

## THE CORPORATION OF THE TOWN OF MILTON

### BY-LAW NO. 54-2003

BEING A BY-LAW TO REGULATE, LICENSE AND GOVERN ADULT ENTERTAINMENT ESTABLISHMENTS, AND TO REPEAL BY-LAW NO. 132-2001

**WHEREAS** section 150 of the *Municipal Act 2001*, S.O. 2001, c. 25, as amended, (the "Act") authorizes Councils of all municipalities to license, regulate, and govern any business wholly or partly carried on within the municipality;

**AND WHEREAS** section 151(2)(a) of the Act defines a premises as an "Adult Entertainment Establishment" if goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided in pursuance of a business in the premises or part of the premises;

**AND WHEREAS** the Council of The Corporation of the Town of Milton deems it advisable to repeal By-law No. 132-2001, and to enact a new by-law to license, regulate and govern Adult Entertainment Establishments;

**AND WHEREAS** section 151(1)(a) of the Act provides that, despite subsection 150(12), a by-law passed under section 150 of the Act may define the area or areas of the municipality in which Adult Entertainment Establishments may or may not operate and may limit the number of licenses to be granted in any defined area in which they are permitted;

**AND WHEREAS** the Council of The Corporation of the Town of Milton deems it desirable to enact a by-law defining areas of the Town of Milton in which, subject to all other applicable law, Adult Entertainment Establishments may operate, and areas in which Adult Entertainment Establishments may not operate, and limiting the number of licenses to be granted in respect of Adult Entertainment Establishments in the Town of Milton.

**NOW THEREFORE** the Council of The Corporation of the Town of Milton hereby enacts as follows:

#### **MUNICIPAL ACT REQUIREMENTS**

1. By-law 54-2003 to license, regulate, and govern *Adult Entertainment Establishments* is adopted by the *Council* of the *Town* for the purpose of consumer protection and the protection of the health and safety of the public.

## DEFINITIONS

2. In this By-law:

- (a) “*Adult Entertainment Establishment*” means any premises or part thereof in which is *provided services or entertainment*, in pursuance of a trade, calling, business or occupation;
- (b) “*Committee*” means the *Town’s Administration and Planning Committee*;
- (c) “*Council*” means the *Council* of The Corporation of the Town of Milton;
- (d) “*Entertainer*” means any *person* other than a licensed *Owner* or *Operator* of an *Adult Entertainment Establishment* who *provides services or entertainment* in an *Adult Entertainment Establishment*;
- (e) “*Licensing Officer*” means the *Licensing Officers* for the *Town*, or his/her designate, and includes the *Town Clerk*;
- (f) “*Licensing Section*” means the *Licensing Section* of the Clerk’s Office at the *Town*;
- (g) “*Medical Officer of Health*” means the Medical Officer of Health for the Regional Municipality of Halton;
- (h) “*Municipal Law Enforcement Officer*” means an employee of the *Town* so appointed by *Council*;
- (i) “*Officer*” means the *Medical Officer of Health*, a *Licensing Officer*, a *Municipal Law Enforcement Officer*, a public health inspector, a peace officer, a police officer or such other person as Council may designate;
- (j) “*Operator*” includes any individual who alone or with others, manages, supervises, runs or controls an *Adult Entertainment Establishment*;
- (k) “*Owner*” means a *person* who alone or with others owns or has a right to possess or occupy an *Adult Entertainment Establishment*, or actually does possess or occupy an *Adult Entertainment Establishment* and includes a lessee of an *Adult Entertainment Establishment* or premises in which an *Adult Entertainment Establishment* is located;
- (l) “*person*” includes a corporation or partnership, and includes their successors, assigns, heirs, executors, administrators, or other legal representative of such person to whom the context can apply according to law;
- (m) “*services or entertainment*” means *services or entertainment* which includes 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, as amended, which *services or entertainment* are designed to appeal to erotic or sexual appetites or inclinations, and includes:

1. services or entertainment of which a principal feature or characteristic is the nudity or partial nudity of any *person*, including, but not limited to the nudity or partial nudity of *specified body areas*, and
  2. services or entertainment in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy”, or any other word or any other picture, symbol or representation having like meaning or implication, is used in any advertisement.
- (n) "*specified body areas*" means any one or more of the following:
- i) in the case of a female *person*, her breasts; and
  - ii) in the case of all *persons*, the genitals and the anus;
- (o) "*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 clothed or unclothed *specified body areas* and flagellation, mutilation, maiming, murder or torture in the context of a sexual relationship or activity;
- (p) “*to provide*” when used in relation to *services or entertainment* includes to furnish, perform, solicit, or give such *services or entertainment* and “providing” and “provision” have corresponding meanings;
- (q) “*Town*” means The Corporation of the Town of Milton.

