

TOWN OF MARKHAM
ONTARIO



BY-LAW 2002-292

**A BY-LAW RESPECTING THE LICENSING AND REGULATING OF
BODY-RUB PARLOUR
OWNERS, OPERATORS AND ATTENDANTS**

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to December 14, 2007)

As amended by:
By-law No. 2003-345 – 16 December 2003
By-law 2006-320 – November 28, 2006
By-law 2007-282 – December 11, 2007

2002-292

A BY-LAW RESPECTING THE LICENSING AND REGULATING OF BODY-RUB PARLOUR OWNERS, OPERATORS AND ATTENDANTS

(Amended by By-law No. 2006-320)

WHEREAS Section 150 of the *Municipal Act, 2001* authorizes Council to pass by-laws for licensing, regulating, governing, classifying and inspecting body-rub parlours and for revoking or suspending any such license and for limiting the number of licenses to be granted;

AND WHEREAS Section 150 of the Act authorizes Council to pass by-laws for licensing, regulating and governing any business carried on within a municipality and includes the authority for Council to enact legislation with regard to persons who provide services in connection with any such businesses;

AND WHEREAS Council deems it advisable, having regard among other matters to the health and safety of those within its jurisdiction and to the potential for public nuisance, to enact a by-law to regulate the scope of activities that may be carried on at body-rub parlours;

NOW THEREFORE the Council of The Corporation of the Town of Markham **ENACTS AS FOLLOWS:**

In this By-law:

“attendant” means a person who, in pursuance of a trade, business or occupation, provides body-rubs at a body-rub parlour;

"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;

"body-rub parlour" is included in the definition of 'adult entertainment parlour' in the *Municipal Act, 2001* and 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;

"Council" means the Council of The Corporation of the Town of Markham;

"license" means an authorization under this By-law to carry on the trade, calling, business or occupation specified therein;

"Licensing Officer" means a person appointed by the Town to issue licences;

"Medical Officer of Health" means the Medical Officer of Health for the Regional Municipality of York;

"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;

"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;

"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.

"sign" includes any sign as defined pursuant to Town By-law 2002-94 as amended.

"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;

"Town" means The Corporation of the Town of Markham in the Regional Municipality of York;

"Health and Social Club" means a body-rub parlour, provided that the area used within a premises operated by a Health and Social Club for the provision of body-rubs does not exceed 20% of the gross floor area of the premise and provided the gross floor area of the premises is not less than 650.3 square metres (7,000 sq. ft.)
(Amended by By-law No. 2006-320)

GENERAL REGULATIONS

1. 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.

2. 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.
3. 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 Town of Markham adult entertainment parlour By-law No. 2002-287 (as amended 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 who is designated to be on duty by the owner is in attendance in person;
 - i) Every owner must designate one operator to be on duty during the time the owner is not in attendance;
(Amended by By-law No. 2006-320)
 - (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 designated to be on duty by the owner 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 Licensing Officer at all times during the currency of the license;

(Amended by By-law No. 2006-320)

(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 a body-rub at a body-rub parlour unless there is in attendance at the premises a licensed body-rub parlour owner or operator who does not provide body-rubs;

(Amended by By-law No. 2003-345)

(o) An owner shall enter into a written contract for services between every operator and every attendant at a body-rub parlour and such contracts shall be made available to a Licensing 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 an owner or operator for a period of six months after the termination or completion of such contract;

(Amended by By-law No. 2003-345)

(p) *Deleted;*

(Amended by By-law No. 2003-345)

(q) Every attendant at a body rub parlour shall be clothed in a manner such that each such person's pubic and genital area, and in the case of a woman, her breasts are fully covered by opaque material.

(Amended by By-law No. 2003-345)

(r) 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 Licensing 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;

- (s) Every owner shall post and maintain in the lobby or entrance of the body rub parlour, in a manner that is satisfactory to the Licensing Officer, a sign which provides as follows: “This premises is licensed as a body rub parlour by the Town of Markham. 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.”;
- (t) No attendant shall provide or offer to provide services to any person unless such person’s pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;
(Amended by By-law No. 2003-345)
- (u) No owner or operator shall permit any attendant to provide or offer to provide services to any person unless such person’s pubic and genital area, and buttocks and, in the case of a woman, her breasts, are completely and opaquely covered;
(Amended by By-law No. 2003-345)
- (v) Every body-rub parlour 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;
(Amended by By-law No. 2003-345)
- (w) No person shall provide services in a body-rub parlour unless the owner of the body-rub parlour holds a body-rub parlour licence, which has not expired, been revoked or suspended;
(Amended by By-law No. 2003-345)
- (x) No person shall be an operator of a body-rub parlour unless the owner of the body-rub parlour holds a body-rub parlour licence, which has not expired, been revoked or suspended;
(Amended by By-law No. 2003-345)
- (y) Every attendant shall ensure the window provided to permit the observation of body-rubs by third parties remains unobstructed;
(Amended by By-law No. 2003-345)
- (z) No person, while acting as an owner or operator, shall perform any body-rub services.
(Amended by By-law No. 2003-345)

