

LICENCE

Chapter 329 ADULT LIVE ENTERTAINMENT PARLOUR

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Article 1
INTERPRETATION

329.1.1 Adult live entertainment parlour - defined

“adult live entertainment parlour” shall mean a lot and a building or structure or portion thereof in which or in part of which, in pursuance of a trade, calling, business or occupation, a live performance of an adult nature is provided.

329.1.2 Applicant - defined

“applicant” means every person who is required to obtain a licence pursuant to this Chapter, and includes a person who has made application for a licence to the Issuer of Licences but has not yet been granted a licence.

329.1.3 Application - defined

“application” means an application for a licence, including an application for the renewal or transfer of a licence, for a business to which this Chapter applies.

329.1.4 Appropriate authority - defined

“appropriate authorities” means:

- (a) with regard to health matters, the Medical Officer of Health;

- (b) with regard to building matters, the Chief Building Official;
- (c) with regard to fire safety matters, the Chief Fire Official; and
- (d) with regard to police matters, the Chief of Police.

329.1.5 Bona fide charitable organization - defined

“*bona fide* charitable organization” means an organization, including a church, established and operated for charitable purposes, that devotes its resources to charitable activities, and that has been granted the right to issue tax deductible charitable donation receipts by the Federal Government of Canada, but does not include a non-profit organization.

329.1.6 Business - defined

“business” means any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality and includes:

- (a) trades and occupations;
- (b) exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise;
- (c) the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader; and
- (d) the display of samples, patterns or specimens of goods for the purpose of sale or hire,

but does not include:

- (a) a manufacturing or industrial business, except to the extent that it sells its products or raw material by retail;
- (b) the sale of goods by wholesale; or
- (c) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

329.1.7 City - defined

“City” means the geographic region of the City of Brantford.

329.1.8 Committee - defined

“Committee” means the Mayor and members of Council sitting as the Committee of the Whole for the Corporation.

329.1.9 Corporation - defined

“Corporation” means The Corporation of the City of Brantford.

329.1.10 Council - defined

“Council” means the Municipal Council of the Corporation.

329.1.11 Chief Building Official - defined

“Chief Building Official” means the person who may, from time to time, be appointed by Council to the position of Chief Building Official in conformity with the provisions of the *Building Code Act, 1992*.

329.1.12 Chief Fire Official - defined

“Chief Fire Official” means the person who may, from time to time, be appointed by Council to the position of Chief of the Fire Department of the City of Brantford.

329.1.13 Chief of Police - defined

“Chief of Police” means the person who may, from time to time, be appointed by the Brantford Police Services Board to the position of Chief of Police of the Brantford Police Service.

329.1.14 Entertainer - defined

“entertainer” means a person who performs a live performance of an adult nature within an adult live entertainment parlour.

329.1.15 Inspector - defined

“inspector” includes the Issuer of Licences and his or her designate, Chief Fire Official and his or her designate, Chief Building Official, building inspectors appointed by Council, Medical Officer of Health, public health inspector, all police officers of the Brantford Police Service, and provincial offences officers.

329.1.16 Issuer of Licences - defined

“Issuer of Licences” means the Clerk of The Corporation of the City of Brantford or any other person so designated by Council to the position of Issuer of Licences.

329.1.17 Licence - defined

“licence” means a licence issued by the Issuer of Licences or Council, as the case may be, pursuant to this Chapter and the Schedules attached hereto, and shall include a temporary licence and a renewal licence.

329.1.18 Licensee - defined

“licensee” means a person who has been issued a licence pursuant to this Chapter and the Schedules attached hereto, and “licensed” shall have a corresponding meaning.

329.1.19 Live performance of an adult nature - defined

“live performance of an adult nature” means any performance, exhibition or activity designed to appeal to erotic or sexual appetites or inclinations. For the purposes of this definition: “performance, exhibition, or activity designed to appeal to erotic or sexual appetites or inclinations” means a live performance, exhibition, or activity of which a prin-

cial feature or characteristic is the nudity or partial nudity of any person.

329.1.20 Medical Officer of Health - defined

“Medical Officer of Health” means the Medical Officer of Health of the Brant County Health Unit.

329.1.21 Operate - defined

“operate” means to manage, oversee, supervise, control, or run an adult live entertainment parlour, and “operates”, “operation”, and “operating” shall have corresponding meanings.