## **GENERAL PROVISIONS OF BY-LAW**

3. There shall be taken out by every *Owner* and *Operator* of an *Adult Entertainment Establishment* a license authorizing the *Owner* and *Operator* to carry on such trade, calling, business or occupation in the *Town*, and no *person* shall carry on such trade, calling, business or occupation until the *Owner* and *Operator* has obtained a license to do so.
4. No *Owner* of an *Adult Entertainment Establishment* shall permit any *person* other than an *Operator* licensed under this By-law to operate an *Adult Entertainment Establishment*.
5. The requirement of a license under this By-law is in addition to and not in substitution for any other requirement to obtain a license or licenses under any other federal, provincial or municipal regulation and does not relieve any party from its obligations to comply with any other law with respect to the operation of an *Adult Entertainment Establishment*.

6. Every *Owner* and *Operator* licensed as such under this By-law shall, within five (5) days after the selling, leasing or other disposal of the *Adult Entertainment Establishment* in respect of which the license has been issued, or after ceasing to carry on the business, notify the *Licensing Officer* in writing of such fact and surrender the license.
7. No *person* shall enjoy a vested right in the continuance or renewal of a license and the value of a license shall be the property of the *Town* and shall remain so regardless of the issue, renewal or revocation thereof.
8. No *person* licensed to carry on business under this By-law shall advertise or promote or carry on such business under any name other than the name endorsed upon the license.
9. Every *Adult Entertainment Establishment Owner's* and *Operator's* license shall have endorsed thereon the location of such *Adult Entertainment Establishment* and such endorsement shall be for one location only and such license shall be valid only for the location endorsed thereon.
10. No *person* carrying on or engaged in any business or activity to which this By-law relates shall make a false or intentionally misleading recital of fact, statement or representation, orally or in any agreement, statutory declaration or application form required by this By-law, to the *Town*, to *Council*, any committee of *Council*, the Clerk, a *Licensing Officer*, a *Municipal Law Enforcement Officer*, the *Medical Officer of Health*, a public health inspector, peace officer or a police officer, and the making of such a false or intentionally misleading recital of fact, statement or representation constitutes an offence.

#### **TERM OF LICENSE and PAYMENT OF FEES**

11. Every license issued under this By-law shall expire at the end of February of each year if not otherwise revoked or suspended under this By-law prior to that date.
12. A license issued under this By-law is personal to the licensee, and cannot be transferred, assigned or leased.
13. The rights granted by a license issued under this By-law apply only to the premises for which the license is issued.
14. Where the original information submitted on a license application changes during the year, such licensee shall notify the *Licensing Section* in writing within five (5) days of any change in the information contained in the previous application submitted by the licensee.
15. Each licensee shall be required to renew the said license prior to the expiry of the original license issued under this By-law and failing such renewal, the licensee must discontinue the operation of the *Adult Entertainment Establishment* upon the expiry of the license.

16. To apply to renew a license, the licensee shall submit a complete application in the form required by the *Town*, along with any supporting information or documentation of the types listed in section 23 of this By-law, if required by the *Town*, and shall pay the required fee as set out in the *Town's* User Fee By-law 163-2002, as amended from time to time.
17. Where a complete application and required fee for the renewal of a license is not submitted to the *Licensing Section* before the expiry date of the license, the license expires and in order to operate as an *Adult Entertainment Establishment*, the *Owner* and *Operator* must each make application for a new license in accordance with the requirements of this By-law, rather than making application for a renewal of a license.
18. Where a license has been revoked or suspended, the licensee is not entitled to a refund of the license fee.

## **LOCATION OF PREMISES**

19. All *Adult Entertainment Establishments* shall be restricted to locations within the geographic area designated in the *Town's* Zoning By-law, and no *Adult Entertainment Establishments* are permitted to operate in any other area or areas of the *Town*.
20. The provisions of section 19 do not apply so as to prevent the renewal of a license when the *Adult Entertainment Establishment* was being lawfully carried on at that location in accordance with the *Town's* Zoning By-law when the original licence was issued for the *Adult Entertainment Establishment* at that location and has continued to be carried on at that location, and the *Adult Entertainment Establishment* is in compliance with all other applicable laws and all other requirements of this By-law.
21. A maximum of two (2) *Adult Entertainment Establishments* shall be permitted within the *Town of Milton* and no licenses shall be issued under this By-law with respect to any additional *Adult Entertainment Establishment*.

