

THE CORPORATION TOWN OF MATTAWA

COMMITTEE: PLANNING & DEVELOPMENT SERVICES

CHAIRPERSON: COUNCILLOR L. MICK

DEPT. HEAD: FRANCINE DESORMEAU, CLERK/DEPUTY-TREASURER

TITLE: ZONING BY-LAW AMENDMENT – ADULT ENTERTAINMENT ESTABLISHMENTS

X Draft By-Law Item Policy Recommendation

Mayor D. Backer and Members of Council:

Council adopted Page 97 of Resolution Number 18-25 at their regular meeting of May 28th, 2018, which stated:

“That Council authorizes the Planning Department to proceed with the public consultation process to amend Zoning By-law 85-23, as amended, with the intention of recommending to Council a Zoning By-law amendment to restrict adult entertainment establishments to certain areas of the municipality.”

A public meeting was held Monday July 9th in accordance with the Planning Act and a number of residents were in attendance and all agreed the need to restrict the use of adult entertainment establishments within the municipality. Verbal and written comments were received which were all taken into consideration when preparing the amendment to Zoning By-law 85-23, as amended.

The draft Zoning By-law Amendment was reviewed by Jp2g Consultants Inc. and a report (7.1) is included in this agenda which outlines their comments and recommendations to the by-law amendment.

Recommendation:

That Council approve By-law 18-22 which will amend the Town of Mattawa’s Zoning By-law 85-23, as amended for the purpose of regulating the location of adult entertainment establishments in the Town of Mattawa.

Respectfully recommended

Councillor L. Mick

**CORPORATION OF THE TOWN OF MATTAWA
BY-LAW NUMBER 18-22**

BEING A BY-LAW TO AMEND ZONING BY-LAW 85-23

WHEREAS the Council of the Corporation of the Town of Mattawa deems it necessary in the public interest to pass a by-law to amend By-law 85-23, as amended;

AND WHEREAS pursuant to the provisions of Section 34 of the Planning Act, the By-law may be amended by Council of the Municipality;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MATTAWA ENACTS AS FOLLOWS:

1. Section 3 – Definitions of By-law 85-23, as amended, is hereby amended by adding the following new definitions immediately after Section 3.2 “Accessory Use” and re-numbering the remaining definitions accordingly:

“3.3 Adult Entertainment Establishment means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or services or entertainment appealing to or designed to appeal to erotic or sexual appetites or inclinations. Adult entertainment establishment includes an adult entertainment parlour, adult video store, adult specialty store and body rub parlour.

For the purposes of the definition of adult entertainment establishment, the following definitions also apply:

- i) “goods” includes books, magazines, pictures, slides, film, disks, phonograph records, prerecorded magnetic tape and any other viewing or listening matter, clothing and accessories;
- ii) “services or entertainment” includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the *Theatres Act*;
- iii) “services or entertainment which are designed to appeal to erotic or sexual appetites or inclinations” and includes:
 - a) services or entertainment of which a principal feature or characteristic is the nudity or partial nudity of any person, including, but not limited to the nudity or partial nudity of specified body areas; and
 - b) services or entertainment in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy”, or any other word or any other picture, symbol or representation having like meaning or implication, is used in any advertisement.

3.4 Adult Entertainment Parlour means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, services appealing to or designed to appeal to erotic or sexual appetites or inclinations.

For the purpose of the definition of adult entertainment establishment, the following definitions also apply:

- i) "services" includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the *Theatres Act*;
- ii) "services designed to appeal to erotic or sexual appetites or inclinations" includes:
 - a) Services of which a principal feature or characteristic is the nudity or partial nudity of any person; and
 - b) Services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy", or "nu" any other word or picture, symbol or representation having like meaning or implication as used in any advertisement.

3.5 Adult Specialty Store means a retail establishment specializing in the sale of a variety of goods and materials made or designed to appeal to erotic sexual appetites but does not include a retail store or convenience retail store.

3.6 Adult Video Store means an establishment where pre-recorded video tape, video discs, films and/or slides made or designed to appeal to erotic or sexual appetites or depicting sexual acts are offered for rent or sale where the proportion of adult videotapes to non-adult videotapes offered is equal to or exceeds the ratio of 10:100 (adult videotape to non-adult videotape). An adult video store shall not include facilities for the screening or viewing of such products."

2. Section 3 – Definitions of By-law 85-23, as amended, is hereby amended by adding the following new definitions immediately after Section 3.9 "Boarding House" (now Section 3.12) and re-numbering the remaining definitions accordingly:

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

"3.15 Body Rub Parlour means and includes any premises or part thereof where a body rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the 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 so to do under the laws of the Province of Ontario."

