

**THE CORPORATION OF THE CITY OF THUNDER BAY
THE THUNDER BAY POLICE SERVICES BOARD**

BY-LAW NUMBER PC7 - 2005

A By-law pursuant to Section 151 of The Municipal Act to provide for the Licensing, Regulation and Governance of Adult Entertainment Establishments for health and safety reasons in the City of Thunder Bay, in the District of Thunder Bay.

Recitals

1. The Municipal Act authorizes Council to license and regulate a variety of businesses, including adult entertainment establishments. The Municipal Act also authorizes Council to delegate this authority to the Police Services Board.
2. The Council has delegated to the Board the authority to license and regulate Adult Entertainment Establishments.
3. The authority in the Municipal Act includes: the power to issue licenses on condition, revoke licenses, suspend licenses, to regulate or govern the place used in the carrying on of business, and many other matters.
4. The Board considers it appropriate to License the Owners of Adult Entertainment Establishments, the managers of those establishments, and the persons within those establishments who deliver adult entertainment services (known as “Attendants”) in Thunder Bay.
5. From a health and safety standpoint, licensing Owners and Operators of Adult Entertainment Establishments allows for the safe maintenance of the facility. Licensing Attendants helps safeguard those Attendants, as well as the business patrons, against the health and safety concerns associated with Sexual Contact, and helps to prevent the industry use of underage Service providers.

Accordingly, the Thunder Bay Police Services Board enacts this By-law PC7-2005.

Article 1.00: Interpretation

- 1.01 **Definitions:** Wherever a term set out below appears in the text of this By-law with its initial letter capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.
- (a) “**Adult Content**” is an adjective describing an event or production which involves entertainment or Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations, which is not held within an Adult Entertainment Establishment.

- (b) **“Adult Entertainment Establishment”** means any premises or part of a premises in which is provided, in pursuance of a trade, calling, business or occupation, Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations.
- (c) **“Applicant”** means any person making application for a License, or renewal of a License pursuant to this By-law.
- (d) **“Attendant”** means any person other than an Owner or Operator who is licensed to provide Services at an Adult Entertainment Establishment.
- (e) **“Board”** means the Police Services Board to which Council has delegated the responsibility of handling certain Licensing matters.
- (f) **“Business”** means an Adult Entertainment Establishment.
- (g) **“By-law”** means this By-law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it.
- (h) **“Chief Building Official”** means the person within the City’s administration who fulfills the function of the chief building official as required by the Ontario Building Code Act, 1992, or his or her designate.
- (i) **“City”** means The Corporation of the City of Thunder Bay.
- (j) **“Committee”** means the committee of the Board to which the Board has delegated the responsibility of handling Licensing matters. Where there has been no delegation, the term refers to the Board itself.
- (k) **“Council”** means the elected municipal council for the City.
- (l) **“Fire Chief”** means the person within the City’s administration who fulfills the function of the fire chief as required by the Fire Protection and Prevention Act, or his or her designate.
- (m) **“General Manager – Development Services Department”** means the City’s General Manager of the Development Services Department. The term also includes his or her designate.
- (n) **“Health Unit”** means the Thunder Bay District Health Unit.
- (o) **“License”** means a license issued pursuant to this By-law. There are three types of license, as follows:
 - i) an Attendant’s License;
 - ii) an Owner’s License; and
 - iii) an Operator’s License.
- (p) **“Licensee”** means the Owner of a License.