## **LICENSE APPLICATION**

22. Every applicant for a license to which this By-law relates shall appear in *person* at the offices of the *Licensing Section* and shall complete the prescribed forms and provide all information requested thereon, and shall furnish to the *Licensing Officer* such information as *Council* may direct or the *Licensing Officer* may require. In the case of an *Adult Entertainment Establishment* owned or operated by a partnership, such appearance shall be made by one of the partners, provided the application shall be signed by all of the partners, and in the case of an *Adult Entertainment Establishment* owned or operated by a corporation, such appearance shall be made by an officer of the corporation.
23. The information, documentation and fees required through the license application process under section 22 shall include, but not be limited to the following:

- (a) the name of the *Owner* and the proposed *Operator*, and an application by such *person* for an *Operator's* license;
- (b) a precise description of the real property and building upon which the business is to be carried on, together with information as to exactly where on the property and what parts of the premises are to be utilized for this purpose; working drawings of the physical premises with details of any stage, doors, walls, seating areas, partitions; and all relevant data pertaining to the nature of the business to be carried on, including the type of services and entertainment to be advertised and offered, and the prices for services;
- (c) confirmation from the *Town's* Building Department that the *Adult Entertainment Establishment* premises comply with all Ontario Building Code requirements, Official Plan and zoning requirements and all requirements of *Town* by-laws relating to the physical construction of the premises;
- (d) confirmation from the *Town's* Fire Department that the *Adult Entertainment Establishment* premises complies with the Department's requirements and the Ontario Fire Code;
- (e) information as to whether or not all or any part of the *Adult Entertainment Establishment* premises are or are intended to be licensed under the *Liquor License Act*, R.S.O. 1990, c. L. 19, as amended, or are the subject matter of an application for such a license, and copies of all liquor licenses issued for the premises;
- (f) the identity and address of all *persons* or entities having an interest, directly or indirectly, any trust arrangement, or any financial or contractual or other arrangement with respect to the ownership or operation of the *Adult Entertainment Establishment* premises or the *Adult Entertainment Establishment*;
- (g) the identity and address of every *person* having a beneficial interest, directly or indirectly, in the premises or in the business to be carried on to which this By-law relates and every *person* having a right to receive income, revenue or benefits of any kind arising out of the operation of such premises or business, or any *person* who in fact receives such income, revenue or benefit;
- (h) every applicant for an *Owner's* license or *Operator's* license shall provide two passport-sized photographs, which must be taken within thirty (30) days prior to the license application. Where such applicant for an *Owner's* license is a corporation, such photograph shall be taken of an officer of the corporation. Where such applicant for an *Owner's* license is a partnership, such photographs shall be taken of all of the partners;

- (i) every applicant for an *Owner's* license or *Operator's* license shall provide a criminal records check that they have obtained from a Police Service;
  - (j) the annual fee as prescribed in the *Town's* User Fee By-law 163-2002, as amended from time to time;
  - (k) documentation satisfactory to the *Licensing Officer* demonstrating the applicant's right to possess or occupy the premises, and if any applicant is not the registered owner of the property at which the *Adult Entertainment Establishment* is to be located, such *person* shall file with the *Licensing Officer* a copy of his or her lease, if any, of the property and a copy of any other document constituting or affecting the legal relationship between the applicant and the registered owner relating to the said property.
  - (l) Confirmation that the applicant is in compliance with all other municipal, provincial or federal laws.
24. Acceptance of the application and/or the license fee by the *Town* shall not represent approval of the application for the issuance of a license nor shall it obligate the *Town* to issue such license.
25. Without limiting the generality of any other provision of this By-law, the *Licensing Officer*, upon receiving an application completed in accordance with the requirements of this By-law:
- (a) shall submit a copy of the application to the *Medical Officer of Health* and to the Halton Regional Police Service for comments;
  - (b) may submit a copy of the application to any other government official or functionary for comments;
  - (c) may make such other inquiries and inspections, and obtain and review such other information and documents relevant to the application, as the *Licensing Officer* considers necessary for the proper processing of the application, including notifying and hearing from any member of the public.
26. Without limiting the generality of any other provision in this By-law, *persons* associated in a partnership applying for a license under this By-law shall file with their application a statutory declaration, in writing, signed by all members of the partnership stating:
- (a) the full name of every partner and the address of his/her ordinary residence;
  - (b) the name or names under which they carry on or intend to carry on business;
  - (c) that the *persons* therein named are the only members of the partnership; and

- (d) the mailing address for the partnership.
27. Without limiting the generality of any other provision in this By-law, every corporation applying for a license shall file with the *Licensing Officer*, at the time of making its application, copies of its articles of incorporation or other incorporating document and shall file with the *Town* a statutory declaration, in writing, signed by an officer of the corporation stating:
- (a) the full name of every shareholder and the address of his ordinary residence;
  - (b) the name or names under which it carries on or intends to carry on business;
  - (c) that the *persons* therein named are the only shareholders of the corporation;
  - (d) the mailing address for the corporation; and
  - (e) the names of its officers, and, directors and management employees.

