

# LICENCE

## Chapter 594 THEATRE

### Article 1 INTERPRETATION

- 594.1.1 Adult sex film - defined
- 594.1.2 Drive-in - defined
- 594.1.3 Exhibit - defines
- 594.1.4 Film - defined
- 594.1.5 Standard film - defined
- 594.1.6 Theatre - defined

### Article 2 GENERAL PROVISIONS

- 594.2.1 General provisions - Chapter 500
- 594.2.2 Fees - Chapter 501
- 594.2.3 Schedule 'A' - Business Licence Procedure
- 594.2.4 Operation - without licence - prohibited
- 594.2.5 Applicable - all locations - within - outside - City
- 594.2.6 Classes of licences
- 594.2.7 Theatres Act - licence - requirement
- 594.2.8 Building - premises - compliance - relevant Acts
- 594.2.9 Seating capacity - minimum requirements
- 594.2.10 Lobby requirement - direct access from all rooms
- 594.2.11 Adult sex film - additional requirements
- 594.2.12 Licence - location - specific

## THEATRE

594.2.13 Operation - licence - suspended - revoked - prohibited

594.2.14 Condition of licence - compliance

### **Article 3 ENFORCEMENT**

594.3.1 Fine - for contravention - person

594.3.2 Fine - for contravention - corporation

### **Article 4 VALIDITY**

594.4.1 Severability

### **Article 5 REPEAL - ENACTMENT**

594.5.1 By-law - previous

594.5.2 Effective date

## SCHEDULE

Schedule 'A' - Business Licence Procedure

---

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

AND WHEREAS *Council has determined that licensing owners and operators of theatres protects consumers and contributes to their safety as there is the ability to require that certain minimal standards with respect to fire and building safety have been met;*

AND WHEREAS *Council has determined that licensing owners and operators of theatres protects consumers as there is a record of licence holders and the ability to require legal and honest operation of such businesses and to hold licensees responsible when the business is not conducted in accordance with the law or with integrity;*

AND WHEREAS *Council has determined that the ability to add conditions to, suspend, revoke or refuse licences encourages owners and operators of theatres to comply with the by-law requirements;*

AND WHEREAS *notice of a public meeting was given by advertisement in a local newspaper on October 8, 2004;*

AND WHEREAS *a public meeting was held on October 18, 2004 to allow any person attending to make representations with respect to this by-law.*

## **Article 1 INTERPRETATION**

### **594.1.1 Adult sex film - defined**

“adult sex film” means a film classified as an adult sex film by the Ontario Film Review Board.

### **594.1.2 Drive-in - defined**

“drive-in” means any premises in which film is exhibited and viewed by the public from vehicles.

### **594.1.3 Exhibit - defines**

“exhibit”, when used in respect of film or moving pictures, means to show film for viewing for direct or indirect gain or for viewing by the public and “exhibition” has a corresponding meaning.

### **594.1.4 Film - defined**

“film” means cinematographic film, videotape and any other medium from which may be produced visual images that may be viewed as moving pictures.

### **594.1.5 Standard film - defined**

“standard film” means cinematographic film of 35 millimetres or more in width.

### **594.1.6 Theatre - defined**

“theatre” means a building in which film is used to exhibit moving pictures.

## **Article 2 GENERAL PROVISIONS**

### **594.2.1 General provisions - Chapter 500**

The provisions of Chapter 500 of the City of Kitchener Municipal Code shall apply to this Chapter. In the event of any conflict, the provisions of this Chapter shall apply.

### **594.2.2 Fees - Chapter 501**

The fees for a licence under this Chapter shall be as set out in Chapter 501 of the City of Kitchener Municipal Code.

**594.2.3 Schedule 'A' - Business Licence Procedure**

The provisions of Schedule 'A' hereto shall form a portion of this Chapter.

**594.2.4 Operation - without licence - prohibited**

No person shall exhibit film or standard film for hire or gain without having made application and having received a licence issued in the name of Council by the Manager of Licensing or his/her delegate.

**594.2.5 Applicable - all locations - 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.

**594.2.6 Classes of licences**

There shall be the following classes of licences:

- (a) Class A - drive-in;
- (b) Class B - theatre;
- (c) Class C - multiple screen theatre;
- (d) Class D - exhibition of film or standard film in other than a theatre.

**594.2.7 Theatres Act - licence - requirement**

No person shall receive a Class A, Class B or Class C licence hereunder unless a licence therefor is in force under the *Theatres Act*.

**594.2.8 Building - premises - compliance - relevant Acts**

Every theatre must comply with the relevant sections of the regulations pursuant to the *Building Code Act, 1992*, the *Theatres Act*, and the *Fire Protection and Prevention Act, 1997*.

**594.2.9 Seating capacity - minimum requirements**

Every theatre must contain permanent seating for not less than 350 persons; if the seating is in more than one viewing room the permanent seating in any such viewing room shall not be less than 50 seats.

**594.2.10 Lobby requirement - direct access from all rooms**

Every theatre must have a lobby and every viewing room in a theatre must have direct access to the lobby.

**594.2.11 Adult sex film - additional requirements**

In addition to the regulations hereunder, any premises in which adult sex films are provided in pursuance of a trade, calling, business, or occupation must comply with the regulations set out in By-law 85-1 of The Corporation of the City of Kitchener.

**594.2.12 Licence - location - specific**

Every licence issued pursuant to this Chapter applies only with respect to the specified location.

**594.2.13 Operation - licence - suspended - revoked - prohibited**

No person shall exhibit film or standard film for hire or gain while a licence issued under this Chapter is suspended or revoked by Council.

**594.2.14 Condition of licence - compliance**

No person shall violate any condition that Council places on a licence issued under this Chapter.

**Article 3  
ENFORCEMENT****594.3.1 Fine - for contravention - person**

Every person other than a corporation who contravenes any provision of this Chapter and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding Twenty-Five Thousand Dollars (\$25,000).

**594.3.2 Fine - for contravention - corporation**

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

**Article 4  
VALIDITY****594.4.1 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 5  
REPEAL - ENACTMENT****594.5.1 By-law - previous**

By-law 2000-198, section 36 of By-law 2000-228, section 25 of By-law 2001-233, section 27 of By-law 2001-241, the contents of Chapter 594, By-law 98-132, By-law 2000-54 and the contents of Chapter 593 are hereby repealed as of January 1, 2005.

**594.5.2 Effective date**

This Chapter comes into force and effect on January 1, 2005. By-law 2004-244, 6 December, 2004.

## THEATRE

### 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 by-law 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; or
  - (d) the Manager of Licensing has received an unsatisfactory 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 and the conditions causing the report to be unsatisfactory have not been remedied.
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.
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.

## THEATRE

7. The Manager of Licensing may 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 licence be issued or renewed, or may refuse, suspend, revoke or add conditions to a licence where:

## THEATRE

- (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

## THEATRE

- (j) the applicant or licensee has consented to the refusal, suspension, revocation or adding of conditions to the licence.
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 2004-244, 6 December, 2004; Schedule 'A'; By-law 2006-46, 13 February, 2006.