329.1.22 Operator - defined

“operator” means a person who, alone or with others, operates, manages, supervises, oversees, runs or controls an adult live entertainment parlour and exercises control over the business conducted at the adult live entertainment parlour on behalf of the owner, and, without limiting the generality of the foregoing, includes an owner.

329.1.23 Owner - defined

“owner” means a person who, alone or with others, has the right to possess or occupy an adult live entertainment parlour, or actually does possess or occupy an adult live entertainment parlour, and who has control over or the right to control the business operations of the adult live entertainment parlour, and, without limiting the generality of the foregoing, includes a lessee of an adult live entertainment parlour and an operator who is also an owner.

329.1.24 Partial nudity - defined

“partial nudity” means less than completely and opaquely covered:

- (a) human genitals or human pubic region;
- (b) human buttock; or
- (c) the human breast below the point immediately above the top of the areola.

329.1.25 Person - defined

“person” includes a natural person, a corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.

329.1.26 Physical contact - defined

“physical contact” includes direct physical contact, indirect physical contact, and physical contact through the use of objects.

329.1.27 Premises - defined

“premises” means land, including any and all buildings or other structures thereon and includes any vehicle or conveyance used in the operation of the business.

329.1.28 Provided - defined

“provided” includes furnishing, soliciting, giving, or making available and “providing” or “provide” shall have corresponding meanings.

329.1.29 Unobstructed - defined

“unobstructed” means without obstruction by walls, structures, curtains or any other screen or enclosure.

329.1.30 Legislative references

Any reference to a statute in this Chapter includes a reference to all regulations made pursuant to such statute, all amendments made to such statute, and regulations in force from time to time, and to any statute or regulation which may be passed and which has the effect of supplementing or superseding such statute or regulations.

329.1.31 Time - Eastern Standard

Wherever any time is referred to in this Chapter, the same shall be considered Eastern Standard Time, except that when what is known as daylight saving time is in effect, the reference shall be considered to be to daylight saving time.

329.1.32 Generality of provisions

Wherever a provision of this Chapter requires compliance with a particular law, act, regulation, ordinance, by-law or policy, that provision shall be read not to limit the generality of any other term or provision in this Chapter also requiring compliance with a particular law or all laws, except where the provision expressly limits another term or provision of this Chapter.

**Article 2
GENERAL PROVISIONS**

329.2.1 Licences - delegated authority - Issuer of Licences

The Issuer of Licences is hereby delegated authority by Council to issue licences pursuant to the provisions of this Chapter.

329.2.2 Administration - Clerk’s Department

The Clerk’s Department of the Corporation is responsible for the enforcement and administration of this Chapter, unless otherwise specifically provided in this Chapter.

329.2.3 Severability - provisions

In the event that any provision or part of this Chapter is found by a court of competent jurisdiction to be invalid, unenforceable, or *ultra vires* the powers of the Corporation, said provision or part shall be severed from the rest of this Chapter and the remaining Schedules, terms and provisions of this Chapter shall nevertheless remain in full force and effect as if the offending provision or part had never been severed from this Chapter.

Article 3**APPLICANT - LICENSEE - COMPLIANCE****329.3.1 Operation - without licence - prohibited**

No person shall conduct, operate, maintain, or carry on the occupation or business of an adult live entertainment parlour unless such person first obtains one or more licences, as the case may be, for said business from the Issuer of Licences.

329.3.2 Operator - licence - required

In the event that an owner does not personally operate the adult live entertainment parlour, the owner shall not permit any person, other than an operator licensed under this Chapter, to operate the adult live entertainment parlour.

329.3.3 Entertainer - licence - required

No person shall perform as an entertainer unless he/she obtains a licence under this Chapter to do so.

329.3.4 Safe - clean - adult live entertainment parlour

Every applicant and licensee, shall, at all times, maintain and keep safe and clean, and in good condition and repair the adult live entertainment parlour.

329.3.5 Breach - existing by-law - statute - regulation

No applicant or licensee, shall cause, suffer, or permit any breach of any by-law of the Corporation or of any local board thereof, or of any statute, order-in-council, or regulation of the Legislature of the Province of Ontario or of the Parliament of Canada or of any agency, board or commission of either of them, in, upon or in connection with the object, amusement, place or premises, used for or in relation to the adult live entertainment parlour.

