

LICENCE

Chapter 502

ADULT ENTERTAINMENT PARLOURS

- 502.1.1 Adult books and videos - defined
- 502.1.2 Adult entertainment parlour - defined
- 502.1.3 Adult goods - defined
- 502.1.4 Application - defined
- 502.1.5 Attendant - defined
- 502.1.6 Chapter - defined
- 502.1.7 City - defined
- 502.1.8 Class A Adult Entertainment Parlour - defined
- 502.1.9 Class B Adult Entertainment Parlour - defined
- 502.1.10 Class C Adult Entertainment Parlour - defined
- 502.1.11 Class D Adult Entertainment Parlour - defined
- 502.1.12 Class D services - defined
- 502.1.13 Class E Adult Entertainment Parlour - defined
- 502.1.14 Class E services - defined
- 502.1.15 Council - defined
- 502.1.16 Designated Class E Entertainment Area - defined
- 502.1.17 Late fee - defined
- 502.1.18 Manager of Licensing - defined
- 502.1.19 Operator - defined
- 502.1.20 Original fee - defined
- 502.1.21 Owner - defined
- 502.1.22 Partial nudity - defined
- 502.1.23 Person - defined

ADULT ENTERTAINMENT PARLOURS

- 502.1.24 Prohibited body area - defined
- 502.2.25 Provide(s) - defined
- 502.1.26 Renewal fee - defined
- 502.1.27 Specific acts - defined
- 502.1.28 Specific body areas - defined
- 502.1.29 Supervised area - defined
- 502.1.30 Table dancing - defined
- 502.1.31 Visually restricted area - defined

Article 2 GENERAL PROVISION

- 502.2.1 Schedules - set out
- 502.2.2 Application - all businesses - within - outside - City
- 502.2.3 Signs - restrictions - requirements
- 502.2.4 Operation - licence suspended - revoked - prohibited
- 502.2.5 Condition of licence - compliance

Article 3 CLASS A AND CLASS B ADULT ENTERTAINMENT PARLOURS

- 502.3.1 Operating Class A - without licence - prohibited
- 502.3.2 Operating Class B - without licence - prohibited
- 502.3.3 Books - video - display requirements
- 502.3.4 Class B - location restriction
- 502.3.5 Exception - existing Class B operation
- 502.3.6 Exception - existing Class C, D or E operation

Article 4 CLASS C ADULT ENTERTAINMENT PARLOURS

- 502.4.1 Operation - without licence - prohibited
- 502.4.2 Admittance - restriction - minimum eighteen years

ADULT ENTERTAINMENT PARLOURS

- 502.4.3 Age restriction - posted
- 502.4.4 Adult goods - visible from outside - prohibited
- 502.4.5 Operation - location - restriction
- 502.4.6 Exemption - existing operation

Article 5

CLASS D

ADULT ENTERTAINMENT PARLOURS

- 502.5.1 Operation - without licence - prohibited
- 502.5.2 Attendant - licence - required
- 502.5.3 Applicant - to supply passport size photos - operator
- 502.5.4 Applicant - to supply passport size photos - attendant
- 502.5.5 Locations - permitted - specific - operator
- 502.5.6 Locations - permitted - specific - attendant
- 502.5.7 Owner - operator - location - responsibility - attendant
- 502.5.8 Reduction - number of licences - expiry - renewal
- 502.5.9 Operator - restricted to one location
- 502.5.10 Available licence - application lottery - conditions
- 502.5.11 Location - substitution - new - conditions
- 502.5.12 Location - substitution - new - suitability report
- 502.5.13 Licensed attendants only - operator responsibility
- 502.5.14 Operator retain attendant licence - employment
- 502.5.15 Employment status - attendant - notice requirement
- 502.5.16 Operator - attendant - licence on premises - inspection
- 502.5.17 Locking doors - obstructing entry - prohibited
- 502.5.18 Advertisement - information requirements
- 502.5.19 Services prohibited - set out - operator responsibility
- 502.5.20 Age - minimum requirement for entry - responsibility
- 502.5.21 Hot tub - on premises - prohibited
- 502.5.22 Touching - specified areas - prohibited - responsibility

ADULT ENTERTAINMENT PARLOURS

- 502.5.23 Services - prohibited - set out - responsibility
- 502.5.24 Age - minimum requirement - for entry - responsibility
- 502.5.25 Touching specified areas - prohibited - responsibility

Article 6

CLASS E

ADULT ENTERTAINMENT PARLOURS

- 502.6.1 Operation - without licence - prohibited
- 502.6.2 Operation - without licence - owner - responsibility
- 502.6.3 Operation - area specific
- 502.6.4 Licence - maximum - two
- 502.6.5 Licence - expiry - revoked - replacement process
- 502.6.6 Permitted location ceases to exist
- 502.6.7 New location - suitability report
- 502.6.8 Class E services - permitted areas
- 502.6.9 Attendant - services - location
- 502.6.10 Operator - restricted - one location
- 502.6.11 Services provided - Class E - owner - operator
- 502.6.12 Services provided - Class D - attendant
- 502.6.13 Physical contact between other attendants - prohibited
- 502.6.14 Attendant - physical contact with person - prohibited
- 502.6.15 Person - physical contact with attendant - prohibited
- 502.6.16 Physical contact - prevention by attendant
- 502.6.17 Physical contact - by attendant - prohibited
- 502.6.18 Physical contact - prevention - by attendant
- 502.6.19 Amateur - unpaid individual - compliance
- 502.6.20 Attendant responsibility
- 502.6.21 Owner - operator - responsibility
- 502.6.22 Signs - posted - physical contact is prohibited
- 502.6.23 Washroom - monitored - signs posted

