

BY-LAW NUMBER 211-2008
CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

A By-law respecting the issues of Adult Entertainment
in the Municipality of Chatham-Kent

FINALLY PASSED the 18th day of August, 2008.

WHEREAS Section 151 of the Municipal Act, 2001, S.O. 2001 c. 25 (herein, the "Act") authorizes a municipality to licence, regulate and govern any business wholly and partly carried on within the municipality.

AND WHEREAS Section 151 of the Act authorizes a municipality to licence, regulate and govern adult entertainment establishments.

The Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

DEFINITIONS:

- 1.0 Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section 1.1, or, alternatively, in the Section of the appropriate Schedule which defines terms. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
- 1.1 For the purposes of this by-law:
- (a) "Adult Entertainment Event" shall mean an occurrence conducted by a person or business providing entertainment appealing to or designed to appeal to erotic or sexual appetites or inclinations within a facility other than an adult entertainment parlour;
 - (b) "Adult Entertainment Parlour" means any premises or part thereof in which entertainment is provided, in the pursuance of a trade, calling, business or occupation, goods or services, appealing to or designed to appeal to erotic or sexual appetites or inclinations;
 - (c) "Applicant" shall mean a person who applies for a License under this by-law in the form provided by the Issuer of Licenses and accompanied by the appropriate fees;
 - (d) "Attendant" shall mean any person other than a Licensed Owner or Operator who provides services designed to appeal to erotic or sexual appetites or inclinations at an adult entertainment premises, and shall include an entertainer;
 - (e) "Attendant Registration Form" shall mean a form completed by the Attendant containing the legal name, address, date of birth, telephone number, stage name, social insurance number and the date of entertainment of each Attendant;
 - (f) "Council" shall mean the Council of the Municipality of Chatham-Kent;
 - (g) "Chief Building Official" shall mean the person appointed as Chief Building Official of the Municipality of Chatham-Kent or his/her designate;
 - (h) "Chief of Police" shall mean the Chief of Police or his/her designate of the Chatham-Kent Police Service;
 - (i) "Entertainment" shall mean, but not limited to, any dance, exhibition, concert, show, variety programme, motion picture showing, public luncheon or dinner, game or sporting contest;
 - (j) "Fire Chief" shall mean the Chief Fire Official or his/her designate of the Municipality of Chatham-Kent;
 - (k) "Goods" shall include, but not limited to, any books, magazines, pictures, slides, film, phonograph records, pre-recorded magnetic tape and any other reading, viewing or listening matter;

- (l) "License" shall mean, in the case of a License for an Owner/Operator, a certificate issued by the Licensing Officer permitting the Owner/Operator to own and/or operate an Adult Entertainment Parlour pursuant to this by-law;
- (m) "Licensing Officer" shall mean a person designated as the Issuer of Licenses by the Municipality of Chatham-Kent and includes his/her designate;
- (n) "Medical Officer of Health" shall mean a person appointed pursuant to the *Public Health Act*;
- (o) "Municipality" shall mean the Corporation of the Municipality of Chatham-Kent;
- (p) "Owner/Operator" shall mean any person who operates, manages, supervises, runs or controls an Adult Entertainment Parlour;
- (q) "Peace Officer" shall mean any Peace Officer as defined in Section 2 of the Criminal Code of Canada;
- (r) "Premises" shall mean any building or part thereof;
- (s) "Services" shall include activities, facilities, performances, exhibitions, viewing and encounters but does not include the exhibition of film approved under the *Theatres Act*;
- (t) "Services designed to appeal to erotic or sexual appetites or inclinations" shall include:
 - a) Service of which a principal feature or characteristic is the nudity or partial nudity of any person;
 - b) Services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy", or "nu" or any other word or any picture, symbol or representation having like meaning or implication is used in any sign, advertisement, or device; and

without restricting the generality of the foregoing, includes any performance, exhibition or activity involving striptease dancers, go-go dancers, exotic dancers, table dancers, wet clothing contests, bikini contests, mud wrestling, jello wrestling or best body part contests.

1.2 Legislation, By-laws

Each reference to Provincial legislation in this by-law is printed in Italic font and, 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.

1.3 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.

1.4 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.

1.5 Administration of By-law

Unless otherwise indicated, the administration of this by-law is assigned to the Licensing Officer, who may delegate the performance of his or her functions under this by-law from time to time as occasion requires.

