THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

BY-LAW NO. 2003-127

being a by-law to license, regulate and govern the type of adult entertainment establishments known as “body rub parlours” in the Municipality of Clarington

WHEREAS sections 150 and 151 of the Municipal Act, 2001, S.O. 2001, c.25, as amended authorize municipalities to pass by-laws to licence, regulate and govern adult entertainment establishments;

AND WHEREAS By-law No. 99-123 licences, regulates and governs the class of adult entertainment establishments known as “adult entertainment parlours” (as defined in By-law No. 99-123);

AND WHEREAS By-law No. 99-130 also regulates “adult entertainment parlours” (as defined in By-law No. 99-130);

AND WHEREAS the Council of The Corporation of the Municipality of Clarington deems it expedient to pass this By-law respecting the class of adult entertainment centre establishments known as “body rub parlours” (as defined in this By-law), while not amending or repealing any of the provisions of By-laws 99-123 and 99-130 respecting adult entertainment parlours (as defined in those By-laws),

NOW THEREFORE the Council of The Corporation of the Municipality of Clarington enacts as follows:

1.0 DEFINITIONS

1.1 In this By-law, the term:

“Applicant” means a person seeking a licence, or renewal of a licence or a person whose licence is being considered for revocation or suspension pursuant to this By-law;

“Body Rub” means the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person’s body, but the term does not include body rubs which are performed, offered or solicited for the purpose of medical or therapeutic treatment either by a Regulated Health Professional, or by a qualified individual while practicing as an acupuncturist. The term “Body Rub” also does
not include body rubs which are performed, offered or solicited by an individual practicing as an esthetician who holds a diploma certifying him or her successful completion of a program to train estheticians issued either by an Ontario College of Applied Arts and Technology or by a private career college which is registered under the Private Career Colleges Act, R.S.O. 1990, c.P.26 as amended, body rubs which are performed, offered or solicited by an individual while practicing as a reflexologist who is registered as a reflexology practitioner by the Reflexology Registration Council of Ontario, and body rubs which are performed, offered or solicited by an individual while practicing as a Shiatsu therapist who is a registered as a Certified Shiatsupractor by the Shiatsu Diffusion Society of Ontario;

"Body Rub Parlour Attendant" means a person who provides Services at a Body Rub Parlour;

"Body Rub Parlour Operator" means a person who alone or with another Person operates, manages, supervises, runs or directs Services provided at a Body Rub Parlour and the terms "operate", "operation" and other words of like import or intent shall be given a corresponding meaning;

"Body Rub Parlour Owner" means a Person who alone or with others owns and either has the ultimate control over or directs the operation of a Body Rub Parlour, and the term includes a lessee, tenant or licensee of the Premises and the terms "own" "ownership" and words of like import or intent in respect of a Body Rub Parlour shall be given corresponding meaning;

"Body Rub Parlour" means any Premises or part thereof where a Body Rub is performed, offered or solicited by any Person;

"Chief of Police" means the Chief of Police of the Regional Municipality of Durham or the Deputy Chief acting in place of the Chief;

"Council" means the Council of The Corporation of the Municipality of Clarington;

"Health Unit" means the Durham Regional Health Unit;

"His" shall be read as such changes of number or gender as the context requires;

"Licence" means an authorization under this By-law to act as a Body Rub Parlour Owner, a Body Rub Parlour Operator or a Body Rub Parlour Attendant and the document, certificate or card issued shall provide evidence of such authorization;
"Licensee" means a person who has been issued and maintains a valid Licence pursuant to this By-law and the term "Licensed" has a corresponding meaning;

"Medical Officer of Health" means the Medical Officer of Health of the Health Unit or his representative;

"Municipal Clerk" means the Municipal Clerk of The Corporation of the Municipality of Clarington or the Deputy Clerk acting in place of the Municipal Clerk;

"Municipality" means The Corporation of the Municipality of Clarington;

"Officer" includes a police officer, public health inspector and a municipal law enforcement officer;

"Patron" means any individual who requests or receives Services in a Body Rub Parlours, and the term "Patronize" has a corresponding meaning;

"Person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, a partnership or other form of business association, a receiver or a mortgagee in possession;

"Premises" means the premises used or proposed to be used as a Body Rub Parlour and the term includes the facilities and equipment required to be provided in a Body Rub Parlour by this By-law;

