

OFFICE CONSOLIDATION
BY-LAW 2002-165

Amending By-laws to Adult Entertainment Parlours By-law 2002-165

By-law No.

Date of Meeting

2010-157

September 27, 2010

2017-229

December 11, 2017

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW 2002-165

LICENSING: A by-law to regulate adult entertainment parlours.

WHEREAS the Council of the Corporation of the City of Sault Ste. Marie has, pursuant to the provisions of the Municipal Act, R.S.O. 1990, c. M.45, section 225, authority to pass by-laws for licensing, regulating, governing, classifying and inspecting adult entertainment parlours.

AND WHEREAS it is deemed desirable to provide for the licensing, regulating, governing, classifying and inspecting of adult entertainment parlours;

AND WHEREAS the Council of the Corporation of the City of Sault Ste. Marie has further deemed it expedient and desirable to exercise the power granted pursuant to the Municipal Act, section 225(3), and to define certain areas of the City of Sault Ste. Marie where adult entertainment parlours may not operate;

NOW THEREFORE the Council of the Corporation of the City of Sault Ste. Marie hereby enacts as follows:

1. **DEFINITION**

- (a) "Adult Entertainment Parlour" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, services appealing to or services designed to appeal to erotic or sexual appetites or inclinations.
- (b) When used in relation to adult entertainment parlours, the following shall apply;
 - (i) "Burlesque Attendant" means any person who, in an adult entertainment parlour, provides services appealing to or designed to appeal to erotic or sexual appetites or inclinations.
 - (ii) "Operator" means a person who, alone or with others, operates, manages, supervises, runs or controls an adult entertainment parlour.

- (iii) "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 a premises in which an adult entertainment parlour is located.
- (iv) "To Provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings.
- (v) "Services" include activities, facilities, performances, exhibitions, viewing and encounters.
- (vi) "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. For the purposes of this clause "partial nudity" shall mean less than completely and opaquely covered:
 - (i) human genitals or human pubic region;
 - (ii) human buttocks, or
 - (iii) female breast below a point immediately above the top of the areola.
 - (b) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy", or in any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.
- (vii) "Sexual Contact" includes the kissing, fondling, touching and sucking of breasts or genitals, digital penetration, fellatio, cunnilingus, masturbation, ejaculation or intercourse.

2. **LICENCE REQUIRED**

A licence shall be obtained under this by-law by:

- (i) every person who owns an adult entertainment parlour;
- (ii) every person who operates an adult entertainment parlour;
- (iii) every person who is a burlesque attendant.

- (iv) every person who is required to have a license pursuant to this By-law shall surrender the license for reasonable inspection upon the demand of a Police Officer or officer appointed for carrying out the provisions of this By-law. **[Amended by By-law 2010-157]**

3. **PENALTY**

- (1) Any owner or operator of an adult entertainment parlour or any burlesque attendant who contravenes this by-law or is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.00.
- (2) Where the owner or operator of an adult entertainment parlour is a Corporation, every director or officer of the Corporation who concurs in a contravention of this by-law by the Corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000.00.

4. **FEE STRUCTURE**

- (1) The annual licence fee for the licences under this by-law shall be as follows:
- Adult Entertainment Parlour Owner...\$2,000 per calendar year
- Adult Entertainment Parlour Operator...\$2,000 per calendar year
- Adult Entertainment Parlour Burlesque Attendant...
\$90.00 per year from the date the licence was obtained. **[Amended by By-law 2017-229]**
- (2) If the Owner and Operator are one and the same person, then there shall only be required to be paid one licence fee as set out in subsection 1 above and the licence shall identify the Owner and Operator as being one and the same.
- (3) If the Owner is a corporation and the Operator of the adult entertainment parlour holds the majority shares in the corporation, in such instance there shall only be required to be paid one licence fee as set out above and the licence of such corporation shall identify such person as being the Owner/Operator.

5. **LICENCE REQUIREMENTS**

- (a) Without limiting the generality of any of the provisions of this by-law, no person shall own or operate an adult entertainment parlour, and no

person shall provide services of a burlesque attendant without first being licensed under this by-law.

- (b) A separate owner's licence shall be taken out in respect of each adult entertainment parlour.
- (c) No adult entertainment parlour may carry on business or operate or be operated unless its owner is licensed as such under this by-law.
- (d) On every application by an individual person for an owner's, operator's or burlesque attendant's licence or for the renewal thereof, the applicant shall complete and return to the Administrator of Licences, 99 Foster Drive the prescribed forms and shall furnish to the Administrator of Licences such information as the Administrator of Licences may require.
- (e) Every person applying for an owner's licence or for an operator's licence or for a burlesque attendant's licence shall submit with the application two (2) passport size photographs of the applicant's face, one of which photographs shall be attached to the licence and the other shall be filed with the Administrator of Licences and upon application for renewal of any licence, the applicant shall furnish new photographs, if required so to do by the Administrator of Licences. Where the owner is a corporation, the person who on behalf of the corporation signs the application for an owner's licence, shall comply with the requirements of this section.
- (f) Every person applying for a licence must use his or her own legal name in making such application and, subject to subclause (g), no such licence shall be issued to any person in any name other than his or her own legal name.
- (g) Every owner, operator or burlesque attendant intending to use some name or designation other than his or her own may, at the time of the issue of the licence or at the time at which he or she files with the Administrator of Licences notice of intention to use such name or designation, have endorsed on the licence such name or designation.
- (h) Every person applying for an owner's license shall file with the Administrator of Licences documentation satisfactory to the Administrator of Licences demonstrating the applicant's right to possess or occupy the premises used by the applicant as an adult entertainment parlour, and if such person is not the registered owner or owner in fee simple of the property upon which the adult entertainment parlour is located, such person shall file with the Administrator of Licences at the same time a copy of his lease, if any, and of any other document constituting or affecting the legal relationship between the said applicant and the registered owner or owner in fee simple of the real property.

