

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2018-76

A BY-LAW TO PROVIDE FOR THE LICENCING, REGULATING AND
INSPECTING OF ADULT ENTERTAINMENT PARLOURS, OWNERS AND
OPERATORS OF ADULT ENTERTAINMENT PARLOURS AND
ENTERTAINERS AT ADULT ENTERTAINMENT PARLOURS

WHEREAS pursuant to the provisions of Part IV of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, a municipality may pass by-laws for licencing, regulating and governing businesses;

AND WHEREAS Section 157(2) of the *Municipal Act*, provides that a municipality may delegate to another municipality, with the consent of the other municipality, the power to provide for a system of licences with respect to a business specified in the by-law and, for that purpose, sections 9, 10, 11 and 150 to 165 apply with necessary modifications to the other municipality;

WHEREAS the Town of Fort Erie, Town of Niagara-on-the-Lake, and City of Welland, have passed by-laws to delegate to The Regional Municipality of Niagara the power to license, regulate and govern adult entertainment parlours in those municipalities;

AND WHEREAS The Regional Municipality of Niagara considers it desirable and necessary to licence, regulate and govern Adult Entertainment Establishments where entertainment or services that are designed to erotic or sexual appetites or inclinations are provided, in the pursuance of a business, in the premises or part thereof, hereinafter defined as an "Adult Entertainment Parlour.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. In this By-law:

- (a) "Adult Entertainment Establishment" means any premises or part thereof where entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided, in the pursuance of a business in the premises or part of the premises and includes a body rub parlour;

- (b) "Adult Entertainment Parlour" means a premise or part thereof where entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided, in pursuance of a business, in the premises or part thereof but does not include a body rub parlour;
- (c) "Appeal Tribunal" means the all-citizen tribunal duly appointed by Council to conduct hearings under this By-law;
- (d) "Applicant" includes any person applying for a licence under this By-law and any individual, partner, shareholder, director and officer connected with the individuals, partnerships, association, trust, unincorporated organization, or incorporation applying for such licence;
- (e) "Body Rub Parlour" means any premises or part thereof where a Body Rub is performed, offered or solicited in pursuance of a business;
- (f) "By-law Enforcement Officer" means a by-law enforcement officer of the The Regional Municipality of Niagara;
- (g) "Daily Register" means a register of entertainers providing services at an Adult Entertainment Parlour which is maintained by an owner or operator pursuant to Section 46 and contains the name, stage name, licence number and the date and time of performance;
- (h) "Entertainer" means an individual person other than a licenced owner or operator who, in pursuance of a business, occupation or calling, performs, provides or offers or solicits services designed to appeal to erotic or sexual appetites or inclinations at an Adult Entertainment Parlour;
- (i) "Fire Chief" means the Fire Chief of a local area municipality or in the alternative, someone designated to act on his or her behalf;
- (j) "Licencing Officer" means the Licencing Officer of the Licencing Division and his or her designates;
- (k) "Licensee" means a person to whom a licence is issued under the provisions of this By-law;
- (l) "Medical Officer of Health" means the Medical Officer of Health for the Regional Municipality of Niagara and includes any employee acting on his or her behalf;

- (m) "Municipality" means the Town of Fort Erie, Town of Niagara-on-the-Lake or City of Welland as the case may be;
- (n) "Owner" means a person who has any proprietary interest in an Adult Entertainment Parlour business, including but not limited to partners in a partnership and shareholders in a corporation;
- (o) "Operator" means an individual person, other than an Owner, who, (alone or with others), operates, supervises, runs or directs an Adult Entertainment Parlour, on an ongoing basis;
- (p) "Participant Municipality" means an area municipality within the Regional Municipality of Niagara which has passed a by-law consistent with this By-law and includes The Regional Municipality of Niagara in respect of by-laws passed pursuant to a power delegated by an area municipality;
- (q) "Person" includes individuals, partnerships, associations, trusts, unincorporated organizations and corporations;
- (r) "Provide" when used in relation to adult entertainment includes to furnish, perform or give such services or cause or permit the provision thereof and providing and provision have corresponding meanings;
- (s) "Registration Card" means a registration card issued by the Licencing Officer to an Entertainer who has been registered in accordance with the provisions of an Adult Entertainment Parlour licencing by-law of a Participant Municipality;
- (t) "Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations" means:
 - (i) services characterized by any person or persons involved or engaging in specified sexual activities or by emphasis on the display of human specified body areas; or
 - (ii) services in respect of which the word nude, naked, topless, bottomless, sexy or any other word or any other picture, symbol or representation having like meaning or implication is used in any advertisement or in respect of which is advertised the availability of any form of entertainment held out to be, by reason of its sexual content, not suitable for minors;
- (u) "Services" means Services Designed to Appeal to Erotic or Sexual Appetites

or inclinations and includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of a film approved under the *Theatres Act*,

