

The Corporation of The City of Kawartha Lakes

Office Consolidation of By-Law 2013-193

Consolidated on January 23, 2016

Passed by Council on November 12, 2013

Amendments:

- 1) By-law 2016-209 November 22, 2016 Sections 5 and Sch. A

Note: This consolidation is prepared for convenience only. For accurate reference the original by-laws should be reviewed.

The Corporation of The City of Kawartha Lakes

By-Law 2013-193

A By-Law to Define Areas in The City of Kawartha Lakes in Which Adult Entertainment Parlours May Operate and to Licence, Regulate and Limit the Number of Adult Entertainment Parlours Elsewhere in The City of Kawartha Lakes.

Recitals

1. Sections 150 - 153 of The Municipal Act, 2001, S. O. 2001 c.25, as amended authorizes Council to licence, regulate and govern businesses.
2. Section 154 of The Municipal Act, 2001, S. O. 2001 c.25, as amended specifically authorizes Council to licence, regulate and govern adult entertainment establishments.
3. The authority includes but is not limited to: the power to issue licences, to issue licences on condition, to revoke licences, to suspend licences, to regulate or govern the place used in the carrying on of such businesses and to prevent the carrying on of such businesses without a licence.
4. Section 425(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended, is guilty of an offence.
5. Section 429(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law passed under the Municipal Act, 2001, S.O. 2001, c.25, as amended.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2013-193.

Section 1.00: Definitions and Interpretation

1.01 **Definitions**: In this by-law:

“**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 designed to appeal to erotic or sexual appetites or inclinations.

“by-law” means this by-law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it.

"cash" includes but is not limited to cash, debit card, credit card or certified cheque.

“Chief Building Official” means the person within the City’s administration who fulfills the function of the chief building official as required by the *Building Code Act, 1992, S. O. c.23*, as amended.

“City”, “City of Kawartha Lakes” and “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area.

“city area” means the area within the geographic boundaries of the Corporation of the City of Kawartha Lakes as determined by the Council from time to time.

“City Clerk” means the person within the administration of the City which fulfills the function of the City Clerk as required by the *Municipal Act 2001, S. O. 2001, c.25*, as amended.

“Consolidated Fees By-law” means City of Kawartha Lakes By-law 2016-206 or if it has been repealed any subsequent City of Kawartha Lakes By-law known as the Consolidated Fees By-law.
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“Council” means the municipal council for the City.

“Department Head” means the person who holds that position and his or her delegate(s) or, in the event organizational changes, another person designated by Council.

“employee” means a person other than an owner or an operator, who is employed by an owner or an operator of a parlour, whether full-time, part-time or on a contract basis and does not provide services to appeal to erotic or sexual appetites or inclinations and who is not a performer.

“Exit” means an Exit as defined in and as required by the Building Code Act S. O. 1992 c.23, as amended or Regulations, or other applicable statute, regulation or by-law.

“Licensing Officer” means the municipal Licensing Officer for the City, responsible for the issuing, administration and approval of licences in accordance with provincial legislation and City policies and procedures, or their delegate.

“Manager of Customer Service” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council.

“Medical Officer of Health” means the Medical Officer of Health or acting Medical Officer of Health having jurisdiction over the City of Kawartha Lakes pursuant to the Health Protection and Promotion Act, R.S. O. 1990, c.H.7, as amended and, where the context requires or necessarily implies, may include any associate Medical Officer of Health or Public Health Inspector acting under the Medical Officer of Health’s instructions.

"Municipal Act" means the Municipal Act, 2001 S. O. 2001 c.25 as amended from time to time.

“Municipal Law Enforcement Officer” is a person duly appointed within the City’s administration to enforce the by-laws of the City, and includes the Licensing Officer.

“operator” means a person who alone or with others operates, manages, supervises, runs or controls an adult entertainment parlour and “operate”, “operation” and words of like import or intent shall be given a corresponding meaning.

“owner” means a person who alone or with others operates, manages, supervises, runs or controls, has the right to possess or occupy any adult entertainment parlour or actually does possess or occupy any adult entertainment parlour and includes a lessee or licensee of any adult entertainment parlour or of premises upon which an adult entertainment parlour is located and “own”, “ownership” and words of like import or intent shall be given a corresponding meaning.

“parlour” means an adult entertainment parlour.

“Peace Officer” includes but is not limited to the mayor, sheriff, deputy sheriff, sheriff’s officer, justice of the peace, jailer or keeper of a prison, and a police officer, bailiff, municipal law enforcement officer, or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process, or any officer appointed for enforcing or carrying out the provisions of this by-law.

