



**STAFF REPORT
ACTION REQUIRED**

**Correction to Municipal Code, Chapter 545, Licensing –
Adult Entertainment Clubs**

Date:	November 20, 2013
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2013\Cluster B\MLS\LS13024

SUMMARY

The purpose of this report is to correct an inadvertent error in the amendments to the Adult Entertainment Club (“AEC”) article of Toronto Municipal Code, Chapter 545, Licensing that were adopted by City Council on October 30, 2012 and April 3, 2013.

This report recommends reinstating a previously provided exemption for licensees governing the hours of club operation and the consumption of drugs and alcohol by certain AEC employees. The exemption specifically applied to AECs licensed under the *Liquor Licence Act*.

The *Liquor Licence Act* governs the hours of sale of alcohol, regulates the consumption of alcohol by patrons and prohibits the presence of illicit drugs in any establishment that holds a liquor licence.

Legal Services was consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council reinstate the exemption for licensees who are also governed by the *Liquor Licence Act* from Sections 545-385 (A), (B), (C), and (G) – Hours of Operation and Section 545-386 – Drugs and Alcohol of Toronto Municipal Code, Chapter 545, Licensing.

Financial Impact

There is no financial impact beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On October 30, 2012, and on April 3, 2013, City Council adopted amendments to Municipal Code, Chapter 545, Licensing, Article XXXII, Adult Entertainment Clubs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS16.1>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.LS19.1>

ISSUE BACKGROUND

On October 30, 2012 and April 3, 2013, City Council adopted extensive amendments to the AEC article of Toronto Municipal Code, Chapter 545, Licensing, following a review of all regulations governing the industry. At this time, staff removed the provision that granted an exemption from a number of AEC by-law provisions to the AEC licensees who were also governed under the *Liquor Licence Act*. The exemption covered sections of the by-law concerning AEC's hours of operation and the consumption of drugs and alcohol by certain AEC staff.

COMMENTS

The *Liquor Licence Act* governs the hours of sale of alcohol, regulates the consumption of alcohol by patrons and prohibits the presence of illicit drugs in any establishment that holds a liquor licence.

Prior to the amendments on October 30, 2012 and April 3, 2013, the AEC by-law exempted the clubs licensed under the *Liquor Licence Act* from closing at 1:00 am. This exemption permitted the Clubs to stay open and to continue to serve alcohol in accordance with *Liquor Licence Act* regulations. The removal of the exemption has resulted in a conflict between the AEC's closing time mandated by the AEC by-law (1:00 am) and the ending time for consumption of alcohol regulated by the *Liquor Licence Act* (2:45 am). Reinstating the exemption will alleviate this conflict with the provincial legislation.

The AEC by-law also includes a provision that restricts AEC owners, operators, designated managers, and entertainers from consuming alcohol and drugs while working in an AEC. Prior to the amendments on October 30, 2012 and April 3, 2013, the AEC article exempted the clubs licensed under the *Liquor Licence Act* from this provision. The *Liquor Licence Act* regulates the consumption of alcohol by patrons and prohibits the presence of illicit drugs in any establishment that holds a liquor licence. During the

tenure of the exemption, the consumption of alcohol by owners, operators, designated managers, and entertainers at AEC locations licensed under the *Act* has not presented an enforcement issue.

Accordingly, this report recommends the reinstatement of the exemption for those licensees who are also governed by the *Liquor Licence Act* from the following sections of the Municipal Code, Chapter 545, Licensing:

- § 545-385 (A), (B), (C), and (G) – Hours of operation
- § 545-386 – Drugs and alcohol

The proposed amendment reinstates the exemption as follows:

§ 545-386.1 Exemption from certain provisions for adult entertainment clubs licensed under the *Liquor Licence Act*.

Sections 545-385(A), (B), (C), and (G), and 545-386 of this article do not apply to adult entertainment clubs licensed under the *Liquor Licence Act*.

The full text of the provisions to which the above exemption will apply is described in Attachment 1 of this report.

Public notice has been given in the manner prescribed by Municipal Code, Chapter 162, Notice, Public.

CONTACT

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SIGNATURE

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Municipal Licensing and Standards

ATTACHMENT

Attachment 1: Sections 545-385 and 545-386 of Municipal Code, Chapter 545, Licensing, Article XXXII (Adult Entertainment Clubs)

§ 545-385. Hours of operation; schedule of hours of operation to be filed; means of access to remain unobstructed.

A. No owner or operator shall, in respect of an adult entertainment club owned or operated by him or her, open or permit to remain open for business such adult entertainment club or permit any services of any kind to be provided in the said adult entertainment club at any time between the hours of 1:00 a.m. and 8:00 a.m. of the same day.

B. Subject to Subsection A, every owner who operates his or her own adult entertainment club and every operator of an adult entertainment club shall file with the Municipal Licensing and Standards Division a schedule showing the hours of business to be observed by him or her in the carrying on of his or her operation of the adult entertainment club, which schedule shall state specifically the opening and closing times of the said adult entertainment club for each day of the week.

C. No person shall permit an adult entertainment club owned, operated or managed by him or her to be open for business at any time other than the times set forth in a schedule filed with the Municipal Licensing and Standards Division pursuant to Subsection B.

D. During the hours of business of an adult entertainment club or at any time at which an entertainer is in attendance at an adult entertainment club, it shall be the responsibility of the owner, operator and designated manager, if any, to ensure that the door or doors or other principal means of access into the adult entertainment club by the public shall be kept unlocked and available so that anyone coming into the adult entertainment club from the street or other public place may enter without hindrance or delay.

E. Either the owner, operator or designated manager licensed in respect of an adult entertainment club shall be in attendance at such adult entertainment club at all times during its hours of operation, and no owner or operator shall permit an adult entertainment club owned or operated by him or her to open for business, or remain open for business, or any entertainer to enter or remain therein, or any service to be provided at such entertainment club unless this subsection is complied with.

F. Notwithstanding Subsection E, an owner, operator or designated manager may, in case of an emergency or on a temporary basis, appoint another employee of the club to supervise its daily operations in the owner's or designated manager's absence.

G. For the purposes of this section, so long as the time commonly observed in the City of Toronto is one hour in advance of standard time, the times mentioned shall be reckoned in accordance with the time so commonly observed and not standard time.

§ 545-386. Drugs and alcohol.

A. No owner, operator, designated manager or entertainer shall consume liquor or drugs while working in an adult entertainment club, nor shall the use of liquor or any drug impair his or her ability to operate, manage or offer services in an adult entertainment club.

B. For the purposes of Subsection A, the word "drug" shall be deemed to exclude patent medicines and prescription drugs required for medicinal purposes.