

REVIEW OF ADULT ENTERTAINMENT PARLOUR REGULATIONS

Amendments to Toronto Municipal Code
Chapter 545

Licensing & Standards Committee
October 19, 2012

AGENDA

1. History of the review
2. Outline of Committee directions
3. Review Plan and Consultation process
4. Discussion of Survey and results
5. Discussion of Consultation results
6. Approach to Regulation
7. Review of directions/recommendations and key industry issues
8. Summary

History of Adult Entertainment Parlour Regulation Review

Review of the by-law was prompted by requests from an industry group, the Adult Entertainment Association of Canada directly and through their Legal Counsel.

These requests/recommendations and correspondences were made at, or submitted to, the L&S Committee on March 30, 2011, March 29, 2012, and May 24, 2012.

The review that has been undertaken has included the specific direction as provided (to follow), and a full review of the regulation governing these premises.

Review of AEP Regulations

Committee direction

March 29, 2011

- Referral of proposed technical amendments, as made by deputant Myron W. Shulgan, to report back as part of the Review of Adult Entertainment Parlour Regulations report. These recommendations addressed amendments to:
 - No-touch provisions (545 – 395 and 396)
 - Unobstructed-view provisions (545 – 397)
 - Entertainer licensing provisions (545-2A(56))

March 30, 2012

- Compare best practices of different jurisdictions, including London, Windsor, Ottawa, Hamilton, and Mississauga
- Include options for an inspection protocol
- Outline measures that could improve working conditions for entertainers
- Discuss the issue of licensing versus registration

May 24, 2012

- Stakeholder consultation take place on replacing the term “attendant”
- Consultation with the Adult Entertainment Association of Canada form part of the review
- Final report review be provided to L&S no later than October 19, 2012, as per review plan
- The title of this issue be changed to “Review of Adult Entertainment Parlour Regulations”

Review Plan

The review plan presented to committee in May, outlined the following (concurrent and consecutive) stages:

- Research and analysis concerning other relevant jurisdictions and issues
- Consultations – external and internal
- By-law and Legal Review, including an assessment of the impact of any by-law amendments and a review of legal and policy aspects related to public access to information
- Recommendation development and preliminary report review
- Final report review and delivery to the Licensing and Standards Committee including consultations with the industry and stakeholders to discuss the intentions of the staff report

Our commitment to the review was to ensure participation and transparency.

We took a measured and thoughtful approach, ensuring that the interests of all industry participants were considered.

We are mindful of the economic interests of the industry and it's participants, but further the interests and expectations of the public, and our role as a regulator.

Industry Consultations – Mailings/Surveys

June 2012 - notices of consultation dates and surveys were sent to:

- all licensed entertainers,
- all owners of licensed AEP's, and the AEAC
- survey was posted on the internet for public input.

Entertainer surveys - 150 returned – results to be discussed

Owner surveys - 0 returned

Public surveys - 518 responses

June 21, 2012 - A follow-up letter was sent to licensed entertainers, offering a translated survey in multiple different languages, as per recommendation of AEAC.

There were zero requests for a translated survey from staff.

Industry Consultations – Entertainer Surveys

- It was noted that 111 of the 150 returned surveys appeared to have been bearing the same handwriting and similar/exact responses. All of which indicated support of the three main recommendations put forward by the AEAC and club owners.
- In early September, ML&S received a photograph of a posting from one of the AEP's



- At the September consultation, ML&S staff were also advised that some AEP management had requested the entertainers bring them their surveys.
- As a result, it is difficult to adequately quantify the level of agreement within the industry
- A complete compilation of the survey results inclusive and exclusive of the 111 surveys, has been provided in Appendix G.

Consultations/Input

March 30, 2011 – L&S Committee – written submission – Myron Shulgan

May 18, 2011 – Staff meeting with the AEAC

June 1, 2011 – Entertainer consultation - approx. 20 attendees, including the AEAC – petition presented

March 29, 2012 – L&S Committee – deputation with presentation of proposal to amend 545-395 and 396

May 24, 2012 – L&S Committee – 3 written submissions filed - Shulgan, Zuber & Co., AEAC

June 14, 2012 – Entertainer consultation - approx. 17 attendees – Shulgan letter presented by some

June 16, 2012 – Staff meeting with AEAC (ED, MLS and DCM, Cluster B)