- (v) "Specified Body Areas" mean one or more of the following:
 - (i) in the case of a female person, her nipples and areolae; and
 - (ii) in the case of all persons, the pubic, perineal, perianal areas, the genitals, anus, and the buttocks;
- (w) "Specified Sexual Activities" means one or more of the following: actual or simulated sexual intercourse, masturbation, urination, defecation, ejaculation, sodomy, including bestiality, anal intercourse, oral sexual intercourse, physical stimulation of the genital organs, and flagellation, bondage or torture in the context of a sexual relationship or activity.

PART II CLASSES OF LICENCES

2. Every

- (a) owner of an Adult Entertainment Parlour;
- (b) operator of an Adult Entertainment Parlour; and
- (c) entertainer at an Adult Entertainment Parlour

shall procure and maintain in good standing a licence from the Municipality in accordance with this By-law authorizing him or her to carry on in any trade, calling, business or occupation listed above within the boundaries of the Municipality.

- 3. (a) No Person shall carry on or engage in any trade, calling, business or occupation listed in Section 2 within the boundaries of the Municipality unless he or she has a valid and current licence permitting him or her to do so.
 - (b) Every Entertainer or Operator who is granted an Entertainer or Operator's Licence by the Licencing Officer in respect of a Participant Municipality may, during the term of the licence, perform in an Adult Entertainment Parlour in another Participant Municipality without obtaining an additional licence under this By- law.
4. No entertainer's licence or operator's licence issued under this By-law may be

transferred to any other Person.

5. The requirement of obtaining a licence under this By-law is in addition to and not in substitution for any other requirement to obtain a licence or licences or other regulatory approval under any other federal, provincial or municipal regulation.

PART III OWNER'S LICENCES

6. Every Owner shall obtain an Owner's Licence in respect of each Adult Entertainment Parlour in which that Person has an interest, and the licence shall be issued in the operating name of the Adult Entertainment Parlour business as disclosed on the application.
7. (a) Every Person wishing to make application for an Adult Entertainment Parlour Owner's Licence, or renewal thereof under Section 2(a) of this By-law, shall attend in person at the office of the Licencing Officer and file:
 - (i) a completed application in Form 1;
 - (ii) the fee prescribed by *the Fees and Charges By-law, as amended*;
 - (iii) in the case of a premises that is rented, the name and address of the owner of the building, premises or place upon, in and from which the business is to be carried out pursuant to the licence applied for and the consent of the registered owner of the property to the use of the property as an Adult Entertainment Parlour;
 - (iv) proof satisfactory to the Licencing Officer that the Applicant is at least 18 years of age, which may be evidenced by the production of two (2) of the following documents, at least one of which is photo ID:
 - (1) birth or baptismal certificate;
 - (2) driver's licence;
 - (3) valid Canadian passport; or
 - (4) Social Insurance Card;
 - (v) particulars of the class and status of any licence issued to or required to be obtained by the Applicant or another Person under the *Liquor Licence Act*, R.S.O. 1990, c.L.19, in respect of any building, premises or place in or at which the Adult Entertainment Parlour for which the licence is sought is to be carried on in by the Applicant; and

