



Town of Newmarket

Agenda

Special Committee of the Whole - Electronic

Date: June 16, 2021
Time: 1:00 PM
Location: Streamed live from the Municipal Offices
395 Mulock Drive
Newmarket, ON L3Y 4X7

1. Notice

At this time, the Municipal Offices remain closed to the public. This meeting will be streamed live at newmarket.ca/meetings.

Public Input

Individuals who wish to submit input to Council in relation to an item on this agenda have the following options available.

1. Email your correspondence to clerks@newmarket.ca by end of day on Sunday, June 13, 2021. Written correspondence received by this date will form part of the public record; or,
2. Make a live remote deputation by joining the virtual meeting using the Town's videoconferencing software and verbally provide your comments over video or telephone. To select this option, you are strongly encouraged to pre-register by emailing your request and contact information to clerks@newmarket.ca.

2. Additions & Corrections to the Agenda

Note: Additional items are marked by an asterisk*.

3. Conflict of Interest Declarations

4. Presentations & Recognitions

4.1. Personal Wellness Establishments

Note: Flynn Scott, Manager of Regulatory Services, and John Comeau, Municipal Enforcement & Licensing Officer will be in attendance to provide a presentation on

this matter.

1. That the presentation provided by Flynn Scott, Manager of Regulatory Services, and John Comeau, Municipal Enforcement & Licensing Officer regarding Personal Wellness Establishments be received.

5. Deputations

5.1. Personal Wellness Establishments

Note: Katie Gilligan, Timeless Harmony will be in attendance to provide a deputation on this matter.

5.2. Personal Wellness Establishments

Note: Robert Vallee, Parents Against Child Trafficking - Markham & Richmond Hill will be in attendance to provide a deputation on this matter.

5.3. Personal Wellness Establishments

Note: Marnie Hill, Council of Women Against Sex Trafficking in York Region will be in attendance to provide a deputation regarding Personal Wellness Establishments.

*5.4. Personal Wellness Establishments

Note: Tsz Chan will be in attendance to provide a deputation on this matter.

*5.5. Personal Wellness Establishments

Note: Elene Lam, Executive Director, Butterfly will be in attendance to provide a deputation on this matter.

*5.6. Personal Wellness Establishments

Note: Lisa Zhang will be in attendance to provide a deputation on this matter.

*5.7. Personal Wellness Establishments

Note: Jessie Tang, Co-executive Director, Chinese Canadian National Council Toronto Chapter will be in attendance to provide a deputation on this matter.

*5.8. Personal Wellness Establishments

Note: Paulina Cumming has withdrawn her deputation request.

*5.9. Personal Wellness Establishments

Note: Ann De Shalit will be in attendance to provide a deputation on this matter.

*5.10. Personal Wellness Establishments

Note: Elena Shih will be in attendance to provide a deputation on this matter.

*5.11. Personal Wellness Establishments

Note: Dongmei Li will be in attendance to provide a deputation on this matter.

*5.12. Personal Wellness Establishments

Note: Alice Cavanagh, Health Providers Against Poverty, will be in attendance to provide a deputation on this matter.

*5.13. Personal Wellness Establishments

Note: Dr. Vivian Tam, Health Providers Against Poverty, will be in attendance to provide a deputation on this matter.

*5.14. Personal Wellness Establishments

Note: Poe Liberado will be in attendance to provide a deputation on this matter.

*5.15. Personal Wellness Establishments

Note: Ivy Chan will be in attendance to provide a deputation on this matter.

*5.16. Personal Wellness Establishments

Note: Molly Bannerman, Women and HIV/AIDS Initiative will be in attendance to provide a deputation on this matter.

6. Items

6.1. Licensing Regime for Personal Wellness Establishments

1. That the report entitled Licensing Regime for Personal Wellness Establishments dated June 16, 2021 be received; and,
2. That staff be directed to proceed to a statutory public meeting in order to amend the Town's Zoning By-laws to consider Personal Wellness Establishments; and,
3. That Business By-law 2020-31 be amended to adopt the proposed Personal Wellness Establishment regulations; and,
4. That the proposed Personal Wellness Establishment regulations within the Business By-law 2020-31 take effect at the same time that a future proposed amendment to the Zoning By-laws for Personal Wellness Establishments is deemed effective; and,

5. That Schedule 7: Body-Rub Parlours of By-law 2002-151 be repealed; and,
6. That the AMPS By-law 2019-62, Schedule A be amended as proposed in Attachment #2; and,
7. That the Fees and Charges By-law 2020-09, Schedule F be amended as proposed in Attachment #3; and,
8. That staff be directed and authorized and directed to do all things necessary to give effect to this resolution.

7. Closed Session

***7.1. Proposed Acquisition and Disposition of Land – Property in Ward 6**

A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization, as per Section 239 (2)(i) of the Municipal Act, 2001.

***7.2. Proposed Acquisition and Disposition of Land – Property in Ward 6**

A proposed or pending acquisition or disposition of land by the municipality or local board, as per Section 239 (2)(c) of the Municipal Act, 2001.

8. Adjournment



Personal Wellness Establishments

Special Committee of the Whole

June 16, 2021



AGENDA

01

Background

02

Consultation

03

Proposed Licensing Framework for PWEs

04

Zoning Considerations & Implications

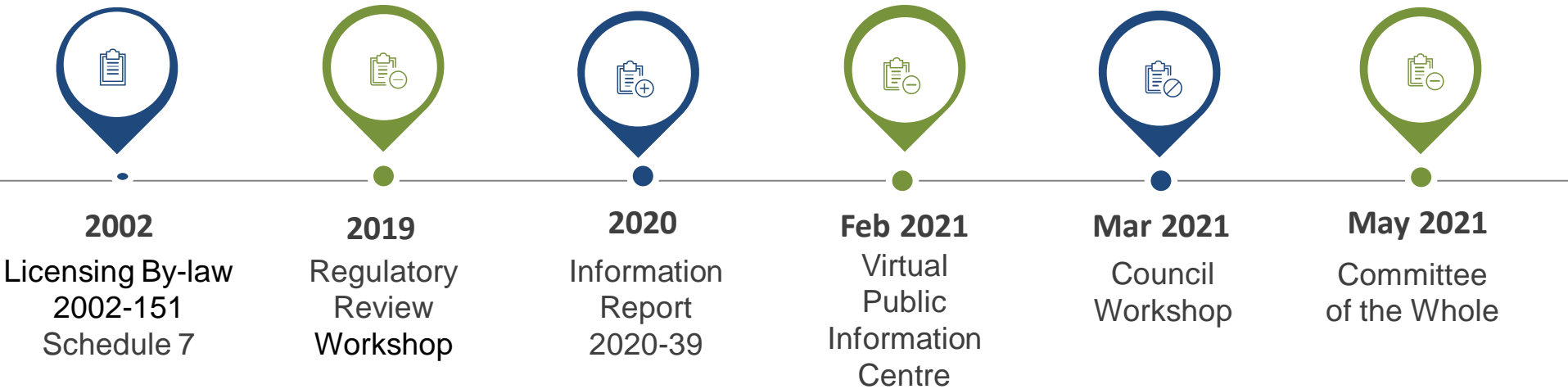
05

Staff Recommendations & Next Steps

Background: Goals of this review

- 1) To adopt a licensing framework which empowers the Town to take action against unlawful businesses within our community
 - This includes any business operating contrary to the Criminal Code of Canada
- 2) To modernize Town by-law regulations for the purpose of ensuring reputable businesses are able to operate and conduct business safely and responsibly through a licensing framework

Background: How did we get here?



Consultation: How & when were stakeholders engaged?



January 2021

Online Survey #1

Letters to
stakeholders



**February
2021**

Public
Information
Centre

Letters to
stakeholders



**February
2021**

Online Survey #2

Letters to
stakeholders



March 2021

Council
Workshop

One-on-one
meetings

Letters to
stakeholders



April 2021

Emails and letters
to stakeholders

One-on-one
meetings



May 2021

Email, telephone,
letter submissions
to stakeholders

One-on-one
meetings

Additional Feedback Received

- ◆ Strong recommendation from one advocacy group to change the classification name from PWE to something never used prior by other municipalities

- ◆ **Rationale:**
 - Stigma associated to PWE term remains
 - Belief that businesses will obtain licence under false pretenses

Proposed Licensing Framework for PWEs:

- ◆ Definitions
- ◆ Application Requirements
- ◆ General Regulations
- ◆ Specific Regulations
- ◆ Enforceability

What is a Personal Wellness Establishment?

“Personal Wellness Establishment” means any premises or part thereof where an **Alternative Massage** is performed, offered, or solicited in pursuance of a business;

“Alternative Massage” means any massage that is not provided by persons licensed, or registered as a regulated health professional under the laws of the Province of Ontario, by the College of Massage Therapists as registered massage therapists or massage therapists to provide medical or therapeutic in nature, nor is it designed to appeal to erotic appetites or inclinations;

“Personal Wellness Attendant” means any Person who performs, offers, or solicits an Alternative Massage at a Personal Wellness Establishment;

Application Requirements

Section 3: General Regulations

- Must apply for and obtain a business licence
- Must comply with all federal, provincial, and municipal laws
- Advertising requirements

Section 6: Application and Renewal

- General requirements for the applicant

Section 7: Suspension, Cancellation, and Refusal

- Failure to act in accordance with the law and with integrity and honesty
- Ability to post a notice on unlicensed premises

Application Requirements

Section 8.6(1)

- Submit a floor plan showing the location of every room

Section 8.6(2)

- Submit a **declaration** with property owner being informed of the nature of business conducted

Application Requirements

Section 8.6 (3)(a)

- Submit a list of all Attendants affiliated with the business and include:
 - Proof of age
 - Proof of eligibility to work in Canada
 - Government issued photo I.D.
 - A list of services being offered (matching qualifications)

Section 8.6 (3)(b)

- Submit a certificate, diploma, or other documentation from an accredited educational institution in Canada, as it relates to the services being offered (by each Attendant)

Application Requirements

Section 8.6 (3)(c)

- Where no accredited educational institution in Canada offers such training for Personal Wellness Attendants, the following shall be submitted:
 - I. The name and membership number (if applicable) of the Personal Wellness Attendant
 - II. The Alternative Massage modality or modalities practiced by the Personal Wellness Attendant
 - III. Proof satisfactory to the Manager that the Personal Wellness Attendant is a member in good standing of the association
 - IV. Any other relevant documentation upon the request of the Manager

Application Requirements

Section 8.6 (4)

- Prior to issuing a business licence, the Manager may require:
 - I. An interview with the Owner or Attendant(s) to ensure they are qualified
 - II. An onsite inspection to verify the details of the application
 - III. The application be referred to YR Public Health, YRP, or any Town department for the purpose of providing non-binding input

Requirements of the Business Owner

Section 8.6 (5)(a)

- Ensure list of attendants is kept up to date with Licensing Division

Section 8.6 (5)(b)

- Keep a record of every alternative massage that has been performed and the list shall:
 - include the name of attendant providing service
 - be kept for 1 year, and be produced upon request
 - ~~• Include a medical pre-screening form~~

Section 8.6 (5)(c)

- ~~• include a medical history pre-screening form~~

Section 8.6 (5)(d) & (e)

- Ensure no sexual services are being provided
- That attendants are fully clothed

Requirements of Business Owner

Section 8.6 (6)

- Ensure business name is included on all advertisements

Section 8.6 (7)