June 19, 2012 – Entertainer consultation – approx. 8 attendees

June 25, 2012 – Owner/AEAC consultation – only AEAC representatives attended

July/August – internal and external consultations held, research conducted, survey analysis

September 5, 2012 – Entertainer consultation where the proposed key amendments were presented – approx. 25 attendees - Shulgan letter presented by some

September 6, 2012 – Owner/AEAC consultation – AEAC and their legal representative, few owners attended

September 19, 2012 – Staff meeting with AEAC and legal representative – with written submission

October 17, 2012 – Staff meeting with AEAC and legal representative

Though Entertainer sessions (4) were not largely attended, the participation of those present was insightful and divergent

AEAC and Owners sessions (2) - the input of the AEP owners has been primarily stated through the Adult Entertainment Association of Canada during consultations, meetings, and through the submission of written correspondence.

Industry Consultations - Entertainers

Snapshot of results – Entertainers

- Safety risks most frequently identified by the entertainers were:
 - unwanted touching by customers;
 - insufficient protection from management;
 - physical contact with customers;
 - inadequate/insufficient security to protect the entertainers from unruly customers
- Some entertainers support lap dancing/non-sexual contact with the patrons. Concerns were raised, however, regarding touching of entertainers’ “private areas”, particularly the genital area
- Some entertainers support private rooms/private booths providing that there are sufficient and adequate safety measures in place, i.e. security personnel (bouncers), effective patrols, support/protection from management, existence of signs informing patrons of the laws and rules, etc.
- Some entertainers reported having been touched in a sexual manner against their consent or sexually assaulted in other ways during a performance

Industry Consultations – Entertainers

- Some entertainers support registration maintained by the club owners. Those who do so feel the licensing fee is too expensive, and they also cite privacy concerns and harassment by the authorities.
- Those who do not support a club registration regime cite concerns:
 - placing excessive control over the entertainers in the hands of the club owners,
 - concerns about the protection of their personal information,
 - concerns over permitting individuals with criminal records into the clubs which affects the work conditions of all entertainers
- Entertainers' general perception was that improvements in terms of safety and security in most clubs are necessary
- Patrons are not being held accountable under the bylaw for unwanted touching – entertainers are fined for patrons' behaviour

Industry Consultation – Owners / AEAC

Summary of results:

- Changes to the no-touch provision should be adopted to reflect a provision in the Mississauga bylaw
 - Sept. 19, 2012 letter suggested other additional options to consider
- Unobstructed view provision – amend to remove main stage reference as a vantage point
- Registration of entertainers – to be managed by the Clubs – eliminate licensing
- Updating of language –eliminate/amend burlesque, attendant, and parlour
- Security cameras ought to be permitted in the clubs
- LLA exemption ought to be retained
- Existing club constructions ought to be grandfathered

Consultation with the Public

Summary of results:

- Members of the public who attend the AEPs formed nearly 48% of all respondents, and members who did not attend – just over 40%
- An overwhelming majority of all respondents do not support the no-touch provisions
- A majority of all respondents do not support the unobstructed-view provisions
- An overwhelming majority of all respondents support lap dancing/close contact between the entertainer and the patron
- Nearly half of all the respondents feel that the entertainers should not be required to be licensed by the City

Internal / External / Research

Toronto Public Health (TPH):

- The main concern expressed by TPH are rooted in the issue of safety and the risk of violence and injury for performers
- Any changes to the AEP bylaw and the rationale should primarily focus on addressing these safety concerns

Toronto Police Service

- Supportive of amendments proposed in the report
- The unobstructed view from the main stage as a reference point has proven challenging from an enforcement perspective
- Not supportive of the elimination of licensing of entertainers primarily due to the concerns regarding under-age entertainers, illegal workers, and criminal records not being reviewed by the regulator
- Human Trafficking within this industry is of concern to Law Enforcement

Industry Snapshot

As of September 7, 2012, there were:

- 17 valid Adult Entertainment Parlours licensed
- 1,467 valid burlesque entertainer's licences

Objectives of the regulation are to:

- create conditions which protect the entertainers from harm
- to prevent circumstances which can lead to crime;
- prescribe standards by which to hold the owners/operators of the clubs accountable for the manner in which their business is operated;
- set out sanitary and operational standards for the clubs; and
- include provisions which address consumer protection

