

LICENCE

Chapter 834 BODY-RUB PARLOUR

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WHEREAS section 150 of the *Municipal Act, 2001* authorizes the Council of the Town of Richmond Hill to pass by-laws for licensing, regulating and governing of any business wholly or partly carried on within the municipality;

AND WHEREAS the Town of Richmond Hill deems it advisable to enact a by-law to license, regulate and govern Adult Entertainment Establishments - Subcategory - Body Rub Parlours within the Town;

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AND WHEREAS purposes of consumer protection will be served by this by-law through:

- the establishment of a well-administered licensing and regulatory system governing businesses to which the by-law relates;
- the requirement of accountability of licensees through the disclosure of information, the requirement for regular renewals and the ensuring of proper conduct;
- ensuring that minors are not employed or permitted in this category of business;

AND WHEREAS purposes of health and safety will be served by this by-law through:

- prevention of the transmission of disease through bodily contact;

AND WHEREAS purposes of nuisance control will be served by this by-law through:

- the limitation of the number of Adult Entertainment Establishments - Subcategory - Body Rub Parlours and the geographic area in which they may be located;

AND WHEREAS Council at its meeting of December 12, 2005 adopted the recommendations of the Committee of the Whole at its meeting of November 30, 2005 in SRPD.05.183;

AND WHEREAS a public meeting was held in accordance with section 150 of the *Municipal Act, 2001* on November 30, 2005;

AND WHEREAS notice of the intention to pass this by-law was given on November 15, 2005 in accordance with the provisions of Chapter 278 of the Town of Richmond Hill Municipal Code - Public Notice.

Article 1 INTERPRETATION

834.1.1 Adult entertainment service - defined

“adult entertainment service” means any service appealing to or designed to appeal to erotic or sexual appetites or inclinations, any other service involving sexual touching; any other service offered, provided or received with the purpose or effect of sexual arousal or stimulation; and any service directly or indirectly advertised or described as involving any of such kinds of services.

834.1.2 Applicant - defined

“applicant” means a person applying for a licence under this Chapter.

834.1.3 Attendant - defined

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

834.1.4 Attendant’s licence - defined

“attendant’s licence” means a valid and subsisting licence, issued under this Chapter to an attendant, in respect of the provision by such attendant of services at a body-rub parlour.

834.1.5 Body-rub - defined

“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.

834.1.6 Body-rub parlour - defined

“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.

834.1.7 Body-rub parlour operator’s licence - defined

“body-rub parlour operator’s licence” means a valid and subsisting licence, issued under this Chapter to an operator as defined in this Article.

834.1.8 Body-rub parlour owner’s licence - defined

“body-rub parlour owner’s licence” means a valid and subsisting licence, issued under this Chapter to an owner as defined in this Article.

834.1.9 Commissioner - defined

“Commissioner” means the Commissioner of Planning and Development of The Corporation of the Town of Richmond Hill.

834.1.10 Council - defined

“Council” means the Council of The Corporation of the Town of Richmond Hill.

834.1.11 Customer - defined

“customer” includes any person seeking, soliciting or receiving a body-rub or any other service at a body-rub parlour.

834.1.12 Him or her - defined

“he or she” includes “it”, and “him” and “her” include “its” and “his or her” includes “its.”

834.1.13 Licence - defined

“licence” means an authorization under this Chapter to carry on the trade, calling, business or occupation specified therein and the document providing evidence of such authorization, as the context may allow.

834.1.14 Licence Hearings Committee - defined

“Licence Hearings Committee” means a Committee of Council duly appointed to conduct hearings under this Chapter. By-law 193-05, 12 December, 2005.

834.1.15 Licensing Officer - defined

“Licensing Officer” means a person appointed by the Commissioner from time to time to issue licences. By-law 145-08, 14 July, 2008.

834.1.16 Medical Officer of Health - defined

“Medical Officer of Health” means the Medical Officer of Health for the Regional Municipality of York.

834.1.17 Operator - defined

“operator” means an individual person who, alone or with others, operates, manages, supervises, runs or directs a body-rub parlour, on an ongoing basis or from time to time.

834.1.18 Owner - defined

“owner” means the owner of a body-rub parlour business, and includes 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 of premises upon which a body-rub parlour is located.

834.1.19 Person - defined

“person” includes a partnership or corporation and the heirs, executors, administrators or other legal representatives of a person, to whom the context can apply according to law.

834.1.20 Sign - defined

“sign” means any advertising device or notice, including its structure and other component parts, which is used or is capable of being used to attract attention to a specific subject matter.

834.1.21 To provide - services - defined

“to provide” when used in relation to body-rubs includes to offer to provide or to cause or permit the provision of, a body-rub.