- (vi) a precise description of the real property upon which the business is to be carried on, and where all Services are to be Provided, together with information as to exactly where on the property and what parts of the premises are to be utilized for such purposes as well as working drawings of the physical premises with details and size of any stage, doors, walls, seating areas, full or partial partitions and screens. In satisfaction of this section, an Applicant may file a site plan created and filed as part of a liquor licence or building permit application.
 - (b) Notwithstanding 7(a)(ii) above, where more than one Person is an Owner of an Adult Entertainment Parlour, the fee prescribed in *the Fees and Charges By-law, as amended*, shall be payable in respect of only one Owner for each Adult Entertainment Parlour.
 - (c) Every Applicant shall attend the office of the Licencing Officer for the purpose of photo identification.
8. In the case of an Adult Entertainment Parlour owned by a partnership, attendance shall be made by all of the partners who shall comply with the requirements of Section 7.
9. In the case of an Adult Entertainment Parlour owned by a corporation, attendance shall be made by all shareholders, directors and officers who shall comply with the requirements of Section 7 and shall file on behalf of the corporation:
- (a) a photocopy of the most recent filing with the Ministry of Consumer and Corporate Relations listing all directors and officers and the address of the head office for the corporation; and
 - (b) a resolution of the directors of the corporation authorizing the application.
10. An application for an Owner's Licence shall include:
- (a) A Police Criminal Record and Judicial Matters Check (PCRJMC);
 - (b) request from the appropriate Medical Officer of Health a report outlining the objections, if any, to the application;
 - (c) request from the Planning Department of the Municipality a report outlining the objections, if any, to the application;
 - (d) request from the Fire Chief of the Municipality a report outlining the

- objections, if any, to the application;
- (e) request from the Building Department of the Municipality a report outlining the objections, if any, to the application; and
 - (f) request from the Clerk of the Municipality a report outlining the objections, if any, to the application.
11. Upon satisfactory proof of completion of the requirements set out above, the Licencing Officer shall issue or renew an Owner's Licence provided that:
- (a) the provisions of Section 7 above have been complied with;
 - (b) the criminal record search discloses no criminal record in respect of any Applicant which could reasonably impact upon the operation of an Adult Entertainment Parlour, and in the case of a renewal of a licence, no such criminal record since the date of the last application;
 - (c) no Applicant has been convicted of an offence under this or any other by-law relating to or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (d) no objection is received from any of the agencies to which the application was circulated;
 - (e) each Applicant is 18 years of age or older; and
 - (f) any outstanding fines against any Applicant that have been imposed by a Court as a sentence arising from convictions for breach of any by-law enacted by the municipality have been paid.
12. In the event that the Licencing Officer does not issue the licence pursuant to Section 11 above, the Applicant shall be notified of the Licencing Officer's refusal to issue the licence by sending the Applicant a Notice of Refusal in Form 4.
13. Where
- (a) the reasons for refusal of the licence do not deal with non-compliance with the Municipality's Zoning By-law; and
 - (b) the Applicant has returned the Notice of Refusal to the Licencing Officer indicating a desire to have the matter heard before the Appeal Tribunal, the

Licensing Officer shall have the matter put to the Appeal Tribunal for consideration.

14. Where a hearing is to be conducted pursuant to Section 13 above, the Licensing Officer shall provide the Applicant with a Notice of Hearing setting out the date, time and place of the hearing.
15. The Appeal Tribunal shall hear and consider the application, the report of the Licensing Officer and any submissions by the Applicant or Applicants in accordance with Appeal Tribunal procedures. Any hearing held in accordance with this section shall be subject to the provisions of the *Statutory Powers Procedure Act*.
16. (a) The Appeal Tribunal shall, in accordance with the provisions of the *Municipal Act*,
 - (i) grant the licence to the Applicant;
 - (ii) refuse to grant the licence to the Applicant; or
 - (iii) grant the licence and impose conditions on the licence at the time it is granted.
- (b) The Appeal Tribunal shall not exercise its powers under subsection (a) without issuing written reasons for its decision, and any decision to refuse to grant a licence or to grant a licence with conditions may be founded upon one or more of the following grounds:
 - (i) that the Applicant, (or in the case of a corporation), the officers, directors, employees or agents of the corporation, or any of them, or in the case of a partnership, any partner, has not complied with any provision of this By-law;
 - (ii) that the Applicant, (or in the case of a corporation), the officers, directors, employees or agents of the corporation, or any of them, or in the case of a partnership, any partner, has been convicted of an offence relating to this or any other by-law relating to or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (iii) that the Applicant, (or in the case of a corporation), the officers, directors, employees or agents of the corporation, or any of them, or

in the case of a partnership, any partner, has been convicted of an offence under the Criminal Code of Canada or the *Controlled Drug and Substances Act* which relates to or could reasonably impact on the operation of an Adult Entertainment Parlour;

- (iv) the Applicant has failed to pay a fine or fines imposed by a Court as a sentence arising from convictions for breach of any by-law enacted by the municipality.

