

Municipality of Colchester

Chapter 55 Adult Entertainment Establishment Bylaw

1. Title & Scope

- 1.1 This Bylaw is enacted pursuant to Section 172 of the Municipal Government Act, S.N.S. 1998, c.18 and shall be known and may be cited as the “Adult Entertainment Establishment Bylaw” of the Municipality of Colchester and shall apply to all lands within the Municipality of the County of Colchester.
- 1.2 This Bylaw does not exempt any person from complying with the requirements of other bylaws or regulations in force within the Municipality of the County of Colchester and from obtaining any licence, permission, permit, authority or approval required by the Municipality, the Province of Nova Scotia, and/or the Government of Canada.
- 1.3 For greater certainty, this Bylaw is intended to apply to adult entertainment establishments in areas where entertainment establishments would not otherwise be prohibited by a Land Use Bylaw, and to apply to adult entertainment establishments which are licensed under the Liquor Control Act and/or regulations and the requirements of this Bylaw are not intended to replace or otherwise affect a licensee's obligations to comply with that Act or those regulations.
- 1.4 The location conditions identified under Section 4 of this Bylaw shall not apply to the location of any adult entertainment establishment operating at a location which would not be permitted by this Bylaw before a Notice of Intention to adopt this Bylaw is first advertised, but shall apply to all other establishments, whether in operation before the coming into force of this Bylaw or not.

2. Definitions

For the purposes of this Bylaw:

- 2.1 “**Adult Entertainment Establishment**” means any premises or part thereof in which is provided services of which a significant feature or characteristic is the nudity or partial nudity of any person and includes a “body rub parlour”. For the purposes of this Bylaw, “partial nudity” means less than completely and opaquely covered:
 - a) human genitals or human pubic region;
 - b) human buttocks; or
 - c) female breast below a point immediately above the top of the areola.
- 2.2 “**Body Rub**” includes kneading, manipulation, rubbing, massaging, touching, or stimulating by any means of a person’s body or part thereof but does not include a spa, medical or therapeutic treatment given by a person duly qualified, licensed or registered to do so under applicable laws of the Province of Nova Scotia.
- 2.3 “**Body Rub Parlour**” means any premises or part thereof where a body rub is performed,

offered or solicited, but does not include any premises or part thereof where the body rub performed are for the purposes of a spa, medical or therapeutic treatment and are performed or offered by persons duly qualified, licensed or registered to do so under applicable laws of the Province of Nova Scotia.

- 2.4 **“Development Officer”** shall mean the development officer appointed by the Council of Municipality of the County of Colchester.
- 2.5 **“Licence”** means an Adult Entertainment Establishment Licence issued pursuant to this Bylaw.
- 2.6 **“Minor”** means any person under the age of nineteen (19) years.
- 2.7 **“Municipality”** means the Municipality of the County of Colchester.
- 2.8 **“Owner”** and **“Operator”** mean respectively any owner or operator of an adult entertainment business licenced as such or required to be licenced under this Bylaw.

3. Administration

- 3.1 No person shall operate an adult entertainment establishment in the Municipality of the County of Colchester without first having obtained a licence from the Development Officer.
- 3.2 A licence for an adult entertainment establishment shall be issued by the Development Officer subject to the following requirements:
 - a) The owner and/or operator submits a completed application form hereto attached as Schedule “A”;
 - b) the Application shall be cosigned by the registered property owner if the premises are not owned by the business owner and/or operator.
 - c) A completed application form is accompanied with an application fee as set out in the Municipal Fees Policy.
 - d) The requirements contained in Section 4 and Section 5 of this Bylaw have been met.
- 3.3 Duration of Licence:
 - a) A Licence issued under this Bylaw shall have effect for one (1) year for an initial license and two (2) years for a renewal;
 - b) An owner and/or operator may apply to renew an Adult Entertainment Establishment Licence and a completed application must be submitted to the Development Officer no less than thirty (30) days prior to the expiry date of the effective Licence along with an application fee as set out in the Municipal Fees Policy approved by Municipal Council;
 - c) A Licence issued under this Bylaw shall automatically lapse and become null and void if the adult entertainment establishment has not commenced within one (1) year of the issuance of the Licence.
- 3.4 Notice of Decision:
 - a) Within a reasonable amount of time of receiving a completed application for an

Adult Entertainment Establishment Licence or renewal thereof, the Development Officer shall either issue the Licence or notify the Applicant of a decision to refuse the issuance;

- b) A decision to refuse an application for an Adult Entertainment Establishment Licence or renewal shall be served to the Applicant in writing by ordinary mail and shall include the reasons for not issuing the permit.

