



**CORPORATION OF THE TOWN OF ORANGEVILLE**

**BY-LAW NUMBER** 114-2004

**A BY-LAW TO LICENSE, REGULATE AND GOVERN ADULT ENTERTAINMENT ESTABLISHMENTS IN THE TOWN OF ORANGEVILLE**

WHEREAS Subsection 150(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Act*"), provides that, subject to the *Theatres Act* and the *Retail Business Holidays Act*, a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality;

AND WHEREAS Subsection 151(1) of the *Act* provides that a by-law under Section 150 may, despite Subsection 150(12) of the *Act*, define the area of the municipality in which adult entertainment establishments may or may not operate and limit the number of licences granted in any defined area in which they are permitted; and prohibit any person carrying on or engaged in an adult entertainment establishment business for which a licence is required from permitting any person under the age of 18 years to enter or remain in the adult entertainment establishment or any part of it;

AND WHEREAS Subsection 150(2) the *Act* provides that a municipality may only exercise its licensing powers under Section 150, including imposing conditions, for the purposes of health and safety, nuisance control or consumer protection;

AND WHEREAS Subsection 150(3) of the *Act* requires that a by-law licensing or imposing any condition on any business or class of business passed after Section 150 comes into force shall include an explanation as to the reason why the municipality is licensing it or imposing the conditions and how that reason relates to the purposes under Subsection 150(2) of the *Act*;

AND WHEREAS this By-law is passed for the following purposes:

- (i) Health and safety - being an activity or undertaking that could result in hazardous conditions, injury or loss.
- (ii) Nuisance control - being an activity that adversely affects, or could possibly adversely affect, the "quality of life" of any person(s).
- (iii) Consumer protection - being the prevention of unfair or potentially unfair business practices that could result in loss(es) on the part of the consumer.

AND WHEREAS a public meeting has been held pursuant to Section 153 of the *Act*;

AND WHEREAS the Municipal Council of The Corporation of the Town of Orangeville deems it desirable to repeal By-law No. 110-2002 and to enact a new by-law to license, regulate and govern adult entertainment establishments;

BE IT THEREFORE ENACTED by the Municipal Council of The Corporation of the Town of Orangeville as follows:

**1 DEFINITIONS**

In this By-law:

"adult entertainment establishment" means any premises or any part of them in which, in the pursuance of a business,

- 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

- 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, but does not include 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 the laws of the Province of Ontario.

"applicant" means a person applying for a licence under this by-law.

"Canadian Police Certificate" means a certificate issued by the police service having jurisdiction in the area in which the applicant is residing.

"Clerk" means the Clerk of The Corporation of the Town of Orangeville.

"Council" means the Council of The Corporation of the Town of Orangeville and, with respect to the holding of hearings or any hearing, includes, as the context allows, a committee under Section 252 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorized to hold any such hearing or hearings.

"drugs" shall be deemed to exclude patent medicines and prescription drugs required for medical purposes.

"entertainer" means a person other than a licensed AEE Owner, Operator or AEE Owner/Operator who provides goods, entertainment or services designed to appeal to erotic or sexual appetites or inclinations at an adult entertainment establishment.

"goods, entertainment or services" include activities, facilities, performances, exhibitions, viewings and encounters, but does not include the exhibition of film approved under the *Theatres Act, R.S.O. 1990, c. T.6, as amended*.

"goods, entertainment or services designed to appeal to erotic or sexual appetites or inclinations" includes:

- Service of which a principal feature or characteristic is nudity or partial nudity of any person.
- Service in respect of which the word "nude", "naked", "topless", "bottomless", "sexy", or "nu" or any other word or any other picture, symbol or representation having like meaning or implication is used in any advertisement.

"licence" means authorization under this by-law to carry on the trade, calling, business or occupation specified therein.

"licensee" means any person who is licenced as required by this by-law;

"Medical Officer of Health" means the medical officer of health of the Wellington-Dufferin-Guelph Health Unit.

"Officer" means a municipal by-law enforcement officer, provincial offences officer, police officer, medical officer of health, clerk or public health inspector.

"operator" means a person who alone or with others operates, manages, supervises, runs or controls an adult entertainment establishment.

"owner" means a person who alone or with others has the right to possess or occupy an adult entertainment establishment or actually does possess or occupy an adult entertainment establishment and includes a lessee of an adult entertainment establishment or of premises upon which an adult entertainment establishment is located.