834.1.22 Town - defined

“Town” means The Corporation of the Town of Richmond Hill in the Regional Municipality of York.

Article 2 GENERAL PROVISIONS

834.2.1 Operation - business - without licence - prohibited

No person shall carry on or engage in business as an owner or an operator of a body-rub parlour without making application for, obtaining and maintaining, pursuant to the terms of this Chapter, a body-rub parlour owner’s licence, or a body-rub parlour operator’s licence, respectively.

834.2.2 Operation - by owner - without licence - prohibited

No owner may knowingly carry on or engage in the business of owning a body-rub parlour on, in or in respect of any premises or part of any premises without a licence required under this Chapter.

834.2.3 Operation attendant - without licence - prohibited

No person shall carry on or engage in business as an operator or as an attendant in a body-rub parlour without making application for, obtaining and maintaining, pursuant to the terms of this Chapter, an operator’s or attendant’s licence respectively.

834.2.4 Owner - operator - attendant - requirements

Every owner, operator and attendant shall, in carrying on or engaging in any business to which this Chapter applies, comply with the requirements of this Chapter.

834.2.5 Service - erotic - sexual - limitation

No person shall provide in a body-rub parlour any services designed to appeal to erotic or sexual appetites or inclinations, or any other adult entertainment service as defined in Section 834.1.1.

834.2.6 Adult entertainment - body-rub parlour - prohibited

No adult entertainment parlour licence, as provided for in Chapter 829 of the Town of Richmond Hill Municipal Code, shall be granted to a body-rub parlour, whether or not licensed as such by the Town, and no body-rub parlour licence as provided for in this Chapter shall be granted to an adult entertainment parlour whether or not licensed as such by the Town.

834.2.7 Service - to person under eighteen years - prohibited

No person may provide services in a body-rub parlour to any person under the age of eighteen years.

834.2.8 Entry - person under eighteen years - prohibited

No person under the age of eighteen years may enter, be allowed to enter, remain in or be allowed to remain in, any part of a body-rub parlour.

834.2.9 Sign - age restriction - posted - every entrance

Every owner and 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 eighteen years may enter or remain in such premises.

834.2.10 Regulations - supplied - instructions - to all employees

Every owner and operator shall, before permitting any person to provide services at a body-rub parlour, provide to such person a copy of the regulations in this Chapter, and instruct such person with respect to each of the regulations.

834.2.11 Service - other than specified - prohibited

Every owner and every operator shall ensure that all services provided at the body-rub parlour are provided in accordance with the requirements of this Chapter.

834.2.12 Owner or operator - present - during hours of operation

No owner or operator shall permit a body-rub parlour to be open for business unless the owner or an operator is in attendance at all times.

834.2.13 Intoxicated person - prohibited entry

No owner or operator shall permit any person who appears to be intoxicated by alcohol or a drug to enter or remain in a body-rub parlour.

834.2.14 Licence - posted - conspicuous - at all times

Every owner and operator licensed under this Chapter shall cause the licence issued to him or her in respect of the body-rub parlour to be posted and maintained in a conspicuous place in the body-rub parlour, in a manner satisfactory to the Licensing Officer, at all times during the currency of the licence.

834.2.15 Service - by licensed attendant - only

No owner or operator may permit any person, except a person holding an attendant's licence, to perform any service at a body-rub parlour.

834.2.16 Licensed - owner - operator - on premises

No attendant may provide services at a body-rub parlour unless there is in attendance a person at the premises holding a body-rub parlour owner's licence or a body-rub parlour operator's licence.

834.2.17 Employment contract - required - open to inspection

Every agreement or arrangement between an owner and an operator pertaining to the operation of a body-rub parlour by the operator shall be in writing.

834.2.18 Employee agreements - in writing

Every agreement or arrangement between an owner or operator, and an attendant, pertaining to the provision of services by the attendant at a body-rub parlour shall be in writing.

834.2.19 Employee agreements - information - requirements

Every document referred to in Section 834.2.18 shall contain:

- (a) the full name of the attendant;
- (b) his or her date of birth;
- (c) his or her permanent and any temporary address, as may be applicable; and
- (d) his or her social insurance number or other document evidencing entitlement to work in Canada, which may include but is not limited to a letter of prospective employment or engagement from the owner or operator; and shall have affixed thereto a passport-size facial photograph of the attendant taken within the past six months.

834.2.20 Employee agreements - filed with Licensing Officer

The owner shall file a true copy of every written document referred to in Sections 834.2.17 and 834.2.18, with the Licensing Officer before the commencement of operation of the body-rub parlour or the provision of services, at the body-rub parlour, as the case may be.