- (q) **“Main Stage”** means, in relation to an Adult Entertainment Establishment, the principle setting, scene or area upon which performances, services or an event or a series of events are presented, exclusive of patron seating areas.
- (r) **“Manager”** means the Manager of the Licensing & Enforcement Division of the Development Services Department for the City. The term also includes his or her designate.
- (s) **“Medical Officer of Health”** means the Medical Officer of Health of the Health Unit. The term also includes his or her designate.
- (t) A **“Municipal Law Enforcement Officer”** means a member of the Police, a law enforcement officer, the Manager, or another person duly appointed to enforce the by-laws of the City or the Board.
- (u) **“Operator”** means a person who operates, manages, supervises, runs or controls an Adult Entertainment Establishment on behalf of the Owner. For clarification, the “Operator” may be the same person as the “Owner” from time to time. The terms **“Operate”**, **“Operation”** and words of like import or intent have corresponding meanings.
- (v) **“Owner”** in reference to an Adult Entertainment Establishment, means a person who owns the Business operation. The Owner may or may not hold title to the real estate on which the Business operates, but he, she or it, whether alone or with others, directly or indirectly owns the Business.
“Owner” in reference to real or personal property, means the person with legal title to the property.
In either case, the terms **“Own”**, **“Ownership”**, and words of like import or intent have corresponding meanings.
- (w) **“Police”** means the Thunder Bay Police Service.
- (x) **“Police Chief”** means the person within the Board’s administration who fulfills the function of the police chief as required by the Police Services Act. The term also includes his or her designate.
- (y) **“Services”** in reference to an Adult Entertainment Establishment include: activities, facilities, performances, exhibitions, viewing, and encounters. The term expressly excludes the exhibition of any film that has been approved under the Theatres Act.
- (z) **“Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations”**, in reference to an Adult Entertainment Establishment, include:
1. Services of which a principal feature or characteristic is the nudity or partial nudity of any person;
 2. Services in respect of which:
 - (a) any one or more of the words:
 - “nude”;
 - “naked”;
 - “topless”;

- “bottomless”;
 “sexy”; or
 any other word having like meaning or implication; or
 (b) any picture, symbol or representation having like meaning or implication
 is or are used in any advertisement;
3. Services in respect of which:
- (a) any one or more of the words or phrases:
 “lap dancing”;
 “table dancing”;
 “strip tease”; or
 any other word having like meaning or implication; or
 (b) any or any picture, symbol or representation having like meaning or
 implication
 is or are used to name or describe the service itself.

(aa) “**Sexual Contact**” means the touching by, or physical contact between, two or more persons, whether or not the touching is skin to skin, which involves any one or more of the following: kissing, fondling, sucking of breasts or genitalia, digital penetration, fellatio, cunnilingus, masturbation, ejaculation or intercourse.

(bb) “**Thunder Bay**” means the geographic area under the jurisdiction of the City.

- 1.02 **Legislation, By-laws**: Each reference to Provincial legislation in this By-law, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to another By-law in this By-law, unless otherwise specified, is a reference to a By-law of the Corporation, and, in every case, includes all applicable amendments to this By-law, including successor By-laws.
- 1.03 **Construing this By-law**: The captions, article and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation. This By-law is to be read with all changes of gender or number required by the context. The words “**include**”, “**includes**”, “**including**” and “**included**” are not to be interpreted as restricting or modifying the words or phrases which precede them.
- 1.04 **Severability**: If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

Article 2.00: Administration of this By-law

- 2.01 **Administration of By-law**: Unless otherwise indicated, the administration of this By-law is assigned to the Police Chief who may delegate the performance of his or her functions under this By-law from time to time as occasion requires.
- 2.02 **Application**: Applications for all Licenses under the provisions of this By-law shall:
 (a) be made in person;
 (b) be made to the office designated by the Police Chief, on forms to be provided;

- (c) be stamped with the date of receipt and processed in the order in which they are received; and
- (d) be finalized, unless a hearing before the Committee is pending, within thirty (30) days of the date referenced in (c).

