

Corporation of the Town of Newmarket

By-law 2021-34

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, **Marketed**, 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) No part of the **Personal Wellness Establishment** shall:
- (a) be used for human habitation; or
 - (b) contain any furniture commonly used for sleeping purposes.

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 21st day of June, 2021.

John Taylor, Mayor

Lisa Lyons, Town Clerk