2.0

- (a) No person shall, in the Municipality carry on the business of an Adult Entertainment Parlour without having first procured a valid Owner/Operator's License for such business issued under the provisions of this by-law.
- (b) The Municipality proposes to License no more than three (3) licensed Adult Entertainment Parlours providing services in the Municipality. It is acknowledged that the number and location of Adult Entertainment Parlours providing services in the Municipality should not exceed three (3) based upon the community's size and population. In order to procure a valid Owner/Operator License from the Municipality an applicant must demonstrate on reasonable grounds, the need for an additional Adult Entertainment Parlour providing service in the Municipality. Any increase in the number of Adult Entertainment Parlours providing services beyond three (3) will require the approval of Council.
- (c) No person or business shall carry on an Adult Entertainment Event within the Municipality of Chatham-Kent.

2.1 Any Owner/Operator License issued pursuant to the provisions of this by-law is not transferable without the prior written approval of the Municipality upon written application to the Licensing Officer, which approval shall not be unreasonably withheld.

2.2 An Owner/Operator License shall expire on the first day of November each year.

2.3 No Owner/Operator License shall be issued or renewed or transferred unless:

- (a) the Applicant is at least nineteen (19) years of age;
- (b) the Applicant has provided a completed Police Record Search Certificate, certified by the Chief of Police. Certification includes, but is not limited to evidence that the Applicant has not received a conviction under one of the following sections of the Criminal Code of Canada or the Controlled Drug and Substances Act, for which a pardon has not been granted:
 - i) s. 173 of the Criminal Code (indecent acts);
 - ii) s. 175 of the Criminal Code (caused disturbance);
 - iii) s. 212 of the Criminal Code (procuring);
 - iv) s. 213 of the Criminal Code (prostitution);
 - v) s. 4, s. 5 of the Controlled Drug and Substances Act (trafficking & possession);
- (c) the Chief Building Official has reported in writing that the premises is in compliance with the zoning/planning by-law regulations and any other applicable property standards requirement of the Municipality of Chatham-Kent;
- (d) the Fire Chief has reported in writing that the premises is in compliance with fire regulations and the Ontario Fire Code;
- (e) the Medical Officer of Health has reported in writing that the premises is in compliance with all applicable Health Regulations and are in a sanitary condition;
- (f) the Owner or Operator provides proof of Ownership of the building premises in which the Adult Entertainment Parlour is located;
- (g) the Owner or Operator provides proof of Ownership of the business proposing to operate as an Adult Entertainment Parlour;
- (h) the Applicant has fully completed the Owner/Operator License application as prescribed in Schedule "A" of this by-law; and

- (i) the Applicant has paid to the Municipality of Chatham-Kent the appropriate License fee prescribed in the Municipality's User Fee by-law, as amended from time to time.

2.4

- (a) No Owner or Operator shall permit any person under the age of eighteen (18) years of age to enter or remain in the Adult Entertainment Parlour.
- (b) Every Owner or Operator shall have a system in place at the Adult Entertainment Parlour that determines that each person entering the Adult Entertainment Parlour is eighteen (18) years of age or older.

2.5 No Owner or Operator shall employ a person under the age of eighteen (18) years of age in an Adult Entertainment Parlour.

2.6 Every Owner or Operator shall require every Attendant to complete an Attendant Registration form prior to such Attendant performing, providing entertainment or services, or as the case may be, in the Adult Entertainment Parlour.

2.7 The completed Attendant Registration form shall include the following information:

- i) Legal Name and stage name/performing name;
- ii) Current address;
- iii) Former address, if changed within 2 years;
- iv) Two (2) pieces of valid identification, one of which must contain photographic identification of the Attendant:
 - 1) Birth Certificate;
 - 2) Driver's License;
 - 3) Canadian passport;
 - 4) Canadian citizenship card with a photograph of the person to whom the card is issued;
 - 5) Photo card issued by the Liquor Control Board;
 - 6) Social Insurance Card; or
 - 7) If from another jurisdiction, the equivalent of above.

Every Owner or Operator shall have the Attendant complete an Attendant Registration Form at least once a year, or where any change of information occurs.

