

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW 2003-50

LICENSING: (R.1.2.1) being a by-law to license amusement arcades

WHEREAS Part IV of the *Municipal Act*, 2001 S.O. 2001, c.25, said Part IV being entitled "Licensing and Registration" sets out the conditions precedent to a municipality licensing a business;

AND WHEREAS s. 150(2) of the *Municipal Act* sets out three purposes for which a municipality may license a business, those purposes being health and safety, nuisance or consumer protection or a combination of all three;

AND WHEREAS the types of allowable costs for licence fees are set out in s. 150(10) of the said *Municipal Act*, those costs being the costs associated with preparation of the by-law, inspections related to the by-law, enforcement of the by-law against the person operating without a licence, prosecution and court proceedings, and reciprocal licensing arrangements;

AND WHEREAS after a review carried out by the Legal Department and Police Services of the City it was determined that for the purpose of nuisance control it was necessary to license amusement arcades;

AND WHEREAS prior to By-law 93-96 having been passed by City Council there were complaints from businesses located in the vicinity of amusement arcades concerning loitering and vandalism;

AND WHEREAS one amusement arcade licence was issued in 2002;

~~AND WHEREAS the proposed annual fee for each amusement arcade is proposed to be \$250.00 per licence;~~ **[amended by By-law 2020-108]**

AND WHEREAS the costs of the Legal Department in preparing, reviewing and circulating this by-law for comments, and circulating it after it has been considered by Council are estimated to be \$300.00;

AND WHEREAS the costs of advertising the public meeting to be held to consider the passing of the by-law along with preparing the notice and arranging for it to be placed in the local newspaper are estimated to be \$100.00;

AND WHEREAS the costs of the City Clerk's Department in issuing amusement arcade licences are estimated to be \$60.00; **[Amended by By-law 2019-229]**

AND WHEREAS the costs of Police Services inspections are estimated to be \$500.00;

AND WHEREAS the above-noted costs total \$960.00;

AND WHEREAS a notice of the public meeting for consideration of this by-law was given in accordance with s. 150(4) of the *Municipal Act*;

NOW THEREFORE THE COUNCIL of the Corporation of the City of Sault Ste. Marie pursuant to s. 150 of the *Municipal Act* 2001, S.O. 2001, c.25, **ENACTS** as follows:

1. In this By-law:
 - (a) "Amusement Machine" means any mechanical, electronic or computerized machine, or device, or any combination thereof, which is coin operated or used for gain or hire, intended for use as a game, entertainment or amusement and shall include:
 - (i) pinball machines, television games, shooting galleries or other similar devices, but shall not include billiards, games of chance as defined by The Criminal Code, or any machine used only for the purpose of vending merchandise, or services or playing recorded music, or any machines used for educational purposes used in conjunction with institutions governed by The Education Act.
 - (b) "Amusement Arcade" means any premises, part thereof, or separate part of a premises, in which are located two or more amusement machines but does not include a hotel as defined in the Hotel Fire Safety Act and further does not include premises in which amusement devices are being operated for a period of fourteen (14) days or less as a special fund-raising event by or on behalf of a charitable organization or a midway.
2. No person shall conduct, operate or carry on or permit to be conducted, operated or carried on an amusement arcade without first having obtained an annual licence by the end of December 31st of any year and paid the applicable fee as set out in the Annual User Fee By-law as amended from time to time. **[amended by By-law 2020-108]**
3. No person shall conduct, operate or carry on, or permit to be conducted, operated or carried on an amusement arcade closer than 300 m. of any school, as defined by The Education Act, R.S.O. 1990, Chapter E.2.
4. No person shall operate any amusement arcade in areas other than those permitted by the provisions of the applicable zoning by-laws for the City of Sault Ste. Marie.
5. All licensed premises shall comply with applicable zoning by-laws of The Corporation of the City of Sault Ste. Marie, and any conflict between this by-law and the applicable zoning by-law shall be resolved by allowing the zoning by-law to prevail.
6. (a) Every person who requires a licence under the provisions of this by-law shall make application therefor in the prescribed form enclosing the fee prescribed by this by-law and forwarding it to the City Clerk's Department of The Corporation of the City of Sault Ste. Marie. Upon receipt of such application, the City Clerk's Department shall require the applicant to forward a copy of the application to Sault Ste. Marie Fire Services, the Algoma Health Unit, Sault Ste. Marie Police Services and the Building Division of The Corporation of the City of Sault Ste. Marie and may require the applicant to forward a copy of such application to any other department of The Corporation of the City of Sault Ste. Marie which may be affected, for approval.
[Amended by By-law 2019-229]