ADULT ENTERTAINMENT PARLOURS

Article 7 APPLICATIONS

- 502.7.1 Application fee - documentation - set out - Schedule 'B'
- 502.7.2 Application - floor plan requirement
- 502.7.3 Change of information - in writing to City
- 502.7.4 Application - received - investigation
- 502.7.5 Other investigating - as required
- 502.7.6 Licence - expiry - December 31 - current year
- 502.7.7 Transfer - licence - prohibited - location specific
- 502.7.8 Operation - in conformity with all regulations
- 502.7.9 Certificate of conviction - deemed as proof
- 502.7.10 Human Rights Code - compliance
- 502.7.11 Working dog - disabled person - permitted
- 502.7.12 Licence - posted - conspicuous place
- 502.7.13 Inspection - vehicle - premises - at all reasonable times
- 502.7.14 Dwelling unit - inspection - regulation
- 502.7.15 Enforcement - authority
- 502.7.16 Enforcement - responsibility - Manager of Licensing

Article 8 ENFORCEMENT

- 502.8.1 Fine - for contravention - person
- 502.8.2 Fine - for contravention - corporation

Article 9 VALIDITY

- 502.9.1 Severability

Article 10 REPEAL - ENACTMENT

- 502.10.1 By-law - previous

SCHEDULE

Schedule 'A' - Business Licence Procedure

Schedule 'B' - Fees

WHEREAS *it is deemed expedient to exercise the powers conferred on Council by the Municipal Act, 2001, S.O. 2001, c. 25;*

AND WHEREAS *notice of a public meeting was given by advertisement in a local newspaper on January 11, 2008;*

AND WHEREAS *a public meeting was held on January 28, 2008 to allow any person attending to make representations with respect to this by-law.*

502.1.1 Adult books and videos - defined

"adult books and videos" includes any book, magazine, video cassette or video disc appealing to or designed to appeal to erotic or sexual appetites through the portrayal or depiction on its cover or container by means of photographs, drawings or otherwise of one or more of the specified body areas of any human or humans or one or more of the specified acts whether actual or simulated.

502.1.2 Adult entertainment parlour - defined

"adult entertainment parlour" means any premises or any part thereof where, in pursuance of a business,

- (a) goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided in the premises or part of the premises; or
- (b) body-rubs, including the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body, are performed, offered or solicited in the premises or part of the premises unless such body-rubs are performed, offered or solicited for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario.

502.1.3 Adult goods - defined

"adult goods" means toys and devices intended to be used as sexual stimulators including vibrators and devices of rubber or other material shaped like an erect penis.

502.1.4 Application - defined

“application” shall include an application for a licence or renewal of a licence on the form provided by the Manager of Licensing and where permitted by the Manager of Licensing shall also include a verbal request for renewal of a licence.

502.1.5 Attendant - defined

“attendant” means a person who, in an adult entertainment parlour, provides Class D services or Class E services.

502.1.6 Chapter - defined

“chapter” shall refer to a by-law of the City which has been incorporated into The City of Kitchener Municipal Code and assigned a chapter number therein unless inconsistent with the context in which the word is used.

502.1.7 City - defined

“city” means The Corporation of the City of Kitchener.

502.1.8 Class A Adult Entertainment Parlour - defined

“Class A Adult Entertainment Parlour” means an adult entertainment parlour in which or in part of which adult books and videos are provided and less than 25 percent of the floor area of the licensed premises is used in the provision of adult books and videos.

502.1.9 Class B Adult Entertainment Parlour - defined

“Class B Adult Entertainment Parlour” means an adult entertainment parlour in which or in part of which adult books and videos are provided and 25 percent or more of the floor area of the licensed premises is used in the provision of Adult books and videos.

502.1.10 Class C Adult Entertainment Parlour - defined

“Class C Adult Entertainment Parlour” means an adult entertainment parlour where adult goods are provided.

502.1.11 Class D Adult Entertainment Parlour - defined

“Class D Adult Entertainment Parlour” means an adult entertainment parlour in which any Class D services are provided but shall specifically exclude alternative massage centres licensed by the City.

502.1.12 Class D services - defined

“Class D services” means any services provided that involve physical contact in the nature of body-rubs, including the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person’s body, unless such body-rubs are performed, offered or solicited for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licenced or registered to do so under the laws of the Province of Ontario.

502.1.13 Class E Adult Entertainment Parlour - defined

“Class E Adult Entertainment Parlour” means an adult entertainment parlour in which Class E services are provided.

502.1.14 Class E services - defined

“Class E services” means any services of which a principal feature or characteristic is the nudity or partial nudity of any person and shall include services in respect of which the word “nude”, “naked”, “topless” or “bottomless” or any other word, picture, symbol or representation having a like meaning or implication is used in any advertisement and Class E services shall specifically include striptease dancing, table dancing, wet clothing contest, best body parts contest or any other similar performance, exhibition, contest, activity, viewing, encounter, and any video game machine involving similar themes.

502.1.15 Council - defined

“Council” means the Council of The Corporation of the City of Kitchener.

502.1.16 Designated Class E Entertainment Area - defined

“Designated Class E Entertainment Area” shall mean an area shown on a floor plan submitted to and approved by the Manager of Licensing showing the part of the Class E Adult Entertainment Parlour in which Class E services may be provided. Approval of the Manager of Licensing shall only be withheld in circumstances where the proposed area would, in the opinion of the Manger of Licensing, facilitate violation of Sections 502.6.20 (b) or 502.6.21 (b) of this Chapter.

502.1.17 Late fee - defined

“late fee” means the fee payable upon application by an applicant, who in the previous calendar year held a licence respecting the same business at the same location that is noted on the submitted application, where application is not made or the fee therefor is unpaid by March 15th of the current year.

502.1.18 Manager of Licensing - defined

“Manager of Licensing” means the Manager of Licensing appointed by Council of the City or in his/her absence the Clerk appointed by Council of the City.

502.1.19 Operator - defined

“operator” includes a person who, alone or with others, operates, manages, runs or controls, and “operate(s)” has a corresponding meaning.

502.1.20 Original fee - defined

“original fee” means the fee payable upon application by an applicant who has not in the previous calendar year held a licence respecting the same business at the same location that is noted on the submitted application.