17. The Licencing Officer shall, on behalf of the Appeal Tribunal, provide written notice of the decision to each Applicant.
18. (a) Every Owner shall report in writing to the Licencing Officer particulars of any proposed change in ownership of the Adult Entertainment Parlour business which is the subject of a licence at least ten days prior to such change taking effect.

(b) Without limiting the generality of 18(a) above, if a change in the ownership will result in a change in actual or legal control of the Adult Entertainment Parlour business, the prospective remaining Owners, or the new prospective Owners, as the case may be, shall forthwith make an initial application for a licence in accordance with Section 7 above, and the existing licence shall be deemed revoked at such time as the change in ownership takes place.

PART IV OPERATOR'S LICENCES

19. An Owner who has procured and maintained in good standing a valid Owner's Licence shall not be required to procure an Operator's Licence to operate his or her Adult Entertainment Parlour.
20. (a) Every Person wishing to make application for an Adult Entertainment Parlour Operator's Licence, or a renewal thereof, under Section 2(b) of this By-law shall attend in person at the office of the Licencing Officer and file:
 - (i) a completed application in Form 2;
 - (ii) the fee prescribed by *the Fees and Charges By-law, as amended*;
 - (iii) proof satisfactory to the Licencing Officer that the Applicant is at least 18 years of age, which may be evidenced by the production of two (2) of the following documents, at least one of which is photo ID;

- (1) birth or baptismal certificate;
 - (2) driver's licence;
 - (3) valid Canadian passport; or
 - (4) Social Insurance Card; and
 - (b) Every Applicant shall attend the office of the Licencing Officer for the purpose of photo identification;
 - (c) No Person other than an individual may operate or be licenced as the Operator of an Adult Entertainment Parlour;
 - (d) A separate Operator's Licence shall be taken out by each Operator of an Adult Entertainment Parlour.
21. An application for Operator's Licence, or renewal thereof, shall include:
- (a) A Police Criminal Record and Judicial Matters Check (PCRJMC); and
 - (b) A determination whether or not the Applicant has been convicted of offences relating to this or any other by-law in respect of Adult Entertainment Parlours.
22. Upon satisfactory proof of completion of the requirements set out above, the Licencing Officer shall issue or renew an Operator's Licence provided that:
- (a) the provisions of Section 21 above have been complied with;
 - (b) the criminal record search discloses no criminal record of the Applicant for offences relating to or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (c) there are no convictions under this or any other by-law relating to or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (d) the Applicant is eighteen years of age or older; and
 - (e) any outstanding fines imposed by a Court as a sentence arising from convictions for breach of any by-law enacted by the municipality have been paid.
23. In the event that the Licencing Officer does not issue the licence, the Licencing

Officer shall notify the Applicant of the refusal to issue the licence by sending the Applicant a Notice of Refusal in Form 4.

24. Where the Applicant returns the Notice of Refusal to the Licencing Officer indicating a desire to have the matter heard before the Appeal Tribunal, the Licencing Officer shall have the matter put to the Appeal Tribunal for consideration.
25. Where a hearing is to be conducted pursuant to Section 24 above, the Licencing Officer shall provide the Applicant with a Notice of Hearing setting out the date, time and place of the hearing.
26. The Appeal Tribunal shall hear and consider the application, the report of the Licencing Officer and any submissions by the Applicant or Applicants in accordance with Appeal Tribunal procedures. Any hearing held in accordance with this section shall be subject to the provisions of the *Statutory Powers Procedure Act*.
 - (a) The Appeal Tribunal shall, in accordance with the provisions of the *Municipal Act, 2001*:
 - (i) grant the licence to the Applicant;
 - (ii) refuse to grant the licence to the Applicant; or
 - (iii) grant the licence and impose conditions on the licence at the time it is granted.
 - (b) The Appeal Tribunal shall not exercise its powers under subsection (a), without issuing written reasons for its decision, and any decision to refuse to grant a licence or to grant a licence with conditions may be founded upon one or more of the following grounds:
 - (i) that the Applicant has not complied with any provision of this By-law;
 - (ii) that the Applicant has been convicted of an offence relating to this or any other by-law in respect of or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (iii) that the Applicant has been convicted of an offence under the Criminal Code of Canada or the *Controlled Drug and Substances Act* in respect of or which could reasonably impact upon the operation of an Adult Entertainment Parlour;