329.3.6 Compliance - all provisions - Chapter

Every applicant and licensee shall be responsible for full compliance with all provisions of this Chapter and shall be responsible for the due performance and observance of all the provisions of this Chapter by all other persons in or upon the premises, including but not limited to all entertainers in said adult live entertainment parlour, and persons with whom he/she enjoys a contractual relationship in respect of the adult live entertainment parlour.

329.3.7 Compliance - Zoning By-law

Subject to the *Municipal Act, 2001*, no person shall operate an adult live entertainment parlour in the City of Brantford except in accordance with express permissive provisions in the City's Zoning By-law 160-90, as amended, and in accordance with the provisions of this Chapter. No licence shall be issued pursuant to this Chapter unless and until the applicant demonstrates compliance with the City's Zoning By-law 160-90.

329.3.8 Admission - minimum age

No owner and no operator of an adult live entertainment parlour shall permit any person under the age of eighteen years to enter or remain in such adult live entertainment parlour or any part thereof. Entertainers within any adult live entertainment parlour shall produce proof of their age upon request by any Provincial Offences Officer.

329.3.9 Touching - not to be permitted by owner or operator

No owner or operator shall, in respect of any adult live entertainment parlour owned or operated by him/her, permit any entertainer, while performing a live performance of an adult nature, to have physical contact with any other person's body or to touch or be touched by another person.

329.3.10 Touching - entertainer - prohibited

No entertainer shall, while performing a live performance of an adult nature, touch, or have physical contact with another person.

329.3.11 Public view

No entertainer shall perform a live performance of an adult nature unless the same is performed within the clear and unobstructed view of all patrons of the adult live entertainment parlour who are present at the time of the performance.

329.3.12 Entertainer - not to perform in unlicensed facility

No entertainer shall perform in an adult live entertainment parlour which has not been licensed under the provisions of this Chapter.

329.3.13 Owner - operator - log book

Every owner or operator shall, in respect of any adult live entertainment parlour owned or operated by him or her, maintain a log book in which the legal name and stage name, if any, of all entertainers shall be recorded. The said log book shall be produced by the owner or operator upon request by any Provincial Offences Officer.

329.3.14 Owner - operator list

Every owner of an adult live entertainment parlour is required to keep a current list of operators on file with the Issuer of Licences and shall submit a new list of operators within seven calendar days of any changes to the operator list.

329.3.15 Owner or operator - present on premises

Every owner must ensure that when the premises are open for business as an adult live entertainment parlour there is an operator, which may include an owner operating his/her own adult live entertainment parlour, in charge of the premises and the business at all times.

Article 4**LICENCE - APPLICATION****326.4.1 In writing - form - fee - requirements**

Every applicant for an adult live entertainment parlour licence shall apply in writing, on a form provided by the Issuer of Licences, and shall deposit the required licence fee with the Issuer of Licences at the time of application.

329.4.2 Entertainer - licence - application

Every applicant for an entertainer's licence shall fully complete and file, in person, with the Issuer of Licences an application as provided by the Issuer of Licences, along with the prescribed licence fee.

329.4.3 Issue - licence - prior to payment - prohibited

The Issuer of Licences shall not issue a licence until all fees required pursuant to this Chapter are paid in full.

329.4.4 Licence - fee - Schedule 'A'

The fees for each licence issued under this Chapter are set out in Schedule "A" to this Chapter and may be amended from time to time upon approval by Council.

329.4.5 Licence - fee - no refund

No person shall be entitled to a full or partial refund of any fee required to be paid pursuant to this Chapter, except where the Issuer of Licences, in his or her sole discretion, determines that a full or partial refund is justified in the circumstances.

329.4.6 Application - requirements

Every application for a licence shall contain all of the following information:

- (a) the name of the applicant, along with two forms of the applicant's current identification with at least one form being photo identification;
- (b) if a corporation, a copy of the constating documents of the corporation and a copy of the master business licence of the corporation;
- (c) the applicant's address;
- (d) original documents from the issuing agency outlining the results of investigations related to the applicant for a Police Clearance Certificate with vulnerable sector screening, dated no less than thirty days prior to the date of application for a licence or renewal; and
- (e) if the application is for an adult live entertainment parlour licence:
 - (i) a current list containing the first and last name along with date of birth for every person that will be acting in the capacity of an operator at the adult live entertainment parlour; and
 - (ii) a brief description of the premises used for engaging in or carrying on of the business, including the address and a description of the building or such part of it as is to be used for the business.

