

**BY-LAW NUMBER 158 OF 2002
OF THE CITY OF SARNIA**

**“A By-Law Licensing and Regulating Live Adult
Entertainment Parlours and the Advertising for same”**

WHEREAS the *Municipal Act*, R.S.O. 1990, c.M.45, Section 225 provides Council with licensing and regulatory powers over adult live entertainment parlours;

AND WHEREAS it is deemed necessary and expedient to license, regulate and govern adult live entertainment parlours within the City and to limit the number of licences which may be granted;

NOW THEREFORE the Municipal Council of The Corporation of the City of Sarnia enacts as follows:

Definitions

1. In this By-Law, unless a contrary intention appears,
 - (a) “adult live entertainment parlour” means any premises in which or in part of which, in pursuance of a trade, calling, business or occupation, a live performance of an adult nature is provided;
 - (b) “clerk” means the Clerk of the City of Sarnia;
 - (c) “licence” means a licence issued under the authority of this By-Law;
 - (d) “live performance of an adult nature” means any performance, exhibition or activity designed to appeal to erotic or sexual appetites or inclinations, of which a principal feature or characteristic is the nudity or partial nudity of any person. For the purposes of this definition, “partial nudity” shall mean less than completely and opaquely covered:
 - (i) human genitals or human pubic region;
 - (ii) human buttocks; or
 - (iii) the female breast below the point immediately above the top of the areola;

- (e) “operator” means a person who alone or with others operates, manages, supervises, runs or controls an adult live entertainment parlour, and without restricting the generality of the foregoing, includes an owner, and “operates” has a corresponding meaning;
- (f) “owner” means a person who alone or with others has the right to possess or occupy an adult live entertainment parlour or actually does possess or occupy an adult live entertainment parlour and, without restricting the generality of the foregoing, includes a lessee of an adult live entertainment parlour or of premises upon which an adult live entertainment parlour is located;
- (g) “provide” includes furnishing, performing, soliciting, giving, or making available and “provided” has a corresponding meaning;
- (h) “cessation” means the failure or inability to offer a live performance of an adult nature for a continuous period of 30 days, unless for the purpose of conducting renovations to that portion of the premises in which the live performance of an adult nature is offered that are so extensive as to require a building permit, and includes a “deemed cessation”;
- (i) “deemed cessation” occurs immediately upon the occurrence of the earliest of the following:
 - (a) either the owner or the operator becomes insolvent or bankrupt;
 - (b) a trustee in bankruptcy is appointed for either the owner or the operator;
 - (c) either the owner or the operator makes a general assignment for the benefit of creditors, or goes into liquidation, whether voluntarily or by Court order.

Areas of Permitted Operation

- 2. (a) No person shall operate an adult live entertainment parlour in the City of Sarnia except in accordance with express permissive provisions in the Zoning By-Law, the Official Plan, and in accordance with the provisions of this By-Law; and

- (b) Notwithstanding Section 2(a) above, the lawfully existing adult live entertainment parlours indicated as Areas 1 and 2 on Schedule "A" attached hereto and forming part of this By-Law are each eligible to apply for a licence under this By-Law.

Licence Required

3. (a) No person shall own, operate, engage in or carry on the occupation or business of an adult live entertainment parlour without first being licensed under this By-Law as follows:
- (a.1) A separate owner's licence is required for each premises housing an adult live entertainment parlour;
- (a.2) Every person applying for an owner's licence shall file with the Clerk documentation satisfactory to the City Solicitor either demonstrating that he is the registered owner in fee simple of the real property in question, or demonstrating his right to possession and occupation of said premises, including any deed, lease or any other documentation with respect to the legal relationship between the applicant for an owner's licence and the registered owner in fee simple of the real property as may be requested by the Clerk.
- (a.3) Every owner shall have brought into good standing, to the satisfaction of the City Treasurer, all property taxes then due and owing to the municipality;
- (b) No owner's licence shall be issued until the fee of \$1,415.00 with respect to such licence has been paid in full and any property taxes then due and owing have been brought into good standing to the satisfaction of the City Treasurer;
- (c) The City Treasurer is hereby authorized, in his discretion, to enter into an agreement with the potential licensor, for the payment of the tax arrears over such period of time as he deems fit. Any such agreement shall

provide that, upon default of any payment thereunder, the licence shall terminate forthwith and no new application for a licence shall be entertained;