2.8 An Attendant Registration Form is valid for one (1) year from the date it is completed.

2.9 Every Owner or Operator shall provide the Chief of Police and the Licensing Officer forthwith the completed Attendant Registration form setting out the name of the Attendant who intends or is expected to operate, or provide entertainment or services, as the case may be, at the Parlour, together with legible photocopies of identification as provided by the Attendant, for any and all Attendants.

2.10 No Owner, Operator, Attendant or any other person shall falsify any information contained within the Attendant Registration form.

2.11 Every Owner or Operator shall obtain, review and verify that the information provided to him/her by the Attendant is consistent with the information contained on the Attendant Registration Form.

2.12 Every Owner or Operator shall retain with the completed Attendant Registration form a legible photocopy of the identification provided by the Attendant. Every Owner or Operator shall retain an original copy of the Attendant Registration form, together with legible photocopies of identification provided by the Attendant, for a minimum of three (3) years.

2.13

- (a) No Owner or Operator shall, in respect of any Adult Entertainment Parlour operated by such persons, permit any Attendant, while providing services as an Attendant, to be touched by any person for whom the Attendant is performing services on the breast, pubic area or buttocks and no such Attendant shall permit

- any such person to touch his or her breast, pubic area or buttocks while performing such services;
- (b) No Owner or Operator shall, in respect of any Adult Entertainment Parlour operated by such persons, permit any Attendant, while providing services as an Attendant, to touch any person for whom the Attendant is performing services on the pubic area and no such Attendant shall touch any such person on his or her pubic area while performing such services;
 - (c) No Owner or Operator shall, in respect of any Adult Entertainment Parlour operated by such persons, permit any Attendant, while providing services as an Attendant, to touch any other Attendant on the pubic area and no such Attendant shall touch any other Attendant on his or her pubic area while performing such services;
 - (d) No Owner or Operator shall, in respect of any Adult Entertainment Parlour operated by such persons, permit any Attendant, while providing services as an Attendant, to engage in or permit any anal or vaginal penetration and no such Attendant shall engage in or permit any anal or vaginal penetration while performing such services.
- 2.14 No Owner or Operator shall permit any Attendant to perform any services designed to appeal to erotic or sexual appetites or inclinations, other than within full view without obstruction of walls, curtains, or other enclosures, devices or objects, and open to all customers.
- 2.15 No Attendant shall perform any services designed to appeal to erotic or sexual appetites or inclinations, other than within full view without obstruction of walls, curtains, or other enclosures, devices or objects, and open to all customers.
- 2.16 No Owner or Operator shall permit any person who has not completed an Attendant Registration form to operate, or provide entertainment or services, as the case may be, at the Parlour.
- 2.17 The Owner or Operator shall, at the request of the Licensing Officer or a Peace Officer, provide evidence as to the age of any Attendant in the Adult Entertainment Parlour.
- 2.18 The Owner or Operator shall not refuse entry to the Licensing Officer or a Peace Officer carrying out an inspection pursuant to this by-law.
- 2.19 No person shall place or cause to be placed any sign, advertising or advertising device, including any printed matter, posted or used outside the premises for the purpose of promoting the adult entertainment parlour, or any photograph, drawing or other artistic rendering services designed to appeal to erotic or sexual appetites or inclinations.
- 2.20 Peace Officers or the Licensing Officer shall be permitted to enter a premise to determine whether the by-law is being complied with, for this purpose, may make such examinations, investigations and inquiries as are necessary.
- 2.21 Subject to the Statutory Powers Procedure Act, R.S.O. 1990, the Licensing Officer may revoke the License granted herein, with valid reason for so doing, and should the Owner/Operator wish to appeal the decision of the Licensing Officer, he/she may do so within thirty (30) days following the notice from the Licensing Officer, to Council. The decision of Council shall be final.
- 2.22 Without restricting the generality of Section 2.24 any License may be revoked by reason of violation of this by-law, or the failure of the Licensee to comply with any of the provisions of this by-law, such violation authorizes the Licensing Officer to enforce, revoke or seize a License.
- 2.23 Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction, forfeit and pay a penalty in accordance with Section 61 of the Section 61 of the Provincial Offences Act, R.S.O. 1990, c.P. 33.

