

**LICENSING BY-LAW  
BY-LAW NUMBER 2002-151**

**SCHEDULE 7**

**BODY RUB PARLOURS**

BY-LAW NUMBER 2002-151

SCHEDULE 7

RESPECTING THE LICENCING, REGULATING AND INSPECTING OF BODY-RUB PARLOURS AND BODY-RUB ATTENDANTS

**DEFINITIONS**

7.1 In this By-law – Schedule 7:

- a) "**attendant**" means a person who, in pursuance of a trade, business or occupation, provides body-rubs at a body-rub parlour;
- b) "**body-rub**" includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario;
- c) "**body-rub parlour**" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business, or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario;
- d) "**complementary health care organization**" shall have the meanings assigned thereto in Appendix 7(a) to this By-law;
- e) "**Council**" means the Council of the Corporation of The Town of Newmarket;
- f) "**license**" means an authorization under this By-law to carry on the trade, calling, business or occupation specified therein;
- g) "**Licencing Officer**" means the Town Clerk or his/her designate appointed by the Town Clerk from time to time;
- h) "**Medical Officer of Health**" means the Medical Officer of Health for the Regional Municipality of York;
- i) "**Operator**" includes a person who, alone or with others, operates, manages, supervises, runs or directs the trade, calling, business or occupation carried on at a body-rub parlour;

- j) **"Owner"** includes a person who, alone or with others, owns or controls the trade, calling, business or occupation carried on at a body-rub parlour or who directs the activities of an Operator and "Owner" includes a person who is the tenant or licensee in respect of premises which are utilized as a body-rub parlour;
- k) **"person"** includes a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession;
- l) **"sign"** includes any sign as defined pursuant to Town By-laws as amended;
- m) **"to provide"** when used in relation to body-rubs includes offering to provide or causing or permitting the provision of a body-rub and "provides", "providing" and "provision" have corresponding meanings;
- n) **"Town"** means the Corporation of The Town of Newmarket in the Regional Municipality of York.

## **GENERAL REGULATIONS**

- 7.2 No person may be an Owner or an Operator of a body-rub parlour without making application for, obtaining and maintaining, pursuant to the terms of this By-law, a body-rub parlour license.
- 7.3 No person may be an attendant without making application for, obtaining and maintaining pursuant to the terms of this By-law, an attendant's license.
- 7.4 No person may be an Owner or Operator of a body-rub parlour or be an attendant or provide any body-rub in a body-rub parlour except in compliance with the following regulations:
  - a) No person may provide any services designed to appeal to erotic or sexual appetites in a body-rub parlour except in accordance with the provisions of the Town's Adult Entertainment Parlour By-law 2002-151, Schedule 7 or successor legislation thereto;
  - b) No person may provide body-rubs in a body-rub parlour to any person under the age of eighteen years and no person under the age of eighteen years may be allowed to enter or remain in any part of a body-rub parlour;
  - c) Each Owner or Operator shall ensure that there is posted in a prominent location at the entrance to the body-rub parlour a sign indicating that no person under the age of eighteen years may enter or remain in such premises;

- d) No Owner or Operator may permit any employee or person under contract to work at a body-rub parlour unless such person is at least 18 years of age and such person has been instructed with regard to the regulations of this By-law and complies with these regulations;
- e) No Owner or Operator may permit a body-rub parlour to be open for business unless the Owner or Operator is in attendance in person;
- f) With the exception of patent medicines and prescription drugs required for medicinal purposes, no person may take, consume or have alcohol or drugs in their possession in a body-rub parlour;
- g) No Owner or Operator may permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in a body-rub parlour;
- h) No person may advertise or promote a body-rub parlour or the provision of body-rubs at a body-rub parlour except in accordance with the provisions of this By-law respecting "Signs and Advertisements";
- i) No Owner or Operator may permit a body-rub parlour to open or to remain open for business except in compliance with the provisions of this By-law respecting "Hours of Operation";
- j) No person may own or operate a body-rub parlour except in compliance with the provisions of this By-law respecting "Locational Restrictions and Limitations on Number";
- k) No person may own or operate a body-rub parlour except in compliance with the provision of this By-law respecting "Design of Premises";
- l) Every Owner and Operator shall keep their license certificate issued in respect of a body-rub parlour posted in a conspicuous place in the said premises in a manner satisfactory to the Licencing Officer at all times during the currency of the license;
- m) No Owner or Operator may permit any attendant to provide body-rubs at a body-rub parlour unless such attendant is licensed pursuant to the provisions of this By-law and their license has not expired, been revoked or suspended;
- n) No attendant may provide body-rubs at a body-rub parlour unless there is in attendance in person at the premises a licensed body-rub parlour Owner or Operator and their license has not expired, been revoked or suspended;