“person” includes a corporation or partnership, and includes their heirs, executors, administrators, assigns or other legal representative of such person to whom the context can apply according to law, and words importing the masculine gender shall include the feminine or neuter gender or the plural thereof wherever the context so requires.

“to provide” when used in relation to goods, entertainment or services includes to furnish perform, solicit, or give such goods, entertainment or services and “providing” and “provision” have corresponding meanings.

“stage” means the area of an adult entertainment establishment designed or used for goods, entertainment or services designed to appeal to erotic or sexual appetites or inclinations.

“Town” means The Corporation of the Town of Orangeville and its locality including its geographic area.

## **2 REQUIREMENT FOR LICENCE**

### **2.1 Owner - to obtain a licence**

No person shall be an owner of an adult entertainment establishment within the Town unless he has obtained a licence to do so and such licence shall be known as an Adult Entertainment Establishment Owner’s Licence (“A.E.E. Owner’s Licence”). No owner of an adult entertainment establishment shall permit any person other than an operator licenced under this By-law to operate an adult entertainment establishment.

### **2.2 Operator - to obtain a licence**

No person shall be an operator of an adult entertainment establishment within the Town unless he has obtained a licence to do so and such licence shall be known as an Adult Entertainment Establishment Operator’s Licence (“A.E.E. Operator’s Licence”).

### **2.3 Entertainer - to obtain a licence**

No person shall be an entertainer in an adult entertainment establishment within the Town unless he has obtained a licence to do so and such licence shall be known as an Adult Entertainment Establishment Entertainer’s Licence (“A.E.E. Entertainer’s Licence”).

### **2.4 Owner/Operator - to obtain a licence**

No person shall be both an owner and an operator of an adult entertainment establishment unless he has obtained a licence known as an Adult Entertainment Establishment Owner’s/Operator’s Licence (“A.E.E. Owner’s/Operator’s Licence”).

### **2.5 Owner not Operator**

Where an owner is not the operator of his adult entertainment establishment, every operator of such adult entertainment establishment shall obtain an operator’s licence, but nothing herein relieves such an owner from the requirement that he obtain an owner’s licence as owner of such adult entertainment establishment.

### **2.6 Separate Licences**

A separate AEE Owner’s or AEE Owner’s/Operator’s Licence shall be taken out in respect of each adult entertainment establishment.

### **2.7 Licensed Person - 18 years of age**

No person shall be licensed under this by-law unless he or she is eighteen (18) years of age or over, and a citizen of Canada or a landed immigrant of Canada.

- 2.8 ***Licence - surrender***  
Every person to whom a licence has been issued under this by-law shall, within seven (7) days following the sale, lease or other disposal of the adult entertainment establishment in respect of which the licence has been issued, or after ceasing to carry on the business, notify the Clerk in writing of such fact and surrender the licence.
- 2.9 ***Licence - privilege - property of the Town***  
No person shall enjoy a vested right in the continuance of a licence and the value of a licence shall be the property of the Town and shall remain so, irrespective of the issue, renewal or revocation thereof.
- 2.10 ***License - transfer prohibited***  
A license issued under this by-law is personal to the licensee and shall not be transferred, assigned or leased.
- 3 APPLICATION AND LICENCE FEE**
- 3.1 ***Application with Clerk***  
Every applicant for a licence, as required by this by-law, shall file with the Clerk a completed application in the form prescribed by the Clerk and such other information or documentation as the Clerk may require and shall pay the required licence fee as set out in Schedule "A" to this by-law.
- 3.2 ***Refund***  
Subject to Section 3.4 below, every fee paid under this part is refundable, if the licence applied for is not issued by Council.
- 3.3 ***Application Fee - acceptance- not approval***  
Acceptance of the licence fee does not constitute approval of the application or oblige the Town to issue a licence.
- 3.4 ***Administration Fee***  
Any refund payable shall be subject to an administration fee as set out in Schedule "A" to this by-law and provided that there shall be no administration fee for an AEE Entertainer's Licence.
- 3.5 ***No Pro-rated Fee***  
No fee pursuant to Section 3.1 shall be pro-rated for a portion of the year.
- 3.6 ***Applicant - attend in person***  
On every application by a person for an AEE Owner's, AEE Operator's, AEE Owner's/Operator's or AEE Entertainer's Licence or for the renewal thereof, the applicant shall attend in person at the office of the Clerk and shall complete the forms prescribed by the Clerk and shall furnish to the Clerk such information as the Clerk may require.
- 3.6.1 Only an individual may apply for an AEE Entertainer's Licence.
- 3.7 ***Applicant - corporation or partnership***  
On every application for an AEE Owner's, AEE Operator's, and AEE Owner's/Operator's Licence where the applicant is a corporation or a partnership, the individual attending at the office of the Clerk shall be an officer or director of the corporation or one of the partners in the partnership.
- 3.7.1 ***Applicant - in partnership - corporation - procedure***  
If any member of a partnership applying for an AEE owner's, operator's or owner's/operator's licence is a corporation, such corporation shall be deemed to be a corporation applying for a licence and, if such licence is issued to the partners, such corporation shall be deemed to be a corporation holding an AEE Owner's, AEE Operator's or AEE Owner's/Operator's Licence, as the case may be.