- Only operate between 8am-10pm

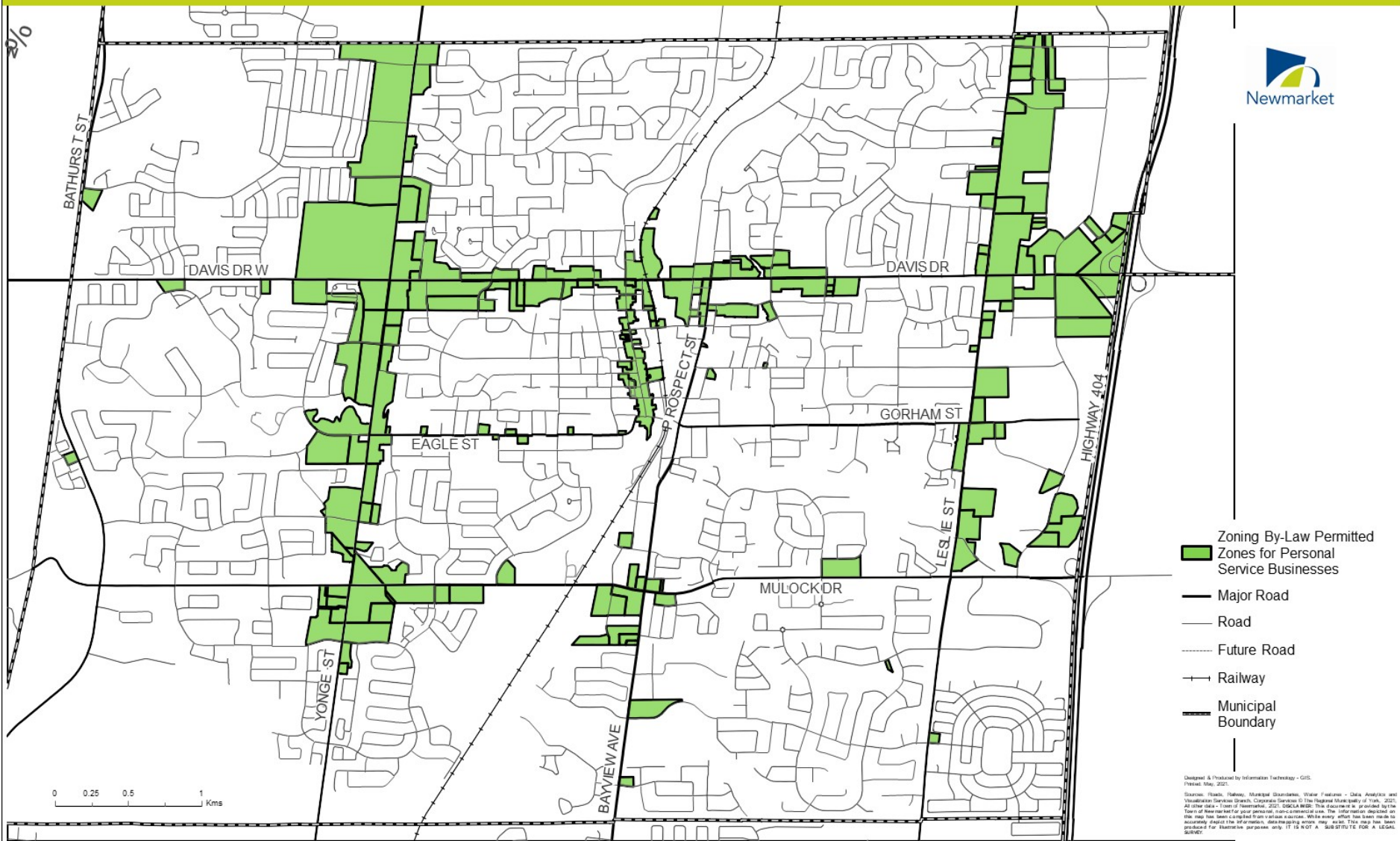
Section 8.6 (8)

- Only permit customers to enter through a ~~primary~~ principal entrance as identified by floor plan submitted through application

Zoning Implications & Considerations

- Amend Zoning By-law 2010-40 and Urban Centres Zoning By-law 2019-06 to repeal the definition of BRP and any reference to BRPs
- Introduce a new definition for Personal Wellness Establishments and permit them in all Urban Centre zones, all Mixed Use zones, the Mixed Employment (EM) zone, as well as in the following Commercial zones:
 - Convenience Commercial (CC)
 - Service Commercial (CS)
 - Retail Commercial (CR-1 and CR-2)

Town of Newmarket - Site Availability for Personal Service Businesses



Zoning Considerations & Implications

Rationale:

- Personal Service Shops are permitted in the proposed zones
- Feedback received from local business owners that their business practices offer a combination of both classifications
- ***Phase Two:*** When Personal Service Shops are brought forward for a proposed licensing framework, we do not want to create impacts to our existing business community

Zoning Considerations & Implications

- Amending the Town's zoning by-laws will take time due to statutory processes
- Licensing framework is proposed to take effect at the same time that a future proposed amendment to the Zoning By-laws for Personal Wellness Establishments is deemed effective

Staff Recommendations & Next Steps

While awaiting zoning amendments to take effect, staff will begin the administrative process re: licensing implementation plan.

This will include:

- Preparing application forms, waivers, and documentation templates
- Further consultation with businesses that may be impacted by new legislation
- Establishing a small, informal working group with any and all interested stakeholders to discuss an implementation and rollout plan
- Preparing supporting documentation and educational information to be utilized during the application interview process
- Further strengthening community partnerships

Next Steps

- 1) Adopt the proposed amendments to Business Licence By-law 2020-31
- 2) Provide direction for Planning to proceed with a statutory public meeting for proposed zoning amendments
- 3) Once zoning amendments are finalized, the licensing framework will take effect
- 4) Based on the proposed timelines re: zoning, licensing will begin for the 2022 calendar year

Questions?





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Licensing Regime for Personal Wellness Establishments Staff Report to Council

Report Number: 2021-46

Department(s): Legislative Services

Author(s): F. Scott, Manager of Regulatory Services
J. Comeau, Municipal Licensing and Enforcement Officer

Meeting Date: June 16, 2021

Recommendations

1. That the report entitled Licensing Regime for Personal Wellness Establishments dated June 16th, 2021 be received; and,
2. That staff be directed to proceed to a statutory public meeting in order to amend the Town's Zoning By-laws to consider Personal Wellness Establishments; and,
3. That Business By-law 2020-31 be amended to adopt the proposed Personal Wellness Establishment regulations; and,
4. That the proposed Personal Wellness Establishment regulations within the Business By-law 2020-31 take effect at the same time that a future proposed amendment to the Zoning By-laws for Personal Wellness Establishments is deemed effective; and,
5. That Schedule 7: Body-Rub Parlours of By-law 2002-151 be repealed; and,
6. That the AMPS By-law 2019-62, Schedule A be amended as proposed in Attachment #2; and,
7. That the Fees and Charges By-law 2020-09, Schedule F be amended as proposed in Attachment #3; and,
8. That staff be directed and authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

The Town's existing body rub parlour regulations are under review as part of the Regulatory Services Division project plan for 2021. An initial licensing framework was adopted by Council in 2002, however, the massage service industry has greatly evolved since implementation. This report presents Council with a draft by-law and proposed regulations in response to further direction provided at the May 10, 2021 Council meeting.

Purpose

The purpose of this report is to present Council with next steps regarding the licensing of Personal Wellness Establishments through the adoption of proposed regulations within the Town's Business Licence By-law.

Background

Legislative Authority

Under the Municipal Act, the Town may provide for a system of licences with respect to certain classifications of business by adopting a licensing by-law. As specified in the Municipal Act, a licensing by-law should relate to consumer protection, the economic and social well-being of the municipality, and the health, safety, and well-being of persons in the municipality. Conditions may be imposed on a licence to ensure a business is compliant with regulations established to reflect community objectives.

Section 34 of the Planning Act provides the authority for municipalities to enact zoning bylaws to regulate the use of land and structures.

A zoning by-law controls the use of land in your community by stating exactly how land may be used, where buildings and other structures can be located, the types of buildings that are permitted and how they may be used, and the lot sizes and dimensions, parking requirements, building heights, and setbacks from the street.

Historical Content

In 2002, the Town's [Licensing By-law 2002-151](#) was adopted and a licensing framework was implemented for body rub parlours at that time.

On March 25, 2019, a [Regulatory Review Workshop](#) was conducted with Council, which identified a body rub parlour by-law review to be brought forward by Q4 2020.

On December 23, 2020, [Information Report 2020-39](#) was provided to Council to highlight the Regulatory Services Division project plan. Body rub parlours were identified by Council as a priority and a regulatory review was requested to be brought forward by Q2 2021. Following this direction, Town staff began drafting a consultation and implementation plan.

In late January 2021, an online survey was posted to [HeyNewmarket](#) to engage the public as a first step in the consultation process. A total of 19 responses were received.

On February 16, 2021, a virtual [Public Information Centre \(PIC\)](#) was held to engage stakeholders and receive feedback on potential regulatory changes. This was an interactive presentation that allowed participants to answer polling questions throughout. Staff also included an open forum question and answer period at the end of the presentation in order to receive additional feedback.

On March 8, 2021, Town staff conducted a virtual [Council Workshop](#) to present feedback received to date by the community. This Workshop also highlighted four potential options that staff explored in relation to a licensing framework for massage service providers in Newmarket.

Following the Workshop presentation, Council provided comments to staff which referenced further consultation efforts, reviewing the proposed options with relevant stakeholders, and providing Council with advanced options at a future Council meeting. Following this Workshop, Town staff then proceeded to request further public engagement by presenting staff's proposed options as part of an online survey, in addition to holding one-on-one virtual meetings with interested stakeholders and community advocacy groups. The results from all rounds of consultation were summarized and presented on May 3rd, 2021 in [Staff Report 2021-36](#). Upon receiving this report, Council directed Staff to proceed with drafting proposed regulations that would repeal the Town's Body-Rub Parlour classification and introduce a Personal Wellness Establishment classification that would strictly prohibit services that appeal to sexual or erotic inclinations, while requiring business owners to only permit persons with enhanced levels of training to perform alternative massages in Newmarket.

Following this direction from Town Council, Staff engaged in further rounds of public consultation that included one-on-one meetings, phone calls to local businesses, email correspondence, and engagement with our community through a [Webinar](#) posted on the Town's YouTube page to present draft regulations in a plain language context.

Using the information gained through all forms public consultation, in addition to closely reviewing regulations established in other municipalities, Town staff has drafted proposed regulations for Council's consideration, as presented in this report.

Discussion

While reviewing regulations pertaining to alternative massage services, Town staff quickly noted that there is "no one-size-fits-all" model. Many municipalities have drafted regulations unique to their community's needs or expectations. Best practices have been reviewed throughout various municipalities to help form Town staff's direction. However, it is relevant to note that the draft regulations presented in this report reflects best practices pre-established in the Town of Newmarket and shared with us by our local business community. In addition to this feedback, Town staff has also received strong input from many advocacy groups throughout Ontario. All forms of feedback have been included in the proposed regulations for Council's consideration, while working under the direction of Council to increase the standards of our community through a licensing framework for Personal Wellness Establishments (PWEs).

Consultation completed between May 3 – June 4, 2021

Following the consultation completed and highlighted in previous reports (see Background section of this report), Staff has further engaged local business owners, community advocacy groups, the College of Registered Massage Therapists, and other interested stakeholders. A summary of all consultation completed between May 3 and June 4, 2021 is provided below.

Pre-established Local Businesses in Newmarket

Recognizing that the proposed regulations may have an impact on existing businesses throughout Town, staff notified and engaged with the business community using a variety of different methods. A list of 30 local businesses were initially identified to be Personal Wellness Establishments. This list was compiled by utilizing York Region's Business directory, performing online searches, and completing in-person inspections of known commercial locations throughout Newmarket. All 30 businesses were notified through a combination of emails, mailed letters, and hand-delivered notices.

Of the 30 businesses notified:

- 4 have recently closed or relocated outside of Newmarket, bringing Staff's list of potentially impacted businesses to 26.

Of the remaining 26 businesses identified:

- 17 responded and engaged via Zoom meetings, phone calls, or email exchanges.
- Through further engagement with these businesses, it was determined that 11/17 businesses are not offering the services of a PWE, but instead were identified as Personal Service Shops (i.e. hair salon, nail salon, or some form of beautician).

The remaining 6 businesses identified were engaged to better understand different aspects of their business practices. This included:

- the level of training obtained by their attendants;
- the types of services being provided; and
- any practices that they believe should become best practices for the community as a whole.

Of the 6 businesses identified as offering PWE services:

- 4 businesses reported that staff members have training from an accredited institution; and
- 2 businesses stated that staff members do have some level of training that could be submitted to the Town, but not from an accredited institution, as the services provided are not offered through any accreditation program.

For a complete list of comments received from local business owners, please refer to **Attachment #1** of this report.

Despite every effort, Town staff were not able to engage with the remaining 9 local businesses believed to be operating as a body rub parlour or some form of alternative massage services. Town staff attempted contact using all of the following methods per business:

- 1) multiple email attempts using their advertised email addresses;
- 2) personal phone calls using their advertised phone numbers;
- 3) hand delivered letters posted directly to the business premises; and
- 4) mailed letters to the last known business address.

