

Protection

Chapter 0778 - Adult - Books - Magazines Videotapes

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WHEREAS it is deemed expedient to amend the City of Woodstock Municipal Code adopted by By-law Number 6790-90 by repealing and replacing thereto Municipal Code Chapter 778 entitled "Adult - Books - Magazines - Videos."

WHEREAS subsection 11 (2), para. 8 of the *Municipal Act, 2001*, c. 25, authorizes a municipality to create a bylaw for the protection of persons and property, including consumer protection;

AND WHEREAS it has been determined necessary to protect youth from the display, sales and rentals of adult entertainment and like material.

Article 1 - Short Title

778.1.1 Citation

This Chapter may be cited as the "Adult Book, Magazine and Video By-law."

Article 2 - Interpretation

778.2.1 Adult book, magazine or video - defined

"adult book, magazine or video" means any book, magazine or video appealing to or designed to appeal to erotic or sexual appetites through the portrayal or depiction on its cover by means of photographs, drawings or otherwise of:

- a) one or more of the specified body areas of any person or persons; or
- b) one or more of the specified acts whether actual or simulated.

778.2.2 Adult book, magazine or video outlet - defined

"adult book, magazine or video outlet" means any premise engaged in the display, sale or rental or offering for sale or rental any adult book, magazine or video as defined in Section 778.2.1 but is not the primary activity of the store.

778.2.3 Adult entertainment parlour - defined

"adult entertainment parlour" means any premises in which, or in part of which, in pursuance of a trade, calling, business or occupation, any adult book, magazine or video is provided is hereby defined as an adult entertainment parlour for the purposes of this Chapter.

778.2.4 Adult book magazine or video store - defined

"adult book, magazine or video store" means a business where the primary activity is adult book, magazine or video sales and rentals.

778.2.5 Operator - defined

"operator" means any person:

- a) who provides in any premises or part thereof, in pursuance of a trade, calling, business or occupation, any adult book, magazine or video; or
- b) who operates or supervises at any time the operation of any premises or part thereof in which any such book, magazine or video is so provided.

778.2.6 Specified acts - defined

"specified acts" means sexual intercourse, cunnilingus, fellatio, buggery, bestiality, masturbation, urination or defecation, or the bonding, flagellation, mutilation, maiming or murder of one or more human beings.

778.2.7 Specified body areas - defined

"specified body areas" means:

- a) in the case of a female, the nipples and areola; and
- b) in the case of all persons, the pubic, perineum area and the buttocks.

778.2.8 To provide - defined

"to provide", when used in relation to any adult book, magazine or video, means to sell, offer to sell or display by retail or otherwise any such book, magazine or video, and "providing" or "provided" shall have a corresponding meaning.

Article 3 - Outlet - Display - Requirements

778.3.1 Book - magazine - video - display – requirements

Every operator providing any adult book, magazine or video shall, if any such book, magazine or video is on display to the public, place or cause to be placed such book, magazine or video: (See Set Fine)

- a) at a location within a portion of the store totally enclosed to a minimum height of 1.8 metres (5.9 feet), equipped with a self-closing swinging door and with posted signage prohibiting entry thereto for any person under eighteen years of age; or
- b) at any location within a portion of the store at a height of 1.8 metres (5.9 feet) or more above floor level and behind an opaque barrier of a size and nature so that the videotape and the container for such videotape while on display, except for the title thereof, may not be seen by any member of the public.

Article 4 - Store - Display - Requirements

778.4.1 Book - magazines - video - under eighteen years

Every operator of an adult book, magazine or video store shall ensure that no person under the age of eighteen years of age is permitted entry or permitted to remain within the store. (See Set Fine)

778.4.2 Under eighteen years of age - exemption

Section 778.4.1 shall not apply where the parent or guardian who is of eighteen years of age or older is within the store and remains in the store with the person who is not yet eighteen years of age.

778.4.3 Book - magazine - video - display – requirements

Every operator of an adult book, magazine or video store shall post a sign at the entrance(s) of the store stating the entry of persons under the age of eighteen years of age is prohibited. The required sign shall be not less than 8 ½ inches by 11 inches (21.6 cm x 28 cm) with minimum of 1 inch (2.5 cm) height for lower case letters. (See Set Fine)

Article 5 - Inspection

778.5.1 Inspection

An officer may, at any reasonable time, enter any public place or workplace for the purpose of determining compliance with this Chapter.

778.5.2 Time of entry

The power to enter and inspect a place without a warrant may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

778.5.3 Dwellings

The power to enter and inspect a place without a warrant shall not be exercised to enter and inspect a part of the place that is used as a dwelling unless reasonable notice has been given by the officer and consent to enter has been given by the occupier of the dwelling.

778.5.4 Use of force

An officer is not entitled to use force to enter and inspect a place.

778.5.5 Identification

An officer conducting an inspection shall produce, on request, proper identification.

778.5.6 Obstruction

No person shall hinder, obstruct or interfere with an officer conducting an inspection, refuse to answer questions on matters relevant to the inspection or provide the officer with information, on matters relevant to the inspection that the person knows to be false or misleading. (See Set Fine)

778.5.7 Conflict with other legislation

If there is conflict between this Chapter, a provision of another City of Woodstock municipal by-law, an Act or regulation of an Act that deals with adult books, magazines or videos, the provision that is more restrictive prevails.

Article 6 - Enforcement

778.6.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the *Provincial Offences Act*.

Article 7 - Enactment

778.7.1 Effective date

The by-law upon which this Chapter is founded came into force and took effect on May 20th 2010. By-law 8610-10, May 20, 2010.