



<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE PUBLIC PARTICIPATION MEETING ON JUNE 20, 2017</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>PUBLIC PARTICIPATION MEETING BUSINESS LICENSING BY-LAW REVIEW  ADULT ENTERTAINMENT ESTABLISHMENT</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Development & Compliance Services and Chief Building Official, this report **BE RECEIVED** as information, it being noted that upon completion of all public participation meetings related to the review of the Business Licensing By-law, a further public participation meeting will be scheduled to repeal and replace the current Business Licensing By-law as per the direction of Municipal Council on December 19, 2016.

<b>PREVIOUS REPORTS</b>
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June 21, 2016	CPSC	Proposed new categories / existing by-law changes
November 15, 2016	CPSC	Putting Consumers First Act
December 13, 2016	CPSC	Status Update
January 24, 2017	CPSC/PPM	General Provisions, Payday Loans, Door to Door Sales
February 22, 2017	CPSC/PPM	Contractors, Donation Bins, Personal Service Establishments, Tobacco and Electronic Cigarette Retailers
April 25, 2017	CPSC/PPM	Commercial Parking, Pet Shops, Public Halls, Seasonal Sales Businesses
May 24, 2017	CPSC/PPM	Food Premises, Refreshment Vehicles, Auto Services

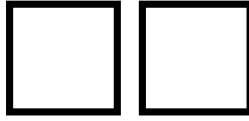
<b>BACKGROUND</b>
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Civic Administration previously reported on a number of new categories of businesses to be licensed for a variety of municipal purposes, as well as consideration of existing businesses that require updated licensing regulations. The purpose of this report is to receive public comments on proposed licensing regulations for the following consolidated category:

- Adult Entertainment Establishment

As previously reported, Civic Administration is proposing to utilize section 23 of the *Municipal Act* authorizing the delegation of legislative powers. The intent of this section is to streamline City Council's decision-making process and enable it to focus on larger issues in a more strategic manner. The Licence Manager has a written Standard Operating Procedure on delegated authority of regulation development including public consultation and posting of the regulations on the City's web site.

The *Municipal Act* gives municipalities powers to pass by-laws with respect to business licensing. In addition to this broad power, the *Municipal Act*, also grants municipalities the authority to have particular control over adult entertainment establishments.



Under section 154 of the *Act*, adult entertainment establishments include goods, entertainment, and body rubs that are designed to appeal to erotic or sexual appetites or inclinations. Section 154 states:

**Restrictions re adult entertainment establishments**

**154.** (1) Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to adult entertainment establishments, may,  
(a) despite section 153, define the area of the municipality in which adult entertainment establishments may or may not operate and limit the number of adult entertainment establishments in any defined area in which they are permitted; and  
(b) prohibit any person carrying on or engaged in an adult entertainment establishment business from permitting any person under the age of 18 years to enter or remain in the adult entertainment establishment or any part of it.

**Premises**

(2) Any premises or any part of them is an adult entertainment establishment if, in the 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, excluding premises or part of them where body-rubs performed, offered or solicited are 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 a statute of Ontario.

**Power of entry**

(3) Despite subsection 436(1), a local municipality may exercise its administrative power of entry under section 436 at any time of the day or night to enter an adult entertainment establishment. 2006, c. 32, Sched. A, s. 82.

**Evidence rule**

(4) For the purpose of a prosecution or proceeding under a by-law with respect to adult entertainment establishments, the holding out to the public that the entertainment or services described in subsection (2) are provided in the premises or any part of them is admissible in evidence as proof, in the absence of evidence to the contrary, that the premises or part of them is an adult entertainment establishment.

There are a number of changes proposed to the current Business Licensing By-law.

- The current by-law categorizes two forms of adult entertainment: live entertainment and body rub parlours. Each category is classified individually with specific regulations. These two categories are licensed for the municipal purposes of protecting the health and safety of the patrons, to ensure the business is not a nuisance to the surrounding properties and neighbourhood, and consumer protection of those individuals who attend and partake in the services provided in the establishment. As the municipal purposes of the two categories are identical, it would make sense from an administrative and enforcement perspective to consolidate both categories into one classification titled adult entertainment establishment.
- The current by-law licences only the owners of the facilities yet includes regulations pertaining to both the licensees and operators of the establishments: employing persons under the age of 18, refusing entry for inspections and advertising regulations. The proposed by-law amendment will require that operators of the establishments be licensed and that a licensed operator be on-site while the establishment is open to the public. Given the hours of operation, this will require each establishment to have at least two to three

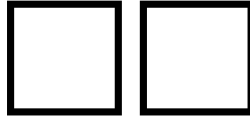
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licensed operators per establishment. The role of the licensed operator is to ensure compliance with the by-law regulations and for operational oversight of the facility. This new provision will address issues which may occur in the facility with no management staff in attendance.