SIGNS AND ADVERTISEMENTS

4. 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, including Town Sign By-law 2002-94 (as amended). Notwithstanding the provisions of Town Sign By-law 2002-94 (as amended), no person may erect or maintain any sign advertising a body-rub parlour except in accordance with the following additional regulations:
- (a) 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
 - (b) 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, with the exception of advertising located in a newspaper or in the Yellow Pages;
 - (c) 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;
 - (d) 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 Licensing Officer as part of the licensing process;

DESIGN OF PREMISES

5. 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 Licensing 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 shall first file with the Licensing Officer a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the Licensing 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, operator and attendant shall ensure that the principal means of access into the body-rub parlour is unlocked and available so that anyone coming into the body-rub parlour may enter therein without hindrance or delay;

(Amended by By-law No. 2003-345)

- (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 body-rub parlour shall be equipped with a window to permit observation of the provision of body-rubs by third parties. The window must be 3" x 5" clear glass, located in the door to each massage room at a height of not less than 5 feet and not greater than 6 feet and must not be obstructed in any way.
- (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:
 - (a) the floors shall be disinfected at least once a week with a disinfecting

solution approved by the Medical Officer of Health;

- (b) all surfaces and attached accessories of the bath or shower enclosure must be self-draining;
- (c) all showers must have removable cleanable drain covers;
- (d) floor surfaces both within and without the enclosures shall be of non-slip type;
- (l) 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;
- (m) Every body-rub parlour shall be constructed in accordance with the Ontario Building Code (as amended) and every applicant for an owner's license shall provide the Licensing Officer with such drawings as may be required to assess compliance in this regard.

HOURS OF OPERATION

- 6. (a) No owner or operator may permit a body-rub parlour to be open for business and no attendant at a body-rub parlour shall provide body-rubs in a body-rub parlour except between the hours of 9:00 a.m. and 9:00 p.m. on any given day.
(Amended by By-law No. 2003-345)
- (b) Every owner, operator and attendant shall ensure the hours of operation of the body-rub parlour are posted on a sign in a conspicuous place, visible from the outside of the premises.
(Amended by By-law No. 2003-345)
- (c) The provisions of section 6(a) of this By-law are not applicable to a Health and Social Club.
(Amended by By-law No. 2006-320)

LOCATIONAL RESTRICTIONS AND LIMITATION ON NUMBER

- 7. No person may own or operate a body-rub parlour:
 - (a) within five hundred (500) meters of any residential zone in existence when the application for license is submitted to the Town;
 - (b) within five hundred (500) meters of any school, church or child day care centre in

existence when the application for license is submitted to the Town.

- (c) 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;

- 8. The number of body-rub parlours which may be licensed within the Town of Markham shall be limited to ten (10).

(Amended by By-law No. 2006-320)

- 9. *Deleted*

(Amended by By-law No. 2006-320)

- 10. 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

- 11. 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.

- 12. 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.

- 13. The licenses required by this By-law shall, unless they are expressed to be for a shorter or longer time, be for the period up to and including the 31st day of December in the year of issuance, unless they are sooner forfeited or revoked.

- 14. 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.

- 15. 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.

- (a) Every body-rub parlour owner's, operator's and attendant's license shall have endorsed thereon the location of the body-rub parlour which they own or at which they work and such license shall be valid only for the locations endorsed thereon; and

(Amended by By-law No. 2003-345)

- (b) Where an operator or attendant requires the endorsement of an additional location after issuance of a license, the operator or attendant must first produce a copy of the written contract for services with the owner of the additional location

(Amended by By-law No. 2003-345)