4. Location Conditions

4.1 A property for which an application has been made for an Adult Entertainment Establishment Licence shall not be located within five hundred (500) meters (1640 feet) of a:

- a) public or private school, college, university, or any other educational institution;
- b) daycare, kindergarten, preschool, or any other child care facility;
- c) public park, playground, trail, or monument;
- d) community or recreation centre, private / public recreational facilities;
- d) business, restaurant, motel / hotel / bed and breakfast, professional offices, or medical clinic;
- e) hospital, home for special care, public / government building, church, religious facility, library, building used for emergency or protective services;
- f) any other adult entertainment establishment;
- g) any residential dwelling unit.

4.2 An application to renew an Adult Entertainment Establishment Licence shall be subject to the criteria of Section 4.1 above except, that upon a renewal, Section 4.1 shall not apply in respect of Adult Entertainment Establishments which have not increased the area devoted to the adult entertainment use, hours of operation, or patron capacity as defined on the original application form.

5. Conditions of Operation

5.1 Screening

All building openings, entries and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the adult entertainment establishment. A two (2) meter (6.6 foot) high solid fence or two (2) meter (6.6 foot) high landscaped buffer at the time of planting shall be provided and maintained along the rear and side property lines at a distance no greater than twenty (20) meters (65.6 feet) from the building. Any such landscaped buffer shall be planted at a sufficient density to ensure that a visual barrier exists.

5.2 Parking

All parking associated with an adult entertainment establishment shall be located within the side and rear yards only. Parking areas shall be illuminated and such lighting shall be contained and directed on land within the property boundaries.

5.3 Visual Displays & Signage

- a) No adult entertainment establishment shall be allowed to disseminate adult matter

to minors, cause adult entertainment displays to be viewed by minors or allow minors to loiter on a property for which a Licence has been issued.

- b) No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement shall be displayed in the windows of or on the exterior of any adult entertainment establishment or be visible to the public from public rights of way, pedestrian sidewalks or walkways or from other areas outside such establishments.

6. Enforcement

6.1 Right of Inspection

Subject to any restrictions or limitations contained in valid and applicable constitutional, federal or provincial law, the Development Officer and any employees of the Municipality authorized by the Development Officer to assist in the administration of this Bylaw may, for purposes of inspection, maintenance and enforcement, including attempting to determine whether this Bylaw is being or has been contravened, gathering evidence of a possible contravention, or attempting to prevent a contravention or a continuation of a contravention of the Bylaw, with a warrant or other legal process where required by law, but otherwise without a warrant enter upon or into private property, take photographs, video tape or otherwise record or preserve evidence, and disturb or interfere with people or properties to the extent reasonably necessary therefore.

6.2 Offence:

It shall be an offence to:

- a) contravene any provision of this Bylaw, including any licensing requirement, location condition or condition of operation;
- b) contravene any condition in an adult entertainment establishment licence, or renewal thereof; and
- c) fail to comply with any representations contained within an application in respect of which a licence has been issued.

6.3 Punishment

Offences pursuant to subsection 6.2 are punishable on summary conviction by a fine of not less than \$1,000 and not more than \$10,000 and to imprisonment of not more than two months in default of payment thereof.

6.4 Additional Penalty

In addition to any penalty under subsection 6.3, in the event of an offence against this Bylaw, the Development Officer may suspend an adult entertainment establishment licence for a period of up to 3 months in respect of a first conviction and may revoke a licence in respect of a second conviction within any 3 year period. A suspension or revocation shall preclude any person from applying for or being granted an adult entertainment establishment licence or renewal for the period of the suspension in the case of a suspension, and for 5 years in the case of a revocation, in respect of the same premises in respect of which the offence was committed.

