

THE CORPORATION OF THE TOWNSHIP OF MONO

BY-LAW NUMBER 94 - 33

A by-law for the licensing, regulating, governing, classifying and inspecting adult entertainment parlours.

WHEREAS section 225 of the *Municipal Act*, R.S.O. 1990 c. M. 45, authorizes councils of all municipalities to pass by-laws for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof;

AND WHEREAS the Council of the Corporation of the Township of Mono has deemed it desirable to enact a by-law for the licensing, regulating, governing, classifying and inspecting adult entertainment parlours and classes thereof;

NOW THEREFORE the Council of the Corporation of the Township of Mono enacts as follows:

DEFINITIONS

1. In 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, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations;
- (b) "adult entertainment club" 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;

When used in relation to "adult entertainment club", the following definitions shall apply:

- (i) "provided" includes to furnish, perform, solicit, or give such services and "provide", "provides" and "providing" have corresponding meanings;
- (ii) "Services" includes activities, facilities, performances, exhibitions, viewings and encounters, but does not include the exhibition of film approved under the *Theatres Act*, R.S.O. 1990, c. T. 6;
- (iii) "Services designed to appeal to erotic or sexual appetites or inclinations" includes,
 - a) services of which a principal feature or characteristic is the nudity or partial nudity of any person. For the purposes of this clause "partial nudity" shall mean the following body parts are less than completely or are opaquely covered:
 - i) human genitals or human pubic region;
 - ii) human buttocks; or
 - iii) female breast below a point immediately above the top of the areola.
 - b) 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.

- (c) "adult retail store" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, adult goods appealing to or designed to appeal to erotic or sexual appetites or inclinations;

When used in relation to "adult retail store" the following definitions shall apply:

- (i) "adult goods" include and are limited to adult sex films and/or adult magazines;
- (ii) "adult sex films" means any videotape classified by the Ontario Film Review Board, pursuant to the *Theatres Act*, R.S.O. 1990, c. T. 6, as an adult sex film;
- (iii) "adult magazines" means any magazine appealing to or designed to appeal to erotic or sexual appetites or inclinations in which the primary characteristic is the display of nude specified body areas and/or specified sexual activities, which adult magazines are deemed to include Playboy, Playgirl, Penthouse, Hustler and any and all other magazines of a similar nature;
- (iv) "provided" means to retail, sell, offer to sell or display for sale, or to rent, offer to rent or display for rental, whether or not the cost, fee or other consideration passes at the time of such rental or sale, or is effected through the cost of membership, subscription, admission or any other manner and "provide", "provides" and "providing" have corresponding meanings;
- (v) "specified body areas" means any one or more of the following:
 - in the case of a female person, her areolae;
and
 - in the case of all persons, the genitals, pubic areas and the buttocks;
- (vi) "specified sexual activities" means one or more of the following:
 - actual or simulated sexual intercourse, masturbation, urination, defecation, ejaculation, sodomy, including bestiality, anal intercourse, and oral sexual intercourse, direct physical stimulation of unclothed genital organs, and flagellation or torture in the context of a sexual relationship or activity;
- (vii) "videotape" means cinematographic film, videotape and any other medium from which may be produced visual images that may be viewed as moving pictures;

- (d) "Township" means the Corporation of the Township of Mono;
- (e) "Council" means the Council of the Corporation of the Township of Mono;
- (f) "Clerk" means the Clerk of the Corporation of the Township of Mono;
- (g) "owner" means a person who alone or with others has a right to possess or occupy an adult entertainment parlour or actually does

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

DEEMED PROVISIONS

2. For the purposes of this by-law, an adult entertainment club and an adult retail store are deemed to be classes of adult entertainment parlours.
3. For the purposes of this by-law, an owner is deemed to be the operator of the adult entertainment parlour.