- 2.03 **Application Information Required:** Every Applicant shall provide in full, at the time the application is submitted, all of the information requested on the application form as well as:
- (a) payment of the prescribed license fee as set out in By-law Number PC9-2005;
 - (b) two (2) photographs of the Applicant's face, one which will be attached to and form part of the License and the other shall be filed with the City;
 - (c) Proof of age, to the satisfaction of the Manager, that the Applicant is the full age of eighteen (18) years;
 - (d) In the case of an Owner's License, identification of the site or sites to be authorized by the Owner's License;
 - (e) In the case of an Operator's License, identification of the site or sites that the Operator is licensed to Operate; and
 - (f) any other document or information as may be required by this By-law.
- 2.04 **License Fee:** The fee for obtaining a License shall be as set out in By-law Number PC9-2005. No fee is refundable except in the event that a License is revoked by reason of municipal staff error. In that case the Licensee is entitled to a full refund.
- 2.05 **Application Subject to Approval:** Every site for which the Applicant seeks authorization will be subject to investigation approvals from the Thunder Bay District Health Unit, Fire Services, Police Services and Licensing & Enforcement.
- 2.06 **License Surrender:** A Licensee may at any time surrender a License. Surrender of a License does not entitle the Licensee to a refund of all or any portion of the License Fee paid.
- 2.07 **Transfer Prohibited:** Every License, at all times, is owned by and is the property of the Board and is valid only in respect of the person and/or the site named on the License. No License may be sold, purchased, leased, mortgaged, charged, encumbered or assigned. Should a Business relocate, the Licensee must apply for a new License for the new site.
- 2.08 **Circulation Requirement:** Before issuance of a License the Applicant shall circulate the application to those persons or agencies as set out in the relevant Application, as applicable to the class and status of the License. In all cases, the Manager shall confirm with the Planning Information Officer that the Zone for the site from which the Business is to be carried out is appropriate.
- 2.09 **Negative Comments:** The circulation referred to in Section 2.08 may result in negative comments or recommendations to the Manager. Negative comments may result in disqualification of the Applicant for a License under this By-law. Alternatively, negative

comments may result in the issuance of a License upon specific conditions. Examples of negative comments may include:

- 1) the Applicant's premises or place of Business are the object of an order to comply made under the Property Standards By-law, or an order made under the Ontario Building Code Act;
- 2) the Applicant's premises (or use of such for the Business) is not in compliance with the Zoning By-law or any parking requirements of the City;
- 3) the Applicant's premises require corrective action pursuant to an order of the Medical Officer of Health to ensure the safety or health of the public;
- 4) the Applicant's premises require corrective action pursuant to an order of the Fire Chief;
- 5) the Applicant's premises (or use of such for the Business) require modification in order to remove a barrier as that term is defined in the Ontarians With Disabilities Act or similar legislation;
- 6) the Applicant for an Adult Entertainment Establishment License has been previously convicted for any of the following offences under the Criminal Code of Canada (CC), within three (3) years prior to the date of the application:
 - (a) s.163 CC – corrupting morals;
 - (b) s.167 CC – immoral theatrical performance;
 - (c) s.173 CC – indecent acts;
 - (d) s.210 CC – keep common-bawdy house;
 - (e) c.212 CC – procuring; or
 - (f) c.213 CC – offence in relation to prostitution;
- 7) the Applicant was previously convicted of an offence pursuant to this or a predecessor by-law; or
- 8) the Applicant is financially obligated to the City in some manner.

Where comments set out in #6 above are received, no License shall be issued except upon order of the Board.

- 2.10 **Denial:** Where an application is denied, the reasons for the denial shall be specified in writing, and the Police Chief shall provide the Applicant with the reasons.
- 2.11 **License Issuance:** Where no negative comments are received as a result of the circulation required by Section 2.08, and where the Applicant's documentation is in order and the applicable fee has been paid, the Police Chief shall grant the License, or the renewal, as applicable, to the Applicant.
- 2.12 **License with Conditions:** The Police Chief may, in response to negative comments resulting from the circulation required in Section 2.08, issue a License subject to specific conditions. The conditions must address any deficiencies identified in the negative comments.
- 2.13 **Time Limit:** Except as otherwise provided in this By-law, Licenses shall come into effect on the date that they are issued and are renewable one year from the date of issue.
- 2.14 **Duplicate License:** A duplicate License may be issued by the Police Chief to replace any License previously issued which has been lost, stolen or destroyed, upon written

application by the Licensee and upon payment of a fee as set out in By-law Number PC9-2005.

