

LICENCE

Chapter 830 ADULT VIDEO

CHAPTER INDEX

Article 1 INTERPRETATION

- 830.1.1 Adult videotape - defined
- 830.1.2 Adult videotape area - defined
- 830.1.3 Adult videotape store - defined
- 830.1.4 Applicant - defined
- 830.1.5 Commissioner - defined
- 830.1.6 Council - defined
- 830.1.7 Licence Hearings Committee - defined
- 830.1.8 Licensing Officer - defined
- 830.1.9 Operator - defined
- 830.1.10 Operator's licence - defined
- 830.1.11 Owner - defined
- 830.1.12 Owner's licence - defined
- 830.1.13 Premises - defined
- 830.1.14 Specified body areas - defined
- 830.1.15 Specified sexual activities - defined
- 830.1.16 To provide - defined
- 830.1.17 Town - defined
- 830.1.18 Videotape - defined
- 830.1.19 Videotape store - defined

ADULT VIDEO

Article 2 LICENCE REQUIREMENT

- 830.2.1 Operation - without licence - prohibited
- 830.2.2 Expiry - duration
- 830.2.3 Regulations - applicable - all videotape stores

Article 3 LOCATION RESTRICTION - LIMITATION ON NUMBERS

- 830.3.1 Locations - set out - Schedule 'A'
- 830.3.2 Number limitation - set out - Schedule 'A'
- 830.3.3 Operation - other than licensed - prohibited
- 830.3.4 Transfer - licence - prohibited
- 830.3.5 Location - restriction

Article 4 ADMINISTRATION

- 830.4.1 Application - receive - process
- 830.4.2 Issuance of licence
- 830.4.3 Application - kept - maintained
- 830.4.4 Administration - enforcement

Article 5 APPLICATION FOR LICENCE

- 830.5.1 Form - filed with Licensing Officer
- 830.5.2 Fee - ownership information - requirement
- 830.5.3 Contract - information requirements - written
- 830.5.4 Information - general - requirement
- 830.5.5 Applicant - not individual - requirement
- 830.5.6 Information - change - duty to notify
- 830.5.7 Application - submitted - investigate - verify
- 830.5.8 Application renewal - late - resubmit

ADULT VIDEO

830.5.9 Licence - not issued - notice to applicant - Council

Article 6 PREMISES - REGULATION

- 830.6.1 Licence - displayed - at all times
- 830.6.2 Maintained - clean - sanitary condition
- 830.6.3 List of titles - open to inspection - during business hours
- 830.6.4 Business name - use - as licensed - only
- 830.6.5 Advertisement - promotion - as licensed - only
- 830.6.6 Admittance - age restriction
- 830.6.7 Owner - operator - employee - age restriction
- 830.6.8 Sign - posted prominent - age restriction
- 830.6.9 Exterior sign - advertisement - restriction

Article 7 REGULATIONS APPLICABLE TO ALL VIDEOTAPE STORES

- 830.7.1 Compliance - required - all videotape stores
- 830.7.2 Compliance - age restrictions - employees
- 830.7.3 Compliance - age restriction - entry
- 830.7.4 Access - viewing - age restriction
- 830.7.5 Sign posted - prominent - all entrances - age restriction
- 830.7.6 Owner - operator - employee - responsibility
- 830.7.7 Display - not visible from outside store
- 830.7.8 Display - not visible from inside store - restriction
- 830.7.9 Licence - locations - Schedule 'A'

Article 8 CHANGE IN INFORMATION

- 830.8.1 Notice to Licensing Officer - within four days
- 830.8.2 Change of name - appearance before Licensing Officer

ADULT VIDEO

Article 9 REPORT TO COUNCIL

830.9.1 Report to Council

Article 10 LICENCE NON-TRANSFERABLE WITHOUT COUNCIL APPROVAL

830.10.1 Licence not transferable

Article 11 GROUNDS FOR REFUSAL TO ISSUE OR RENEW A LICENCE

- 830.11.1 Licence - entitlement
- 830.11.2 Licence refused - financial position
- 830.11.3 Licence refused - past conduct of applicant
- 830.11.4 Licence refused - contrary to public interest
- 830.11.5 Licence refused - activities in contravention
- 830.11.6 Licence refused - use of premises
- 830.11.7 Licence refused - applicant provides false information
- 830.11.8 Licence refused - information provided - accuracy
- 830.11.9 Licence refused - fee not paid
- 830.11.10 Licence refused - applicant does not comply
- 830.11.11 Licence refused - applicant is corporation