Community Advocacy Groups

Town staff requested input from interested community advocacy groups and the consultation process was extended to any advocacy group without limitation to their geographical location (i.e. not Newmarket specific). Staff received feedback from the following 5 community advocacy groups:

- Butterfly: Asian and Migrant Sex Worker Support Network;
- HIV Legal Network;
- BridgeNorth;
- Parents against Child Trafficking – Markham & Richmond Hill; and
- Women against Sex Trafficking in York Region.

While each group represented various positions and perspectives, Town staff believes it is relevant to summarize a few key points as follows:

- one advocacy group has requested that the name of the licence classification be changed from “Personal Wellness Establishment” to a new defined term that no other municipality has used prior.
 - Rationale for doing so is related to stigma: a belief that rebranding body rub parlours will not stop pre-existing body rub parlours from believing (even optically) that the Town will licence them, despite being associated with adult entertainment businesses rather than PWEs;
- strong feedback from various groups to ensure all applications and by-laws are translated into different languages in order to ensure all members of our community have the ability to understand the rules and regulations;
- feedback that not all modalities of alternative massage have training programs offered through accredited institutions in Canada;
- recognition by nearly all advocacy groups that a humanistic approach is needed when implementing or enforcing this by-law; and
- Town staff were strongly encouraged to utilize our community partners to ensure businesses and employees are supported throughout the licensing process.

College of Registered Massage Therapists

Town staff contacted the College of Registered Massage Therapists (CMTO) for input. The CMTO regulates massage therapy throughout Ontario and are governed by the

[Massage Therapy Act, 1991](#). Town staff was redirected to the specific requirements of the CMTO for the purpose of becoming a Registered Massage Therapist in Ontario. A brief summary of the information received is as follows:

- successful completion of a Massage Therapy diploma program recognized by the Ministry of Training, Colleges, and Universities (or equivalent);
- successful completion of CMTO's certification exam;
- ability to satisfy the Registration Committee that the applicant has not been convicted or charged with, and not found "guilty" of an offence that affects their ability to engage in the practice of the profession;
- demonstration that the applicant is a Canadian Citizen, a permanent resident of Canada, or authorized under the Immigration and Refugee Protection Act (Canada) to engage in the practice of Massage Therapy;
- ability to satisfy the Registration Committee that their past and present conduct provides reasonable grounds for the belief that they will:
 - practice Massage Therapy with decency, honesty and integrity, and in accordance with the law;
 - does not have any physical or mental condition or disorder that could affect their ability to practice Massage Therapy in a safe manner; and
 - will display an appropriate and professional attitude.

Town staff has reviewed the requirements of a Registered Massage Therapist (RMT) in Ontario and are recommending several similar provisions in the proposed by-law to mirror the requirements established by the CMTO as a best practice for all forms of massage services. However, it is relevant to clarify that Town staff are not proposing to licence RMTs as part of the PWE classification. The information gathered has assisted staff in proposing regulations which increase the overall standards of our community in relation to alternative massage services.

Other Interested Stakeholders

In addition to the consultation highlighted above, a Webinar was posted on the Town's YouTube page. The Webinar used plain language to present an initial draft of the proposed regulations in order to spark further feedback and engagement. Several stakeholders, including advocacy groups, local residents, and local businesses, provided additional input following their review of the Webinar. A summary of any follow up meetings conducted with Town staff, in addition to all correspondence received, has been provided for Council's reference under **Attachment #1**. However, it is relevant to highlight that there was a strong sense of support for the draft regulations proposed.

Proposed Regulations for Business Licence By-law 2020-31

In an effort to increase the standards of our community, Town staff recommends adopting modernized regulations to capture an ever-evolving alternative massage industry. When drafting the proposed regulations, Town staff focused on having all regulations be clear and concise, enforceable, and ensure that public health and safety

are prioritized. Through consultation with various stakeholders and a review of standard practices in other municipalities, Town staff are proposing the following licensing requirements for Personal Wellness Establishments:

1. Section 3: General Regulations

Town of Newmarket Business Licence By-law 2020-31, which was adopted in June 2020, already contains general regulations that apply to all classifications of business established by by-law. Under the general regulations, PWEs will also be required to comply with all applicable provisions therein. A summary of key provisions previously adopted by Town Council as general regulations are highlighted as follows:

- the requirement for a business to obtain and display a business licence;
- the requirement for a business to comply with all federal, provincial and municipal legislation;
- the requirement to ensure all licensed businesses only advertise services that they are authorized and approved to offer;
- the requirement to ensure all licensed businesses only advertise using the business name identified on their application; and
- all applicants provide proof to demonstrate they are authorized to work in Canada.

2. Section 7: Suspension, Cancellation and Refusal

Section 7 of By-law 2020-31 provides the Town Manager or their designate with the authority to suspend, cancel or refuse a business licence. A summary of key provisions previously adopted by Town Council as powers to issue, suspend, or refuse a business licence are highlighted as follows:

- Section 7(1) authorizes the Town to suspend, cancel or refuse a licence to an applicant or licensee where past conduct affords reasonable grounds for belief that the business owner will not operate its business in accordance with the law or with honest and integrity.
- Section 7(1)(b) also authorizes the Town to refuse a licence to an applicant who has been found to provide the Town with false information in order to obtain a business licence;
- Section 7(11) also contains enforceable provisions, such as the ability for the Town to post a notice on the premises to advise that any business operating is doing so without a Town-approved business licence. This provision demonstrates to the community that the Town is aware of noncompliance and is taking steps to remedy. It is clear and transparent and Council previously approved a fine amount of \$600 for removing any posted notice from the premises prior to resolving the matter in full (i.e. obtaining a licence or closing the premises).

3. Section 8.6 – Proposed Regulations for PWEs:

This section is newly proposed for the purpose of establishing specific regulations pertaining to PWE owners and attendants. Town staff is proposing to only licence business owners in order to hold them accountable for all staff and attendants therein. This direction aligns with all other licensing classifications recently brought forward for Council's consideration. The proposed regulations as summarized as follows:

Sections 8.6(3)(b) and 8.6 (3)(c): Proof of training required for attendants

- Requires every owner to submit a list of all PWE attendants and their qualifications to be reviewed and approved by the Town's Licensing Division;
- Qualification standards proposed include training from an accredited institution in Canada.
- An alternative standard is proposed through **Section 8.6(3)(c)**, where no accredited institution offers training for the services provided. An example of this would be Osteopathy being performed by any person other than a RMT, as no accredited institution offers Osteopathic training. In this instance, a fulsome review of the credentials provided, in conjunction with other regulations contained in the proposed by-law, will be utilized to consider the issuance of a business licence.

Section 8.6(4): Other application requirements

- This section provides Town staff with the authority to conduct application interviews with PWE business owners and their attendants in order to ensure that they are duly qualified to offer alternative massage services. Staff will use these interviews to better understand the owner or attendant's experience, training and knowledge of the modality of alternative massage they intend to offer to ensure no persons are obtaining a licence under false pretenses.
 - Through public consultation, staff have learned the importance of utilizing translation services throughout these interviews in order to ensure a fair process for all members of our community.
 - Public consultation also encouraged us to utilize these interviews to help spot signs of exploitation, so that we can better work with our community partners at York Regional Police to help address criminal activity.
- **Section 8.6(4)(b)** provides Staff the authority to conduct an onsite inspection prior to the approval of an application. This will empower Town staff to confirm details of the application and ensure all services provided comply with federal, provincial, and municipal legislation.
- **Section 8.6 (4)(c)** provides Town staff the authority to circulate any application received to specific community partnerships (i.e. Public Health, York Regional Police, etc.) for the purpose of providing a non-binding report. Should that report be negative or unfavorable, it will assist the Town in denying the application.
 - Through consultation with York Regional Police, Town staff has confirmed a process and procedure in which applications can be reviewed, and staff remains confident that this section will help create barriers for businesses

associated with criminal activity from obtaining a business licence.

Section 8.6(5)(e): No sexual services are permitted to be offered, provided, or advertised within commercial storefronts

In keeping with direction provided by Council at May 3rd Committee of the Whole, in addition to feedback received from relevant stakeholders, the proposed regulations expressly prohibit the offering, providing, or advertising of sexual services within commercial storefronts throughout Town. It is relevant to note that the intention of this review is to increase the standards of our community through a licensing framework. Respecting federal and provincial legislation, the proposed by-law focusses on licensing powers and the overall scope of a municipality to enact such by-laws. The provision referenced above is included to clarify and ensure that all businesses understand their requirement to comply with all federal, provincial, and municipal legislation.

Zoning By-law 2010-40

Section 34 of the Planning Act provides the authority for municipalities to enact zoning bylaws to regulate the use of land and structures. The Town's zoning by-laws define Body-Rub Parlours (BRPs) and permits their use in the General Employment and Heavy Employment zones. Currently, a 500m separation distance is imposed under the Town's Licensing By-law 2002-151, Schedule 7, which requires all BRP to also be located at least 500m from all schools, daycares, churches, and arterial roadways. The current zoning imposed is highly restrictive and does not capture the existing business practices throughout our community.

On May 10, 2021, Town Council directed staff to proceed with repealing the Town's BRP classification and adopting a Personal Wellness Establishment licensing framework. In order to do so, there are zoning considerations that requires Council direction in order to proceed. Staff has consulted with the Town's Planning Department, in addition to obtaining an external legal opinion, to determine the best course of action regarding potential zoning amendments and their implications. The recommendation received from both is as follows:

1. Amend Zoning By-law 2010-40 and Urban Centres Zoning By-law 2019-06 to repeal the definition of BRP and any reference to BRPs throughout; and
2. Introduce a new definition for Personal Wellness Establishments and permit them in all Urban Centre zones, all Mixed Use zones, the Mixed Employment (EM) zone, as well as in the following Commercial zones:
 - Convenience Commercial (CC);
 - Service Commercial (CS); and
 - Retail Commercial (CR-1 and CR-2).

Repealing BRP provisions from Town zoning by-laws is an important step in ensuring zoning regulations remain consistent with the Town's licensing by-laws and the direction of Council. By repealing BRPs and enacting new regulations pertaining to Personal

Wellness Establishments, the overall licensing framework seeks to increase the standards and expectations of our community while simultaneously identifying the appropriate locations for businesses to legitimately operate within Newmarket.

The proposed zones above reflects pre-established zones in the Town's zoning bylaws which permits Personal Service Shops to operate (i.e. hair salons, nail salons, and other forms of beauticians). Town staff recommends mirroring these zones due to the feedback received from local business owners to advise that their business practices offers a combination of both classifications. As part of a second phase of this review, Town staff will be proposing a licensing framework for Personal Service Shops at a later date. In order to ensure that no businesses become impacted due to zoning restrictions, Town staff strongly recommends that zoning be adopted as proposed.

However, in order for these changes to be made, Town staff is seeking direction from Council to proceed to a statutory public meeting in order to amend Zoning By-law 2010-40 and Urban Centres Zoning By-law 2019-06. In consultation with the Town's Planning Department, an estimated timeframe to enact such amendments will be approximately six months, in order to account for the notification period, public meeting, Committee and Council scheduling, and appeal periods.

Conclusion

Following a comprehensive review and extensive consultation process, Town staff is recommending the adoption of the proposed licensing framework pertaining to Personal Wellness Establishments. Town staff is also requesting Council direction to proceed to statutory public meeting to initiate proposed amendments to the Town's zoning by-laws. The adoption of the proposed licensing framework will take effect upon the adoption of all zoning amendments.

Business Plan and Strategic Plan Linkages

The strategic vision of the Town of Newmarket is rooted in the concept of being *Well Beyond the Ordinary* – this vision is achieved through focus on the well being of our community. The wellness of our community has at all times been first and foremost in the actions taken to date.

Consultation

Consultation with the Town's Planning department has occurred to confirm the proposed amendments to the Town's zoning by-laws.

An external legal opinion through AIRD BERLIS has also been received as part of this review.

Direct consultation or a review of applicable by-laws has also been completed with the following municipalities: Cambridge, Edmonton, Guelph, Hamilton, Kitchener, Toronto, Vancouver, and Windsor.

Finally, consultation with relevant stakeholders has also been completed and has been included throughout this report.

Human Resource Considerations

The adoption of a licensing framework for PWEs will result in minimal impacts to existing staff resourcing. Legislative Services will utilize the existing compliment of staff within the Licensing Division to review applications, and to implement and enforce regulations, as needed.

