

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 37-2003

BEING A BY-LAW TO REGULATE, LICENSE AND GOVERN BODY-RUB PARLOURS WITHIN THE TOWN OF MILTON, 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)(b) of the Act provides that an "adult entertainment establishment" includes a body rub parlour;

AND WHEREAS the Council of The Corporation of the Town of Milton desires to repeal By-law No. 132-2001, and to enact a new by-law to regulate, license and govern Body-Rub Parlours in the Town of Milton;

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 ENACTS AS FOLLOWS:

MUNICIPAL ACT REQUIREMENTS

1. By-law 37-2003 to license, regulate, and govern Body Rub Parlours 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) “*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 so to do 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, in greater than TWENTY (20) % of the non-administrative floor space, but does not include any premises or part thereof where the *Body-Rubs* performed, offered or solicited 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; (as amended by by-law 047-2006)
- (d) “*Committee*” means the *Town’s* Administration and Planning Committee;
- (e) “*Council*” means the Council of the *Town*;
- (f) “*Licensing Officer*” means the Licensing Officers for the *Town*, or his/her designate, and includes the *Town* Clerk;
- (g) “*Licensing Section*” means the Licensing Section of the Clerk’s Office at the *Town*;
- (h) “*Medical Officer of Health*” means the Medical Officer of Health for the Regional Municipality of Halton;
- (i) “*Municipal Law Enforcement Officer*” means an employee of the *Town* so appointed by *Council*;
- (j) “*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;
- (k) “*Operator*” includes a proprietor or any *person* who alone or with others operates, manages, supervises, runs or controls a *Body-Rub Parlour*;

- (l) “*Owner*” means a *person* who alone or with others has the right to possess or occupy a *Body-Rub Parlour* or actually does possess or occupy a *Body-Rub Parlour*, and includes a lessee of a *Body-Rub Parlour* or premises upon which a *Body-Rub Parlour* is located;
- (m) “*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;
- (n) “*specified body areas*” means any one or more of the following:
 - i) in the case of a female person, her nipples and breasts; and
 - ii) in the case of all persons, the genitals and the anus;
- (o) “*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;
- (p) “*Town*” means The Corporation of the Town of Milton.

GENERAL PROVISIONS OF BY-LAW

3. Every *Body-Rub Parlour Owner, Operator* and *Attendant* shall obtain a license under this By-law from the *Town* authorizing him/her to carry on such trade, calling, business or occupation in the *Town*, for which license the *person* obtaining the same, shall pay to the *Town* before the time of taking out such license, the fee fixed under *Town's User Fee By-law 163-2002*, as amended from time to time, and no *person* shall, within the limits of the *Town*, operate a *Body-Rub Parlour* or provide *Body Rubs*, until he or she has procured such license to do so in accordance with the requirements of this By-law.
4. No *Owner* of a *Body-Rub Parlour* shall permit any *person*, other than an *Operator*, licensed under this By-law, to operate such *Body-Rub Parlour*.
5. No *Owner* or *Operator* of a *Body-Rub Parlour* shall permit any person, other than an *Attendant* licensed under this By-law, to provide *Body-Rubs* at such *Body-Rub Parlour*.
6. 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 legislation and does not relieve any party of its obligations to comply with any other law with respect to the operation of a *Body-Rub Parlour*.

7. 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 *Body-Rub Parlour* in respect of which the license has been issued, or after ceasing to carry on the business, notify the *Licensing Section* in writing of such fact and surrender the license.
8. 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.
9. 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 or her license.
10. Every *Body-Rub Parlour Owner* or *Operator's* license shall have endorsed thereon the location of the *Body-Rub Parlour* and such endorsement shall be for one location only and such license shall be valid only for the location endorsed thereon.
11. No *person* carrying on or engaged in any trade, calling business or occupation 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, or an *Officer*, and the making of such a false or intentionally misleading recital of fact, statement or representation constitutes an offence.

TERM OF LICENSE & FEES

12. 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.
13. A license issued under this By-law is *personal* to the licensee, and cannot be transferred, assigned or leased.
14. The rights granted by an *Owner* or *Operator's* license issued under this By-law apply only to the premises for which the license is issued.
15. 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.

16. 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 *Body-Rub Parlour* upon the expiry of the license.
17. 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 24 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.
18. Where a completed application form 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 a *Body-Rub Parlour*, 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.
19. Where a license has been revoked or suspended, the licensee is not entitled to a refund of the license fee.

LOCATION OF PREMISES

20. All *Body-Rub Parlours* shall be restricted to locations within the geographic area or areas designated in the *Town's Zoning By-law*, and no *Body-Rub Parlours* are permitted to operate in any other area or areas of the *Town*.
21. The provisions of section 20 do not apply so as to prevent the renewal of a license when the *Body-Rub Parlour* 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 *Body-Rub Parlour* at that location and has continued to be carried on at that location, and the *Body-Rub Parlour* is in compliance with all other applicable laws and all other requirements of this By-law.
22. A maximum of three (3) *Body-Rub Parlours* shall be permitted within the *Town of Milton* and no licenses shall be issued under this By-law with respect to any additional *Body-Rub Parlours*.