Article 12 COUNCIL'S POWER TO REFUSE TO ISSUE OR RENEW A LICENCE

830.12.1 Council's power to refuse to issue or renew a licence

Article 13 REFUND OF FEE ON REFUSAL TO ISSUE OR RENEW A LICENCE

830.13.1 Licence not issued - refund of fee

ADULT VIDEO

Article 14 ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS

830.14.1 Licence issued - terms and conditions

Article 15 COUNCIL'S POWER TO REVOKE OR SUSPEND A LICENCE

830.15.1 Licence revoked or suspended

Article 16 REFUND OF FEE ON REVOCATION OF A LICENCE

830.16.1 Licence revoked - refund of fee

830.16.2 Refund of fee - not applicable

Article 17 CANCELLATION OF A LICENCE

830.17.1 Licence - cancelled

Article 18 APPEALS TO THE LICENCE HEARINGS COMMITTEE

830.18.1 Recommendation to Council

830.18.2 Refusal to issue or renew licence - written notice

830.18.3 Written notice - contents

Article 19 NOTICE OF HEARING

830.19.1 Notice of hearing

Article 20 SERVICE OF WRITTEN NOTICE

830.20.1 Written notice - service

830.20.2 Written notice - service - via registered or certified mail

ADULT VIDEO

Article 21 HEARING BEFORE THE LICENCE HEARINGS COMMITTEE

- 830.21.1 Applicant does not attend
- 830.21.2 Recommendation to Council

Article 22 COUNCIL AUTHORITY AFTER THE HEARING

- 830.22.1 Council - authority final

Article 23 RETURN OF THE LICENCE AFTER REVOCATION OR SUSPENSION

- 830.23.1 Licence revoked - suspended - returned - Licensing Officer
- 830.23.2 Licence revoked - Licensing Officer to obtain licence

Article 24 TRANSITION

- 830.24.1 By-law - previous

Article 25 SEVERABILITY

- 830.25.1 Validity

Article 26 ENFORCEMENT

- 830.26.1 Fine - for contravention - person
- 830.26.2 Fine - for contravention - corporation

Article 27 REPEAL - ENACTMENT

- 830.27.1 By-law - previous

SCHEDULE

Schedule 'A' - Existing uses - location - exemption

ADULT VIDEO

WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern Adult Entertainment Establishments - Subcategory - Adult Videotape stores;

AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the by-law relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;
- ensuring that minors are not employed or permitted in this category of business;

AND WHEREAS purposes of nuisance control will be served by this by-law through:

- the limitation of the number of Adult Entertainment Establishments - Subcategory - Adult Videotape stores and the geographic area in which they may be located;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Municipal Code - Public Notice.

Article 1 INTERPRETATION

830.1.1 Adult videotape - defined

“adult videotape” means any videotape the content of which is designed or held out as 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. In the absence of evidence to the contrary, a videotape classified by the Ontario Film Review Board as “restricted”, with the added description “adult sex film”, shall be deemed to be an adult videotape, while a videotape without such classification and description shall be deemed not to be an adult videotape.

830.1.2 Adult videotape area - defined

“adult videotape area” means an identifiable part of any premises, which part is used for the provision of adult video tapes.

830.1.3 Adult videotape store - defined

“adult videotape store” means any premises:

- (a) subject to Section 830.2.3, used for the carrying on of the business of the provision of adult videotapes; or
- (b) in which adult videotapes are provided in the pursuance of a business and to which premises entry by persons under the age of eighteen years is prohibited, or in respect of which premises it is advertised or notice is given that such entry is prohibited; or
- (c) in which adult videotapes are provided in the pursuance of a business and in respect of which it is advertised, or notice is given either by signs or other advertising devices on or in the premises, or otherwise, that the premises are an “adult video store”, an “adult videotape store”, an “adult video rental store”, or which are otherwise described by words of like meaning.