502.1.21 Owner - defined

“owner” includes a person who, alone or with others, has the right to possess or occupy or actually does possess or occupy an adult entertainment parlour and shall specifically include a lessee of an adult entertainment parlour or premises in which an adult entertainment parlour is located.

502.1.22 Partial nudity - defined

“partial nudity” means less than completely and opaquely covered:

- (a) human genitals or human pubic region;
- (b) human buttocks; or
- (c) female breast below a point immediately above the top of the areola.

502.1.23 Person - defined

“person” includes a corporation and a partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.

502.1.24 Prohibited body area - defined

“prohibited body area” means in the case of a female, the breast, nipples, and areolae; and in the case of all humans, the pubic, genital, perineal and perianal areas and the buttocks.

502.2.25 Provide(s) - defined

“provide(s)” when used in relation to services, includes to furnish, perform or give such services, and “providing”, “provided” and “provision” when used in relation to services shall include corresponding meanings. “provide(s)” when used in relation to adult goods and when used in relation to adult books and videos, includes to rent, offer to rent, to sell, offer to sell or display by retail or otherwise and “providing”, “provided” and “provision” when used in relation to adult goods and when used in relation to adult books and videos shall include corresponding meanings.

502.1.26 Renewal fee - defined

“Renewal fee” means the fee payable upon application by an applicant, who in the previous calendar year held a licence respecting the same business at the same location that is noted on the submitted application, where application is made and the fee therefor is paid by March 15th of the current year.

502.1.27 Specific acts - defined

“specified acts” means sexual intercourse, cunnilingus, fellatio, buggery, bestiality, masturbation, urination or defecation, or the bonding, flagellation, mutilation, maiming or murder of one or more human beings.

502.1.28 Specific body areas - defined

“specified body areas” means in the case of a female, the nipples and areolae that are not covered; and in the case of all humans, the pubic, genital, perineal and perianal areas and the buttocks that are not covered.

502.1.29 Supervised area - defined

“supervised area” means a part of a Class A or Class B Adult Entertainment Parlour that is clearly labelled or marked as being restricted to persons 18 years of age and over, within clear view from an attended sales desk, the nearest part of which being no more than seven metres (22.96 feet) from the said sales desk, or behind a sales counter to which the public is not admitted, clearly labelled as such.

502.1.30 Table dancing - defined

“table dancing” shall mean a performance in a Class E Adult Entertainment Parlour that is offered in closer proximity to a particular patron or patrons in exchange for a payment or tip.

502.1.31 Visually restricted area - defined

“visually restricted area” shall mean any private, semi-private, enclosed, semi-enclosed, walled, semi-walled, fully-fenced, semi-fenced, raised or lowered area where visibility to see into the said area is restricted, obstructed or obscured in full or in part in any manner, including by use of furniture, any type of partition regardless of material, any type of curtain or sheer regardless of material, any type of barrier regardless of material, architectural details, or any device, object or thing situated so as to restrict, obstruct or obscure visibility into the said area, but shall specifically exclude furniture, objects, and structural walls or any thing shown within the designated Class E Entertainment Area on the floor plan approved by the Manager of Licensing and placed in accordance with that floor plan.

**Article 2
GENERAL PROVISION**

502.2.1 Schedules - set out

The provisions of Schedule ‘A’ and Schedule ‘B’ hereto shall form a portion of this Chapter.

502.2.2 Application - all businesses - within - outside - City

The provisions of this Chapter apply to any trade, occupation, calling or business described herein that is carried on either wholly or partly within the City even if the business is being carried on from a location outside the City.

502.2.3 Signs - restrictions - requirements

Every operator of an adult entertainment parlour shall not erect or display or permit to be erected or displayed a sign advertising an adult entertainment parlour which contains any letters, symbols, drawings or any other marks except for the following:

- (a) the operator's legal name as shown on his/her licence;
- (b) the name, if any, under which the operator carries on the adult entertainment parlour business as shown on his/her licence;
- (c) the operator's current licence number;
- (d) the address of the adult entertainment parlour; or
- (e) the telephone number of the adult entertainment parlour.

502.2.4 Operation - licence suspended - revoked - prohibited

No person shall act as an attendant or operate or permit to be operated any adult entertainment parlour while a licence to do so issued under this Chapter is suspended or revoked by Council.

502.2.5 Condition of licence - compliance

No person shall contravene any condition imposed by Council on a licence issued under this Chapter.

Article 3

CLASS A AND CLASS B

ADULT ENTERTAINMENT PARLOURS

502.3.1 Operating Class A - without licence - prohibited

No person shall operate a Class A Adult Entertainment Parlour without having made application and having received a licence issued in the name of the Council by the Manager of Licensing or his/her delegate.

502.3.2 Operating Class B - without licence - prohibited

No person shall operate a Class B Adult Entertainment Parlour without having made application and having received a licence issued in the name of the Council by the Manager of Licensing or his/her delegate.

502.3.3 Books - video - display requirements

Every operator of a Class A or B Adult Entertainment Parlour shall, if adult books and videos are on display to the public, place the adult books and videos:

- (a) at a height of 1.67 metres (5.5 feet) or more above floor level and behind an opaque barrier of a size and nature so that the cover or container of every such book or video while on display,

except for the name thereof, may not be seen by any member of the public;

- (b) within a supervised area of the premises, provided that no cover or container of any adult books and video shall be visible to patrons outside of the supervised area; or
- (c) within an adult entertainment parlour where the entire premises are clearly labelled as being open only to persons 18 years of age and older, provided that no container or cover of any adult books and videos may be visible from outside of such adult entertainment parlour.

502.3.4 Class B - location restriction

No person shall own or operate a Class B Adult Entertainment Parlour:

- (a) on a lot which is within 400 metres (1312.3 feet) of any M4 zone in the City; or,
- (b) within 400 metres (1312.3 feet) of any lot on which is located any adult entertainment parlour other than a Class A Adult Entertainment Parlour under this Chapter.