- 2.15 **Revocation or Suspension:** No person enjoys a vested right in the continuance of a License. The Police Chief may recommend to the Board that a License be revoked or suspended for a certain period of time in the following circumstances:
- (a) the Licensee becomes disqualified to hold the License;
 - (b) the Licensee fails to comply with any condition imposed upon the License under Section 2.12 of this By-law; or
 - (c) the Licensee has been convicted of an offence pursuant to this By-law on more than one (1) occasion within a twelve (12) month period.
- 2.16 **Certain Licensees must be Persons:** Because of the requirement that a Licensee under this By-law be qualified, Operator Licenses and Attendant Licenses are available only to individual persons and not to incorporated entities or partnerships.
- 2.17 **Personal Identification:** The following types of personal identification and proof of age are prescribed for the purposes of this By-law:
- (a) a valid driver's license issued by a Canadian province or territory, or issued by a state in the United States of America, that bears a photograph of the person licensed;
 - (b) a passport issued by the government of origin;
 - (c) a "Bring Your Identification" or "B.Y.I.D." Card issued by the Liquor Control Board of Ontario;
 - (d) a Certificate of Indian Status Card issued by the Government of Canada;
 - (e) a Certificate of Citizenship Card issued by the Government of Canada;
 - (f) a Conditional Release Card issued by Correctional Services of Canada that bears a photograph of the person released; or
 - (g) a combination of an original birth certificate issued by a Province or Territory of Canada and another piece of valid identification that bears a current photograph of the person named in the birth certificate, together with his or her name.
- 2.18 **Renewals:** If the facts, conditions and negative comments are the same as had been received in a prior year, and if the Police Chief or the Board authorized that License issue for that prior time period, the Police Chief may renew the license. Notwithstanding this Section, all renewal applications are subject to any circulation requirements pursuant to Section 2.08.
- 2.19 **Information on Operators:** Each Applicant for an Adult Entertainment Establishment Owner's License shall submit with the application a list showing the name, address and birth date of each person proposed as an Operator.
- 2.20 **Replacement Licenses:** Licenses which must be re-issued due to change of information (such as address), may be replaced by the Police Chief upon payment of a fee as outlined in By-law Number PC9-2005.
- 2.21 **Prerequisites to Issue of License:** No application in respect of a new Adult Entertainment Establishment shall be considered unless and until the Police Chief has received the following:

- (a) A report from the Chief Building Official confirming that all buildings, structures, and facilities, on site, or the plans for same, are or will be in compliance with the City's Zoning By-law and any other applicable municipal by-law.
 - (b) A report from the Fire Chief confirming that all buildings, structures and facilities, or the plan for same, are in compliance with applicable fire safety regulations and the City's fire safety provisions.
 - (c) A report from the District Health Unit and/or the alternate approval authority confirming that all water supply and sewage facilities, or the plans and documentation for same, are in compliance with applicable regulations and guidelines.
- 2.22 **Floor Plan:** Every Applicant for an Adult Entertainment Establishment Owner's License shall, at the time of making application or at time of renewal, file with the City a floor plan in the form acceptable to the Manager, which clearly shows the building or part of the building to be used as an Adult Entertainment Establishment including identification of the Main Stage and all rooms to be used exclusively as offices or storage rooms. Each Adult Entertainment Establishment shall have no more than one designated Main Stage. The Owner's License shall only apply to that part of the building depicted on the floor plan.
- 2.23 **Owner's Requirement to Report Changes:** Every Owner of an Adult Entertainment Establishment must report a change in composition of the officers and directors identified in the application it filed for an Owner's License within fifteen (15) days of the change. Failure to report pursuant to this Section shall result in automatic suspension of the Owner's License, in addition to constituting an offence in accordance with Article 3.00.
- 2.24 **Re-Instatement of License:** The Police Chief may re-instate a License upon being satisfied that the provision in this By-law, which gave rise to the suspension, has since been complied with.
- 2.25 **Maximum Number of Owner Licenses:** There shall be no more than three (3) Adult Entertainment Establishment Owner Licenses issued by the Board at any one time.
- 2.26 **Permitted Sites:** Adult Entertainment Establishment Owner Licences are available in Thunder Bay for only the following three geographic locations:
- (a) Lots 516-523, Plan M88 and Pt. Lane (Closed) Plan M88 being Part 1 on Reference Plan 55R-1851, municipally known as 470 High Street South; and
 - (b) Lots 2-9 and Pt. Lane, Block 64, Plan 121, municipally known as 180 MacDougall Street; and
 - (c) Lots 2880-2883, Part Lots 2879 and 2884, Part MacDonell Street, Plan M57, being Parts 8 through 12, inclusive, on Reference Plan 55R-3405, municipally known as 802 Memorial Avenue.