Budget Impact

Revenue is anticipated as a result of imposing a licensing regime on PWEs. Through consultation, Town staff has confirmed there are six known PWE businesses within Town, with potentially nine additional businesses that were not able to be consulted (see Discussion section of this report). Town staff is proposing an annual licensing fee of \$150 per business, which will generate approximately \$2,250 in annual revenue.

In addition to the annual licensing fees, staff anticipates additional revenue through enforcement action to be taken for noncompliance, which is proposed to be enforced through the Town's AMPS By-law.

Attachments

Attachment #1 – Consultation with Stakeholders

Attachment #2 – Amended AMPS By-law

Attachment #3 – Amended Fees and Charges By-law

Attachment #4 – Draft Amendments to Business Licence By-law 2020-31

Approval

Lisa Lyons, Director/Town Clerk, Legislative Services

Jason Unger, Director, Planning & Building Services

Esther Armchuk, Commissioner, Corporate Services

Peter Noehammer, Commissioner, Development & Infrastructure

Contact

Flynn Scott, Manager of Regulatory Services, Legislative Services

John Comeau, Municipal Licensing and Enforcement Officer, Legislative Services

Attachment #1:

Additional Stakeholder & Community Feedback Received

Local Business Feedback

- Businesses should be performing health screenings prior to performing services, but concerns were raised over privacy concerns
- Licensed businesses should be required to post their business licence
- Support for Personal Wellness Establishment licence classification was heard from many local businesses to help to legitimize industry
- No businesses were identified to have employees with no training
- There was significant confusion over what the difference between a Personal Wellness Establishment was compared to a Personal Service Shop.
- Cautions were received that educational institutions that are not accredited may not be credible
- Concerns were raised over home occupations, and that the licensing of Personal Wellness Establishments could push unlicensed services out of store fronts and into residential areas
- It was noted that the alternative massage industry has been hurt by the COVID-19 Pandemic, and as a result businesses do not have the resources to spend large amounts of money on a licensing process.
- Concerns were raised that Personal Wellness Establishments were being licensed prior to Personal Service Shops
- Strong support for the Town to request information to ensure landlords are aware of the services offered within business
- Support was received for the Town to ease zoning restrictions for Personal Wellness Establishments to mirror those of Personal Service Shops

- Concerns were raised from businesses who operate within proximity to Body-Rub Parlours.

Local Resident Feedback

I support banning Erotic Massage. These type of establishment take advantage of women and girls and have no place in Newmarket or anywhere.

We are in favour of banning erotic massage parlours. We don't want them in our town. It is not something we want our youth to grow up thinking is acceptable for themselves or others.

Thanks for consulting on massage business. Myself and family have been residents of Newmarket for over 30 years and support the rule change whole heartedly. Thanks

I would support, welcome and approve a bylaw that would enforce, ban and shut down body run/erotic 'massage parlors'.

I am opposed to this type of store opening in Newmarket (or surroundings).

Let the owners and clients move to a big city and practice their wares there. This is a family/children oriented area and this type of behavior does not belong.

I hope the council will do the most ethical thing and pass the bylaw to ban erotic massage parlours.

They should definitely be banned. I didn't realize that they are allowed. In this time of people not knowing if they can feed their family or pay required expenses, what a disgusting waste of money.

As a resident of a community that had an erotic massage business, I am in support of establishing a new bylaw that allows only regulated health professionals to provide massage services to clients.

I am in full support of a proper vetting process conducted by town officials, York Region Public Health or York Regional Police for applicants wishing to open up a massage/spa business to ensure that erotic massage businesses stay out of the community.

Once again during this high stress period of the pandemic, everybody seems to be outraged about something and not at all reluctant to shout their message from the rooftops under the guise of saving us all physically or morally.

Whether it is the anti-vaccers, the anti-mascers or any other nut claiming the moral high ground for him/herself ...now seems to be the time to vent their anger and spleen

So why not pick on eastern style medical practices like Holistic massage, Tai Chi, Shiatsu, Acupuncture etc.

Most of the practitioners of these eastern disciplines are not accredited or acknowledged by western medicine which basically depends on drastic chemical and surgical intervention to try to cure us....not always successfully.

Most of the practitioners of eastern style massage therapy are not accredited RMT certificate holders BUT that does not make them sex workers... far from it.

Most of these people have had years of training and experience outside Canada, are highly proficient and are just trying to earn a living in a country which appears to do nothing but put barriers in their path to earn an honest living. The same seems to be true for highly skilled doctors who come from "non-western" countries and cannot become licensed here and even if they do get an Ontario licence, they are still discriminated against when trying to join hospital staff.

The bylaw defining any holistic massage establishment as "EROTIC" is just simply wrong and above all discriminatory

How and where and with what financial resources are recently arrived practitioners of eastern holistic massage supposed to obtain accreditation from an institution which doesn't even exist.

Of course there may be the odd massage establishment where some sexual activity takes place but if it does, it happens in a controlled and safe environment for the personnel.

Also, why pick on massage establishments only. Why not include all of the Motels and Hotels around town and the vicinity ??? Ask any motel owner what goes on during lunch breaks and weekends.

Canadian law has been notoriously disingenuous when it comes to the topic of SEX !

We are far behind most western countries not only in our puritanical attitudes but also in protecting women.

Banning massage parlours while appeasing Bible thumping moralists will not stamp out the odd sexual encounter. It will, however, drive it underground, allow the criminal element to take control of it , and above all, put women into a greater risk situation.

Erotic massage should be banned. We, the residents and the council, have the opportunity to set the tone for the character of our town while Newmarket is growing.. Lets do the right thing. It is always easier to do the right thing at the beginning than to undo a wrong decision.

Making the right decisions for many aspects, such as building new residences, expanding Southlake, considering our green space, global warming and weather our infrastructure can

handle expansion while the town of Newmarket is growing will have a similar impact. Please consider not to grow Newmarket to a point that it loses its character, the green spaces that are left and still available and put more people and housing in an area that will become too cramped. It is not only housing that needs to be considered but also the social impact of being overcrowded.

The more people, the more green space we will need for that moment to just go out and breathe without having to travel out of town. Covid has made us even more aware of the importance of outdoor space.

Overcrowding, lack of healthy and good entertainment spaces, wrong decisions with regards to the type of businesses allowed, may bring the violence and criminality we see in the bigger centres.

Hello,

I agree with the bylaw:

Language was added to the motion that this would include a full prohibition on any business related to sexual activity.

Under this model, anyone who wants to open a massage business of any kind needs to have some kind of training. Anyone who can't meet those requirements would not be able to get a business licence, and there would need to be a vigorous vetting process to stop unqualified businesses from attempting to sneak into this classification.

Thanks for the opportunity to voice my opinion,

I totally agree with council on changing the massage by-law to prevent sex workers from working in Newmarket!

Hello, I am writing this e-mail to voice my concerns about the proposition of the new bylaw in Newmarket regarding massage/"body rub" parlors.

I feel that the attitudes our Mayor, John Taylor, and our Deputy Mayor Tom Vegh are approaching this subject with are unfair and biased. It seems to me as though both Taylor and Vegh are entirely apathetic to the struggles of sex workers in our community. While I am wholly in favour of implementing regulations that would benefit and protect workers, I don't think our Mayor/Deputy Mayor feel the same way. Sex workers are already facing disproportionate rates

of violence, and this bylaw would likely drive many businesses underground, where there is even less security for them.

Deputy Mayor Tom Vegh has expressed that he "really just [wants] to drive [sex work] out of our town", and Taylor has said that he "[doesn't] want to send a message to our community that prostitution or sex work is acceptable." I would like to remind these two that sex work is a legitimate occupation. It is no less valid than any other, and the fact that our community leaders do not see it as such quite honestly seems motivated by nothing other than misogyny towards a primarily female-associated occupation. People who do this type of work deserve far more than being treated as outcasts or criminals, when they are simply offering a service that will always be in demand. "Driving it out" of our town is just not realistic, and I must say Vegh and Taylor are kidding themselves if they think that it is possible to eradicate an entire profession from Newmarket.

I urge our Mayor and Deputy Mayor to think more critically about this issue, and why it really is that it bothers them so much. Finally, I have to ask if this is really such a pressing issue right now. We are currently still in the midst of a pandemic which has led to high rates of financial instability, food insecurity and mental health problems. I don't see how, when we are facing all these crises, it makes sense to focus in on sex work in massage parlors, of all things. Is now really the time to be making things harder for a group of workers who may not be able to even find any other form of employment? Please remember that they are people just as you and I are, people that need to feed themselves and their families.

Thank you,

I feel that massage with a sexual component is not only needed but should be allowed, especially as we've been in lock down for over a year.

There is nothing wrong with it between consenting adults and if it's managed and regulated, it would be much safer for all involved. It will continue underground if not addressed.

The sex trade has been going on for ever and will never go away. It's just much safer if it's licenced and the workers have full health care coverage.

Yes they should be licensed. We don't need to turn our town into a Blue Light District.

We totally agree that there needs to be proper bylaws banning non medical establishments. Our daughter is a registered Massage Therapist and had to work extremely hard. She has a thriving business and these other massage parlours are giving the professional ones a bad name. It is time there was a stand taken against these parlours.

I'm fully in support of the towns proposed By Law banning Erotic Massage in our town. As a former resident of Richmond Hill I remember the problems that resulted to the community when the Fantasia Club was allowed to operate in Richmond Hill years ago . While this is not the same kind of operation that this By Law is intended to control it will reduce the risk of other disgusting activity occurring anywhere in this town. Why can we not be a leader in preventing this type of "Business" from ever starting up. It will just lead to many other problems that Newmarket does not need to deal with.

Please do not allow licensing in Newmkt for these erotic massage parlours.

All massage parlors should be banned,they just promote a criminal element

thank you for reaching out and providing me the opportunity to share a few additional thoughts regarding the proposed direction for 'Personal Wellness Establishment' licensing:

General:

- One of the key issues in this space is the fact that regardless what you name the category, it does not prevent the owners from shutting down and changing their business model to some other form but still providing the same illegal service as before - tanning salon, nail salon, etc. These places may or may not fall under 'personal wellness' unless they are specifically listed. I would encourage you and your team to expand the definition to ensure such alternative "wellness businesses" don't start popping up.

Licensing applications - additional recommendations:

- Review by YRP is great, but should be mandatory.
- Passport & nicknames/aliases should also be required to be submitted - this is critical because many will attempt to use different names. Also documentation of entitlement to work in Canada if passport not available.
- Email addresses and web pages should be submitted
- Application should be required to be in person, and be done independently NOT through an agent. Applicants should speak english well enough to process the license. **The requirement to speak English is not meant as a restriction for performing business, but in this business that requires extra precautions to protect people from being exploited, it

allows for better assessment on trafficking potential. If languages other than English are used, a certified translation can be provided at the applicant's expense.

- Previous addresses & dates for the last 5 years should be required, as well as employment history for the last 5 years
- Business license history should be submitted - whether any license was suspended or denied is important, including reason for & description of businesses
- There should be a signed statement from the business owner + the building owner (if they're leasing) stating that sexual services will not be offered or provided in any form (including online pornography, in offsite locations, etc.), as well as forced/coerced work or trafficking of others will not be utilized in conjunction with the license
- Anyone applying for a licence must first complete an information course that provides an overview of all the employment standards, regulations, and laws that apply to this type of work so that they know their rights and responsibilities
- Renewal requirement for license every 2 years - what is the protocol for this? In person renewal, etc.

Operation additional recommendations:

- All rooms used for patron services must have a transparent or translucent window (with specified dimensions). Purpose: to prevent owners/operators from making the claim they are unaware that the workers are performing services that contravene the bylaws during an inspection
- To reduce the chance of trafficking occurring in any establishment, workers, operators and owners must meet with an inspector ___/year (alone and away from the licensed establishment) for discussion to determine they are not being trafficked. Must be in possession of passport at the time.
- A list of services available and the cost associated with them should be posted in an open public place onsite and with the licensing department - no services other than those posted are allowed
- No part of the premises should be used as a dwelling or for sleeping. No worker, operator or owner may reside at the place of business.

Thank you for the opportunity. Any questions, let me know.