Additional information may be requested by the Issuer of Licences in his/her sole discretion, and must be set out on the application form provided to the applicant.

329.4.7 Application - complete

Only complete applications will be accepted by the Issuer of Licences. Applications not containing all of the information, documentation and fees requested of the applicant shall be automatically rejected.

329.4.8 Separate - each premises

Every person required to obtain one or more licences pursuant to this Chapter shall make a separate application for each premises used or sought to be used in connection with the business licensed or required to be licensed pursuant to this Chapter.

329.4.9 Renewal licence - late payment - administrative fee

Should payment for a renewal licence not be received by the Issuer of Licences prior to the date of expiration of the licence, the renewal of said licence shall be subject to an administrative fee as set out in Schedule 'A'.

329.4.10 Renewal Licence - expiration - new application

If a licence is not renewed within 60 days from the date of expiration of said licence, no renewal of the licence shall be granted and the licensee must complete an application for a new licence and must pay all fees applicable to said application.

Article 5 LICENCE - ISSUE

329.5.1 Application - received - action required

Upon receipt of a complete application for a licence, including an application for the renewal or transfer of a licence, the Issuer of Licences shall:

- (a) refer the application to the appropriate authorities who have an interest in the business in question and/or who are required or permitted to carry out inspections under the terms of this Chapter;
- (b) receive reports from such appropriate authorities;
- (c) inquire into all relevant matters in order to ascertain if the applicant is entitled to a licence under the provisions of this Chapter; and
- (d) where the application is for the renewal of a licence, inquire into any and all relevant changes in circumstances since the previous licence was issued to the applicant.

329.5.2 Inspection - waived - renewal licence

Notwithstanding Section 329.5.1, where the application is for the renewal of an existing adult live entertainment parlour licence, and the Issuer of Licences determines, in his/her sole discretion, that a current inspection of the premises used in pursuit of the adult live entertainment parlour is not required, he/she may issue a licence to the applicant without first requiring a current inspection of the premises, if he/she is also satisfied that the applicant meets all other requirements of this Chapter and is entitled to a renewal of the licence pursuant to the provisions of this Chapter.

329.5.3 Yearly licence

A yearly licence for an adult live entertainment parlour shall authorize the operation of an adult live entertainment parlour at the premises described on the licence and shall expire on March 31st in the year following the year in which the licence was issued.

329.5.4 Yearly licence - limitation

At any given time, not more than two yearly licences shall have been issued for the operation of adult live entertainment parlours in the City of Brantford.

329.5.5 Single occasion licence

A single occasion licence for an adult live entertainment parlour shall authorize the operation of an adult live entertainment parlour for a period not exceeding six hours duration on the date and at the premises described on the licence.

329.5.6 Single occasion licence - limitation

During any calendar year, no applicant shall receive more than one single occasion licence for the operation of an adult live entertainment parlour.

329.5.7 Single occasion licence - maximum annually

During any calendar year, not greater than a total of six single occasion licences shall be issued for the operation of adult live entertainment parlours.

329.5.8 Entertainer - licence

A licence for an entertainer shall authorize only the person named in the identification issued by the Issuer of Licences to work as an entertainer within the City of Brantford for the period for which it was issued, as identified on the licence.

329.5.9 Licence - issued

Once all of the requested information is received by the Issuer of Licences, including a complete application and the applicable fee from the applicant, and upon being satisfied that the applicant is entitled to a licence pursuant to the provisions of this Chapter, the Issuer of Licences shall prepare and issue a licence to the applicant.

329.5.10 Licence - issue contrary to law - prohibited

No licence shall be granted for any purpose which is contrary to any statute, by-law or law.

329.5.11 Form of licence - information required

Every licence issued by the Issuer of Licences shall be in such form and contain such content as may be approved by the Issuer of Licences from time to time and must include all of the following:

- (a) the kind or class of licence granted;
- (b) the period of time for which the licence is granted, including the date of expiration;
- (c) the name and address of the licensee;
- (d) the name of the business, if applicable;
- (e) the address of the premises for which it was issued, if applicable; and
- (f) the signature of the Issuer of Licences.