3. Section 3 – Definitions of By-law 85-23, as amended, is amended by adding "and shall not include any adult entertainment establishment." following the last word at the end of the following existing definitions:

- a) 3.17 (now 3.23) Clinic
 - b) 3.22 (now 3.18) Convenience Store
 - c) 3.25 (now 3.31) Dwelling
 - d) 3.30 (now 3.36) Home Occupation
 - e) 3.34 (now 3.40) Local Commercial
 - f) 3.44 (now 3.50) Personal Service
 - g) 3.46 (now 3.52) Place of Entertainment
 - h) 3.48 (now 3.44) Professional Office
 - i) 3.52 (now 3.58) Rental Accommodation, Temporary
 - j) 3.53 (now 3.59) Retail Store
 - k) 3.54 (now 3.60) Retail Store, Seasonal
4. Section 6 – Zone Map, Permitted Uses in Zones, provisions for Uses of By-law 85-23, as amended, is hereby further amended by adding the following new Section 6.10 Commercial - Exception (C-EX) Zones immediately after Section 6.9 as follows:

“6.10 Commercial - Exception (C-EX) Zones

6.10.1 Commercial – Exception One (C-EX-1) Zone

Notwithstanding any other provisions of this By-law to the contrary, for the lands zoned Commercial – Exception One (C-EX-1) Zone, the following permitted uses, zone requirements and special provisions shall apply:

a) Permitted Uses

- Adult Entertainment Establishment
- Adult Entertainment Parlour
- Adult Specialty Store
- Adult Video Store
- Body Rub Parlour
- All other permitted uses listed in the Commercial (C) Zone on Schedule “B” to this By-law.

b) Zone Requirements

All of the Zone Requirements of the Commercial (C) Zone on Schedule “C” to this By-law shall apply to the Commercial – Exception One (C-EX-1) Zone.

c) Special Provisions

The following special provisions shall apply to all of the permitted uses within the Commercial – Exception One (C-EX-1) Zone:

1. An adult entertainment establishment shall not be located within 700 metres of a property that is occupied by one of the following uses:
 - i) Public or private school, or any other educational institution;
 - ii) Daycare, kindergarten, preschool, or any other child care facility;
 - iii) Public park or playground; and
 - iv) Place of worship.

2. An adult entertainment parlour must be located within a free-standing, single storey building and must be the sole use on a lot.
 3. Adult entertainment establishments shall only be permitted on an interior lot.
 4. A body rub parlour, adult specialty store or adult video store shall:
 - i) Only be permitted in a multi-use building; and
 - ii) Have a maximum gross floor area of 15% or 150m², whichever is less.
 5. Adult entertainment establishments are only permitted on lots connected to full municipal services.
 6. Accessory uses are not permitted in conjunction with any adult entertainment establishment and an adult entertainment establishment shall not be considered an accessory use for the purposes of interpreting this By-law.”
5. Section 6 – Zone Map, Permitted Uses in Zones, provisions for Uses of By-law 85-23, as amended, is hereby further amended by adding the following new Section 6.11 Highway Commercial - Exception (HC-EX) Zones immediately after Section 6.10 Commercial - Exception (C-EX) Zones as follows:

“6.11 Highway Commercial - Exception (HC-EX) Zones

6.11.1 Highway Commercial – Exception One (HC-EX-1) Zone

Notwithstanding any other provisions of this By-law to the contrary, for the lands zoned Highway Commercial – Exception One (C-EX-1) Zone, the following permitted uses, zone requirements and special provisions shall apply:

d) Permitted Uses

- Adult Entertainment Establishment
- Adult Entertainment Parlour
- Adult Specialty Store
- Adult Video Store
- Body Rub Parlour
- All other permitted uses listed in the Highway Commercial (HC) Zone on Schedule “B” to this By-law.

e) Zone Requirements

All of the Zone Requirements of the Commercial (HC) Zone on Schedule “C” to this By-law shall apply to the Highway Commercial – Exception One (C-EX-1) Zone.

f) Special Provisions


The following special provisions shall apply to all of the permitted uses within the Highway Commercial – Exception One (HC-EX-1) Zone:

1. An adult entertainment establishment shall not be located within 700 metres of a property that is occupied by one of the following uses:
 - i) Public or private school, or any other educational institution;
 - ii) Daycare, kindergarten, preschool, or any other child care facility;
 - iii) Public park or playground; and
 - iv) Place of worship.
2. An adult entertainment parlour must be located within a free-standing, single storey building and must be the sole use on a lot.
3. Adult entertainment establishments shall only be permitted on an interior lot.
4. A body rub parlour, adult specialty store or adult video store shall:
 - i) Only be permitted in a multi-use building; and
 - ii) Have a maximum gross floor area of 15% or 150m², whichever is less.
5. Adult entertainment establishments are only permitted on lots connected to full municipal services.
6. Accessory uses are not permitted in conjunction with any adult entertainment establishment and an adult entertainment establishment shall not be considered as an accessory use for the purposes of interpreting this By-law.”

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

READ A FIRST and SECOND time, this 24th day of September, 2018.

READ A THIRD time and FINALLY PASSED this 24th day of September, 2018.



Mayor



Clerk