- (iv) the Applicant has failed to pay a fine or fines imposed by a Court as a sentence arising from convictions for breach of any by-law enacted by the municipality.
27. The Licencing Officer shall, on behalf of the Appeal Tribunal, provide written notice of the decision to the Applicant.
28. Every Operator who is granted an Operator's Licence by the Licencing Officer in respect of a Participant Municipality may operate an Adult Entertainment Parlour in another Participant Municipality without obtaining an additional licence under this By-law.

PART V ENTERTAINER'S LICENCES

29. Every Person wishing to make an application for an Adult Entertainment Parlour Entertainer's Licence, or a renewal thereof, under Section 2(c) of this By-law shall attend in person at the office of the Licencing Officer and file the following documents:
- (i) a completed application in Form 3;
 - (ii) the fee prescribed by *the Fees and Charges By-law, as amended*;
 - (iii) proof satisfactory to the Licencing Officer that the Applicant is at least 18 years of age, which may be evidenced by the production of two (2) of the following documents, at least one of which is photo ID:
 - (1) birth or baptismal certificate;
 - (2) driver's licence;
 - (3) valid Canadian passport; or
 - (4) Social Insurance Card;
 - (5) municipal Adult Entertainment licence from another jurisdiction;
 - (iv) Every Applicant shall attend the office of the Licencing Officer for the purpose of photo identification.
30. Every Person applying for an Entertainer's Licence must use his or her legal name and no licence shall be issued to any Person in any name other than his or her legal name.
31. An application for Entertainer's Licence, or renewal thereof, shall include :

- a. A Police Criminal Record and Judicial Matters Check (PCRJMC); and
 - b. A determination as to whether or not the Applicant has been convicted of offences relating to this or any other by-law relating to or which could reasonably impact upon entertaining at an Adult Entertainment Parlour.
32. Upon satisfactory proof of completion of the requirements set out above, the Licencing Officer shall issue or renew an Entertainer's Licence provided that:
- a. the provisions of Section 29 have been complied with;
 - b. the criminal record search discloses no criminal record of the Applicant for offences relating to or which could reasonably impact upon entertaining at an Adult Entertainment Parlour;
 - c. any outstanding fines that have been imposed pursuant to any provision of this By-law have been paid; and
 - d. the Applicant is 18 years of age or older.
33. In the event that the Licencing Officer refuses to issue or renew a licence, the provisions of Sections 23 through 28 shall apply.

PART VI REVOCATION OF LICENCES

34. Where, in respect of an Owner's, Operator's or Entertainer's Licence,
- a. a Licensee has been convicted under the Criminal Code of Canada or the *Controlled Drug and Substances Act* for an offence in respect of or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - b. a Licensee has been convicted under the *Liquor Licence Act* of the Province of Ontario and the charge relates in any way to the operation of the Adult Entertainment Parlour or the provision of Services therein;
 - c. a Licensee has been convicted for contravening any provision or provisions of this By-law or any other by-law relating to or which could reasonably impact on the operation of an Adult Entertainment Parlour;
 - d. there are reasonable grounds for belief that any application or any other

document or information provided by or on behalf of a Licensee contains a false statement or provides false information;

- e. information contained in the original application form or any other information provided to the Licencing Officer by or on behalf of the Applicant has ceased to be accurate and the Licensee has not provided up-to-date accurate information to the Licencing Officer to allow the Licencing Officer to conclude that the licence can or should be maintained as valid;
- f. the Licensee breaches a condition of the licence;
- g. in the case of an Owner's Licence, there are reasonable grounds for belief that the building, premises or place in which the business is carried on or intended to be carried does not comply with the provisions of this By-law, or with any other law, including any applicable building requirement, or is dangerous or unsafe;
- h. the Applicant does not accept or ensure compliance with any condition imposed under this By-law upon the business or upon the licence, as a requirement of obtaining, continuing to hold or renewing a licence; or
- i. the Licencing Officer becomes aware of any fact or facts which, if known at the time of application, may have resulted in the Licencing Officer refusing the licence,

the Licencing Officer shall recommend to the Board that the licence issued under this By-law be revoked, by serving notice of the recommendation to revoke the licence in Form 5 on the Licensee and the Appeal Tribunal.