“performer” means any person who provides services designed to appeal to erotic or sexual appetites or inclinations at an adult entertainment Parlour in pursuance of a trade, calling, business or occupation.

“person” includes but is not limited to an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural Person.

“Police” means the Chief of Police or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, or his or her delegate.

“property owner” means a person who alone or with others has the right to possess or occupy any adult entertainment parlour or actually does possess or occupy any adult entertainment parlour and includes a lessee or licensee of any adult entertainment parlour or of premises upon which an adult entertainment parlour is located and “own”, “ownership” and words of like import or intent shall be given a corresponding meaning.

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

“services” includes but is not limited to activities, facilities, performances, exhibitions, viewing and encounters but does not include the exhibition of film approved under the Theatres Act, as amended and shall include the provision of a body-rub.

“services designed to appeal to erotic or sexual appetites or inclinations” includes but is not limited to striptease dancing or other like services of which a principal feature or characteristic is the nudity or partial nudity of any person.

“specified body areas” means any one or more of the following:

- (i) in the case of all persons, perineal and perianal areas and the buttocks.

1.02 **Interpretation Rules:**

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **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 shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

1.05 **Conflicts:** If a provision of this by-law conflicts with a provision of any applicable Act, regulation or by-law, the provision that establishes the higher or more restrictive standard to protect the health, safety and welfare of the general public shall prevail.

1.06 **Short Title:** Adult Entertainment Parlour By-law.

Section 2.00: Duties of Administrators

2.01 **Duties of the Licensing Officer:**

The Licensing Officer shall:

- (a) receive and process all applications for licences and renewal of licences required under this by-law;
- (b) administer the issuance of licences in accordance with the provisions of this by-law;
- (c) maintain and keep records of all applications received and licences issued; and
- (d) generally perform administrative functions incidental and necessary to the due administration and enforcement of this by-law.

2.02 **Duties of Municipal Law Enforcement Officers or Police:** The duties of the Municipal Law Enforcement Officer or Police as set out in this By-law shall be in addition to any other duties assigned.

2.03 **Confidentiality of Administrators:** Every person employed in the administration of this By-law, including any person making an inspection or an investigation, shall preserve confidentiality in respect of all matters that come to their knowledge in the course of their duties, employment, inspection or investigation and shall not communicate any such matters to any other person, except:

- (a) as may be required in the course of administration or in any proceedings under the by-law;
- (b) to Council in closed session;
- (c) to their counsel;

- (d) with the consent of the person to whom the information relates.

Section 3.00: Liability of Administrators

- 3.01 **Personal Liability:** Every person employed in the administration of this By-law while properly acting in the course of carrying out this duty under this By-law, shall be relieved from all personal liability for any damage that may accrue to corporations, persons or property as a result of any act required or permitted in the discharge of their official duties.
- 3.02 **Defense:** Any suit instituted against any Municipal Law Enforcement Officer or other officer or employee of the City because of an act performed by them in the lawful discharge of their duties and under the provision of this by-law, shall be defended by the legal representative as designated by the City until final determination of the proceedings. This section does not apply to any action of the Ontario Provincial Police.
- 3.03 **Costs:** In no case shall the Municipal Law Enforcement Officer or other officer or employee of the City be liable for costs in any proceedings of any nature whatsoever that may be instituted in pursuance of or as a result of the Enforcement or application of the provisions of this By-law, and any Municipal Law Enforcement Officer or other officer or employee of the City, acting in good faith and without malice shall be free from liability for acts performed under any of the provisions of this By-law or by reason of any act or omission in the performance of their official duties in connection therewith.

Section 4.00: Location of Establishments

- 4.01 **Location:** No owner or operator shall own or operate any "adult entertainment parlour" and no licences shall be issued for an owner or operator with respect to any adult entertainment parlour except within the following defined areas in the City:
- (a) any areas zoned as industrial within the applicable zoning by-law as permitted through an amendment to the zoning by-law.
- 4.02 It will still be in the sole discretion of the Licencing Officer to issue or refuse to issue an owner's or operator's licence pursuant to the provisions of this by-law.
- 4.03 If during the term of a licence that is issued pursuant to subsection 10.01, the said adult entertainment parlour ceases to operate as an adult entertainment parlour, then the licence will be deemed to have been revoked and be of no further effect.
- 4.04 No adult entertainment parlour shall be located closer than 300 metres from the property line, measured in a continuous path over the shortest distance, from another adult entertainment parlour established.
- 4.05 No adult entertainment parlour shall be located closer than 300 metres from a school, church, public park, community facility or residence or an area that is zoned for residential use in the zoning by-law that applies to the property.