Comments from Robert Vallee of Parents Against Child Trafficking – Markham & Richmond Hill and Marnie Hill of the Council of Women Against Sex Trafficking in York Region in the matter of the Personal Wellness Establishments Committee of the Whole meeting on June 16 -2021 at 2:00pm

Additions and modifications based on the PWE PPT slides presented by Flynn Scott

- Overall impression: you skirted the issue of Body Rub Parlours by focusing on legitimate establishments. The information delivered in the YouTube video did not deliver the message that the Council's intent is to make it clear that BRPs that sell sex are not welcome in Newmarket.
- Alternative massage -- need to clearly state that this means massages that are not of a sexual nature. Include a full list of Alternative Massage services allowed by the Town. Not naming them leaves this wide open to abuse as "alternate" treatments could lead to fraudulent claims of legitimacy. Other modalities can be added to the list later once they are vetted.
- There needs to be random inspections, much like they are conducted with food service establishments to ensure PWEs are compliant with the newly established license requirements. A certificate on the front door like the ones posted on restaurants indicating Pass / Fail would give the citizens of Newmarket confidence the spa is legitimate.
- Add sizeable financial penalties to the owners/operators to act as a deterrent, in addition to the use of suspension or cancellation of the licence because the owner/operator will complain to their ward councillor who will, in turn, pressure the Manager to NOT cancel or suspend the licence.
- As for Section 8.6 (3) (a)..regarding "proof of eligibility to work in Canada", make the owner/operators aware of and abide by the Government of Canada's Immigration and Citizenship guidelines. The guidelines are: "There are 2 types of work permits: open work permits and employer-specific work permits:
 - Open work permits allow you to work for any employer in Canada, **except for an employer** who is listed as ineligible on the Government of Canada's list of employers who have failed to comply with the conditions, or **who regularly offers striptease, erotic dance, escort services or erotic massages.**
 - Employer-specific work permits allow you to work according to the conditions on your work permit, which include:
 - the name of the employer you can work for,
 - how long you can work, and
 - the location where you can work (if applicable)

For both work permits, the Town's Manager – Regulatory Services will benefit from enforcing the aforementioned guidelines.

- As for Section 8.6 (3) (b) Attendant's certificate validity must be confirmed by the Town's **legal representative**, not by Town staff.
- As for Section 8.6 (3)(c) Attendant with no accredited training certification program in Canada wants to work in Newmarket? **No way**. This must not to be left to the discretion of the Town Manager. DELETE Section 8.6 (3)(c).
- As for Section 8.6 (4) Manager may require...an interview... prior to issuing a licence. Change to **'will require... for all 3 requirements.'**
- As for Section 8.6 (8) Customer entrance is by front door only and it **must remain unlocked** during business hours.
- As for Section 8.6 (5)(b) Records of alternative massages performed in each establishment be ELECTRONICALLY filed with the Town by the operators/owners on an agreed-upon and regular schedule
- We are confused re F. Scott's reference to Osteopath as there are a number of legitimate Osteopathic Schools in Canada and should be a basic requirement for anyone providing Osteopathic services.



Marnie Hill
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Women Against Sex Trafficking in York Region
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Board Chair & CEO
Robert Vallee of Parents Against Child Trafficking – Markham & Richmond Hill
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Corporation of the Town of Newmarket

By-law 2021-XX

A By-law to amend By-law 2019-62 being a By-law to implement an Administrative Monetary Penalty System in the Town of Newmarket.

Whereas the Municipal Act, 2001 and Ontario Regulation 333/07 authorizes a municipality to require a Person to pay an Administrative Penalty for a contravention of any By-law respecting the parking, standing or stopping of vehicles; and,

Whereas the Municipal Act, 2001 authorizes a municipality to pass by-laws imposing fees or charges for services or activities provided or done by or on behalf of it; and,

Whereas Council enacted By-law 2019-62 to implement an Administrative Monetary Penalty System in the Town of Newmarket; and,

Whereas it is deemed necessary to amend the Schedule A of By-law 2019-62 as it relates to the Designated By-law Provisions.

Therefore be it enacted by the Municipal Council of the Corporation of the Town of Newmarket as follows:

- 1. That Schedule A to the By-law 2019-62 be amended to remove the following sections:

By-law 2002-151 (Licensing)						
By-law 2002-151 Schedule 7 Body-rub Parlours		7.2	Operate without a body-rub parlour licence	450.00	600.00	750.00
		7.3	Failure to obtain an attendant's licence	450.00	600.00	750.00
		7.4(a)	Provide services designed to appeal to sexual appetites	450.00	600.00	750.00
		7.4(b)	Provide body-rubs to a person under 18 years of age	225.00	300.00	375.00
		7.4(c)	Failure to post sign restricting entry for under 18 years of age	225.00	300.00	375.00
		7.4(d)	Permit employee under 18 years of age	225.00	300.00	375.00
		7.4(e)	Business open without owner/operator onsite	225.00	300.00	375.00
		7.4(f)	Consume or be in possession of alcohol or drugs	450.00	600.00	750.00
		7.4(g)	Permit intoxicated person to remain in body-rub parlour	225.00	300.00	375.00
		7.4(l)	Failure to post licence	225.00	300.00	375.00
		7.4(o)	Failure to provide required documentation to Licensing Officer	225.00	300.00	375.00
		7.4(p)	Failure to provide copy of attendant licences	225.00	300.00	375.00
		7.4(s)	Use or permit any camera or recording device	225.00	300.00	375.00
		7.4(t)	Failure to post sign as directed by Town	225.00	300.00	375.00
		7.6	Prohibited sign	225.00	300.00	375.00
By-law 2002-151 Schedule 7 Body-rub Parlours		7.7	Circulate, post, or distribute printed material	225.00	300.00	375.00
		7.9	Advertise unauthorized business name or logo	225.00	300.00	375.00
		7.11(a)	Contravene approved floor plan	225.00	300.00	375.00
		7.11(b)	Locked or obstructed rooms	225.00	300.00	375.00
		7.11(d)	Body-rub parlour used as a dwelling	225.00	300.00	375.00
		7.11(e)	Room for body-rub not equipped with window	225.00	300.00	375.00
		7.12	Operate business contrary to hours of 11:00am to 11:59pm	225.00	300.00	375.00
		7.13(a)	Operate body-rub parlour within 500m of residential zone	225.00	300.00	375.00
		7.13(b)	Operate body-rub parlour on or within 500m of restricted roadway	225.00	300.00	375.00
		7.13(c)	Operate body-rub parlour within 500m of any school,	225.00	300.00	375.00

			church, or child day care			
		7.13(d)	Operate body-rub parlour within 1km of another body-rub parlour	225.00	300.00	375.00
		7.47	Obstruct a Licensing Officer	450.00	600.00	750.00

2. That Schedule A to the By-law 2019-62 be amended to add the following sections:

Business Licence By-law 2020-31						
Business Licence By-law 2020-31, as amended	1.	8.6 (1)	Failure to provide accurate floor plan	225.00	300.00	375.00
	2.	8.6 (5)(a)	Unauthorized attendant	450.00	600.00	750.00
	3.	8.6 (5)(b)	Failure to maintain records	225.00	300.00	375.00
	4.	8.6 (5)(c)	Failure to pre-screen customer	225.00	300.00	375.00
	5.	8.6 (5)(d)	Permit attendant to be nude	450.00	600.00	750.00
	6.	8.6 (5)(e)	Offer or provide sexual services	450.00	600.00	750.00
	7.	8.6 (6)	Advertise contrary to conditions	450.00	600.00	750.00
	8.	8.6 (7)	Operate when prohibited	450.00	600.00	750.00
	9.	8.6 (8)	Use of unauthorized entrance	375.00	300.00	375.00

Enacted this XX day of XXXXXXXXXX, 2021.

John Taylor, Mayor

Lisa Lyons, Town Clerk



Corporation of the Town of Newmarket

By-law 2021-XX

A by-law to amend Fees and Charges By-law 2019-52 being a by-law to adopt fees and charges for services or activities provided by the Town of Newmarket. (Legislative Services - Licensing Charges).

Whereas the Municipal Act, 2001 authorizes a municipality to pass by-laws imposing fees or charges for services or activities provided or done by or on behalf of it; and,

Whereas Council enacted By-law 2019-52 to establish Legislative Services - Licensing Fees for the Corporation of the Town of Newmarket; and,

Whereas it is deemed necessary to amend the Schedule of By-law 2019-52.

Therefore be it enacted by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1. That the Schedule to the By-law 2019-52 be amended to remove the following fees:

Service Provided	Unit of Measure	2020 Fee
Body-Rub Parlour Owner*	each	\$639
Body-Rub Parlour Owner/Operator*	each	\$639
Body-Rub Parlour Operator*	each	\$446
Body-Rub Attendant	each	\$285

2. That the Schedule to the By-law 2019-52 be amended to add the following fees:

Service Provided	Unit of Measure	2020 Fee
Personal Wellness Establishment	each	\$150

Enacted this XX day of XXXXXXXX, 2021.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Corporation of the Town of Newmarket

By-law 2021-XX

A By-law to amend By-law 2020-31 being a By-law to regulate and licence businesses in the Town of Newmarket.

Whereas Section 151 of the Municipal Act 2001, S.O. 2001, c25, as amended, establishes that a municipality may provide for a system of licences with respect to a business;

And whereas the Council of the Town of Newmarket deems it advisable to pass such by-law;

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. That Section 2 “Definitions” to the By-law 2020-31 be amended to add the following:

“**Alternative Massage**” means any massage that is not provided by persons licensed, or registered as a regulated health professional under the laws of the Province of Ontario by the College of Massage Therapists as registered massage therapists or massage therapists to provide medical or therapeutic in nature, nor is it designed to appeal to erotic appetites or inclinations;

“**Personal Wellness Attendant**” means any Person who performs, offers, or solicits an Alternative Massage at a Personal Wellness Establishment;

“**Personal Wellness Establishment**” means any premises or part thereof where an **Alternative Massage** is performed, offered or solicited in exchange for payment;

2. That Section 8 to the By-law 2020-31 be amended to add the following sections:

8.6 Personal Wellness Establishments

- (1) Every room intended to be operated as part of a **Personal Wellness Establishment** shall be clearly identified at the time of a new or renewal **Business Licence** application process through the provision of a floor plan showing the location of each room.
- (2) Every Owner or Operator of a Personal Wellness Establishment shall submit a copy of a signed declaration demonstrating that the property owner and lessor has been informed of the nature of the owner's business.

- (3) Every Owner or Operator of a Personal Wellness Establishment shall submit to the Town:
- (a) a list of all Personal Wellness Attendants affiliated with the Personal Wellness Establishment, where the list shall include the following:
 - (i) proof satisfactory to the **Licensing Officer** that each Personal Wellness Attendant is eighteen (18) years of age or older, a citizen of Canada, or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of Alternative Massage services or similar occupation category;
 - (ii) government issued photo identification;
 - (iii) complete contact information for each Personal Wellness Attendant, including full name, phone number, and address; and
 - (iv) An itemized list of services each Personal Wellness Attendant is qualified to perform.
 - (b) a certificate, diploma, or other documentation certifying that the Personal Wellness Attendant has, in respect to the Alternative Massage services intended to be offered or provided, successfully completed a training program from an accredited educational institution in Canada;
 - (c) notwithstanding Section 8.6(3)(b), every Owner or Operator of a Personal Wellness Establishment offering or providing services where no accredited educational institution in Canada offers such training for Personal Wellness Attendants, the following shall be submitted:
 - (i) the name and membership number (if applicable) of the Personal Wellness Attendant;
 - (ii) the Alternative Massage modality or modalities practiced by the Personal Wellness Attendant;
 - (iii) proof satisfactory to the Manager that the Personal Wellness Attendant is a member in good standing of the association; and
 - (iv) any other relevant documentation upon the request of the Manager.
- (4) Prior to the issuance of a Personal Wellness Establishment Licence, the Manager may require one or more of the following be completed:
- (a) an interview with the Owner or any Personal Wellness Attendant employed by the Owner to ensure they are qualified to offer **Alternative Massage** services;
 - (b) an onsite inspection to verify the details of the application; and
 - (c) the application be referred to York Region Public Health, York Region Police, or any other Town department for the purpose of providing non-binding input.