834.2.21 Agreements - all types - filed with Licensing Officer

The owner shall also file with the Licensing Officer:

- (a) a true copy of every other agreement or other document constituting or pertaining to the relationship between the owner and any operator or other person pertaining to the ownership or operation of the premises or the body-rub parlour business;

- (b) a true copy of all amendments or replacement agreements to the agreements or other documents referred to elsewhere in this Section;
- (c) a true copy of any lease between any owner or operator and the owner of the property upon which a body-rub parlour business is carried on.

834.2.22 Attendant - licence - posted - prominent

Every owner and every operator of a body-rub parlour shall post, in a prominent location that is satisfactory to the Licensing Officer, a copy of the licence issued under this Chapter to every attendant providing services at the body-rub parlour.

834.2.23 Attendant - customer - pubic area covered

Every attendant, every customer, and every other person at a body-rub parlour shall be clothed in a manner by which such person's pubic area and, in the case of a woman, her breasts, are fully covered by opaque material.

834.2.24 Camera - recording devices - prohibited - exception

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, but this paragraph shall not prohibit:

- (a) the use of any camera or other device used by a public authority for the enforcement of the law; or
- (b) the maintenance of a camera in the entrance area of premises for security purposes only.

834.2.25 Owner- not natural person - licensed operator on premises

Where the owner of a body-rub parlour is not an individual person, there must be one or more licensed operators, who is or are individual persons, sufficient to comply with the requirements of this Chapter.

834.2.26 Operation - by individual - only

No person other than an individual person may operate a body-rub parlour.

834.2.27 Sign - in lobby - content

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:

“These premises are licensed as a body rub parlour by the Town of Richmond Hill. The by-law regulating these 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 or inclinations.”

834.2.28 Applicable - to all lands - premises - within Town

The provisions of this Chapter shall apply to all lands and premises within the Town.

834.2.29 Notice - materials - when deemed served

Wherever notice or any document is required to be provided to any person pursuant to this Chapter, service of same shall be deemed to have been effected upon the mailing of the notice or document by registered mail to the last address of that person, as indicated upon the licence application or contained in other records on file with the Town, or to the last assessed business address for the person, as indicated upon the assessment roll.

834.2.30 Schedule - part of Chapter

Schedule ‘A’ is deemed to be part of this Chapter.

834.2.31 Exemptions - medical - therapeutic - health care

The provisions of this Chapter are not applicable in relation to activities being 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.

**Article 3
REQUIREMENT FOR LICENCE**

834.3.1 Licence - property of Town

No person shall enjoy a vested right in the continuance of a licence and the value of a licence shall be the property of the Town and shall remain so, irrespective of the issuance, renewal or revocation thereof.

834.3.2 Name - use - as licensed - only

No person licensed to carry on any trade, calling, business or occupation pursuant to this Chapter 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 licence.

834.3.3 Expiry

Every licence issued under this Chapter, unless expressed to be for a shorter or longer time, shall provide for a term terminating December 31 in the year of issuance, unless revoked or otherwise terminated under this Chapter, prior to that date.

834.3.4 Transfer - sale - of licence - prohibited

No licence shall be transferred or assigned, and if an owner or operator sells, leases or otherwise disposes of his or her interest in the business, the licence and all rights granted thereunder shall terminate.

834.3.5 Location - endorsed on licence

Every body-rub parlour licence shall have endorsed thereon the location of the body-rub parlour and such endorsement shall be for one location only and such licence shall be valid only for the location endorsed thereon.

Article 4 APPLICATION

834.4.1 Application - in person - before Licensing Officer

Every applicant for a body-rub parlour owner or operator licence shall appear in person before a Licensing Officer and shall complete such licence application forms as may be provided from time to time by the Licensing Officer in accordance with the requirements of this Chapter, and shall provide all information requested thereon, and shall furnish to the Licensing Officer such information as the Council may direct or the Licensing Officer require.

834.4.2 Application - by partnership - corporation - requirements

In the case of a body-rub parlour owned by a partnership, such appearance required under Section 834.4.1 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.

834.4.3 Application - photographs provided

Every applicant for a body-rub parlour owner or operator licence, where such person is an individual person, shall provide two passport-size facial photographs, which must be taken within thirty days prior to the licence application. Where such person 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.

834.4.4 Attendant - application - letter of prospective employment

Every applicant for an attendant's licence shall provide a letter of prospective employment or engagement from the owner or operator of a licensed body-rub parlour.

834.4.5 Attendant - medical certificate - re-examination

Every applicant for an attendant's licence shall provide the Licensing Officer with a medical certificate from a physician qualified to practice medicine in the Province of Ontario, dated within thirty days of the date of the application, indicating that the applicant is free from communicable or transmissible diseases and shall submit to such tests in relation to communicable or transmissible diseases as the Medical Officer of Health may require.