Responses to Committee Direction

May 29, 2012

- ✓ The title of the review has been brought forward as requested
- ✓ The final report has been provided at the October 19, 2012 meeting
- ✓ The Adult Entertainment Association of Canada has been consulted through the review
- ✓ Amendments are being presented in this report to:
 - Eliminate the term reference to “burlesque” from “burlesque entertainer”
 - Replace the term “attendant” with the term “entertainer”.
 - Replace the term “parlour” with the term “club”

Inspection Protocol and Training Plan

Include options for an inspection protocol

- Staff have commenced and will be completing a review of the protocols and the current training manual pertaining to inspections taking into consideration the operational impact to, and sensitivities of the business and participants
- The inspection protocol will be updated to balance the needs of the industry with appropriate enforcement objectives and efforts.
- A new training plan is being developed to reflect the issues that were raised during the review and consultations and will be finalized pending amendments

Municipal Comparators

Compare best practices of different jurisdictions, including London, Windsor, Ottawa, Hamilton, and Mississauga

City/Town	No-touch provisions	Unobstructed view provisions	Licensing vs. registry of entertainers
London	Yes – physical contact prohibited	Yes – within the entire area where services are provided	No licensing No registry
Mississauga	Yes – certain physical contact is prohibited: touching, sitting, or resting on or making any physical contact with the breasts, buttocks, genital or pubic areas is not permitted	Yes – within the view from the main stage and from a patron seating area	Registry

Municipal Comparators... cont'd

City/Town	No-touch provisions	Unobstructed view provisions	Licensing vs. registry of entertainers
Ottawa	Yes - physical contact is prohibited (Notice must be posted to advise that physical contact is prohibited)	Not specifically – services must be provided within a designated entertainment area	Registry
Windsor	Yes - physical contact is prohibited	Yes – within the view of patrons or <u>attendants</u> (not dancers)	Licensing (dancers)
Hamilton	Yes - physical contact is prohibited	Yes – within the view of from the main stage	Licensing

Outline Measures that could improve working conditions of the entertainers

Outline measures that could improve working conditions of the entertainers

- Elimination of the current exemption to certain sections of the bylaw
- Security measures – personnel and cameras
- Revised definition of Operator
- Sanitary conditions and provision of adequate change facilities
- Health and Safety information notices to be posted

Removal of the exemption from certain provisions for Adult Entertainment parlours licensed under the *Liquor Licence Act*

Currently the bylaw provides an exemption from a number of bylaw provisions for the AEPs that hold a liquor licence.

The following sections would lose this exemption and remain as currently stated:

- s. 375 - Premises not to be used as dwellings or sleeping quarters
- s. 382 - List of services and fees to be filed
- s. 386 - Person not to be intoxicated
- s. 387 – Hours of operation to be filed
- s. 388 – Consumption of drugs and alcohol by workers prohibited

The following sections are recommended for amendment:

- s. 376 – locking of cubicles/rooms – added to room construction standards
- s. 378 – reinstate sanitary conditions – and expand to include performance areas
- s. 390 – use of cameras – amend to permit in certain areas

s. 377 and s. 380 are recommended for deletion

Licensed Security Personnel

New provision that all security personnel employed in the Adult Entertainment Club are required to comply with the *Private Security and Investigative Services Act (PSISA)* in the Province of Ontario, and be licensed accordingly.

- The amendment to the construction of booths, etc., includes a new provision that these areas must be monitored by security personnel, an owner, or an operator, at all times

Use of cameras or other photographic or recording devices

Current provision indicates that the use of cameras or other photographic or recording devices are not permitted by persons other than a peace officer, Medical Officer of Health or a public health inspector, or a By-law enforcement officer.

- Amended provision proposes to permit (optional) the installation of cameras to be used for security purposes, but the cameras will not be permitted to be installed in the designated entertainment area, washrooms, and change rooms.
- New provision states that signs advising of the use of the cameras, must be posted in the areas under surveillance, so notifying patrons and entertainers.

Licensing/Definition of Operator

Current definition of Operator is:

“A person who alone or with others operators, manages, supervises, runs or controls an adult entertainment parlour”

- Currently, shift managers and other subordinate operators are not being licensed individually

Proposed provision is to amend the definition of Operator:

“A person who operates, manages, supervises, runs or controls an adult entertainment club”

- This would ensure that all persons who have authority within the club, are screened through the licensing process, as are the entertainers.

Provision of change/dressing/locker rooms for the entertainers

Currently no requirement for owners/operators to provide a changing room for the entertainers.