- The regulations include processes to delete a location, to substitute a new location or an existing location or to add a new location. Locational requirements will include separation distances from schools, day cares places of worship and residential uses. Any locational changes will follow a public participation process before the Community and Protective Services Committee and the Committee will recommend to Council whether or not to make an amendment to the by-law.
- As with many of the business licensing categories, the Licence Manager may make regulations prescribing operational standards. One of the operational standards will include hours of operation. This regulation is included in several Ontario municipal by-laws for body rub parlours. Civic Administration is continuing to review this matter as it pertains to late night criminal occurrences at body rub parlours. If supported by rationale, operational regulations may include hours of operations for body rub parlours. Civic Administration is also continuing to review advertising standards related to these facilities. City Council recently adopted a new Sign By-law which would apply to these facilities. Any further regulations with respect to signage ( in addition to the Sign By-law) will be considered as operating standards or if appropriate by-law regulations.

The proposed fee for an adult entertainment body rub owner is \$3,173. The proposed fee for an adult live entertainment parlour is \$4,061. The proposed fee for an operator is \$504. The fees take into consideration administration and enforcement costs.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<b>OREST KATOLYK, MLEO (C ) CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER</b>	<b>GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b>



Schedule "X"  
Adult Entertainment Establishments

1.0 Definitions

1.1 In this Schedule:

"Adult Entertainment Establishment" means an Adult Entertainment Body-Rub Parlour or an Adult Live Entertainment Parlour.

"Adult Entertainment Body-Rub Parlour" means any premises or part thereof in which, in pursuance of a trade, calling, business or occupation, a Body-Rub is provided, offered or solicited;

"Adult Live Entertainment Parlour" means any premises or part thereof in which, in pursuance of a trade, calling, business or occupation, services appealing to or designed to appeal to erotic or sexual appetites or inclinations are provided, offered or solicited;

"Attendant" means a person who provides, performs, offers or solicits a Body-Rub;

"Body-Rub" includes the kneading, manipulating, rubbing, massaging, or touching by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;

"Entertainer" means any person, other than an Owner or Operator, who provides services designed to appeal to erotic or sexual appetites or inclinations at an Adult Live Entertainment Parlour;

"Entertainment Area" means the entertainment areas shown on the floor plan approved by the Licence Manager under subsection 5.1(i) of this Schedule;

"Operator" means a person who, alone or with others, operates, manages, supervises, runs or controls an Adult Entertainment Establishment, and "operates" has a corresponding meaning;

"Owner" means a person who, alone or with others, has the right to possess or occupy or actually does possess or occupy an Adult Entertainment Establishment and includes a lessee of an Adult Entertainment Establishment or of premises in which an Adult Entertainment Establishment is located;

"Owner/Operator" means an individual person who owns and operates his or her own Adult Entertainment Establishment;

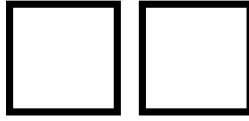
"Parlour" means an Adult Live Entertainment Parlour or an Adult Entertainment Body-Rub Parlour;

"Police Record Check" means a vulnerable criminal information report that is a result of a search of the local police records where the applicant resides and the national databases maintained by the Canadian Police Information Centre;

"Provide" when used in relation to services in an Adult Entertainment Establishment, includes to furnish, perform, solicit or give such services, and "providing" and "provision" have corresponding meanings;

"Services" in reference to an Adult Live Entertainment Parlour includes activities, facilities, performances, exhibitions, viewing and encounters, but does not include the exhibition of film approved under the Theatres Act;

"Services designed to appeal to erotic or sexual appetites or inclinations" in reference to an Adult Live Entertainment Parlour, includes:



(a) services of which the principal feature or characteristic is the nudity or partial nudity of any person; or

(b) services in respect of which any one or more of the words “nude”, “naked”, “topless”, “bottomless”, sexy, “table dancing”, “lap dancing”, or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

## 2.0 Licence Categories:

2.1 The following categories of Adult Entertainment Establishment licences are hereby established:

- (a) Adult Entertainment Body-Rub Operator;
- (b) Adult Entertainment Body-Rub Owner;
- (c) Adult Live Entertainment Parlour Operator; and
- (d) Adult Live Entertainment Parlour Owner.