LICENSE APPLICATION

23. 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 a *Body-Rub Parlour* 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 a *Body-Rub Parlour* owned or operated by a corporation, such appearance shall be made by an officer of the corporation.

24. The information, documentation and fees required by the *Licensing Officer* through the license application process under section 23 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, and all relevant data pertaining to the nature of the business to be carried on, including the type of services and/or goods to be advertised and offered, and the prices for services;
 - (c) confirmation from the *Town's* Building Department that the *Body-Rub* 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 *Body-Rub* premises complies with the Department's requirements and the Ontario Fire Code;
 - (e) 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 premises or the *Body-Rub Parlour*;
 - (f) 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;
 - (g) every applicant for an *Owner's* license, *Operator's* license or *Attendant'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 one of the partners;

- (h) Every applicant referred to in section 23, and every shareholder, partner or other *person* referred to in this By-law, shall file with or produce to the *Licensing Officer* proof of his or her age, if required to do so by the *Licensing Officer*, and no such license shall be issued unless the *Licensing Officer* is satisfied that every such *person* is of the full age of eighteen (18) years;
 - (i) every applicant for an *Owner's* license, *Operator's* license or an *Attendant'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 *Owner's* or *Operator's* right to possess or occupy the premises, and if any applicant is not the registered owner of the property at which the *Body-Rub Parlour* 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) 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*;
 - (m) every applicant for an *Attendant's* license shall provide the *Licensing 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 required by the *Medical Officer of Health*;
 - (n) confirmation that the applicant is in compliance with all other municipal, provincial or federal laws.
25. 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.
26. 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.
27. 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.
28. 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, directors and management employees.

29. A separate *Owner's* license shall be taken out in respect of each *Body-Rub Parlour*.
30. A separate *Operator's* license shall be taken out in respect of each *Body-Rub Parlour*.
31. Each *Owner*, and *Operator* shall, if they perform, offer, or solicit a *Body-Rub*, be licensed as an *Attendant* in accordance with the provisions of this By-law.

REFUSAL, REVOCATION, SUSPENSION OF LICENSE

32. 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 of 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 is a partnership, or of any director or officer of the corporation if the applicant is a corporation, affords reasonable grounds to believe that the business in respect of which the application is made will not be carried on in accordance with the law or with integrity and honesty; or
 - (b) 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;
 - (c) 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) 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) 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) 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 or maintained as valid and subsisting;

- (g) the *Body-Rub Parlour* 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 property or business taxes; or
- (h) there has been a failure by the applicant or licensee to meet the requirements of the *Town's* Official Plan, Zoning By-law except as provided for in section 21 of this By-law, 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, or the Ontario 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

- 33. (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 other *Body-Rub Parlours* in the Town of Milton, upon such grounds as are set out in section 32 of this By-law.

OPPORTUNITY TO BE HEARD

- 34. Where a *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.
- 35. 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.

36. 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 service of 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.
37. (a) Where the *Licensing Officer* receives notice from the applicant/licensee in accordance with section 36, 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 36, the *Town* need not process the application further, 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.
38. 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

39. 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 42 of this By-law.
40. 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.
41. 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.
42. 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

43. Where a license has been suspended or revoked, the holder of the license shall return the license to the *Licensing Section* or a *Municipal Law Enforcement Officer* within twenty-four (24) hours of receipt of notification of the suspension or revocation. An *Officer*, may enter upon the premises of the *Owner* 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

44. 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.
45. 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 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 32 to 39 of the By-law.

REGULATIONS APPLICABLE TO *BODY-RUB PARLOURS*

46. Every *Owner* and *Operator* shall ensure that no services are provided at the *Body-Rub Parlour* other than in accordance with the requirements of this By-law.

47. 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*, and no *Attendant* may provide *Body-Rubs* at a *Body-Rub Parlour* unless there is a licensed *Body-Rub Parlour Owner* or *Operator* in attendance in *person* at the premises, and their license has not expired, been revoked or suspended.
48. Every *Owner* and *Operator* shall keep his or her license issued in respect of a *Body-Rub Parlour* posted in a conspicuous place on the said premises in a manner satisfactory to a *Licensing Officer* or *Municipal Law Enforcement Officer* at all times during the currency of the license.
49. No *Owner* or *Operator* shall 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 his or her license has not expired, been revoked or suspended.
50. Every *Owner* shall post and maintain, in a prominent location that is satisfactory to a *Licensing Officer* or *Municipal Law Enforcement Officer*, a copy of all licenses of *Attendants* providing *Body-Rubs* at the *Body-Rub Parlour*.
51. Every recipient of a *Body-Rub* in a *Body-Rub Parlour* shall be clothed in a manner that ensures that the *person's specified body areas* are fully covered at all times by opaque material.
52. Every *Attendant* in a *Body-Rub Parlour* shall be clothed in a manner that ensures that the *Attendant's specified body areas* are fully covered at all times by opaque material.
53. No *Owner*, *Operator*, or *Attendant* shall perform or permit, allow or cause to be performed a *Body-Rub* in any *Body-Rub Parlour* by or upon any *person* whom he or she has reasonable cause to suspect has been exposed to or is suffering from any communicable disease, including any communicable skin disease.
54. No *Owner* or *Operator* shall, in respect of any *Body-Rub Parlour* owned or operated by such *Owner* or *Operator*, permit, allow or cause any *Attendant* to touch, or be touched by, or have physical contact with, any person in any manner whatsoever involving any *specified body areas*. No *Attendant* shall, while at a *Body-Rub Parlour*, 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*.