329.5.12 Entertainer - licence - identification card

Every person to whom an entertainer's licence has been issued shall attend before the Issuer of Licences, or his/her designate, and shall be photographed, and the Issuer of Licences shall issue an identification card to said licensee, which identification card shall contain the photograph of said licensee.

329.5.13 Entertainer - identification card - production of same

Every entertainer shall produce his/her identification card upon request by any Provincial Offences Officer.

329.5.14 Licence - posted - visible

Every licensee shall post the licence on the premises, or that part thereof to which the licence pertains, in such a position that the licence may readily be seen and read by persons entering on to or using the premises.

329.5.15 Inspection - all reasonable times - authority

The Issuer of Licences, the appropriate authorities having jurisdiction, the Chief of Police, any provincial offences officer, or any agent or employee of such persons, may, at any time of the day or night, inspect or cause to be inspected the premises, facilities, equipment, required records and other personal property used or kept in connection with the carrying on of an adult live entertainment parlour that is licensed or required to be licensed pursuant to this Chapter.

329.5.16 Property - of Corporation - no vested right

No person shall enjoy a vested or property right in any licence or in any right granted by a licence, but such licence and such rights remain the property of the Corporation.

329.5.17 Destroyed - re-issue - duplicate - fee

In the event that a licence issued under this Chapter is lost or destroyed, the Clerk, upon notice from the licensee and receipt of payment of the fee set out in Schedule 'A' attached hereto, shall issue a duplicate of the

original licence, upon which there shall be stamped or marked the word “duplicate.”

329.5.18 Transfer - prohibited - exceptions

No licence shall be transferred except as follows:

- (a) the licensee submits an application to transfer a licence to the Issuer of Licences, which application shall include an application for a licence completed by the proposed transferee;
- (b) the proposed transferee meets all the requirements as set out by this Chapter to acquire a licence; and
- (c) the transferor surrenders his or her licence for the business at the time that the licence is granted to the transferee.

329.5.19 Transfer - no refund

Where the transfer of a licence is permitted pursuant to this Chapter, the transferor shall not be entitled to a refund of any part of the licence fee even where he/she surrenders the licence in order to complete a transfer.

329.5.20 Expiry - March 31 - unless otherwise provided

Unless otherwise provided in this Chapter, every licence issued under this Chapter shall expire on the 31st day of March in the calendar year following the calendar year in which it was issued.

**Article 6
TEMPORARY LICENCE**

329.6.1 Licence - temporary - adult live entertainment parlour

When the Issuer of Licences receives an application for a new, renewal, or transfer of an adult live entertainment parlour licence, he/she may issue a temporary licence to the applicant which temporary licence shall list the specific requirements or conditions which must be fulfilled in order to attain final approval.

329.6.2 Licence - temporary - expiry

A temporary licence issued pursuant to Section 329.6.1 shall expire within three months of issuance unless otherwise determined by the Issuer of Licences and specifically indicated on the temporary licence. For all temporary adult live entertainment parlour licences, the duration of the licence shall be identified on the face of the licence.

329.6.3 Licence - issue - meeting of conditions

Once the Issuer of Licences is satisfied that the applicant is entitled to a business licence, the Issuer of Licences shall prepare and issue a licence to the said applicant and the temporary licence issued pursuant to Section 329.6.1 shall be deemed to have automatically expired as of the date of the issuance of the full licence.

329.6.4 Entertainer - temporary licence - duration

A temporary licence issued to an entertainer is valid for a period not to exceed twenty-four hours from the time of issue, except where the licence is issued to an entertainer for the purpose of providing entertainment at an event licenced under a single occasion licence, in which case the temporary licence is only valid for the time period specified on the single occasion licence issued for that event. For all temporary entertainer licences, the duration of the validity of a temporary licence shall be identified on the face of the licence.

329.6.5 Entertainer - temporary licence

An entertainer who applies for a temporary licence may complete and file an application form through an agent and not by personal attendance, and such agent may produce photostatic copies of the forms of identification required on the said application form instead of producing originals.

