

THE CORPORATION OF THE TOWN OF
NEW TECUMSETH

BY-LAW

Number 2002-182

"ADULT ENTERTAINMENT PARLOUR BY-LAW"

To provide for licensing, regulating, governing
classifying and inspecting adult entertainment
parlours or any class or classes thereof

WHEREAS the *Municipal Act*, R.S.O. 1990, c. M.45, Section 109, grants the municipality the Power to License; Section 225 authorizes the municipality to license, regulate, etc. adult entertainment parlours; and Section 320, grants the municipality the Power to Impose Fines.

AND WHEREAS the *Provincial Offences Act*, R.S.O. 1990, c. P.33, Section 61 provides that except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$5,000.

NOW THEREFORE the Council of The Corporation of the Town of New Tecumseth does hereby enact as follows:

1. That no person shall operate, permit or maintain the business, trade or occupation of an adult entertainment parlour within the Town of New Tecumseth without first having obtained a licence to do so.

2. DEFINITIONS

For the purpose of this By-Law:

"Adult Entertainment Events" means any premises or part thereof in which the business carried on is to provide entertainment for no more than 1 business day in a consecutive 120 day period.

"Adult Entertainment Parlour" means any premises, or part thereof, in which the business carried on 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;

"Attendant" when used in reference to an adult entertainment parlour means any person who provides, at or in an adult entertainment parlour, services designed to appeal to erotic or sexual appetites or inclinations;

"Gross Floor Area" means all occupiable space in a building used for the business;

"Licensing Officer" means the Town authorized licensing person, Town Clerk or Town Deputy Clerk;

"Operator" means a person who alone or with others has the right to possess or occupy an adult entertainment parlour and includes the manager or his or her delegate who shall be on the premises at all times and who shall be at least nineteen (19) years of age;

"Owner" means a person who alone or with others has the right to possess or

occupy an adult entertainment parlour and includes a lessee of an adult entertainment parlour or of premises upon which an adult entertainment parlour is located;

"To Provide" when used in relation to services includes to furnish, perform, solicit or give such services and "providing" and "provisions" have corresponding meanings;

"Services" includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of a film approved under the *Theatres Act*,

"Services Designed to Appeal to Erotic or Sexual Appetites or Inclinations" (as defined under Adult Entertainment Parlour) includes:

Services of which the principal feature or characteristic is the nudity or partial nudity of any person,

Services in respect of which the word "nude", "naked", "topless", "bottomless", "Sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

3. LICENSING REQUIREMENTS

- 3.1 If the applicant is an individual, the applicant shall file with the application, his full name, birth date and mailing address.
- 3.2 If the applicant is a corporation, the applicant shall file with the application the full name and birth date of every shareholder or other person having an interest of any kind in the shares of the corporate applicant and shall also provide the mailing address of the corporation. The applicant shall be responsible for maintaining a current list of shareholders with the Licensing Officer at all times.
- 3.3 If the applicant is a partnership, the applicant shall file with the application the full name of every partner, the birth date of every partner and the mailing address of the partnership. The applicant shall be responsible for maintaining a current list of the members of the partnership with the Licensing Officer.
- 3.4 The applicant shall notify the Licensing Officer immediately of any change in any of the particulars required to be filed with the Licensing Officer.
- 3.5 In the event of a sale, lease, or disposal in any other manner of the licensed premises, the new owner, purchaser, lessee or other person obtaining the premises and intending to utilize the same for the purpose of an adult entertainment parlour, shall apply as a new business in accordance with the by-law.
- 3.6 Every person carrying on the business of an adult entertainment parlour shall prominently display at each entrance to the premises sufficient signage reading: **"ADULT ENTERTAINMENT PARLOUR"**.
- 3.7 No person shall provide services in any adult entertainment parlour unless such premises are licensed under the provisions of this by-law.
- 3.8 Every licensee shall provide a current list of all attendants, the professional name under which they perform, their legal name, current residing address and current mailing address upon request by the Ontario Provincial Police.

3.9 No licensing is required for staging an adult entertainment event.

4. LICENCE FEES

The licence fee for an adult entertainment parlour shall be:

\$1,600.00 - gross floor area up to 90 square metres and
\$25.00 for each additional square metre.

All licences issued under this by-law shall expire on twelve (12) months from the date of issue.