"Regulated Health Professional" means a person registered under the Regulated Health Professions Act, 1991, R.S.O. 1990 (Supp.) c.18, as amended, or as a drugless practitioner as defined in the Drugless Practitioners Act, R.S.O.1990, c. D. 18, as amended, and the term includes Audiologists, Chiropodists, Chiropractors, Dental Hygienists, Dental Technologists, Denturists, Dentists, Dieticians, Massage Therapists, Medical Laboratory Technologists, Medical Radiation Therapists, Midwives, Naturopaths, Nurses, Occupational Therapists, Opticians, Optometrists, Pharmacists, Physicians, Physiotherapists, Podiatrists, Psychologists, Respiratory Therapists and Speech Language Pathologists;

"Services" means the provision of a Body Rub;

"Sexual Contact" includes the kissing, fondling, or sucking of breast or genitalia, digital penetration, fellatio, cunnilingus, masturbation, ejaculation or intercourse;
"To Provide" when used in relation to Services means to furnish, facilitate the provision of, perform, offer and/or solicit, or give Body Rubs, and the terms "providing" and "provision" have corresponding meanings.

2.0 EXPLANATION OF REASON FOR LICENSING AND IMPOSITION OF CONDITIONS

2.1 The Municipality's reasons for licensing and imposing conditions under this By-law respecting Body Rub Parlours and the owners and operators of and attendants in Body Rub Parlours is to protect the health of members of the public who Patronize Body Rub Parlours from disease that may be communicated to them by Body Rub Parlour Attendants, to protect the Attendents from disease that may be communicated to them by Patrons of Body Rub Parlours, and to protect the safety of members of the public who may Patronize Body Rub Parlours and Body Rub Parlour Attendants.

3.0 GENERAL PROVISIONS

3.1 A Body Rub Parlour shall not be located, carried or operated in the Municipality of Clarington by any Person except in accordance with the provisions of this By-law. It is an offence for any Person to contravene any of the provisions of this By-law.

3.2 A Person who is issued a Licence or whose Licence is renewed pursuant to this By-law must comply with the provisions of this By-law. Failure to comply with the provisions of this By-law constitutes an offence.

3.3 An agent, trustee or representative of a person who owns or operates a Body Rub Parlour shall ensure that his principal, beneficiary or the person he represents complies with the provisions of this By-law. Failure to comply with this section 3.3 constitutes an offence.

3.4 If a court of competent jurisdiction declares any provision, or any part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the extent possible.

3.5 In this By-law, the words expressed in one gender shall include both genders.
4.0 LICENCE REQUIREMENTS

4.1 No Person shall undertake or carry on the business of a Body Rub Parlour by owning a Body Rub Parlour at any location in the Municipality of Clarington unless that Person has applied for, has been issued and maintains in effect a Body Rub Parlour Owner’s Licence respecting that Body Rub Parlour as required by this By-law. No Person shall be issued or shall maintain in effect a Body Rub Parlour Owner’s Licence respecting more than one Body Rub Parlour in the Municipality of Clarington at any one time.

4.2 No Person shall operate or direct the operation of a Body Rub Parlour at any location in the Municipality of Clarington unless a Body Rub Parlour Owner’s Licence has been issued respecting the Body Rub Parlour at that location pursuant to section 4.1, and the Person who operates or directs the operation of that Body Rub Parlour is a natural individual who has applied for, has been issued and maintains in effect a Body Rub Parlour Operator’s Licence respecting the Body Rub Parlour as required by this By-law. A natural individual shall not be issued or maintain a Body Rub Parlour Operator’s Licence respecting more than one Body Rub Parlour in the Municipality of Clarington at any one time, and he shall not be issued a Body Rub Parlour Operator’s Licence if he has been issued or maintains in effect either a Body Rub Parlour Owners Licence or a Body Rub Parlour Attendant’s Licence respecting the particular Body Rub Parlour.

4.3 No Person shall act as a Body Rub Parlour Attendant at a Body Rub Parlour at any location in the Municipality of Clarington unless a Body Rub Parlour Owner’s Licence and a Body Rub Parlour Operator’s Licence have been issued and is maintained in effect respecting that Body Rub Parlour pursuant to sections 4.1 and 4.2, and the Body Rub Parlour Attendant has applied for, has been issued and maintains in effect a Body Rub Parlour Attendant’s Licence to act as a Body Rub Parlour Attendant at that Body Rub Parlour as required by this By-law.

4.4 No Licence issued pursuant to this By-law shall be transferred, sold, leased, subleased, rented or assigned to any person other than the person named on the Licence as the Licensee.