830.1.4 Applicant - defined

“applicant” means a person applying for a licence under this Chapter.

830.1.5 Commissioner - defined

“Commissioner” means the Commissioner of Planning and Development of The Corporation of the Town of Richmond Hill.

830.1.6 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill.

830.1.7 Licence Hearings Committee - defined

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter. By-law 191-05, 12 December, 2005.

830.1.8 Licensing Officer - defined

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licences. By-law 145-08, 14 July, 2008.

830.1.9 Operator - defined

“operator” includes a proprietor, or any other person who alone or with others, manages, supervises, runs or controls a videotape store.

830.1.10 Operator’s licence - defined

“operator’s licence” means a valid and subsisting licence issued under this Chapter to an operator as defined in this Chapter.

830.1.11 Owner - defined

“owner” means a person who alone or with others owns or controls the trade or business carried on at an adult videotape store or who directs the activities of any operator and includes all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the adult videotape store, and “owner” includes a person who is the tenant or licensee in respect of premises which are utilized as an adult videotape store.

830.1.12 Owner’s licence - defined

“owner’s licence” means a valid and subsisting licence issued under this Chapter to an owner as defined in this Chapter.

830.1.13 Premises - defined

“premises” includes a building or any part thereof, and any place.

830.1.14 Specified body areas - defined

“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.

830.1.15 Specified sexual activities - defined

“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.

830.1.16 To provide - defined

“to provide” when used in relation to any videotape, means to sell, offer to sell or display for sale by retail, or to rent, offer to rent or display for rental, whether or not the cost, fee or other consideration passes at the time of such rental or sale, or is effected through the cost of membership, subscription, admission or any other manner.

830.1.17 Town - defined

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

830.1.18 Videotape - defined

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

830.1.19 Videotape store - defined

“videotape store” means any premises or part thereof in which videotapes are provided in the pursuance of a business, and includes an adult videotape store.

Article 2**LICENCE REQUIREMENT****830.2.1 Operation - without licence - prohibited**

There shall be taken out by every owner and every operator of an adult videotape store a licence from the Town authorizing him or her to carry on such business in the Town, for which licence the person obtaining same shall pay to the Town, at or before the time of taking out such licence, the fee fixed in Chapter 684 [Tariff of Fees], and no person shall, within the limits of the Town, carry on or engage in such business until he or she has procured such licence so to do.

830.2.2 Expiry - duration

Every licence issued under this Chapter may be issued for any period up to one year, and shall expire on December 31 of the year in which it is issued.

830.2.3 Regulations - applicable - all videotape stores

A licence is not required under this Chapter by reason only of Section 830.1.3(a) in respect of any videotape store in which the provision of adult videotapes is only incidental to the carrying on of the business of provision of videotapes which are not adult videotapes, but the regulations contained in this Chapter relating to the display of adult videotapes and to the prohibition of admission to all or part of premises by persons under the age of 18 years shall apply to all videotape stores.

Article 3**LOCATION RESTRICTION - LIMITATION ON NUMBERS****830.3.1 Locations - set out - Schedule 'A'**

Each of the areas of the Town defined in Schedule 'A' to this Chapter, which Schedule shall be deemed to be part of this Chapter, is an area in which one adult videotape store may operate and no adult videotape stores are permitted to operate in any other area or areas of the Town.

830.3.2 Number limitation - set out - Schedule 'A'

In respect of areas defined in Schedule 'A', no licence or licences may be granted except as permitted in that Schedule, or in a greater number than those specified in such Schedule.

830.3.3 Operation - other than licensed - prohibited

No person shall operate an adult videotape store in the Town except as permitted under this Chapter and pursuant to a licence issued under this Chapter.

830.3.4 Transfer - licence - prohibited

A licence issued under this Chapter is personal to the licensee, and cannot be transferred.

830.3.5 Location - restriction

The rights granted by a licence issued under this Chapter apply only to the location for which the licence is issued.

Article 4**ADMINISTRATION****830.4.1 Application - receive - process**

The Licensing Officer shall receive and process all applications for licences and renewal of licences required under this Chapter.