- (b) Every person previously licensed under the by-law shall make application for the renewal of such licence in January of each subsequent year indicating the location of the premises for which the licence is sought to be renewed and indicating any alteration or changes in conditions which have been effected since the application for a licence or any renewal thereof.
7. If the approvals referred to in Paragraph 6(a) herein contain no adverse recommendation to a licence being issued to the applicant, then the City Clerk's Department may thereupon issue the licence. **[Amended by By-law 2019-229]**
- 7A. Upon the City Clerk, or their designate, being satisfied that a Licence has been lost and that the Applicant for a new Licence form has made a diligent search therefor and is making application for a new Licence form in good faith, and if such Applicant undertakes in writing to the City Clerk, or their designate, to surrender the lost Licence form to them if found, the Clerk, or their designate, may issue a duplicate Licence to such applicant which shall consist of a true copy of the original Licence upon which the word "duplicate" is endorsed over the signature of the Clerk, or their designate. The fee for a lost licence issued under this provision of this by-law shall be as set out in the Annual User Fee By-law as amended from time to time. **[amended by By-law 2020-108]**
8. In the event that the City Clerk's Department refuses to issue a licence, the applicant may appeal the decision to the Council of The Corporation of the City of Sault Ste. Marie. The applicant shall appeal the said decision within thirty (30) days of the date of refusal. **[Amended by By-law 2019-229]**
9. The fee for licence issued under the provisions of this by-law shall be as set out in the Annual User Fee By-law as amended from time to time; the fees to be paid annually in January of each year and all such licences issued shall remain in force until December 31st of the year. The fee payable for the transfer in ownership of any licence issued hereunder shall be as set out in the Annual User Fee Bylaw as amended from time to time. **[Amended by By-law 2019-174]**
- 9A. A Licence taken out after January 1st of each year by any person operating or carrying on or engaging in an amusement arcade business as set out in this by-law shall be subject to an additional "Late Licence" fee as set out in the Annual User Fee By-law as amended from time to time unless evidence tendered by the person shows they stopped operating for more than twelve (12) months since the issuance of the last licence to them under this by-law. **[amended by By-law 2020-108]**
10. During the currency of any licence issued under this by-law, the transferor or transferee may make application to transfer the licence and pay the prescribed fee. The application for renewal or transfer shall be in the form prescribed. In the case of a transfer or renewal of any licence issued hereunder, the City Clerk's Department shall obtain a report from the Chief of Police of the Sault Ste. Marie Police Services and the provisions of Paragraph 6 shall apply. **[Amended by By-law 2019-229]**
11. The issued licence shall be displayed in a conspicuous place in the premises for which the said licence was issued.
12. Any Licence issued pursuant to the provisions of this by-law may be revoked or cancelled at any time by the City Clerk or their designate, without notice, subject to the provisions of the Statutory Powers Procedures Act, R.S.O. 1990, c S.22 and the Municipal Act, 2001, S.O. 2001, c. 25:
- i. For any reason that would disentitle the holder of the Licence if he or she were an applicant;
 - ii. If the information in the application is false;

- iii. If the operation of the Licencee's business is or will not be carried on in compliance with the law;
- iv. If the conduct of the Licencee is calculated to mislead, deceive, or intimidate the public, or in a manner contrary to the provisions of this by-law.