- New provision recommends that the owner be required to designate an enclosed area for this purpose. Further, that this area would be required to have adequate lighting and ventilation, and that all fixtures, surfaces, and equipment therein be regularly washed and kept in a sanitary condition.
- It is important to the entertainers that they have a secure place to store their personal belongings when they are working

Health and information notices to be posted

New provision recommends a requirement for notices to be posted in designated areas, as appropriate/relevant, in the format approved by the Municipal Licensing and Standards, including the following:

- notification that touching of an entertainer in the specified body areas is a violation under the Toronto Municipal Code and may constitute an assault under the Criminal Code of Canada
- health information related to sexually transmitted infections, with applicable contact phone numbers
- telephone numbers of ML&S Complaints and Information lines, non-emergency telephone number of Toronto Police Service, and the number of the Ontario Ministry of Labour Health and Safety Centre

The objective of the notices is to raise awareness of the rights of the entertainers, to enhance their safety and to provide for contact information for agencies relevant to the industry.

Key Industry Issue:

“Unobstructed-view provisions”

Current provision states that: *services are permitted only within the plain and unobstructed view of the main stage.*

Submission from the industry was an amendment:

(Shulgan letter – March 2011 and 2012)

“within an area that is within public view and to which the public has unhindered access”.

Provision proposed:

Services would be permitted in a designated entertainment area and not permitted in any portion of the premises that is fully obstructed from the view of patrons, entertainers or security personnel.

“Designated Entertainment Area”

Provision proposed defines a Designated Entertainment Area as:

An area within the club, approved by the Municipal Licensing and Standards, in which services may be provided which are designed to appeal to erotic or sexual appetites or inclinations, and such area shall offer unobstructed public access to entrances, and any disc jockey area, bar area, and any other areas open to the public and shall include all private booths, rooms, cubicles, or any other area and enclosure where such services are provided.

These amendments recognize that performances occur in various areas of the premises, and not solely restricted to one main stage.

Private room, booth, cubicle or other enclosure provisions

Current provision only states that rooms or cubicles where services are or may be provided, cannot be equipped or constructed with a locking device or with any other device or structure which could delay or hinder access (*which has been subject to LLA exemption*).

Provision proposed defines construction standards for these areas:

- *All private rooms, private booths or cubicles, must have one side that is either open, constructed of non-opaque material, or, if constructed of opaque material, at a height not to exceed 4 feet. The interior must be viewable and accessible to anyone located on the immediate exterior of such room or enclosure in all lighting conditions.*
- *All private rooms, booths, cubicles and enclosures must be equipped with an alert system or other signalling device for use of the entertainer.*

These standards consider the importance of safety, while also recognizing privacy for personal entertainment.

Key Industry Issue:

“No-touch” provision

Current provision states: *"No physical contact is permitted between the entertainer and another person's body..."*

Submission from the industry was to adopt the wording in Mississauga bylaw: *(Shulgan letter – March 2011 and 2012 / AEAC presentation to L&S – March 2012 / Vassos letter – Sept. 19, 2012 – as one option)*

"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"

This provision from the Mississauga bylaw is found in the stand-alone bylaw governing all adult entertainment establishments. This definition, named as “Specified Sexual Activities”, is used in reference to a prohibition for advertising in Adult Videotape stores.

Key Industry Issue:

“No-touch” provision – cont’d

Provision proposed:

When providing services at an adult entertainment club, an entertainer is not permitted to touch, sit, or rest on, or make any physical contact with the covered, partially covered , or uncovered breasts, buttocks, genital, pubic, anal and perineal areas of a patron or any other person.

As an additional measure to protect the entertainers from unwanted contact and to discourage patrons from initiating the prohibited contact, the bylaw would also prohibit the patron from touching an entertainer in those specified body areas.

Both of these proposed provisions and their wording are similar to that found in the Mississauga bylaw schedule governing adult entertainment businesses.

Key Industry Issue:

Licensing of Entertainers

Current Licensing process:

- An applicant for a burlesque entertainer licence submits an application in person at the licensing office and provides two pieces of government-issued identification, a criminal record check, and home address
- The information is entered into the licensing database, **to which only ML&S staff and the system administrators have access**
- The City of Toronto licensing system does not inform any other database.

Key Industry Issue:

Licensing of Entertainers – cont'd

Submission from the industry was to adopt the regime in the Mississauga bylaw (*Shulgan letter – March 2011 and 2012*)

- This requires the completion of a registration form which is maintained by Owners, and requires the provision and copying of entertainer personal identification.