#### **REFUSAL, REVOCATION, SUSPENSION OF LICENSE**

28. An applicant whose application meets all the requirements of this By-law is entitled to a license, or to the renewal of a license, and a licensee who meets all the requirements of this By-law is entitled to be able to continue to hold a license, except where:
- (a) the past or present conduct of the applicant or licensee, or of any partner where the applicant or licensee is a partnership, or of any director or officer of the corporation if the applicant or licensee is a corporation, affords reasonable grounds to believe that the business in respect of which the application is made or is currently licensed, will not be or has not been carried on in accordance with the law or with integrity and honesty;
  - (b) where the conduct of the applicant or licensee, or other circumstances, afford reasonable grounds for belief that the carrying on by the applicant or licensee of the business in respect of which the license is sought or held, would infringe the rights or endanger the health or safety of members of the public and *persons* working in the premises, including *Entertainers*;
  - (c) where there are reasonable grounds for belief that the carrying on of the business by the applicant or licensee will result in non-compliance with this By-law or any other requirement or prohibition imposed by any other law;
  - (d) where there are reasonable grounds for belief that the nature, condition or use of the place or premises, or any equipment, vehicle or other *personal* property used or to be used by the applicant or licensee in the carrying on

or engaging of the business would involve non-compliance with any provision of this By-law or any other law;

- (e) where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the licensee or applicant contains a false statement or provides false information;
- (f) where information provided to the *Town* by or on behalf of the applicant or licensee, whether oral or in writing, has ceased to be accurate, and the applicant or licensee has not provided up-to-date accurate information to the *Town* sufficient to allow *Council* to conclude that the license should be granted, renewed, or maintained as valid and subsisting;
- (g) where the *Adult Entertainment Establishment* or the property on which it is located, have outstanding property or business taxes, unless the applicant or licensee has made an arrangement satisfactory to the Director of Corporate Services for the *Town*, for the payment of such business taxes; or
- (h) where there has been a failure by the *Owner* or licensee to meet the requirements of the *Town's* Official Plan, Zoning By-law, except as provided for in section 20, the *Building Code Act*, 1992, S.O. 1992, c.23, as amended and the Ontario Building Code, the *Fire Marshal's Act*, R.S.O. 1990, c. F.17, as amended, and the Fire Code or any other provincial or federal law or municipal by-law as they may be amended from time to time.

## **TERMS AND CONDITIONS ON LICENSE**

- 29. (a) *Council* may impose conditions as a requirement of obtaining, continuing to hold or renewing a license under this By-law.
- (b) *Council* may also impose special conditions as a requirement of obtaining, continuing to hold or renewing a license under this By-law that have not been imposed on another *Adult Entertainment Establishment* in the Town of Milton, upon such grounds as are set out in section 28 of this By-law.

## **OPPORTUNITY TO BE HEARD**

- 30. Where the *Licensing Officer* has reasonable grounds to believe that the applicant/licensee may not be entitled to the issuance or renewal of a license, that conditions, including special conditions, may need to be imposed, or that a license should be suspended or revoked, on the grounds referred to in this By-law, the *Licensing Officer* shall forthwith cause written notice of this fact, with reasons, to be served upon the applicant or licensee, either in *person* or by registered mail, at the address shown on the application form.
- 31. The *Licensing Officer's* notice shall state that the applicant/licensee may request an opportunity to be heard before the *Committee* to address the issues and grounds identified in the notice, by paying the required fee pursuant to the

Town's User Fee By-law 163-2002, as amended from time to time. The notice shall also state that if the applicant/licensee does not notify the *Licensing Officer* that the applicant/licensee requests such an opportunity to be heard, the application for a license or renewal of a license may not be granted, conditions, including special conditions, may be imposed, or the license may be suspended or revoked and the applicant/licensee will not be entitled to any further notice with respect to the matter.

32. If the applicant/licensee wishes to request an opportunity to be heard before the *Committee*, the applicant/licensee must serve a notice in writing to that effect upon the *Licensing Officer* within fifteen (15) days of being served with the *Licensing Officer's* notice, along with the applicable fee required pursuant to the Town's User Fee By-law 163-2002, as amended from time to time.
33. (a) Where the *Licensing Officer* receives notice from the applicant/licensee in accordance with section 32, the *Licensing Officer* shall forthwith refer the matter to the *Committee* and give the applicant/licensee notice of the date and time when the applicant/licensee will have the opportunity to be heard on the matter by the *Committee*.
- (b) Where the *Licensing Officer* does not receive notice from the applicant/licensee requiring an opportunity to be heard in accordance with section 32, the *Town* need not process the application further and no further notice is required to be served upon the applicant/licensee, and the license or renewal of license may not be granted and *Council* may also suspend or revoke the license or impose conditions, including special conditions, without hearing from the applicant/licensee.
34. Where the applicant/licensee has satisfied all requirements under this By-law for the issuance or renewal of a license and there are no grounds under this By-law for denying the issuance or renewal of the license and the *Licensing Officer* does not seek to have conditions imposed on the license, the *Licensing Officer* shall issue or renew the license.