(5) Every Personal Wellness Establishment shall ensure:

- (a) the Town has been notified of any Personal Wellness Attendant employed by the business prior to the Personal Wellness Attendant beginning to offer services at the Personal Wellness Services Establishment and all information listed in Section 8.6(3) has been forwarded to the Town for approval;
 - (b) a record is kept of each Alternative Massage provided and every record shall:
 - (i) include the name of the Person who provided the Alternative Massage and the time and date of the Alternative Massage;
 - (ii) be kept for at least one year after the date of the Alternative Massage;
 - (iii) be immediately produced upon demand to any Person assigned or appointed by the Manager to enforce this By-law; and
 - (c) a pre-screening form for each client of the Alternative Massage Business is completed to record the name, contact information, phone number and email address and medical conditions that assess the medical risk to an individual who receives an Alternative Massage;
 - (d) no Personal Wellness Attendant is nude in any portion of the Personal Wellness Establishment except for in any washrooms, showers, or change rooms; and
 - (e) no services are offered or provided that appeal to erotic or sexual appetites.
- (6) No Personal Wellness Establishment shall **Market** its products or services through any means of promotion unless the Business name is clearly displayed.
- (7) Every **Personal Wellness Establishment** shall only operate between the hours of 8:00 a.m. and 10:00 p.m. within the same calendar day.
- (8) Every Owner or Operator of a Personal Wellness Establishment shall ensure that no Persons other than staff enter the Personal Wellness Establishment except through a principal entrance as identified in the floor plan.

3. That the following Section 11 be added to By-law 2020-31:

11. Repeal

- (2) Licensing By-law 2002-151 Schedule 7 Body Rub Parlours is hereby repealed.

Enacted this XX day of XXXXXXXX, 2021.

John Taylor, Mayor

Lisa Lyons, Town Clerk



Corporation of the Town of Newmarket

By-law 2020-31

OFFICE CONSOLIDATION

This is a consolidation of the Town’s By-law to regulate and licence businesses to operate in the Town of Newmarket, being By-law 2020-31, as amended by the below listed by-laws and is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of By-law 2017-19. Official versions of all by-laws can be obtained from Legislative Services by calling 905-953-5300. If there are any discrepancies between this consolidation and By-law 2017-19 and listed amending by-laws the official by-laws shall prevail.

2021-09 – March 1, 2021	Rooftop patios

A By-law to regulate and licence businesses to operate in the Town of Newmarket.

Whereas sections 9, 11 and 151 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, establishes that a municipality may provide for a system of licences with respect to a business;

And whereas the Council of the Town of Newmarket deems it advisable to pass such by-law;

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. Title

This By-law may be known and cited for all purposes as the “Business Licence By-law 2020-31”.

2. Definitions

In this By-law

“**Alternative Massage**” means any massage that is not provided by persons licensed, or registered as a regulated health professional under the laws of the Province of Ontario by the College of Massage Therapists as registered massage therapists or massage therapists to provide medical or therapeutic in nature, nor is it designed to appeal to erotic appetites or inclinations;

“**Animal**” means any member of the animal kingdom other than a human;

“**Appeals Committee**” means the **Appeals Committee** established by the Town;

“**Applicant**” means a **Person** applying for a **Business Licence** to carry on a **Business**, activity, or undertaking pursuant to this By-law;

“**Attendant**” means any **Person** other than a licensed **Owner** or **Operator** who provides services designed to appeal to the needs of a particular **Business**;

“**Bird**” means a warm-blooded egg-laying vertebrate distinguished by the possession of feathers, wings, and a beak and (typically) by being able to fly;

“**Bed and Breakfast**” means a dwelling or part of a dwelling in which not more than three (3) bedrooms are used or maintained for the accommodation of the travelling public, in which the **Owner**-occupant supplies lodgings with or without meals for hire or pay;

“**Business**” means the carrying on of a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal, or other services as set out in Section 8 of this By-law, but does not include any activity carried on by the government, its agencies, or government owned corporations;

“**Business Licence**” or “**Licence**” means a **Licence** to operate a **Business** pursuant to this By-law;

“**Commercial Rooftop Patio**” means any portion of a rooftop dedicated as a serving area that is an accessory use to a restaurant or to a commercial use;

“**Council**” means **Council** for the Corporation of the **Town** of Newmarket;

“**Dwelling Unit**” means a room or group of rooms to be used by one family that functions as a single independent housekeeping unit in which cooking facilities, living quarters and sanitary facilities are provided for the exclusive use of those residing within the unit only, and with a private entrance from outside the building or from a common hallway or stairway inside;

“**Fees and Charges By-law**” means the **Town Fees and Charges By-law** 2019-52, as amended;

“**Licensee**” means a Person licensed under this By-law;

“**Licensing Officer**” means an individual appointed by the **Town** as a **Municipal Enforcement Officer** or any other individual designated by the **Town** to enforce this By-law;

“**Live Music**” means any live performance utilizing an instrument ones’ voice, a device or electronic equipment to amplify music, or any other form of live performance;

“**Lot**” means a parcel of land which is legally capable of being conveyed in accordance with the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or is described in accordance with a registered Plan of Condominium.

“**Manager**” means the **Town’s** Manager of Regulatory Services or their designate;

“**Market**” means sell, offer for sale, promote, canvass, solicit, rent, advertise, book, arrange or facilitate sale or rental, and includes placing, posting, or erecting advertisements physically or online;

“**Municipal Enforcement Officer**” means an individual appointed by the **Town** as a Municipal Law Enforcement Officer or any other individual designated by the **Town** to enforce this By-law;

“**Opaque Barrier**” means a barrier which does not permit the transmission of light through its structure;

“**Operator**” or “**Owner**” means any **Person** that operates or owns a **Business** as identified in this By-law;

“**Outdoor Serving Area**” means any area on private or public property which is licensed to serve alcohol and is used by a business for the serving or

consumption of food, beverages or refreshments which is not enclosed within a building structure or is exposed to the outdoors;

“Permanent Resident” in respect of any dwelling or **Lot** means a **Person** who normally resides in a dwelling on the **Lot** and for these purposes a **Person** cannot normally reside at more than one location;

“Permitted Animal” means an **Animal** identified as a "Permitted **Animal**" as listed in the **Town’s Animal Control By-law Schedule 'A'**, as amended;

“Person” includes a natural **Person**, corporation, partnership or party, and the **Personal** or other legal representatives or a **Person** to whom the context can apply according to law;

“Personal Wellness Attendant” means any **Person** who performs, offers, or solicits an **Alternative Massage** at a **Personal Wellness Establishment**;

“Personal Wellness Establishment” means any premises or part thereof where an **Alternative Massage** is performed, offered or solicited in exchange for payment;

“Pet Store” means a **Premises** in which the primary purpose of **Animals** or **Birds** for use as pets, or goods and merchandise associated with such **Animals** or **Birds**, are offered or kept for **Retail** sale or rental to the public;

“Premises” means the area of a building and/or **Lot** occupied or used by a **Business** or enterprise. In a multiple tenancy buildings occupied by more than one **Business**, each **Business** shall be considered a separate **Premises**;

“Retail” means the sale of products or goods to the ultimate consumer, usually in small quantities, in the ordinary course of **Business**;

“Short Term Rental” means all or part of a **Dwelling Unit** used to provide temporary sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment. This includes a **Bed and Breakfast** but excludes hotels, motels and accommodations where there is no exchange for remuneration;

“Short Term Rental Company” means any **Person** who facilitates or brokers **Short Term Rental** reservations via the internet and who:

- (a) receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a **Person** making or completing reservations of those **Short Term Rentals**; or
- (b) collects, accesses, or holds information on the number of nights that reservations of those **Short Term Rentals** are made or completed,

but does not apply to a **Person** who facilitates or brokers reservations for a **Short Term Rental** that is the principal residence of that person or their immediate family but **“Person”** includes multiple **Persons** who, acting together, carry on the **Business** of a **Short Term Rental Company**, despite the fact that no single one of those **Persons** carries on the activity in its entirety, and such may be held jointly and severally responsible for each other’s actions;

“Sign By-law” means the **Town’s Sign By-law 2017-73**, as amended;

“Town” means the Corporation of the **Town** of Newmarket in the Regional Municipality of York;

“Veterinarian” means a **Person** qualified and authorized to practice veterinary medicine;

“**Zoning By-law**” means the **Town’s Zoning By-law** 2010-40, as amended.

3. General Regulations

- (1) A **Person** must not carry on any **Business** unless that **Person** holds a valid and subsisting **Business Licence** issued to that **Person** for that **Business** within the **Town**.
- (2) Every **Business** shall comply with all federal, provincial, and municipal by-laws and regulations applicable to the **Business** and the **Business Premises**.
- (3) If a **Person** operates a **Business** at more than one **Premises**, that **Person** shall apply for and maintain a separate **Business Licence** for each **Premises**.
- (4) If a **Person** operates more than one type of **Business** at the same **Premises**, that **Person** shall apply for and maintain a separate **Business Licence** for each **Business**.
- (5) Every holder of a **Business Licence** shall post or display the **Business Licence** at the place of **Business** in a location visible to customers and suppliers attending the **Business**.
- (6) Every **Business Licence** issued shall be deemed to be a personal **Business Licence** to the licensee therein named.
- (7) A valid **Licence** will permit a **Business** to conduct the specific activities to the stated extent described in the **Licence** application. If a **Business** entity makes any changes to the information contained in its **Business Licence** application or information, undertakes new **Business** activities or expands those activities, it is required to obtain a new **Business Licence** or a **Business Licence** amendment for those activities.
- (8) No **Person** operating a **Business** within the **Town** shall **Market** that **Business** or its products and services through any means of promotion unless:
 - (a) the **Person** operating that **Business** is the holder of a valid **Business Licence** issued pursuant to this By-law;
 - (b) the **Business** name being promoted or marketed matches the named endorsed on the **Business Licence**; and
 - (c) the marketing offers products and services that comply with **Town** by-laws and related enactments.
- (9) No **Person** shall carry on a **Business** of any kind, in any way or manner on **Town** owned property, parks, boulevards, highways or other public property unless specifically authorized to do so by a permit under this Bylaw or another enactment.

4. Administration and Enforcement

- (1) Through delegated authority, the **Manager** may:
 - (a) grant, issue, or amend a **Business Licence** if the **Licensing Officer** is satisfied that the **Applicant** has complied with all of the by-laws of the **Town** and related enactments that apply to the **Applicant’s Business**;
 - (b) suspend, cancel, or refuse to issue a **Business Licence** in accordance with Section 7 of this By-law;

- (c) impose conditions on a **Licence** at the time of issuance, renewal, or suspension for the purposes of ensuring compliance with all applicable enactments pertaining to the **Business**;
 - (d) conduct inspections and investigations to ensure that all regulations and provisions prescribed in this By-law are carried out; and
 - (e) prepare, from time to time, forms to be used for the purpose of making applications under this By-law.
- (2) No **Person** shall Obstruct or attempt to Obstruct a **Licensing Officer** or other **Person** who is exercising a power or performing a duty under this By-law.

5. Licence Fees

- (1) **Business Licence** fees shall be in accordance with those specified in the **Fees and Charges By-law**.
- (2) An administrative penalty of 25% of the renewal fee shall be added to each unpaid **Business Licence** after 31 days from the renewal date. If unpaid by this time, the **Licence** shall be revoked and a new **Business Licence** application shall be required.
- (3) If an application for a **Licence** is withdrawn, in writing, prior to the issuance of the **Licence**, the **Licence** Fee shall be refunded to the **Applicant** if a **Licence** was pre-paid.
- (4) No **Licence** Fee shall be refunded after the issuance of a **Licence**.

6. Application and Renewal

- (1) The terms of a **Business Licence** issued under this By-law are for a period commencing January 1st and ending December 31st of the year for while the **Licence** is issued.
- (2) All new **Business Licence** applications shall be accompanied by a non-refundable \$50.00 application processing fee. If a **Business Licence** application is approved, the application processing fee shall be applied to the **Business Licence** fee identified under the Fees and Charges Bylaw.
- (3) Every **Applicant** for a new **Business Licence** or for the renewal of a **Business Licence** issued under this By-law shall:
 - (a) submit a completed application on the forms provided;
 - (b) file proof satisfactory to the **Licensing Officer** that they are eighteen (18) years of age or older, a citizen of Canada, or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of the **Licence** type that they are applying for;
 - (c) provide a copy of the:
 - (i) incorporating document and a copy of the last annual information return which has been filed with the appropriate government department, if the **Applicant** is a corporation; or
 - (ii) registered declaration of partnership, if the **Applicant** is a registered partnership;

- (d) provide any other document relating to the operation of the **Business** requested by the **Licensing Officer**, including but not limited to:
 - (i) government issued photo identification;
 - (ii) Vulnerable Sector Screening Search or Criminal Conviction Background Search issued by the Police Service in which the **Applicant** resides;
 - (iii) Harmonized Sales Tax (HST) number;
 - (iv) York Regional Health Department Inspection Certificate;
 - (v) Insurance Certificates;
 - (e) pay any required fees pursuant to the **Fees and Charges By-law**; and
 - (f) pay any outstanding fine(s) owed to the **Town** prior to the issuance of a **Business Licence**.
- (4) If a **Person** submits a **Business Licence** application for which additional information or documentation is required by the **Licensing Officer**, the **Person** shall supply all required information and documentation within 30 days of the request made by the **Licensing Officer**, after which time the application may be refused and a new application for a **Business Licence** is required.