Section 5.00: Licences

- 5:01 There shall be taken out by:
- (a) every owner of an adult entertainment parlour;
- (b) every operator of an adult entertainment parlour;
- (c) very performer at an adult entertainment parlour;

- a licence from the City authorizing them respectively to carry on their several trades, callings, businesses, and occupations within the City, for which said licence the person obtaining the same shall pay to the City at the time of taking out such licence the fee fixed by this by-law. No person shall, within the limits of the City, carry on or engage in any of the said trades, callings, businesses or occupations until he has first procured such licence to do so and such licence is in force.
- 5.02 A separate owner's licence shall be taken out in respect of each parlour owned by the owner. A separate operator's licence shall be taken out in respect to each parlour operated by an operator.
- 5.03 No person shall open for business, operate or have operated or permit to open for business, operate or have operated any parlour unless its owner is first licensed as such under this by-law.
- 5.04 No owner shall perform the services of an operator in the parlour of which they are the owner without first obtaining an operator's licence to do so, in addition to their owner's licence. There shall be at least one owner and one operator for each adult entertainment parlour.
- 5.05 No owner or operator or performer shall perform the services of a performer or permit to perform in the parlour of which they are the owner or operator without first obtaining a performer's licence.
- 5.06 **Term of Licences:** Licences shall be issued for a maximum period of one year, unless they are sooner forfeited, suspended or revoked, and shall come into effect on the date that they are issued, and expire on December 31 of that same year.
- 5.07 **Fees:** The fees for licences that shall be paid to the City in respect of adult entertainment parlours shall be the amount set forth in Schedule B-3 to the Consolidated Fees By-law.
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- 5.08 **Payment of Fees:** Every owner, operator and performer applying for a licence pursuant to subsection 5.01, shall deliver to the City at the time of application, payment in full, by cash, debit or credit card, or certified cheque payable to the City of Kawartha Lakes, the licence fee as set out in Schedule B-3 to the Consolidated Fees By-law.
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- 5.09 **Non-Issuance of Licence - Refund of Payment:** The payment required by subsection 5.07 to be paid shall, if the Licencing Officer grants the application and issues the licence applied for, be applied toward the payment of the licence fee for the licence period in respect of which the licence is issued. However, if the Licencing Officer decides not to issue a licence, such payment shall be returned to the applicant, provided however if investigations conducted pursuant to Section 9.01 hereof reveal that the applicant has furnished false information with their application, as determined in the sole discretion of the Licence Issuer, fifty (50) percent of the fee shall be retained by the City.
- 5.10 **Rights In Licences:** No person shall enjoy a vested right in the continuance of a licence and upon the issue, renewal, transfer, cancellation or suspension thereof the value of the licence shall be the property of the City.
- 5.11 **Change of Address or Business Name:** Every owner, operator or performer who changes their address for notification purposes shall, within four business days after such change, attend at the City office and notify the City of such change of address and produce their licence for the change to entered thereon. Every owner or operator or performer who

changes their business operating name, shall in advance of such change, attend at the Licencing Office and notify the Licencing Officer of such change and produce their licence for the change to be entered thereof.

- 5.12 No owner's licence shall be transferred, and if an owner sells, leases or otherwise disposes of their parlour or premises or part thereof upon or in which a parlour is operated, to any person, their licence in respect of such parlour or premises shall, notwithstanding any other provision of this by-law terminate.
- 5.13 Upon the sale, lease or other disposition of a parlour, every operator's licence issued in respect of such parlour shall terminate.