830.4.2 Issuance of licence

The Licensing Officer shall administer the issuance of licences in accordance with the provisions of this Chapter.

830.4.3 Application - kept - maintained

The Licensing Officer shall maintain and keep records of all applications received and licences issued.

830.4.4 Administration - enforcement

The Licensing Officer shall generally perform administrative functions incidental and necessary to the due administration and enforcement of this Chapter.

Article 5**APPLICATION FOR LICENCE****830.5.1 Form - filed with Licensing Officer**

Every person applying for a licence under this Chapter shall file with the Licensing Officer a duly completed application form provided by the Licensing Officer, in which the applicant shall provide all information sought in such application form.

830.5.2 Fee - ownership information - requirement

The applicant shall, at the time of the filing of the application form required under Section 830.5.1, deliver to the Licensing Officer the following:

- (a) cash, money order or certified cheque in the amount of the licence fee, fixed pursuant to Chapter 684 [Tariff of Fees], for every licence required under this Chapter or for the renewal thereof;
- (b) if the applicant is a corporation, a copy of the incorporating document and of the last annual information return filed, and a list of the names and home addresses of the directors, shareholders and officers of the corporation and of any corporation having an interest, direct or indirect, in the adult videotape store; and
- (c) if the applicant is a partnership, a list of the names and home addresses of the partners, and if a registered partnership, a copy of the registered declaration of partnership.

830.5.3 Contract - information requirements - written

Every agreement or arrangement pertaining to the carrying on of the business or the operation of an adult videotape store by an owner or by an owner/operator shall be in writing, and every contract of service, contract for services or other documents constituting or pertaining to the relationship between an owner and an operator of an adult videotape store and between an owner or an owner/operator or an operator thereof and any other person or persons or entity having an interest, direct or indirect, any trust arrangement or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the adult videotape store, shall be filed with the Licensing Officer before the commencement of operation of the business, as the case may be.

830.5.4 Information - general - requirement

Every application form shall include a requirement that the applicant provide at least the following information:

- (a) the name and address of the applicant;
- (b) the address of the applicant and of the intended licensee, to which the Town or its Licensing Officer may send or deliver any notice or other document required or authorized by law;
- (c) the municipal address of each building, premises or place in respect of which a licence is sought and where a business licensed or required to be licensed is or is intended to be carried on;
- (d) the name and address of the owner of any building, premises or place in which any such business is to be carried on;
- (e) any trade or business description to be used in relation to the business;
- (f) the telephone number of such business;
- (g) a record of all offences, other than offences relating to motor vehicles, under any by-law, provincial statute or federal statute in respect of which the applicant, if the applicant is an individual, any of the partners, if the applicant is a partnership, or any of the directors, shareholders and officers of a corporation, if the applicant or any party having a direct or indirect interest in the business, is a corporation, has or have been convicted;
- (h) the measurements of the floor area in the premises in which videotapes are or are to be displayed or provided, and of the area, if such is smaller, used or to be used for the provision or display of adult videotapes; and

- (i) the identity of all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the adult videotape store.

830.5.5 Applicant - not individual - requirement

If the applicant is not an individual, the application form shall be completed and updated from time to time as this Chapter requires, by an individual duly authorized by the applicant to execute such form on behalf of the applicant and binding upon it, and the individual completing such form shall sign the form, certifying the truth and completeness of the information provided therein.

830.5.6 Information - change - duty to notify

The provisions of this Chapter relating to an application for a licence shall apply, with necessary modifications, to an application for the renewal of a licence or to amend a licence or a condition of such licence, except that where the applicant notifies the Licensing Officer in writing that the information on file with the Licensing Officer has not changed, the applicant shall not be required to complete a new application form or amendment thereto in respect of an application for renewal.

830.5.7 Application - submitted - investigate - verify

Upon the receipt of an application form by the Licensing Officer, the Licensing Officer shall carry out such investigation or verification relating to the application as he or she may deem necessary for the purposes of the administration of this Chapter and, if the investigation or any other information available to the Licensing Officer discloses no reasonable grounds to believe that the application is not in compliance with the Chapter, or that the applicant may not be entitled to the issuance of a licence on the grounds referred to in this Chapter or by reason of any other provision of this Chapter or other applicable law, may issue the licence.

