

being a by-law to regulate the display of adult magazines and videotapes in the City of Oshawa.

Whereas Section 225 of the *Municipal Act*, R.S.O. 1990, M.45, provides for regulation of the display and sale of adult magazines and videotapes;

Now Therefore the Council of the Corporation of the City of Oshawa enacts as follows:

1. For the purposes of this by-law:
 - (1) “adult magazine” means any magazine designed to appeal to erotic or sexual appetites or inclinations through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by:
 - (a) the portrayal of one or more persons involved or engaging in specified sexual activities; or
 - (b) by an emphasis on the display of human specified body areas.
 - (2) “adult videotape” means any videotape designed to appeal to erotic or sexual appetites or inclinations, through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by:
 - (a) the portrayal of one or more persons involved or engaging in specified sexual activities; or
 - (b) by an emphasis on the display of human specified body areas.
 - (3) “adult magazine or videotape area” means a definite identifiable premises or part of a premises devoted principally to the provision of adult magazines or videotapes, or of such videotapes or magazines and any other goods designed to appeal to erotic or sexual appetites or inclinations.
 - (4) “operator” means every person:
 - (a) who provides, in any premises or part thereof, in pursuance of trade, calling, business or occupation, either or both adult magazines, or adult videotapes; or
 - (b) who operates any premises or part thereof in which either or both such magazines or such videotapes are so provided.
 - (5) “specified body areas” means any or more of the following:
 - (a) in the case of a female person, her nipples or areolae; and
 - (b) in the case of all persons, the genitals, perineum or the anus.
 - (6) “specified sexual activities” means one or more of actual or simulated sexual intercourse, masturbation, urination, defecation, ejaculation, sodomy, including bestiality, anal intercourse, oral sexual intercourse, direct physical stimulation of unclothed genital organs, and flagellation or torture in the context of a sexual relationship or activity.
2. Every operator who provides adult magazines in any premises or part thereof, other than an adult magazine or videotape area, or who operates such premises or part thereof, shall comply with the following regulations in respect of such premises or part thereof:
 - (1) No adult magazines shall be displayed at a height of less than 1.5 metres above floor level, unless such magazine is in a part of the premises to which the public is not permitted physical access;
 - (2) All adult magazines offered for sale or displayed in such premises, or part thereof, shall be placed behind an opaque barrier of a size and nature which

shall ensure that the cover of every such magazine while being so displayed, except for the name thereof, may not be seen by any member of the public.

3. Every operator who provides adult videotapes in any premises or part thereof, other than an adult magazine or videotape area, or who operates premises or part thereof, in which such videotapes are provided, shall comply with the following regulations in respect of such premises or part thereof:
 - (a) no adult videotape or cover or container thereof shall be displayed at a height of less than 1.5 metres above floor level, unless such videotape is in a part of the premises to which the public is not permitted physical access;
 - (b) all adult videotapes offered or displayed for provision in such premises or part thereof shall be placed behind an opaque barrier of a size and nature which shall ensure that the cover or container of every such videotape while being offered or displayed, except for the name thereof, may not be seen by any member of the public.
4. Every operator who provides adult magazines or videotapes in any premises or part thereof may provide an adult magazine or videotape area provided that every operator shall post and keep posted at every entrance to such adult magazine or videotape area, signs sufficient to indicate that such adult magazine or videotape area is only available for the use of adults.
5. Any operator who, in respect of premises or part thereof operated by him, in which he provides or in which is provided adult magazines or videotapes, provides an adult magazine or videotape area in respect of all such magazines or videotapes provided therein, shall not be required to comply with Sections 2. or 3.
6. Every person who contravenes this by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable, if an individual, to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding one year, or to both, and, if a corporation, to a fine not exceeding \$5,000.
7. This by-law shall be deemed to be in force from the first day of January, 1994.

By-law read a first, second and third time and finally passed this sixth day of December, 1993.

2005 06 16