834.4.6 Fee - payment upon application

At the time of submission of every application for a licence pursuant to this Chapter, the applicant shall pay to the Town the fee set forth in Chapter 684 [Tariff of Fees], provided such fee shall not be reduced in the event that the period for which the licence is granted is less than one year.

834.4.7 Receipt of application - fee - not deemed approval

Receipt of the application or the licence fee by the Licensing Officer shall not represent approval of the application for the issuance of a licence, nor shall it obligate the Licensing Officer to issue such licence.

834.4.8 Partnership - statutory declaration - requirement

Without limiting the generality of any other provision in this Chapter, persons associated in a partnership applying for a licence under this Chapter, 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 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;
- (d) the mailing address for the partnership;
- (e) the identity of all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the body-rub parlour or the control or management of same; and
- (f) the identity of every person having a beneficial interest, directly or indirectly, in the premises or in the business to be carried on to which this Chapter relates and every person having a right to receive income, revenue or benefit of any kind arising out of the operation of such premises or business, or any per-

son who in fact receives such income, revenue or benefit, and the terms upon such interest or right is conferred.

834.4.9 Partner - a corporation - conditions

If any member of a partnership applying for a licence is a corporation, such corporation shall be deemed to be applying for an owner's licence, and the applicant shall comply with the requirements of this Chapter with respect to a corporate applicant, as well as those relating to a partnership application.

834.4.10 Corporation - statutory declaration - requirement

Without limiting the generality of any other provision in this Chapter, every corporation applying for a licence 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 director and the address of his or her ordinary residence;
- (b) the name or names under which it carries on, or intends to carry on business;
- (c) that the persons therein named are the only shareholders and directors of the corporation;
- (d) the mailing address for the corporation;
- (e) the identity of all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the body-rub parlour or the control or management of same, and the terms upon which such interest or right is conferred;
- (f) the identity of every person having a beneficial interest, directly or indirectly, in the premises or in the business to be carried on to which this Chapter relates and every person having a right to receive income, revenue or benefit 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, and the terms upon which such interest or right is conferred; and
- (g) that the officer has the right to bind the corporation.

834.4.11 Licensing Officer - duties

The Licensing Officer shall, subject to Article 12:

- (a) receive and process all applications for licences and renewal of licences to be issued under this Chapter;
- (b) coordinate the administration and enforcement of this Chapter;
- (c) perform all the administrative functions conferred upon him or her by this Chapter;
- (d) make or cause to be made a circulation respecting each application, which shall include circulation of the licence application to the Medical Officer of Health and municipal and provincial Police Departments for comment;
- (e) make such inquiries and inspections and obtain and review such information and documents relevant to the application as the Licensing Officer considers necessary for the proper processing of the application, and to determine whether an applicant meets the requirements of this Chapter and all applicable laws;
- (f) issue licences to persons who, in the opinion of the Licensing Officer comply in full, and will comply in full, with the requirements of this Chapter, and may suspend licences pursuant to the requirements of this Chapter; and
- (g) where a licence has been issued pursuant to this Chapter and otherwise remains in full force and effect, renew the licences of persons who meet the requirements of this Chapter.

834.4.12 Investigation of applicant - by Licensing Officer

By the making of an application for a licence pursuant to this Chapter, every applicant shall agree that a Licensing Officer may make such inquiries and seek and obtain such information or records as the Licensing Officer should see fit as relevant to the processing of the application and whether or not such licence should be granted or issued, including requiring the applicant or a representative of the applicant designated by the Licensing Officer, to be interviewed by such Licensing Officer.

834.4.13 Additional requirements - Council direction

A Licensing Officer may, at any time, seek directions from the Council with respect to administrative matters affecting the processing of any licence application or imposing requirements of providing additional information in connection with such application.

Article 5
SIGNS - ADVERTISEMENTS

834.5.1 Compliance - sign by-law - additional requirement - set out

In addition to compliance with the Town's sign by-law [Chapter 740, Signs], as amended from time to time, no person may erect or maintain any sign or other device advertising a body-rub parlour, except in accordance with the additional regulations as set out in Sections 834.5.2 through 834.5.5 inclusive.

834.5.2 Sign types - prohibited

No person shall erect or maintain any of the following signs or other advertising devices in respect of a body-rub parlour or in respect of any services provided at a body-rub parlour: an awning sign; a canopy sign; a projecting sign; an inflatable sign; a portable sign; a trailer sign; a ground or pylon sign; a sandwich board sign.

834.5.3 Poster - flyer - handbill - circulation - prohibited

No person shall circulate, post, distribute or cause to be circulated, posted, or distributed any poster, flyer, handbill or other form of printed sign or advertising device on or at any premises or locations, other than the body-rub parlour, with the exception of advertising located in a newspaper or telephone directory.