- (i) Where an owner does not personally operate his or her adult entertainment parlour, every person operating such adult entertainment parlour shall obtain a licence so to do, but nothing herein relieves such an owner from the requirement that he or she obtain a licence as owner of such adult entertainment parlour.
- (j) No owner of an adult entertainment parlour shall permit a person other than an operator licensed under this by-law to operate such adult entertainment parlour.
- (k) No owner or operator shall permit a person other than an operator licensed under this by-law to operate such adult entertainment parlour.
- (l) No owner shall permit any person other than an employee of such owner or person with whom the owner has contracted to operate his or her adult entertainment parlour to provide services in his or her adult entertainment parlour.
- (m) No burlesque attendant or other person shall provide services in any adult entertainment parlour unless the owner of such adult entertainment parlour and the operator, if any, is licensed as owner or operator respectively under this by-law.
- (n) No operator, not being the owner of an adult entertainment parlour, shall operate the said adult entertainment parlour unless the owner of the said adult entertainment parlour is licensed as an owner under this by-law.
- (o) No operator may operate an adult entertainment parlour unless the operator first notifies the Administrator of Licences of the name of the owner whose adult entertainment parlour the operator intends to operate and has endorsed upon the licence the said owner's name accordingly, and every operator, before operating any other adult entertainment parlour, shall notify the Administrator of Licences of the operator's intention so to do and have the licence endorsed accordingly.
- (p) Every owner, operator or burlesque attendant who changes either his or her permanent or temporary residence shall, within two (2) days after such change, attend at the office of the Administrator of Licences and shall notify the Administrator of Licences of such change of address and shall produce the owner's, operator's or burlesque attendant's license as the case may be for the change to be endorsed thereon.
- (q) No owner's licence shall be transferred and if an owner sells, leases or otherwise disposes of the adult entertainment parlour or the premises or part thereof upon or in which an adult entertainment parlour is operated by any person the licence in respect of such adult entertainment parlour or premises shall, notwithstanding any other provisions of this by-law be

terminated. Subject to subsection (r), the Administrator of Licences may issue a new owner's licence to the purchaser, lessee or other person obtaining an interest in an adult entertainment parlour or the premises or part thereof upon or in which the adult entertainment parlour has been operated, subject also to the following conditions:

- i) that the new applicant qualify under all of the other provisions of this by-law and that the applicant comply with all the requirements of this by-law relating to the applicant;
 - ii) that the new applicant file with the Administrator of Licences the documents relating to ownership and to the applicant's right to possess or occupy the said adult entertainment parlour;
 - iii) that the applicant and vendor file with the Administrator of Licences an executed copy of the written agreement between the parties containing all of the details of the dealings between the parties in respect of such adult entertainment parlour premises.
- (r) The making of a false or intentionally misleading recital of fact, statement or representation in any such agreement shall be deemed a violation of the provisions of this by-law.
- (s) Upon the sale, lease or other disposition of an adult entertainment parlour, every operator's licence issued in respect of such adult entertainment parlour shall terminate, and the Administrator of Licences may, subject to the provisions of this by-law, permit the purchaser, lessees or other person obtaining an interest in such adult entertainment parlour by an endorsement to that effect upon the operator's licence issued to the operator or may issue a new operator's licence to any such person previously licensed as an operator in respect of such adult entertainment parlour.
- (t) No person under the age of eighteen (18) years may be or act as an owner, operator or burlesque attendant at an adult entertainment parlour or provide any services in an adult entertainment parlour.
- (u) No person shall provide services of a burlesque attendant in an adult entertainment parlour to a person under the age of eighteen (18) years.
- (v) No owner or operator shall permit any person under the age of eighteen (18) years to enter or remain in any adult entertainment parlour owned or operated by him or her. This section shall not be deemed to prohibit any person from entering or remaining in any premises licensed as an adult entertainment parlour, except when the services of a burlesque attendant are being provided in such premises.

- (w) No owner or operator of an adult entertainment parlour shall place or permit to be placed any sign, or any other advertising device on any premises occupied by an adult entertainment parlour, save and except a sign or any other advertising device containing the words "Adult Entertainment Parlour", and the name under which the business is operated provided such name does not include any of the following words:
- "Nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication.
- (x) No owner or operator shall, in respect of any adult entertainment parlour owned or operated by him or her, permit any burlesque attendant to sit or rest on, or make physical contact with the breasts, buttocks, genital or pubic areas of any other person or have sexual contact with any person;
- (y) No burlesque attendant, while providing services as a burlesque attendant, shall allow any other person to touch, kiss or make any physical contact with their breasts, buttocks, genital or pubic areas or have sexual contact with any person.
- (z) No burlesque attendant, while providing services as a burlesque attendant shall touch, kiss, sit or rest on any person or have sexual contact with any person.
- (aa) All services provided by a burlesque attendant shall be provided while in view of the main stage without obstruction by walls, curtains or any other enclosure.

6. **SEVERABILITY**

If a Court of competent jurisdiction should declare any section of part of a section of this by-law to be invalid, such section or part of the section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law, and it is hereby declared that the impugned section shall be severable and distinct, from the remainder of the by-law, and the remainder of the by-law shall be valid and shall remain in force.

7. **EFFECTIVE DATE**

This by-law shall come into force and take effect on the day of its final passing.

READ THREE times and PASSED in open Council this 12th day of August, 2002.

"John Rowswell"

MAYOR – JOHN ROWSWELL

"Donna Irving"

CLERK - DONNA P. IRVING