- o) Every contract for services or other document pertaining to the relationship between an Owner or Operator and any attendant at a body-rub parlour shall be in writing and shall be made available to a Licencing Officer upon request for inspection at any time during business hours of the body-rub parlour and during all times when body-rubs are provided, and shall be retained by the Owner or Operator for a period of six months after the termination or completion of such contract;
- p) Every Owner shall post and maintain, in a prominent location that is satisfactory to the Licencing Officer, a copy of all attendant licenses in relation to persons providing body-rubs at the body-rub parlour;
- q) Every recipient of body-rubs in a body-rub parlour shall be clothed in a manner which ensures that the person's genitalia and breasts are covered at all times;
- r) Every attendant of body-rubs in a body-rub parlour shall be clothed in a manner which ensures that the person's genitalia and breasts are covered at all times;
- s) No Owner, or Operator may use or permit to be used any camera or other photographic or recording device at a body-rub parlour by any person. Notwithstanding the foregoing, a public health inspector acting under the direction of the Medical Officer of Health, the Licencing Officer, a Peace Officer or a By-law Enforcement Officer may use a camera or other photographic or recording device at a body-rub parlour during the course of an inspection or investigation thereof. In addition, an Owner or an Operator may maintain a photographic device in the entrance lobby of the premises for security purposes;
- t) Every Owner shall post and maintain in the lobby or entrance of the body rub parlour, in a manner that is satisfactory to the Licencing Officer, a sign which provides as follows: "This premises is licensed as a body-rub parlour by the Town of Newmarket. The By-law regulating this premises makes it an offence for any person to provide services in a body-rub parlour that are designed to appeal to erotic or sexual appetites."

## **SIGNS AND ADVERTISEMENTS**

- 7.5 No person may erect or maintain any sign advertising a body-rub parlour or the body-rubs provided from such premises except in accordance with Town By-laws. Notwithstanding the provisions of Town Sign By-law no person may erect or maintain any sign advertising a body-rub parlour except in accordance with the following additional regulations:

- 7.6 No person may erect or maintain any of the following signs in respect of a body-rub parlour or in respect of any body-rubs provided from such premises:
- awning sign
  - projecting sign
  - portable sign
  - ground or pylon sign
  - canopy sign
  - inflatable sign
  - trailer sign
  - sandwich board sign
- 7.7 No person may circulate, post, distribute or cause to be circulated, posted or distributed any poster, flyer, handbill or other form of printed sign on premises or locations other than the body-rub parlour, except to publish its name, address and telephone number in a telephone book.
- 7.8 Nothing within this By-law shall be deemed to constrain any person from erecting or maintaining any sign or advertising on any interior wall of a body-rub parlour, provided the content of such sign is not visible from the exterior of the body-rub parlour;
- 7.9 No person may erect or maintain any sign or advertising in respect of a body-rub parlour which includes any letters, markings, symbols, pictures or representations except the name of the body-rub parlour as recorded on the application for license and any registered copyright logo or symbol, provided a copy of such logo or symbol is filed with the Licencing Officer as part of the licencing process;
- 7.10 Every Owner or Operator shall obliterate, withdraw, remove or destroy any sign which has been erected contrary to the provisions of this By-law immediately upon becoming aware of same or upon being ordered to do so by the Licencing Officer, whichever shall first occur.