502.3.5 Exception - existing Class B operation

Notwithstanding Section 502.3.4 above, an operator of a Class B Adult Entertainment Parlour that was operating legally on the date of the passage of this Chapter, may continue to operate at that premises, so long as he/she continues to operate the Class B Adult Entertainment Parlour in accordance with the law and to hold a valid licence. Such operator must comply with this Chapter in all other respects.

502.3.6 Exception - existing Class C, D or E operation

Notwithstanding any other Section of this Chapter, an operator holding a valid Class C, D, or E adult entertainment licence, is exempt from the licensing requirements applicable to Class A and Class B Adult Entertainment Parlours and the distance separations applicable to Class B Adult Entertainment Parlours with respect to a Class A or Class B Adult Entertainment Parlour located on premises for which the operator currently holds a Class C, D, or E adult entertainment licence. Such operator must comply with this Chapter in all other respects.

Article 4
CLASS C
ADULT ENTERTAINMENT PARLOURS

502.4.1 Operation - without licence - prohibited

No person shall operate a Class C Adult Entertainment Parlour without having made application and having received a licence issued in the name of the Council by the Manager of Licensing or his/her delegate.

502.4.2 Admittance - restriction - minimum eighteen years

No Class C Adult Entertainment Parlour operator shall permit any person under the age of eighteen years to enter or remain in a Class C Adult Entertainment Parlour or any part thereof.

502.4.3 Age restriction - posted

Every Class C Adult Entertainment Parlour operator shall clearly label the licensed premises as prohibiting entry to persons under the age of eighteen years.

502.4.4 Adult goods - visible from outside - prohibited

No operator of a Class C Adult Entertainment Parlour shall permit any adult goods to be visible from outside of the premises.

502.4.5 Operation - location - restriction

No person shall own or operate a Class C Adult Entertainment Parlour on a lot which is:

- (a) within 400 metres (1312.3 feet) of any M4 zone in the City; or
- (b) within 400 metres (1312.3 feet) of any lot on which is located any other adult entertainment parlour other than a Class A Adult Entertainment Parlour.

502.4.6 Exemption - existing operation

Notwithstanding Section 502.4.5, an operator of a Class C Adult Entertainment Parlour that was operating legally on the date of the passage of this Chapter may continue to operate at that premises, so long as he/she continues to operate the Class C Adult Entertainment Parlour in accordance with the law and to hold a valid licence. Such operator must comply with this Chapter in all other respects.

Article 5
CLASS D
ADULT ENTERTAINMENT PARLOURS

502.5.1 Operation - without licence - prohibited

No person shall own or operate a Class D Adult Entertainment Parlour without having applied to the City on the prescribed form and having received a licence to operate a Class D Adult Entertainment Parlour issued in the name of Council by the Manager of Licensing or his/her delegate.

502.5.2 Attendant - licence - required

No person shall act as an attendant in a Class D Adult Entertainment Parlour or provide any Class D services as an attendant without having applied to the City on the prescribed form and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

502.5.3 Applicant - to supply passport size photos - operator

Every applicant for a licence to operate a Class D Adult Entertainment Parlour shall submit three passport size photographs of his/her face, one of which photographs shall be attached to the licence, two of which shall be filed with the application, and upon application for renewal of any licence, the applicant shall furnish new photographs, if required to do so. The applicant shall certify each photograph as a true photograph of himself/herself.

502.5.4 Applicant - to supply passport size photos - attendant

Every applicant for a licence to act as an attendant in a Class D Adult Entertainment Parlour shall submit three passport size photographs of his/her face, one of which photographs shall be attached to the licence, two of which shall be filed with the application, and upon application for renewal of any licence, the applicant shall furnish new photographs if required to do so. The applicant shall certify each photograph as a true photograph of himself/herself.

502.5.5 Locations - permitted - specific - operator

No person shall own, operate, or permit to be operated a Class D Adult Entertainment Parlour in the City except in the locations in the City described as:

- (a) main floor, 2271 Kingsway Drive; and
- (b) upper floor, 1412 Victoria Street North.

502.5.6 Locations - permitted - specific - attendant

No attendant shall perform or provide Class D services in an adult entertainment parlour in the City except in the locations in the City described as:

- (a) main floor, 2271 Kingsway Drive; and

- (b) upper floor, 1412 Victoria Street North.

502.5.7 Owner - operator - location - responsibility - attendant

No owner or operator of an adult entertainment parlour shall permit an attendant to perform Class D services in that adult entertainment parlour except in the locations in the City described as:

- (a) main floor, 2271 Kingsway Drive; and
- (b) upper floor, 1412 Victoria Street North.

502.5.8 Reduction - number of licences - expiry - renewal

The total number of Class D Adult Entertainment Parlour locations in the City shall not exceed two.

502.5.9 Operator - restricted to one location

No operator shall operate more than one of the Class D Adult Entertainment Parlour locations.

502.5.10 Available licence - application lottery - conditions

When an operator's licence expires without renewal by the licence holder or an operator's licence is otherwise surrendered or revoked, then upon receipt of an application which otherwise complies with this Chapter, the Manager of Licensing or his/her delegate shall carry out a selection process for a replacement operator as follows:

- (a) the available operator's licence shall be advertised in *The Record*, inviting the submission of applications within a specified period of time;
- (b) a draw shall be conducted from all of the submitted applications which otherwise comply with the provisions of this Chapter; and
- (c) the winner of the draw shall be granted an operator's licence for the vacant location, or an alternate location approved by Council that conforms with the criteria set out herein for consideration of a new location.