LICENCE REQUIREMENT/PROHIBITION

4. There shall be taken out by every owner of an adult entertainment parlour an adult entertainment licence from the Township authorizing him or her to operate such a business in the Township.
5. An owner shall obtain an adult entertainment licence for each and every adult entertainment parlour owned by the owner in the Township.
6. No owner shall operate an adult entertainment parlour in the Township except as permitted under this By-law and pursuant to a licence issued under this By-law.
7. Notwithstanding sections 4, 5, 6, and 10, an owner providing 25 adult magazines or less and who is not providing any other adult goods or adult services may operate an adult retail store without taking out an adult entertainment parlour licence provided the owner complies at all times with section 27(6) of this By-law.
8. No licensee shall be under the age of eighteen years at the date of issuance of the licence.

DEFINED AREAS

9. No adult entertainment clubs may operate in any premises in the Township unless such premises are specifically zoned by site specific amendment to permit an "adult entertainment club" pursuant to By-law No. 78-1, as amended, (the Township's comprehensive zoning by-law) and in any event shall not be permitted in any residential, rural, institutional, open space or environmental protection zones pursuant to By-law No. 78-1, as amended (the Township's comprehensive zoning by-law) and shall not be permitted in any lands subject to Niagara Escarpment Commission development control.
10. No adult retail store may operate in any premises in the Township unless such premises are zoned to permit a retail store as defined in and pursuant to By-law No. 78-1, as amended, (the Township's comprehensive zoning by-law) or unless such premises are permitted to operate as a retail store pursuant to Niagara Escarpment Commission approvals and/or regulations.

ADMINISTRATION

11. The Clerk shall:
 - (a) receive and process all applications for licences and renewal of licences required under this By-law;
 - (b) administer the issuance of licences in accordance with the provisions of this By-law;

- (c) maintain and keep records of all applications received and licences issued;
- (d) generally perform administrative functions incidental and necessary to the due administration and enforcement of this By-law.

APPLICATIONS FOR LICENCES

12. Every owner applying for a licence under this By-law shall attend at the Clerk's office in the Township's offices and shall file with the Clerk's office a duly completed application form, attached hereto as Schedule "A".

13. The applicant shall, at the time of the filing of the application form required under section 12 shall deliver to the Clerk's office the following:

- (a) the licence fee in cash, money order or certified cheque, which fee is as set out in Schedule "B", attached hereto, for every licence required under this By-law and for the renewal thereof;
- (b) proof of age by means of producing the original and a copy thereof to be retained by the Clerk's office, any of the following, which must contain a photograph of the applicant: an age of majority card, a valid driver's licence, or a passport;
- (c) if the applicant is a corporation, a copy of the incorporating document and a copy of the last annual information return filed, and a list of the names and home addresses of the directors, shareholders and officers of the corporation;
- (d) if the applicant is a partnership, a list of the names and home addresses of the partners, and if a registered partnership, a copy of the registered declaration of partnership.

14.

- (1) If the premises for the adult entertainment parlour are owned by a corporation or partnership, the attendance required pursuant to section 12 may be undertaken by an individual duly authorized by the applicant corporation or applicant partnership; and upon furnishing satisfactory documentation of the above authorization, and proof of age pursuant to section 13 (b) the application form may be completed and executed by the aforesaid individual, which execution shall be binding upon the applicant corporation or applicant partnership, and the individual completing such form shall execute the form, certifying the truth and completeness of the information provided therein.
- (2) The provisions of this by-law relating to an application for a licence shall apply, with necessary modifications, to an application for the renewal of a licence or to amend a licence or a condition of such licence.

ISSUANCE OF LICENCES

15.

- (1) Upon the receipt of an application, the Clerk shall carry out such investigation or verification relating to the application as he or she may deem necessary for the purposes of the administration of this By-law and shall if the investigation or any other information available to the Clerk discloses no reasonable grounds to believe that the application is not in compliance with the By-law, or that the applicant may not be entitled to

the issuance of a licence on the grounds referred to in this By-law or other applicable law, issue the licence.

- (2) If the investigation or any other information available to the Clerk discloses reasonable grounds to believe that the applicant may not be entitled to the issuance of a licence on grounds referred to in this By-law, or by reason of any other provision of this By-law or other applicable law, the Clerk shall forthwith cause notice of this fact and the reasons therefor to be served upon the applicant at the address shown on the application form, and the Clerk shall refer the matter to Council, for determination.
- (3) Council may consider the application for a licence and may, in its sole discretion, grant or refuse the licence.
- (4) Council may, on request of the applicant, afford the applicant the opportunity to make representations to Council.
- (5) The decision of Council is final and binding.