4.5 Every Licensee shall upon demand of an Officer or of an individual referred to in section 14.1, produce the document, certificate or card known as a Licence issued by the Municipality of Clarington.
4.6 Every Person shall produce, upon demand of an Officer or of an individual referred to in section 14.1, the Licence issued to that person pursuant to this By-law.

4.7 Every Licensee shall notify the Municipal Clerk's Office of the Municipality of Clarington, in writing, within seven (7) days after the event, of any change in any of the information contained in the application or renewal form or supporting documentation required by this By-law respecting a Licence.

4.8 Each Licence issued or renewed under this By-law shall expire on December 31st of the year in which it is issued or renewed.

4.9 The original Licences which are issued to a Body Rub Owner and a Body Rub Operator under this By-law shall be posted in a prominent place within the Premises satisfactory to the Municipal Clerk.

4.10 A Licence issued or renewed under this By-law may be revoked, where such Licence has been issued in reliance by the Municipal Clerk on erroneous, false or incomplete information provided by the Applicant, or has been issued or renewed contrary to the provisions of any by-law or regulation of the Municipality.

4.11 No Person shall enjoy a vested right in the continuation or renewal of a Licence and upon issuance, renewal, suspension or revocation, a Licence shall remain the property of the Municipality.

5.0 DESIGNATED AREAS

5.1 Subject to sections 5.2 and 5.3, a Body Rub Parlour shall not be located and no Person shall own or operate or cause or permit to be operated a Body Rub Parlour within the geographic limits of the Municipality of Clarington unless the Premises are located on land within either Area A or Area B shown on the maps contained in Schedule “A” attached to and forming part of this By-law.

5.2 Subject to section 5.3, there shall be no more than one Body Rub Parlour located within Area A and no more than one Body Rub Parlour Owner's Licence issued for Premises located within Area A, and no more than one Body Rub Parlour located in Area B and no more than one Body Rub Parlour Owner's Licence issued for Premises located within Area B, both Areas as shown on the maps contained in Schedule “A” hereto.
5.3 A Body Rub Parlour shall not be located and a Body Rub Parlour Owner's Licence shall not be issued respecting a Body Rub Parlour which is located within 100 metres of any school under the jurisdiction of either the Kawartha Pine Ridge District School Board or the Peterborough Victoria Northumberland and Clarington Roman Catholic Separate School Board.

6.0 PREMISES

6.1 No Person may act or be issued or maintain a Body Rub Parlour Owner's Licence or a Body Rub Parlour Operator's Licence except in compliance with the provisions of this By-law.

6.2 An Applicant for a Body Rub Parlour Owner's Licence and an Applicant for a Body Rub Parlour Operator's Licence with his application shall provide the Municipal Clerk with a floor plan showing the room or rooms designated for the provision of Body Rubs. No Person may provide a Body Rub in any other room, cubicle, enclosure or partitioned area located within the Body Rub Parlour. In the event that either the Body Rub Parlour Owner or Body Rub Parlour Operator wishes to amend the floor plan, he shall first file with the Municipal Clerk a copy of the amended floor plan and shall not proceed to make such alterations without first obtaining the approval of the Municipal Clerk of the amended floor plan, and where required by the Building Code Act, 1992, as amended or replaced from time to time, the approval of the alterations by the Chief Building Official of the Municipality as evidenced by the issuance by him of a building permit in respect of such alterations.

6.3 The Licensed Body Rub Parlour Owner and the Licensed Body Rub Parlour Operator shall ensure that at all times an aisle or corridor at least 1.5 metres wide which is not obstructed by chairs, tables, equipment or barriers of any kind is maintained between each entrance to the Body Rub Parlour and the rooms, booths or cubicles in which a Body Rub is or may be performed.

6.4 Except for one room in the Premises shown on the floor plan referred to in section 6.3 to be intended for use as an office, and one room also shown on the floor plan referred to in section 6.3 to be intended for use as a storage room, every Licensed Body Rub Parlour Owner and Licensed Body Rub Parlour Operator shall ensure that no means of access to any room, cubicle, enclosure or partitioned area in a Body Rub Parlour that is used for the purpose of providing a Body Rub is equipped or constructed with a locking device of any kind or with any device or
structure which could delay or hinder anyone from entering or obtaining access to such room, cubicle, enclosure or partitioned area.

6.5 During the hours of operation of a Body Rub Parlour, the Licensed Body Rub Parlour Owner and the Licensed Body Rub Parlour 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.

6.6 No Premises or part thereof shall be used as a dwelling, or for sleeping purposes, or contain any bed or other furniture which is commonly used or which may be used for sleeping purposes.

6.7 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.