7. Suspension, Cancellation, and Refusal

- (1) The **Manager** may revoke, suspend, cancel or refuse to renew or issue a **Licence**:
 - (a) where the past conduct of the **Applicant** or licensee affords reasonable grounds for belief that the **Applicant** or licensee will not carry on the activity for which the **Applicant** is applying for or the licensee is licensed for, in accordance with law and with integrity and honesty;
 - (b) where the **Applicant** of licensee has been found by the **Manager** or **Licensing Officer** to fail to comply with any provision of this By-law; or
 - (c) where the **Applicant** has been found by the **Manager** to provide false information in order to obtain a **Business Licence**.
- (2) Upon such revocation, suspension, cancellation, or refusal to issue or renew a **Business Licence**, the **Manager** shall provide a formal letter outlining the reason(s) for the refusal and shall be delivered to the **Applicant** or licensee within seven (7) business days. Such notice shall set out and give reasonable particulars of the ground(s) for the decision and options for an Appeal Hearing.
- (3) An **Applicant** or licensee of a **Business Licence** may request a hearing before the **Appeals Committee** for reconsideration of the **Manager's** decisions to revoke, suspend, cancel, or refuse to issue or renew a **Business Licence** by delivering a written request to the **Manager** within fourteen (14) days of the **Manager's** decision being sent.

- (4) The **Applicant** or licensee of a **Business Licence** must pay a non refundable Appeal Fee in accordance with the Fees and Charges Bylaw.
- (5) Before the **Appeals Committee** makes any decision, a written notice to advise the **Applicant** or licensee of the recommendations being made by the **Manager** with respect to the **Licence** shall be provided to the **Applicant** or licensee.
- (6) The **Applicant** or licensee shall have the right to make a submission in support of an application or renewal or retention of a **Licence** before the **Appeals Committee**.
- (7) Failure for the **Applicant** or licensee to attend the scheduled hearing before the **Appeals Committee** shall result in the proceeding of the hearing.
- (8) The decision of the **Appeals Committee** is final and binding.
- (9) No **Person** shall conduct any **Business** pursuant to their **Business Licence** during a period of suspension of that **Business Licence**.
- (10) No **Person** shall **Market** a **Business** during a period of suspension of that **Business' Licence**.
- (11) If the **Manager** suspends, cancels or refuses to issue, amend or renew the **Business Licence** for a **Business**, the **Town** may post a notice of suspension, cancellation, or refusal on the **Premises** of the **Business**.
- (12) A posted notice of suspension, cancellation, or refusal of a **Business Licence** shall not be removed until the **Manager** has approved the issuance of a valid **Business Licence**.
- (13) If a **Business** is operating without a **Licence** required under this By-law, the **Town** may post a notice describing the failure to hold a valid **Business Licence** on the **Premises** of the **Business**.
- (14) A posted notice of operating without a **Business Licence** shall not be removed until the **Manager** has approved the issuance of a valid **Business Licence**.

8. Specific Regulations

8.1 Pet Stores

- (1) Every **Pet Store** shall be maintained at all times in a sanitary, well-ventilated, clean condition, and free from offensive odours.
- (2) Every **Animal** shall be kept in sanitary, well-bedded, well-lighted, clean quarters, kept at a temperature appropriate for the health requirements of the type or species of **Animal** housed therein.
- (3) Every cage or other container used for the keeping or housing of any **Animal** shall:
 - (a) be of adequate size to permit any such **Animal** to stand normally to its full height, to turn around, and to lie down in a fully extended position;
 - (b) in the case of a cage or other container used to keep or house only **Birds**, have a removable metal or other impermeable bottom which shall be cleaned daily;

- (c) in the case of all other cages or containers, have a floor of either solid or wire mesh construction or any combination thereof, provided that:
 - (i) all spaces in wire mesh shall be smaller than the pads of the foot of any **Animal** confined therein;
 - (ii) any such wire mesh shall be of a thickness and design adequate to prevent injury to any such **Animal**; and
 - (iii) such floor shall be of sufficient strength to support the weight of any such **Animal**;
 - (d) be equipped with receptacles for food and for water, so mounted or situation that they cannot be easily overturned or contaminated; and
 - (e) be located and enclosed in a manner as to prevent undue physical contact with the public.
- (4) Fresh water shall be provided daily to every **Animal** in sufficient quantity to maintain at all times a potable supply available to such **Animal**.
- (5) **Animals** shall be fed periodically each day in accordance with the particular food requirements of each type or species of **Animal** kept within the **Pet Store**.
- (6) Every **Applicant** licensed or required to be licensed with the **Town** under this By-law shall:
- (a) provide to every purchaser of a cat or dog a health assessment from a licensed **Veterinarian** to verify the **Animal** has received up to date veterinary care;
 - (b) only permit a cat or dog within the **Pet Store** for the purpose of sale, where facilitated through adoption, and where the cat or dog has been obtained from one (1) of the following sources:
 - (i) municipal **Animal** shelters;
 - (ii) registered humane societies;
 - (iii) registered shelters; or
 - (iv) a recognized **Animal** rescue group;
 - (c) provide all enclosed dogs or cats reasonable exercise;
 - (d) not keep or sell any sick, injured, or diseased **Animals** unless under the direction of a veterinarian;
 - (e) not display any **Animal** in an exterior display window;
 - (f) not permit to be sold, offer for sale, or give away any **Animal** before it has reached the normal weaning age, based on known requirements of that particular species; and
 - (g) give the purchaser on any sale all available information pertaining to the disposition of any dog or cat, a receipt showing the name and address of the vendor and the purchaser, the date of sale, the sale price, the breed or crossbreed, sex, age, and description.

(7) Every **Pet Store** shall maintain a registry of each dog or cat purchased or otherwise obtained. Each entry shall be made at the time each dog or cat comes into the possession of any **Owner**, employee, or **Person** associated with the **Pet Store** and shall include:

- (a) the date of purchase;
- (b) a full description of the dog or cat;
- (c) the name, address, and contact information of the **Person** from whom the dog or cat was obtained; and

the **Pet Store** shall retain the register in respect of each transaction for the period of twelve (12) months thereafter and be made available to the **Manager** upon request.

(8) Every **Pet Store** shall ensure that an **Attendant** in charge of and responsible for the care and safe keeping of **Animals** within the **Pet Store** remains on site at all times during the **Business** hours of operation.

(9) Only **Permitted Animals**, as identified within the **Town's Animal Control By-law Schedule A**, shall be sold in any **Pet Store**.

(10) Every **Person** licensed under this By-law shall make every reasonable effort to obtain the name, address and description of anyone offering to sell or give to the licensee any **Animal** which the licensee has cause or reason to suspect has been stolen or otherwise unlawfully obtained and the licensee shall report the facts promptly to the nearest Police Division of the Region of York Police Services.

(11) Where the **Licensing Officer** or **Municipal Enforcement Officer** determines that an **Animal** appears to require medical attention, they may require the licensee to take the **Animal** to a qualified **Veterinarian** forthwith.

8.2 Short Term Rental Operators

(1) No more than one (1) **Short Term Rental** is permitted on a **Lot**.

(2) **Short Term Rentals** shall only be operated within one (1) **Dwelling Unit** on a **Lot**.

(3) **Short Term Rentals** shall provide one (1) off-street parking space for each bedroom identified as in use by the **Business**. In addition to this requirement, one (1) off-street parking space shall be provided for the **Permanent Resident** of the property.

(4) Each bedroom intended to be operated as part of a **Short Term Rental** shall be clearly identified at the time of a new or renewal **Business Licence** application process through the provision of a floor plan showing the location of each bedroom.

(5) Any changes to the number or location of bedrooms shall be provided to the **Municipal Enforcement Officer** through a **Licence** amendment application, prior to those bedrooms being used by the **Business**.

(6) An **Operator** of a **Short Term Rental** shall not:

- (a) rent out or provide any sleeping accommodations within any vehicle, tent, or any accessory building;
- (b) permit more than three (3) bedrooms to be made available for use;

- (c) permit more than (6) overnight guests at one time; or
 - (d) permit beds or bedrooms to be used that are not identified on the **Business Licence** application for that **Premises**.
- (7) An **Operator** of a **Short Term Rental** shall post or display the **Business Licence** number on any **Marketing**, advertisements, or promotions for that **Business**.
- (8) An **Applicant** for a **Short Term Rental** shall provide:
 - (a) proof that they are a **Permanent Resident** on the property; or
 - (b) the name of the **Permanent Resident(s)** on the property and a copy of a tenancy agreement, or other proof satisfactory to the **Licensing Officer**, of an existing and ongoing principal residential use, at the time of a new or renewal application.
- (9) An **Operator** of a **Short Term Rental** shall ensure that a **Permanent Resident** on the property is present and available within the **Town** at all times while guests are staying on the **Premises**, and is able to respond to concerns raised by guests, neighbours, or the **Licensing Officer** within two (2) hours.
- (10) An **Operator** of a **Short Term Rental** shall provide to each guest and the **Licensing Officer** the telephone number of the **Person** who is present or available to respond to concerns pursuant to **Town** by-laws or provincial regulations.
- (11) No **Person** shall **Market**, operate, or make available any **Dwelling Unit** or part of a **Dwelling Unit** for paid accommodation of less than 28 days unless that **Dwelling Unit** has a current **Short Term Rental Licence**.
- (12) Upon approval of a **Short Term Rental Business Licence**, the **Applicant** shall post a sign in conformity with the **Town's Sign By-law**, to identify the **Premises** as a licensed **Short Term Rental** within the **Town**.
- (13) Every **Short Term Rental** shall comply with Schedule A of this By-law as a condition of their **Business Licence** and shall comply with the demerit point system licensing requirements imposed.
- (14) Every **Short Term Rental Operator** shall only **Market**, list, or advertise their **Business** on a licensed **Short Term Rental Company** platform.

8.3 Short Term Rental Companies

- (1) No **Person** shall carry on the **Business** of a **Short Term Rental Company** unless they have obtained a **Licence** to do so from the **Town**.
- (2) No **Person** shall, **Market**, advertise, facilitate the advertising or rental of, or broker a **Short Term Rental** if its **Operator** is not licensed as such with the **Town**.
- (3) Every **Person** shall take down or remove a listing or advertisement related to an unlicensed **Operator** within 24 hours of being requested to do so by the **Town**.
- (4) An application for a **Short Term Rental Company Licence** shall be in a form approved by the **Manager** and require the **Applicant** to provide:

- (a) the **Short Term Rental Company's** registered **Business** address in Ontario;
 - (b) the name, phone number and e-mail address of a **Person** responsible for responding to all communications from the **Town**;
 - (c) details of the process by which the **Short Term Rental Company** will remove advertisements for a **Short Term Rental** if its **Operator** has not obtained a **Licence** with the **Town**;
 - (d) details of the **Short Term Rental Company's** procedure for dealing with problem **Operators** and responding to complaints; and
 - (e) any other information or documentation required by the **Manager**.
- (5) A **Short Term Rental Company** shall comply with all applicable fees as identified within the **Town's Fees and Charges By-law**.
- (6) An **Applicant** for a **Short Term Rental Company Licence** shall, prior to being issued a **Licence**, execute an agreement with the **Town** governing the use, retention, and disclosure of **Operator** and guest information on terms satisfactory to the **Manager**.
- (7) Every **Short Term Rental Company** shall keep a record of each concluded transaction in relation to a **Short Term Rental** listed or advertised on its platform for three (3) years following the last day of the rental period. A transaction is concluded on the last day of the rental period. The records retained shall include the following:
- (a) the name, address, and **Licence** number of the **Operator**;
 - (b) the number of nights the **Short Term Rental** was rented;
 - (c) the nightly and total price charged for the **Short Term Rental**;
 - (d) whether the rental was an entire-unit rental or room rental; and
 - (e) any other information required by the **Manager**.
- (8) Every **Short Term Rental Company** shall keep a record of the number of **Short Term Rental** listings or advertisement it removed from its platform in accordance with Sections 8.3(1) and 8.3(2) of this By-law.
- (9) Every **Short Term Rental Company** shall provide the records referred to in this section to the **Town** upon the request of the **Manager**.
- (10) Every **Short Term Rental Company** shall create **Operator** and guest accounts on its platforms as requested by the **Manager**, to be used to investigate compliance with this By-law.
- (11) No **Short Term Rental Company** shall obstruct, in any manner, access to any accounts established for use by the **Manager** or **Licensing Officer** to investigate compliance with this By-law.