Section 6.00: Applications

- 6.01 **General:** Upon application for a licence, or the renewal thereof, respecting any of the several trades, callings, businesses and occupations mentioned in Section 5.01, the applicant shall complete the prescribed forms and shall furnish to the City such further information as the Licencing Officer may direct to be furnished.
- 6.02 **Individual Applicant:** Upon every application by an individual person for an owner's, operator's or performer's licence or for the renewal thereof, the applicant shall attend in person and not by an agent at the City office and shall fully complete the prescribed forms and shall furnish to the City such further information as the City may direct.
- 6.03 **Firm as Applicant:** In the case of a parlour owned or operated by a partnership, the attendance required under subsection 6.02 of this by-law shall be by one of the partners who has the authority to bind the Corporation and whose statement to such effect shall be deemed to bind such partnership. In the case of a parlour owned or operated by a corporation such attendance shall be by an officer of the corporation who has authority to bind the Corporation and whose statement to such effect shall be deemed to bind such Corporation.
- 6.04 **Photograph:** The Licensing Officer shall take a photograph of every applicant for a performer's licence, and every individual person, partner or director/officer of a corporation applying for an owner's licence or operator's licence, which shall be filed with the City and upon application for renewal of any licence, the applicant shall furnish new photographs if required to do so by the City.
- 6.05 **Birth Date:** On every application for an owner's, operator's or performer's licence by an individual, partner, director/officer of a corporation, the applicant shall state their date of birth.
- 6.06 **Proof of Age:** Every applicant referred to in subsection 6.05 of this by-law, shall file with or produce to the City satisfactory proof of their age, if required to do so, unless the Licensing Officer or designate is satisfied that every such person is of the full age of eighteen years.
- 6.07 **Owner's List of Names:** Every applicant for an owner's licence shall, at the time of making their application, file with the City a list showing the names of all performer's providing services in their parlour and all such persons intended or expected to provide services in their parlour and the name of their operators, if any, and shall thereafter maintain a current list showing at all times the names of all operators and performers providing services in their parlour and such owner shall, upon request made to the owner by any Police Officer or Municipal Law Enforcement Officer, produce the list which shall be current to and including the date of such request, to such Municipal Law Enforcement Officer or any other person designated by the City.

- 6.08 Every performer shall provide with their application a written contract for services between the owner or the operator of the adult entertainment parlour and the applicant, which shall be signed by the licenced owner or licenced operator and the performer of the adult entertainment parlour.
- 6.09 **Right to Premises:** Every person applying for an owner's licence shall file with the Licencing Officer documentation satisfactory to the Licencing Officer demonstrating the applicant's right to possess or occupy the premises used as a parlour. If such a person is not the Registered owner of the property upon which the parlour is located, such person shall file with the Licencing Officer at the same time a copy of their lease, if any, and of any other document constituting or affecting the legal relationship between the said applicant and the said registered owner or owner's in fee simple of the real property.

For the purpose of this subsection, "registered owner" means the owner as registered pursuant to the Land Titles Act, as amended or the Registry Act, as amended as the case may be.

- 6.10 **Applicants Name:** Every owner, operator or performer applying for a licence must use their own legal name in making such application. No such licence shall be issued to any person in any name other than their own legal name alone or together with any endorsements. Every owner, operator or performer applying for a licence as a partnership or corporation shall use the Partnership or Corporation legal name in making such application. No such licence shall be issued to any Partnership or Corporation in any name other than the legal name of the Partnership or Corporation
- 6.11 **Every Owner, Operator or Performer:**

- (a) who intends to use some name or designation other than their own;
or
- (b) who intends to carry on their trade, calling, business or occupation in or relating to a parlour under a name other than their own name;

shall, at the time of the issue of their licence, or at the time at which they file with the City notice of intention to use such name or designation, have endorsed on their licence such name or designation.

- 6.12 **Disclosure of Private Information:** It shall be a condition of every licence that an owner, operator or performer shall consent to the disclosure of all records and personal information with respect to any licence application, approval, refusal or revocation to any law enforcement agency, provincial ministry, federal department, agency, board or commission thereof or any other municipality, or to the owner of the adult entertainment parlour, pursuant to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.m.56,s.32, as amended.
- 6.13 **Personal Information Query:** Every owner, operator and performer applying for a licence shall provide an original Police Criminal Record Check within 30 days from the date it was issued with their application. Every owner, operator and performer who is issued a licence under this by-law shall provide the Licencing Officer with an updated original Police Criminal Record Check every three (3) months. In the case of a Partnership or Corporation, each partner or Corporate Officer shall provide an original Police Criminal Record Check within 30 days from the date it was issued with their application and update it every three (3) months.

Section 7.00: Application By Corporation

- 7.01 Every corporation applying for an owner's or operator's licence shall file with the City at the time of its application a certified copy of its incorporating documents together with a list of all the current officers, directors, and shareholders of the corporation and such list shall include a list of the shareholders of any other corporation that is a shareholder of such applicant corporation and a list of the shareholders of any third corporation that is a shareholder of such other corporation and so on until the names of all living persons are shown and identified as the shareholders of any or all corporations having an interest direct or indirect in the shares of the applicant corporation.
- 7.02 Every officer of a corporation shall be held personally liable in relation to the information contained on the application and operation of the business licenced under this By-law.
- 7.03 Where, by a transfer of existing shares, or by an issue of new or existing shares, the controlling interest of a corporation holding one or more owner's or operator's licences has changed hands, the new controlling owner must attend at the City office and notify the City of such change of ownership within four days of such change.
- 7.04 When there has been a change in the controlling interest of a corporation holding one or more owner's or operator's licences, such licence or licences shall be terminated forthwith, and the City may issue a new licence or new licences upon approval of a completed application and payment of the prescribed fee. The City may refuse to issue a new licence or licences in accordance with Section 9.00 hereof.
- 7.05 For the purpose of this section, "shareholder" and any other words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation.