Article 3.00: Regulations & Offences

- 3.01 **Owner Operating Without License:** It is an offence for an Owner to Operate a Business, or to cause, permit or allow a Business to be Operated from his or her property, without having first taken out an Owner's License from the Board pursuant to this By-law.
- 3.02 **Operator Without License:** It is an offence for any person to cause, permit or allow the Operation of a Business without having first taken out an Operator's License from the Board pursuant to this By-law.
- 3.03 **Attend Without License:** It is an offence for any person to provide or perform any Service Designed to Appeal to Erotic or Sexual Appetites or Inclinations in an Adult Entertainment Establishment without having first taken out an Attendant's License from the Board pursuant to this By-law.
- 3.04 **Cessation or Sale of Business:** It is an offence for the Owner of an Owner's License to fail to report to the Manager, within fifteen (15) days of the effective date, the cessation or sale of his or her Business.
- 3.05 **Change in Corporate Officers/Directors:** It is an offence for a corporate Owner of an Owner's License to fail to report to the Manager, within fifteen (15) days of the effective date, all changes of the identities of directors and officers of the Owner corporation.
- 3.06 **Cessation of Attending Activities:** It is an offence for the Owner of an Attendant's License to fail to report to the Manager, within fifteen (15) days of the effective date, the cessation of his or her activities as an Attendant.
- 3.07 **Change of Address:** It is an offence for any Licensee to fail to report to the Manager, within fifteen (15) days of the date of the change, any change of address of the Licensee.
- 3.08 **Requirement for On-Site Management (Owner):** It is an offence for an Adult Entertainment Establishment Owner to cause, permit or allow the Business to be open to the public or to Operate in any manner without the presence of an Operator licensed under this By-law for the site of the Business in question.
- 3.09 **Requirement for On-Site Management (Operator):** It is an offence for an Adult Entertainment Establishment Operator to leave the premises from which the Business is conducted when he or she is on duty without ensuring that another licensed Operator is available and on site.
- 3.10 **Structure of Premises (Openings):** It is an offence for the Owner of the premises within which a Business operates to cause, permit or allow the Operation of the Business when any openings in the building allow persons outside the premises to observe the Business within.