834.5.4 Sign - not visible to outside - permitted

Nothing in this Chapter 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.

834.5.5 Letter - marking - symbol - picture - restriction

No person may erect or maintain any sign or other advertising device 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 licence, and any logo or symbol, provided a copy of such logo or symbol is filed with the Licensing Officer as part of the licensing process.

Article 6
DESIGN OF PREMISES

834.6.1 Compliance - regulations - set out

No person may engage in business as an owner or operator of a body-rub parlour, except in accordance with the regulations set out in Sections 834.6.2 through 834.6.15 inclusive.

834.6.2 Floor plan - provided - rooms designated

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, nor in a room designated as an office or storage room pursuant to Section 834.6.4.

834.6.3 Floor plan - amendment - prior approval required

In the event that the owner or operator wishes to amend the floor plan, he or she 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, and any permit or other approval required by law.

834.6.4 Locking device - on room - prohibited

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, leaving, or obtaining access to such area.

834.6.5 Entrance - unlocked - during hours of operation

During the hours of operation of a body-rub parlour the owner or operator shall ensure that the principal means of access into the body-rub parlour shall be kept unlocked and available so that anyone coming into the body-rub parlour may enter therein without hindrance or delay.

834.6.6 Premise - use of dwelling - contained bed - prohibited

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 bed or other furniture which is commonly used or which may be used for sleeping purposes.

834.6.7 Window - required - observation - body-rubs

Every room, designated for the provision of body-rubs pursuant to Section 834.5.2, shall be equipped with a window to permit observation by third parties from outside such room of the provision of all body-rubs.

834.6.8 Ventilation - lighting - adequate

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.

834.6.9 Fixtures - equipment - washed regularly - sanitary

Every body-rub parlour and all fixtures and equipment therein shall be regularly washed and kept in a sanitary condition.

834.6.10 Utility - sink - required

Every body-rub parlour shall be equipped with an effective utility sink.

834.6.11 Toilet washroom accommodation - adequate

Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth under applicable legislation of the Province of Ontario, and there shall be separate such rooms for males and females.

834.6.12 Washroom - requirements

Washrooms shall be equipped with:

- (a) an adequate supply of hot and cold water;
- (b) an adequate supply of liquid soap in a suitable container or dispenser;
- (c) hot air dryers or individual towels in a suitable container or dispenser; and
- (d) a suitable receptacle for used towels and waste material.

834.6.13 Shower-bathroom - sauna-bathroom - requirements

In any shower-bathroom, and in any sauna-bathroom:

- (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; and
- (d) floor surfaces both within and without the enclosures shall be of non-slip type.

834.6.14 First-aid kit - required

Every owner and operator shall provide and maintain at all times within the body-rub parlour a first-aid kit, equipped in a manner satisfactory to the Medical Officer of Health.

834.6.15 Building - complying with Code - drawings provided

Every body-rub parlour shall be constructed in accordance with the Ontario Building Code, as amended, and every applicant for an owner's licence shall provide the Licensing Officer with such drawings as may be required to assess compliance in this regard.

Article 7
HOURS OF OPERATION

834.7.1 Times - specified

Despite Section 834.2.31, no body-rub parlour shall be open to the public, and no services shall be provided in any such body-rub parlour, except between the hours of 7:00 a.m. and 11:00 p.m. of the same day.

834.7.2 Times - employees - compliance

Every owner and operator of any body-rub parlour or premises referred to in Section 834.7.1, shall comply with and ensure compliance by every operator and attendant and all other persons employed in such body-rub parlour or premises with the requirements of that Section.

834.7.3 Operation - during regular hours - only

No person shall provide a body-rub, or any other service in a body-rub parlour or any other premises referred to in Section 834.7.1 except within the hours in which such premises are authorized to be open to the public pursuant to Section 834.7.1.

Article 8
LOCATION RESTRICTION - LIMITATION ON NUMBER

834.8.1 Location - distance from - residential - public institutions

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

- (a) within 500 metres (1640 feet) of any residential zone in existence when the application for licence is submitted to the Licensing Officer;
- (b) within 500 metres (1640 feet) of any school, church or child daycare centre in existence when the application for licence is submitted to the Licensing Officer.

834.8.2 Limitation - maximum 10 parlours - in Town

Subject to Section 834.8.3, the number of body-rub parlours which may be licensed within the Town shall be limited to 10.

834.8.3 Operation ceased - licence revoked - total reduced

Should any premises licensed pursuant to this Chapter cease to be used for the purpose of a body-rub parlour, any licence issued under this Chapter may be revoked or otherwise terminated, no renewal or further such licence shall be issued and the total number of licences authorized under this Article shall be decreased by one, provided that the number of licences shall at no time be reduced to fewer than two, by operation of this Section.