502.5.11 Location - substitution - new - conditions

Council may consider a request to substitute a new location for an existing Class D Adult Entertainment Parlour provided that any requested new location shall conform to the following:

- (a) the Class D Adult Entertainment Parlour shall be located on lands zoned C6;

- (b) the lands on which the Class D Adult Entertainment Parlour is located shall not be within 100 metres (328 feet) of the lands of an existing school, including an institutional daycare facility;
- (c) the lands on which the Class D Adult Entertainment Parlour is located shall not be within 100 metres (328 feet) of the lands of an existing religious institution;
- (d) the lands upon which the Class D Adult Entertainment Parlour is located shall not face any part of the lands of any existing residence across the street;
- (e) the side property line of the lands upon which the Class D Adult Entertainment Parlour is located shall not abut the lands of any existing residence;
- (f) the Class D Adult Entertainment Parlour shall not have a total floor space greater than 125 square metres (1346 square feet);
- (g) the lands upon which the Class D Adult Entertainment Parlour is located shall not include an existing residence; and,
- (h) the lands upon which the Class D Adult Entertainment Parlour is located shall not be within 400 metres (1312.3 feet) of any M4 Zone or of any lands upon which is located any other adult entertainment parlour, other than a Class A Adult Entertainment Parlour licensed hereunder.

502.5.12 Location - substitution - new - suitability report

Before Council decides to approve or reject a request to substitute a new location for an existing location, the Manager of Licensing or his/her delegate shall provide a report on the suitability of the new location having regard to:

- (a) the compliance of such a request with all the provisions of this Chapter; and
- (b) any existing uses, in addition to the uses in Section 502.5.11 within 100 metres (328 feet) of the new location.

502.5.13 Licensed attendants only - operator responsibility

Every operator of a Class D Adult Entertainment Parlour shall not employ any person other than an attendant licensed under the provisions of this Chapter to act as an attendant in a Class D Adult Entertainment Parlour.

502.5.14 Operator retain attendant licence - employment

Every operator of a Class D Adult Entertainment Parlour shall, during the term of employment of any attendant, retain such attendant's licence in his/her possession.

502.5.15 Employment status - attendant - notice requirement

Every operator of a Class D Adult Entertainment Parlour shall whenever he/she employs an attendant, within forty-eight hours thereafter, notify the Manager of Licensing or his/her delegate that he/she has employed such attendant, and when any attendant leaves the employ of such operator, the operator shall within forty-eight hours thereafter, notify the Manager of Licensing or his/her delegate to such effect, giving reasons therefor.

502.5.16 Operator - attendant - licence on premises - inspection

Every operator of a Class D Adult Entertainment Parlour shall keep his/her operator's licence and each attendant's licence in his/her possession on the premises of the Class D Adult Entertainment Parlour and available for inspection by the Licence Inspector, By-law or Municipal Law Enforcement Officer, or the Waterloo Regional Police Services at any reasonable time.

502.5.17 Locking doors - obstructing entry - prohibited

Every operator of a Class D Adult Entertainment Parlour shall ensure that there are no locks on the door of any room where an attendant provides services and that there is unencumbered access to and egress from such a room at all times.

502.5.18 Advertisement - information requirements

Every operator of a Class D Adult Entertainment Parlour shall include or have included in every advertisement of his/her business:

- (a) the operator's legal name as shown on his/her licence or the name, if any, under which the operator carries on the Class D Adult Entertainment Parlour business as shown on his/her licence; and
- (b) the operator's current licence number.

502.5.19 Services prohibited - set out - operator responsibility

No owner or operator of a Class D Adult Entertainment Parlour shall permit any attendant to provide Class E services at the Class D Adult Entertainment Parlour.

502.5.20 Age - minimum requirement for entry - responsibility

No owner or operator of a Class D Adult Entertainment Parlour shall permit any person under the age of eighteen years to enter or remain in the Class D Adult Entertainment Parlour or any part thereof.

502.5.21 Hot tub - on premises - prohibited

No owner or operator of a Class D Adult Entertainment Parlour shall permit a hot tub on the premises of his/her adult entertainment parlour.

502.5.22 Touching - specified areas - prohibited - responsibility

No owner or operator of a Class D Adult Entertainment Parlour shall permit any person within the adult entertainment parlour to touch the genitalia or the perineal, pubic, or anal area of another person within the Class D Adult Entertainment Parlour.

502.5.23 Services - prohibited - set out - responsibility

No attendant at a Class D Adult Entertainment Parlour shall provide Class E services at a Class D Adult Entertainment Parlour.

502.5.24 Age - minimum requirement - for entry - responsibility

No attendant at a Class D Adult Entertainment Parlour shall permit any person under the age of 18 years to enter or remain in the Class D Adult Entertainment Parlour or any part thereof.

502.5.25 Touching specified areas - prohibited - responsibility

No attendant at a Class D Adult Entertainment Parlour shall touch the genitalia or the perineal, pubic or anal area of any person in the adult entertainment parlour and shall not permit any person in the Class D Adult Entertainment Parlour to touch the attendant's genitalia, perineal, pubic or anal area.

Article 6

CLASS E

ADULT ENTERTAINMENT PARLOURS

502.6.1 Operation - without licence - prohibited

No person shall own or operate a Class E Adult Entertainment Parlour in the City without having made application and received a Class E Adult Entertainment Parlour licence issued in the name of Council by the Manager of Licensing or his/her delegate.

502.6.2 Operation - without licence - owner - responsibility

No person shall own, operate or permit to be operated a place where attendants provide Class E services in the City, without having made application and received a licence to operate a Class E Adult Entertainment Parlour issued in the name of Council by the Manager of Licensing or his/her delegate.

502.6.3 Operation - area specific

No person shall own, operate, or permit to be operated a Class E Adult Entertainment Parlour except in the areas of the City described as:

- (a) 1271 Victoria Street North, Lots 5 to 7 both inclusive, Plan 769;
and
- (b) 6 Bridge Street West, Lot 6, Plan 577 and Part of Lot 59, German Company Tract.

502.6.4 Licence - maximum - two

The total number of Adult Entertainment Parlour - Class E licences in the City of Kitchener which may be issued under and in accordance with this Chapter shall hereby be limited to two.

502.6.5 Licence - expiry - revoked - replacement process

When an operator's licence expires without renewal by the licence holder or an operator's licence is otherwise surrendered or revoked, then upon receipt of an application which otherwise complies with this Chapter, the Manager of Licensing or his/her delegate shall carry out a selection process for a replacement operator as follows:

- (a) the available operator's licence shall be advertised in *The Record*, inviting the submission of applications within a specified period of time;
- (b) a draw shall be conducted from all of the submitted applications which otherwise comply with the provisions of this Chapter; and
- (c) the winner of the draw shall be granted an operator's licence for the vacant location, or an alternate location approved by Council that conforms with the criteria set out herein for consideration of a new location.