Section 8.00: Application By Partnership

- 8.01 Persons associated in a partnership applying for an owner's or operator's licence shall file with its application to the City a declaration in writing signed by all members of the partnership, which declaration shall state:
- (a) the full name of every partner and the address of their ordinary residence;
 - (b) the name or names under which they carry on or intend to carry on the business;
 - (c) that the persons therein named are the only members of the partnership; and
 - (d) the mailing address of the partnership.
- 8.02 If any member of a partnership applying for a licence is a corporation, such corporation shall for the purposes of Section 7.00 of this by-law be deemed to be a corporation applying for an owner's or operator's licence.
- 8.03 Every partner of a partnership shall be held personally liable in relation to the information contained on the application and the operation of the business licenced under this By-law.
- 8.04 It shall be the duty of every member of a partnership to advise the City immediately in writing of any change in the membership of the partnership and of any other change in any of the particulars relating to the partnership or its business which are required to be filed with the City, and

the City may, in its discretion, determine whether or not a new licence should be issued to the partnership as then constituted.

Section 9.00: Approval By Licensing Officer

9.01 **Investigations:** Upon the receipt of a fully completed application form and all supporting documentation, the Licensing Officer shall carry out such investigation or verification relating to the application as they may deem necessary for the purposes of the administration of this by-law. Provided the investigation or any other information available to the Licensing Officer discloses no reasonable grounds to believe that the application is not in compliance with the by-law, or that the applicant may not be entitled to the issuance of a licence on the grounds referred to in this by-law or by reason of any other provision of this by-law or other applicable law, the Licensing Officer shall issue the licence.

9.02 **Grounds for Refusal to Licence or Renew or for Revocation:** Upon the receipt of a fully completed application and all supporting documentation, the Licensing Officer may consider but is not limited to the following grounds in determining whether to grant or refuse said application:

- (a) whether there are reasonable grounds for belief that any application or other document provided to the Licensing Officer by or on behalf of the applicant contains a false statement or provides false information; or
- (b) whether the past or present conduct of the applicant, or of any partner, in the case of an applicant which is a partnership, or of any director, shareholder or officer of the corporation, if the applicant is a corporation, affords reasonable grounds for belief that the business in respect of which the application is made will not be carried on in accordance with the law and with integrity and honesty; or
- (c) whether there are reasonable grounds for belief that the carrying on of the said business will result in a breach of this By-law or any other law, including any applicable zoning requirement; or
- (d) whether the financial position of the applicant affords reasonable grounds to believe that the business will not be carried on in a financially responsible manner; or
- (e) whether there are reasonable grounds for belief that the application does not meet all the requirements of this By-law, or that the business is carried on or intended to be carried on in an area of the City where such business is prohibited by this By-law from being carried on, or in respect of which the issuing of a licence in respect of the business is not permitted by this By-law; or
- (f) whether there are reasonable grounds for belief that the building, premises or place in which the business is carried on or intended to be carried on does not comply with the provisions of this By-law, or with any other law, including any applicable building and fire safety requirements, or is dangerous or unsafe; or
- (g) whether the conduct of the applicant or of one or more of the persons referred to in paragraph (b) of this subsection affords reasonable grounds for belief that the carrying on of the business in respect of which the licence is sought is not in the public interest or would infringe the rights, or endanger the health or safety, of one or more members of the public; or

- (h) whether the fee payable in respect of the licence applied has not been paid; or
- (i) whether the owner or operator has failed to pay any outstanding business taxes with respect to any business, trade or calling connected with the adult entertainment parlour or any outstanding realty taxes with respect to the house, place, or premises from which the business, trade or calling is carried on.
- (j) Any other matter that the Licencing Officer deems to be relevant in order to enforce the meaning and intent of the By-law.

Section 10.00: Granting, Refusal and Revocation of Licenses

- 10.01 **Grant Licence:** Where the Applicant's documentation is in order and the applicable fee has been paid, the Licensing Officer shall grant the Licence of the Applicant, or the renewal, as applicable.
- 10.02 **Grant Licence With Conditions:** The Licensing Officer may, where the provisions of this By-law have been met, propose in writing to the Applicant to grant the licence subject to conditions if appropriate. If within five (5) days following the written proposal to grant the licence with conditions, the Applicant has not indicated an objection to the licence with conditions, the licence is deemed to have been issued on the day of the notice of the proposal to grant.
- 10.03 **Refuse Licence:** In the event that the Licensing Officer refuses to grant for any reason, suspends or revokes a licence, and the Applicant requests that the matter be considered by Council, the Licensing Officer shall prepare a report for the consideration of Council and the Applicant shall be provided with at least two (2) weeks notice of the meeting of Council to consider the refusal to grant, revocation or suspension and shall have the opportunity to address Council prior to Council making a decision.
- 10.04 **Council Discretion:** Council may in its sole discretion grant, grant with conditions, refuse to grant, or revoke or suspend a licence.