- 35. A recommendation of the Licencing Officer under Section 34 shall be referred to the Appeal Tribunal for a hearing in accordance with the Appeal Tribunal procedures.
- 36. A Licensee shall be given a Notice of Hearing in Form 6 and shall be entitled to attend the hearing and adduce evidence and make submissions either personally or through a representative in accordance with the procedures of the Appeal Tribunal. Any hearing held in accordance with this section shall be subject to the provisions of the *Statutory Powers Procedure Act*.
- 37. (a) The Appeal Tribunal may, after the hearing, in accordance with the provisions of the *Municipal Act, 2001*;
 - (i) suspend the licence;

- (ii) revoke the licence; or
 - (iii) impose a condition on the licence.
- (b) The Appeal Tribunal shall not exercise its powers under subsection (a) without issuing written grounds for its decision, and any such decision may be founded upon one or more of the following grounds:
- (i) that the Licensee has been convicted of an offence under the Criminal Code of Canada or the *Controlled Drug and Substances Act* relating to or which could reasonably impact upon the operation of an Adult Entertainment Parlour;
 - (ii) that the Licensee has been convicted under the *Liquor Licence Act* of the Province of Ontario and the conviction relating to or which could reasonably impact upon the operation of the Adult Entertainment Parlour or the provision of Services therein;
 - (iii) that the Licensee has been convicted for contravening any provision or provisions of this By-law within the previous twelve months;
 - (iv) that any application or any other document or information provided by or on behalf of the Licensee to the Licencing Officer contains a false statement or provides false information;
 - (v) that information contained in the original application form or any other information provided to the Licencing Officer by or on behalf of the Applicant, has ceased to be accurate and the Licensee has not provided up-to-date accurate information to the Licencing Officer to allow the Licencing Officer to conclude that the licence can or should be maintained as valid;
 - (vi) that the Licensee has breached a condition of the licence;
 - (vii) in the case of an Owner's Licence, there are reasonable grounds for belief that the building, premises or place in which the business is carried on or intended to be carried does not comply with the provisions of this By-law or with any other by-law, including any applicable building requirement or is dangerous or unsafe;
 - (viii) that the Licencing Officer has become aware of any fact or facts,

which, if known at the time of the application, may have resulted in the Licencing Officer or the Appeal Tribunal refusing to issue the licence; or

38. The Licencing Officer shall provide the Licensee with a notice of the decision of the Board in Form 7.

PART VII SUSPENSION OF ENTERTAINER'S LICENCES

39. The Licencing Officer may suspend an Entertainer's licence where there are reasonable grounds to believe that a suspension is urgently required to prevent a breach of the By-law or to ensure compliance with the By-law.
40. A suspension under Section 39 above shall take effect upon service of written notice thereof to the Licensee or upon delivery of written notice to the business premises of the Licensee at the address shown on the licence application.
41. A suspension under Section 39 shall remain in effect until the next meeting of the Appeal Tribunal or the end of fifteen (15) days after the issuance of the suspension, whichever last occurs.
42. Following suspension of a licence under Section 39, the Licencing Officer shall prepare a written report to the Appeal Tribunal, advising of the suspension and:
- a. recommending that the Appeal Tribunal hold a hearing to determine whether the suspension should continue, be terminated and whether the Appeal Tribunal should give consideration to whether or not the licence should be revoked; or
 - b. recommending reinstatement of the licence on the basis that the conditions leading to the suspension have been remedied; or
 - c. recommending that no action be taken upon the termination of the suspension.

PART VIII GENERAL PROVISIONS RELATING TO OWNERS AND OPERATORS

43. Every Owner of an Adult Entertainment Parlour shall ensure that no Person other than a licenced Operator acts as Operator of such Adult Entertainment Parlour.
44. Every Owner and every Operator of an Adult Entertainment Parlour shall ensure that an Entertainer does not perform until such Entertainer is properly licenced in

accordance with this By-law.

