



## OWEN SOUND POLICE SERVICES BOARD

Expires: Indefinite

Repeals: 2006-04, 2005-04, 06 & 2005-10

Revisions: June 13, 2008

### BY-LAW NO. 2008-15

## A BY-LAW RESPECTING THE LICENSING, GOVERNING, REGULATION AND INSPECTION OF BODY RUB PARLOURS WITHIN THE CITY OF OWEN SOUND

**WHEREAS** the Board passed bylaw 2006-04 on the 19<sup>th</sup> day of October, 2006; and

**WHEREAS** the Board deems it necessary to review bylaw 2006-04; and

**WHEREAS** s. 151 of the *Municipal Act, 2001 S.O. 2001, C. 25*, as amended (the "Act"), authorizes a Municipal Council to pass by-laws for the licensing, regulating, governing, classifying and inspecting of adult entertainment establishments including Body Rub Parlours and for revoking or suspending any such license and for limiting the number of licenses to be granted and;

**WHEREAS** pursuant to s. 159(1) of the Act, the City Council, with the consent of the Owen Sound Police Services Board, passed By-law 2003-053 on the 28<sup>th</sup> day of April 2003, which delegated to the Owen Sound Police Services Board the power to license, regulate and govern Body Rub Parlours, and other establishments named therein and;

**WHEREAS** s. 159(2) of the Act provides that Part IV of the Act thereafter applies, with necessary modifications, to a Police Services Board to which these powers have been delegated and;

**WHEREAS** the Police Services Board deems it necessary to exercise its licensing powers under s. 150 and s. 151 of the Act, including imposing conditions, for the following purposes:

- (i) the health and safety of the inhabitants of the City of Owen Sound; and
- (ii) to control, regulate and govern an activity as described in this By-law which might be, or might become, a nuisance and;

**WHEREAS** the reason the Owen Sound Police Services Board is licensing the activities described herein, or imposing the conditions described herein which apply to the business described herein, is that a Body Rub Parlour, where body rubs are administered, as described in this By-law, involve activities which do affect, or can affect, the health and safety of the inhabitants of the City of Owen Sound, and the conditions set out in this By-law for the licensing of a Body Rub Parlour, including without limitation the Owner, Operator, and any Body-Rubber or other person performing services in the body Rub Parlour, and also require to be licensed by this By-law, are included for the purpose of protecting the health and safety of the inhabitants of the City of Owen Sound, as well as to regulate, govern and control activities which are, or might become, a nuisance. Public health and safety are protected by controlling and regulating the physical conditions of the location, including washroom and sanitary facilities, access and lighting requirements, Body-rubber and other employee standards, and similar conditions to protect the inhabitants of the City of Owen Sound. The location should be licensed and regulated to ensure the use does not become a nuisance in the area in terms of exterior appearance, signage, noise, parking, vehicular and pedestrian access, and that the number and concentration of such uses do not adversely impact on surrounding land uses, and the inhabitants of the City of Owen Sound.

## **1. Definitions**

In this By-law:

- (a) “applicant” means a person applying for a license pursuant to this By-law;
- (b) “Board” means the Owen Sound Police Services Board;
- (c) “body rub” includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of the person’s body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario;
- (d) “Body Rub Parlour” includes any premises or part thereof where a body rub is performed, offered or solicited;
- (e) “Body-rubber” means an individual person who in pursuance of a business or calling provides, offers or solicits body rubs, or engages in a business involving the provision or receiving of body rubs by such person;