## **DESIGN OF PREMISES**

- 7.11 No person may be an Owner or Operator of a body-rub parlour except in accordance with the following regulations;
- a) The Owner or Operator shall provide the Licencing Officer with a floor plan showing the designated room or rooms for the provision of body-rubs and no person may provide body-rubs in any other room, cubicle, enclosure or partitioned area located within the body-rub parlour. In the event that the Owner or Operator wishes to amend the floor plan, he/she shall first file with the Licencing Officer a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the Licencing Officer;
  - b) Save and except for one room designated by the Owner or Operator for use as an office and one room designated by the Owner or Operator as a storage room, every Owner or Operator shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in a body-rub parlour is equipped or constructed with a locking device of any kind or with any other device or structure which could delay or hinder anyone from entering or obtaining access to such area;

- c) During the hours of operation of a body-rub parlour the Owner or Operator shall ensure that the principal means of access into the body-rub parlour shall be kept unlocked and available so that anyone coming into the body-rub parlour may enter therein without hindrance or delay;
- d) No premises or part thereof used as a body-rub parlour shall be used as a dwelling or for sleeping purposes or contain therein any furniture which is commonly used or which may be used for sleeping purposes;
- e) Every room designated for the provision of body-rubs pursuant to paragraph (a) hereof shall be equipped with a window to permit observation of the provision of body-rubs by third parties;
- f) Every body-rub parlour shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility and that is uniformly distributed throughout the premises;
- g) Every body-rub parlour and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition;
- h) Every body-rub parlour shall be equipped with an effective utility sink;
- i) Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth under the *Ontario Building Code Act* (as amended);
- j) Washrooms shall be equipped with:
  - (i) an adequate supply of hot and cold water;
  - (ii) an adequate supply of liquid soap in a suitable container or dispenser;
  - (iii) hot air dryers or individual towels in a suitable container or dispenser;
  - (iv) a suitable receptacle for used towels and waste material;
- k) In all shower-bathrooms, if any, and in all sauna-bath rooms, if any:
  - (i) the floors shall be disinfected at least once a week with a disinfecting solution approved by the Medical Officer of Health;
  - (ii) all surfaces and attached accessories of the bath or shower enclosure must be self-draining;
  - (iii) all showers must have removable cleanable drain covers;
  - (iv) floor surfaces both within and without the enclosures shall be of non-slip type;
- b) Every Owner and Operator shall provide and maintain at all times at the body-rub parlour a first-aid kit equipped in a manner satisfactory to Medical Officer of Health;

- c) Every body-rub parlour shall be constructed in accordance with the *Ontario Building Code Act* (as amended) and every applicant for an Owner's license shall provide the Licencing Officer with such drawings as may be required to assess compliance with this regard.

### **HOURS OF OPERATION**

7.12 No Owner or Operator may permit any body-rub to be provided in a body-rub parlour and no attendant may provide any body-rub in a body-rub parlour except between the hours of 11:00 a.m. in the morning of any day and 11.59 p.m. in the evening of the same day.

### **LOCATIONAL RESTRICTIONS AND LIMITATION ON NUMBER**

7.13 No person may own or operate a body-rub parlour:

- a) within five hundred (500) metres of any residential zone in existence when the application for license is submitted to the Town;
- b) on or within five hundred (500) metres of Bathurst Street, Yonge Street, Eagle Street, Davis Drive, Hwy 9, Main Street South, Main Street North, Gorham Street, Prospect Street, Bayview Avenue, Leslie Street, Mulock Drive;
- c) within five hundred (500) metres of any school, church or child day care centre in existence when the application for license is submitted to the Town.
- d) within one (1) kilometre of any other body-rub parlour in existence at the time when the application is submitted to the Town, regardless of whether such other body-rub parlour is licensed or not;

7.14 The number of body-rub parlours, which may be licensed within the Town of Newmarket, shall be limited to two (2).

7.15 In the event that there are in existence at the time of passage of the By-law more than three (3) body-rub parlours, licenses shall be available to all entities that are currently providing body-rubs and provided such entities qualify pursuant to the provisions of this By-law. Notwithstanding the fact that more than three (3) body-rub parlour licenses may be issued thereby, it remains the intent of this By-law that no more than two (2) body-rub parlours is appropriate and that the number of licensed body-rub parlours shall, over time decrease to accord with the permitted number.

7.16 No person may own or operate a body-rub parlour from any premises except upon such lands as are zoned to permit the use of a body-rub parlour pursuant to Town Zoning By-laws.