3.7.2 **Applicant - corporation - information required**

Without limiting the generality of any other provision in this by-law, every partnership or corporation applying for a licence shall file with the Clerk, at the time of making its application, a copy of its partnership agreement or articles of incorporation or other incorporating document, as the case may be, and shall file with the Clerk an affidavit, in writing, signed by a partner or an officer of the corporation, which affidavit shall state:

3.7.2.1 The full name of every partner, officer, director and shareholder, as the case may be, and the address of his ordinary residence:

3.7.2.2 The name or names under which it carries on or intends to carry on business:

3.7.2.3 That the persons therein named are the only partners of the partnership or shareholders of the corporation:

3.7.2.4 The mailing address for the partnership or corporation.

3.7.3 **Applicant - partnership - photographs required**

Where such applicant for an AEE Owner's, AEE Operator's, and AEE Owner's/Operator's Licence is a partnership, such applicant shall provide two (2) passport-size photographs of the face of each of the partners taken no more than thirty (30) days prior to the licence application. One of the said photographs shall be attached to the licence and the other shall be filed with the Clerk and, upon application for renewal of any licence, the applicant shall furnish new photographs, if required to do so by the Clerk.

3.7.4 **Applicant - corporation - photographs required**

Where such applicant for an AEE Owner's, AEE Operator's, and AEE Owner's/Operator's Licence is a corporation, such applicant shall provide two (2) passport-size photographs of the face of an officer taken no more than thirty (30) days prior to the licence application. One of the said photographs shall be attached to the licence and the other shall be filed with the Clerk and, upon application for renewal of any licence, the applicant shall furnish new photographs, if required to do so by the Clerk.

3.8 **Applicant - individual-information required**

Every individual applying for an AEE Owner's, AEE Operator's, AEE Owner's/Operator's or an AEE Entertainer's Licence shall submit with his application:

3.8.1 Two (2) passport-size photographs of his face, one of which shall be attached to the licence and the other shall be filed with the Clerk, and upon application for renewal of any licence, the applicant shall furnish new photographs, if required to do so by the Clerk:

3.8.2 A Canadian Police Certificate.

3.9 **Use of Legal Name**

Every person applying for a licence must use his own legal name in making the application, and, subject to this by-law, no licence shall be issued to any person in any name other than his own legal name.

3.10 **Name Usage Notification**

Every owner, operator, owner/operator, or entertainer intending to use some name or designation other than his own may, at the time of issue of the licence or at the time at which he files with the Clerk notice of intention to use such name or designation, have endorsed on the licence such other name or designation.

3.11 **Liquor Licence notification**

Every person applying for an AEE Owner's, AEE Operator's or AEE Owner's/Operator's Licence shall furnish the Clerk with information as to whether or not all or part of the adult entertainment establishment premises are or are intended to be licenced under the Liquor License Act, R.S.O. 1990, c. L. 19, as amended, or are the subject matter of an application for such a licence, and copies of all liquor licences issued for the said premises.

3.12 **Applicant's Right to Possess - occupy property**

Every person applying for an AEE Owner's, AEE Operator's or AEE Owner's/Operator's Licence shall file with the Clerk documentation satisfactory to the Clerk demonstrating the applicant's right to possess or occupy the premises to be used by him as the adult entertainment establishment, and if such person is not the registered owner on title to the real property upon which the adult entertainment establishment is to be located, such person shall file with the Clerk at the same time a copy of his lease, if any, and of any other document constituting or affecting the legal relationship between the said applicant and the registered owner or owner on title to the real property.