5. NOT TRANSFERRABLE

The licence issued pursuant to the provisions of Section 3 of this by-law to an owner or operator of an adult entertainment parlour is not transferrable to any other owner or operator.

6. OWNER/OPERATOR REQUIREMENTS

No licence shall be issued to an owner or operator of an adult entertainment parlour unless:

- 6.1 the applicant is at least nineteen (19) years of age; and
- 6.2 the Ontario Provincial Police have reported in writing, that the applicant has not received a conviction under any of the following sections of the *Criminal Code of Canada* or the *Narcotics Control Act* or the *Food and Drug Act*.
 - S.173 of the *Criminal Code* (indecent acts)
 - S.212 of the *Criminal Code* (Procuring)
 - S.213 of the *Criminal Code* (prostitution)
 - S.4 of the *Narcotics Control Act* (trafficking)
 - S.39, S.47 and S.48 of the *Food and Drug Act* (trafficking); and
- 6.3 the premises comply with the zoning by-law regulations or any other applicable requirements of the Town, Fire Code, Building Code and *Public Health Act*; and
- 6.4 the Fire Chief has reported in writing that the premises comply with fire regulations; and
- 6.5 the Health Unit has reported in writing that the premises in connection with which the licence is sought are suitable for the purpose of the licence application and are in a sanitary condition; and
- 6.6 in the case of an operator's licence, the operator provides the name of the owner whose entertainment parlour the operator intends to operate; and
- 6.7 the adult entertainment parlour is located in an area referred to in Section 11 of this by-law; and
- 6.8 the applicant has paid to the Town the licence fee prescribed by this by-law; and
- 6.9 the Licensing Officer shall cause such investigation to be made as is required to be satisfied that there has been compliance with the provisions of this by-law prior to the issuance or renewal of an owner's or

operator's adult entertainment parlour licence.

7. AGE RESTRICTION

No owner or operator shall permit any person under the age of eighteen (18) years of age to enter or remain in the adult entertainment parlour owned or operated by the owner or operator.

8. HOURS OF OPERATION

8.1 No owner and/or operator shall, in respect of an adult entertainment parlour owned or operated by such person, open the adult entertainment parlour for business or permit the same to be or to remain open for business or permit any services of any kind to be provided in the said adult entertainment parlour at any time from the hours of 2:00 o'clock (a.m.) in the forenoon of any day to 6:00 o'clock (p.m.) in the afternoon of the any day.

8.2 During the hours of business of an adult entertainment parlour, it shall be the responsibility of the owner or the operator, if any, to ensure that the door or doors or other principal means of access into the adult entertainment parlour shall be kept unlocked.

9. ATTENDANTS

9.1 **Criminal Offence**

No owner or operator shall permit or allow any attendant on the premises to take part in any criminal activity relating to drug trafficking, stolen property or any other criminal offence provided for under the *Criminal Code of Canada*, the *Narcotics Control Act*, the *Food and Drug Act*, and/or any provision of this by-law, failing which the owner and/or operator shall be subject to suspension or revocation of the licence held pursuant to this by-law.

9.2 **Age Restriction**

No owner or operator shall permit any attendant under the age of eighteen (18) years of age to enter or remain in the adult entertainment parlour owned or operated by the owner or operator.

9.3 **Proof of Age and Photo ID**

No owner or operator shall permit any attendant on the premises licensed pursuant to this by-law without first having been provided with the appropriate photo identification and proof of age. Until this proof of age is submitted, the attendant shall not be permitted on the premises and failing which the owner and/or operator shall be subject to suspension or revocation of the licence held pursuant to this by-law.

10. NUMBER

Licences for adult entertainment parlours shall be restricted on the basis of ratio of licences population and for the purpose of this by-law that ratio shall be one licence for each 20,000 persons population residing in the Town pursuant to the most recent annual census count.