- (d) The payment in full or payment agreement for all outstanding property taxes are without prejudice to the licensor pursuing his ordinary appellate rights;
- (e) When an owner does not personally operate the adult live entertainment parlour, he shall not permit any person other than an operator licensed under this By-Law to operate such adult live entertainment parlour and nothing herein relieves the owner from the requirement that he obtain a licence as owner of such adult live entertainment parlour;
 - (e.1) No operator shall operate the said adult live entertainment parlour unless he has first obtained an operator's licence under this By-Law and the owner of the aforesaid premises is licensed as an owner under this By-Law and no operator's licence shall be issued with respect to such premises absent proof satisfactory to the Clerk demonstrating same.
 - (e.2) No operator's licence shall be issued under this By-Law until the owner has paid the fee established in subsection 3(b) of this By-Law with respect to such licence, has been paid in full and the said Clerk is provided with proof satisfactory to the Clerk that all property taxes with respect to the premises are in a state satisfactory to the City Treasurer, and in this regard the provisions of paragraph 3(a) through 3(d) apply.
- (f) All licences shall be for the calendar year in which they are issued and shall expire on the 31st day of December next following the date of issue; and shall be renewed by no later than January 31 of the succeeding year and during the one month period from December 31 to January 31 next following, all necessary licences shall be deemed to exist for the purposes of the By-Law;
- (g) Any licence not renewed by January 31st of the succeeding year shall be terminated and no new application for a licence shall be entertained;

- (h) The fee for any licence issued before the 1st day of July in any year shall be the fee for the full year and the fee for any licence issued on or subsequent to the 1st day of July in any year shall be one-half of the fee for the full year;
- (i) Licences shall be issued in the name of The Corporation of the City of Sarnia and shall be granted and signed by the Clerk, upon written application therefor, signed under oath by the applicant in accordance with the form prescribed by the Clerk from year to year;
- (j) In recognition that the existing adult live entertainment parlours are located in areas where they are not permitted by the zoning by-Law, and that such licences are specific to the specific location, owner and operator, licences are not transferable. In the event of a proposed sale, lease, change of owner or change of operator, the licence or licences, as the case may be shall immediately terminate and, in the event that the use as an adult live entertainment parlour is intended to continue, a new application or applications for a new licence or licences shall be made forthwith. The new applicant shall qualify under all other applicable provisions of this By-Law. The pro-rata share of the unexpired portion of the annual licence fee, if any, shall be remitted to the payor;
- (k) In the event of a cessation of the adult live entertainment parlour use in any licensed location, the licence(s) shall immediately terminate, and no new application for a licence shall be entertained. The Clerk shall confirm in writing the termination of the licence and shall forthwith remit, by ordinary mail to the address of the owner shown on the prescribed application form, the pro-rata share of the unexpired portion of the annual licence fee;
- (l) Not more than two (2) licensed locations shall be permitted for the operation of adult live entertainment parlours at any one time; and

- (m) Every person applying for a licence must use that person's legal name in making such application, and no licence will be issued to any person in any name other than such legal name.

Age Limit

- 4. No owner and no operator of an adult live entertainment parlour shall permit any person under the age of 18 years to enter or remain in such adult live entertainment parlour or any part thereof.

Advertising

- 5. Pursuant to Section 225(2) of the *Municipal Act*, R.S.O. 1990, c.M.45, and, to the extent that the provisions hereinafter set forth are contrary to the provisions of the Sign By-Law of the City, notwithstanding the Sign By-Law, no owner or operator of an adult live entertainment parlour shall place, affix or paint; permit to be placed, affixed or painted; or cause to be placed, affixed or painted or permit the continued existence of any sign, advertising device or any other thing intended for the purpose of promoting any adult live entertainment parlour on any building, billboard, marquee, portable sign, or any other place or thing exterior to a building or readily visible from the exterior of any building, except as follows:
 - (a) A sign may contain:
 - (i) the name and address of the premises;
 - (ii) the words "adult entertainment parlour" or "adult live entertainment parlour";
 - (iii) the name, type, kind or quality of any food or beverage sold at the premises;
 - (iv) a statement without embellishment indicating whether the premises are licensed to serve refreshments of an alcoholic nature and pursuant to what authority; and
 - (v) the hours of operation,and no other words, pictures or descriptions of any nature or kind whatsoever shall be permitted in or on such sign and for the purposes of prosecution under this By-Law any irregularity in the shape of the sign so

as to attempt a visual depiction of any portion of the human anatomy shall be considered a breach of this By-Law and the owner and operator each subject to prosecution in the accordance with the provisions of the By-Law;