502.6.6 Permitted location ceases to exist

In the event that either of the permitted locations ceased to exist, one Adult Entertainment Parlour - Class E will be permitted in a B-4 (Commercial Business Park Zone), provided the new location is approved by Council and shall also conform to the following:

- (a) the Class E Adult Entertainment Parlour shall be located on lands zoned B4;
- (b) the lands on which the Class E Adult Entertainment Parlour shall not be within 100 metres (328 feet) of the lands of an existing school, including an institutional daycare facility;
- (c) the lands on which the Class E Adult Entertainment Parlour is located shall not be within 100 metres (328 feet) of the lands of an existing religious institution;
- (d) the lands upon which the Class E Adult Entertainment Parlour is located shall not face any part of the lands of any existing residence across the street;

- (e) the side property line of the lands upon which the Class E Adult Entertainment Parlour is located shall not abut the lands of any existing residence;
- (f) the lands upon which the Class E Adult Entertainment Parlour is located shall not include an existing residence; and,
- (g) the lands upon which the Class E Adult Entertainment Parlour is located shall not be within 400 metres (1312.3 feet) of any M4 Zone or of any lands upon which is located any other adult entertainment parlour, other than a Class A Adult Entertainment Parlour licensed hereunder.

502.6.7 New location - suitability report

Before Council decides to approve or reject a request to substitute a new location for an existing location, the Manager of Licensing or his/her delegate shall provide a report on the suitability of the new location having regard to:

- (a) the compliance of such a request with all the provisions of this Chapter; and
- (b) any existing uses, in addition to the uses in Section 502.6.6 within 100 metres (328 feet) of the new location.

502.6.8 Class E services - permitted areas

No owner or operator of an adult entertainment parlour shall permit an attendant to perform Class E services at the adult entertainment parlour except in the area of the City described as:

- (a) 1271 Victoria Street North, Lots 5 to 7 both inclusive, Plan 769;
- (b) 6 Bridge Street West, Lot 6, Plan 577 and Part of Lot 59, German Company Tract.

502.6.9 Attendant - services - location

No attendant shall perform or provide Class E services in an adult entertainment parlour except in the areas of the City described as:

- (a) 1271 Victoria Street North, Lots 5 to 7 inclusive, Plan 769;
- (b) 6 Bridge Street West, Lot 6, Plan 577 and Part of Lot 59, German Company Tract.

502.6.10 Operator restricted - one location

No operator shall operate more than one Class E Adult Entertainment Parlour.

502.6.11 Services provided - Class E - owner - operator

No owner or operator of a Class E Adult Entertainment Parlour shall permit any attendant to provide Class D services in the Class E Adult Entertainment Parlour.

502.6.12 Services provided - Class D - attendant

No attendant shall provide Class D services in any Class E Adult Entertainment Parlour.

502.6.13 Physical contact between other attendants - prohibited

No owner or operator of a Class E Adult Entertainment Parlour shall permit any attendant to physically contact any other attendant:

- (a) in any prohibited body area; or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.14 Attendant - physical contact with person - prohibited

No owner or operator of a Class E Adult Entertainment Parlour shall permit any attendant to physically contact any person within the adult entertainment parlour:

- (a) in any prohibited body area; or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.15 Person - physical contact with attendant - prohibited

No owner or operator of a Class E Adult Entertainment Parlour shall permit any person to physically contact an attendant within the adult entertainment parlour:

- (a) in any prohibited body area; or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.16 Physical contact - prevention by attendant

No attendant at a Class E Adult Entertainment Parlour shall permit himself or herself to be physically contacted by any other attendant within the adult entertainment parlour:

- (a) in any prohibited body area; or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.17 Physical contact - by attendant - prohibited

No attendant at a Class E Adult Entertainment Parlour shall physically contact any person within the adult entertainment parlour:

- (a) in any prohibited body area, or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.18 Physical contact - prevention - by attendant

No attendant at a Class E Adult Entertainment Parlour shall permit himself or herself to be physically contacted by any person within the adult entertainment parlour:

- (a) in any prohibited body area; or
- (b) in any manner other than ordinary and non-erotic physical contact as may be found in any business setting.

502.6.19 Amateur - unpaid individual - compliance

Every owner or operator of a Class E Adult Entertainment Parlour that permits an amateur or unpaid individual to perform or provide Class E services at the adult entertainment parlour, whether as a participant in a contest or otherwise, shall ensure that the individual abides by the rules of this Chapter applicable to Class E attendants.

502.6.20 Attendant responsibility

An attendant providing or performing Class E services while in a Class E Adult Entertainment Parlour:

- (a) shall ensure that he/she provides or performs all Class E services in a designated Class E Entertainment Area; and
- (b) shall not provide or perform services in any private or enclosed area, area to which access is not available to all patrons equally, area where lighting is reduced so that visibility is obstructed, or any visually restricted area.

502.6.21 Owner - operator - responsibility

Every owner and every operator of a Class E Adult Entertainment Parlour shall ensure that an attendant providing or performing Class E services within the Class E Adult Entertainment Parlour:

- (a) does so only while in a Designated Class E Entertainment Area; and
- (b) does not provide or perform services in any private or enclosed area, area to which access is not available to all patrons equally,

area where lighting is reduced so that visibility is obstructed, or any visually restricted area.

502.6.22 Signs - posted - physical contact is prohibited

Every owner and every operator of a Class E Adult Entertainment Parlour shall post notices in the attendants' dressing rooms and at all public entrances and in the washrooms which includes the words "physical contact is prohibited."