45. Every Owner shall ensure that during the operating hours of an Adult Entertainment Parlour there is in attendance at the Adult Entertainment Parlour a licenced Owner or Operator.
46. Every Owner or Operator shall maintain a Daily Register, to be signed by each Entertainer, of all Entertainers that have or are providing Services at the Adult Entertainment Parlour.
47.
 - (a) Every Owner or Operator shall produce the register referred to in Section 46, for inspection on demand of a peace officer or a By-law Enforcement Officer;
 - (b) Every Owner or Operator shall provide a copy of the Daily Register to the Licencing Officer on demand, failing which the original Daily Register may be removed by the Licencing Officer. Where the original Daily Register has been removed by the Licencing Officer, a copy of the Daily Register shall be returned to the Owner within one week.
48. Every Owner and every Operator shall ensure that each Entertainer has been added to and has signed the Daily Register prior to performing at an Adult Entertainment Parlour.
49. Every Owner and every Operator shall post their respective licences in a conspicuous place viewable to the public in the Adult Entertainment Parlour.
50. Every Owner and every Operator shall ensure that no Person under the age of 18 is allowed to enter in or remain in any Adult Entertainment Parlour owned or operated by him or her.
51. Every Owner and every Operator shall ensure that no Adult Entertainment Service can be viewed from outside of the Adult Entertainment Parlour.
52. Every Owner and every Operator shall ensure that Services Provided by an Entertainer are provided without obstruction such as doors, walls, curtains or any other enclosure, which obstruction interferes with the view of any By-law Enforcement Officer.
53. No Owner or Operator may use or permit to be used any camera or other photographic or recording device at an Adult Entertainment Parlour by any Person, but this paragraph shall not prohibit:

- a. the use of any camera or other device by a public authority for the enforcement of law; or
 - b. the maintenance of a video surveillance system for security purposes only.
54. Every Owner and Operator who wishes to amend the floor plan of an Adult Entertainment Parlour shall file with the Licencing Officer a copy of the amended floor plan and shall not proceed to make such alterations without receiving approval from the Licencing Officer as well as any other approval required by by-law or other law.
55. Every Owner and Operator shall ensure that during the hours of operation of an Adult Entertainment Parlour the principal means of access into the Adult Entertainment Parlour is kept unlocked and available so that anyone coming into or exiting the Adult Entertainment Parlour may enter or exit without hindrance or delay.
56. Every Owner and Operator shall ensure that no part of an Adult Entertainment Parlour is used as a dwelling for sleeping purposes or contains therein any bed or other furniture which is commonly used for sleeping purposes.

PART IX GENERAL PROVISIONS

57. (a) Every Owner's licence issued pursuant to this By-law shall expire on December 31st of the year of the issuance of the licence;
- (b) Every Operator's and Entertainer's licence issued pursuant to this By-law shall expire one (1) year following the date the licence was issued unless earlier terminated or revoked.
58. Every Licensee who changes his or her address shall, within seven (7) days after such change, attend at the office of the Licencing Officer and notify the Licencing Officer of such change of address and produce his or her licence for the change to be entered thereon.
59. Every Owner and every Operator shall ensure that no performance takes place at any Adult Entertainment Parlour at any time other than the time allowed for hours of operation in accordance with the provisions of the permit issued for the Adult Entertainment Parlour under the *Liquor Licence Act*.
60. It is a condition of every licence that the Licensee shall, in carrying on the business, comply with the provisions of this By-law.

61. Any notice required by this By-law may be given:
- (a)
 - (i) by mailing a copy of the Notice by pre-paid ordinary post to the residence address of the Applicant or the Licensee, as the case may be, listed on his or her most recent application for a licence; or
 - (ii) by delivering a copy of the Notice personally to the Applicant or to the Licensee; or
 - (iii) by leaving a copy of the Notice at the residence address of the Applicant or Licensee listed on the most recent application for a licence.
 - (b) Any notice served by pre-paid ordinary post in accordance with this section shall be deemed to be received by the Applicant on the fifth day following mailing.
62. Every sign advertising an Adult Entertainment Parlour shall comply with the municipality's Sign By-law, and no such sign shall show or contain any depiction of a person's Specified Body Areas, or any Specified Sexual Activities, as defined in Section 1 of this By-law.
63. No Owner or Operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any Adult Entertainment Parlour owned or operated by such Owner or Operator.
64. Every Adult Entertainment Parlour shall have adequate ventilation and lighting that is adequate to ensure visibility throughout the premises.
65. Every Adult Entertainment Parlour shall be constructed in accordance with the Ontario Building Code and every Applicant for an Owner's Licence shall provide the Licencing Officer with such drawings as may be required to assess compliance in this regard.

