

HE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

**ADULT ENTERTAINMENT ESTABLISHMENT
BY-LAW NO. 2006-14**

BEING a by-law to regulate the operation and location of adult entertainment establishment within the City of Clarence-Rockland.

WHEREAS subsection 150(1) of the Municipal Act, 2001, chapter.25, as amended provides that local municipalities may license, regulate and govern any business wholly or partly carried on within the municipality, and provides a number of powers with respect thereto includes the power to license, regulate and govern the persons carrying on or engaged in the business;

WHEREAS section 151 of the Municipal Act, 2001, provides a number of specific powers with respect to the licensing of adult entertainment establishment including the power to define the area of the municipality in which adult entertainments may or may not operate and limit the numbers of licenses granted in any defined area in which they are permitted;

WHEREAS the City of Clarence-Rockland is enacting this by-law for the following purpose:

- a. to protect the health and safety of residents of the City;
- b. to protect the health and safety of patrons, and employees of an adult entertainment establishment;
- c. to control any nuisances that may arise as a result of the operation of an adult entertainment establishment; and
- d. to protect consumers who are patrons of an adult entertainment establishment;

AND WHEREAS the Council of the city of Clarence-Rockland held a public meeting in the accordance with section 157(3) of the Municipal Act with respect to this by-law on March 8th, 2006.

NOW THEREFORE THE COUNCIL OF THE CITY OF CLARENCE-ROCKLAND ENACTS AS FOLLOWS:

DEFINITIONS:

1. For the purpose of this by-law;

“Adult video” means any videotapes, the contents of which are designed or held out as designed, to appeal to the erotic or sexual appetites or inclination, through the pictorial, photographic or other graphic depiction of subject matter by cinematographic film, videotape, video disc, computer diskettes, computerized systems, electronic entertainment products or other medium. A videotape classified by the Ontario Film Review Board as RESTRICTED with added information piece ADULT SEX FILM shall be deemed to be an adult videotape.

“Adult entertainment establishment” means any premises or any part thereof, where in pursuance of a trade, calling, business or occupation, goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided.

“Attendant” means any person other than a licensed owner or operator who provides services in adult video establishment or video rental outlet.

“Chief of Police” means the Provincial Police detachment Commander or authorized representative.

“City” means the Corporation of the City of Clarence-Rockland

“Municipal Law Enforcement Services Director” means the Director of the Municipal Law Enforcement Services, duly appointed by council or authorized representative.

“Municipal Law Enforcement Officer” means a Peace Officer for the purpose of enforcing Municipal By-laws for the Corporation of the City of Clarence-Rockland.

“Operator” refers to any person who alone or with others, operates, manages, supervises, runs or controls an adult entertainment store. Operates and operation or other words or like import or intent shall be given a corresponding meaning.

“Owner” means any person who alone or with others, has the right to possess or occupy, or actually does possess or occupy, an adult entertainment establishment and including a lessee of an adult entertainment establishment or premises upon which a adult entertainment establishment is located .

“Provide” means when in relation to any adult entertainment store, means to sell, offer to sell or display for sale by retail or to rent, offer to display for rental, or to exchange, trade or to offer to exchange or trade or display for exchange or trade, whether or not the cost, fee or other consideration passes at the time of such sale, rental, or exchange or trade, or is effected through the cost of membership, subscription, admission, or any other manner.

INTERPRETATION

2. No person shall operate within the City of Clarence-Rockland any adult entertainment establishment as defined in this by-law without first obtaining a license from the Municipal Law Enforcement Director authorizing him to operate such a business.
3. The following types of licenses may be issued:
 - (a) License “A” to the owner or operator of an adult entertainment establishment in which the principal business carried on is the

provision of either or adult magazines, adult videos, or any goods appealing to or designed to appeal to erotic or sexual appetites or inclinations.

- (b) License “B” to the owner of an adult entertainment establishment in which the provision of adult videos is incidental to the carrying on of a business not referred to in paragraph (a), and who holds a legal non confirming use to carry on such business or occupation on the date of adoption of this By-law.

4. A separate license shall be obtained in respect of each adult entertainment establishment.

CONDITIONS FOR ISSUANCE OF A LICENSE

- 5. Every person who requires a license for an adult entertainment establishment shall;
 - (a) file an application in writing by completing in full the prescribed form as set out in schedule “B” which makes part of this by-law,
 - (b) be at least eighteen (18) years of age;
 - (c) assure that the premises for which a license is required complies with the zoning, building and any other by-laws requirements of the City;
 - (d) provide the Municipal Law Enforcement Director with any documents, permits or permission pertaining to the operation of the said business;
 - (e) pay to the City a license fee as set out in schedule “A” fixed by this By-law.
- 6. The Municipal Law Enforcement Director shall make such investigation or inquiry with respect to any application for a license under this by-law, as he considers necessary, and may obtain such information relevant to such application as he considers necessary or required by law or policies of the City.
- 7. Where the investigation or any information available to the Municipal Law Enforcement Director discloses reasonable grounds to believe that the applicant may not be entitled to the issuance of a license pursuant to any provisions of this by-law, or any other applicable law, the Municipal Law Enforcement Director shall refer this matter to Council which shall provide the applicant an opportunity for a hearing with respect to the application.