3.13 **Submission of Plans**

Every applicant for an AEE Owner's, AEE Operator's or AEE Owner's/Operator's Licence shall, at the time of making the application or any renewal thereof, file with the Clerk a precise description of the real property and building upon which the adult entertainment establishment is to be carried on, together with information as to exactly where on the property and what parts of the premises are to be utilized for this purpose; working drawings of the physical premises with details of any stage, doors, walls, seating areas, partitions, and all barrier-free designs required pursuant to the provisions of the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, and the Building Code, O. Reg. 403/97, as amended; and all relevant data pertaining to the nature of the business to be carried on, including the type of services and entertainment to be advertised and offered, and the prices for services. Each adult entertainment establishment shall have no more than one (1) stage. The AEE Owner's and AEE Owner's/Operator's Licence shall only apply to that part of the building depicted on a floor plan, which shall be annexed to and shall form part of the AEE Owner's or AEE Owner's/Operator's Licence.

3.14 **Circulation - officials - report**

Upon receipt of each application completed in accordance with the requirements of this by-law, the Clerk shall request comments or reports from the Medical Officer of Health, the Town's Planning Department, the Town's Building and By-law Enforcement Department, the Orangeville Police Service and the Town's Fire Department, and may request comments regarding such application from any other department of the Town or make such other inquiries and obtain and review such other information and documents relevant to the application, as the Clerk considers necessary for the proper processing of the application (An AEE Entertainer's licence Application need not receive comments from the Town's Planning Department or the Town's Fire Department.)

3.15 **Application Report - procedure**

The Clerk shall prepare a report to Council summarizing the general nature of the application and relevant facts pertaining thereto, including any information relevant to terms which Council might consider, including conditions of any licence which it may issue, but shall not include any specific allegations made against the applicant or any other person, nor shall it include the text of any reports or other documents containing such allegations or information adverse of the applicant, but the general nature of such allegations or documents may be referred to in the report

3.16 **Application Hearing**

The Clerk shall after receipt and review of any report, document or information referred to in Section 3.14, refer the application to Council or a committee of Council duly appointed to hear such application, for a hearing, and the applicant shall be given a copy of any such report, document or information, together with a notice of time and place of the hearing and of the applicant's opportunity to appear and participate at the hearing, in accordance with law.

**4 COMMENCEMENT, EXPIRY AND RENEWAL OF LICENCE**

4.1 Any licence issued under the provisions of this by-law shall be for the current year and shall expire on the 31<sup>st</sup> day of January following the year of issue, if not otherwise revoked or suspended under this by-law prior to that date.

4.2 All licences issued under the provisions of this by-law shall commence on and expire on the date indicated on the licence, if not otherwise revoked or suspended under this by-law prior to the expiration date, and no longer.

4.3 Every person previously licensed under this by-law shall make application for the renewal of such licence prior to the expiration of the said licence and in any event no later than two weeks prior to the expiry date. Failing such renewal, the licensee must discontinue the operation of the adult entertainment establishment upon the expiry of the licence.

4.4 A licence shall automatically expire upon any owner or owner/operator ceasing to be the owner or owner/operator.

4.5 Notwithstanding Section 8 below, where the original information submitted on a licence application changes during the year, the licensee shall notify the Town in writing within seven (7) days of any change in the information contained in the previous application submitted by the licensee.

4.6 The rights granted by a licence issued under this by-law apply only to the premises for which the licence is issued.

**5 LOCATION**

5.1 No licence will be issued or renewed under this by-law unless the adult entertainment establishment is located on land and in a building or structure in which its use is duly permitted under the Town's Zoning By-law.

**6 RESTRICTION ON NUMBER**

6.1 Adult entertainment establishments in the Town shall operate in accordance with the provisions of this by-law.

6.2 The number of AEE Owners' and AEE Owner's/Operator's Licences which may be granted in the Town shall be limited to a total of two (2) licences.

6.3 No person or related person as defined by Section 251(2) of the *Income Tax Act* (Canada) shall have more than one AEE Owner's or AEE Owner's/Operator's Licence for an adult entertainment establishment in the Town.