In the exercise of its discretion under subsection 10.03 such discretion shall be exercised,

- a) upon such grounds as are set out in this by-law or
- b) upon the grounds of the conduct of a person, or in the case of a corporation, the conduct of its officers, directors, employees or agents affords reasonable grounds for belief that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity.

Section 11.00: Owner's And Operator's Duties

- 11.01 No Licenced owner or operator of a parlour or premises shall permit any person other than a licensed operator to operate such parlour.
- 11.02 No owner or operator shall permit the provision of services by a performer unless such person is licensed under this By-law.
- 11.03 No operator not being the owner of a parlour shall operate the said parlour unless the owner of the said parlour is duly licensed as owner under this By-law.
- 11.04 No operator may operate a parlour unless they first notify the City of the name of the owner whose parlour they intend to operate and has endorsed upon their licence the said owner's name accordingly, and every

operator before operating any other parlour in the City shall notify the City of their intention to do so and obtain licence.

Section 12.00: Posting Licences

- 12.01 Every owner and every operator shall post up their licences in a publicly conspicuous place in the parlour at all times and keep them so posted throughout the said term of their ownership or employment as an operator, and shall return such licences to the City upon termination of the said ownership or employment.
- 12.02 No owner or operator of a parlour shall permit a performer to provide services in said parlour at any time unless the licence required by this By-law to be obtained by any such person is in the possession of the owner or operator and available for inspection on the premises in accordance with the provisions of this By-law.

Section 13.00: Dress and Conduct

- 13.01 It shall be a condition of every licence that no performer at an adult entertainment parlour shall have any physical contact with any customer or member of the public present in an adult entertainment parlour.
- 13.02 Any employee shall at all times wear clean opaque clothing fully covering the Specified Body Areas.
- 13.03 No serving person, including a performer who may act as a serving person, shall in any adult entertainment parlour serve or make available food or drink or be involved in providing such services, except while wearing clean opaque clothing fully covering such person's Specified Body Areas.

Section 14.00: Age Restriction

- 14.01 No person under the age of eighteen may obtain an owner's, operator's or performer's licence or provide services in a parlour.
- 14.02 No one may provide any services in a parlour to a person who is or who appears to be under the age of eighteen years.
- 14.03 No owner or operator shall permit any person actually or apparently under the age of eighteen years to enter or remain in any parlour they own or operate.

Section 15.00: Adult Entertainment Parlour Regulations

Hours of Business:

- 15.01 No owner or operator shall, in respect of a parlour they own or operate, open such parlour for business or permit the same to be or to remain open for business or permit any services of any kind to be provided in the said parlour at any time between the hours of 1:00 o'clock in the forenoon of any day and 8:00 o'clock in the forenoon of the same day.
- 15.02 Subject to subsection 15.01 of this section, every owner who operates their own parlour and every operator of a parlour shall file with the Licencing Officer a schedule showing the hours of business to be observed by them in the carrying on of their operation of the parlour, which schedule shall state specifically the opening and closing times of the said parlour for each day of the week.
- 15.03 No person shall permit a parlour owned or operated by them to be open for business at any time other than the times set out in a schedule filed with the City pursuant to subsection 15.02 of this section.

- 15.04 During the hours of business of a parlour set forth in the schedule filed with the City in accordance with subsection 15.02, or at any time at which a parlour employee is in attendance at a parlour, it shall be the responsibility of the owner and of the operator, if any, to ensure that the exit door or doors or other principal means of entry into the parlour by the public shall be kept unlocked and available so that anyone coming into the parlour from the street or other public place may enter or exit therein without hindrance or delay.
- 15.05 Either the owner or an operator licensed in respect of such owner's parlour shall be in attendance at such owner's parlour at all of the times referred to in subsection 15.04 and no owner or operator shall permit a parlour owned or operated by them to open for business, or remain open for business, or any employee or performer to enter or remain therein, or any services to be provided at such parlour unless this subsection is complied with.