## **NATURE OF LICENSE**

- 7.17 No person shall enjoy a vested right in the continuance of a license and the value of a license shall be the property of the Town and shall remain so irrespective of the issue, renewal or revocation thereof.
- 7.18 No person licensed to carry on any trade, calling, business or occupation pursuant to this By-law may advertise or promote or carry on such trade, calling, business or occupation under any name other than the name endorsed upon his license.
- 7.19 The licenses required by this By-law shall, be for a six-month period, to and including the 31<sup>st</sup> day of January and the 30<sup>th</sup> day of July from the date of issuance, unless they are sooner forfeited or revoked.
- 7.20 No license shall be transferred or assigned and if an Owner, Operator or attendant sells, leases or otherwise disposes of his interest in the trade, calling business or occupation carried on at a body-rub parlour, their license in respect of such body-rub parlour or activity shall, notwithstanding any other provision of this By-law, be revoked.
- 7.21 Every body-rub parlour license shall have endorsed thereon the location of a body-rub parlour and such endorsement shall be for one location only and such license shall be valid only for the location endorsed thereon.

## **APPLICATION, RENEWAL AND REVOCATION OF LICENSE**

- 7.22 Every applicant shall appear in person before a Licencing Officer and shall complete such license application forms as may be provided from time to time by the Licencing Officer in accordance with the requirements of this By-law and shall provide all information requested thereon. In the case of a body-rub parlour owned 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 a body-rub parlour owned by a corporation, such appearance shall be made by an officer of the corporation and not by an agent thereof.
- 7.23 Every applicant for a license, where such applicant is a natural individual, shall submit to having his/her photograph taken by the Licencing Officer. Where the applicant is a corporation, such photographs shall be taken of an officer of the corporation. Where the applicant is a partnership, such photograph shall be taken of one of the partners.
- 7.24 Every applicant for an attendant's license shall provide a letter of prospective employment or engagement from the Owner or Operator of a licensed body-rub parlour.

- 7.25 Every applicant for an attendant's license shall provide the Licencing Officer with a Medical Certificate from a qualified doctor dated within thirty (30) days of the date of the application, indicating that the applicant is free from communicable or transmissible diseases and shall submit to such tests in relation to communicable or transmissible diseases as the Medical Officer of Health may require.
- 7.26 At the time of submission of their application, every applicant shall pay to the Town the fee set forth in Schedule 'A' provided such fee shall not be reduced in the event that the period for which the license is granted is less than six months and which fee shall be non-refundable.
- 7.27 Receipt 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.
- 7.28 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, which declaration shall state:
- 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.
- 7.29 If any member of a partnership applying for a license is a corporation, such corporation shall be deemed to be applying for an Owner's or Operator's license as appropriate in place and stead of the partnership.
- 7.30 Without limiting the generality of any other provision in this By-law, every corporation applying for a license shall file with the Licencing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating documents and shall file a statutory declaration, in writing signed by an officer of the corporation, which declaration shall state:
- a) the full name of every shareholder and the address of his/her 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; and
  - d) the mailing address for the corporation.

7.31 Every person applying for a body-rub parlour license shall file with the Licencing Officer documentation satisfactory to the Licencing Officer demonstrating the applicant's right to possess or occupy the premises and if any applicant is not the registered Owner of the property upon which the body-rub parlour is to be located, such person shall file with the Licencing Officer a copy of their lease, if any, and a copy of any other document constituting or affecting the legal relationship relating to the said lands or premises between said applicant and the registered Owner.

