

**THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
BY-LAW NO. _____**

**Being a By-law to adopt Amendment No. 12 to the
Official Plan of the Town of The Blue Mountains**

The Council of The Corporation of the Town of The Blue Mountains in accordance with the provisions of Sections 17 and 21 of the *Planning Act*, R.S.O. 1990, c. P.13, hereby enacts as follows:

1. Amendment No. 12 to the Official Plan of the Town of The Blue Mountains, is hereby adopted.
2. The Clerk is hereby authorized and directed to submit Amendment No. 12 together with the required record, to the appropriate Approval Authority for approval.
3. This By-law shall come into force and take effect on the day of the final passing by Council, subject to any approval necessary pursuant to the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

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

Enacted and passed this _____ day of _____, 2010.

Ellen Anderson, Mayor

Corrina Giles, Town Clerk

I hereby certify that the foregoing is a true copy of By-law No. _____ as enacted by the Council of The Corporation of the Town of The Blue Mountains on the _____ day of _____, 2010.

DATED at _____

this _____ day of _____, 2010.

Signed: _____
Corrina Giles, Town Clerk

**AMENDMENT NO. 12
TO THE
OFFICIAL PLAN
OF THE
TOWN OF THE BLUE MOUNTAINS**

_____, 2010

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TOWN OF THE BLUE MOUNTAINS**

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**AMENDMENT NO. 12 TO THE
TOWN OF THE BLUE MOUNTAINS
OFFICIAL PLAN**

THE CONSTITUTIONAL STATEMENT

PART A - THE PREAMBLE does not constitute a part of this Amendment.

PART B - THE AMENDMENT consisting of the following text constitutes Amendment No. 12 to the Official Plan for the Town of The Blue Mountains.

PART A - THE PREAMBLE

1. PURPOSE

The purpose of this Amendment is to establish policies for adult entertainment uses in the Town of The Blue Mountains Official Plan.

2. LOCATION

This Amendment amends the policies of the Town's Official Plan by permitting adult entertainment establishments only on lands designated "Employment Lands" and establishing policies for the location and built form of these uses. A key map has not been provided as the Amendment potentially applies to all lands designated "Employment Lands" in the Town.

3. BASIS

Overview

This Amendment is prepared in response to the need to plan for and regulate adult entertainment establishments in the Town of The Blue Mountains. The Official Plan does not currently provide policies specific to adult entertainment establishments in the municipality. There are a number of distinct uses that fall under the adult entertainment establishments "umbrella". The first is the adult entertainment parlour which functions as a bar/night club/restaurant. Other uses include body rub parlours, adult video stores and adult specialty stores which are further defined in this Amendment.

On January 26, 2009, Council passed Interim Control By-law (ICBL) No. 2009-9 to effectively apply a Town-wide prohibition on the use of any land, buildings or structures for the purposes of adult entertainment establishments and drive-through facilities for a period of twelve (12) months. On December 14, 2009, Council passed By-law No. 2009-83 to extend the ICBL for an additional six (6) months, to July 26, 2010. On June 28, 2010, Council passed By-law No. 2010-45 to provide for a further and final extension to the ICBL to January 25, 2011.

The ICBL provided the Town with the opportunity to comprehensively study the issues, and establish appropriate policies and regulations to guide the establishment and use of these types of establishments. Meridian Planning Consultants Inc. was retained by the Town to undertake the Study which resulted in four (4) possible options for regulating these uses. The preferred option of permitting adult entertainment uses on lands designated "Employment Lands" subject to criteria is the basis for this Amendment. This Amendment would permit adult entertainment establishments on lands designated "Employment Lands" subject to criteria in a new Adult Entertainment Establishments Section in the General Development Policies Section of the Plan. This new Section includes a requirement for a site-specific amendment to the Zoning By-law(s) for any adult entertainment establishment, defines adult entertainment uses and provides criteria/policies for the location and built form of these uses. Criteria/policies include minimum separation distances from incompatible and sensitive land uses such as residential, institutional, parks and retail commercial uses, prohibiting these uses on main transportation corridors and corner lots due to concerns with high visibility of such uses, and restricting adult entertainment parlours to free-standing, single storey buildings where there is only one use on the lot.

