

THE CORPORATION OF THE TOWN OF INGERSOLL

BY-LAW NO. 01-3984

**To regulate the provision of adult goods
in the Town of Ingersoll**

WHEREAS The Municipal Act, R.S.O. 1990, Chapter M45, as amended, Section 225 allows Council to pass a by-law for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any classes or classes thereof including definitions;

AND WHEREAS The Municipal Act, R.S.O. 1990, Chapter M45, as amended, Section 102 allows Council to pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the Municipality;

AND WHEREAS The Council of the Town of Ingersoll desires to enact a by-law to regulate the provisions of goods or services in an adult entertainment parlour;

**NOW THEREFORE THE COUNCIL OF THE TOWN OF INGERSOLL
HEREBY ENACTS AS FOLLOWS:**

**ARTICLE 1
DEFINITIONS**

1. For the purposes of this By-law:
 - (i) “Adult entertainment parlour store” means any premises in which the principal business carried on is the provision of either or both adult magazines, or adult videotapes, or of such magazines or videotapes and any other goods or services designed to appeal to erotic or sexual appetites or inclinations.
 - (ii) “Adult magazine” means any magazine 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.
 - (iii) “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.
 - (iv) “Adult videotape area” means an identifiable part of any premises, which part is devoted principally to the provision of adult videotapes, or of such videotapes and any other goods designed to appeal to erotic or sexual appetites or inclinations, and includes the area within three metres of any such videotape.
 - (v) “Goods” includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter
 - (vi) “Operator” means every person who provides, in any premises or part thereof, in pursuance of a trade, calling, business or occupation, either or both adult magazines, or adult videotapes, or who operates any premises or part thereof in which either or both such magazines or such videotapes are so provided
 - (vii) “To provide”, when used in relation to any magazine or videotape, means to sell, offer to sell or display for sale by retail or otherwise

such magazine or videotape and “provider”, “providing” and “provision” have corresponding meanings.

- (viii) “Specified body areas” means any one or more of the following:
- a) in the case of a female person, her areolae; and
 - b) in the case of all persons, the genitals and the anus.

- (ix) “Specified sexual activities” means one or more of the following:

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.

ARTICLE 2

Relating to the Sale of Adult Magazines

- 2.
- (1) 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 magazines.
 - (2) 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 (18) years is permitted to enter or remain in such store or any part thereof.
 - (3) Every operator who provides adult magazines in any premises or part thereof other than an adult entertainment parlour store, or who operates such premises or part thereof, shall comply with the following provisions in respect of such premises or part thereof:
 - (a) No adult magazine shall be displayed at a height of less than 1.5 metres above floor level, unless such magazine is in a part of the premises to which the public is not permitted physical access;
 - (b) All adult magazines offered for sale or displayed in such premises or part shall be placed behind an opaque barrier of a size and nature which shall ensure that the cover of every such magazine while being so displayed, except for the name thereof, may not be seen by any member of the public.
 - (4) Any operator who, in respect of premises operated by him/her or in which he/she provides adult magazines, complies with the requirements of section (1) of Article 2, whether or not they apply to him/her, shall not be required to comply with section (3) of Article 2.

Article 3

Relating to the Provision of Adult Videotapes

- 3(a)
- (1) 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.
 - (2) 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.

(3) Section 3(a)(1) of this by-law does not apply to those persons employed in an adult entertainment parlour store.

3(b) (1) No operator shall permit any person under the age of eighteen years to enter or remain in any videotape area operated by him/her or in which he/she provides any adult videotapes.

(2) 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.

(3) Section 3(b)(1) of this by-law does not apply to those persons employed by the owner/operator of the store.

3(c) (1) Every operator who provides adult videotapes in any premises or part thereof other than an adult entertainment parlour store or an adult videotape area, or who operates premises or part thereof in which such videotapes are provided, shall comply with the following provisions in respect of such premises or part:

(i) no adult videotape or cover or container thereof shall be displayed at a height of less than 1.5 metres above floor level, unless such videotape is in a part of the premises to which the public is not permitted physical access;

(ii) all adult videotapes offered or displayed for provision in such premises or part shall be placed behind an opaque barrier of a size and nature which shall ensure that the cover or container of every such videotape while being offered or displayed, except for the name thereof, may not be seen by any member of the public.

(2) Any operator who in respect of premises or part thereof operated by him/her in which he/she provides or in which is provided, adult videotapes, complies with the requirements of Article 3 (a) (1) and Article 3 (b) (1) of this Schedule, whether or not they apply to him/her, shall not be required to comply with Article 3(c) (1) of this section.

(3) Any operator who, in respect of premises or part thereof operated by him/her in which he/she provides or in which is provided, adult videotapes, complies with the requirements of Article 3(a) (2) and Article 3 (b) (2) in respect of all such videotapes provided therein and for a distance of three metres therefrom, whether or not such requirements apply to him/her, shall not be required to comply with Article 3 (c) (1).

3(d) No operator shall advertise or promote the provision of adult videotapes by means of the projection or display, in or on any premises which he/she operates or in which he/she provides adult videotapes, of any adult videotape where such videotape so projected or displayed is visible to any person not in such premises.

Article 4
ENFORCEMENT

4 (1) Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to fine or penalty as provided in the *Provincial Offences Act*.

 (2) The court in which the 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 penalty imposed on the person convicted.

READ a first and second time in Open Council this 10th day of September 2001.

READ a third time and passed in Open Council this 12th day of November 2001.

Michael J. Hennessy, Mayor

Edward A. Hunt, Clerk Administrator

TOWN OF INGERSOLL

PART I Provincial Offences Act

By-Law No. 01-3984: Regulate the provision of adult goods in the Town of Ingersoll

ITEM	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Did display adult magazine less than 1.5 m above floor	Article 2, Section 2 (3)(a)	\$150.00
2.	Did fail to place adult magazine behind opaque barrier	Article 2, Section 2 (3)(b)	\$150.00
3.	Did display adult movies at a height less than 1.5 m above floor	Article 3, Section 3(c)(1)(i)	\$150.00
4.	Did fail to place adult movies behind opaque barrier	Article 3, Section 3 (c)(1)(ii)	\$150.00

“NOTE: The general penalty provision for the offences listed above is Article 4, section 4(1) of By-law No. 01-3984, a certified copy of which has been filed.”