6.8 Every Body Rub Parlour and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition.

6.9 Every Body Rub Parlour shall be equipped with an effective utility sink.

6.10 Adequate toilet and washroom accommodation in the Premises shall be provided in accordance with the Building Code Act, 1992, as amended or replaced from time to time and the Ontario Building Code.

6.11 Washrooms in the Premises 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; and

(iv) a suitable receptacle for used towels and waste material.

6.12 Every Licensed Body Rub Parlour Owner and Licensed Body Rub Parlour Operator shall provide and maintain at all times within the Body Rub Parlour a first aid kit with contents satisfactory to the Medical Officer of Health.
6.13 The Premises must satisfy the following criteria:

(a) the maximum gross floor area of the Premise shall be no more than 150 square metres; and

(b) when the Premises are located in a multi-unit building, they shall not exceed 15% of the gross floor area of the multi-unit building.

7.0 REGULATIONS RESPECTING OPERATION OF BODY RUB PARLOURS

7.1 Every Licensed Body Rub Parlour Owner, Licensed Body Rub Parlour Operator and Licensed Body Rub Parlour Attendant shall comply with the following regulations:

(a) no Person may provide a Body Rub, except in accordance with a Body Rub Parlour Attendant's Licence issued pursuant to this By-law;

(b) no Person may provide, offer, solicit or permit any individual to provide a Body Rub, except in accordance with the provisions of this By-law;

(c) no person may provide Services in a Body Rub Parlour to any person under the age of 18 years;

(d) no person under the age of 18 years may enter, be allowed to enter, remain in or be allowed to remain in, any part of a Body Rub Parlour by a Licensed Body Rub Parlour Owner, Body Rub Parlour Operator or Body Rub Parlour Attendant;

(e) every Licensed Body Rub Parlour Owner and every Licensed Body Rub Parlour Operator shall ensure that there is posted in a prominent location at every entrance to the Body Rub Parlour a sign indicating that no person under the age of 18 years may enter or remain in the Premises;

(f) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator may permit any individual, except an individual holding a Body Rub Parlour Attendant's Licence, to perform Services at a Body Rub Parlour.

(g) every Licensed Body Rub Parlour Owner and every Licensed Body Rub Parlour Operator shall, before permitting any person to provide Services at a Body Rub Parlour, provide a copy of all of the regulations contained in this
By-law to such person, and instruct such person to comply with all of the regulations;

(h) no Licensed Body Rub Parlour Attendant may provide Services at a Body Rub Parlour unless there is in attendance either a natural individual at the Premises who holds a Body Rub Parlour Owner's Licence which is in effect or who holds a Body Rub Parlour Operator's Licence which is in effect;

(i) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator shall permit Services to be provided at the Body Rub Parlour other than in accordance with the provisions of this By-law;

(j) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator shall permit a Body Rub Parlour to be open for the provision of Body Rubs unless the Licensed Body Rub Parlour Owner if he is a natural individual, or if he is not a natural individual, the Licensed Body Rub Parlour Operator is in attendance at all times at which the Body Rub Parlour is open;

(k) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator may permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in a Body Rub Parlour;

(l) no Person may advertise or promote a Body Rub Parlour or the provision of Services at a Body Rub Parlour, except in accordance with the provisions of section 10.1 of this By-law respecting "Signs and Advertising";

(m) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator may permit a Body Rub Parlour to open or remain open for the provision of Body Rubs except in accordance with the provisions of section 9.1 of this By-law respecting "Hours of Operation";

(o) every Licenced Body Rub Parlour Owner and every Licenced Body Rub Parlour Operator shall comply with sections 5.1 and 5.2 of this By-law respecting locational restrictions and limitation on the number of permitted Body Rub Parlours and Body Rub Parlour Owner's Licenses in the Municipality of Clarington;

(p) no Person may own or operate a Body Rub Parlour except in accordance with the provisions of sections 6.1 to 6.13, inclusive, of this By-law respecting "Premises";
(q) At all times during the currency of the Licence, every Licensed Body Rub Parlour Owner and every Licensed Body Rub Parlour Operator shall post or cause to be posted and maintained the original Licence issued to him in respect of the ownership or operation of the Body Rub Parlour in a prominent location on the Premises satisfactory to the Municipal Clerk;

(r) every contract document pertaining to the relationship between either a Licensed Body Rub Parlour Owner and a Licensed Body Rub Parlour Attendant, or a Licensed Body Rub Parlour Operator and a Licensed Body Rub Parlour Attendant shall be in writing and shall be made available to the Municipal Clerk upon request for inspection at any time during and at all times when Services are provided in the Premises, and the contract or other document shall be retained for such inspection for a period of six months after its termination or completion of the contract or other document, as the case may be;