**7 HEARING - ISSUANCE, REFUSAL, REVOCATION, SUSPENSION**

7.1 **Conditions - set out**

The Council may refuse to grant, or may revoke or may suspend a licence upon any one or more of the following grounds:

7.1.1 The conduct of the applicant or licensee affords reasonable grounds for belief that such applicant or licensee will not carry on or engage in the business in accordance with the law or with integrity and honesty.

- 7.1.2 The conduct of the applicant or licensee, or other circumstances, afford reasonable grounds for belief that the carrying on by the applicant or licensee of the business in respect of which the licence is sought or held would infringe the rights, or endanger the health or safety, of members of the public.
- 7.1.3 There are reasonable grounds for belief that the carrying on of the business by the applicant or licensee will result in non-compliance with this by-law or any other requirement or prohibition imposed by any other law.
- 7.1.4 There are reasonable grounds for belief that the nature, condition or use of the place or premises, or any equipment, vehicle or other personal property used or to be used by the applicant or licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this by-law or any other by-law of the Town, or any other law of the province of Ontario or of Canada.
- 7.1.5 There are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant to the Town, to Council, any committee of Council, the Clerk or an Officer contains a false or intentionally misleading recital of fact, statement or representation.
- 7.1.6 Information provided to the Town by, or on behalf of, the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the Town sufficient to allow Council to conclude that the licence should be granted or maintained as valid and subsisting.
- 7.2 **Conduct defined**  
For the purposes of this section, and without limiting the generality of this section, conduct of the applicant and conduct of the licensee include:
- 7.2.1 Where the applicant or licensee is a partnership, the conduct of one or more of its partners or former partners;
- 7.2.2 Where the applicant or licensee is a corporation, the conduct of one or more of its current or former officers, directors, employees or agents; and
- 7.2.3 In the case of every applicant and licensee, the conduct of one or more employees, agents, independent contractors, or any other person currently or previously involved in the carrying on of the business or the provision of any goods, entertainment or services therein.
- 7.3 **Fees owed**  
In addition to the grounds set out above, Council may refuse to grant, or may revoke a licence where the fee payable in respect of any licence or applicable licence period, as required by this by-law, has not been paid.
- 7.4 **Council Hearing Required**  
No licence shall be refused, or revoked under this by-law, except after a hearing by Council or a duly authorized committee thereof, or after the licensee has been given the opportunity for such a hearing in accordance with the law.
- 7.5 **Contravention of By-laws**  
Any person who is licensed as required by this by-law shall at all times comply with the by-laws of the Town, and any contravention of any such by-laws of the Town may be grounds for the revocation of the licence by the Town.
- 7.6 **Written Notice**  
A licence may be refused or revoked upon seven (7) days notice in writing by the Town, mailed or delivered to the licensee's last known address, if any of the provisions of this by-law are contravened or, in the opinion of Council, such refusal or revocation is in the public interest.



7.7 **Notice - registered mail- delivery**

Notice of the revocation or refusal of any licence may be given by registered letter, mailed to the address given by the licensee in the application for the licence or by personal delivery to the licensee, and upon delivery of the notice the licence shall be deemed revoked or refused.

7.8 **Suspension**

The Clerk may suspend any licence issued under this by-law pending a hearing before Council or a committee of Council where there are reasonable grounds for belief that a licensee has contravened his licence conditions or any provisions of this by-law or any other by-law of the Town or any law of the Province of Ontario or of Canada.

7.8.1 Where the Clerk has suspended a licence pursuant to this section, Council or a committee of Council shall conduct a hearing within fourteen (14) days to consider the revocation of the licence or the lifting of the suspension.

7.8.2 The suspension of any licence by the Clerk pursuant to this section shall be deemed to take place at the time a notice of suspension has been personally delivered to the licensee.

7.9 **Council Decision Final**

When a hearing date has been fixed and the applicant or licensee has been given notice, and does not attend at the place and at the time appointed for the hearing, the licence is deemed to be refused or is deemed not to be renewed or is revoked as of the date of the hearing and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.

7.10 **Licence Conditions**

Council may at any time review an adult entertainment establishment licence and may, rather than refuse or revoke the licence, attach to the licence conditions consented to by the licensee. Where conditions to a licence are attached under this section, failure to comply with the conditions may result in the suspension of the licence.

