

REVIEW OF ADULT ENTERTAINMENT CLUB REGULATIONS

Licensing and Standards Committee
March 19, 2013

Adult Entertainment Club Regulation

- October 2012 - Toronto Municipal Code, Chapter 545, Licensing was updated and amended to better reflect the current state of the business, while ensuring the appropriate regulation was in place.
- Highlights of these amendments were:
 - The updating of language, such as “Parlour” to “Club”, “Burlesque Entertainer” to “Entertainer”
 - The clarifying definition of specified body parts
 - The recognition of the Provincial licensing requirement for Security practitioners
 - The elimination of the unobstructed view provision for private entertainment areas
 - Development of construction standards for private entertainment areas
 - Elimination of the Liquor Licence Act exemption provision
 - Provisions to address working conditions for entertainers , such as posting of notices
 - Retaining the licensing requirement of entertainers
- The Bill addressing these amendments was approved at the February 2013 City Council meeting

Adult Entertainment Club Regulation – Follow-up

- At its October 2012 meeting City Council also directed staff to review and report back on:
 - The definition of “operator”, the structure of operator licensing and applicable fees;
 - The options governing the installation, regulation, and use of cameras or photographic and recording devices; and
 - Review additional construction standards related to private booths/rooms, such as ventilation and size

Industry Consultations

- Entertainer surveys
- Consultation sessions – held separately for both Entertainers (4) and Owners / AEAC (2)
 - These included follow-up meetings to present the proposals
- Meetings with owners and the AEAC were also facilitated with the Executive Director

Entertainer Feedback

Licensing of “Operators” (Designated Managers)

- Respondents were split in their agreement of whether Managers should be licensed
- Entertainers are reluctant to contact the authorities to report an assault or any other misconduct committed by patrons or management/employees of the club
- Concerns with “inadequate”, “ill-suited” management and harassment, including sexual harassment from management

Entertainer Feedback cont'd

Cameras

- The cameras add to safety in the club, but adequate measures must exist to protect the footage from unauthorized access, use and distribution
- Divided opinions on the issue of whether cameras should be permitted to record performances on the stage
- Concerns about privacy, unauthorized access to the footage and fear of having their occupation exposed to their family and friends

Ventilation and sizes in private performance areas

- The entertainers generally had no concerns
- Private performance areas are where entertainers state they feel most vulnerable

Owner / AEAC Feedback

Licensing of “Operators” (Designated Managers)

- Owners/AEAC opposed the licensing regime for shift/designated managers
- Maintained that the responsibility for hiring, screening and managing the conduct of club managers rests with club owner
- Owners stated they need flexibility with their key staff to put them in charge when they have to leave for other business

Cameras

- Owners/AEAC felt that cameras are needed for security, insurance investigations and training of employees

Ventilation and sizes in private performance areas

- Owners/AEAC felt that existing legislation, .e.g. Building Code, is sufficient

Recommendations

Operator Licensing Structure

Amend the definition of Operator:

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

Proposed definition of Operator:

A person who manages, supervises, runs or controls all operations of an adult entertainment club

NEW – Definition of Designated Manager

A person authorized by the owner of an adult entertainment club to manage, supervise, or control daily or shift operations of a club on behalf of an owner or operator.

Licensing of Designated Managers

- The licensing process would ensure that all persons who are put in positions of authority over workers within the club are subject to a criminal background screening, just as the entertainers, and the owners and operators
- The corresponding proposed by-law provisions will ensure the responsibility of the Designated Manager, identical to those currently applied to the owner/operator
- This would require the premises to have a recognized and accountable person on duty while the club is in operation
- Provisions allow for “in case of emergency and on a temporary basis” an unlicensed person to be appointed as a Designated Manager
- The proposed application fee is \$360.69, and the proposed annual renewal fee is \$254.00 - equivalent to the fees currently applicable to the entertainers license

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 the installation of cameras to be used for security purposes, but the cameras will not be permitted to be installed in washrooms and change rooms
- Signs advising of the use of the cameras must be posted in areas under surveillance, to ensure notification to patrons and entertainers

Use of Cameras or other Photographic or Recording Devices

- Recorded footage or other material is not be disclosed, distributed or made available other than for the training of employees, or as required for any law enforcement process or insurance claim
- Footage or other material must be adequately protected physically and electronically against loss or theft as well as unauthorized access, disclosure, copying, use or modification
- A privacy and security plan must be filed with ML&S, which includes the retention period, security measures to restrict access, and the process to securely destroy the footage
- Entertainers are to be informed, in writing, of the presence of security cameras

Additional Standards for Private Performance Areas

Ventilation

- Standards are sufficiently included in the Ontario Building Code
- Proposed provision will state that all premises, including all private rooms, booths and cubicles must be ventilated in accordance with the Ontario Building Code regulations or any other applicable statutes, regulations, or by-laws

Size

- Not specifically covered by any legislation and difficult to prescribe
- Proposed provision will state that interior space must provide for adequate clearance to exist, to allow for unrestricted movement between the occupants

Clarifying Language for Private Performance Areas

Construction standards

- Provision adopted by Council at its October 2012 meeting
All private rooms, private booths or cubicles, must have no more than three sides; or have one side constructed of non-opaque material such as glass or plexiglass. When services are being provided, the view into any private rooms, private booths or cubicles must not be obstructed by any means and must permit an unobstructed view of the interior to anyone in its immediate vicinity and in all lighting conditions.”
- This could inadvertently permit the construction of a room or cubicle where the transparent side directly abuts another private room, booth, or cubicle, contrary to the intent of the by-law

Clarifying Language for Private Performance Areas

- Proposed revision:

*All private rooms, private booths or cubicles, must have no more than three sides; or have one side constructed of non-opaque material such as glass or plexiglass. **When one side is constructed of non-opaque material, such side may not abut another private room, private booth or cubicle or directly front a wall or another solid obstruction.** When services are being provided, the view into any private rooms, private booths or cubicles must not be obstructed by any means and must permit an unobstructed view of the interior to anyone in its immediate vicinity and in all lighting conditions*

- Eliminates the possibility of installing a transparent side/wall between two adjacent rooms, booths or cubicles, or directly fronting a wall or another solid obstruction

Conclusion

- Pursuant to the adoption of the recommendations contained herein, we will have:
 - Further enhanced safety through the development of a Club Management accountability structure, which includes the definition, licensing and recognition of “Designated Manager”
 - Permitted the use of, and prescribed regulation governing the installation and use of cameras or photographic and recording devices; and
 - Specified construction standards related to private booths/rooms, such as ventilation and size
 - Reviewed and updated the Article governing Adult Entertainment Clubs in its entirety
 - Affirmed the City’s commitment to consumer protection, through the enactment of reasonable and relevant legislation

QUESTIONS?