(s) every Licensed Body Rub Parlour Owner and every Licensed Body Rub Parlour Operator shall cause to be posted in a prominent location in the Body Rub Parlour satisfactory to the Municipal Clerk, a copy of all Body Rub Parlour Attendant Licenses issued to individuals who provide Services in the Body Rub Parlour;

(t) every Licensed Body Rub Parlour Attendant while at a Body Rub Parlour must be fully clothed with opaque clothing, and every Body Rub Parlour Attendant shall ensure that every Patron of the Body Rub Parlour is clothed in a manner in which such person’s pubic area and buttocks and in the case of a woman, also her breasts, are completely covered by an opaque material when the Licensed Body Rub Parlour Attendant provides Services to the Patron;

(u) no Licensed Body Rub Parlour Owner and no Licensed Body Rub Parlour Operator may use or permit to be used any camera or other photographic, or other electronic recording device at a Body Rub Parlour by any person, but this paragraph does not prohibit:

(i) the use of any camera or other device used by a public authority for the enforcement of the law, or
(ii) the maintenance of a camera in the entrance area of the Premises for security purposes only; and

(v) there must be a Licensed Body Rub Parlour Operator who is a natural individual on the Premises at all times when a Body Rub is performed in the Body Rub Parlour;

(w) no Body Rub Parlour Owner or Body Rub Parlour Operator shall permit the carrying on of any trade, calling, business or occupation within a Body Rub Parlour other than the Body Rub Parlour for which they have been Licenced.

(x) no Body Rub Parlour Owner, Body Rub Parlour Operator or Body Rub Parlour Attendance shall permit a Body Rub to be performed on any individual whom any of the Body Rub Parlour Owner, Body Rub Parlour Operator or Body Rub Parlour Attendant has reasonable cause to suspect has been exposed to or may be suffering from any communicable disease, including any communicable skin disease;

(y) every Body Rub Parlour Owner and Body Rub Parlour Operator shall, at all times, permit the entry by and the inspection of the Body Rub Parlour by the Municipal Clerk, a peace officer, public health inspector, a provincial offence Officer or a By-law Enforcement Officer;

(z) no Body Rub Parlour Attendant shall have Sexual Contact with any person while providing Services in a Body Rub Parlour;

(aa) no individual shall have Sexual Contact with any other individual while attending a Body Rub Parlour; and

(bb) no Body Rub Parlour Owner or Body Rub Parlour Operator shall permit Sexual Contact between any individuals in a Body Rub Parlour.

8.0 APPLICATION AND LICENCE FEES

8.1 The application fee for a Licence shall be as set out in Schedule "B" to this By-law. It shall be paid to the Municipality at the time of filing of the application for a Licence. The application fee shall be non-refundable. However, the amount of the application fee will be applied towards the Licence fee if the application is successful and a Licence is issued.
8.2 The fee for the issuance of a Licence or for renewal of a Licence shall be as set out in Schedule “A” to this By-law. It shall be paid to the Municipality prior to the issuance of the Licence or the renewal of a Licence, as the case may be. If a Licence is revoked, no part of the Licence fee or renewal fee shall be refunded.

9.0 HOURS OF OPERATION

9.1 No Body Rub Parlour shall be open to the public, no Licensed Body Rub Parlour Owner, and no Licensed Body Rub Parlour Operator may permit Services to be provided by any person, and no Licensed Body Rub Parlour Attendant may provide Services in the Body Rub Parlour, except on the following days and between the following hours:

Monday to Friday from 9:00 am to 10:00 pm of the same day; and
Saturday from 9:00 am to 6:00 pm; and
Sundays from 12:00 pm to 5:00 pm.

10.0 SIGNS AND ADVERTISING

10.1(a) No Body Rub Parlour Owner or Body Rub Parlour Operator shall erect, alter or cause to be erected or altered, any sign advertising the operation of a Body Rub Parlour which:

(1) conveys a message, either through the use of letters, numbers or symbols which include any of the following words, 'naked', 'nude', 'topless', 'bottomless', 'sexy', or any other word, picture, symbol or representation having a like meaning or implication;

(2) moves or has moving parts;

(3) uses flashing, animated or intermittent illumination.

