



Report to: General Committee

Date of Meeting: November 20, 2006

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**SUBJECT:** Amendment to Body-rub and Complementary Health By-law  
**PREPARED BY:** W. Wiles, Manager, By-law Enforcement & Licencing, x4581

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**RECOMMENDATION:**

That a by-law be enacted to amend By-law 2002-292, “A by-law respecting the licensing and inspecting of body-rub parlours and attendants and complementary health care service providers and attendants” to:

- Remove the term “complementary health” and licensing requirements from the by-law;
- Amend the limitation on the number of licenses which may be issued, consistent with the current number of licensed establishments; and
- Require the owners of body-rub parlours to designate specific operators in charge during business hours.

**PURPOSE:**

The purpose is to eliminate the confusion that the use of the term “Complementary Healthcare” has created and incorporate administrative and consumer protection enhancements.

**BACKGROUND:**

By-law 2002-292, a by-law respecting the licensing and inspecting of body-rub parlours and attendants and complementary healthcare service providers and attendants was enacted on January 1, 2003.

**OPTIONS/ DISCUSSION:**

Complementary Healthcare

The term “Complementary Health” was first introduced in 1998, providing for an exemption for licensing and regulation of those establishments defined as such. In attempts to regulate and enforce body-rub establishments operating under the exemption and guise of Complementary Health, the by-law was amended to license and regulate these types of businesses, but maintained the same term and definition of such. Both body-rub parlours and complementary healthcare businesses perform similar services.

At the time the Town provided for the licensing of healthcare operations, there were numerous concerns expressed by members of the health field. The concerns raised were

that the term “Complementary Health” is accepted and used in association with hospitals and the medical profession, and its use to define services which are regulated and licensed as adult entertainment is inappropriate. To ensure a clear distinction between the various health related individuals, groups and associations, the Town later enacted a Holistic Practitioners’ by-law. At that time, staff advised there would be a subsequent report recommending the elimination of the term “Complementary Healthcare” from the Body-rub By-law.

#### Maximum Licenses

Section 8 of the by-law limits the available number of body-rub parlour licenses that may be issued to twelve (12) body-rub parlours and twelve (12) complementary healthcare establishments. Currently there are two (2) licensed body-rub parlours and five (5) licensed complementary healthcare establishments. The proposed amendments are listed in the following table.

Licence Type	Current Limits	2006 Licenses	Proposed Limits
Complementary Health	12	5	0
Body-Rub	12	2	10
Total	24	7	10

It is recommended that the by-law be amended to reflect the current number of licensed establishments in addition to the number that is consistent with the potential of licensed establishments, applying the locational criteria.

With removal of the term “Complementary Health” from the by-law the amendment would reflect the total limit of ten (10) body-rub parlour licenses that could be issued.

#### Require the Posting of Operator’s Licenses

Enforcement of the by-law has identified a need to require owners of body-rub parlours to designate specific operators to be in charge during the time the owners are not present and the business is open, as well as posting the licence of the operator in charge.

Currently, the by-law requires that a licensed operator or owner must be present in the business during the hours of operation. The purpose of this is to ensure that at least one person is in charge of the business, and is responsible to oversee the activities of the attendants, direct the customers and conduct the business in the owner’s absence. Most premises have two to four employees working, and the owner of the business is usually not in attendance. Historically, the owner of a body-rub parlour may licence all attendants as operators so that all employees can perform dual roles. This creates confusion during inspection and an uncertainty of who is actually in charge and operating the business at any given time.

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The proposed amendment will lend clarification as to who is in charge of the business during the owner's absence for the benefit of enforcement officers during inspection, employees working at the establishment and customers, and it also provides accountability by the owner of the business.

**FINANCIAL TEMPLATE:**

N/A

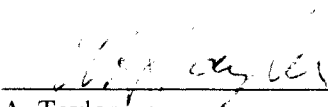
**BUSINESS UNITS CONSULTED AND AFFECTED:**

N/A

**RECOMMENDED**

**BY:**

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S. Birrell  
Town Clerk

  
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A. Taylor  
Commissioner,  
Corporate Services

Attachment- Draft Amending By-law



## BY-LAW 2006-

By-law 2006-XXX

A By-law to amend by-law 2002-292, respecting the regulation of body-rub attendants, operators and owners and complementary health care service attendants, owners and operators

**WHEREAS** section 150 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes a municipal council to pass by-laws for licensing, regulating, governing, classifying and inspecting any business wholly or partly carried on within the municipality, including body-rub parlours and includes the authorization to enact legislation with regard to persons who provide services in connection with any such business;

**AND WHEREAS** Section 151 of the *Municipal Act, 2001*, provides for additional authority to licence, regulate and govern adult entertainment establishments and;

**AND WHEREAS** Council deems it necessary having regard, among other matters, to the health and safety of those within its jurisdiction, to enact a by-law to regulate the persons engaged in the carrying on of a business, or the offering, of body rubs and (body treatment) complementary healthcare services;

**AND WHEREAS** a public information meeting was held in Council Chambers of the Town of Markham to discuss the proposed amendments on November 22, 2005;

**AND WHEREAS** the General Committee of the Town of Markham considered the report of the Clerk on November 20, 2006;

**AND WHEREAS** the Council of the Town of Markham adopted the recommendation of the Finance and Administration Committee at its meeting on November 20, 2006;

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

1. That the title of By-law 2002-292, as amended be deleted and replaced with the following:

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

2. That the definitions of By-law 2002-292, as amended, be amended by deleting the definition of "**Complementary Healthcare Establishment**".
3. That the definitions of By-law 2002-292, as amended, be amended by deleting the definition of "**complementary healthcare service provider**" and "**complementary health care organization**".
4. That the definitions of By-law 2002-292, as amended, be amended by deleting the definition of "**Health and Social Club**" and replacing it with the following:

**"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.)

5. That By-law 2002-292 as amended, be amended by deleting clause 3. (e) in its entirety and replacing it with the following:
  - 3 (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.
6. That By-law 2002-292 as amended, be amended by deleting clause 3. (l) in its entirety and replacing it with the following:
  3. (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;
7. That By-law 2002-292 as amended, be amended by deleting clause 6. (c) in its entirety and replacing it with the following:
  6. (c) The provisions of section 6(a) of this By-law are not applicable to a Health and Social Club.
8. That By-law 2002-292 as amended, be amended by deleting section 8 in its entirety and replacing it with the following:
  8. The number of body-rub parlours which may be licensed within the Town of Markham shall be limited to ten (10).
9. That By-law 2002-292 as amended, be amended by deleting section 9 in its entirety.
10. That By-law 2002-292 as amended, be amended by deleting section 43 in its entirety.
11. That By-law 2002-292 as amended, be amended by deleting section 47 in its entirety.
12. That By-law 2002-292 as amended, be amended by deleting section 48 in its entirety.
13. That By-law 2002-292 as amended, be amended by deleting Schedule "A" to By-law 2002-292 in its entirety.
14. This By-law shall come into force and effect on January 1, 2007.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
DAY OF                      , 2006.

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SHEILA BIRRELL, TOWN CLERK

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DON COUSENS, MAYOR