

THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NO. 52-94

A BY-LAW TO REGULATE THE DISPLAY
OF ADULT MAGAZINES AND ADULT VIDEOTAPES
IN THE TOWN OF ORANGEVILLE

The Municipal Council of The Corporation of the Town of Orangeville
HEREBY ENACTS AS FOLLOWS:

I. For the purposes of this By-law:

DEFINITIONS

- (1) **"Adult entertainment parlour store"** means any premises in which the principal business carried on is the provision of adult videotapes, adult magazines, and any other goods or services designed to appeal to erotic or sexual appetites or inclinations.
- (2) **"Adult magazine"** means any magazine, photo, poster, painting, or picture, designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject-matter distinguished or characterized by the portrayal of one or more persons involved or engaging in specific sexual activities, or by an emphasis on the display of human specified body areas.
- (3) **"Adult videotape"** means any videotape designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject-matter distinguished or characterized by the portrayal of one or more persons involved or engaging in specified sexual activities, or by an emphasis on the display of human specified body areas.
- (4) **"Adult videotape area"** means an identifiable part of any premises, which part is devoted principally to the provision of adult videotapes, adult magazines, or of such adult videotapes, adult magazines and any other goods designed to appeal to erotic or sexual appetites or inclinations, and includes the area within three metres of any such adult videotape or adult magazine.
- (5) **"Operator"** means every person who provides, in any premises or part thereof, in pursuance of a trade, calling, business or occupation, adult videotapes or adult magazines or who operates any premises or part thereof in which such adult videotapes or adult magazines are so provided.
- (6) **"To provide"** when used in relation to any adult videotape or adult magazines, means to sell, rent, or offer to lease, rent or sell, or display for sale, rent or lease, by retail or otherwise such adult videotapes or adult magazines and "provider" "providing" and "provision" have corresponding meanings.
- (7) **"Specified body areas"** means any one or more of the following:
 - (i) in the case of a female person, her areolae; and
 - (ii) in the case of all persons, the genitals and the anus.

- (8) **"Specified sexual activities"** means one or more of the following:
- (a) actual or simulated sexual intercourse, masturbation, urination, defecation, ejaculation, sodomy, including bestiality, anal intercourse and oral sexual intercourse, direct physical stimulation of unclothed genital organs, and flagellation or torture in the context of a sexual relationship or activity.

II. **REGULATIONS**

- (1) No operator shall project or display any adult videotapes or adult magazines where such adult videotapes or adult magazines are so projected or displayed that they are visible to any person not in the premises, where such adult videotapes or adult magazines are so projected.
- (2) **Regulations applicable to an adult entertainment parlour store:**
 - (a) No operator shall permit any person under the age of eighteen years to enter or remain in an adult entertainment parlour store operated by him/her or in which he/she provides adult videotapes or adult magazines.
 - (b) Every operator shall post and keep posted at every entrance to such adult entertainment parlour store, and in a prominent location inside such store, signs sufficient to indicate clearly to any person approaching or entering the store, and to every person in the store that no person under the age of eighteen years is permitted to enter or remain in such store or any part thereof.
 - (c) All signs required herein which are visible from outside such adult entertainment parlour store must comply with the provisions of the Town of Orangeville sign by-law.
- (3) **Regulations applicable to an adult videotape area:**
 - (a) No operator shall permit any person under the age of eighteen years to enter or remain in any adult videotape area operated by him/her or in which he/she provides any adult videotapes or adult magazines.
 - (b) Every operator shall post and keep posted at every approach to such adult videotape area, signs sufficient to indicate clearly to every person approaching or entering such area, and to every person in such area that no person under the age of eighteen years is permitted to enter or remain in such area.
 - (c) Every operator shall ensure that all adult videotapes and adult magazines displayed in an adult videotape area are shielded from the view of any person outside the adult videotape area.

(4) **Regulations applicable to stores other than:**

- (i) an adult entertainment parlour store; or
- (ii) an adult videotape area;

Every operator who provides adult videotapes or adult magazines in any premises or part thereof in which such adult videotapes or adult magazines are provided, shall comply with the following regulations in respect of such premises or part thereof:

- (a) no adult videotape or adult magazine cover or container thereof shall be displayed at a height of less than 1.5 metres above floor level, unless such adult videotape or adult magazine is in a part of the premises to which the public is not permitted physical access;
- (b) all adult videotapes or adult magazines offered or displayed for provision in such premises or part thereof shall be placed behind an opaque barrier of a size and nature which shall ensure that the cover or container of every such adult videotape or adult magazine while being offered or displayed, except for the name thereof, may not be seen by any member of the public.
- (c) The opaque barrier referred to in Section II (4)(b) of this by-law shall include a sign indicating that the adult magazines and/or adult videotapes behind the barrier are adult entertainment and that no person under the age of 18 years of age is permitted to obtain such adult magazines or adult videotapes.

III. PENALTY

- (1) Every person who contravenes any provision of this by-law and every director or officer of a corporation who concurs in such contravention is guilty of an offence and upon conviction, is liable to a fine, exclusive of costs, not exceeding \$25,000.
- (2) Where a corporation is convicted of an offence under this by-law, the maximum penalty, exclusive of costs, that may be imposed on the corporation is \$50,000.00, and not as provided in subsection (1).

IV. VALIDITY OF BY-LAW

If a court of competent jurisdiction declares any provision, or part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of the Council in enacting this by-law, that each and every other provision of this by-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

V. **EFFECTIVE DATE**

This by-law shall come into force and effect on January 1st, 1995.

By-law read a first and second time this 12th day of September, A.D., 1994.

Mary T. Rose
Head of Council

Ann E. Armstrong
Clerk

By-law read a third time this 26th day of ~~September~~ A.D., 1994.

PASSED IN OPEN COUNCIL THIS 26th DAY OF ~~September~~ A.D., 1994.

Mary T. Rose
HEAD OF COUNCIL

Ann E. Armstrong
CLERK.