830.5.8 Application renewal - late - resubmit

Where a completed application form for the renewal of a licence is not submitted to the Licensing Officer before the expiry date of the licence, the applicant shall be required to submit a new application, together with the application fee.

830.5.9 Licence - not issued - notice to applicant - Council

If the investigation or any other information available to the Licensing Officer discloses reasonable grounds to believe that the applicant may not be entitled to the issuance of a licence on grounds referred to in this Chapter, or by reason of any other provision of this Chapter or other applicable law, or if for any other reason the Licensing Officer does not issue the licence applied for, the Licensing Officer shall forthwith cause notice of this fact and the reasons therefor to be served upon the applicant at the address shown on the application form, and refer the matter to the License Hearings Committee for the holding of a hearing under this Chapter.

Article 6**PREMISES - REGULATION****830.6.1 Licence - displayed - at all times**

Every licensee shall prominently display the licence at the premises licensed at all times and shall produce the licence upon request by the Licensing Officer, any By-law Enforcement Officer and any Police Officer.

830.6.2 Maintained - clean - sanitary condition

Every licensee shall keep the premises in a clean and sanitary condition.

830.6.3 List of titles - open to inspection - during business hours

Every licensee shall maintain on the premises, during all business hours, available for inspection by the Licensing Officer, any By-law Enforcement Officer or any Police Officer, a current list of all adult videotapes provided on the premises.

830.6.4 Business name - use - as licensed - only

Every licensee shall carry on business only in the name in which the licence is issued, or such other business or trade name provided to the Licensing Officer and endorsed by it upon such licence.

830.6.5 Advertisement - promotion - as licensed - only

Every licensee shall advertise, promote and carry on such business only under the name in which the licence is issued, or such other business or trade name provided to the Licensing Officer and endorsed by it upon such licence.

830.6.6 Admittance - age restriction

No owner, operator or any person working in an adult videotape store or adult videotape area shall permit any person under the age of eighteen years to enter or remain in such store or area.

830.6.7 Owner - operator - employee - age restriction

No owner, operator or any other person shall work in an adult videotape store, or adult videotape area, or in any part of any videotape store in which adult videotapes are provided, unless such person is of the age of eighteen years or older.

830.6.8 Sign - posted prominent - age restriction

Every operator shall post and keep posted at every entrance to any adult videotape store operated by such operator, 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.

830.6.9 Exterior sign - advertisement - restriction

Exterior signs and advertisements relating to adult videotape stores and to the provision of adult videotapes, shall be restricted to the words "adult videos", "adult videotapes", or "adult videotapes sales or rentals" and shall not include pictorial representation of specified body areas or specified sexual activities.

Article 7**REGULATIONS APPLICABLE
TO ALL VIDEOTAPE STORES****830.7.1 Compliance - required - all videotape stores**

Every owner and every operator of a videotape store, whether or not he or she is licensed or required to be licensed under this Chapter, shall, in the carrying on of such business, comply with the regulations contained in this Chapter relating to the provision of adult videotapes.

830.7.2 Compliance - age restrictions - employees

Every owner and operator referred to in Section 830.7.1 shall ensure that every person working in such videotape store complies with all requirements of this Chapter relating to the provision of adult videotapes and the prohibition of access to all or part of the premises to persons under the age of eighteen years, as required by this Chapter.

830.7.3 Compliance - age restriction - entry

Every person working in a videotape store shall comply with all requirements of this Chapter relating to the provision of adult videotapes and the prohibition of access to all or part of the premises to persons under the age of eighteen years, as required by this Chapter.

830.7.4 Access - viewing - age restriction

No owner or operator of a videotape store in which adult videotapes are provided, shall permit any person under the age of eighteen years to enter or remain in any adult videotape area or any other part of such store where adult videotapes are provided, or within three metres of any adult videotape unless such adult videotape is located in an adult videotape area to which such person does not have physical or visual access.

830.7.5 Sign posted - prominent - all entrances - age restriction

Every owner and operator of a videotape store in which any adult videotape is provided, shall affix, in a prominent location inside such store and at every entrance to any adult videotape area, a sign or signs sufficient to indicate clearly to persons in the store, that no person under the age of eighteen years is permitted to enter or remain in any adult videotape area in accordance with this Chapter.

