

Licence

Chapter 554 Adult Entertainment Parlours

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Article 1 - Short Title

554.1.1 Citation

This Chapter may be cited and known as the "Adult Entertainment Parlour By-law."

Article 2 - Interpretation

554.2.1 Adult entertainment parlour - defined

"adult entertainment parlour" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations.

554.2.2 Adult entertainment performer/attendant – defined

“adult entertainment performer/attendant” means a person who provides services designed to appeal to erotic or sexual appetites or inclinations at an adult entertainment parlour, but does not mean the persons who are the licensed owner or the licensed operators.

554.2.3 Operator - defined

“operator” means a person who, alone or with others operates, manages, supervises, runs or controls an adult entertainment parlour and “operate” and “operated” have corresponding meanings.

554.2.4 Owner - defined

“owner” means a person who alone or with others has the right to possess or occupy an adult entertainment parlour or actually does possess or occupy an adult entertainment parlour and includes a lessee of an adult entertainment parlour or of premises within which an adult entertainment parlour is located.

554.2.5 Services - defined

“services” includes activities, facilities, performances, exhibitions, viewing and encounters but does not include the exhibition of film approved under the *Theatres Act*.

554.2.6 Services - erotic - sexual appeal - defined

“services designed to appeal to erotic or sexual appetites or inclinations” includes:

- a) services 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 any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

554.2.7 To provide - defined

“to provide” when used in relation to services includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings.

Article 3 - General Provisions

554.3.1 Operation - without licence - prohibited

No adult entertainment parlour shall be established, provided or operated in the City of Woodstock by any person who has not obtained a licence therefor pursuant to this Chapter. (See Set Fine)

554.3.1.1 Performer - attendant - licence - required

No person shall conduct the business of being an adult entertainment parlour or performer/attendant who has not obtained a licence.

554.3.2 Location - restriction

No person shall operate an adult entertainment parlour within the City of Woodstock except in any area permitted for same in the City of Woodstock Zoning By-law;

- a) despite the provisions of this Section, no person shall own or operate an adult entertainment parlour closer than 280 metres, in a continuous path over the shortest distance, from a residence, a school (defined as an institution for education or instruction as defined in the *Education Act* and includes lands used in connection therewith), a day nursery (as defined by the *Day Nurseries Act*

and includes lands used in connection therewith), a place of worship of a religious institution (defined as a place of worship exempt from assessment pursuant to the *Assessment Act*), a public park, or a residential, open space or park zone;

- b) the foregoing provisions of this Section shall not apply to an adult entertainment parlour which was lawfully used for such purpose on the date of passing of the enabling by-law and which has continued as such, without interruption, since that date. A cessation of such use, for any reason, of more than sixty days shall be deemed to constitute a discontinuation and an interruption of such use for the purposes of this Section.

554.3.2.1 Insurance – Minimum Requirement

No person shall operate an adult entertainment parlour in the City of Woodstock without first having produced a certificate of insurance confirming that a general liability policy in the amount of \$2,000,000 is in force. By-law 9226-18 – August 9, 2018

554.3.3 Licence - number - limited - non-transferable

The number of adult entertainment parlour licences, which may be granted in the City of Woodstock is limited to a maximum of two at any time and any such licence is not transferable. In determining the eligibility of licence applicants, priority shall be given to an applicant or the successor of an applicant who held such licence in the previous calendar year.

554.3.4 Obstruction - hindrance of inspection - prohibited

No person shall obstruct a person inspecting an adult entertainment parlour or withhold, destroy, conceal or refuse to furnish any information or thing required by a person inspecting for the purposes of this Chapter.

554.3.5 Licence - expiry - February 15 - one year after issuance

Each licence granted under this Chapter shall be for one year from February 15 in the current year and expire on the 15th of February one year after issue or sooner if the licence so indicates during the year for which the licence was issued, regardless of when such issuing took place.

554.3.6 Licence - valid - building - room - area - as issued

Every adult entertainment parlour licence shall be valid only in respect of the building, room or area for which it was issued.

554.3.7 Licence - displayed - location - visible

Every adult entertainment parlour licence shall be displayed within the adult entertainment parlour in a location, which is clearly visible to the public.

554.3.8 Licence - revocation - circumstances

Every adult entertainment parlour and adult entertainment parlour performer licence shall be subject to revocation should any of the provisions of this Chapter be contravened.

554.3.9 Non-compliance - disputed - referral Appeal Tribunal

Where the licence holder or applicant disputes in writing the non-issuance of an adult entertainment parlour licence or the revoking of a licence, the disputed matter shall be referred by the Clerk to the Appeal Tribunal who shall hear representations from the applicant and determine the matter.