**8 CHANGE OF STATUS**

8.1 **Notice Requirements**

Where there is to be any change of the particulars relating to a person licensed under this by-law, which particulars are required to be filed with the Town on applying for a licence under this by-law, such person shall report the change to the Town within seven (7) days of the change.

8.2 **Partnership or Corporation Requirements**

Where a partnership or corporation is licensed under this by-law and there has been or is intended or expected to be a change in the composition of the partnership or the composition of the directors, officers or shareholders of the corporation, the person licensed hereunder shall within seven (7) days advise the Town of such change in writing. Where the Council receives information of a change in the composition of a partnership or corporation holding or applying for a licence, the Council may hold a hearing in accordance with this by-law and other applicable law to determine whether the licence should be granted, continued or revoked, with or without such conditions as the Council may see fit to impose, in accordance with the law.

**9 LICENCE TO BE POSTED - IN LICENCEE'S POSSESSION**

9.1 **Posting Licence**

Each owner, operator and owner/operator shall keep his licence, issued in respect of an adult entertainment establishment, posted in a conspicuous place in the said premises at all times during the currency of the licence.

9.2 ***Inspection of Licence***

Every person licensed under this by-law shall, upon a request made to him by any Officer, provide his name and residential address, and shall produce his licence.

**10 GENERAL OPERATING CONDITIONS**

10.1 ***Age Restrictions - of patrons***

No owner, operator, or owner/operator shall permit any person under the age of eighteen (18) years to enter or remain in any adult entertainment establishment owned or operated by him. This section shall not be deemed to prohibit any person from entering or remaining in any premises licensed as an adult entertainment establishment, except when the services of an entertainer are being provided in such premises.

10.2 ***Names of Operators/Entertainers***

Without limiting the generality of any other provision of this by-law, every owner, operator and owner/operator shall furnish to the Clerk a list setting out the names of every operator and entertainer who intend or are expected to operate or provide goods, entertainment or services, as the case may be, at the adult entertainment establishment and shall not permit any person not on such list to operate or provide goods, entertainment or services, as the case may be, at the adult entertainment establishment, and shall update such list on a daily or other basis as is required to comply with this requirement.

10.3 ***Location Endorsed on License***

No operator or owner/operator shall operate an adult entertainment establishment other than the adult entertainment establishment endorsed on his licence and at the location endorsed thereon.

10.4 ***Owner, Owner/Operators, Operators in Attendance***

Either the owner, where the owner is a natural individual, or one of the owners, who is a natural individual, where the owner is a partnership or corporation, or an operator or owner/operator licensed in respect of such owner's adult entertainment establishment, shall be in attendance at such owner's adult entertainment establishment during all opening hours, and no owner, operator or owner/operator shall permit an adult entertainment establishment owned or operated by him to open for business, or remain open for business, or any entertainer to entertain or remain therein, or any goods, entertainment or services to be provided at such adult entertainment establishment unless this section is complied with. Where an owner is a corporation or other legal entity that is not a natural individual, such owner shall not permit an adult entertainment establishment owned or operated by such entity to open for business, or remain open for business, or any entertainer to enter or remain therein, or any goods, entertainment or services to be provided at such entertainment establishment unless an operator licensed in respect of such owner's adult entertainment establishments is in attendance.

10.5 ***In Attendance Defined***

For purposes of Section 10.4 an owner, operator or owner/operator shall be deemed not to be in attendance at an adult entertainment establishment where such person is not physically present in the part of the premises constituting the adult entertainment establishment, whether or not such person is present in another part of the premises.

10.6 ***Drugs - Alcohol***

No owner, operator, owner/operator or entertainer shall take, consume or have alcohol or drugs in his possession in an adult entertainment establishment, nor shall the use of alcohol or drugs by him be apparent while the adult entertainment establishment is under his charge or when he is providing goods, entertainment or services therein, as the case may be.