10.1(b) No Person shall display, circulate, or permit the display or circulation of any poster, handbill, sign, card or novelty used to promote the business of a Body Rub Parlour on any lands or premises in the Municipality of Clarington, other than on the Premises.
11.0 APPLICATION FOR AND RENEWAL OF LICENCES

11.1 Any Person may be an Applicant for and may be issued a Body Rub Parlour Owner’s Licence. However, only an Applicant who is a natural individual may apply for and may be issued either a Body Rub Parlour Operator’s Licence or a Body Rub Parlour Attendant’s Licence.

11.2a) Every Person who applies for a Body Rub Parlour Owner’s Licence, a Body Rub Parlour Operator’s Licence or a Body Rub Parlour Attendant’s Licence, shall provide an original criminal information records check containing a record of all prior criminal convictions of the Applicant, signed by a police officer employed by Durham Region Police Services or by another Ontario police department, dated not more than 30 days prior to the date on which the application was made for a Licence. If the criminal information records check shows that the Applicant has had a conviction registered which is relevant to the reasons for this By-law set out in section 2.1, the application for a Licence shall be refused.

11.2b) Where a corporation is a partner in a limited or general partnership which is an Applicant for a Body Rub Parlour Owner’s Licence, or a corporation is a shareholder in a corporation which is an Applicant for a Body Rub Parlour Owner’s Licence an original criminal information records check containing a record of all prior criminal convictions of the corporation, its president and vice president shall be provided with the application for a Licence and the provisions of section 11.2a) shall apply with all necessary changes to it being considered to have been made to give effect to the intent of this section 11.2b). If the criminal information records check shows the registration of a conviction of the corporation, or of the corporation’s president or vice president which is relevant to the reasons for this By-law set out in section 2.1, the application for a Licence shall be refused.

11.3 Where a natural individual or a corporation applies for a Body Rub Parlour Owner’s Licence, the Applicant shall state:

(a) if the Applicant is a natural individual, his date of birth;

(b) if the Applicant is a corporation, the date of birth of every shareholder or other person who is a natural person and has a beneficial interest of any kind in the shares of the corporate Applicant or in the corporations referred to in section 11.4 to 11.6 of this By-law.
11.4 Every Applicant for a Licence, and if the Applicant for a Body Rub Parlour Owner's licence is a corporation or a partnership, every shareholder, partner or other person and is referred to in this By-law, shall file with or produce to the Municipal Clerk proof of his age. No Licence shall be issued to an Applicant unless the Municipal Clerk is satisfied that the aforesaid natural individual or natural individuals is of the full age of 18 years.

11.5 Every corporation applying for a Body Rub Parlour Owner's Licence shall file with the Municipal Clerk at the time of its application a copy of its articles of incorporation, or other incorporating document, duly certified by the proper government official or department, together with an information return completed by the applicant in a form supplied by the Municipal Clerk, which contains, among other things, a list of all shareholders of the corporation, their addresses and their ages.

11.6 Where the shares in a corporation which applies for a Body Rub Parlour Owner's Licence are held in whole or in part by another corporation, the corporation applying for a Body Rub Parlour Owner's Licence shall file with the Municipal Clerk, an information return completed by the applicant in a form supplied by the Municipal Clerk, which return contains, among other things, a list of all of each corporation's shareholders, their addresses and their ages. If such return discloses that the shares in the other corporation or corporations are in turn held in whole or in part by a third corporation the return shall contain a list of all of its shareholders, and so on until the names of all natural individuals are shown and identified as the shareholders of all corporations having an interest, direct or indirect, in the shares of the Applicant corporation.

11.7 All information returns required by sections 11.5 and 11.6 of this By-law shall be filed with the Municipal Clerk at the same time as the filing of the application for the Licence.

11.8 Every Body Rub Parlour Owner which is a corporation shall, in every year, on or before the time at which it applies for the renewal of its Licence, complete and file with the Municipal Clerk an annual information return in a form supplied by the Municipal Clerk.

11.9 Where a corporation is the holder of a Body Rub Parlour Owner's Licence, the corporation shall forthwith notify the Municipal Clerk in writing of any transfers of shares and of the issue of any shares of the capital stock of the Body Rub Parlour Owner to any person, and all the transfers or issuance of shares of any corporation referred to in section 11.6. The Body Rub Parlour Owner shall provide
the Municipal Clerk in writing particulars of any new shareholders of a corporation referred to in section 11.6. Sections 11.4, 11.5 and 11.6 shall apply with all changes necessary to give effect to the intent of this section 11.9 being considered to have been made to them. If a corporation which is the holder of a Body Rub Parlour Owner's Licence, fails to comply with section 11.9, the Body Rub Parlour Owner's Licence may be revoked.