16. An applicant for a licence who complies with the provisions of this By-law is, subject to the provisions of this By-law, entitled to be issued a licence, except where:

- (a) there are reasonable grounds for belief that any application or other document provided to the Clerk by or on behalf of the applicant contains a false statement or provides false information; or
- (b) the past or present conduct of the applicant, or of any partner, in the case of an applicant which is a partnership, or of any director, shareholder or officer of the corporation, if the applicant is a corporation, affords reasonable grounds for belief that the business in respect of which the application is made will not be carried on in accordance with the law; or
- (c) there are reasonable grounds for belief that the carrying on of the said business will result in a breach of this By-law or any other municipal by-law, including any applicable zoning requirement, or that the carrying on of the said business would be conducted without any necessary approvals or permits required from the Niagara Escarpment Commission; or
- (d) there are reasonable grounds for belief that the application does not meet all the requirements of this By-law, or that the business is carried on or intended to be carried on in an area of the Township where such business is prohibited by this By-law from being carried on, or in respect of which the issuing of a licence in respect of the business is not permitted by this By-law; or
- (e) there are reasonable grounds for belief that the building, premises or place in which the business is carried on or intended to be carried on does not comply with the provisions of this By-law, or with any other law, including any applicable building requirements, or is dangerous or unsafe; or
- (f) the fee payable in respect of the licence applied for has not been paid.

REVOCATION, SUSPENSION, PROBATION

17. The Council may revoke or suspend any licence issued under this By-law, upon any of the grounds set out in section 16, provided that no licence shall be revoked or suspended except after notification has been given to the licensee, and the licensee afforded an opportunity to make representations to Council.

18. Where the Council concludes that grounds exist upon which a licence may be refused, suspended or revoked, the Council may in lieu thereof issue a licence for any period up to a full licence period on probation, or without a term of probation, subject to such conditions as the Council may impose.

19. The decision of Council pursuant to sections 17 and 18 is final and binding.

TERMS OF LICENCES

20. Every licence issued under this By-law shall expire on December 31 of the year in which it is issued.

21. A licence issued under this By-law is personal to the licensee, and cannot be transferred.

22. The rights granted by a licence issued under this By-law apply only to the location for which the licence is issued.

POSTING OF LICENCE

23. Every owner shall post the adult entertainment parlour licence in a conspicuous place in the adult entertainment parlour.

INSPECTIONS AND ENFORCEMENT

24. Council hereby authorizes all police officers and municipal by-law enforcement officers to inspect any adult entertainment parlour which has or is required to have an adult entertainment parlour licence, or which provides adult goods.

NOTICE

25. Any notice required to be given under this By-law is sufficiently given if delivered personally or sent by registered mail addressed to the applicant and/or licensee.

CHANGES IN INFORMATION

- 26.
- (1) Every licensee shall notify the Clerk in writing within one week (7 days) after the event, of any change in any of the information contained in the application form.
 - (2) Where a change has occurred in the name or business name of a licensee, the licensee shall attend within one week (7 days) of the date of the change at the Clerk's office of the Township, to have the licence and licence records amended accordingly.

RESTRICTED ACCESS, SIGNAGE AND DISPLAY

27.