Staff does NOT recommend the elimination of the current City of Toronto requirement that the entertainers be licensed.

- The City is bound by privacy legislation governing the management and control of the personal information of entertainers.
- Some entertainers expressed concern with other industry participants even being in possession of their full proper names.

Key Industry Issue:

Licensing of Entertainers – cont'd

The current licensing system is a mitigation tool to aid in addressing the growing issue of human trafficking.

There have been recent cases (June 2012) of human trafficking victims being made to work as exotic dancers (*Mississauga*)

There are indications that human traffickers will move the victims, primarily the women, who have difficulties with obtaining a licence in the jurisdictions where a licensing regime exists, to jurisdictions where there is no such regime.

It is a significant mitigation tool for validating the age and willingness of participants in the industry.

Mississauga woman charged with human trafficking after woman allegedly forced into prostitution

Published on Thursday June 14, 2012

Katherine Dunn

Staff Reporter



A 21-year-old Mississauga woman has been charged with human trafficking after another woman complained to police that she'd been forced to work as an exotic dancer and prostitute.

York regional police said the 26-year-old complainant alleged that a second woman and a man were also involved in forcing her to work as an exotic dancer and prostitute for several months in 2009.

The victim also said identification and any money she earned was taken from her, and alleged that the suspect assaulted her.

Police said they believe there may be more victims and are encouraging others to come forward.

Strip clubs to look for dancers in Toronto schools

By [Tom Godfrey](#), *Toronto Sun*

Updated: Sunday, July 22, 2012 08:31 PM EDT

A flyer praising the benefits of the burlesque trade has been put together to target students in high schools, colleges and universities in the Toronto-area, says a group representing dancers and club owners.

The brochure claims working as a dancer pays well, offers flexible hours and makes a “great part-time job to raise college tuition.”

A scramble is underway by the Adult Entertainment Association of Canada to fill a demand for dancers after Ottawa this month stopped issuing visas or extensions for foreign strippers to work here.

DRAFT
EARN YOUR TUITION FEES WHILE WORKING AS AN
EXOTIC DANCE ENTERTAINER

MUST BE 18 + YEARS OLD ON FIRST DAY OF WORK

NO EXPERIENCE NECESSARY
WILL TRAIN

IF YOU ARE VISUALLY APPEALING AND COMFORTABLE WITH YOUR NAKED BODY AND ARE COMFORTABLE ABOUT TAKING ALL YOUR CLOTHES OFF, YOU CAN BE WORKING RIGHT NOW AS AN EXOTIC DANCER AND EARN YOUR TUITION FEES FOR UNIVERSITY OR COLLEGE

NOTE: YOU MUST BE COMFORTABLE TO BE ONSTAGE AT A CLUB AND DISROBING (STRIP TEASING)

- NO ACTUAL SEX OR SEX ACTS TO OCCUR -
GUARANTEED

PRIVATE DANCES IN OPEN LOUNGE AREAS
PART TIME WORK AVAILABLE (FLEXIBLE HOURS)
FULL TIME WORK AVAILABLE
SEASONAL POSITIONS AVAILABLE

FOR FURTHER INFORMATION ABOUT THIS EXCITING UNIQUE EMPLOYMENT OPPORTUNITY, PLEASE CONTACT THE ADULT ENTERTAINMENT ASSOCIATION OF CANADA AT 1-866-311-AEAC THAT WILL REFER YOU TO AN OPENING EITHER WITHIN YOUR AREA OR OUTSIDE YOUR AREA !

Additional steps

In consideration of the concerns of the entertainers in respect to the disclosure of their licences:

- ML&S will work with Corporate Information Management Services to develop an internal policy concerning the exclusion of the entertainers' licensing information from routine disclosure.
- This would propose that any public request for such information, would be reviewed on a case-by-case basis under MFIPPA

The Executive Director of ML&S is committing to develop and maintain an open dialogue and collaborative relationship with the industry, and all of it's participants.

Summary

The main goals of this review were to:

- 1) respond to concerns raised by the industry stakeholders
- 2) update the bylaw to ensure that the provisions are modernized, relevant and their intent is understood
- 3) ensure the appropriate provisions are in place for the protection of all persons, and in the community interest

The recommendations arising from this review, will result in:

- 1) effective regulation of the industry, while mindful of it's viability,
- 2) improve the safety and working conditions of it's participants,
- 3) and recognize the current state of these businesses in our society