Section 16.00: Inspections:

- 16.01 Any Municipal Law Enforcement Officer, Police or other person duly authorized by the City or by this by-law may at any time of the day or night enter any adult entertainment parlour and inspect as much of any house, place or premises as is used for the carrying on of any trade, calling, business or occupation in respect of which any person has or is required to have a licence under this by-law, and any such person so authorized may inspect any goods, articles, books, records and other documents of or relating to any such trade, calling, business or occupation, and no person who has or is required to have a licence under this by-law shall obstruct or hinder the making of the inspection, or cause or permit the same to be obstructed or hindered. Failure to comply with this section is an offence.

Section 17.00: Construction Of Parlour

- 17.01 No premises in which a parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of this by-law.
- 17.02 No owner, operator or parlour employee shall perform or provide any service or services or permit the performing or providing of any service or services in any parlour which is constructed or equipped in contravention of subsection 17.01.

Section 18.00: Advertising & Signs

- 18.01 It shall be a condition of every licence that any exterior sign, advertisement or any advertising means that promote or draw attention to the licensed parlour, its services or goods, (including the use of any printed material, posted materials, newspapers, magazines, publications or broadcasts) shall not use the words "**nude**", "**naked**", "**topless**", "**bottomless**", "**sexy**" or any word or picture, symbol or representation having like meaning or implication; or which display or depict the Specified Body Areas of a person.
- 18.02 No owner or operator shall in any way or by any means advertise or draw attention to a licensed parlour except in accordance with the condition of that licence and this By-law.
- 18.03 No owner or operator shall in any way or by any means advertise a parlour owned or operated by them, or publish anything or erect, post or maintain any sign, notice or other publication or devise, relating to or drawing attention to such a parlour by any means or in any form whatsoever, except as specifically provided in this By-law.

- 18.04 No owner or operator shall permit or suffer any person to advertise any parlour owned or operated by them or to publish, erect or maintain any sign, notice, publication or device relating to or drawing attention to such a parlour, except as specifically permitted by this By-law.
- 18.05 No licensed owner or licensed operator of a parlour shall fail to keep their licence or duplicate copy of such licence, issued in respect of the parlour exposed in a publicly conspicuous place at all time in the said premises and also prominently displayed on the exterior of the premises, at all times during the currency of the licence, and the City shall issue duplicate copies of licences for such purpose.
- 18.06 Notwithstanding subsection 18.01, and in addition to the display of the licence referred to in subsection 18.05, there shall be displayed flat against the exterior portion of a wall or door of a parlour and visible to all persons entering the parlour, one non-illuminated sign of which the facade shall not exceed 2 square-feet in size, which sign shall bare the following:
- "This is a licensed Adult Entertainment Parlour. It deals with services that are primarily sexual or erotic in nature. No one under the age of 18 shall be admitted.**
- Comments regarding this business may be made to the City at 705.324.9411."**
- 18.07 No owner or operator shall display any photograph, drawing, painting or representation whatsoever that depicts any person who is not fully clothed, on the exterior of the building or where it can be seen by the general public, nor shall any owner or operator exhibit themselves, nor permit other persons to exhibit themselves, in any window on or about the premises.

Section 19.00: Premises Regulations

- 19.01 Every owner who operates their own parlour and every operator of a parlour, shall comply with, and ensure compliance with, the following regulations:
- (a) The premises shall be provided with adequate light and ventilation;
 - (b) The premises and the fixtures and equipment therein shall be regularly washed and be kept in a sanitary condition;
 - (c) The premises shall be equipped with an effective utility sink;
 - (d) Adequate toilet and washroom accommodation shall be provided, and there shall be separate such rooms for males and females, and no other services may be provided in any washroom containing a toilet;
 - (e) Washrooms shall be equipped with:
 - (i) an adequate supply of hot and cold water;
 - (ii) an adequate supply of liquid soap in a suitable container or dispenser;
 - (iii) hot air dryers or individual clean towels for the use of each person using the washing facilities;
 - (iv) a suitable receptacle for used towels and waste material;
and

- (f) No washroom, toilet, sink or basin used for domestic living purposes shall be used in connection with a parlour.

19.02 Every owner who operates their own parlour and every operator shall provide and maintain at all times at the parlour operated by them a first-aid kit equipped in a manner satisfactory to the Medical Officer of Health.

Section 20.00: Records

20.01 Every owner and every operator shall keep current proper records and books of account of all business transacted in, by or in respect of the parlour operated by them, which books shall give the amount of gross receipts for all services provided in the said parlour, including all receipts provided pursuant to subsection 20.03 and 20.04 for admission fees and other charges and for entry to for services provided in such parlour, the name and licence number of every performer providing services in the said parlour including the date of commencement and the date of termination of such services, the amount of salary or commission paid to each parlour employee and performer, and all amounts paid by the owner to the operator, if any, or by the operator to the owner, in respect of such parlour or business.