8.4 Outdoor Serving Areas

- (1) Prior to the submission of their business licence application, every **Owner** or **Operator** shall ensure that they are in compliance with all federal, provincial, and municipal requirements, including but not limited to the:

- (a) Alcohol and Gaming Commission of Ontario;
 - (b) Central York Fire Services;
 - (c) Town's Planning Department;
 - (d) Town's Building Department; and
 - (e) York Region Public Health.
- (2) Every **Owner** or **Operator** who proposes to sell or offer for sale alcohol from the **Outdoor Serving Area** shall provide to the Manager, at the time of their application, a copy of the Liquor Licence issued by the Alcohol and Gaming Commission of Ontario.
 - (3) Every **Owner** or **Operator** shall ensure the **Outdoor Serving Area** operated at all time in accordance with the Alcohol and Gaming Commission of Ontario.
 - (4) No **Owner** or **Operator** shall operate or permit the occupancy of any **Outdoor Serving Area** between the hours of 1:00 a.m. and 11:00 a.m.
 - (5) Every **Outdoor Serving Area** that is located within 40m of the property line of an adjacent residential property shall be required to install a solid, translucent, or Opaque Barrier that is a minimum of 1.8m in height along its perimeter for the purpose of noise reduction and security.
 - (6) Every **Outdoor Serving Area** which is illuminated in an area adjacent to a residential use shall ensure all lighting fixtures and illumination are arranged, designed, and installed to deflect the light down and away from residential buildings, lots, and streets.
 - (7) Any person that proposes to operate an **Outdoor Serving Area** on public property along Main Street and between Millard Avenue and Water Street must first obtain approval from the Town's Planning Department.
 - (8) Notwithstanding Section 6(1) of this By-law, every **Outdoor Serving Area** located on public property shall only be permitted between April 1st and October 30th within the same calendar year.

8.5 Commercial Rooftop Patios

- (1) Prior to the submission of their business licence application, every **Owner** or **Operator** shall ensure that they are in compliance with all federal, provincial, and municipal requirements, including by not limited to the:
 - (a) Alcohol and Gaming Commission of Ontario;
 - (b) Central York Fire Services;
 - (c) Town's Planning Department;
 - (d) Town's Building Department; and
 - (e) York Region Public Health.
- (2) Every **Owner** or **Operator** shall only operate or permit the occupancy of any **Commercial Rooftop Patio** between the hours of 9:00 a.m. and 11:00 p.m. within the same calendar day.
- (3) No **Live Music** shall be permitted on any **Commercial Rooftop Patio** at any time.

- (4) Notwithstanding Section 8.5(3) above, an **Owner** or **Operator** of a **Commercial Rooftop Patio** can apply for a noise exemption permit to allow **Live Music** for special event purposes.
- (5) Any other form of music permitted on a **Commercial Rooftop Patio** shall comply with Noise Bylaw 2017-76, as amended.
- (6) Every **Commercial Rooftop Patio** shall be required to install a solid, translucent, or Opaque Barrier that is a minimum of 1.8m in height along its perimeter for the purpose of noise reduction and security, unless otherwise authorized by the Town.
- (7) Every **Commercial Rooftop Patio** which is illuminated in an area adjacent to a residential use shall ensure all lighting fixtures and illumination are arranged, designed, and installed to be dark sky compliant and to deflect the light down and away from residential buildings, lots, and streets.

8.6 Personal Wellness Establishments

- (1) Every room intended to be operated as part of a **Personal Wellness Establishment** shall be clearly identified at the time of a new or renewal **Business Licence** application process through the provision of a floor plan showing the location of each room.
- (2) Every Owner or Operator of a Personal Wellness Establishment shall submit a copy of a signed declaration demonstrating that the property owner and lessor has been informed of the nature of the owner's business.
- (3) Every Owner or Operator of a Personal Wellness Establishment shall submit to the Town:
 - (a) a list of all Personal Wellness Attendants affiliated with the Personal Wellness Establishment, where the list shall include the following:
 - (i) proof satisfactory to the **Licensing Officer** that each Personal Wellness Attendant is eighteen (18) years of age or older, a citizen of Canada, or a landed immigrant or produce a valid work permit issued by the Government of Canada; to work in the occupation of Alternative Massage services or similar occupation category;
 - (ii) government issued photo identification;
 - (iii) complete contact information for each Personal Wellness Attendant, including full name, phone number, and address; and
 - (iv) An itemized list of services each Personal Wellness Attendant is qualified to perform.
 - (b) a certificate, diploma, or other documentation certifying that the Personal Wellness Attendant has, in respect to the Alternative Massage services intended to be offered or provided, successfully completed a training program from an accredited educational institution in Canada;
 - (c) notwithstanding Section 8.6(3)(b), every Owner or Operator of a Personal Wellness Establishment offering or providing

services where no accredited educational institution in Canada offers such training for Personal Wellness Attendants, the following shall be submitted:

- (i) the name and membership number (if applicable) of the Personal Wellness Attendant;
- (ii) the Alternative Massage modality or modalities practiced by the Personal Wellness Attendant;
- (iii) proof satisfactory to the Manager that the Personal Wellness Attendant is a member in good standing of the association; and
- (iv) any other relevant documentation upon the request of the Manager.

(4) Prior to the issuance of a Personal Wellness Establishment Licence, the Manager may require one or more of the following be completed:

- (a) an interview with the Owner or any Personal Wellness Attendant employed by the Owner to ensure they are qualified to offer **Alternative Massage** services;
- (b) an onsite inspection to verify the details of the application; and
- (c) the application be referred to York Region Public Health, York Region Police, or any other Town department for the purpose of providing non-binding input.

(5) Every Personal Wellness Establishment shall ensure:

- (a) the Town has been notified of any Personal Wellness Attendant employed by the business prior to the Personal Wellness Attendant beginning to offer services at the Personal Wellness Services Establishment and all information listed in Section 8.6(3) has been forwarded to the Town for approval;
- (b) a record is kept of each Alternative Massage provided and every record shall:
 - (i) include the name of the Person who provided the Alternative Massage and the time and date of the Alternative Massage;
 - (ii) be kept for at least one year after the date of the Alternative Massage;
 - (iii) be immediately produced upon demand to any Person assigned or appointed by the Manager to enforce this By-law; and
- (c) a pre-screening form for each client of the Alternative Massage Business is completed to record the name, contact information, phone number and email address and medical conditions that assess the medical risk to an individual who receives an Alternative Massage;
- (d) no Personal Wellness Attendant is nude in any portion of the Personal Wellness Establishment except for in any washrooms, showers, or change rooms; and

- (e) no services are offered or provided that appeal to erotic or sexual appetites.
- (6) No Personal Wellness Establishment shall **Market** its products or services through any means of promotion unless the Business name is clearly displayed.
- (7) Every **Personal Wellness Establishment** shall only operate between the hours of 8:00 a.m. and 10:00 p.m. within the same calendar day.
- (8) Every Owner or Operator of a Personal Wellness Establishment shall ensure that no Persons other than staff enter the Personal Wellness Establishment except through a principal entrance as identified in the floor plan.

9. Offences

- (1) Every **Person** who contravenes any provision of this By-law is liable for the administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62, Schedule A.
- (2) Every **Person** who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law-2019-62.
- (3) Any **Person** who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

10. Severability

- (1) Any reference contained in this by-law to a statute, regulation or by-law includes it as amended, revised, consolidated or replaced.
- (2) All words in this by-law must be read and construed as incorporating the singular or the plural in any case, as applicable.
- (3) Article, section and paragraph headings in this by-law are inserted solely for ease of reference.
- (4) All words and personal pronouns relating to words contained in this by-law include the male and the female.
- (5) The schedules referred to in this by-law form an integral part of it. Each entry in a column of a schedule is to be read in conjunction with the entry or entries across from it.
- (6) Where a court of competent jurisdiction declares any section of this By-law to be invalid, or to be not in force, or without effect, it is the intention of **Council** in enacting this By-law that the remainder of this By-law shall continue in force and applied and enforced in accordance with its terms to the fullest extent possible according to law.

12. Repeal

- (1) Schedule 7 of Licensing By-law 2002-151 is hereby repealed.

Enacted this day of June, 2021.

John Taylor, Mayor

Schedule A
Demerit Point System for Short Term Rentals

A Demerit Point System is hereby established to enforce this By-law, any other Town by-law, or Provincial Act or Regulation including, but not limited to, administrative penalties as set out in the Town's Administrative Monetary Penalty System By-law 2019-62, as amended, the Building Code Act, the Fire Protection and Prevention Act, and the Provincial Offences Act.

- (1) The number of demerit points referenced in Column 3 of Table 1 of this Schedule will be applied against a Short Term Rental business premises and licence in respect of the matter noted in Column 1 under the following conditions:
 - a. fifteen (15) days from the date of issue for an administrative penalty issued under the Town's AMPS By-law;
 - b. upon the issuance of a Part 1 or Part III ticket under the Provincial Offences Act; or
 - c. upon conviction in the Ontario Court of Justice;
 - d. the confirmation of an order; or
 - e. the confirmation of any contravention documented by Central York Fire Services.
- (2) A Short Term Rental shall be awarded fifteen (15) demerit points upon the approval of their initial business licence.
- (3) Contraventions to the business premises as identified within Table 1 of this Schedule will result in a loss of demerit points. Demerit points shall remain in place for a duration of one (1) year from the date on which the demerit points were assessed.
- (4) Upon the loss of fifteen (15) or more demerit points to any Short Term Rental Licence, the Manager shall suspend, revoke, or impose additional conditions on a Short Term Rental Licence. The Owner or Operator may dispute any actions taken by the Manager by making a request, in writing, to appear before the Appeals Committee for the Town.

Hearing with the Appeals Committee

- (5) Notice shall be delivered by e-mail or regular mail to the address provided for the Owner or Operator of the Short Term Rental or Bed and Breakfast business, as identified on the application forms provided for a business licence.
- (6) Notice shall be provided a minimum of two (2) weeks in advance of the Hearing with the Appeals Committee date.
- (7) Notice provided in accordance with Section 5 of this Schedule shall be deemed to be sufficient Notice with or without confirmation of receipt of the Notice.

- (8) The fee payable by the Owner or Operator for the Hearing with the Appeals Committee shall be as prescribed and in accordance with the Town’s Fees and Charges By-law.
- (9) If the Owner or Operator fails to attend on the scheduled date, the Hearing with the Appeals Committee may proceed in absentia.
- (10) After hearing the matter, the Appeals Committee may:
- a. confirm the conditions imposed on, the suspension of, or the revocation of the business licence;
 - b. amend the conditions imposed on, the suspension of, or the revocation of the business licence; or
 - c. cancel the conditions imposed on, the suspension of, or the revocation of the business licence.
- (11) The decision of the Appeals Committee is final and binding.

Table 1		
Column 1 Infraction	Column 2 Reference	Column 3 Demerit Points
Fire Protection & Prevention Act/Fire Code	FPPA	15
Operate while business licence is suspended or revoked	Business Licence By-law 2020-31, as amended	7
Building Code Act	BCA	7
More than the number of bedrooms permitted	Business Licence By-law 2020-31, as amended	5
More than the number of guests permitted	Business Licence By-law 2020-31, as amended	5
Failure to respond to complaint by specified time	Business Licence By-law 2020-31, as amended	5
Contravention to Noise By-law	Noise By-law 2017-76	5
Contravention to Property Standards By-law	Property Standards By-law 2017-62, as amended	3
Contravention to Clean Yards By-law	Clean Yards By-law 2017-63	3
Failure to post business licence number on advertisements	Business Licence By-law 2020-31, as amended	3
Failure to post business licence on premises	Business Licence By-law 2020-31, as amended	3
Failure to post Sign	Business Licence By-law 2020-31	2
Contravention to Waste Collection By-law	Waste Collection By-law 2017-19	2