## **ADMINISTRATION & PLANNING COMMITTEE**

35. Where a matter has been referred to the *Committee*, at the applicant's/licensee's request, for an opportunity to be heard under this By-law, and the applicant/licensee does not attend the scheduled meeting, the *Committee* may hold the meeting in the absence of the applicant/licensee and otherwise proceed in accordance with section 33(b) of the By-law.
36. At any meeting conducted by the *Committee* under this By-law, the *Committee* can hear not only from the applicant/licensee, but also from the *Licensing Officer* involved or other *Town* staff, any governmental or other public agency, or the general public.
37. Upon the conclusion of a meeting conducted by the *Committee* under this By-law, the *Committee* shall as soon as practicable:

- (a) make a written report to *Council* summarizing the evidence and arguments presented by the parties;
- (b) set out the findings of fact made by the *Committee*; and
- (c) set out the recommendations of the *Committee* with reasons therefore on the merits of the application or matter in respect of which the meeting has been conducted.

After considering the report of the *Committee*, *Council* may make any decision permitted under this By-law in respect of the granting or refusal of the issuance or renewal of a license, the imposing of conditions, including special conditions, on a license or the revocation or suspension of a license, that it might have made had it conducted the meeting itself and *Council's* decision shall be final.

### **RETURN OF LICENSE**

38. Where a license has been suspended or revoked, the holder of the license shall return the license to the *Licensing Section* or *Municipal Law Enforcement Officer* within twenty-four (24) hours of receipt of written notification of the suspension or revocation. The *Officer* may enter upon the premises of the *Adult Entertainment Establishment* for the purpose of receiving or taking the said license and no *person* shall refuse to deliver or in any way obstruct or prevent the *Officer* from obtaining the license.

### **CHANGE OF STATUS**

39. Where there is or is intended to be any change in any of the information or documentation that was filed with the *Town* as part of the application process for a license or renewal of a license under this By-law, such change in the documentation or information shall be reported to the *Town* within five (5) days of such change.
40. When there has been a change in the documentation or information previously provided to the *Town* in connection with an application for license or renewal of a license under this By-law, regardless of how that change in information or documentation comes to the attention of the *Town*, *Council* may reconsider the granting or renewal of the license with or without conditions, or consider a suspension or revocation of the license, in accordance with the provisions of sections 30 to 37 of the By-law.

## REGISTRATION OF *ENTERTAINERS*

41. Every *Owner* and *Operator* shall require all *Entertainers* who will be working in his/her *Adult Entertainment Establishment* to be properly registered as an *Entertainer* with the *Town*, under this By-law, before performing in the *Adult Entertainment Establishment* and at no time shall an *Owner* or *Operator* allow any *Entertainer* to provide *services or entertainment* in the *Adult Entertainment Establishment* without first confirming that the person has a valid *Entertainer's* registration card issued by the *Licensing Section*. The *Owner* and *Operator* shall retain a copy of the *Entertainer's* registration card at the *Adult Entertainment Establishment* at all times.
42. Prior to *providing services or entertainment* in an *Adult Entertainment Establishment*, an *Entertainer* shall complete an application for registration as an *Entertainer*, in the form set out in Schedule "A" to this By-law, submit the application to the *Licensing Section*, and be approved and registered by the *Town* as an *Entertainer*. If an *Entertainer* is approved and registered by the *Licensing Section* as an *Entertainer*, he or she will be issued an *Entertainer's* registration card, which card the *Entertainer* shall have with him or her at the *Adult Entertainment Establishment* whenever he or she is providing *services or entertainment*.
43. An *Entertainer's* completed registration form shall include the following information pertaining to the *Entertainer* and be submitted to the *Licensing Section* along with the following documentation and photographs:
  - (a) legal name;
  - (b) current address;
  - (c) former address if changed within the previous two (2) years; and
  - (d) proof of age of majority as evidenced by the production of at least two (2) of the following documents, of which one must contain photographic identification of the *Entertainer*:
    - (i) birth certificate;
    - (ii) baptismal certificate;
    - (iii) drivers license;
    - (iv) valid passport;
    - (v) social insurance card.
  - (e) two recent passport style photographs.