502.6.23 Washroom - monitored - signs posted

Every owner and every operator of a Class E Adult Entertainment Parlour shall:

- (a) ensure that washrooms are regularly monitored by security staff and that washrooms are inspected at least once every 30 minutes during business hours; and,
- (b) post outside the entrance of each of the washrooms and within each of the washrooms, in a location easily visible to patrons, a sign stating "Washrooms regularly monitored by security staff. Illegal activities will result in prosecution to the fullest extent of the law."

**Article 7
APPLICATIONS**

502.7.1 Application fee - documentation - set out - Schedule 'B'

Every application hereunder shall be accompanied by the applicable licence fee set out on Schedule 'B' hereto and any documentation or forms required by the Manager of Licensing.

502.7.2 Application - floor plan requirement

Every application for a Class E Adult Entertainment Parlour licence shall include a floor plan which shows all areas in which Class E services are intended to be provided. Such floor plan shall show all items, materials, pillars, objects, and furniture exceeding 0.91 metres (36 inches) in height.

502.7.3 Change of information - in writing to City

Every person shall advise the City's licensing office in writing forthwith, and in advance where possible, of any change to information already provided to the City on the application.

502.7.4 Application - received - investigation

Upon receipt of an application, the Manager of Licensing shall make or cause to be made all investigations which he/she deems necessary or which are required by Council relative to the application.

502.7.5 Other investigating - as required

The Manager of Licensing may require the applicant to have investigations conducted by, to obtain documentation from and provide to the Manager of Licensing, or have documentation provided by any of the following or their designates: the Chief Fire Prevention Officer, Chief Building Official, Manager of Design and Development, Regional Medical Officer of Health, Director of Enforcement, Electrical Safety Authority, the applicant's local Police Services Board and the Waterloo Regional Police Services.

502.7.6 Licence - expiry - December 31 - current year

Every licence issued under this Chapter shall be for the calendar year current at the time it is issued and shall expire on the 31st day of the December immediately following the date of such licence unless the licence is revoked or surrendered at an earlier time or Council specifies an earlier expiry date.

502.7.7 Transfer - licence - prohibited - location specific

Every licence issued hereunder is issued on the condition that it is personal and that it applies only with respect to the specified location and no person shall assign or transfer the licence.

502.7.8 Operation - in conformity with all regulations

Every holder of a license issued hereunder shall ensure that the business or operation licensed by the City shall be conducted in conformity with the provisions of any applicable federal or provincial Act, and any regulation made thereunder, and any by-law of the City purporting to govern or regulate the said operation.

502.7.9 Certificate of conviction - deemed as proof

For the purposes of this Chapter, a certificate, setting out with reasonable particularity, the finding of guilt or conviction in Canada of a person, signed by the person who made the adjudication or the clerk of the court where the adjudication was made is admissible in evidence and is proof, in the absence of evidence to the contrary, of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

502.7.10 Human Rights Code - compliance

No holder of a license issued hereunder shall permit, infringe or do, directly or indirectly, anything that infringes a right set out in the *Human Rights Code*, in relation to or during the carrying on of the trade, calling, business or occupation in respect of which the licence is issued.

502.7.11 Working dog - disabled person - permitted

No holder of a licence issued shall refuse to permit a dog that has been trained at an accredited facility, while being used as a working dog to assist a disabled person, to enter and remain on his/her premises during the carrying on of the trade, calling, business or occupation in respect of which the licence is issued.

502.7.12 Licence - posted - conspicuous place

Every person holding a licence issued hereunder, where the licence applies to premises, shall keep his/her licence posted in a conspicuous place in the licensed premises and shall ensure that the said licence remains so posted during the time it is in force.

502.7.13 Inspection - vehicle - premises - at all reasonable times

Every licence issued hereunder is issued subject to the condition that every place or premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying out of the business shall be liable to be inspected at any reasonable time by the Waterloo Regional Chief of Police or any Police Officer, Licence Inspector, the Fire Prevention Officer, the Director of Building, the Director of Enforcement and any person or inspector duly authorized on their behalf or otherwise authorized by Council and no person shall refuse admission to such officer or person, after a demand to inspect has been made.

502.7.14 Dwelling unit - inspection - regulation

Notwithstanding Section 502.7.13 herein, inspections of space being used as a dwelling unit shall be conducted in accordance with the provisions of the *Municipal Act, 2001*.

502.7.15 Enforcement - authority

Council hereby authorizes the Waterloo Regional Police Services or any officer thereof to act as agent for the City for the purpose of enforcing this Chapter.

502.7.16 Enforcement - responsibility - Manager of Licensing

The Manager of Licensing is hereby charged with the responsibility for the enforcement of this Chapter and the City Solicitor, Clerk, Director of Enforcement and any other municipal official are hereby required to render the Manager of Licensing any reasonable assistance in that regard.

**Article 8
ENFORCEMENT**

502.8.1 Fine - for contravention - person

Every person, other than a corporation, who contravenes the Chapter, and every director or officer of a corporation who concurs in the contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding Twenty Five Thousand Dollars (\$25,000) or to imprisonment for a term not exceeding one year, or both.

502.8.2 Fine - for contravention - corporation

Every corporation that contravenes this Chapter is guilty of an offence and on conviction is liable to a fine not exceeding Fifty Thousand Dollars (\$50,000).

**Article 9
VALIDITY**

502.9.1 Severability

It is hereby declared that each and every of the foregoing sections of this Chapter is severable and that, if any provisions of this Chapter should for any reason be declared invalid by any Court, it is the intention and desire of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

**Article 10
REPEAL - ENACTMENT**

502.10.1 By-law - previous

By-law 2004-271, By-law 2006-64, By-law 2006-228, By-law 2007-28 and the contents of Chapter 502 of The City of Kitchener Municipal Code are hereby repealed.