PART X ADMINISTRATIVE POWERS OF THE LICENCING OFFICER

66. The Licencing Officer shall (subject to the provisions of this By-law):
- (a) Receive and process all applications for licence and renewal of licences to be issued under this By-law;

- (b) Co-ordinate the administration and enforcement of this By-law;
- (c) Perform all administrative functions conferred upon him by this By-law;
- (d) Make or cause to be made all required circulations with respect to each application;
- (e) Make such inquiries and inspections and obtain and review information and documents relevant to every application as the Licencing Officer considers necessary for the proper processing of the application to determine whether or not the Applicant meets the requirements of this By-law and all other applicable laws;
- (f) Suspend licences where authorized by this By-law;
- (g) Where a licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the licences of Persons who meet all requirements of this By-law.

PART XI TRANSFER OF OWNERS' LICENSES

67. Any Licensee who proposes to transfer to another person, the privileges of using a license, shall file with the Licencing Officer prior to the transfer taking effect, the following:
- (a) a completed letter of intent to transfer executed by the Licensee and the proposed Transferee;
 - (b) any other documents or information which the Licencing Officer may require after reviewing the application for transfer; and
 - (c) an application fee prescribed in *the Fees and Charges By-law, as amended*.
68. Before a transfer may be approved, the proposed Transferee shall comply with the provisions of this By-law and the question of the transfer of the license shall be considered by the Licencing Officer in a like manner as an initial application for owners license pursuant to Part III.
69. Any change in actual or legal control of the Licensee shall be reported to the Licencing Officer forthwith by the Licensee and the provisions of this Part relating to the transfer of the licences shall apply.

70. A Licensee who is a corporation or a partnership shall notify the Board forthwith of:
- (a) in the case of a corporation, any transfer of existing shares or issue of new shares in the capital stock of the corporation; and
 - (b) in the case of a partnership the admission of any new partners to the partnership, their retirement or expulsion of any existing partners from the partnership and the change of any financial contribution made by partners or other persons to the partnership.

PART XII INSPECTION

71. The Licencing Officer, a Peace Officer or a By-law Enforcement Officer may require a Licensee to produce the licence, records or other documents for the purpose of determining whether such Person is validly licenced under this By-law, or whether this By-law is being contravened.
72. No Person shall obstruct or hinder the entry or the inspection of any Adult Entertainment Parlour or any part thereof by any By-law Enforcement Officer, peace officer or Medical Officer of Health.

PART XIII FEES AND CHARGES

73. *Fees shall be as prescribed in the Fees and Charges By-law, as amended.*

PART XIV OFFENCES AND PENALTIES

- (a) Every Person who contravenes any provision of this By-law or any of its schedules, and every director or officer of a 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 \$25,000.00 or to imprisonment for a term not exceeding one (1) year or both.
 - (b) Where a corporation is convicted of an offence under this By-law, the maximum penalty that may be imposed on the corporation is \$50,000.00.
74. Every Person who hinders or obstructs or attempts to hinder or obstruct any Person exercising a power or performing a duty under this By-law is guilty of an offence and on conviction, is liable to a fine not exceeding \$5,000.00.

75. Where an Owner is convicted of carrying on or engaging in business in respect of any premises without a licence required by this By-law, the Court may make an order that the premises or part of the premises be closed to any use for a period not exceeding two (2) years.

PART XV BY-LAW AMENDMENTS

76. No amendments shall be made to this By-law until notice has been provided to all licenced Owners and Operators and a public meeting with respect to the proposed changes has been conducted.

PART XVI PARTIAL INVALIDITY

77. If any term of this By-law or the application thereof shall to any extent be invalid or unenforceable, the remainder of this By-law and/or the application of such term to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
78. The short title of this By-law is the Adult Entertainment Parlour Licencing By-law.
79. This by-law shall come into force and effect on June 1, 2019.

THE REGIONAL MUNICIPALITY OF NIAGARA

Alan Caslin, Regional Chair

Tina McKinnon, Deputy Regional Clerk

Passed: September 13, 2018

SCHEDULE 1 - Licencing Fee Schedule

Deleted

Please refer to the Fees and Charges By-law, as amended.