7.32 The Licencing Officer shall:

- a) receive and process all applications for licenses and renewal of licenses to be issued under this By-law;
- b) co-ordinate the enforcement of this By-law;
- c) generally perform all the administrative functions conferred upon him by this By-law;
- d) make or cause to be made a circulation respecting each application, which shall include circulation of the license application to the Medical Officer of Health and Municipal and Provincial Police Department for comments;
- e) make or cause to be made all investigations and inspections which he/she deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws;
- f) issue licenses to persons who meet the requirements of this By-law and suspend licenses pursuant to the requirements of this By-law;
- g) where a license has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the licenses of persons who meet the requirements of this By-law;

7.33 Notwithstanding the foregoing section, upon review of a license application, including an application for renewal, the Licencing Officer shall prepare a report and seek Council's direction with respect to the issuance or renewal of a license where:

- a) the past or current conduct of the applicant or license holder affords reasonable grounds for belief that he/she is not carrying or will not carry on the trade, calling, business or occupation in respect of the body-rub parlour in accordance with law and with integrity and honesty; or
- b) there are reasonable grounds for belief that the carrying on of the trade, calling, business or occupation in respect of the body-rub parlour by the applicant or license holder has or will result in a breach of this By-law or any other applicable law; or
- c) the applicant or license holder is a corporation or a partnership and its conduct or the conduct of its officers, directors, employees, agents or

partners affords reasonable grounds for belief that its trade, calling, business or occupation in respect of the body-rub parlour has or will not be carried on in accordance with the law and with integrity and honesty; or

- d) there are reasonable grounds for belief that the premises, accommodations, equipment or facilities in respect of which the license is required do not comply with the provisions of this By-law or any other applicable law; or
- e) the conduct of the applicant or license holder or other related circumstances afford reasonable grounds for the belief that the carrying on by the applicant of the trade, calling, business or corporation in respect of the premises for which the license is sought would infringe the rights, or endanger the health or safety of other members of the public.

7.34 When an application for license is made in accordance with the provisions of this By-law and the applicant meets all the requirements of this By-law or where the Licencing Officer has been so authorized by Council in response to a report in this regard, the Licencing Officer shall issue a license certificate which shall set out the expiry date of the license in accordance with this By-law and the applicant shall thereby be licensed.

7.35 The Licencing Officer may suspend a license where there is reason to believe that a breach of this By-law has occurred or for any of the reasons that would form the basis of a report to seek Council's direction with respect to the issuance or renewal of a license. Such suspension shall take effect upon service of written notice thereof to the licensee and the license shall remain suspended for no more than fifteen days from the date of service of this notice. In order to continue this suspension beyond the fifteen-day period or to revoke the license, the Licencing Officer must prepare a report and receive Council's direction in this regard. Where any license is suspended, it shall not be reinstated until the Licencing Officer is able to confirm that the conditions leading to the suspension have been remedied.

7.36 At any meeting of Council called in relation to a report to determine the issuance, renewal, suspension or revocation of a license:

- a) the applicant will be accorded its rights pursuant to the *Statutory Powers Procedures Act* including the right to appear and speak to the matter;
- b) where the applicant has been provided with notice of the meeting and does not attend, Council may proceed with the meeting in the absence of the applicant;
- c) where Council concludes that grounds exist upon which a license may be refused, suspended or revoked, Council may in lieu thereof issue a license for any period up to a full license period, on probation, or without a term of probation, subject to such conditions as Council may impose and are in accordance with law;

7.37 Any license that was issued or renewed between January 1<sup>st</sup> and June 30<sup>th</sup> that has not been renewed as at June 30<sup>th</sup> in the year of its issuance or renewal shall

expire on July 1<sup>st</sup> in the year of its issuance.

- 7.38 Any license that was issued or renewed after July 1<sup>st</sup> in a year that has not been renewed as at December 31<sup>st</sup> in the year of its issuance or renewal shall expire on January 1<sup>st</sup> in the year following its issuance or renewal.

### **CHANGE OF STATUS**

- 7.39 Where there is any change in any of the particulars relating to a person licensed under this By-law, which particulars are required to be filed with the Town on applying for a license under this By-law, such person shall report the change to the Licencing Officer within seven (7) days of the change.
- 7.40 Where there is to be a change in the composition or the controlling interest of a partnership licensed under this By-law, the persons licensed hereunder in partnership shall obtain the approval of the Licencing Officer to such change prior thereto. Where there has been any change in the controlling interest of the partnership by virtue of a number of transactions, the license may be suspended despite the Licencing Officer's prior approval of any one or more such transactions.
- 7.41 Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licensed under this By-law, the corporation shall obtain the approval of the Licencing Officer to such change prior. Where there has been any change in the controlling interest of the corporation by virtue of a number of transactions, the license may be suspended, despite the Licencing Officer's prior approval of any one or more such transactions.