44. An *Entertainer's* application for registration shall be submitted with the fee prescribed in the *Town's User Fee By-law 163-2002*, as amended from time to time and a copy of the complete application will be provided to the Halton Regional Police Services.
45. An *Entertainer's* registration card may not be reproduced, defaced or altered in any way, and such cards are not transferable.
46. Any *person* using or attempting to use a fraudulent *Entertainer's* registration card or using or attempting to use another *Entertainer's* registration card under this By-law is guilty of an offence pursuant to this By-law.
47. While *providing services and entertainment* at an *Adult Entertainment Establishment*, *Entertainers* must produce their registration card immediately upon request by a *Licensing Officer*, Medical Officer of Health, *Municipal Law Enforcement Officer*, a police officer, peace officer, public health inspector or such other person so designated by *Council*.
48. An *Entertainer's* registration card issued under this By-law, is valid for one (1) year from the date it is issued by the *Licensing Officer*.
49. Upon expiry of an *Entertainer's* registration card, the card must be returned to the *Licensing Section*, and a new application must be submitted and the appropriate fee as described in the *Town's User Fee By-law*, as amended from time to time, must be paid, before a new card will be issued to the *Entertainer*.
50. If an *Entertainer's* registration card is lost or stolen, the *Entertainer* must report the loss or theft to the *Licensing Section* within twenty-four (24) hours of the occurrence.

## REGULATIONS

51. Without limiting the generality of any other provision of this By-law, every *Owner* shall furnish to the *Licensing Section* a list setting out the names of every *Operator* and *Entertainer* who the *Owner* intends to have operate or provide *services or entertainment*, as the case may be, at the *Adult Entertainment Establishment* and , in addition to any other requirement under this By-law, shall not permit any *person* not on such list to operate or provide *services or entertainment*, as the case may be, at the *Adult Entertainment Establishment*, and shall ensure that such list is continually updated with the *Licensing Section* on an on-going basis, within twenty-four hours of any change to the persons on the list.
52. No *Owner* or *Operator* shall operate an *Adult Entertainment Establishment* in the Town of Milton other than the *Adult Entertainment Establishment* endorsed on his/her license and at the location specified thereon.
53. Every *Owner* and *Operator* shall keep his/her license issued in respect of an *Adult Entertainment Establishment* posted in a conspicuous place in the said

premises, satisfactory to the *Licensing Officer* or *Municipal Law Enforcement Officer*, at all times during the currency of the license.

54. No *Owner* or *Operator* shall permit, allow or cause any *services or entertainment* to be given, performed, *provided* or received in any *Adult Entertainment Establishment* in breach of any of the provisions contained in this By-law, and every *Owner* and *Operator* shall ensure that the *Adult Entertainment Establishment* is operated in a manner that is in full compliance with all of the requirements of this By-law.
55. Either the *Owner*, where the *Owner* is a natural individual, or one of the *Owners*, who is a natural individual, where the *Owner* is a partnership, or an *Operator* licensed in respect of such *Owner's Adult Entertainment Establishment*, shall be in attendance at such *Owner's Adult Entertainment Establishment* during all opening hours, and no *Owner* or *Operator* shall permit an *Adult Entertainment Establishment* 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 *services or entertainment* to be provided at such *Adult Entertainment Establishment*, unless this section is complied with. Where an *Owner* is a corporation or other legal entity that is not a natural individual, such *Owner* shall not permit an *Adult Entertainment Establishment* owned by such entity to open for business, or remain open for business, or any *Entertainer* to enter or remain therein, or any *services or entertainment* to be provided at such *Adult Entertainment Establishment*, unless an *Operator* licensed in respect of such *Owner's Adult Entertainment Establishment* is in attendance.
56. Every *Owner*, *Operator*, and all other *persons* working in an *Adult Entertainment Establishment* shall, while engaged in his/her respective trade, calling, business or occupation in an *Adult Entertainment Establishment*, be neat and clean in his/her *person* and civil and well-behaved to members of the public with whom he/she is dealing.
57. No *Owner* or *Operator* shall, in respect of any *Adult Entertainment Establishment* owned or operated by such *Owner* or *Operator*, permit, allow or cause any *Entertainer*, while *providing services or entertainment* as an *Entertainer*, to touch, or be touched by, or have physical contact with, any other *person* in any manner whatsoever involving any *specified body areas* or *specified sexual activities*.
58. No *Entertainer* shall, while providing *services or entertainment* as an *Entertainer*, touch or allow, permit or cause herself or himself to be touched or have physical contact with any other *person* in any manner whatsoever involving any *specified body areas* or *specified sexual activities*.
59. All *services or entertainment* provided by an *Entertainer* shall be provided within view of staff and other patrons of the *Adult Entertainment Establishment*, without obstruction by any *person* or any thing including, but not limited to, walls, curtains, or any other enclosure, opaque glass, fog, or inadequate lighting. No *services or entertainment* shall be provided or offered in any cubicle, private room or other area partitioned-off from any room(s) where *services or entertainment* are generally provided to patrons.