11.10 Where as a result of the transfer of shares, or by the issue of new shares, the controlling interest in a corporation holding a Body Rub Parlour Owner's Licence is determined by the Municipal Clerk to have changed hands, the Body Rub Parlour Owner's Licence may be revoked. The Municipal Clerk shall refuse to issue a new Body Rub Parlour Owner's Licence to the corporation whose Licence has been revoked.

11.11 Where the shares of a corporation which holds a Body Rub Parlour Owner's Licence are held in whole or in part by another corporation, the latter corporation shall complete and file with the Municipal Clerk at the same time as the Body Rub Parlour Owner, an annual information return in the form supplied by the Municipal Clerk. If the shares in such other corporation are in turn held in whole or in part by a third corporation, then the third corporation shall likewise complete and file such an annual information return in respect of such third corporation, and so on until the names of all natural individuals, their addresses and their ages are shown and they are identified as the shareholders of any and all corporations having an interest, direct or indirect, in the corporate Body Rub Parlour Owner, failing which the Body Rub Parlour Owner's Licence may be revoked.

11.12 For the purpose of this By-law, "shareholder" and any words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation in question.

11.13 Without limiting the generality of any other provision of this By-law, persons associated in a partnership, who apply for a Licence shall file with their application,

(1) 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 or 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.

(2) an original criminal information records check containing a record of all prior criminal convictions signed by a police officer employed by Durham Region Police Services or another Durham police department, dated not more than 30 days prior to the application date for each member of the partnership. If the criminal information records check shows the registration of a conviction against any of the partners which is relevant to the reasons for this By-law set out in section 2.1, the application for a Licence shall be refused.

11.14 If any member of a partnership applying for a Body Rub Parlour Owner’s Licence is a corporation, such corporation shall be deemed to be applying for a Body Rub Parlour Owner’s Licence in place and stead of the partnership.

11.15 Without derogating from any other provision in this By-law, every corporation applying for a Body Rub Parlour Owner’s Licence shall file with the Municipal Clerk, at the time of making its application, a copy of its articles of incorporation or other incorporating document 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 or her ordinary residence;

(b) the name or names under which the corporation carries on, or intends to carry on business of owning a Body Rub Parlour; and

(c) the mailing address of the corporation.

11.16 Every person applying for a Body Rub Parlour Owner’s or Body Rub Parlour Operator’s Licence shall file with the Municipal Clerk documentation satisfactory to the Municipal Clerk demonstrating the Applicant’s right to possess, occupy and operate the Premises. If any Applicant is not the registered owner of the property on which the Body Rub Parlour is proposed to be located, the applicant shall file with the Municipal Clerk 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, of the property, and its use as a Body Rub Parlour.

11.17 Every person applying for a Body Rub Parlour Owner’s Licence or for a Body Rub Parlour Operator’s Licence who is a natural individual, shall provide two passport-size photographs, which must be taken within thirty days prior to the licence application being filed with the Municipal Clerk. Where the Applicant for a Body Rub Parlour Owner’s Licence is a corporation, photographs provided to the Municipal Clerk shall be of the president or a vice president of the corporation. Where the Applicant for a Body Rub Parlour Owner’s licence is a partnership, photographs shall be provided to the Municipal Clerk of each partner. In the latter two cases, two passport-size photographs of the specified natural individual or individuals taken within thirty days of the filing of the application for the Licence in question must be provided to the Municipal Clerk with the application for the Licence by the Applicant.

11.18 Every Applicant for a Body Rub Parlour Attendant’s Licence shall provide a letter of prospective employment from a licensed Body Rub Parlour Owner or Body Rub Parlour Operator which sets out the terms of his or her employment.

11.19 Every Applicant for a Body Rub Parlour Attendant’s Licence shall provide the Municipal Clerk with a medical certificate from a physician qualified to practice medicine in the Province of Ontario, dated within thirty days of the date of filing of the application with the Municipal Clerk, indicating that the Applicant is free from communicable diseases. Every such Applicant shall submit to such tests in relation to communicable diseases as the Medical Officer of Health may require.

11.20 Neither the receipt of an application for a Licence by the Municipal Clerk nor the fee paid to the Municipality with the application by the Municipal Clerk shall constitute approval of the application for the issuance of the Licence, or obligate the Municipal Clerk to issue such Licence except in accordance with this By-law.