6.5 Appeals

Any person who, upon application, is refused an adult entertainment establishment licence or renewal or whose adult entertainment establishment licence is suspended may, by written notice to the Development Officer, within 30 days of receiving written notification of the refusal, suspension or revocation, file an appeal to Council and Council shall hear the appeal at a hearing within 60 days of the filing of the appeal and Council may allow the appeal, dismiss the appeal or vary the decision under appeal.

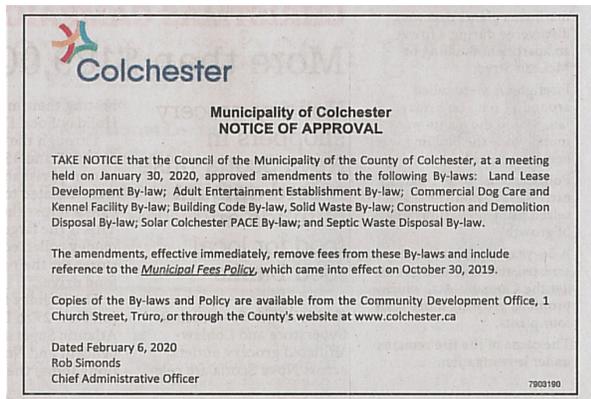
7. Severability

It is hereby declared that each and every of the foregoing Sections of this Bylaw is severable and that if any provision of this Bylaw should for any reason be declared invalid by any court, it is the intention and desire of the Council of the Municipality of the County of Colchester that each and every of the then remaining provisions hereof should remain in full force and effect.

THIS IS TO CERTIFY, that amendments to Chapter 55 – Adult Entertainment Establishment By-law, was duly approved at a duly called meeting of the Municipal Council of the Municipality of the County of Colchester, duly convened and held on the 30th day of January, A.D., 2020.

GIVEN under the hand of the Municipal Clerk and under the corporate seal of said Municipality this 10th day of February, A.D., 2020.

Rob Simonds
Municipal Clerk



I, Rob Simonds, Municipal Clerk of the Municipality of the County of Colchester, do hereby certify that the adjacent Notice of Approval is a true copy of the Notice of Approval of Chapter 55 – Adult Entertainment Establishment By-law, duly advertised in the Thursday, February 6, 2020 issue of the Truro News.

Given under the hand of the Municipal Clerk and under the corporate seal of said Municipality this 10th day of February, 2020.

Rob Simonds
Municipal Clerk

First Reading: October 30, 2019
Notice of Intent: January 9 and 16, 2020
Second Reading: January 30, 2020
Notice of Approval: February 6, 2020



Municipality of the County of Colchester

Adult Entertainment Establishment License

Application

New

Renewal

License #: _____

Applicant Information:

Name of Adult Entertainment Establishment:

Business Address:

Business Owner Name: _____ Property Owner Name:

Mailing Address:

Mailing Address:

Business Information:

Hours of Operation: Open: _____ (AM/PM) Closed: _____ (AM/PM)

Days of Operation:

Please Enclose the Following Information With This Application:

- Building Plan showing: Exterior Dimensions of Structure
Interior Floor Plan
Building Elevations
Dimensions of Area Devoted to Adult Entertainment Use
- Site Plan Showing: Property Location & Dimensions
Location of All Buildings, Parking Areas and Other Features
Adjacent Land Uses
Location, Type and Size of Screening and Fencing

Application Fee: \$1000.00 (New Application)
\$ 500.00 (Renewal)

Declaration:

The Applicants(s) and Property Owner(s) hereby consent to representatives of the Municipality of Colchester entering the property and any buildings contained thereon at any time for the purposes of inspecting and gathering evidence in regards to actual or possible violations of the Adult Entertainment Establishment By-law.

Applicant: _____ Property Owner: _____

Date: _____ Date: _____