554.3.9.1 Performer licence - non-issuance - disputed

Where the licence holder or applicant disputes in writing the non-issuance of an adult entertainment performer licence or the revoking of a licence, the disputed matter shall be referred by the Police Chief or his designate to the Police Services Board who shall hear representations from the applicant and

determine the matter.

554.3.10 Noise by-law - contravention - prohibited

No holder of an adult entertainment parlour licence or adult entertainment performer licence or operator of an adult entertainment parlour shall operate any public address system, sound equipment, sound speaker or similar device in such a manner as to be in contravention of the Noise By-law, being Chapter 825 of the City of Woodstock Municipal Code.

554.3.11 Sign by-law - contravention - prohibited

No holder of an adult entertainment parlour licence or operator of an adult entertainment parlour shall erect exterior signs unless such signs are in conformity with the provisions of the Sign By-law, being Chapter 754 of the City of Woodstock Municipal Code.

554.3.12 Sign - depiction - human anatomy - restricted

No sign erected shall depict or represent any part of the human anatomy which could be considered of an erotic or sexual nature.

554.3.13 Solicitation - persons passing by - prohibited

No holder of an adult entertainment parlour licence, adult entertainment performer licence or operator of an adult entertainment parlour shall solicit or entice patronage by shouting, or speaking to, or distributing handbills to, persons passing by the establishment.

554.3.14 Admittance - minimum age - requirements

No holder of an adult entertainment parlour licence, adult entertainment performer licence or operator of an adult entertainment parlour shall permit any person under the age of 18 years (19 years of age in the case of a premises licenced under the *Liquor Licence Act*), to enter or remain in an adult entertainment parlour.

554.3.15 Operation - participation - minimum age

No person under the age of 18 years (19 years of age in the case of premises licenced under the *Liquor Licence Act*) may be or act as an owner, licence holder, operator or employee of, or provide any services in an adult entertainment parlour.

554.3.16 Hours of operation - restricted

No adult entertainment parlour may be open to the public on Christmas Day or Good Friday or any other day except between the hours of 12 noon to 1 a.m. of the following day on Monday to Saturday.

554.3.17 General exemptions - under Theatres Act

The provisions of this Chapter with respect to adult entertainment parlours do not apply to premises or trades, callings, businesses or occupations carried on in premises licenced under the *Theatres Act*.

554.3.18 Exemption - temporary events - temporary locations

Despite any other provisions, temporary events not exceeding two days in duration at locations in compliance with the provisions of the Zoning By-law may be permitted. The licence fee for such events shall be \$300 per day.

554.3.19 Performer licence - issue - requirements

Prior to the consideration and/or issuance of the licence, the applicant shall attend, in person, at the Woodstock Police Services office and provide the following:

- a) photo identification; and
- b) all information which the applicant is requested to supply on the prescribed form supplied by the Woodstock Police Service; and
- c) any additional information requested by the Police Chief's office

which is deemed necessary by the Police Chief to evaluate the application; and

- d) two passport size photographs; and
- e) the licence fee.

554.3.20 Issuance - rejected - conditions

The Police Chief or designate shall issue an adult entertainment parlour performers licence to an applicant, except where:

- a) the past conduct of the applicant affords reason to believe that the applicant will not act in accordance with the law;
- b) the applicant is carrying on activities that are or will be if the applicant is licensed, in contravention of this Chapter; or
- c) the applicant possesses a criminal background; or
- d) the applicant is not 18 years of age (19 years of age in the case of performing in a premises licensed under the *Liquor Licence Act*).

554.3.21 Licence - fee

The licence fee for an adult entertainment performer shall be \$105 payable to the Woodstock Police Services. The licence fee is non-refundable. Renewal licences shall be \$50 per year payable to the Woodstock Police Services.

554.3.22 Information - inaccurate - notice to licensee

The Police Chief or designate shall notify the holder of an adult entertainment performer licence by registered mail, when he/she has cause to believe on reasonable grounds that any of the information which an applicant or holder of an adult entertainment performer licence is obliged to supply or has supplied is inaccurate that unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

554.3.23 Requirements - non-compliance - notice to licensee

The Police Chief or designate shall notify the holder of an adult entertainment performer licence by registered mail when he/she receives information that the adult entertainment performer has not complied with all applicable requirements under a statute, regulation or by-law that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

554.3.24 Order - disobeyed - notice to licensee

The Police Chief or designate shall notify the holder of an adult entertainment performer licence when he/she has cause to believe that an order issued under the authority of a court with competent jurisdiction has been disobeyed by the holder of the adult entertainment performer licence that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

554.3.25 Non-compliance - licence revoked - notice

Unless the matter giving rise to the notice issued has been corrected within the time provided in this Chapter the licence will be revoked.