AGE RESTRICTIONS

55. The *Owner* and *Operator* shall ensure that no *person* provides *Body-Rubs* in a *Body-Rub Parlour* to any *person* under the age of eighteen (18) years and that no *person* under the age of eighteen (18) years is allowed to enter or remain in any part of a *Body-Rub Parlour*.

56. 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 (18) may enter or remain on such premises.
57. 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 eighteen (18) years of age and such *person* has been instructed with regard to the regulations of this By-law and complies with these regulations.

SIGNS AND ADVERTISEMENTS

58. 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 *Body-Rub Parlour*, as follows:
 - (a) a *person* may erect or maintain the following types of signs or other advertising devices in respect of a *Body-Rub Parlour*: 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 a *Body-Rub Parlour*;
 - (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 Body-Rub Parlour".
 - (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 a *Body-Rub Parlour*, 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*, on exterior signs and advertisements relating to a *Body-Rub Parlour*.
 - (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 a *Body-Rub Parlour*, provided the content of such sign is not visible from the exterior of the *Body-Rub Parlour*;

- (f) any sign or advertising device otherwise permitted in respect of a *Body Rub Parlour* under this By-law, shall not have any animation, flashing lights or be designed to revolve on an axis. For the purpose of this subsection, “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.

DESIGN OF PREMISES

- 59. Every *Owner* and *Operator* shall, in the operation of a *Body-Rub Parlour*, comply with, and ensure compliance with all of the requirements set out in this By-law.
- 60. Every *Owner* and *Operator* shall ensure that:
 - (a) the *Body-Rub Parlour* is kept in a clean and sanitary condition;
 - (b) every table, mat or other surface upon which *persons* lie or sit while being given or provided with a *Body-Rub* shall be clean and in good repair, and shall have a top surface of impervious material;
 - (c) every table, mat or other surface referred to in subsection (b) shall be covered with a fresh, clean individual paper or cloth sheet before any *person* receives a *Body-Rub* thereon;
 - (d) every sheet or towel shall, immediately after being used by any *person*, be deposited in a receptacle reserved for that purpose and shall not be utilized again for any purpose before being freshly laundered.
- 61. The *Owner* or *Operator* shall provide the *Licensing Section* with a floor plan of the *Body-Rub Parlour* showing the designated room(s) 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 or she shall first file a copy of the amended floor plan with the *Licensing Section*, and shall not proceed to make such alterations without first obtaining the approval of the *Licensing Section*.
- 62. The *Owner* or *Operator* may designate one or more rooms for use as an office and/or storage room. Such designated office and/or storage rooms may be equipped or constructed with a locking device.

63. Every *Owner* or *Operator* shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in a *Body-Rub Parlour*, save and except the designated office and/or storage room, 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.
64. During the hours of operation of a *Body-Rub Parlour*, the *Owner* or *Operator* shall ensure that the principle 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.
65. 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.
66. 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.

INSPECTION

67. An *Officer* may, at any time of the day or night, enter a *Body-Rub Parlour* 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 hinder or obstruct such examinations, investigations and inquiries.
68. As part of an inspection under section 67, an *Officer* is entitled to inspect all books of account, vouchers, correspondence and the records of the *Body-Rub Parlour* or *person* being inspected that are relevant to the purpose of the inspection.
69. No *person* shall obstruct or hinder a *person* inspecting premises pursuant to this By-law, or withhold, destroy, conceal or refuse to furnish any information or thing required by an *Officer* pursuant to this By-law.

NOTICE

70. 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.
71. Where service is effected by registered mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

HOURS OF OPERATION

72. An *Owner* or *Operator* shall only operate a *Body-Rub Parlour* on the days and between the hours indicated below:
- (a) Monday to Friday from 9:00 a.m. to 10:00 p.m.
 - (b) Saturdays from 9:00 a.m. to 6:00 p.m.
 - (c) Sundays from 10:00 a.m. to 5:00 p.m.

OFFENCE, PENALTY AND ENFORCEMENT

73. 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.
74. Notwithstanding section 73, 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.
75. This By-law shall be administered and enforced by an *Officer* or *Officers*.

SEVERABILITY

76. 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

77. This by-law shall be known as the Body Rub Parlour Licensing By-law.

REPEAL

78. By-law No. 132-2001 is hereby repealed in its entirety.

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

Gordon A. Krantz Mayor

Troy McHarg Town Clerk