20.02 Every owner to whom subsection 1 relates and every operator shall keep such books and records as are required by that subsection for at least seven years after the information required by that subsection is entered therein, and the City or any person duly authorized by it shall at all reasonable times have access to such records.

20.03(a) Upon the entry of the customer into a parlour or immediately before any services are provided in a parlour, the parlour employee or person who is to provide the services shall give to the customer an itemized bill for such services, listing the services to be provided and the price to be paid for each service.

- (b) Where no charge or fee is paid or required to be paid for the provision of services in a parlour other than an admission fee or other charge or payment in respect of entry to such a parlour, the delivery to the customer of a written receipt for such fee, charge or payment shall be deemed sufficient compliance with paragraph (a) of this subsection.

20.04 Upon payment of the bill referred to in subsection 20.03, the customer shall be given a written receipt for the full amount paid.

Section 21.00: Other Business, Etc:

21.01 Subject to this by-law, before there is carried on in any adult entertainment parlour any business, trade, calling or occupation for which a licence is otherwise required by this or any other by-law, the owner of the said adult entertainment parlour shall attend at the City office and shall apply to have their licence endorsed to permit such trade, calling, business or occupation to be carried on in such adult entertainment parlour, and if the City authorizes such endorsement, the said owner shall pay the licence fee, if any, required of them by the by-law for such a licence.

21.02 No owner or operator shall permit any trade, calling, business or occupation for which a licence is required under this or any other By-law, to be carried on in an adult entertainment parlour owned or operated by themselves unless a description of the said trade, calling, business or occupation is endorsed on the owner's licence as provided in this by-law and unless the owner and every other person required to be so licensed has paid the licence fee applicable to them.

21.03 Every person shall in carrying on or permitting the carrying on of any trade, calling, business or occupation in an adult entertainment parlour comply with the requirements of this or any other Municipal By-law relating thereto, including the requirement of licence, if any and or any Provincial or Federal Legislation or Regulation.

Section 22.00: Other By-laws:

22.01 Notwithstanding any provision of this By-law nothing herein permits the contravention of any provision of any other By-law of the City or any Provincial or Federal Legislation or Regulation.

Section 23.00: Offence and Penalty:

23.01 **Offence and Penalty:** Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

23.02 **Offence and Penalty:** Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of not more than \$100,000.00 as provided for by Section 429 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended.

23.03 **Corporation:** A director or officer of a corporation who knowingly concurs in the violation or contravention by the corporation of any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of not more than \$100,000.00 as provided for by Section 429 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended.

23.04 **Multiple Offences:** The conviction of a person, partner, director or officer of a corporation for the contravention or breach of any provision of this by-law shall not operate as a bar to the prosecution against the same person, partner, director or officer of a corporation for any subsequent or continued breach or contravention of any provision of this by-law. Each day that the offence continues shall be deemed a separate and distinct offence.

23.05 **Additional Penalty:** Section 430 of the Municipal Act, 2001, as amended, allows an additional penalty regarding adult entertainment establishments. A person who is convicted of an offence may be liable to a term of imprisonment not exceeding one year in addition to any other applicable penalties.

Section 24.00: Enforcement:

24.01 **Enforcement:** Municipal Law Enforcement Officers, Police, the Licensing Officer or any person appointed by council may enforce this by-law.

24.02 Where a Medical Officer of Health, a public health inspector or a Peace Officer acting under his or her direction, has reason to suspect that a breach of this by-law has occurred in respect of an adult entertainment parlour, he or she may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of any part thereof.

Section 25.00: Administration and Effective Date

25.01 **Administration:** The Manager of Customer Services is responsible for the administration of this by-law.

25.02 **Effective Date:** This By-law shall come into force and take effect on January 1, 2014.

25.03 **Caveat:** Any adult entertainment parlour licencing process underway prior to the passage of this by-law shall follow the process described in By-law 2005-11, as amended, providing the disposition is carried through by December 31, 2013 at which point this By-law will apply.

By-law read a first, second and third time, and finally passed, this 12th day of November, 2013.

Ric McGee, Mayor

Judy Currins, City Clerk



2013-193 Set
Fines.pdf

Schedule "A"

**to the Adult Entertainment Parlour By-law 2013-193 of the Corporation of
the City of Kawartha Lakes**

Licence Fees

In accordance with Schedule B-3 to the Consolidated Fees By-law

2016-209, effective November 22, 2016