Upon cancellation or revocation of a Licence, the Licencee shall return to the City Clerk's Office, or their designate, all Licence certificates and licence plates, badges and other indicia issued by the City with reference to such Licence. **[Amended by By-law 2020-108]**

- 13. Every amusement arcade licensed or proposed or required to be licensed under this by-law shall be made available for inspection during the times the amusement arcade is authorized to be open under this by-law, by any constable or police officer, an employee of the City Clerk's Department and any other agencies authorized by Council for the purpose of enforcing this by-law, or reporting on the ability to approve the licence application. No person who has, or is required to have a licence under this by-law, shall obstruct or hinder the making of the inspection or cause or permit the same to be obstructed or hindered. **[Amended by By-law 2019-229]**
- 14. Every holder of an amusement arcade licence shall ensure that:
 - (a) the amusement arcade remains closed except during the following times:

Monday to and including Thursday, from 1:00 p.m. to 11:00 p.m.;
Friday, from 1:00 p.m. to 12 midnight; Saturday, from 10:00 a.m. to 12 midnight, and Sunday, from 12:00 noon to 11:00 p.m.
 - (b) Every amusement arcade shall at all times, where amusement machines are available for play, be supervised by a person, which person shall be no less than 18 years of age.
 - (c) Only amusement machines which have been approved by the Electrical Safety Association or Canadian Standards Association (C.S.A.) and which display the prescribed approval sticker shall be available for the public to use within the licensed premises.
 - (d) No glass or transparent surface of any door or window shall be obstructed in such a way as to prevent a person from the exterior from looking into the premises, without actually having to enter upon the premises.
 - (e) The amusement arcade shall be kept in a clean and sanitary condition at all times, and provide two waste receptacles which shall be cleared at least once each day.
 - (f) All amusement machines shall be located within the premises.
 - (g) No external sound system broadcasting music or other sound shall be used or permitted to be used.
 - (h) No internal sound system broadcasting music or other sound shall be used or permitted to be used so as to be heard from outside of the premises by members of the public.
 - (i) The amusement arcade shall have 2.4m aisles between the ends of the amusement machines in order to provide playing room and a through access.
- 15. No operator of an amusement arcade shall:
 - (a) permit any person to loiter, create a disturbance or cause undue noise while on the licensed premises.

- (b) breach any provisions contained in this by-law or amendments thereto.
16. Any person convicted of a breach of any provisions of this by-law shall be liable to a penalty in accordance with the provisions of the Provincial Offences Act.
17. That each and every of the foregoing provisions of this by-law is severable and that, if any provision of this by-law should for any reason be declared invalid by any court, it is the intention and desire of the Council of The Corporation of the City of Sault Ste. Marie that each and every of the then remaining provisions hereof shall remain in force and effect.
- 17A. **Interpretation**
In this by-law, unless the context otherwise requires, words importing the singular member shall include the plural and words importing the masculine shall include the feminine. **[amended by By-law 2020-108]**
- 17B. **Conflict**
In the case of a conflict between the provisions of this by-law and any other municipal by-law, the provisions of this by-law shall prevail. **[amended by By-law 2020-108]**
- 17C. **Severances**
If any section, subsection, sentence, clause, phrase or provision of this bylaw is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the by-law. The City hereby declares that it would have passed this by-law and each section, subsection, sentence, clause, phrase and provision herein, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions be declared invalid. **[amended by By-law 2020-108]**
18. **BY-LAW REPEALED**

By-law 93-96 is hereby repealed.
19. **EFFECTIVE DATE**

This by-law takes effect on the day of its final passing.
- READ THREE TIMES** and **PASSED** in open Council this 17th day of March, 2003.

“JOHN ROWSWELL”

MAYOR – JOHN ROWSWELL

“DONNA P. IRVING”

CLERK – DONNA P. IRVING