## **PREMISES**

60. Every *Owner* and every *Operator* shall, in the operation of the *Adult Entertainment Establishment* comply with, and ensure compliance with the regulations set out in this By-law.
61. The *Adult Entertainment* premises shall be provided with adequate light and ventilation as specified in the Ontario Building Code, the Ontario Fire Code, the *Town's Property Standards By-law*, as they are amended from time to time, and any other applicable law.
62. The premises and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition.
63. Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth in the Ontario Building Code, the Liquor License Act, Health Department regulations, and the *Town's Property Standards By-law*, as they are amended from time to time, and there shall be separate such rooms for males and females.
64. No premises or part thereof used as an *Adult Entertainment Establishment* shall be used as a dwelling or for sleeping purposes or contain therein any furniture that is commonly used or may be used for sleeping purposes.
65. During the hours of business of an *Adult Entertainment Establishment*, it shall be the responsibility of the *Owner* and of the *Operator*, to ensure that all means of egress and ingress are available for emergency and other purposes in accordance with all applicable law.

## **AGE RESTRICTION**

66. No *person* under the age of eighteen (18) may be or act as an *Owner* or *Operator* of an *Adult Entertainment Establishment* or as an *Entertainer* in an *Adult Entertainment Establishment* or provide any *services or entertainment* whatsoever in an *Adult Entertainment Establishment*.
67. No one may provide *services or entertainment* in an *Adult Entertainment Establishment* to a *person* under the age of eighteen (18) years.
68. No *Owner* or *Operator* shall permit any *person* under the age of eighteen (18) to enter or remain in any *Adult Entertainment Establishment* owned or operated by him/her.

## **SIGNAGE**

69. In addition to complying with the *Town's Sign By-law*, all *persons* must comply with the following regulations with respect to signs, advertising, advertising devices and any or other communication or thing used to promote *Adult Entertainment Establishments*, as follows:

- (a) a *person* may erect or maintain the following types of signs or other advertising devices in respect of an *Adult Entertainment Establishment*: an awning sign, canopy sign, a ground or pylon sign and a wall sign. No other type of sign or advertising device, including but not limited to, projecting signs, inflatable advertising devices, portable and trailer signs, or sandwich board signs, is permitted in respect of an *Adult Entertainment Establishment*;
- (b) Every *Owner* and *Operator* shall exhibit over the street door or in the lower front window of the premises in respect of which such *person's* license is issued or in some other conspicuous place on the exterior of such premises satisfactory to the *Licensing Officer*, a sign bearing the words "Licensed Adult Entertainment Establishment".
- (c) no *person* may circulate, post, distribute or cause to be distributed any poster, flyer, handbill or other form of printed advertising material, other than in the interior of an *Adult Entertainment Establishment*, with the exception of advertising located in a newspaper or telephone directory;
- (d) no *person* shall include pictorial or symbolic representation of *specified body areas*, and/or *specified sexual activities* on exterior signs and advertisements relating to an *Adult Entertainment Establishment*;
- (e) nothing in this By-law shall be deemed to constrain any *person* from erecting or maintaining any sign or other advertising device on any interior wall of an *Adult Entertainment Establishment*, provided the content of such sign is not visible from the exterior of the *Adult Entertainment Establishment*;
- (f) any sign or advertising device otherwise permitted in respect of an *Adult Entertainment Establishment* under this By-law, shall not have any animation, flashing lights or be designed to revolve on an axis. For the purpose of this sub-section, "animation" shall mean any motion of a display or part thereof whether by mechanical or other action or the flashing on and off of its lights; and
- (g) where there is a conflict between the provisions of this By-law and the provisions of the Sign By-law No. 146-2002, as amended from time to time, the provisions of this By-law shall apply.

## **BUSINESS OPERATION**

- 70. Except for December 31<sup>st</sup>, an *Owner* or *Operator* shall only operate an *Adult Entertainment Establishment* between 11:00 a.m. on any day and 2:45 a.m. on the following day.
- 71. On December 31<sup>st</sup>, an *Owner* or *Operator* may operate an *Adult Entertainment Establishment* between 11:00 a.m. that day and 3:45 a.m. on the following day.