329.6.6 Entertainer - temporary licence - fee transfer

The fee from an entertainer's temporary licence may be transferred to that entertainer's annual licence within the calendar year of the issuance of the temporary licence, if the entertainer subsequently applies for an annual entertainer's licence pursuant to this Chapter.

Article 7**LICENCE - REFUSAL - SUSPENSION - REVOCATION****329.7.1 Refusal - issue - non-compliance**

The Issuer of Licences shall refuse to issue a licence to any applicant who does not comply with the requirements of this Chapter.

329.7.2 Refusal - revocation - conduct

The Issuer of Licences may refuse to grant a licence to any applicant, or may revoke or suspend a licence of any licensee, where the Issuer of Licences has reasonable cause to believe that said applicant or licensee, including the officers, agents, directors, employees or agents of the applicant or licensee where the applicant or licensee is a corporation, will not carry on or engage in the business in accordance with the law or with honesty and integrity.

329.7.3 Refusal - revocation - previous non-compliance

In making the determination to refuse to issue or to revoke a licence pursuant to Section 329.7.2, the Issuer of Licences may take into consideration the licensee or applicant's past breaches of this Chapter or failure to comply with the requirements of other applicable by-laws of the City of Brantford or of any local board thereof, or failure to comply with any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada, or of any agency, board or commission thereof, in, upon or in connection with the licensed activity and/or the premises, facilities, equipment, and other personal property used or kept in connection with the business.

329.7.4 Suspension - immediate danger - health and safety

The Issuer of Licences may, without a hearing, suspend a licence for a period not to exceed fourteen days, upon providing the licensee with written or verbal reasons for the suspension, where, in the sole opinion of the Issuer of Licences, the continuation of the business poses an immediate danger to the health or safety of any person or to any property.

329.7.5 Operation - under suspension - revocation - prohibited

No person shall engage in or continue to conduct, or permit any person to engage in or continue to conduct, any business for which a licence is required under this Chapter while such licence is suspended or revoked under the provisions of this Chapter

329.7.6 Suspension - immediate danger - reinstatement

Where the Issuer of Licences suspends a licence in accordance with Section 329.7.4, the Issuer of Licences shall provide the licensee with a list of conditions which the licensee must satisfy in order to bring the licensed activity into compliance with this Chapter and, upon satisfaction of the conditions, the licence shall be reinstated by the Issuer of Licences.

329.7.7 Suspension - immediate danger - revocation

Where the Issuer of Licences suspends a licence in accordance with Section 329.7.4 and the licensee fails or refuses to satisfy the conditions provided by the Issuer of Licences in accordance with Section 329.7.6, the Issuer of Licences shall revoke the licence within fourteen days of the suspension of the licence, due to failure to comply with the provisions of this Chapter.

329.7.8 Refusal - notice - grounds - appeal - limitation

Where the Issuer of Licences refuses to issue a licence to any applicant, or where the Issuer of Licences revokes the licence of any licensee, the Issuer of Licences shall notify the applicant or the licensee, as the case may be, in writing of such decision. Said notice shall set out the grounds upon which the issuance of the licence is refused, or upon which the licence is revoked, and shall state that the applicant or the licensee may appeal such decision by filing an appeal with the Issuer of Licences within fifteen days as set out in this Chapter.

329.7.9 Appeal - in writing - to Council

Where the Issuer of Licences refuses to grant a licence or revokes a licence under this Chapter, the applicant or licensee may appeal this decision to Council by filing with the Issuer of Licences an appeal of the said decision in writing within fifteen days of being notified of the decision of the Issuer of Licences.

329.7.10 Appeal - procedures

Upon receipt of an appeal from the applicant or the licensee, the Issuer of Licences, the Committee, and Council shall follow the procedure set out in Article 8.

Article 8**APPEAL - COMMITTEE - COUNCIL - AUTHORITY****329.8.1 Notice of hearing - mailed - form**

Where an appeal of the decision of the Issuer of Licences to revoke or refuse to issue a licence is filed pursuant to the provisions of this Chapter or a predecessor thereof, the Issuer of Licences shall fix a date and time for such matter to be considered by the Committee of the Whole, and shall mail a notice of hearing, in the form set out in Schedule 'B', to the applicant or the licensee, as the case may be, at the last address shown in the records of the Issuer of Licences, and to any other person who has applied to the Issuer of Licences be heard with regard to the matter.