2.2 Every Owner/Operator of an Adult Entertainment Establishment:

- (a) is required to be licensed as both an Owner and an Operator;
- (b) shall pay the fee in respect of each licence respectively;
- (c) shall be subject to the requirements and other provisions of this By-law in respect of their status as both an Owner and an Operator, and shall comply with all of the requirements of this By-law applicable to each.

2.3 No person other than an individual person may operate, or be licensed as an Operator of an Adult Entertainment Establishment.

2.4 Where a person owns more than one Adult Entertainment Establishment, a separate Owner licence is required for each Adult Entertainment Establishment. Every Owner licence for an Adult Entertainment Establishment shall have endorsed on its face by the Licence Manager the location of the premises to which it applies. The endorsement shall be for one location only and such licence shall be valid only for the location endorsed thereon.

2.5 Where a person operates more than one Adult Entertainment Establishment, a separate Operator licence is required for each location operated by them. Every Operator licence for an Adult Entertainment Establishment shall have endorsed on its face by the Licence Manager the location of the premises to which it applies. The endorsement shall be for one location only and such licence shall be valid only for the location endorsed thereon.

## 3.0 Limitation on Locations for Adult Entertainment Establishments

3.1 No person shall own or operate an Adult Live Entertainment Parlour except in the defined areas or locations designated as Areas 1, 2, 3, and 4 on Schedules “XX”, “XX-1”, “XX-2”, “XX-3”, and “XX-4” of this By-law.

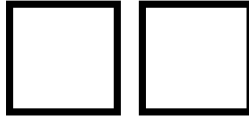
3.2 Not more than one (1) Adult Live Entertainment Parlour Owner Licence shall be issued for any separate area or location identified on Schedule “XX”.

3.3 No person shall own or operate an Adult Entertainment Body-Rub Parlour except in the defined area or location designated on Schedule “XX” to this By-law.

3.4 Not more than one Adult Entertainment Body-Rub Parlour licence shall be issued for any separate area or location identified on Schedule “XX”.

## 4.0 Limitation on the Number of Licences

4.1 The total number of Adult Live Entertainment Parlour Owner licences authorized under this By-law is limited at any time to four (4) and not more than one (1) licence shall be issued with



respect to each defined area or location designated on Schedule "XX" including any numbered part thereof.

4.2 Subject to section 4.3 the total number of Adult Entertainment Body-Rub Parlour Owner licences authorized under this By-law is limited to seven (7) and not more than one (1) licence shall be issued with respect to each defined area or location designated under Schedule "XX".

4.3 The total number of Adult Entertainment Body-Rub Parlour Owner licences shall be reduced as licences expire without renewal or as the Owner licences are otherwise surrendered or revoked until there are five (5) Adult Entertainment Body-Rub Parlour Owner licences.

4.4 Where the total number of Adult Entertainment Body-Rub Parlour Owner licences falls below the number five (5) by reason of the surrender or revocation of a licence, a licence may be issued to the first Applicant who makes application after the surrender or revocation whose application complies with the By-law.

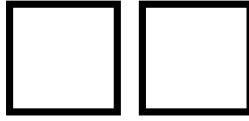
4.5 No person shall hold all of the Adult Live Entertainment Parlour Owner licences issued under this By-law.

4.6 No person shall hold all of the Adult Entertainment Body Rub Parlour Owner licences issued under this By-law.

#### 5.0 Application for Licences and Renewals

5.1 In addition to all of the requirements of Part 6 of this By-law, every application for an Adult Entertainment Establishment licence and renewal licence shall include the following information:

- (a) in the case of an Owner licence, whether the Applicant is a sole proprietorship, partnership or corporation;
- (b) where the Applicant is a sole proprietorship or partnership, the full name, street address, mailing address, occupation, date of birth, citizenship or immigration status, and marital status of the individual comprising the sole proprietorship or of each individual who is a member of the partnership;
- (c) in the case of an Owner licence, where the Applicant is a corporation or a partnership of which a member is a corporation, the date and jurisdiction of incorporation, and the full name, street address, mailing address, occupation, date of birth and citizenship or immigration status of each officer, director and shareholder of record, the total number of shares held by each shareholder, and the number of voting shares held by each shareholder;
- (d) particulars of the nature of business or employment during the previous three (3) years of the individual who is the sole proprietor or of each member of the partnership or of each officer, director and shareholder of the corporation;
- (e) the full name and address of any individual or corporation whose name is not otherwise disclosed and who has any financial interest beneficially in or otherwise exercises control or direction over the Applicant;
- (f) the name under which the Adult Entertainment Establishment is to be operated;
- (g) the street address at which the Adult Entertainment Establishment is to be operated;
- (h) a Police Record Check for the Applicant, any partner if the Applicant is a partnership, or any officer, director or shareholder of the corporation if the Applicant is a corporation; dated no later than 60 days prior to the application for a licence;
- (i) in the case of an application for an Adult Live Entertainment Parlour Owner licence, a floor plan, drawn to scale, of the Adult Live Entertainment Parlour, confirmed by inspection by the Manager of Municipal Law Enforcement and approved by the Licence Manager, that clearly shows no more than two (2) designated Entertainment Areas, the patron area or areas and all walls, curtains or other enclosures;



(j) in the Case of an application for an Adult Entertainment Body-Rub Parlour Owner licence, a floor plan, drawn to scale, of the Adult Entertainment Body-Rub Parlour, confirmed by inspection by the Manager of Municipal Law Enforcement and approved by the Licence Manager, that clearly shows that the Adult Entertainment Body-Rub Parlour, including any common areas, is not more than 225m<sup>2</sup> in size; and

(k) in the case of an application for an Adult Live Entertainment Parlour Owner licence, the class of any licence issued in respect of the premises under the Liquor Licence Act and particulars of any special terms and conditions attached thereto.

#### 6.0 Powers of Licence Manager

6.1 In addition to any other power, duty or function prescribed in this By-law, the Licence Manager may make regulations under this Schedule including:

(a) prescribing operational standards for Adult Entertainment Body-Rub Parlours and holders of Adult Entertainment Body-Rub Parlour licences;

(b) prescribing hours of operation for Adult Entertainment Establishments;

(c) prescribing signage and advertising standards for Adult Entertainment Establishments including without limitation to, manner, form, size, media and content;

(d) prescribing the manner, form and content of records to be kept by an Adult Entertainment Body-Rub Parlour licence holder under section [XX] of this Schedule; and

(e) prescribing the manner, form and content of records to be kept by an Adult Live Entertainment Parlour licence holder under section [XX] of this Schedule.

#### 7.0 Prohibitions

7.1 No person shall own or operate an Adult Entertainment Establishment without a current valid licence issued under the provisions of this By-law.

7.2 No Owner shall permit any person other than a licensed Operator to operate their Adult Live Entertainment Establishment.

7.3 No person shall operate an Adult Entertainment Establishment for which the Owner thereof is not licensed under this By-law.

7.4 No Owner or Operator of and Adult Entertainment Establishment shall permit or allow any person under the age of eighteen (18) to enter or remain in any Adult Entertainment Establishment owned or operated by them.

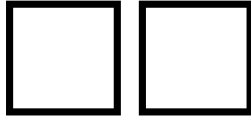
7.5 No Owner or Operator of an Adult Entertainment Body-Rub Parlour shall permit or allow any person under the age of eighteen (18) to provide or offer to provide a Body-Rub in their Adult Entertainment Body-Rub Parlour.

7.6 No Owner or Operator of an Adult Live Entertainment Parlour shall permit or allow any person under the age of eighteen (18) to provide any services or act as an Entertainer in an Adult Live Entertainment Establishment.

7.7 No Owner or Operator of an Adult Live Entertainment Parlour shall permit or allow any Entertainer while they are performing services as an Entertainer to touch or be touched by or to have physical contact with any person in any manner whatsoever involving any part of that person's body.

#### 8.0 Regulations

8.1 Every Owner of an Adult Entertainment Establishment shall:



(a) ensure that at all times when the premises are open for business as an Adult Entertainment Establishment or when any adult entertainment or other services are provided in such premises that there is a licensed Operator on the premises

(b) post and keep posted at every entrance to their Adult Entertainment Establishment and in a prominent location inside such entrance, signs sufficient to indicate clearly to any person entering the premises or in the premises that no person under the age of eighteen (18) years is permitted to enter or remain in any such premises or part thereof.