830.7.6 Owner - operator - employee - responsibility

Every owner and operator of a videotape store, including an adult videotape store, and every person working in such store, shall ensure that no person under the age of eighteen years is permitted to enter an adult videotape store, or any adult videotape area, in accordance with this Chapter.

830.7.7 Display - not visible from outside store

Every operator of a videotape store and every person working in such store shall ensure that no adult videotape, or container for an adult videotape shall be displayed in such a manner so as to be visible from outside the store.

830.7.8 Display - not visible from inside store - restriction

Every operator of a videotape store and every person working in such store shall ensure that no adult videotape, or container for an adult videotape, shall be displayed in a videotape store that is not an adult videotape store, or in an adult videotape area, in a location where it can be seen by persons in the store, unless such adult videotape or container is in a separate adult videotape area or other location in such store to which persons under the age of eighteen years are not permitted to enter, and such adult videotape or container is displayed in a location where it cannot be seen from outside such area.

830.7.9 Licence - locations - Schedule 'A'

No adult videotape store shall be licensed under this Chapter except in accordance with Schedule 'A', and in respect of areas referred to in Section 1 of Schedule 'A', no such licence may be granted for any adult videotape store, except in respect of any part of premises lawfully used for the business of the provision of adult videotapes on the date of enactment of this Chapter, and continued to be used for such purpose through the period up to the issuance of the licence.

Article 8
CHANGE IN INFORMATION

830.8.1 Notice to Licensing Officer - within four days

Every licensee shall notify the Licensing Officer in writing within four days after the event, of any change in any of the information contained in the application form.

830.8.2 Change of name - appearance before Licensing Officer

Where a change has occurred in the name or business name of a licensee, the licensee shall, within four days of the date of the change, appear in person at the office of the Licensing Officer, to have the licence and licence records amended accordingly.

Article 9
REPORT TO COUNCIL

830.9.1 Report to Council

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 5 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

Article 10
LICENCE NON-TRANSFERABLE
WITHOUT COUNCIL APPROVAL

830.10.1 Licence not transferable

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

Article 11
GROUND FOR REFUSAL TO
ISSUE OR RENEW A LICENCE

830.11.1 Licence - entitlement

An applicant is entitled to be licensed and a licensee is entitled to have his or her licence renewed.

830.11.2 Licence refused - financial position

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where, having regard to his or her financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

830.11.3 Licence refused - past conduct of applicant

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

830.11.4 Licence refused - contrary to public interest

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the issuance of the licence or renewal of the licence would be contrary to the public interest.

830.11.5 Licence refused - activities in contravention

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

830.11.6 Licence refused - use of premises

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where there are reasonable grounds for belief that the nature, condition or use of the 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 Chapter or any other law.

830.11.7 Licence refused - applicant provides false information

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where 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, contains a false statement or provides false information.

830.11.8 Licence refused - information provided - accuracy

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the 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 the Council to conclude that the licence should be granted or maintained as valid and subsisting.

830.11.9 Licence refused - fee not paid

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the fee payable in respect of the licence applied for has not been paid.

830.11.10 Licence refused - applicant does not comply

Notwithstanding Section 830.11.1, a licence may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a licence.

830.11.11 Licence refused - applicant is corporation

Notwithstanding Section 830.11.1, a licence may not be issued or renewed if the applicant or licensee is a corporation:

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law;
- (c) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
- (d) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

Article 12**COUNCIL'S POWER TO REFUSE TO
ISSUE OR RENEW A LICENCE****830.12.1 Council's power to refuse to issue or renew a licence**

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Article 11.

Article 13**REFUND OF FEE ON REFUSAL TO
ISSUE OR RENEW A LICENCE****830.13.1 Licence not issued - refund of fee**

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

Article 14**ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS****830.14.1 Licence issued - terms and conditions**

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 830.21.1 of this Chapter.

Article 15**COUNCIL'S POWER TO REVOKE
OR SUSPEND A LICENCE****830.15.1 Licence revoked or suspended**

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Article 11 of this Chapter.

