

# THE CORPORATION OF THE TOWN CALEDON

## By-LAW No 2010-062

### A By-law to license and regulate Tattoo Parlours and Piercing Establishments

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes Councils of municipalities to pass by-laws respecting business licensing, and to provide for a system of licences with respect to a business, including any business wholly or partly carried on within the municipality;

AND WHEREAS the Council of the Town of Caledon deems it desirable to enact a by-law to license and regulate the operation of Tattoo Parlours and Piercing Establishments;

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

#### DEFINITIONS

1. For the purposes of this By-law

“**applicant**” means a person applying for a licence under this by-law;

“**Council**” means the Council of The Corporation of the Town of Caledon;

“**licence**” means a licence issued by the licence officer;

“**licensee**” means the holder of a licence;

“**licence officer**” means the person or persons appointed by by-law to issue a licence;

“**licensed premises**” includes premises for which a licence application has been made;

“**issuance**” means issuance of a licence pursuant to this by-law and shall include renewal of a licence;

“**Medical Officer of Health**” means the Medical Officer of Health of the Board of Health for the Region of Peel and includes his or her designate;

“**officer**” includes a Municipal By-Law Enforcement Officer, public health inspector, fire safety officer, police officer or other person that Council for the Town may designate;

“**person**” includes an individual, partnership, corporation, company, firm, association and includes the successors, assigns, heirs, executors, administrators, or other legal representative of a person according to the context;

“**piercing**” means the perforation or piercing of any part of a person’s body, including ear lobes, and the attachment or insertion of jewelry;

“**tattoo**” means the permanent or indelible imprinting of a decorative design into the skin by puncturing the skin or mucosa and introducing different coloured inks or pigments;

**“Town”** means The Corporation of the Town of Caledon.

## **GENERAL REGULATIONS**

2. No person shall engage in or carry on any business that conducts tattoo or piercing procedures unless such person is licensed in accordance with this by-law.
3. Every person licensed under this by-law shall be:
  - (1) a Canadian citizen;
  - (2) a permanent resident of Canada; or
  - (3) have a valid employment authorization issued by the Government of Canada.

## **APPLICATION REQUIREMENTS**

4. Every person at the time of making application for a licence shall provide:
  - (1) a completed application form in the form approved by the licence issuer;
  - (2) the fee set out in the Town of Caledon Municipal Act Fees By-law;
  - (3) business name registration, if applicable;
  - (4) proof of insurance as required by this by-law;
  - (5) if a corporate applicant, a copy of the incorporating documents, any amending documents and the most recent annual filing, in a form satisfactory to the licence officer;
  - (6) a police criminal record search of the individual applicant, or of a partnership applicant, directors or shareholders or officers of a corporate applicant; such record to have been issued within the previous 60 days of the date of the application to the licence officer;
5. The issuance of a licence shall be subject to written approval from the:
  - (1) Town of Caledon Fire and Emergency Services Department;
  - (2) Regional Municipality of Peel Health Department; and
  - (3) Town of Caledon Planning and Development Department.

## **INSURANCE**

6. Every person to whom this by-law relates shall carry commercial general liability insurance in an amount of not less than two (2) million dollars (\$2,000,000.00) for the term of the licence.
7. The licensee shall give the Town at least thirty (30) days' written notice of the cancellation or expiration or variation of the policy.

## **TERM OF LICENCE**

8. A licence is valid until it expires. All licences issued under this by-law will expire on September 30th of each year.

## **CALCULATION OF FEE**

9. When an initial application for a licence for a new business is received during the licence term
  - (1) a pro-rated fee may be calculated for every month remaining in the term of a licence until the expiry date but a minimum payment of one quarter of the yearly fee shall apply;
  - (2) a part of a month shall count as a full month; and
  - (3) every licence renewed thereafter shall be subject to the full annual fee as prescribed in the Town's Municipal Act Fees By-law.

## **NOTIFICATION OF CHANGE**

10. A licensee shall notify the licence officer within seven (7) days of any change of name, address or any other information related to the licence.
11. Where the licensee is a corporation, the licensee shall notify the licence officer of any change in the names and addresses of officers and directors, the location of the corporate head office, and the name under which the business operates within seven (7) days of the change, and if necessary, the licence shall be returned immediately to the licence officer for amendment.