8.2 Every Owner and Operator of an Adult Entertainment Establishment shall comply with all of the operational standards for Adult Entertainment Body-Rub Parlours prescribed by the Licence Manager.

8.3 Every owner and Operator of an Adult Entertainment Establishment shall comply with the hours of operation for Adult Entertainment Establishments prescribed by the Licence Manager.

8.4 Every Owner and Operator of an Adult Entertainment Establishment shall comply with all of the signage and advertising standards for Adult Entertainment Establishments prescribed by the Licence Manager.

8.5 Every Owner and Operator of an Adult Live Entertainment Parlour shall ensure that:

(a) no Services are visible from outside the premises in which the Adult Live Entertainment Parlour is located;

(b) all Services provided by an Entertainer are within the unobstructed and unobscured view of an Entertainment Area;

(c) their Adult Live Entertainment Parlour is operated in accordance with the floor plan approved by the Licence Manager under section XX of this Schedule; and

(d) no changes to the floor plan required under section XX of this Schedule are made without obtaining the prior written approval from the Licence Manager.

8.6 Every Owner and Operator of an Adult Live Entertainment Parlour shall maintain a record of all Entertainers for their Adult Live Entertainment Parlour as prescribed by the Licence Manager.

8.7 Every Owner and Operator of an Adult Entertainment Body-Rub Parlour shall ensure that:

(a) no services are visible from outside the premises in which the Adult Entertainment Body-Rub Parlour is located;

(b) their Adult Entertainment Body-Rub Parlour, including any common areas, is not more than 225m<sup>2</sup> in size; and

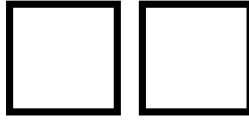
(c) no changes to the floor plan required under section XX of this Schedule are made without obtaining the prior written approval from the Licence Manager.

8.8 Every Owner and Operator of an Adult Entertainment Body-Rub Parlour shall maintain a record of all Attendants for their Adult Entertainment Body-Rub Parlour as prescribed by the Licence Manager.

## 9.0 Location Requirements

9.1 Council may, at any time, consider an application to amend Schedules XXXX of this By-law to delete a location, to substitute a new location for an existing location, or to add a new location.





9.2(1) In addition to any other location and licensing requirements contained in this By-law in order for a licence to be issued, any new location for an Adult Entertainment Establishment must conform to the following criteria:

(a) An Adult Entertainment Establishment shall not be located on lands according to the City of London's Zoning By-law Z-1 which are exclusively zoned Residential or lands zoned Residential in combination with a compound zone;

(b) An Adult Entertainment Establishment shall not be located within 100 metres of lands according to the City of London's Zoning By-law Z-1 which are exclusively zoned Residential or lands zoned Residential in combination with a compound zone;

(c) An Adult Entertainment Establishment shall not be located within 100 metres of the premises of a school, a day-care centre or a place of worship, existing on the date of the request for an amendment to Schedules XXXX of this By-law;

(2) The separation distance as prescribed in subsections (1)(b) and (1)(c) shall be measured in a straight line in any direction from any point on a property line of the lot containing the Adult Entertainment Establishment to the nearest point on a property line of: lands exclusively zoned Residential; lands zoned Residential in combination with a compound zone; the premises of a school; the premises of a day-care centre; or, the premises of a place of worship.

9.3 Any request under section 9.1 shall be made to the Licence Manager and shall be accompanied by a fully completed application for the issuance of an Adult Entertainment Establishment Owner licence.

9.4 The Licence Manager shall give notice by personal service or prepaid first class mail to every owner of land within 120 meters of the proposed new location who shall submit comments and recommendations to the Licence Manager in respect of the request within such time, which shall not be less than thirty (30) days from the notice by the Licence Manager of the request, as the Licence Manager may specify in the notice.

9.5 The comments and recommendations received by the Licence Manager in response the notice in section 9.3 together with any additional information that the Licence Manager considers necessary shall be submitted to the Community and Protective Services Committee.

9.6 Before an amendment to Schedules XXXX is passed, the Community and Protective Services Committee shall hold at least one meeting that is open to the public for the purpose of affording an opportunity to the requester and any other person who attends the meeting to make submissions in respect of the request.

9.7 The Community and Protective Services Committee shall recommend to the Council whether or not to make an amendment to Schedules XXXXX. City Council shall make the final decision whether or not to amend Schedules XXX.