives with respect to the licensing of vehicles-for-hire, and the Toronto Licensing Tribunal shall:
 - (a) Uphold the spirit and intent of the Municipal Code;
 - (b) Determine whether or to what extent an applicant or licensee meets the requirements of the Municipal Code in view of their individual circumstances and qualifications;
 - (c) Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood; and
 - (d) Ensure the hearing process is accessible and transparent and that hearings are conducted in a timely manner with due process.

- B. The Toronto Licensing Tribunal shall operate according to the requirements and procedures set out in Chapter 545, Licensing.

§ 545-8.1. Toronto Licensing Tribunal hearings.

- A. The Toronto Licensing Tribunal shall consider matters referred to it at a public hearing.
- B. The Toronto Licensing Tribunal shall not be bound by the screening criteria, provided that it shall be required to report, within a reasonable period of time, to the General Government and Licensing Committee, setting out the basis for:
- (1) A decision to issue or renew a licence refused by ML&S for failure to comply with the screening criteria; or
 - (2) A decision not to attach conditions, revoke, or suspend a licence as recommended by ML&S for failure to comply with the screening criteria.
- C. The Toronto Licensing Tribunal may, for any of the reasons set out in § 545-4:
- (1) Suspend or revoke any licence issued under this chapter;
 - (2) Impose such conditions upon a licence as it considers appropriate and as are authorized by law; and
 - (3) Suspend a licence or continue the suspension of a licence where a hearing that has been commenced is adjourned for any reason, pending its final disposition.
- D. Conditions on licences.
- (1) Despite Subsection C, the Toronto Licensing Tribunal may, having regard to the conduct of the business by the licensee, suspend the passing of penalty and direct that the licence continue on such conditions as the Toronto Licensing Tribunal considers just and as are authorized by law.
 - (2) Where a licensee who is bound by conditions issued in accordance with Subsection D(1) is found to have contravened those conditions or any provision of this chapter, in addition to any penalty that the Toronto Licensing Tribunal may impose in respect of that contravention, the Tribunal may:

- (a) Impose any suspension or revocation of the licence that could have been imposed had the passing of penalty not been suspended; and
 - (b) Impose such further conditions as the Toronto Licensing Tribunal considers just and are authorized by law.
- E. Prior notice of hearing; recording of proceedings.
- (1) ML&S shall give the licensee or applicant at least seven days' notice of a hearing before the Toronto Licensing Tribunal which shall be delivered to the last address on file with ML&S.
 - (2) The proceedings of the Toronto Licensing Tribunal shall be taken down and recorded by a court reporter.

§ 545-8.2. ML&S authority to inspect premises and items.

- A. ML&S and any person authorized by the Executive Director may at all reasonable times inspect any premises or vehicle used for the carrying on of any business in respect of which a person is licensed or required to be licensed under this chapter, and may inspect any items relating to such business.
- B. No person who has or is required to have a licence under this chapter shall obstruct or permit the obstruction of an inspection under this chapter.

§ 545-8.3. ML&S authority to suspend licences without a hearing.

- A. If the Executive Director is satisfied that the continuation of a business or occupation licensed under this chapter poses an immediate danger to the health or safety of any person or any property, the Executive Director may suspend the licence without a hearing on conditions it considers appropriate, subject to the following:
 - (1) Before suspending the licence, the Executive Director shall provide the licensee with reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
 - (2) The suspension shall not exceed 14 days.

§ 545-8.4. General provisions applicable to all licensees.

- A. No person licensed, or required to be licensed, under this chapter shall discriminate against any member of the public in the carrying on of the business on the basis 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.

- B. No person licensed, or required to be licensed, under this chapter shall, in respect of any person with a disability being accompanied by a service animal, by reason only of the presence of the service animal:
- (1) Refuse to serve the person;
 - (2) Refuse to permit the person and service animal to enter any place, premises, vehicle, or thing to which the licence relates; or
 - (3) Refuse to permit the person and service animal to remain in or upon such place, premises, vehicle, or thing.
- C. No person licensed, or required to be licensed, under this chapter shall permit any person, including him or herself, to use a hookah or smoke, which shall include the carrying of a lit cigar, cigarette, pipe, or any other lit smoking equipment, in or upon any premises, vehicle, or thing to which the licence relates.
- D. No person licensed under this chapter shall solicit, employ, or allow any runner or other person to assist or act in concert with him or her in soliciting any person to take or use his or her taxicab, limousine, or PTC vehicle on any public highway, lane, street, common, park, or square.
- E. Threats or reprisals.
- (1) For the purposes of this section, "any action by way of threat or reprisal" means:
 - (a) Terminating or purporting to terminate any employment or other business relationship governed by the provisions of this chapter; and
 - (b) Causing or purporting to cause pecuniary harm in respect of any business governed by the provisions of this chapter.
 - (2) No person licensed, or required to be licensed, under this chapter shall take any action by way of threat or reprisal against any other person licensed under this chapter by reason only of such person's participation in proceedings instituted under this chapter or such person's participation in the exercise of City Council's authority to enact by-laws to license, regulate, and govern businesses in Toronto.
 - (3) No person licensed, or required to be licensed, under this chapter shall, in respect of the licensed business carried on by such person, take any action by way of threat or reprisal against any other person licensed under this chapter.

- F. Where any licensee, or where the licensee is a corporation or partnership, any officer or director of the corporation or partner in the partnership, in the course of the tenure of the licence ceases to comply with the screening criteria, the licensee shall immediately contact and advise ML&S of the nature and extent of the violation.
- G. Failure to provide the notice referred to in Subsection F may independently result in the suspension of the licence-holder's licence.
- H. Without limiting §§ 545-498 and 545-506, every person licensed or required to be licensed under this chapter shall maintain the public sidewalks, curbs, and gutters surrounding their business free from littered cigarette butts, cigar tips, electronic cigarettes, and any waste disposal generated by their patrons.
- I. Every person licensed or required to be licensed under this chapter shall install and maintain temporary cigarette disposal containers or receptacles, in accordance with the following requirements:
 - (1) the temporary cigarette disposal containers or receptacles shall be installed and maintained on the sidewalk forming part of the public highway immediately adjacent to their business; and
 - (2) the temporary cigarette disposal containers or receptacles shall be installed and maintained on the sidewalk forming part of the public highway during the business' operating hours and removed at the close of business, daily.
- J. No person licensed under this chapter shall exhibit any show or performance of any kind, or sell or offer for sale any goods, wares, or merchandise on the days of the holding of the Canadian National Exhibition or of any agricultural fair within the City of Toronto either within the grounds of such Exhibition or fair or within 274 metres from it; provided that this section shall not apply to a person who exhibits such show or performance or sell or offers for sale such goods, wares, or merchandise under a proper concession from the Canadian National Exhibition Association or the operator of the agricultural fair authorizing him or her so to do, nor to a person who has a business premises and conducts a permanent business therefrom within the prohibited areas before mentioned.
- J.** Deleting Appendix K, Business Licensing Thresholds.

4. This by-law shall come into force on the day it is enacted.

Enacted and passed on December , 2019.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)