- (b) Notwithstanding the foregoing, a newspaper advertisement while in the newspaper in the ordinary course (and not removed from the newspaper or posted in such a fashion as to resemble a sign, notice, hand bill or similar advertising device) shall not be considered an advertising device for the purposes of this By-Law;
- (c) Notwithstanding the foregoing and for greater clarity, any reference to any type or kind of entertainment, pastime, service, food or beverage which may be offered which is not directly associated with an adult live entertainment parlour, including without limiting the generality of the foregoing, references to billiards and similar forms of entertainment, lounges, feature menu items and any other reference not ordinarily, usually or commonly associated with an adult live entertainment parlour shall not be considered as being "intended for the purpose of promoting any adult live entertainment parlour" for the purposes of this By-Law. "Table dancers", "exotic dancers" and similar references are deemed to be directly ordinarily, usually or commonly associated with an adult live entertainment parlour;
- (d) Any sign, advertising device or thing intended for the purpose of promoting an adult live entertainment parlour shall, in addition to the foregoing requirement, comply in all other respects with the Sign By-Law for the City of Sarnia;
- (e) The provisions of this section shall be applicable forthwith to any and all adult live entertainment parlours licensed under this By-Law, and for greater clarity, are intended to require any existing adult live entertainment parlour which is eligible to apply for a licence by virtue of the provisions of Section 2(b) to make the necessary permanent changes to any existing

signs, advertising devices or other things intended for the purposes of promoting the adult live entertainment parlour in order to comply with this section.

Contravention

6. (1) Every person who owns or operates an adult live entertainment parlour in contravention of any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine not exceeding \$25,000.00 or to imprisonment for a term not exceeding one year, or to both;
- (2) Where the owner or operator of an adult live entertainment parlour is a corporation, it shall, upon conviction under Subsection (1) hereof, be liable to a fine not exceeding \$50,000.00 and not as provided in Subsection (1) hereof;
- (3) Where the owner or operator of an adult live 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 upon conviction shall be liable to a fine not exceeding \$25,000.00 or to imprisonment for a term not exceeding one year, or to both; and
- (4) Where Section 3 of this By-Law is contravened by an operator of an adult live entertainment parlour and a conviction entered, the provisions of Sections 327 and 330 of the *Municipal Act*, R.S.O. 1990, c.M.45 as amended, apply.

Revocation or Refusal to Renew

7. (a) The Clerk shall forthwith revoke and terminate the licence of any owner or operator in the event of a conviction of the owner or operator under:
 - (i) This By-Law;
 - (ii) Sections 29, 30, 33 and 34 of the Liquor Licence Act, R.S.O. 1990, c.L.19 or Sections 15-21 of the Regulations thereunder as amended or replaced from time to time;

- (iii) Sections 163, 167, 168, 169, 170, 171 and 172 of the Criminal Code, 1989, as amended,
and no new application for a licence shall be entertained.
- (b) In the event of a termination of licence, the unexpired pro-rata portion of the licence fee for the balance of the year shall be calculated, from either the date of the Clerk's confirmation of the termination of the licence or the date of confirmation of the termination of licence in accordance with paragraph (c) hereof, whichever is the later;
- (c) The decision of the Clerk with respect to the termination of licence or the termination by operation of the provisions of 3(g) or 3(k) of this By-Law, may be appealed to Council and may be confirmed, varied or overturned by Council in its discretion and without Council being bound to provide the reasons therefore.

The Enforcement

- 8. This By-Law shall be enforced by officers of the Sarnia Police Services Board, the Property Standards Officers of the City of Sarnia, the Medical Officer of Health or the Public Health Inspector acting under his direction.

Severability

- 9. If any section or sections of this By-Law or parts thereof may be found by any court to be illegal or beyond the power of City Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found and this By-Law shall be enacted as such.

Commencement

- 10. The short title of this By-Law shall be the "Adult Entertainment Parlour By-Law".
- 11. This By-Law repeals and replaces By-Law Number 17 of 2001 of the City of Sarnia, as amended.

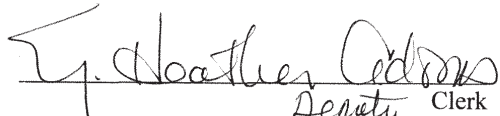
12. Any licence already issued under By-Law Number 17 of 2001, as amended, for the period from January 1, 2002 to December 31, 2002 shall be deemed to be a licence issued in accordance with this By-Law for all purposes.

13. This By-Law shall come into force and effect upon being finally passed.

FINALLY PASSED this 16th day of Dec- , 2002.



Mayor



Deputy Clerk

SCHEDULE "A"

AREA #1 - 132 FRONT STREET S.