- 10.7 ***Intoxicated Persons***  
No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in any adult entertainment establishment operated by such owner or operator.
- 10.8 ***Disorderly Conduct***  
No owner or operator shall permit any riotous, quarrelsome, violent or disorderly conduct to occur on the premises, or in the adjacent washrooms, liquor and food preparation areas and storage areas under the control of the owner or operator.
- 10.9 ***First Aid Kit***  
Despite anything herein to the contrary, every owner who operates his own adult entertainment establishment and every operator shall provide and maintain at all times at the adult entertainment establishment operated by him a first-aid kit equipped in a manner satisfactory to the medical officer of health.
- 10.10 ***Treatment of Public***  
Every owner, owner/operator and operator shall, while engaged in his respective trade, calling, business or occupation in an adult entertainment establishment, be neat and clean in his person and civil and well-behaved to members of the public with whom he is dealing.
- 10.11 ***Hours of Operation***  
No owner, operator, owner/operator or entertainer shall cause, permit, allow or provide any goods, entertainment or services in the adult entertainment establishment at any time other than the following:
- 10.11.1 On any day, other than a Sunday, before 2 p.m. and after 2 a.m. of the following day, or
- 10.11.2 On a Sunday, before 4 p.m. and after 2 a.m. the following day.
- 10.12 ***Christmas Day, Good Friday, Easter Sunday - closed***  
Notwithstanding Section 10.11, no owner, operator, owner/operator or entertainer shall cause, permit, allow or provide any goods, entertainment or services in the adult entertainment establishment on Christmas Day, Good Friday or Easter Sunday.
- 10.13 ***Photographic Equipment Prohibited***  
No owner, operator, owner/operator or entertainer shall use or permit to be used any camera or other photographic or recording device in, upon or at an adult entertainment establishment by any person other than an Officer described in this by-law.
- 10.14 ***Touching Prohibited - owner-operator***  
No owner, operator or owner/operator shall, in respect of any adult entertainment establishment owned or operated by such owner, operator or owner/operator, permit any entertainer, while providing services as an entertainer, to touch, or be touched by, or have physical contact with, any person in any manner whatsoever involving any part of that person's body.
- 10.15 ***Touching Prohibited - entertainer***  
No entertainer shall, while providing services as an entertainer, touch or have physical contact with, any person in any manner whatsoever involving any part of that person's body, or allow any other person to touch or have physical contact with such entertainer.
- 10.16 ***Unobstructed View***  
All services provided by an entertainer shall be provided within view of the stage, without obstruction by walls, curtains or any other enclosures, and no services shall be provided or offered in any cubicle, private room or other area partitioned from any room or rooms where such services are provided to patrons generally.

10.17 **Enclosures Prohibited**

An owner, operator or owner/operator shall not cause, permit or allow the door of any room or cubicle in an adult entertainment establishment, to be equipped or constructed with a locking device of any kind, except for a toilet cubicle, or a storage room or office.

10.18 **Doors Unlocked**

During the hours of business of an adult entertainment establishment, or at any time which an entertainer is in attendance at an adult entertainment establishment, the owner, operator or owner/operator shall ensure that the door or doors or other principal means of access into the adult entertainment establishment by the public are kept unlocked so that anyone may enter or exit the adult entertainment establishment without hindrance or delay.

10.19 **Owner-Operator Contract for Services**

Every contract of service, contract for services or other arrangement constituting or pertaining to the relationship between owner and operator of an adult entertainment establishment shall be in writing and shall be made available for inspection at any time upon the request of an Officer, and shall be retained by the owner or operator for a period of six (6) months after its termination.

10.20 **Owner/Operator, Operator - entertainer contract for services**

Every agreement or arrangement pertaining to the operation of an adult entertainment establishment by an operator or an owner/operator, for the provision of services by an entertainer at an adult entertainment establishment, shall be in writing, and every such contract of service, contract for services or other document constituting or pertaining to the relationship between an owner, operator or owner/operator of an adult entertainment establishment and an entertainer, shall be filed with the Clerk before the commencement of operation or provision of services, as the case may be. Every document pertaining to any arrangement for the provision of services by an entertainer at an adult entertainment establishment shall contain:

10.20.1 The full name of the entertainer.

10.20.2 His date of birth.

10.20.3 His permanent and any temporary address, as may be applicable.

10.20.4 His social insurance number or other document evidencing entitlement to work in Canada.

10.20.5 Shall have fixed thereto a facial photograph of the entertainer taken within the past six (6) months, of a size not less than 3 inches in length and 2.5 inches in width (7.6 cm in length and 6.4 cm in width).

10.21 **Inspection of Contract**

The owner, operator and owner/operator of an adult entertainment establishment shall ensure that the contract of services or other document referred to in Sections 10.19 and 10.20 is available for inspection by the Clerk or any Officer, upon request, and shall retain such contract or other document for a period of six (6) months after termination thereof.