Article 16**REFUND OF FEE ON REVOCATION OF A LICENCE****830.16.1 Licence revoked - refund of fee**

When a licence is revoked under Section 830.15.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

830.16.2 Refund of fee - not applicable

The provisions of Section 830.16.1 do not apply when the unexpired part of the term is less than four months.

Article 17**CANCELLATION OF A LICENCE****830.17.1 Licence - cancelled**

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

Article 18**APPEALS TO THE LICENCE HEARINGS COMMITTEE****830.18.1 Recommendation to Council**

When an applicant or a licensee is not entitled to be licensed or to have his or her licence renewed for any of the grounds set out in Article 11, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 830.14.1, that Council issue a licence on terms and conditions.

830.18.2 Refusal to issue or renew licence - written notice

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

830.18.3 Written notice - contents

The written notice to be given under Section 830.18.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer;
- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

Article 19**NOTICE OF HEARING****830.19.1 Notice of hearing**

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

Article 20
SERVICE OF WRITTEN NOTICE

830.20.1 Written notice - service

The written notice referred to in Sections 830.18.2, and 830.18.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

830.20.2 Written notice - service - via registered or certified mail

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the written notice until a later date.

Article 21
HEARING BEFORE THE LICENCE
HEARINGS COMMITTEE

830.21.1 Applicant does not attend

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his or her absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

830.21.2 Recommendation to Council

At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

Article 22
COUNCIL AUTHORITY AFTER THE HEARING

830.22.1 Council - authority final

Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

Article 23
RETURN OF THE LICENCE AFTER
REVOCAION OR SUSPENSION

830.23.1 Licence revoked - suspended - returned - Licensing Officer

When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

830.23.2 Licence revoked - Licensing Officer to obtain licence

When a person has had his or her licence revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, in accordance with Section 830.23.1.

Article 24
TRANSITION

830.24.1 By-law - previous

A licence issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter only until the earlier of its expiry or its revocation.

Article 25
SEVERABILITY

830.25.1 Validity

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

Article 26
ENFORCEMENT

830.26.1 Fine - for contravention - person

Every person 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 on conviction is liable to a fine, exclusive of costs, not exceeding \$25,000.

830.26.2 Fine - for contravention - corporation

Where a corporation is convicted of an offence under this Chapter, the maximum penalty, exclusive of costs, that may be imposed on the corporation is \$50,000 and not as provided in Section 830.26.1.

Article 27
REPEAL - ENACTMENT

830.27.1 By-law - previous

Chapter 830 of the Town of Richmond Hill Municipal Code respecting Adult Videotape be repealed in its entirety and replaced with the new Chapter 830. By-laws Nos. 126-98 and 194-99 be repealed. By-law 191-05, 12 December, 2005; By-law 78-11, 11 July, 2011.

ADULT VIDEO

SCHEDULE

Schedule 'A' - Existing uses - location - exemption

1. The premises at each of the following municipal addresses, in respect of the area thereof lawfully occupied, and in actual use for the purpose of an adult videotape business as of the date of the enactment of this Chapter, and continuing uninterrupted for such use since that time, being:

- (a) the first floor of the premises at 10255 Yonge Street, Unit 6, Richmond Hill;
- (b) the first floor of the premises at 12 Levensdale Road, Richmond Hill;
- (c) the first floor of the premises at 10084 Yonge Street, Richmond Hill; and

are hereby defined as areas in which, subject to all applicable law, the adult videotape store, respectively, is permitted to operate, for so long as such area of the premises continues to be lawfully used for such purpose.

2. Should any area referred to in Section 1 of this Schedule cease to be used for the purpose of an adult videotape store, any licence issued under this Chapter may be revoked; no renewal or further licence may be issued, and the total number of licences authorized under Section 3 of this Schedule shall be decreased by one, provided that the number of licenses shall at no time be reduced to fewer than two, by operation of this Schedule.

3. Subject to this Schedule, the maximum, total number of licences which may be issued under, and in accordance with this Chapter, for adult videotape stores within the Town of Richmond Hill, shall be limited to four.

By-law 191-05, 12 December, 2005; Schedule 'A'.