834.8.4 Compliance - Zoning By-laws

No person may own or operate a body-rub parlour in, at or upon any premises except upon such lands as may be rezoned by Council upon application for rezoning to specifically permit the use of a body-rub parlour and otherwise, pursuant to applicable zoning by-laws permitting health centres as defined therein.

**Article 9
CHANGE OF STATUS****834.9.1 Report to Licensing Officer - within five days**

Where there is any change in any of the particulars in respect of any information or documentation relating to a person licensed under this Chapter, which are required to be provided to the Town under this Chapter or are so provided, such person shall report the change to the Licensing Officer within five days of the change.

834.9.2 Partnership - change in controlling interest - approval

Where there is to be a change in the composition or the controlling interest of a partnership licensed under this Chapter, the persons licensed hereunder in partnership shall obtain the prior approval of the Licensing Officer to such change. Where there has been any change in the controlling interest of the partnership by virtue of a number of transactions, the licence may be suspended, despite the Licensing Officer's prior approval of any one or more such transactions.

834.9.3 Corporation - change in controlling interest - approval

Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licensed under this Chapter, the corporation shall obtain the prior approval of the Licensing Officer to such change. Where there has been any change in the controlling interest of the corporation by virtue of a number of transactions, the licence may be suspended, despite the Licensing Officer's prior approval of any one or more such transactions.

**Article 10
REPORT TO COUNCIL****834.10.1 Report to Council**

Where the Commissioner is of the opinion that an applicant for a licence does not comply with any one or all of the conditions set out in Article 12 of this Chapter, the Commissioner shall, upon the request of the applicant, report to Council and Council may, upon consideration of the report of the Commissioner, direct the Licensing Officer to issue the licence if, in the opinion of Council, the said conditions have been satisfied.

Article 11
LICENCE NON-TRANSFERABLE
WITHOUT COUNCIL APPROVAL

834.11.1 Licence not transferable

A licence issued under this Chapter shall not be transferred or assigned by the licence holder without the consent of Council upon the recommendation of the Commissioner.

Article 12
GROUNDS FOR REFUSAL TO ISSUE
OR RENEW A LICENCE

834.12.1 Licence - entitlement

An applicant is entitled to be licensed and a licensee is entitled to have his licence renewed.

834.12.2 Licence refused - financial position

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where, having regard to his financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

834.12.3 Licence refused - past conduct of applicant

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where the past or current conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed, in accordance with law and with integrity and honesty.

834.12.4 Licence refused - contrary to public interest

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where the issuance of the licence or renewal of the licence would be contrary to the public interest.

834.12.5 Licence refused - activities in contravention of this Chapter

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where 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 licence holder has resulted or will result in a contravention of this Chapter or any other applicable law.

834.12.6 Licence refused - use of premises

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where there are reasonable grounds for belief that the nature, condition or use of the 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 Chapter or any other law.

834.12.7 Licence refused - applicant provides false information

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where 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.

834.12.8 Licence refused - information provided no longer accurate

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where the 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 the Council to conclude that the licence should be granted or maintained as valid and subsisting.

834.12.9 Licence refused - fee not paid

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where the fee payable in respect of the licence applied for has not been paid.

834.12.10 Licence refused - applicant - non-compliant

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where the applicant does not comply or ensure compliance with any condition imposed under this Chapter upon the business or upon the licensee, as a requirement of obtaining, continuing to hold or renewing a licence.

834.12.11 Licence refused - applicant is corporation

Notwithstanding Section 834.12.1, a licence may not be issued or renewed where if the applicant or licensee is a corporation:

- (a) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the business for which it is to be licensed;
- (b) the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed or continue to be licensed in accordance with law and with integrity and honesty;

- (c) there are reasonable grounds for the belief that the premises, accommodations, equipment or facilities in respect of which the licence is required do not comply with the provisions of this Chapter or any other applicable law;
- (d) the conduct of the applicant or licence holder or other related circumstances afford reasonable grounds for the belief that the carrying on of the trade, calling, business or occupation in respect of the premises for which the licence is sought by the applicant or any other person would infringe the rights, or endanger the health or safety of other members of the public;
- (e) the issuance of the licence or renewal of the licence would be contrary to the public interest; or
- (f) it is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Chapter.

Article 13
COUNCIL'S POWER TO REFUSE TO ISSUE
OR RENEW A LICENCE

834.13.1 Council's power to refuse to issue or renew a licence

Council may refuse to issue or renew a licence or may refuse to renew a licence, where the applicant or licensee would be disentitled to a licence for any of the reasons set out in Article 12.

