



REFRASED BY BY-LAW 257-92

THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 63-82

To provide for the licensing of
adult entertainment parlours

WHEREAS Section 222(1) of the Municipal Act (R.S.O. 1980, c. 302, as amended) provides that by-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

DEFINITIONS

1. For the purposes of this by-law:
 - (a) "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;
 - (b) "City" means The Corporation of the City of Brampton;

- (c) "Council" means the Council for The Corporation of the City of Brampton;
- (d) "dwelling unit" means one or more habitable rooms designed or intended to be used together as a single and separate unit by one person or jointly by two or more persons, containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself, and does not include a hotel;
- (e) "hotel" means an establishment consisting of one building or two or more connected or adjacent buildings that provides sleeping accommodation for the public and is licensed or required to be licensed under the Tourism Act (R.S.O. 1980, c. 507, as amended) or the Liquor Licence Act (R.S.O. 1980, c. 244, as amended);
- (f) "Licence Inspector" means the person or persons appointed as such by Council;
- (g) "Licence Issuer" means the person or persons appointed as such by Council;
- (h) "licensing section" means the licensing section of the Buildings and By-law Enforcement Department;
- (i) "Medical Officer of Health" means the Medical Officer of Health for the Regional Municipality of Peel, duly appointed under the Public Health Act (R.S.O. 1980, c. 409, as amended), and includes any official of the Peel Regional Board of Health acting on behalf of the Medical Officer of Health;

- (j) "permitted area" means that area of the City which is zoned for industrial or commercial use;
- (k) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services, and "providing" and "provision" have corresponding meanings;
- (l) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (m) "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 is used in any advertisement.

LICENCE REQUIREMENT

- 2. No person shall operate an adult entertainment parlour unless he is licensed under this by-law.

ADMINISTRATION

- 3. The licensing section shall:
 - (a) receive and process all applications for licenses and for renewal of licenses;

- (b) issue all licences, when an application is made in accordance with the provisions of this by-law and has been approved by Council;
- (c) maintain complete records showing all applications received and licenses issued;
- (d) submit to Council annually a detailed report on all licences issued;
- (e) generally perform all the administrative functions conferred upon it by this by-law.

APPLICATION FOR A LICENCE AND RENEWAL OF A LICENCE

- 4. (1) An application for a licence or for a renewal of a licence shall be made on the forms provided by the licensing section, and each completed application shall be submitted to the licensing section accompanied by:
 - (a) the application fee in the amount of \$1,500.00 or the renewal fee in the amount of \$1,500.00;
 - (b) if the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information return filed, if any;
 - (c) if the applicant is a registered partnership, a copy of the registered declaration of partnership; and

- (2) Where an applicant proposes to carry on business at more than one business premises he shall make separate application for a licence for each of the business premises, and the requirements of subsection (1) of this section apply to each application.
- (3) Where an application for a licence or for renewal of a licence is refused, the annual fee paid shall be fully refunded.
5. No individual shall be licensed under this by-law unless he is 18 years of age or over and a citizen of Canada or a landed immigrant.
6. (1) No licence will be issued or renewed under this by-law unless:
- (a) the adult entertainment parlour is located in a permitted area and is not located closer than 500 metres measured on a continuous path over the shortest distance from a dwelling unit or a residential zone;
- (b) the applicant is a holder of a licence under the Liquor Licence Act (R.S.O. 1980, c. 244, as amended).
- (2) The provisions of paragraph (a) of subsection (1) of this section do not apply to a person who was

carrying on the business of an adult entertainment parlour on March 29, 1982.

- (3) The provisions of paragraph (a) of subsection (1) of this section shall not apply so as to prevent the renewal of a licence when, subsequent to the valid issuance of a licence under this by-law, a dwelling unit has been located or a residential zone created within 500 metres of the adult entertainment parlour for which the licence was granted.

SIGNS

7. No exterior sign shall be posted or used for the purposes of promoting an adult entertainment parlour unless it complies with the municipal requirements relating to signs.

GROUND'S FOR REFUSAL TO LICENSE OR RENEW A

LICENCE AND GROUND'S FOR REVOKING A LICENCE

8. An applicant whose application meets all the requirements of this by-law is entitled to a licence except where:
- (a) the past conduct of the applicant affords reasonable grounds for belief that the issuance of a licence would be adverse to the public interest; or
- (b) the applicant is carrying on activities that are, or will be if licensed, in contravention of this by-law or any other by-law or statute.

9. (1) Council may refuse to issue a licence or refuse to renew a licence where the applicant is disentitled to a licence under section 8.
- (2) Council may revoke a licence where a licensee would be disentitled to a licence if he were an applicant under section 8, and where a licence is revoked, the licensee is entitled to a refund of part of the licence fee proportionate to the unexpired part of the term for which it was granted.

INSPECTIONS

10. The Licence Issuer, any licence inspector, peace officer or other person whose duty it is to enforce this by-law may at all reasonable times inspect as much of any place or premises as is used for the carrying on of an adult entertainment parlour in respect of which a person has or is required to have a licence under this by-law.
11. The person conducting an inspection under section 10 may inspect any goods, articles, books, records and other documents of or relating to the operation of an adult entertainment parlour.
12. No person shall obstruct or hinder the making of an inspection, or withhold, destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purpose of the inspection.