All and singular that certain parcel or tract of land and premises situate lying and being in the City of Sarnia, in the County of Lambton, and the Province of Ontario, being composed of Part Lot 76, Front Concession, Geographic Township of Sarnia, City of Sarnia and Part Lots 19 and 20 on Plan 2(SA), City of Sarnia, all more particularly described as follows:

PREMISING that the easterly limit of Front Street has a bearing of N 13° 55' E and relating al bearings thereto;

COMMENCING at a point in the easterly limit of Front Street where it intersects the northerly limit of Wellington Street;

THENCE N 13° 55' E along the easterly limit of Front Street a distance of 79.79 feet to a wooden stake planted;

THENCE N 13° 13' E, a distance of 55.67 feet to an iron pipe planted;

THENCE S 76° 5' E, a distance of 142 feet 6 inches to an iron pipe planted;

THENCE S 13° 50' W, a distance of 25 feet more or less to the northerly limit of Lot 19;

THENCE N 89° 10' W, a distance of 38 feet more or less to an iron pipe planted;

THENCE S 13° 55' W, a distance of 102.08 feet more or less to a point in the northerly limit of Wellington Street, which said point is distant 108 feet 2 inches more or less, measure easterly therealong from the easterly limit of Front Street;

THENCE N 76° 5' W along the northerly limit of Wellington Street, a distance of 108 feet 2 inches more or less to the point of commencement, which said lands are outlined in red on a sketch of survey made by Hunter, MacKenzie, O.L.S. and dated June 6, 1955, attached to Instrument No. 498613 for the County of Lambton.

Previously described in Instrument No. 679729, County of Lambton.

SCHEDULE "A" - continued

AREA #2 - 299 EAST STREET S.

All and singular that certain parcel or tract of land and premises situate lying and being in the City of Sarnia, County of Lambton, and Province of Ontario, being composed of Part Lots 22 and 23, Range 6, Plan 16½ (SA), being more particularly described as follows:

COMMENCING at a point in the westerly limit of East Street distant 324.56 feet measured S 1° 35' W thereon from its intersection with the southerly limit of Devine Street;

THENCE continuing S 1° 35' W along the westerly limit of east Street, 267.95 feet to its intersection with the northerly limit of Ontario Street;

THENCE N 53° 42' 30" W along the northerly limit of Ontario Street, 167.60 feet;

THENCE N 1° 35' E and parallel with the westerly limit of East Street, 143.83 feet;

THENCE S 89° 23' 30" E and parallel to the southerly limit of Devine Street, 31.50 feet;

THENCE N 1° 35' E and parallel to the westerly limit of East Street, 26.35 feet;

THENCE S 89° 23' 30" E and parallel to the southerly limit of Devine Street, 106.30 feet to the point of commencement.

As shown outlined in red on a plan of survey prepared by T. E. Milway, O.L.S. and attached to and forming part of Instrument No. 267234 for the County of Lambton.

SAVE AND EXCEPT that property being in the City of Sarnia, in the County of Lambton and being composed of that part of Lot 23, Range 6, Plan 16½ (SA) for the said City of Sarnia, designated as Part 1 on Reference Plan 25R-2859 conveyed to The Corporation of the City of Sarnia for road widening purposes.

Previously described as Parcel III in Instrument No. 773372, County of Lambton.

BY-LAW NUMBER 158 OF 2002
OF THE CITY OF SARNIA

**"A By-Law Licensing and Regulating Live Adult
Entertainment Parlours and the Advertising for same"**

READINGS:

FIRST: Dec. 16/02

SECOND: Dec. 16/02

THIRD: Dec. 16/02

THE CORPORATION OF THE CITY OF SARNIA
LEGAL SERVICES (APP/ad)
City Hall
Sarnia, Ontario N7T 7N2

BY-LAW #23

By-Law

DEPARTMENT CORRESPONDENCE
People Serving People

DATE: December 11, 2002

FILE: C01-87-2730

TO: Ann Tuplin
City Manager

FROM: Alex Palimaka
City Solicitor

SUBJECT: Live Adult Entertainment Parlour By-Law

DEC 16 2002

RECEIVED

DEC 14 2002

CITY MANAGER

As instructed by the Deputy City Clerk, I now attach, in duplicate, a By-Law being, "A By-Law Licensing and Regulating Live Adult Entertainment Parlours and the Advertising for same".

Council's approval is respectfully requested.

/db
Att.

D:\MY DOCUMENTS\COUNCIL REPORTS\AEP BLW MMO TO DEC16-02 MTG DMB

ASP

DEPARTMENT CORRESPONDENCE
People Serving People

TO: Alex Palimaka
City Solicitor

FROM: Evelyn Laird
Clerk's Office

DATE: December 17th, 2002


RE: Live Adult Entertainment Parlours

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Attached is a copy of by-law 158 of 2002, being "A By-Law Licensing and Regulating Live Adult Entertainment Parlours and the Advertising for same", which was passed by Sarnia City Council at its meeting held December 16th, 2002.



c.c. Chief O'Brien
M. Schnare
A.D. Anderson
S. MacDonald



By-Law that Amends By-Law Number 158 of 2002

19 of 2004
135 of 2005