10.22 **False information**

Making a false or intentionally misleading recital of facts, statement or representation in any such agreement shall be deemed a violation of the provisions of this by-law.

## **11 EXCEPTION FROM THE RESTAURANT BY-LAW**

- 11.1 The provisions of the Town of Orangeville "Restaurant By-law" apply to an adult entertainment establishment except Sections 9.1 and 9.2 thereof in respect of the entertainers who are not preparing, serving or cooking available food in the adult entertainment establishment.

## **12 SIGNAGE**

- 12.1 No owner or operator of an adult entertainment establishment shall place or permit to be placed any sign, or other advertising device on any premises occupied by an adult entertainment establishment, save and except a sign or any other advertising device containing the words "adult entertainment establishment", and the name under which the business is operated provided such name does not include any of the following words: "nude", "naked", "topless", "bottomless", "sexy", "nu" or any other word or any picture, symbol or representation having like meaning or implications.

## **13 INSPECTION**

- 13.1 On receipt of an application for a licence or for a renewal of a licence, an Officer may at any reasonable time enter upon the business premises of the applicant or licensee to make an inspection to ensure that all the provisions of this by-law have been satisfied and shall, on completion of his inspection, complete and file a written report.
- 13.2 No person shall obstruct the person inspecting or withhold, destroy, conceal or refuse to furnish any information or anything required by the person inspecting for the purpose of the inspection.

## **14 ENFORCEMENT**

### **14.1 Offences**

Any person who contravenes any provision of this by-law or is party to such contravention commits an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

### **14.2 Fine - for contravention**

Notwithstanding Section 14.1 of this by-law, every person who contravenes any provision of this By-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000, exclusive of costs, or to imprisonment for a term not exceeding one (1) year, or to both.

### **14.3 Fine for Contravention - corporation**

Notwithstanding Section 14.2 of this by-law, a corporation that contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to a fine not exceeding \$50,000.

### **14.4 Continuation - repetition - prohibited by order**

The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other remedy and to any penalty imposed on the person convicted.

**14.5 Notice - unpaid licensing fines**

If any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under Section 66 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, including any extension of time for payment ordered under that Section, the Treasurer for the Town or his agent may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than twenty-one (21) days after the date of the notice, by delivering the notice or causing it to be delivered to that person at the person's residence or place of business.

**14.6 Seizure - unpaid licensing fine**

If the fine referred to in Section 14.5 of this by-law remains unpaid after the final date specified in the notice, the fine shall be deemed to be unpaid taxes for the purposes of Section 351 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

**14.7 Closing Premises**

When a person has been convicted of an offense pursuant to this by-law, the court may make an order closing the adult entertainment establishment for a period not exceeding two (2) years.

**15 WORD USAGE**

15.1 As used in this By-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

15.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

**16 NOTICE**

16.1 Any notice required to be delivered pursuant to this by-law shall be deemed to have been delivered:

16.1.1 In the case of personal delivery at the time of delivery.

16.1.2 In the case of registered mail seven (7) days after the date of mailing.

**17 SCHEDULES**

17.1 The schedule referred to in this by-law shall form part of this by-law. Each entry in a column of a schedule shall be read in conjunction with the entries across from that entry and not otherwise.

**18 SEVERABILITY**

18.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

**19 CONFLICT WITH ANY OTHER BY-LAW**

19.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed, the provisions of this by-law shall prevail.

**20 REPEALING SECTION**

20.1 By-law 110-2002 of the Town of Orangeville is hereby repealed.

**21 SHORT TITLE**

21.1 This by-law shall be known as the "Adult Entertainment By-law".

**22 EFFECTIVE DATE**

22.1 This by-law shall come into force and take effect on January 1, 2005.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 6<sup>TH</sup> DAY OF  
DECEMBER, 2004.

  
Drew Brown, Mayor

  
Cheryl Johns, Clerk

**SCHEDULE "A"**

**ANNUAL LICENCE FEES**

<i>Column 1</i> <b>Description of Licence</b>	<i>Column 2</i> <b>Licence Fee</b>	<i>Column 3</i> <b>Expiry Date</b>
A.E.E. Owner's Licence	\$2,250.00	January 31
A.E.E. Owner's/Operator's Licence	\$2,250.00	January 31
A.E.E. Operator's Licence	\$2,250.00	January 31
A.E.E. Entertainer's Licence	\$250.00	January 31