329.8.2 Notice of hearing - mailed - prior to hearing

A notice of hearing issued pursuant to Section 329.8.1 shall be mailed at least fourteen days prior to the date and time fixed for such hearing.

329.8.3 Hearing - report - received - verbal - written

At a hearing of an appeal filed pursuant to this Chapter, the Committee shall receive a report, either verbally or in writing, from the Issuer of Licences, which report shall contain input from such other officers or employees of the Corporation who may be involved in the matter being considered by Council.

329.8.4 Hearing - licensee - opportunity - to present evidence

At the hearing before the Committee, the licensee or applicant, either personally or through an agent or legal counsel, shall be afforded an opportunity to present such material and evidence relevant to the issue before the Committee as the licensee or applicant may deem expedient, and he/she may ask questions of any person presenting evidence or a report to Committee relevant to the said issue, except where said report is delivered by a solicitor for the Corporation or is received by Council or the Committee in camera.

329.8.5 Hearing - other person - heard - Committee - discretion

The Committee may, in its sole discretion, afford any other person who applies to be heard and who appears to have an interest in the matters under discussion an opportunity to present material and evidence relevant to the issue before the Committee, and to ask questions of any person presenting evidence or a report to the Committee relevant to the said issues, except where said report is delivered by a solicitor for the Corporation or is received by Council or the Committee in camera.

329.8.6 Committee - debate

The Committee may, after having heard all of the evidence and submissions made to it by the licensee and the Issuer of Licences, debate the matter to reach its recommendation.

329.8.7 Quorum - Committee

For the purposes of this Article, a quorum of the Committee shall be a majority of the members of the Committee, and a recommendation adopted by the majority of members present shall be the recommendation of the Committee.

329.8.8 Committee - in camera - advice

Nothing in this Chapter shall preclude the Committee or Council from moving in camera, pursuant to the *Municipal Act, 2001* or other relevant legislation, to receive information or provide direction with respect to a recommendation or decision made pursuant to this Chapter.

329.8.9 Decision - confirmed by resolution - copy provided

The recommendation made by the Committee shall be presented to Council in open session to be adopted by resolution of Council, and a certified copy of the final resolution of Council shall be mailed to the applicant or licensee, to any person who has appeared before the Committee and requested that a copy of the resolution be provided to them, and to the Issuer of Licences.

329.8.10 Terms - decision - final

Council may grant a licence, refuse to grant a licence, revoke a licence, or suspend a licence and may make any suspension of licence subject to such terms or conditions as Council may prescribe, in its sole discretion, and a decision made pursuant to the exercise of these powers is final and binding upon the applicant or any licensee, as the case may be.

329.8.11 Considerations - to be regarded

Council, in considering whether or not to grant a licence, refuse to grant a licence, or to revoke or suspend a licence, shall have regard to the provisions set out in Sections 329.8.12 through 329.8.15 inclusive.

329.8.12 Compliance - premises - vehicles - equipment

The Council shall have regard to whether or not the applicant, licensee and the premises, facilities, equipment, and other personal property used or kept for hire in connection with the carrying on of a business which is licensed or which is required to be licensed pursuant to this Chapter, complies with all requirements of this Chapter.

329.8.13 Remedy - reasonable complaint - received

The Council shall have regard to whether or not the applicant or licensee has failed to promptly remedy any reasonable complaint received with regard to those matters set out in Sections 329.3.1 through 329.3.6 inclusive or has committed past breaches of this Chapter or any predecessor thereof.

329.8.14 Failure - to comply - by-law - statute - regulation

The Council shall have regard to whether or not the applicant or licensee has failed to comply with any requirements of any other applicable by-law of the City or any local board thereof or of any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada, or of any agency, board or commission thereof, in, upon or in connection with the licensed activity or the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of a business which is licensed or which is required to be licensed pursuant to this Chapter or any predecessor thereof.

329.8.15 Fines - unpaid

The Council shall have regard to whether or not the applicant or licensee has any unpaid fines imposed under the *Provincial Offences Act*, as amended, for the contravention of the Chapter under which the licence was granted, if the fine or any part of the fine is due and unpaid for fifteen days or more.

Article 9 ENFORCEMENT

329.9.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter, is guilty of an offence and upon conviction is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both.