Article 4 - Application - Requirements

554.4.1 Premises licence - issue - requirements

The Clerk shall provide a copy of every application for the issuance or renewal of an adult entertainment parlour licence to:

- a) the Chief Building Official;
- b) the Chief Fire Prevention Officer;
- c) the Chief of Police;
- d) the Medical Officer of Health; and

- e) to such other civic departments, boards, commissions, authorities or agencies as the Clerk considers may have an interest in the application;

who may submit comments or recommendations to the Clerk in respect of the application within such time as the Clerk may specify. By-law 8530-09, May 7, 2009.

554.4.2 Information - criminal record check - fee

Prior to consideration and/or issuance of an adult entertainment parlour licence, the applicant shall supply:

- a) all information which the applicant is requested to supply on the prescribed application form supplied by the Clerk's office;
- b) any additional information requested by the Clerk's office which is deemed necessary by the Clerk to evaluate the application;
- c) a current criminal records check for all listed owners and managers; and
- c) the licence fee. By-law 8704-11, August 11, 2011.

554.4.3 Issuance - rejected - conditions

The Clerk shall issue an adult entertainment parlour licence to an applicant, except where:

- a) the past conduct of the applicant, or an individual who is a member of a partnership that is the applicant, affords reasonable grounds for belief that the business of adult entertainment parlour will not be carried on in accordance with the law;
- b) the applicant is a corporation or a partnership of which a member is a corporation and the past conduct of any of its officers or directors or of a shareholder, who owns or controls 10% or more of its issued and outstanding voting or nonvoting shares affords reasonable grounds for belief that the business of adult entertainment parlour will not be carried on in accordance with the law;
- c) the applicant is carrying on activities that are, or will be if the applicant is licenced, in contravention of this Chapter;
- d) the premises in which the adult entertainment parlour is, or will be located, do not comply with the provisions or requirements of this or any other Chapter/by-law;
- e) the property taxes for all or any part of the premises in which the adult entertainment parlour will be located are in arrears; or
- f) the applicant is in default with respect to any other financial or other obligation to the City.

554.4.4 Information - changed - notification - seven days

The holder of an adult entertainment parlour and/or adult entertainment performer licence shall notify the Clerk or in the case of an adult entertainment performer the Chief of Police of any subsequent change of the information which was supplied under this Article within seven days of the change.

554.4.5 Licence fee - per annum

The licence fee shall be \$5,250 per annum or any portion thereof.

Article 5 – Physical Contact

554.5.1 Prohibited - owner responsibility

No owner or operator shall, in respect of any adult entertainment parlour owned or operated by him/her, knowingly permit any attendant to touch or be touched by, or have physical contact with, any other person in

any manner whatsoever involving any part of that person's body.

554.5.2 Prohibited - by performer/attendant

No adult entertainment performer/attendant shall touch or have physical contact with any other person in any manner whatsoever involving any part of that person's body. By-law 8530-09, May 7, 2009.

Article 6 - Refusal - Revocation - Suspension of Licence

554.6.1 Notice - issued - conditions set out

The Clerk shall provide a notice of refusal to issue a licence to an applicant if the conditions for issuance have not been met, the Clerk determines that, the information on the licensee's application for a licence is inaccurate, the applicant has contravened a Section of this Chapter or if the applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall provide the applicant with the written notice of refusal to issue a licence setting out the reasons for refusal, when the right to review will expire and how to apply for a review.

554.6.2 Notice - how served

The notice shall be served personally or by registered mail to the applicant at the address shown on the application.

554.6.3 Application - not filed - expired without notice

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to a review will expire without further notice.

554.6.4 Licence fee returned - not granted - review expired

The Clerk shall return the licence fee paid at the time of the application if the licence is not granted and the applicant's right to a review has expired.

554.6.5 Revocation or suspension of a licence

The Clerk shall provide a notice to revoke or suspend a licence if the licensee no longer complies with the conditions for issuance after the licence is issued, the Clerk determines that, the information on the licensee's application for the licence is inaccurate, the licensee has contravened a Section of this Chapter or if the licensee or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall give the licensee notice of the revocation or suspension in writing setting out the reasons for revocation or suspension, when the right to a review will expire and how to apply for a review. The notice shall be served personally or by registered mail to the licensee's address last on file with the Clerk.

554.6.6 Application for review - expiry

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to review will expire without further notice.

554.6.7 Licence - fee - refund - pro-rated

The Clerk shall return a pro-rated portion of the licence fee (based on the length of time the licence was in effect) of a revoked or suspended licence.

554.6.8 Application for review - procedure - deadline

An applicant or licensee in receipt of a notice to refuse, revoke or suspend a licence, may, within fourteen days after service of notice apply in writing for a review of notice to refuse, revoke or suspend a licence by filing the application for review with the Clerk and the provisions of Sections 554.6.10

to 554.6.21, inclusive shall apply.