2.24 Transition

- (a) Every License issued pursuant to by-law 181-2006 shall be deemed to be a licence issued under this by-law and every such licence shall continue to be valid until its normal date of expiry.
- (b) Every act taken pursuant to the predecessor to this by-law shall, as necessary be deemed to have been taken pursuant to this by-law and every such act may be carried to its conclusion pursuant to the authority granted by this by-law.
- (c) If an act has been validly commenced pursuant to the predecessor to this by-law and authority for such act does not exist pursuant to this by-law then such act may be continued to its conclusion and the portions of the predecessor to this by-law necessary to permit such act to be concluded shall be deemed to remain in effect for the purposes of bringing such act to a conclusion.

2.25 Repeal

On the date this by-law comes into full force and effect, By-law 181-2006 will be repealed.

This By-law shall come into effect upon the final passing thereof.

READ A FIRST, AND SECOND AND THIRD TIME this 18th day of August, 2008

Original Signed By:

Mayor – Randy Hope

Original Signed By:

Clerk – Elinor Mifflin

PLEASE ENCLOSE THE FOLLOWING WITH THIS APPLICATION

- Police Department Criminal Record Certificate
- Board of Health Search Certificate
- Building/Planning Department Clearance
- Other
- Fire Department Clearance

BUILDING DEPARTMENT CLEARANCE TO BE SIGNED (DEPT. USE ONLY)

DATE: _____ **SIGNED:**

Declaration:

I, _____, declare the information given in this application and any supporting documents is true, correct and complete in every respect and understand that false statements could result in the revocation of the License if granted.

I also acknowledge that the information requested on this form is collected under the authority of the Municipal Act, Municipality of Chatham-Kent By-law _____. The information is required in order to process, issue, monitor, regulate and investigate the various Licenses issued by the Municipality of Chatham-Kent. The name and business address of the License is public information. Any other personal information collected will only be used for investigative purposes.

Date

Signature of Applicant

FOR ISSUER OF LICENSES ONLY:

License Number: _____
License Issuance Date: _____
ISSUER: _____

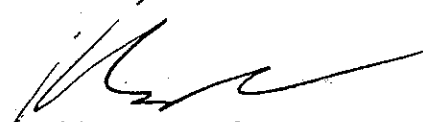
ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 211-2008, of the Municipality of Chatham-Kent, attached hereto are the set fines for those offences. This Order is to take effect September 23, 2008.

Dated at London this 23rd day of September 2008



Kathleen E. McGowan
Regional Senior Justice
West Region

Set Fine Schedule

MUNICIPALITY OF CHATHAM-KENT
PART 1 - Provincial Offences Act
Adult Entertainment By-law

Chatham-Kent By-law 211-2008

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set fine
1.	Carry on a business of Adult Entertainment Parlour without a licence.	2.0 (a)	\$500.00
2.	Carry on an Adult Entertainment Event.	2.0 (c)	\$500.00
3.	Permit person under eighteen to enter/remain in Adult Entertainment Parlour.	2.4 (a)	\$500.00
4.	Employ person under age eighteen in Adult Entertainment Parlour.	2.5	\$500.00
5.	Fail to require attendant to complete Attendant Registration form.	2.6	\$500.00
6.	Fail to provide completed Attendant Registration form.	2.9	\$500.00
7.	Falsify information.	2.10	\$500.00
8.	Fail to obtain, review and verify information provided.	2.11	\$500.00
9.	Fail to retain identification with Attendant Registration.	2.12	\$500.00
10.	Permit attendant to be touched by any person while providing services.	2.13 (a)	\$500.00
11.	Permit attendant to touch any person while providing services.	2.13 (b)	\$500.00
12.	Permit attendant to touch any other attendant while providing services.	2.13 (c)	\$500.00
13.	Permit attendant to engage in any penetration.	2.13 (d)	\$500.00
14.	Fail to ensure services provided by attendant within full view without obstruction.	2.14	\$500.00
15.	Fail to provide services within full view without obstruction.	2.15	\$500.00

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set fine
16.	Permit person to provide entertainment or services without completing Attendant Registration form.	2.16	\$500.00
17.	Fail to provide evidence of age of Attendant.	2.17	\$500.00
18.	Refuse entry to officer.	2.18	\$500.00
19.	Posting of material designed to appeal to sexual appetite.	2.19	\$500.00

NOTE: Penalty provision for the offences indicated above is Section 2.23 of By-law 211-2008, a certified copy of which has been filed.