## INSPECTION

72. A *Medical Officer of Health, a Municipal Law Enforcement Officer, a Licensing Officer, a police officer, a public health inspector or a peace officer, or such other person as Council may designate*, may, at any time of the day or night, enter an *Adult Entertainment Establishment* for the purpose of determining whether this By-law is being complied with and, for this purpose, may make such examinations, investigations and inquiries as are necessary to confirm compliance with this By-law, and no *person* shall obstruct or hinder such examinations, investigations and inquiries.
73. Upon an inspection under section 72, the *Medical Officer of Health, Municipal Law Enforcement Officer, Licensing Officer, police officer, public health inspector or peace officer, or such other person as Council may designate*, is entitled to inspect all books of account, vouchers, correspondence and the records of the *Adult Entertainment Establishment or person* being inspected that are relevant to the purpose of the inspection and no *person* shall obstruct or hinder such inspections.
74. No *person* shall obstruct or hinder a *person* inspecting the premises pursuant to this By-law, or withhold, destroy, conceal or refuse to furnish any information or thing required by the *Licensing Officer, Municipal Law Enforcement Officer, police officer, public health inspector or peace officer, or other person designated by Council*.

## NOTICE

75. Any notice required to be given under this By-law is sufficiently given if delivered personally or sent by registered mail to the applicant or licensee at the address provided on the license application form.
76. Where service is effected by registered mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

## PENALTY

77. Every *person* who contravenes any provision of this By-law and any 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 \$25,000.00 or to imprisonment for a term not exceeding one (1) year, or to both.
78. Notwithstanding section 77, a corporation which contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine not exceeding \$50,000.00.
79. This By-law shall be administered and enforced by a *Licensing Officer, a Municipal Law Enforcement Officer, a police officer, peace officer, or such other person as Council may designate*.

**SEVERABILITY**

80. When a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

**SHORT TITLE**

81. This by-law shall be known as the *Adult Entertainment Establishment* Licensing By-law.

**REPEAL**

82. By-law No. 132-2001, as amended is hereby repealed.

**READ A FIRST, SECOND AND THIRD TIME and FINALLY PASSED** this 28th day of April, 2003.

"Gordon Krantz"  
Gordon A. Krantz

Mayor

"Troy McHarg"  
Troy McHarg

Town Clerk

**SCHEDULE 'A' TO BY-LAW NO. 54-2003**

*Adult Entertainment Establishment  
Entertainer's Registration Form*

(PLEASE PRINT ALL INFORMATION)

DATE INFORMATION RECEIVED: \_\_\_\_\_

ADULT ENTERTAINMENT ESTABLISHMENT: \_\_\_\_\_

INFORMATION TAKEN AND VERIFIED BY: \_\_\_\_\_  
(Owner or designate)

**ENTERTAINER INFORMATION: ALL QUESTIONS MUST BE ANSWERED**

NAME: \_\_\_\_\_  
(Surname) (First) (Middle)

MAIDEN NAME: \_\_\_\_\_ STAGE NAME: \_\_\_\_\_

BIRTH DATE: \_\_\_\_\_ GENDER: Male \_\_\_\_\_ Female \_\_\_\_\_  
Year/Month/Day

HOME ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

PREVIOUS ADDRESS: \_\_\_\_\_  
(Last 2 Years)

DESCRIPTION: Height \_\_\_\_\_ Weight \_\_\_\_\_  
Eye Colour \_\_\_\_\_ Hair Colour \_\_\_\_\_  
Scars/Tattoos \_\_\_\_\_  
(Description)

FREELANCE: \_\_\_\_\_ SCHEDULED: \_\_\_\_\_

LAST ADULT ENTERTAINMENT ESTABLISHMENT WORKED AT, IF ANY: \_\_\_\_\_

**PERSONAL IDENTIFICATION:**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

At least two pieces of identification from any of the following is acceptable: valid passport, baptismal certificate, birth certificate, driver's license, social insurance card. At least one of the above pieces of identification must have a photograph and photocopies of this identification must be attached to this application and further, the Entertainer must provide two recent passport style photographs of the Entertainer, to be signed and dated by the Entertainer to attach to this registration form.

NOTE: A copy of this application for will be provided to the Halton Regional Police Service pursuant to By-law No. 54-2003.

I acknowledge that the information on this registration is true and accurate.

Entertainer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_  
(Year/Month/Day)

Registration Number: \_\_\_\_\_

NOTE: Personal information collected on this form is collected under the authority of the *Municipal Act, 2001* and will be used to register Entertainers. Questions about this collection of information should be directed to the Law Clerk at the Town of Milton Clerk's Office, 43 Brown Street, Milton, ON L9T 5H2, 905-878-7252 ext. 2109.

**SCHEDULE 'B' TO BY-LAW NO. 54-2003**

**Entertainer's Registration Card**

<b>TOWN OF MILTON ADULT ENTERTAINMENT ESTABLISHMENT ENTERTAINER'S REGISTRATION CARD Town of Milton By-law 54-2003</b>	
Place Photo Here	Registration No. _____
	Name: _____
	Address: _____
	Date of Issue: _____
	Date of Expiry: _____