## **LICENCE NON-TRANSFERABLE**

12. A licence issued by the Town is not transferable and the fee is non-refundable, except as otherwise provided in this by-law.
13. No person shall use, or attempt to use either a fraudulent licence or a licence issued to another person under this by-law.
14. Every licence shall remain at all times the property of the Town and no person shall enjoy a vested right in any licence or the continuance of any licence.

## **POSTING OF LICENCE**

15. Every licensee shall post its licence issued pursuant to this by-law in a conspicuous place clearly visible to the public.

## **RESPONSIBILITY OF LICENSEE**

16. No licensee shall advertise or promote or carry on business under any name other than the name endorsed upon the licence issued by the Town.

17. Every licensee shall ensure that:
- (1) every licensed premises shall be kept in a clean, neat and sanitary condition;
  - (2) at least one sink is provided for employee use, maintained in a sanitary condition, with hot and cold running water, liquid soap and single use paper towels, in close proximity to the work area;
  - (3) bi-weekly spore tests are conducted on all sterilizers; and
  - (4) that all procedures and handling of equipment and instruments conforms to all applicable guidelines and regulations established by the Province of Ontario and the Medical Officer of Health.
18. Every licensee shall maintain a record for a minimum of five (5) years of:
- (1) all invasive procedures and the record shall include:
    - (a) the name, address and telephone number of the client;
    - (b) the date of the procedure;
    - (c) the description of the procedure; and
    - (d) the name of the employee who conducted the procedure, and
  - (2) all bi-weekly spore tests.

#### **ADMINISTRATIVE SUSPENSIONS**

19. An administrative suspension of a licence without a hearing may be imposed for up to fourteen (14) days if the licence officer is satisfied that the continuation of the business poses an immediate danger to health or safety of any person or to any property.
20. Before any administrative suspension is imposed, the licence issuer shall provide written notice to the licensee by personal delivery or registered mail of:
- (1) the reasons for the suspension;
  - (2) the proposed start date of the suspension;
  - (3) the proposed length of time of the suspension; and
- shall provide the licensee with an opportunity to respond to the notice of suspension in writing to the licence officer within three (3) business days of the service of the notice.
21. A licence officer may impose conditions on the administrative suspension as the licence officer considers appropriate.
22. The licence officer shall reinstate any licence which has been suspended upon satisfactory proof that the requirements stated in the written notice of administrative suspension have been met.

#### **GROUND FOR REFUSAL OF LICENCE**

23. A licence or licence renewal may be refused, suspended or revoked on one or more of the following grounds:

- (1) the past or present conduct of any person, including the officers, directors, employees or agents of a corporation affords reasonable cause to believe that the person will not carry on or engage in the business in respect of which the application is made in accordance with the law or with honesty and integrity;
- (2) the applicant or licensee has past breaches of any law and any outstanding fines imposed by a court for the contravention of any provision of this by-law or any other municipal by-law or Provincial statute associated with the carrying on of such business;
- (3) the issuing of a licence would be contrary to the public interest with respect to health and safety, consumer protection, or nuisance control;
- (4) the financial position or history of the applicant affords reasonable grounds to believe that the business will not be carried on in a financially responsible manner;
- (5) there are reasonable grounds to believe that an application or other documents provided to the Town by or on behalf of the applicant or licensee contain a false statement, incorrect, incomplete, or misleading information;
- (6) the applicant or licensee is carrying on or engaging in activities that are, or will be, if the applicant or licensee is licensed, in contravention of this by-law, or any other applicable law;
- (7) the equipment and other personal property used in connection with the carrying on of or engaging in the business licensed under this by-law is dangerous, or unsafe; or
- (8) the applicant or licensee has not paid the required licence fee.

## **RIGHT TO A HEARING**

24. Before a licence is refused, revoked, suspended, cancelled, or issued with conditions, written notice shall be given to the applicant or licensee that a recommendation is to be made to Council with respect to the licence application.
25. The licence officer shall serve notice upon the applicant or licensee by personal delivery or by registered mail to the applicant's or licensee's last known address filed with the licence officer and shall:
  - (1) contain sufficient information to specify the nature of, or reason for, any recommendation;
  - (2) inform the applicant or licensee of his entitlement to a hearing before Council if a request in writing for a hearing is returned to the licence issuer within fifteen (15) days after the date of service of the notice;
  - (3) inform the applicant or licensee that if no written request is received, Council may proceed and make any decision with respect to the licence in the absence of the applicant or licensee; and
  - (4) be deemed to have been served on the seventh day after the day of mailing or on the date of personal delivery.