Article 14
REFUND OF FEE ON REFUSAL TO ISSUE
OR RENEW A LICENCE

834.14.1 Licence not issued - refund of fee

When an application for a licence or renewal of a licence is refused, the applicant is entitled to apply to the Licensing Officer for a refund of up to 50 per cent of the application processing fee.

Article 15
ISSUANCE OF A LICENCE ON TERMS AND CONDITIONS

834.15.1 Licence issued - terms and conditions

Notwithstanding any other provision of this Chapter, Council may issue a licence or renew a licence subject to such terms and conditions as are necessary to give effect to this Chapter, if first consented to by the applicant or licensee; or, if recommended by the Licence Hearings Committee after a hearing as provided for in Section 834.22.1 of this Chapter.

Article 16
COUNCIL'S POWER TO REVOKE
OR SUSPEND A LICENCE

834.16.1 Licence revoked or suspended

Council may revoke or suspend a licence where the licensee would be disentitled to a renewal of a licence on the grounds set out in Article 10 of this Chapter.

834.16.2 Suspension - Licensing Officer authority - conditions

The Licensing Officer may suspend a licence where there are reasonable grounds to believe that such is required to prevent a breach of the Chapter.

834.16.3 Suspension - effective - upon service of written notice

A suspension under Section 834.16.2 shall take effect upon service of written notice thereof to the licensee, or upon the delivery of written notice to the business premises of the licensee at the address shown on the Town's records.

834.16.4 Suspension - in effect fifteen days

A suspension under Section 834.16.2 shall remain in effect for no more than fifteen days from the date of service of the notice under Section 834.16.3.

834.16.5 Suspension - report to Council - recommendation

Following suspension of a licence under Section 834.16.2, the Licensing Officer shall prepare a written report to the Council advising of the suspension and:

- (a) recommending that the Licence Hearings Committee hold a hearing to determine whether the suspension should continue, or be terminated, and whether the Committee should give consideration to whether or not the licence should be revoked or otherwise dealt with pursuant to this Chapter; or
- (b) recommending reinstatement of the licence on the basis that the conditions leading to the suspension have been remedied; or
- (c) recommending that no action be taken upon the termination of the suspension.

Article 17**REFUND OF FEE ON REVOCATION OF A LICENCE****834.17.1 Licence revoked - refund of fee**

When a licence is revoked under Section 834.16.1, the licensee is entitled to apply to the Licensing Officer for a refund of that part of the licence fee which is proportionate to the unexpired part of the term for which the licence was issued.

834.17.2 Refund of fee - not applicable

The provisions of Section 834.17.1 do not apply when the unexpired part of the term is less than four months.

Article 18**CANCELLATION OF A LICENCE****834.18.1 Licence - cancelled**

Any licence issued under this Chapter may be cancelled by the Licensing Officer at any time, upon the written request of the licensee.

Article 19**APPEALS TO THE LICENCE HEARINGS COMMITTEE****834.19.1 Licence refused - recommendation to Council**

When an applicant or a licensee is not entitled to be licensed or to have his licence renewed for any of the grounds set out in Article 12, the Licensing Officer shall recommend to Council that Council shall refuse to issue or renew the licence, or that Council suspend or revoke the licence, or, subject to Section 834.15.1, that Council issue a licence on terms and conditions.

834.19.2 Refusal to issue or renew licence - written notice

Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Licensing Officer to Council with respect to the licence, shall be given to the applicant or licensee by the Licensing Officer.

834.19.3 Written notice - contents

The written notice to be given under Section 834.19.2, shall:

- (a) set out the grounds for the recommendation;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licensing Officer;

- (d) inform the applicant or licensee that he or she is entitled to a hearing before the Licence Hearings Committee, if he or she delivers, within seven days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Licence Hearings Committee.

Article 20
NOTICE OF HEARING

834.20.1 Notice of hearing

On receipt of a written request for a hearing from an applicant or a licensee, the Licensing Officer shall require that the Clerk of the Town convene a meeting of the Licence Hearings Committee and shall give the applicant or licensee reasonable written notice thereof.

Article 21
SERVICE OF WRITTEN NOTICE

834.21.1 Written notice - service

The written notice referred to in Sections 834.19.2, and 834.19.3, is sufficiently served if delivered personally or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the Licensing Section records.

834.21.2 Written notice - service - via registered or certified mail

When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing, unless the person on whom service is being made, establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the written notice until a later date.

Article 22
HEARING BEFORE THE LICENCE
HEARINGS COMMITTEE

834.22.1 Applicant does not attend

When the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Licence Hearings Committee may proceed with the hearing in his absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.