- (1) No owner of an adult entertainment parlour shall permit any person under the age of eighteen years to enter or remain in any adult entertainment parlour.
- (2) Every owner of an adult entertainment parlour shall affix in a prominent location at every entrance to the adult entertainment parlour a sign or signs sufficient to indicate clearly to persons entering the adult entertainment parlour, that no person under the age of eighteen years is permitted to enter or remain in any adult entertainment parlour in accordance with this By-law.
- (3) Every owner of an adult retail store and every person working in an adult retail store shall ensure that no adult goods or container for such adult goods are visible from outside the premises.
- (4) Where an adult retail store does not exclusively provide adult goods, but provides adult goods in conjunction with other retail goods, the owner of an adult retail store and every person working in an adult retail store shall ensure that no adult goods, or container for such adult goods, shall be displayed in a location where the adult goods can be seen by persons in the store, unless such adult goods or container for such adult goods are in a separate location in such store to which location persons under the age of eighteen years are not permitted to enter, and such adult goods or container for such adult goods are displayed in a location where they cannot be seen from outside such area.
- (5) Every person working in an adult entertainment parlour shall comply with all requirements of this By-law relating to section 27(1), (2), (3), (4).
- (6) Notwithstanding sections 27(1), (2), (3), (4) and (5) where an adult retail store does not provide adult sex films and provides adult magazines, in conjunction with other retail goods but under no circumstances provides no more than 25 adult magazines, the owner of an adult retail store and every person working an adult retail store shall ensure:
 - (i) that the adult magazines are displayed at a height of not less than 1.5 metres above the floor level; and,
 - (ii) that the adult magazines are placed behind an opaque barrier of not less than 15 cm in width; and,
 - (iii) signs are posted in a prominent location in the proximity of the adult magazines stating that access to the adult magazines is restricted to persons of 18 years of age and older.

PENALTY

28.

- (1) Every person who contravenes any section 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, exclusive of costs, not exceeding \$25,000.00.
- (2) Where a corporation is convicted of an offence under this By-law, the maximum penalty, exclusive of costs, that may be imposed on the corporation is \$50,000.00, and not as provided in subsection (1).

CONFLICTS

29. In the event of any conflicts between the provisions of this By-law and any other general or special by-law, the provisions of this By-law shall prevail.

VALIDITY

30. If a Court of competent jurisdiction declares any section, or any part of a section, of this By-law to be invalid, or to be of no force and effect, it is hereby declared that the impugned section shall be severable and distinct from the remainder of this By-law and the remainder of the By-law shall remain in full force and effect.

SCHEDULES

31. Schedules "A" and "B" form part of this By-law.

SHORT TITLE

32. This by-law may be referred to as the Adult Entertainment By-law.

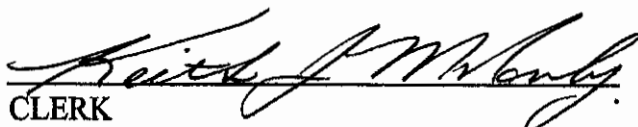
EFFECTIVE DATE

- 33.
- (1) Subject to subsection (2), this by-law shall come into force and effect on November , 1994.
 - (2) No adult entertainment parlour shall be required to be licensed under this By-law until January 1, 1995.

BY-LAW READ A FIRST AND SECOND TIME this 4day of November, 1994.

BY-LAW READ A THIRD TIME AND PASSED this 4 day of November, 1994.


REEVE


CLERK

SCHEDULE "A"

TOWNSHIP OF MONO

**APPLICATION FOR LICENCE
ADULT ENTERTAINMENT PARLOUR - OWNER**

NEW/RENEWAL: APPLICATION DATE: _____

OWNER'S NAME: _____

DATE OF BIRTH: _____

HOME ADDRESS: _____

HOME TELEPHONE NO.: _____ BUSINESS: _____

BUSINESS NAME TO BE USED BY THE ADULT ENTERTAINMENT PARLOUR:

I hereby certify with my signature that the answers to the above questions are true.

In addition, I consent that the above personal information may be disclosed for law enforcement purposes under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

Signature of Applicant

Notice to the Applicant:

The Director of Planning and Chief Building Official shall provide his/her comments about this application. The Director of Planning or the Clerk may request comments from the Niagara Escarpment Commission, if the premises are located in lands subject to Niagara Escarpment Commission development control, approvals, or regulations.

If there are any adverse comments, resulting in the Clerk not issuing the licence, the applicant shall receive a written notice of the adverse comments.

The applicant shall be permitted to have his or her application considered by Township Council, upon giving the Clerk proper notice of his or her intention to have Township Council consider the application.

FOR OFFICE USE ONLY:

Date Issued:

Approved to Issue Licence:

SCHEDULE "B"

Licence Fees

The following licence fees shall be paid to the Township:

Licence Type	Fee	Expiration Date
Adult Entertainment Parlour Owner	\$250.00	December 31