ADULT ENTERTAINMENT PARLOURS

SCHEDULE

Schedule 'A' - Business Licence Procedure

1. Upon receipt of a complete licence application the Manager of Licensing shall either issue or renew a licence hereunder or shall refer the matter to Council or a Committee of Council where appropriate under the provisions of this Chapter or any other Chapter of Council.
2. Save as otherwise provided herein, every licence issued or renewed pursuant to this Chapter shall be issued in the name of Council by the Manager of Licensing.
3. The Manager of Licensing shall not process an application where that application is incomplete. An application will be deemed incomplete where:
 - (a) required information has not been provided on the application form;
 - (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
 - (c) the prescribed licence fee is unpaid;
 - (d) the Manager of Licensing has received an unsatisfactory report regarding an investigation carried out pursuant to this Chapter of The City of Kitchener Municipal Code or any other by-law of the City and the conditions causing the report to be unsatisfactory have not been remedied; or
 - (e) in the case of a Class E adult entertainment establishment, the Manager of Licensing has not received a floor plan showing a satisfactory area in the Class E adult entertainment establishment where Class E services will be provided.
4. Where the Manager of Licensing receives an incomplete application, the Manager of Licensing shall, where an address or other contact information has been provided, notify the applicant that the application is incomplete and of the steps required to complete the application.
5. Where the Manager of Licensing decides an application is incomplete, the applicant shall have the right to appeal that decision to Council or a Committee of Council.

ADULT ENTERTAINMENT PARLOURS

6. If the Manager of Licensing is unable to determine whether an application is incomplete, he/she may refer the matter to Council or a Committee of Council for consideration.
7. The Manager of Licensing shall refer an application or a licence to Council or a Committee of Council where:
 - (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
 - (b) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
 - (c) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
 - (d) without limiting the generality of Section 7 (c), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
 - (e) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met; or
 - (f) the provisions of this Chapter provide grounds not to issue or renew in the circumstances.
8. When any matter has been referred or appealed to Council or a Committee of Council, the applicant or licensee shall be given reasonable notice of the time and place of the hearing and shall be invited to make submissions.
9. When any matter has been referred or appealed to Council or a Committee of Council, after due consideration of the application or licence and after Council or a Committee of Council has heard such representations as the applicant or licensee and staff may care to make, Council may direct that the license be issued or renewed, or may refuse, suspend, revoke or add conditions to a licence where:

ADULT ENTERTAINMENT PARLOURS

- (a) the applicant or licensee does not meet the requirements of this Chapter or any other applicable law or by-law;
- (b) information or documentation required by the Manager of Licensing as part of the application process has not been provided;
- (c) the application is incomplete or the prescribed licence fee is unpaid;
- (d) the Manager of Licensing receives an unfavourable report regarding an investigation carried out pursuant to Chapter 500 of The City of Kitchener Municipal Code or any other by-law of the City;
- (e) there are reasonable grounds for belief that an application or other document provided to the Manager of Licensing by or on behalf of an applicant or licensee contains a false statement or provides false information;
- (f) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (g) without limiting the generality of Section 9 (f), any person, including the officers, directors, employees or agents of a corporation, has contravened this Chapter or any other by-law or federal or provincial statute or regulation while engaged in or conducting the business;
- (h) any special conditions placed on a former or current licence of the applicant or licensee under this Chapter have not been met;
- (i) the provisions of this Chapter provide grounds not to issue or renew in the circumstances; or
- (j) the applicant or licensee has consented to the refusal, suspension, revocation or adding of conditions to the licence.

ADULT ENTERTAINMENT PARLOURS

10. Where a licensee is convicted of an offence under any federal or provincial act, any regulation made thereunder, or any by-law of the City in relation to or during the carrying on of the trade, calling, business or occupation licensed hereunder, the licence may be suspended forthwith by Council until such time as the matter can be heard and finally determined by Council.

By-law 2008-34, 11 February, 2008; Schedule 'A'.

ADULT ENTERTAINMENT PARLOURS

Schedule 'B' - Fees

1. Subject to Section 4 herein, each person, applying for a licence in respect of a trade, occupation, calling or business hereunder, shall pay the fee set out in this Schedule respecting licensing of that particular trade, occupation, calling or business. Fees paid shall be returned to the applicant if the application for a licence is denied.
2. All licence fees set out in this Schedule are annual fees unless otherwise indicated.
- 3(1) Subject to Section 3 (2) hereof, in those cases where a licence is surrendered by a person ceasing operation, and not due to Council's revocation of said licence, the licence fee shall be partially refunded according to the following formula:
 - (a) for a person ceasing operation from January 1st to March 31st in any year:
 - for surrender - 75 per cent of the annual fee;
 - (b) for a person ceasing operation from April 1st to June 30th in any year:
 - for surrender - 50 per cent of the annual fee; and
 - (c) for a person ceasing operation from July 1st to December 31st in any year:
 - for surrender - no refund.
- 3(2) No refund shall be given for any licence for which the fee payable for the full year is Fifty Dollars (\$50) or less.
4. Where an applicant pays or is required to pay licensing fees for more than one licence with respect to the same business location and where an inspection under one licence application satisfies an inspection requirement of another licence application, Council hereby delegates authority to the Manager of Licensing, and directs the Manager of Licensing to:
 - (a) refund to the applicant the portion of any licensing fee paid as necessary to ensure that the applicant only pays one time for each required inspection, or
 - (b) to waive payment of the portion of any licensing fee payable as necessary to ensure that the applicant only pays one time for each required inspection.
5. The necessity of an inspection referred to in Section 4 will be in the sole discretion of the Manager of Licensing.

ADULT ENTERTAINMENT PARLOURS

2010 Fees			
Category	Original Licence Fee	Renewal Fee	Late Fee
FEES			
Class A Entertainment Parlour	\$344	\$80	\$197
Class B Entertainment Parlour	\$628	\$80	\$197
Class C Entertainment Parlour	\$649	\$92	\$209
Class D Entertainment Parlour – Attendant	\$95	\$90	\$90
Class D Entertainment Parlour – Operator	\$3,903	\$3,903	\$4,106
Class E Entertainment Parlour	\$4,684	\$4,684	\$4,928

By-law 2008-199; 8 December, 2008; Schedule 'B'; By-law 2009-160, 23 November 2009, Schedule 'B'.