- 3.11 **Structure of Premises (Stage):** It is an offence for the Owner of the premises within which a Business operates to cause, permit or allow the provision or performance of a Service from any location other than the Main Stage.
- 3.12 **Structure of Premises (Locks):** It is an offence for the Owner of the Premises within which a Business operates to provide or to cause, permit or allow the provision of locks on any doors other than those that lead to the exterior of the Premises.
- 3.13 **Prohibition Regarding Dwelling:** It is an offence for any person to cause, permit or allow the premises from which the Business is Operated to be used as a dwelling at any time.
- 3.14 **Prohibition Regarding Sleeping:** It is an offence for any person to cause, permit or allow any other person to sleep within the premises from which the Business is Operated at any time.
- 3.15 **Owner (Post License):** It is an offence for the Owner of an Owner's License to fail to post the License in a conspicuous place at each site to which the License applies.
- 3.16 **Operation (Have License Available):** It is an offence for the Owner of an Operator's License to cause, permit or allow the Operation of the Business unless his or her License is readily available within the premises to be produced at the request of a Municipal Law Enforcement Officer.
- 3.17 **Attending (Have License Available):** It is an offence for the Owner of an Attendant's License to perform or provide Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations unless his or her License is readily available within the premises to be produced at the request of a Municipal Law Enforcement Officer.
- 3.18 **Licensee Must Produce Identification:** It is an offence for any Licensee to fail to produce identification to a Municipal Law Enforcement Officer upon request.
- 3.19 **Owner Operation (On-Site Operator):** It is an offence for the Owner of an Owner's License to cause, permit or allow his or her Business to be Operated at any time without ensuring that the Owner of an Operator's License is on site.
- 3.20 **Operation by Others (On-Site Operator):** It is an offence for any person to cause, permit or allow a Business to be Operated at any time without ensuring that the Owner of an Operator's License is on site.
- 3.21 **Owner Operation (Services By Licensed Attendants Only):** It is an offence for the Owner of an Owner's License to cause, permit or allow Services to be provided within an Adult Entertainment Establishment by any person other than the Owner of an Attendant's License.
- 3.22 **Operation by Others (Services By Licensed Attendants Only):** It is an offence for any person to cause, permit or allow Services to be provided within an Adult Entertainment Establishment by any person other than the Owner of an Attendant's License.

- 3.23 **Owner Operation (Underage Attendants):** It is an offence for the Owner of an Owner's License to cause, permit or allow any Attendant who is below the age of eighteen (18) years to provide Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations in an Adult Entertainment Establishment.
- 3.24 **Operation by Others (Underage Attendants):** It is an offence for any person to cause, permit or allow any Attendant who is below the age of eighteen (18) years to provide Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations in an Adult Entertainment Establishment.
- 3.25 **Operation (Photography Prohibited):** It is an offence to use or to cause, permit or allow to be used any camera or other photographic or recording device at an Adult Entertainment Establishment during the provision of Services Designed to Appeal to Sexual Appetites or Inclinations.
- 3.26 **Exemptions from Section 3.25:** An Owner or Operator may cause, permit or allow security cameras within the Premises if they are permanently mounted. Where such cameras exist, the Operator shall post signs in clearly visible places inside the Premises to indicate that the cameras are in use.
- 3.27 **Security Recordings (Owner):** It is an offence for the Owner of an Owner's License to fail to retain all unaltered security tapes (or other electronic form), in good usable order, for a period of not less than ninety (90) days from the date of recording.
- 3.28 **Security Recordings (Operator):** It is an offence for an Owner of an Operator's License to fail to retain all unaltered security tapes (or other electronic form), in good usable order, for a period of not less than ninety (90) days from the date of recording.
- 3.29 **Owner Operation (Hours):** It is an offence for the Owner of an Owner's License to cause, permit or allow the Adult Entertainment Establishment to be Operated between the hours of two (2:00) o'clock in the morning and eleven (11:00) o'clock in the morning on the same day.
- 3.30 **Operation by Others (Hours):** It is an offence for any person to cause, permit or allow an Adult Entertainment Establishment to be Operated between the hours of two (2:00) o'clock in the morning and eleven (11:00) o'clock in the morning on the same day.
- 3.31 **Attendant Provide Services (Hours):** It is an offence for an Attendant to provide or perform Services Designed to Appeal to Erotic or Sexual Appetites within an Adult Entertainment Establishment between the hours of two (2:00) o'clock in the morning and eleven (11:00) o'clock in the morning on the same day.
- 3.32 **Owner Operation (Sexual Contact):** It is an offence for the Owner of an Owner's License to cause, permit or allow any Attendant, while performing, to have Sexual Contact with another person within the Adult Entertainment Establishment.