329.9.2 Fine - for contravention - corporation

Where the owner or operator of an adult live entertainment parlour is a corporation, it shall, upon conviction under Section 329.6.1, be liable to a fine not exceeding \$50,000, and not as provided in Section 329.6.1.

329.9.3 Fine - for contravention - director - officer

Where the owner or operator of an adult live entertainment parlour is a corporation, every director or officer of the corporation who concurs in a contravention of this Chapter by the corporation is guilty of an offence and upon conviction shall be liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both.

329.9.4 Fine - inspection - prevented

Any person who refuses to allow the carrying out of an inspection authorized pursuant to Section 329.5.15 of this Chapter is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty pursuant to the provisions of the *Provincial Offences Act*, as amended.

329.9.5 Authority - municipal - provincial officers

The provisions of this Chapter shall be enforced by municipal by-law enforcement officers, by any provincial offences officers, and by police officers of the Brantford Police Service.

329.9.6 Prohibition order - municipality

Pursuant to the provisions of section 444 of the *Municipal Act, 2001*, S.O. 2001, c. 25, where the Corporation is satisfied that a contravention of this Chapter has occurred, the Corporation may make an order requiring the person who contravened this Chapter, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity. Any person who fails to comply with an order under this Section is guilty of an offence and shall, upon conviction, forfeit and pay a penalty pursuant to the provisions of the *Provincial Offences Act*, as amended.

329.9.7 Prohibition order - courts

Where a person has been convicted of an offence under this Chapter, the Ontario Court of Justice (Provincial Offences Court) in Brantford, or any court of competent jurisdiction thereafter, may, in addition to any other penalty or order imposed, make an order prohibiting the continuation or repetition of the offence of the doing of any act or thing by the person convicted, directed toward the continuation of the repetition of the offence.

329.9.8 Restraining order

Pursuant to the provisions of section 440 of the *Municipal Act, 2001*, S.O. 2001, c.25, in addition to any other remedy and to any penalty imposed by this Chapter the contravention of this Chapter may be restrained by action or application at the instance of the City.

Article 10**REPEAL - ENACTMENT****329.10.1 By-laws - previous**

Chapter 329 of the City of Brantford Municipal Code, and all amendments thereto, are hereby repealed, but all licences heretofore issued shall, during the period for which the same have been issued, remain in full force and effect unless for other reasons the same are suspended or revoked, provided that such repeal shall not affect any offence committed against the said by-laws or Chapters mentioned in this Section or any penalty incurred in respect thereof, or any investigation, legal proceeding or remedy thereunder, and any such investigation, legal proceeding or remedy may be continued or enforced and any such penalty may be imposed as if the said by-laws and amendments had not been repealed.

329.10.2 Effective date

This Chapter shall into effect immediately upon passage. By-law 115-2013, 18 November, 2013; Appendix 'B'.

SCHEDULE**Schedule 'A' - Fees and Charges**

Licensing Fees

	New	Renewal	Pro-Rated Fee as of October 1 New Licences Only
Adult Live Entertainment Parlour	1851.00	1754.00	925.50
Adult Entertainer	330.00	215.00	165.00
Adult Entertainment Single Occasion	161.00	n/a	
Adult Entertainer Temporary Licence	330.00	n/a	165.00
Late Payment Fee	50.00		
Administration Cost	100.00		

By-law 115-2013, 18 November, 2013; Appendix 'B'; Schedule 'A'.

Schedule ‘B’ - Notice of Hearing

NOTICE OF HEARING

In the matter of an appeal of the decision of the
Issuer of Licences pursuant to Chapter 329 of
The City of Brantford Municipal Code

To:

NOTICE IS HEREBY GIVEN that the Committee of the Whole of The Corporation of the City of Brantford shall conduct a hearing at o'clock in the evening, or so soon after that time as the matter can be heard, in the Council Chambers at 100 Wellington Square, Brantford, Ontario for the purpose of considering the following:

(describe matters to be considered, including the name of the licensee or proposed licensee, and the variety of licence in dispute)

AND FURTHER TAKE NOTICE that if you fail to attend at this hearing the matters in dispute may be concluded without further notice to you.

Dated at Brantford thisday of, 20

.....

Clerk

By-law 115-2013, 18 November 2013; Appendix ‘B’; Schedule ‘B’.