11.21 Without derogating from the other provisions of this By-law, the Municipal Clerk:

(a) shall receive and process all applications for Licenses and renewal of Licenses under this By-law;
(b) shall make or cause to be made a circulation respecting applications for Licences to the Medical Officer of Health and to the Region of Durham Police Services Department for comment;

(c) shall make or cause to be made all investigations and inspections, which he or she deems necessary to determine whether an Applicant meets requirements of this By-law and all applicable laws;

(e) may issue or renew Licenses to Persons who satisfy the requirements of this By-law;

(f) may suspend Licences as provided in this By-law; and

(g) take all necessary actions to implement the intent of this By-law.

12.0 ISSUANCE OF DUPLICATE LICENCE

12.1 A duplicate Licence may be issued by the Municipal Clerk to replace any Licence previously issued which has been lost, stolen or destroyed, upon application by the Licensee and payment with the application of a fee of $25.00 which is not refundable.

13.0 REFUSAL, SUSPENSION AND REVOCATION OF LICENCES

13.1 If the Municipal Clerk refuses to issue a Licence or to renew a Licence required by this By-law to any Applicant, the Municipal Clerk shall give written notice of his decision to the Applicant by personal service or by registered mail addressed to the Applicant at his address shown on the application setting out the reason for the refusal decision and notifying the Applicant that the decision may be appealed to the Council by notice in writing delivered to the office of the Municipal Clerk within fifteen (15) days following the date on which written notice of the refusal decision is personally served or is posted by registered mail addressed to the Applicant. If the refusal decision is appealed to Council, the Municipal Clerk shall give the Applicant written notice advising the Applicant of the place, date and time at which Council will hear the appeal. After considering the representations of the Applicant and any other person who is permitted to address Council on the matter and a written report from the Municipal Clerk concerning the reason of the Municipal Clerk for the refusal decision, Council may confirm the refusal decision, or grant the Licence in question either without condition or subject to conditions that Council considers to be appropriate in the circumstances.
13.2 If in the Municipal Clerk's opinion, any of the circumstances referred to in this By-law permitting the revocation of a Licence have occurred, the Municipal Clerk may give written notice to the Licensee by personal service or by registered mail addressed to the Licensee at the address that has been provided to the Municipal Clerk by the Licensee, stating that in his opinion the aforesaid circumstances have occurred and providing particulars thereof, advising the Licensee that Council will hold a hearing to consider whether the Licence should be revoked, giving the Licensee the place, date and time of the hearing, advising the Licensee of his right to be heard by Council, and advising the Licensee whether or not his Licence is suspended until the hearing and decision of Council. After considering the representations, if any, of the Licensee and of any other person who desires to be heard, and a written report by the Municipal Clerk, Council may revoke the Licence in question. The Municipal Clerk has authority in all cases in which a Licence may be revoked to suspend the Licence of the Licensee pending the hearing before Council and Council's decision as to whether the Licence should be revoked.

13.3 If a Licensee is convicted of the offence of contravening any of the provisions of this By-law, the Licence of the Licensee may be revoked and the provisions of section 13.2 respecting the suspension and revocation of Licences apply with all necessary changes to them being considered to have been made to give effect to the intent of this section 13.3.

14.0 INSPECTIONS

14.1 The Municipal Clerk, Chief of Police, Medical Officer of Health, Fire Chief or any individual authorized by any of them or any individual authorized by Council of the Municipality may, at any reasonable time, inspect:

(a) any Premises where a Body Rub Parlour which is subject to this By-law is carried on;
(b) any Premises respecting which an individual authorized by this section to conduct an inspection has reasonable grounds to believe that a Body Rub Parlour is being operated in the Premises contrary to the provisions of this By-law; and
(c) any goods, equipment, books, records or documents prepared, used, to be used or in the possession of an Applicant or Licensee as provided for in this By-law.
It constitutes an offence to obstruct or permit the obstruction of an inspection under this section.

15.0 PENALTIES

15.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence.

15.2 Every person who contravenes this By-law, and every director or officer who concurs in the contravention by a 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 year, or to both. Where a corporation is convicted of the offence of contravening this By-law, the maximum penalty that may be imposed on the corporation is $50,000.00.

16.0 BY-LAWS NOS. 99-123 AND 99-130 NOT AMENDED

16.1 This By-law is not intended nor shall it be taken or deemed to amend either By-law No. 99-123 or By-law No. 99-130 in any respect.

By-law read a first and second time this 15th day of September, 2003.

By-law read a third time and finally passed this 15th day of September, 2003.
## SCHEDULE “B”

### Fees to be Paid with Application for Licence

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### Fees to be Paid If Licence is to be Issued

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### Fees to be Paid for Licence Renewal

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