- 3.33 **Operation by Others (Sexual Contact):** It is an offence for the Owner of an Operator's License to cause, permit or allow any Attendant, while performing, to have Sexual Contact with another person within the Adult Entertainment Establishment.
- 3.34 **Attendant Operation (Sexual Contact):** It is an offence for the Owner of an Attendant's License to provide or perform Services that involve Sexual Contact within the Adult Entertainment Establishment.
- 3.35 **Patron Offence (Contact with Attendants):** It is an offence for any person attending an Adult Entertainment Establishment to touch an Attendant during the course of the Attendant's performance, whether or not the touching is skin to skin.
- 3.36 **Owner Operation (Underage Patrons):** It is an offence for the Owner of an Owner's License to cause, permit or allow any person under the age of eighteen (18) years to enter or remain in the Adult Entertainment Establishment during Operation of the Business.
- 3.37 **Operation by Others (Underage Patrons):** It is an offence for any person to cause, permit or allow any person under the age of eighteen (18) years to enter or remain in the Adult Entertainment Establishment during Operation of the Business.
- 3.38 **Owner Operation (Locked Doors):** It is an offence for the Owner of an Owner's License to cause, permit or allow the door to the Premises, or the door to any room or cubicle in an Adult Entertainment Establishment to be locked during Operation of the Business.
- 3.39 **Operation by Others (Locked Doors):** It is an offence for any person to cause, permit or allow the door to the Premises, or the door to any room or cubicle in an Adult Entertainment Establishment to be locked during Operation of the Business.
- 3.40 **Owner Operation (Disorderliness):** It is an offence for the Owner of an Owner's License to cause, permit or allow drunkenness or riotous, quarrelsome, violent or disorderly conduct to occur on the Premises or in the adjacent washrooms, liquor and/or food preparation areas and/or storage areas.
- 3.41 **Operation By Others (Disorderliness):** It is an offence for any person to cause, permit or allow drunkenness or riotous, quarrelsome, violent or disorderly conduct to occur on the Premises or in the adjacent washrooms, liquor and/or food preparation areas and/or storage areas.
- 3.42 **Owner Operation (Location of Services):** It is an offence for the Owner of an Owner's License to cause, permit or allow the performance or provision of Services Designed to Appeal to Erotic or Sexual Appetites from any location within the Premises excepting the Main Stage.
- 3.43 **Operation by Others (Location of Services):** It is an offence for any person to cause, permit or allow the performance or provision of Services Designed to Appeal to Erotic or Sexual Appetites from any location within the Premises excepting the Main Stage.

- 3.44 **Attendant (Location of Services):** It is an offence for an Attendant to perform or provide Services Designed to Appeal to Erotic or Sexual Appetites from any location within the Premises excepting the Main Stage.

Article 4.00: Inspections

- 4.01 **Inspections:** The Manager, the Medical Officer of Health, the Fire Chief, the Police Chief, a Municipal Law Enforcement Officer or any person acting under those persons, or any person authorized by the Board may at reasonable times during business hours inspect:
- (a) any premises or place where a Business is carried on
 - (b) any premises or place where there are reasonable and probable grounds to believe a Business is being carried on; and/or
 - (c) any goods, equipment, books, records or documents used or to be used by the Applicant in connection with the Business.
- 4.02 **Hindering Inspections:** It is an offence for any person to hinder or obstruct or to attempt to hinder or obstruct any person exercising any power authorized by Section 4.01.
- 4.03 **Re-Inspection Fee:** When a re-inspection is required to:
- a) confirm compliance with a condition imposed; or
 - b) to rectify a deficiency to prevent negative comments; or
 - c) because the Applicant failed to appear at a scheduled inspection;
- a fee may be charged as set out in By-law PC9-2005.