11. LOCATION

11.1 No adult entertainment parlour shall be operated closer than 500 metres measured in a continuous path over the shortest horizontal distance from a residential unit or apartment, or residential zone as established in the Town Zoning By-Law, or a public park or school as defined under the *Education Act*, R.S.O., 1990, c. E.2;

11.2 No adult entertainment parlour shall be located closer than 5,000 metres from any other adult entertainment parlour;

12. SIGNAGE

No owner or operator of an adult entertainment parlour shall place or permit placement of any sign or other advertising device within the Town of New Tecumseth that includes any of the following words:

"Nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication

13. GROUND FOR REFUSAL TO LICENSE, RENEW OR REVOKE

13.1 An applicant whose application meets all the requirements of this by-law is entitled to a licence, except where the applicant is carrying on activities that are, or will be if licensed, in contravention of this by-law or any other law, by-law or statute.

13.2 The provisions of Section 6 of this by-law shall apply to all matters regarding the grounds for refusal to license, renew or revoke a municipal business licence.

14. INSPECTION

On receipt of an application for a licence or for any renewal of a licence or at any time during the period when the business is open for operation and all times thereafter, the Licensing Officer, Fire Chief or designate, Chief Building Official, any Police Officer or Municipal By-Law Enforcement Officer may at any reasonable time enter upon the premises of the applicant or licensee to make an inspection to ensure that all the provisions of this by-law have been satisfied, and upon entry, all employees and attendants shall identify themselves to verify compliance with provisions of this by-law.

15. No person shall obstruct the Licensing Officer or designate, Chief Building Official, Fire Chief, any Police Officer or Municipal By-Law Enforcement Officer from inspecting premises or withhold, destroy, conceal or refuse to furnish any information or thing required by any one of the aforesaid officials conducting the inspection.

16. PROHIBITIONS

No attendant shall, while providing services as an attendant, touch or be touched by or have any physical contact with any other person in any manner whatsoever involving any part of any person's body.

16.1 No owner or operator shall, in respect of any adult entertainment parlour owned or operated by such person, knowingly permit any attendant, while

providing services as an attendant, to touch or be touched by or have any physical contact with any other person in any manner whatsoever involving any part of any person's body.

- 16.2 No attendant shall provide any service which is not within view of the main stage area without obstruction by walls, curtains or any other enclosures whatsoever. No attendant shall provide any service within any area whatsoever which is not open to view by all customers.
- 16.3 No owner or operator shall, in respect of any adult entertainment parlour owned or operated by such person, allow any service to be provided by any attendant within any area whatsoever which is not open to view by all customers and in the same manner as set out in 16.2.
- 16.4 No owner or operator shall permit any person other than the attendants to be on the performance stage while adult entertainment is being performed.

17. PENALTIES

Any person who contravenes any provision of this by-law, unless otherwise provided herein, is guilty of an offence, and

- 17.1 each day that a breach of this by-law continues shall constitute a separate offence, and
- 17.2 upon conviction is liable to a fine of up to \$5,000.00 and not less than \$100.00 for each day upon which the contravention continues. Should the maximum fine under the *Provincial Offence Act* be raised subsequent to the date of passage of this by-law, the increase shall apply to this by-law.

- 18. This by-law shall be cited as the "Adult Entertainment Parlour By-Law".
- 19. This by-law shall come into force and take effect on the day of final passing thereof.
- 20. By-Law 96-107 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 16TH DAY OF DECEMBER, 2002.

MAYOR

CLERK



TOWN OF NEW TECUMSETH
APPLICATION FOR
ADULT ENTERTAINMENT PARLOUR
LICENCE

under By-Law #2002-182

1. REGISTERED NAME OF BUSINESS:
2. OPERATING NAME OF BUSINESS:
3. LOCATION OF ADULT ENTERTAINMENT PARLOUR
4. NAME OF OPERATOR/SUPERVISOR(S):
5. ADDRESS:
6. TELEPHONE NO. (Home) (____)_____ (Bus) (____)

LICENCE FEE:

7. GROSS FLOOR AREA: _____ (Square Metres)

UP TO 90 SQUARE METRES **\$ 1,600.00**

\$25.00 FOR EACH ADDITIONAL SQUARE METRE

_____ - 90 = _____ X \$25.00 = _____ \$

TOTAL LICENCE FEE \$

I, _____ hereby declare that the above information is correct, that I have read and understood the provisions of By-Law #2002-182 of the Town of New Tecumseth and agree to abide by this and any other applicable by-law(s).

Signature of Applicant

Date

APPLICATION APPROVED

APPLICATION REFUSED

BY:

REASON FOR REFUSAL

SIGNATURE

Signed this _____ day of _____, 20