834.22.2 Recommendation to Council

At the conclusion of a hearing, the Licence Hearings Committee shall provide its recommendations to the Council after which Council may make the decision.

Article 23**COUNCIL AUTHORITY AFTER THE HEARING****834.23.1 Council - decision final**

Council may accept or vary the recommendations of the Licence Hearings Committee or do any act or make any decision that it might have done if it had conducted the hearing itself and the applicant or licensee shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

Article 24**RETURN OF THE LICENCE AFTER
REVOCATION OR SUSPENSION****834.24.1 Licence revoked - suspended - returned - Licensing Officer**

When a licence has been revoked or suspended, the holder of the licence shall return the licence to the Licensing Officer within twenty-four hours of service of written notice of the decision of Council.

834.24.2 Licence revoked - Licensing Officer to obtain licence

When a person has had his licence revoked or suspended under this Chapter he or she shall not refuse to deliver up or in any way obstruct or prevent the Licensing Officer from obtaining the licence, in accordance with Section 834.24.1.

Article 25**TRANSITION****834.25.1 By-law - previous**

A licence issued under the applicable by-law in effect immediately prior to the enactment of this Chapter shall remain in effect following the enactment of this Chapter only until the earlier of its expiry or its revocation.

Article 26
SEVERABILITY

834.26.1 Validity

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

Article 27
ENFORCEMENT

834.27.1 Fine - for contravention

Any person who contravenes any provision of this Chapter, 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 by the corporation 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 or imprisonment for a term not exceeding one year, or to both;
- (b) a penalty in the case of a corporation, not to exceed \$50,000;
- (c) an order closing the body-rub parlour, which is the subject of the contravention, for a period not to exceed two years, in accordance with the provisions of section 432 of the *Municipal Act, 2001*, c. 25; and
- (d) an order pursuant to the provisions of section 442 of the *Municipal Act, 2001*, c. 25, prohibiting the continuation or repetition of the offence;
- (e) that the Schedule of Fines set out in Schedule 'A' be established under Part 1 of the *Provincial Offences Act*.

834.27.2 False information - statements - deemed violation

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 Chapter is prohibited, and shall be deemed to be a violation of the provisions of this Chapter.

834.27.3 Compliance - all persons - licensed or not

Every person shall comply with the provisions of this Chapter, which are applicable to him or her, whether or not he or she is licensed under this Chapter.

834.27.4 Documentation - inspection - during operation

Every owner, operator and attendant shall, during the operating hours of the body-rub parlour and at all times when services 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 Chapter.

834.27.5 Entry - inspection - permitted - during operation

Every owner and every operator of a body-rub parlour shall, at all times, whether or not during the hours of operation of the body-rub parlour or 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.

834.27.6 Obstruction - hindrance - entry - inspection - prohibited

No person may obstruct or hinder the entry or the inspection of a body-rub parlour or any part thereof by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer, a Medical Officer of Health or a Peace Officer.

Article 28**REPEAL - ENACTMENT****834.28.1 By-law - previous**

Chapter 834 of the Town of Richmond Hill Municipal Code respecting Adult Entertainment Establishments - Subcategory - Body Rub Parlours be repealed in its entirety and replaced with the new Chapter 834. By-law 205-02 be repealed.

834.28.2 Expiry

This Chapter shall expire five years after the date of its enactment. By-law 193-05, 12 December, 2005.

BODY-RUB PARLOUR

SCHEDULE

Schedule 'A' - Short form wordings - fines

Column 1		Column 2	Column 3
Item	Description of Offence	Provision Creating or Defining Offence	Set Fine - Including Costs
1	Owner or Operator, Operate Body Rub Parlour without Owner or Operator's Licence.	834.2.1	\$400
2	Carry on business as an owner of a Body Rub parlour - no licence	834.2.2	\$400
3	Carry on business as an operator or attendant of a body rub parlour without licence.	834.2.3	\$400
4	Provide services designed to appeal to erotic/sexual appetites.	834.2.5	\$400
5	Provide services in a body rub parlour to person under the age of eighteen years;	834.2.7	\$400
6	Permit a person under the age of eighteen years to enter, or remain in a body rub parlour;	834.2.8	\$400
7	Fail to post a sign indicating that no person under the age of eighteen years may enter or remain in such premises;	834.2.9	\$400
8	Owner or operator permit body rub parlour to be open for business without owner/operator present;	834.2.12	\$400
9	Owner or operator, permit intoxicated person to enter or remain in a body-rub parlour	834.2.13	\$400
10	Owner or operator fail to post licence.	834.2.14	\$400

Note: The penalty provision for the offences indicated above is contained in section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

By-law 193-05, 12 December, 2005; Schedule 'A'.