Article 5.00: Committee

- 5.01 **Licensing Powers – Delegation to Board:** Pursuant to Section 159 of the Municipal Act, the general licensing powers contained in Part IV of the Municipal Act, were assigned by the Council to the Board. The Board shall make the final decisions with respect to refusal to issue, suspension or revocation of a License under this By-law.
- 5.02 **Applicant Request for Hearing:** An Applicant may, within thirty (30) days of the date that a License is denied to an Applicant or the date that a License is revoked or suspended, or the date on which a License is issued subject to conditions, the Applicant or former License Owner, as the case may be, may request a hearing of the Committee to:
- (a) review the determination by the Police Chief that the Applicant is disqualified from holding a License; or
 - (b) review any conditions imposed upon a License pursuant to Section 2.12 of this By-law.
- 5.03 **Administration Request for Hearing:** Where the Police Chief intends to recommend to Committee that a License be refused, revoked or suspended he or she shall give notice of the intended recommendation to the Applicant or Licensee, together with the reason for their intended recommendation, as well as to such other persons, civic departments, boards, commissions, authorities or agencies as appear to have an interest in the recommendation. This notice shall include the details required by Section 5.04 of this By-law.

- 5.04 **Notice of Hearing:** The notice required by Section 5.03 shall:
- (a) contain a reference to Sections 150 and 252 of the Municipal Act under which the hearing will be held;
 - (b) contain a reason or reasons for the proposed refusal, suspension or revocation;
 - (c) specify the time, place and purpose of the hearing of the Committee at which the proposed refusal, suspension or revocation will be considered;
 - (d) inform the affected Applicant or the affected holder of the License that he, she or it is entitled to attend the hearing and to make submissions regarding the proposal and that, in his, her or its absence, the Committee may proceed to consider the proposal, and the Applicant or affected holder of the License will not be entitled to any further notice of the proceeding;
 - (e) afford the affected Applicant or the affected holder of the License a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the License; and
 - (f) be given at least fifteen (15) days notice prior to the date of the Committee hearing.
- 5.05 **Hearing by Committee:** At the hearing, the Committee may suspend, revoke or refuse to issue any License, may amend conditions imposed on a License, or may add conditions to a License:
- (a) for any reason specified in Section 2.09 of this By-law that would apply if the Licensee if were an Applicant;
 - (b) where the Licensee or Applicant, has breached or is in breach of a condition of the License or of this By-law;
 - (c) if a report is filed subsequent to the date of the issuance of the License or by any department or agency which provided its approval to the issuance of the License which indicates that the Licensee no longer complies with any of the provisions of this By-law; or
 - (d) if the conduct of the Applicant or Licensee affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the Business in accordance with the law or with honesty or integrity.
- 5.06 **Committee Decision:** Where the Committee is the Board, a decision of the Board refusing, suspending, amending or adding conditions to, or revoking an Application or a License takes effect upon the rendering of the decision by the Board. Where the Committee is not the Board, a decision of the Committee refusing, suspending, amending or adding conditions to, or revoking an Application or a License takes effect upon the ratification by the Board of the Committee's decision. In these circumstances, there is no re-hearing of the matter at the Board level.

Article 6.00: Enforcement and Penalties

- 6.01 **Enforcement:** This By-law may be enforced by any Municipal Law Enforcement Officer.
- 6.02 **Penalties:** Every person who commits an offence pursuant to this By-law is liable, upon conviction, to the penalties prescribed in the Provincial Offences Act.

Article 7.00: Repeals; Predecessor By-laws; Effective Date

- 7.01 **Repeals**: There are no predecessor By-laws of the Board relating to the subject matter of this By-law. Predecessor by-laws are those of the Council, and will be repealed by the Council in due course.
- 7.02 **References to Predecessor By-laws**: References in other Board or City By-laws or polices and procedures of the Police to any historically applicable Licensing By-law relating to Adult Entertainment Establishments are deemed to be references to this By-law.
- 7.03 **Effective Date**: This By-law shall come into force on January 1, 2006.

Enacted and passed this 6th day of December, A.D. 2005 as witnessed by the Seal of the Board and the hands of its proper Officers.

Chair

Secretary

Read a First and Second time this 6th day of December, A.D., 2005

Read a Third Time and finally passed this 6th day of December, A.D., 2005