APPLICATION, RENEWAL AND REVOCATION OF LICENSE

16. Every applicant shall appear in person before a Licensing Officer and shall complete such license application forms as may be provided from time to time by the Licensing Officer in accordance with the requirements of this By-law and shall provide all information requested thereon, such information to include a Canadian Police Clearance Letter dated within thirty (30) days of the date of the application. In the case of a body 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.
(Amended by By-law No. 2003-345)
17. Every applicant for a license, where such applicant is a natural individual, shall provide two (2) passport size photographs, which must be taken within thirty (30) days of the license application. 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.
18. Every applicant shall provide the Licensing Officer with a written contract for services between an owner of the body-rub parlour and the applicant and signed by the licensed owner of the body-rub parlour contained in the application.
(Amended by By-law No. 2003-345)
19. 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.
(Amended by By-law No. 2003-345)
20. At the time of submission of their application, every applicant shall pay to the Town the fee set forth in By-law No. 2002-292 provided such fee shall not be reduced in the event that the period for which the license is granted is less than one year. Fifty percent of such fee is refundable in the event that an application is not accepted for licensing.
21. 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.
22. 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 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.
23. 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.
24. 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, 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 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.
25. Every person applying for a body-rub parlour license shall file with the Licensing Officer documentation satisfactory to the Licensing Officer demonstrating the applicant's right to possess or occupy the premises and if any applicant is not the registered owner of the property upon which the body-rub parlour is to be located, such person shall file with the Licensing 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.
26. The Licensing 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 Departments for comments;
- (e) make or cause to be made all investigations and inspections which he 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;

27. Notwithstanding the foregoing section, upon review of a license application, including an application for renewal, the Licensing 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 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 occupation 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.

28. 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 Licensing Officer has been so authorized by Council in response to a report in this regard, the Licensing 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.
29. The Licensing 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 Licensing 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 Licensing Officer is able to confirm that the conditions leading to the suspension have been remedied.
30. 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
 - (i) will be accorded its rights pursuant to the Statutory Powers Procedure Act including the right to appear and speak to the matter; and
(Amended by By-law No. 2003-345)
 - (ii) when he or she has been provided with notice of the meeting and does not attend, Council may proceed with the meeting in the absence of the applicant.
(Amended by By-law No. 2003-345)
 - (b) Council may,
 - (i) refuse to grant a licence, revoke a licence or suspend a licence; or
(Amended by By-law No. 2003-345)
 - (ii) impose special conditions as a requirement in order to obtain, continue to hold or renew a licence.
(Amended by By-law No. 2003-345)
 - (c) Council shall exercise its power under section 30(b) of this By-law,
 - (i) where the applicant has not met the requirements of this By-law; or
(Amended by By-law No. 2003-345)
 - (ii) upon the grounds that the 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 accordance with the law or with honesty and integrity.

(Amended by By-law No. 2003-345)

31. Any license that has not been renewed as at December 31st in the year of its issuance or renewal shall expire on January 1st in the year following its issuance or renewal.

- (a) Notwithstanding section 31, the Licensing Manager may extend a licence where an application for a renewal of the licence has been made, a hearing by the Licensing Committee has been requested by the applicant and the final disposition of the application remains outstanding by December 31st of the year in which the renewal application was made.

(Amended by By-law No. 2003-345)

CHANGE OF STATUS

32. 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 Licensing Officer within seven (7) days of the change.

33. 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 Licensing 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 Licensing Officer's prior approval of any one or more such transactions.

34. 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 Licensing 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 Licensing Officer's prior approval of any one or more such transactions.

OFFENCE, PENALTY AND ENFORCEMENT

35. 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 \$25,000.00 or imprisonment for a term not to exceed one year or both;
 - (b) a penalty in the case of a corporation, not to exceed \$50,000.00; and
 - (c) an order closing the body-rub parlour, which is the subject of the contravention, for a period not to exceed two years.
36. 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.
37. Every person shall comply with the provisions of this By-law applicable to him whether or not he is licensed under this By-law.
38. 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 Licensing 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.
39. 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 Licensing Officer, a Medical Officer of Health or a Peace Officer.
40. No person may obstruct or hinder the entry or the inspection of a body-rub parlour by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer, a Medical Officer of Health or a Peace Officer.

MISCELLANEOUS

41. The provisions of this By-law shall apply to all lands and premises within the Town of Markham.

42. Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-law shall continue in full force and effect.

43. *Deleted*

(Amended by By-law No. 2006-320)

44. 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.

45. The provisions of this By-law:

- (a) are not applicable in relation to 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.

46. This By-law may be known as the Body-Rub Parlour By-law.

47. *Deleted*

(Amended by By-law No. 2006-320)

48. *Deleted*

(Amended by By-law No. 2006-320)

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 10TH
DAY OF DECEMBER, 2002.

"Sheila Birrell"

"Don Cousens"

TOWN CLERK

MAYOR

SCHEDULE "A"
TO BY-LAW NO. 2002-292

Deleted

(Amended by By-law No. 2006-320)