### **OFFENCE, PENALTY AND ENFORCEMENT**

- 7.42 Any person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed herein or who performs an act prohibited herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the *Provincial Offences Act* (as amended), is liable to:
- a) a penalty in the case of persons, other than a corporation, not to exceed \$25,005.00 (includes costs) or imprisonment for a term not to exceed one year or both;
  - b) a penalty in the case of a corporation, not to exceed \$50,005.00 (includes costs); and
  - c) an order closing the body-rub parlour, which is the subject of the contravention, for a period not to exceed two years.

- 7.43 The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
- 7.44 Every person shall comply with the provisions of this By-law applicable to him whether or not he/she is licensed under this By-law.
- 7.45 Every Owner, Operator and attendant shall, during the operating hours of the body-rub parlour and at all times when body-rubs are provided therein, make available for inspection by the Licencing Officer, a Peace Officer, a Medical Officer of Health, a Provincial Offences Officer, or a By-law Enforcement Officer the original of any document or record referred to in this By-law.
- 7.46 Every Owner and every Operator of a body-rub parlour shall, at all times during the hours of operation of the body-rub parlour and during all hours when body-rubs are being provided at the body-rub parlour, permit the entry by and the inspection of the body-rub parlour by a By-law Enforcement Officer, a Provincial Offences Officer, the Licencing Officer, a Medical Officer of Health or a Peace Officer.
- 7.47 No person may obstruct or hinder the entry of the inspection of a body-rub parlour by a By-law Enforcement Officer, a Provincial Offences Officer, the Licencing Officer, a Medical Officer of Health or a Peace Officer.

### **MISCELLANEOUS**

- 7.48 The provisions of this By-law will apply to all lands and premises within the Town.
- 7.49 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed, as being severed here from and the remainder of the By-law shall continue in full force and effect.
- 7.50 All Appendixes referred to in this By-law are deemed to be part of this By-law.
- 7.51 Wherever notice or materials are required to be provided to any person pursuant to this By-law, such notice shall be deemed effective two (2) days after mailing of the materials by registered mail to the last address of that person as indicated upon the license application or upon other material filed with the Town or to the last assessed business address for the person as indicated upon the Taxation Roll Records.
- 7.52 The provisions of this By-law are not applicable in relation to the following activities:
- a) medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario; and

- b) health care services provided by a complementary health care service provider in accordance with and under the conditions prescribed in the provisions of Appendix 7(a) to this By-law.

## **APPENDIX 7(a)**

1. In this Appendix to Schedule 7,

- a) "adult entertainment service" means any service appealing to or designed to appeal to erotic or sexual appetites or inclinations, any other service involving sexual touching; any other service offered, provided or received with the purpose or effect of sexual arousal or stimulation; and any service directly or indirectly advertised or described as involving any of such kinds or services;
- b) "complementary health care organization" means an association, organization or institution demonstrated to be established for the purpose and with the continuing intent, of ensuring the safe and proper provision of one or more kinds of alternative health care services, through:
  - (i) the admission to membership of persons qualified to provide such service or services;
  - (ii) the promulgation and enforcement of a code of ethics respecting the provision of such service or services;
  - (iii) maintaining, providing and recognizing measurable standards for practices and procedures in the provision of such service or services;
  - (iv) the communication of information relating to such service or services; and
  - (v) involvement in ongoing research, development and education relating to the safe and proper provision of such service or services;
- c) "complementary health care service provider" means an individual providing health care service who:
  - (i) has demonstrated qualifications to provide the particular kind of health care service through successful completion of one or more formal courses of education and training in the provision of such service offered by an organization or institution which has demonstrated qualifications to provide such courses, in accordance with this Schedule;
  - (ii) has demonstrated himself/herself to be a member in good standing of a complementary health care organization;
  - (iii) has demonstrated himself/herself to be fully insured under a policy of insurance in respect of negligence, malpractice and public liability, in the amount of at least \$1 million in respect of any one claim; and
  - (iv) has demonstrated acceptance and practice of the procedures,

practices and ethics of the complementary health care organization of which the individual is a member;