554.6.9 Report for a review of status of licensee

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the licensee of this Chapter or other relevant considerations.

554.6.10 Review hearing - date of

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after the receipt of the application for review.

554.6.11 Review hearing - notice of

Upon determination of the review hearing date, the Clerk shall give notice in writing to the applicant or licensee, said notice to:

- a) include a statement,
 - (i) as to the time, date, place and purpose of the review hearing, and
 - (ii) that, if the applicant or licensee does not attend the review hearing, the Review Tribunal shall proceed in the absence of the applicant or licensee and the applicant or licensee will not be entitled to any further notice;
- b) be served personally or by registered mail to the applicant or licensee at the address last on file with the Clerk; and
- c) where the good character, propriety of conduct or competence of an applicant or licensee is an issue, contain reasonable information of any allegation with respect thereto.

554.6.12 Review hearing - by Review Tribunal – procedure

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The applicant or licensee may be represented at the review hearing by counsel, and the applicant or licensee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

554.6.13 Review hearing - City - represented

The City shall be represented at the review hearing by either the Clerk or the City Solicitor, who is entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the applicant or licensee.

554.6.14 Review hearing - onus upon applicant

At the review hearing, the onus shall be upon the applicant or licensee to show cause why:

- a) the licence should be granted;
- b) the licence should not be suspended or revoked; or
- c) conditions should not be imposed on the licence.

554.6.15 Review hearing - open to public - exception

All review hearings shall be public hearings unless the applicant or licensee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

554.6.16 Review hearing - applicant absent - decision rendered

Where notice of the review hearing has been served on the applicant or licensee and the applicant or licensee does not attend the hearing, the Review Tribunal may proceed with the review hearing and render a decision in the absence of the applicant or licensee.

554.6.17 Review hearing - completion - decision rendered

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a) confirm the Clerk's decision to refuse, revoke or suspend the licence;
- b) reject the Clerk's decision and order the Clerk to issue a licence; or
- c) reject the Clerk's decision to revoke or suspend the licence.

554.6.18 Licence - conditions - imposed

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the applicant or licensee as a requirement to hold a licence on such terms as are deemed just.

554.6.19 Review Tribunal - decision final - binding

The Review Tribunal's decision shall be final and binding.

554.6.20 Review Tribunal - decision in writing

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

554.6.21 Waiver of hearing

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a) without a hearing; or
- b) without compliance with any other requirements of the *Statutory Powers Procedure Act*, as amended, or of this Chapter, where the applicant or licensee has waived such hearing or compliance.

554.6.22 Review Tribunal - decision - notification procedure

The Clerk shall notify the applicant or licensee of the decision by serving a copy personally or by registered mail to:

- a) the applicant or licensee at the address shown on the application, or last on file with the Clerk; or
- b) the counsel or agent of the applicant or licensee, if any, at the address as stated to the Review Tribunal.

554.6.23 Licence - continued until expired

If the decision rendered is to reject the Clerk's decision, the licence shall be issued or in the case of a notice to suspend or revoke the licence shall continue until its expiry date.

554.6.24 Licence - suspended or revoked - authority

If the decision is to confirm the Clerk's decision to suspend or revoke the licence, the licensee shall within twenty-four hours of service of notice by registered mail, or immediately if the notice is personally served, return the licence to the Clerk and the Clerk shall have access to any premises or other property of the licensee for the purpose of receiving or taking the same.

554.6.25 Conditions - imposed - acceptance confirmed

If the decision is to confirm the Clerk's decision to impose conditions on the licence, the licensee shall within twenty-four hours of service of notice by registered mail or immediately if the notice is personally served, advise the Clerk as to his or her acceptance of the conditions.

554.6.26 Service of notice - by registered mail

Service of a notice by registered mail is effective on the fifth day after the

document is mailed. By-law 8769-12, June 7, 2012.

Article 7 - Enforcement

554.7.1 Fine - for contravention - individual

Any person who contravenes any of the provisions of this Chapter and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

554.7.2 Fine - for contravention - corporation

Where a corporation is convicted of an offence under this Chapter, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided in the previous section.

554.7.3 Continuation - restrained - court order

A court wherein an information is first laid and any court of competent jurisdiction thereafter may issue an order prohibiting the continuation or repetition of an offence by a person convicted of any offence under this Chapter and such order shall be in addition to any other penalty which may be imposed on the person convicted.

Article 8 - Enactment

554.8.1 Effective date

The by-law upon which this Chapter is founded came into force and took effect upon the final passing thereof. By-law 8530-09, May 7, 2009.