HEARING

13. (1) Where Council refuses to issue or to renew a licence, or revokes a licence, the applicant or licensee is entitled to an opportunity to be heard before Council.
- (2) A written notice advising of the decision to refuse to issue or renew a licence, or the decision to revoke a licence, shall be served on the applicant or licensee at least seven days prior to the date scheduled for the hearing.
- (3) Where Council refuses to issue or renew a licence and the applicant or licensee does not attend at the place on the time appointed for the hearing, the licence is deemed to be refused or is deemed not to be renewed as of the date appointed for the hearing.
- (4) Where Council revokes a licence and the licensee does not attend at the place on the time appointed for the hearing, the licence is deemed to be revoked as of the date appointed for the hearing.
- (5) The hearing held under this section shall be held in accordance with the provisions of sections 5 to 15 and 21 to 24 of the Statutory Powers Procedure Act (R.S.O. 1980, c. 484, as amended).
- (6) Upon the conclusion of a hearing, Council shall as soon as practicable dispose of the matter which was the subject of the hearing by doing any act or making any decision, and such decision shall be final.

RETURN OF LICENCE

14. (1) Where a licence has been revoked, the holder of the licence shall return the licence to the Licence Issuer within 24 hours of receipt of notification of the revocation of the licence, and the Licence Issuer or his designate may enter upon the premises of the holder of the licence for the purpose of receiving or taking the said licence.
- (2) No person shall refuse to deliver to the Licence Issuer a licence which has been revoked, and no person shall obstruct the Licence Issuer or his designate from obtaining a licence which has been revoked.

DISPLAY OF LICENCE

15. Every licensee shall prominently display the licence at the licensed premises at all times, and shall produce the licence upon request of a person duly authorized to enforce this by-law.

CONDUCT OF PREMISES

16. (1) No person licensed under this by-law shall:
- (a) permit any individual under the age of 19 years to enter or remain in the adult entertainment parlour for which the licence has been obtained, or any part thereof;

- (b) employ or otherwise use the services of individuals under the age of 18 years;
- (c) operate an adult entertainment parlour except on Mondays to Saturdays inclusive, between the hours of 11:00 a.m. and 1:00 a.m. of the following day, and where "Daylight Saving Time" has been adopted in the City of Brampton for any period of the year under any statute, Order-in-Council, by-law, resolution or proclamation, whether the same is effective in law or not, such time shall be held to be the time referred to in this paragraph;
- (d) operate an adult entertainment parlour on Christmas Day or Good Friday;
- (e) represent that he is licensed under this by-law if he is not;
- (f) alter, erase or modify his licence or permit the alteration, erasure or modification of his licence without the approval of the Licence Issuer;
- (g) permit any person to loiter, create a disturbance or cause undue noise while on the licensed premises;
- (h) construct or equip or permit the construction or equipping of the premises containing an adult entertainment parlour in such a manner as to hinder or prevent the enforcement of this by-law.

(2) Paragraph (a) of subsection (1) of this section shall not apply to prevent a person licènced under this by-law from employing or otherwise using the services of individuals having the age of 18 years in an adult entertainment parlour.

17. Every person licensed under this by-law shall keep his premises in a clean and sanitary condition.

LICENCE IS NOT TRANSFERABLE

18. A licence issued under this by-law shall not be transferable.

EXPIRATION AND RENEWAL OF LICENCE

19. Every licence expires on April 30th of the year following the year in which it is issued, and where a completed application for renewal of a licence is not submitted to the licensing section before the expiry date, the applicant will be required to submit a new application.

CHANGES

20. (1) Every licensee shall notify the licensing section in writing within four days after the event of:

(a) any change in his business address;

(b) where the licensee is a corporation, any change in the number or composition of officers or directors;

(c) where the licensee is a partnership, any change in the composition of the partnership;

(d) any change in business name.

(2) Where a change has occurred and notification has been made in accordance with subsection (1) of this section, and if it is a change of business name or business address, every licensee shall attend at the office of the licensing section within four days of giving notification and produce his license for amendment.

21. A licensee shall carry on the business of running an adult entertainment parlour only in the name in which he is licensed.

ENFORCEMENT AND PENALTIES

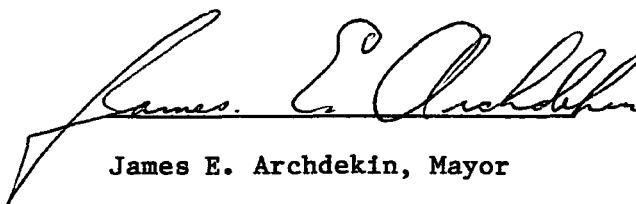
22. (1) This by-law shall be enforced by the Medical Officer of Health, a public health inspector acting under his direction, or by a peace officer.

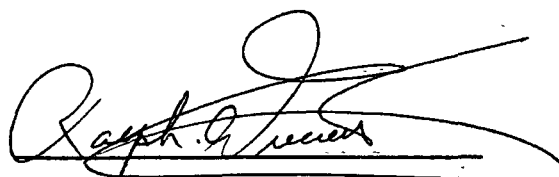
(2) Where any of the persons set out in subsection (1) has reason to suspect that a breach of any of the provisions of this by-law has occurred in respect of an adult entertainment parlour, that person may enter said adult entertainment parlour at any time of the night or day for the purposes of carrying out the enforcement of this by-law.

(3) No person shall obstruct, hinder or prevent an officer or inspector from performing his duties in the enforcement of this by-law.

23. (1) Every person who contravenes any provision of 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 to a fine not exceeding \$10,000.00 or to imprisonment for a term not exceeding one year, or to both.
- (2) Where a corporation is convicted of an offence under subsection (1) of this section, the maximum penalty that may be imposed on the corporation is \$25,000.00 and not as provided therein.
- (3) Where a person is convicted of a contravention of the provisions of section 2 of this by-law, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.
- (4) Where a person is convicted of a contravention of any of the provisions of this by-law other than section 2, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 29th day of March, 1982.


James E. Archdekin, Mayor


Ralph A. Everett, Clerk

APPROVED
AS TO FORM
LAW DEPT.
BRAMPTON

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