- d) "formal course of education and training" means any such course involving in total at least 140 hours of teaching, demonstration or supervised practice, offered or recognized by a complementary health care organization as qualifying the individual, in accordance with the procedures, practices and ethics of such organization, to provide safe and proper health care service of the kind which is the subject matter of the area of interest and jurisdiction of the organization and of the course.
2. Any exemption provided by section 3(a) of Appendix 7(a) of the By-law applies only in respect of services which:
- (a) do not involve adult entertainment service, and are not offered in conjunction with/or from the same premises where a non-exempt body-rub service is provided;
  - (b) are health care services provided pursuant to the qualifications referred to in this Schedule and in accordance with the procedures, practices and ethics of the complementary health care organization of which the individual is a member; and
  - (c) are made the subject of a permanent record describing the service provided to the recipient by name and accessible by him/her at any time.
3. For the purposes of this Appendix:
- (a) demonstration of the academic qualifications of a complementary health care service provided shall be made by filing with the Licencing Officer a certified true copy of the diploma, certificate or other proof of successful completion of the course in question;
  - (b) demonstration of the qualifications of an organization or institution to provide a course leading to qualification in the provision of a kind of health care service, shall be made by filing with the Licencing Officer particulars, in writing, disclosing:
    - (i) documentation of instruments creating the organization;
    - (ii) the names of its principals and officers, members and employees;
    - (iii) every kind of health care service which is the subject matter or interest of the organization, and a full description of the nature of the service;
    - (iv) a short history summarizing the organization's activities and achievements to date;
    - (v) the qualifications of the organization to provide the course; and
    - (vi) a description of every course offered, of any degree, diploma, certificate or other status or qualification awarded for successful completion, and the kind of service or services which such status or qualification qualifies one to provide;
  - (c) demonstration of insurance coverage shall be made by filing with the

Licencing Officer a copy of the policy or other certified proof of the nature and amount of such insurance;

- (d) demonstration of the nature of a complementary health care organization shall be made by filing with the Licencing Officer particulars in writing providing disclosure of:
    - (i) documentation of instruments creating the organization;
    - (ii) the names of its principals and officers, members and employees;
    - (iii) every kind of health care services which is the subject matter or interest of the organization, and a full description of the nature of the service;
    - (iv) a short history summarizing of the organization's activities and achievements to date;
    - (v) an outline of the procedures and practices pursued by the organization and its members;
    - (vi) a copy of the organization's code of ethics;
    - (vii) the nature of the health care service or services provided by the organization and its members, and of the qualifications required to provide every such service;
    - (viii) a list of criteria for membership in the organization, and a list of its members;
    - (ix) a list of course and qualifications recognized or provided by the organization; and
    - (x) information demonstrating the factors listed in paragraph 1(b) of Appendix 7(a);
  - (e) demonstration of membership in an organization shall be made by filing a copy of a valid membership card or other valid proof of membership held by the complementary health care provided for the current year.
4. The filing of any record or document with the Licencing Officer referred to in this Schedule may be made by the complementary health care service provider or by the complementary health care organization in respect of its members.
  5. Acceptance of filing of any document or record does not constitute approval or acceptance by or on behalf of the Town or its Licencing Officer of the truth or accuracy of any information contained therein.
  6. It shall be the joint responsibility of every complementary health care service provider and the complementary health care organization of which he/she is a member, to file with the Licencing Officer up-to-date information relating to the circumstances affecting any exemption in respect of which the record or information is relevant, any changes in such circumstances as they occur, and an undertaking upon each such filing that the information or record filed is accurate and that this Schedule will be strictly adhered to.

7. Any document or record filed as demonstration of the information contained therein may be made by either a complementary health care service provider or a complementary health care organization, in which latter case, no member in respect of whom the information is relevant shall be required to make any such further filing, provided that at all times the organization maintains the information accurate and current.
8. In the case of doubt as to whether or not any exemption provided in section 3(a) of Appendix 7(a) of the By-law applies, where the Licencing Officer is not able to resolve such doubt through communication with affected parties, the Licencing Officer may refer the matter to Council, which shall provide any party affected the opportunity to attend at a meeting with the Council to provide information in support of a claim to an exemption.