REGULATIONS APPLICABLE TO ADULT ENTERTAINMENT ESTABLISHMENT LICENSE “A”

- 8. Every holder of a License “A” shall:
 - a. maintain on the premises, during all business hours, a current list of all adult video available on the premises, and make such a list available for inspection when so requested by the Municipal Law Enforcement Director or the Chief of Police,

- b. post and keep posted at every entrance to the adult entertainment establishment signs sufficient to indicate clearly to any person approaching or entering the store, and to every person in the store, that no person under the age of eighteen (18) years is permitted to enter or remain in such establishment or any part thereof,
- c. ensure that no person under the age of eighteen (18) years is permitted to enter or remain in the adult entertainment establishment,
- d. ensure that no person under the age of eighteen (18) years is permitted to work in the adult entertainment establishment,
- e. ensure that no person under the age of eighteen (18) years is provide with service in the adult entertainment establishment,
- f. ensure that no adult magazine, adult video or goods is provided, rented or sold to any person under the age of eighteen (18) years,
- g. ensure that exterior signs or advertisements for adult entertainment establishment do not use text or pictorial representations of any specified body area or specified sexual activity or specific titles of any adult video,
- h. ensure that no adult magazine, adult video, adult video container, or any other printed material, or visual image which reveals a specified body area or a specified sexual activity, is displayed so that it may be viewed by any member of the public from outside of the premises, and
- i. ensure that no adult videos are played or previewed for public view within the adult entertainment establishment.

**REGULATIONS APPLICABLE TO ADULT ENTERTAINMENT ESTABLISHMENT
LICENSE "B"**

9. Every holder of a License "B" shall:
- a. maintain on the premises, during all business hours, a current list of all adult videos available on the premises, and make such list available for inspection when so requested by the Municipal Law Enforcement Director or the Chief of Police,
 - b. stores all adult videos behind the counter or other area not accessible to customers of the store,
 - c. not display allow to be displayed any adult video, adult video container, or any other printed material or visual image which reveals a specified body area or a specified sexual activity, where it can be seen by customers in the store,
 - d. make the listing, referred to in paragraph (a) hereof, available to any person who is eighteen (18) years of age or older upon request and such listing shall be in a opaque covered binder for the purpose of selecting adult video as defined in this By-law,
 - e. ensure that no adult video is provided, rented or sold to any person under the age of eighteen (18) years,
 - f. ensures that no adult videos are played or previewed for public view within the adult entertainment establishment, and
 - g. have in there possession no more then (24) adult videos available for clients to select from at all time.

EXPIRY OF LICENSE

10. Any adult entertainment establishment license shall be valid for a one year period and unless they are forfeited or revoked, shall in each case expire on the 31st day of each year.

RENEWAL OF LICENSE

11. The Municipal Law Enforcement Director may renew an existing license if the licensee:

- (a) produces his current valid license before the expiry date ;
- (b) fulfils the application requirements set out in section 5 of this by-law inclusively;
- (c) pays the applicable license fees set out in schedule A that forms part of this by-law.

REFUSAL – SUSPENSION – REVOKATION OF LICENSE

12. If the investigation referred to in section 6 of this by-law discloses any reasonable grounds that the carrying on of the adult entertainment establishment may result in the breach of the law or any other by-laws of the City, the Municipal Law Enforcement Director may refuse to issue or renew the license.

13. (a) The Municipal Law Enforcement Director shall notify the applicant in writing of the refusal to issue or renew such license where it shall make reference that the applicant has an opportunity for a hearing before Council with respect to the application;
- (b) The Council may after the hearing, in accordance to the Municipal Act,
- (i) suspend the license;
 - (ii) revoke the licence, or
 - (iii) impose conditions on the license.

ADMINISTRATION AND ENFORCEMENT

14. Nothing in this By-law shall exempt any person from complying with the requirements of any other by-law or regulation or any other law in force within the area affected by this by-law. It is the responsibility of the licensee and the owner to ensure

that the adult entertainment establishment complies with all legislation and regulation pertaining to the conduct of such a business.

15. The provisions of this by-law shall be administered and enforced by the Municipal Law Enforcement Services.
16. The Municipal Law Enforcement Director may inspect at all reasonable times the adult entertainment establishment to assure compliance with the provisions of this by-law or any other by-laws of the municipality.
17. No person who is licensed or required to be licensed, shall hinder or obstruct the Municipal Law Enforcement Director during the investigation referred to in Section 6 or cause any inspections to be hindered or obstructed.

PENALTIES

18. Each day that a person operates a business in contravention of the provisions of this By-law shall constitute a separate offence.
19. Any person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction shall forfeit and pay a penalty as provided for in the **Provincial Offences Act**, 1990, R.S.O., Chapter P. 33. and amendments thereto

ORDER PROHIBITING

20. When a person has been convicted of an offence under the provisions of this By-law, any court of competent jurisdiction thereafter may in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act by person convicted directed towards the continuation or repetition of the offence.

SEVERABILITY

21. It is declared that if any section or subsection or part or parts thereof be declared by any competent Court of Law to be illegal shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

BY-LAW ENFORCE

22. This By-law shall come into force and take effect on the day it is duly adopted by council.

SCHEDULE ADOPTED

23. The schedule referred to in this by-law shall form part of this by-law and be read in conjunction with the entry across there from, and not otherwise.

FORMER BY-LAW REPEAL

24. That the City of Clarence-Rockland By-law No.1995-002, for the licensing, regulating, and governing of adult entertainment parlours and video is hereby repealed.

**READ A FIRST, SECOND AND DULY PASSED UPON THE THIRD READING,
THIS 13TH DAY OF MARCH, 2006**

Original signed by

Richard Lalonde, Mayor

Original signed by

**Daniel
Gatien, Clerk**