In addition to the ability to control uses under the *Planning Act*, municipalities have the right to license, regulate and govern any business located within the municipality under the *Municipal Act*. As permitted under the *Municipal Act*, the Town may enact a Licensing By-law to further define areas where adult entertainment uses may operate, limit the number of uses in the defined area(s), and contain other provisions including a prohibition on persons under the age of 18 years and identifying powers of entry.

PART B - THE AMENDMENT

All of this part of the document entitled “Part B - The Amendment” consisting of the following text constitutes Amendment No. 12 to the Official Plan of The Town of The Blue Mountains.

DETAILS OF THE AMENDMENT

The Official Plan is hereby amended as follows:

Item 1: **Section 3 GENERAL DEVELOPMENT POLICIES** is hereby amended by adding the following new subsection:

“3.23 Adult Entertainment Establishments”

(1) Adult entertainment establishments are only permitted on lands designated Employment Lands EL and subject to the definitions and policies of this section.

(2) The following definitions shall apply with respect to adult entertainment establishments:

- (a) “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:

“goods” includes books, magazines, pictures, slides, film, disks, phonograph records, prerecorded magnetic tape and any other viewing or listening matter, clothing and accessories;

“services or entertainment” includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the *Theatres Act*;

“services or entertainment which are designed to appeal to erotic or sexual appetites or inclinations” and includes,

i) 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,

ii) 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.

- (b) “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 purposes of the definition adult entertainment parlour, the following definitions also apply:

“services” includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the *Theatres Act*,

“services designed to appeal to erotic or sexual appetites or inclinations” includes,

i) services of which a principal feature or characteristic is the nudity or partial nudity of any person;

ii) services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or picture, symbol or representation having like meaning or implication as used in any advertisement.

(c) “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 or sexual appetites, but does not include a retail store or convenience retail store.

(d) “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.

(e) “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.

(f) “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) Regulations relating to the location of adult entertainment establishments shall be included in the Parent Zoning By-law(s) and shall implement the following policies:

(a) A site-specific amendment to the Zoning By-law(s) will be required to permit any adult entertainment establishment.

(b) A minimum separation distance of 800 metres is required between adult entertainment establishments and sensitive land uses such as residential, institutional, parks and retail commercial uses.

(c) Properties containing adult entertainment establishments shall not abut a Provincial Highway, County Road or Town arterial road.

(d) An adult entertainment parlour must be located within a free-standing, single storey building and must be the sole use on a lot.

(e) A body rub parlour, adult specialty store or adult video store is permitted in a multi-occupancy building to a maximum of 15% of the gross floor area of the building or 150 m², whichever is less.

(f) Accessory uses are not permitted in conjunction with any adult entertainment establishment and an adult entertainment establishment shall not be considered an accessory use.

- (g) Adult entertainment establishments are prohibited on corner lots and lots not connected to full municipal services.
- (3) Council must be satisfied that traffic from an adult entertainment establishment can be accommodated on area roads and will not conflict with truck traffic, and that an appropriate amount of parking and landscaping is located on site.
- (4) Council shall consider the passage of a Licensing By-law under the Municipal Act to further implement the policies of this Plan and regulations under the Zoning By-law(s). Any required license shall not be issued for an adult entertainment establishment unless such use is permitted under the implementing Zoning By-law, and in compliance with all applicable requirements, including the policies of this Plan. In the event that there is any non-compliance with any of the aforementioned controls, for any reason whatsoever, the Town may refuse to issue or renew, and may revoke, any required license, in which case the use must cease.

Item 2: **Section 4.22 Employment Lands EL** is hereby amended by adding the following new subsection at the end of subsection 4.22.2 (2):

“(g) adult entertainment establishments, as provided under Section 3.23.”

IMPLEMENTATION AND INTERPRETATION

The implementation and interpretation of this Amendment shall be in accordance with the respective policies of the Official Plan, as well as through Zoning By-law Amendments pursuant to the *Planning Act* and other relevant legislation.