26. On receipt of a written request for a hearing from an applicant or licensee and upon receipt of the fee as set out in the Municipal Act Fees By-law, the licence officer shall schedule:
- (1) a hearing before Council; and
  - (2) shall give the applicant or licensee notice of hearing at least twenty (20) days prior to the hearing date.

## HEARING

27. The provisions of the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22, as amended, shall apply to all hearings conducted under this by-law.
28. When an applicant or licensee who has been given written notice of the hearing does not attend at the appointed time and place, Council may proceed with the hearing in his absence, and the person shall not be entitled to any further notice of the proceedings.
29. The licence officer shall send written notice of the decision of Council by registered mail or by personal delivery to the applicant or licensee within five (5) days of such decision.
30. Council may impose conditions as a requirement of continuing to hold a licence at any time during the term of the licence.
31. When Council has revoked, suspended, or cancelled a licence, the licensee shall return the licence to the licence officer within two (2) days of service of the notice of decision of Council.
32. No person whose licence has been revoked or suspended shall refuse to deliver the licence to the licence officer or in any way obstruct or prevent the licence officer or officer from receiving or taking the same. The licence officer or officer may enter upon the business premises of the licensee for the purpose of receiving, taking or removing the said licence.
33. An applicant or licensee whose licence has been refused or revoked, shall not be entitled to make a new application for a similar type of licence for a period of at least twelve (12) months from the date of the refusal or revocation.

## POWERS OF ENTRY

34. An officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are complied with:
- (1) the provisions of this by-law;
  - (2) any direction or order made under this by-law or the *Municipal Act, 2001*, as amended; and
  - (3) a condition of a licence issued under this by-law.

## **ORDERS AND REMEDIAL ACTIONS**

35. For the purposes of an inspection made under this by-law the officer may
- (1) require the production for inspection of documents or things relevant to the inspection;
  - (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (3) require information from any person concerning a matter related to the inspection; and
  - (4) alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
36. Where a contravention of this by-law has occurred, an officer may make an order requiring the person who contravened the by-law or who caused or permitted the contravention to discontinue the activity.
37. Where a contravention of this by-law has occurred, an officer may make an order requiring the person who contravened the by-law or who caused or permitted the contravention to do work to correct the contravention.
38. Every person to whom an order is issued under this by-law shall comply with the order.

## **GENERAL PROHIBITIONS**

39. No person shall alter, erase or modify a licence or allow the alteration, erasure or modification of a licence.
40. No person shall hinder or obstruct an officer in the performance of his or her duties under this by-law.
41. Every person to whom a licence is issued under this by-law shall comply with the conditions of the licence.

## **OFFENCES**

42. Every person who contravenes any provision of this by-law is guilty of an offence.
43. Every person who contravenes an order made under this by-law is guilty of an offence.
44. Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this by-law by the corporation is guilty of an offence.
45. A person who is convicted of an offence is liable:
- (1) on a first offence, to a fine of not less than \$250.00 and to a fine of not more than \$50,000, and
  - (2) on a second and each subsequent offence, to a fine of not less than \$500.00 and a fine of not more than \$100,000.00.

46. Every person who fails to comply with an order made by an officer or who permits or causes a contravention of any provision of this by-law is guilty of an offence and, on conviction, is liable to a fine of not less than \$500.00 and to a fine of not more than \$10,000.00 per day for each day or part of a day that the offence continues after the time given for complying with the order has expired or that the offence is permitted or caused to be continued.
47. A person who is convicted of multiple offences is liable for each offence included in the multiple offence, to a fine of not less than \$500.00 and to a fine of not more than \$10,000.00.

#### **SEVERABILITY**

48. Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part, which is declared invalid.

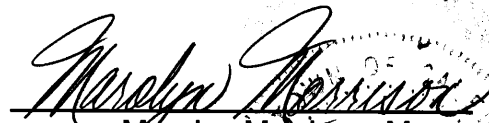
#### **EFFECTIVE DATE**

49. This by-law shall come into force on the date of its enactment.

#### **TITLE**

50. This by-law shall be known as the Tattoo Parlour and Piercing Establishment Licensing By-law.

READ A THREE TIMES AND FINALLY  
PASSED IN OPEN COUNCIL THIS  
4<sup>th</sup> DAY OF MAY, 2010

  
Marolyn Morrison, Mayor

  
Karen Landry, Clerk