- (f) “Body-rubber’s licence” means a valid and subsisting licence issued under this By-law to a Body-rubber, in respect of the provision of body rubs at a Body Rub Parlour by such Body-rubber;
- (g) “business” includes a trade or occupation;
- (h) “City” means the Corporation of the City of Owen Sound;
- (i) “customer” includes any person seeking, soliciting or receiving a body rub or any other service at a Body Rub Parlour or to whom a body rub is provided or offered;
- (j) “drugs” shall be deemed to exclude patient medicines and prescription drugs required for medicinal purposes;
- (k) “he or she” or “him or her” shall be deemed to include reference to corporations and partnerships as the context allows, including “it” and “its” as the case may be;
- (l) “licence” means an authorization under this By-law to carry on the business specified therein, and the document providing evidence of such authorization, as the context may allow;
- (m) “licenced” means licensed under this By-law and not in breach of the provisions of this By-law;
- (n) “Licensing Officer” means the Chief of Police for the City of Owen Sound, or his or her designate;
- (o) “Medical Officer of Health” means the Medical Officer of Health for the Counties of Grey and Bruce;
- (p) “operator” means an individual person other than owner who alone or with other operates, supervises, runs or directs a Body Rub Parlour, on an ongoing basis or from time to time, or who exercises control over a Body Rub Parlour on behalf of the owner;
- (q) “operator’s licence” means a valid and subsisting licence issued under this By-law to an operator as defined in this section;
- (r) “owner” means a person who will own or with others has the right to possess or occupy a Body Rub Parlour, or actually does possess or occupy a Body Rub Parlour, and includes a Lessee of a Body Rub Parlour, or premises upon which a Body Rub Parlour is located, and includes an owner/operator;
- (s) “owner/operator” means an owner who is an individual and operates his or her own Body Rub Parlour;
- (t) “owner’s licence” means a valid and subsisting licence issued under this By-law to an owner as defined in this section;
- (u) “parlour” means a Body Rub Parlour’

- (v) “person” includes a natural individual, his/her heirs, executors, administrators or other legal representatives, and a corporation, partnership or other form of business association, or a receiver or mortgagee in possession;
- (w) “to provide” when used in relation to any body rub or related services includes to furnish, perform or give a body rub such related services or cause or permit the provision thereof “and providing” and “provision” have corresponding meanings;
- (x) “services” may include services designed to appeal to erotic or sexual appetites or inclinations and includes activities, facilities, performances, exhibitions, viewings and encounters, but does not include the exhibition of any film approved under the *Theatres Act*;
- (y) “services designed to appeal to erotic or sexual appetites or inclinations” means:
  - (i) services characterized by any person or persons involved or engaging in specified sexual activities or by an emphasis on the display of human specified body areas; or
  - (ii) services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or any other picture, symbol or representation having like meaning or implication is used in any advertisement, or in respect of which is advertised the availability of any form of entertainment held out to be, by reason of its sexual content, not suitable for minors;
- (z) “specified body areas” means one or more of the following:
  - (i) in the case of a female person, her nipples, and areolae; and
  - (ii) in the case of all persons, the pubic, perineal, perianal areas, the genitals, anus, and the buttocks;
- (aa) “specified sexual activities” means one or more of the following:
  - Actual or simulated sexual intercourse, masturbation, urination, defecation, ejaculation, sodomy, including bestiality, and intercourse, oral sexual intercourse, physical stimulation of genital organs, and flagellation, bondage or torture in the context of a sexual relationship or activity;

## 2. Licence Requirement

- (1) No person shall be an **owner** in respect of a Body Rub Parlour within the geographic limits of the City without making application for, obtaining and maintaining, pursuant to the terms of this By-law, a Body Rub Parlour owner’s licence authorizing that person to carry on such trade, calling, business or occupation in respect of that Body Rub Parlour.
- (2) No person shall be an **operator** in respect of a Body Rub Parlour within the geographic limits of the City without making application for, obtaining and

maintaining, pursuant to the terms of this By-law, a Body Rub Parlour operator's licence authorizing that person to carry on such trade, calling, business or occupation in respect of that Body Rub Parlour.

- (3) No person shall be a Body-Rubber in respect of a Body Rub Parlour within the geographic limits of the City, without making application for, obtaining and maintaining, pursuant to the terms of this By-law, a Body-rubbers Licence authorizing that person to carry on such trade, calling, business or occupation in respect of the Body Rub Parlour named in the licence.
- (4) At or before the time of taking out a Licence under this By-law, every owner, operator, or Body-rubber shall pay the fee fixed by this By-law for the Licence.
- (5) No person shall within the limits of the City carry on or engage in the business of owner, operator, or Body-rubber, of a Body Rub Parlour unless such person holds a valid subsisting Licence in good standing issued under this By-law authorizing him or her to do so.
- (6) Every owner/operator of an adult business:
  - (a) is required to be licenced as both an owner and an operator pursuant to this By-law;
  - (b) shall pay the fee in respect of each licence respectively; and
  - (c) shall be subject to the requirements and other provisions of this By-law in respect of his or her status as both an owner and an operator and shall comply with all the requirements of this By-law applicable to each.
- (7) Every person operating a Body Rub Parlour shall be required to obtain a Licence pursuant to this By-law, and any number of operators' licences may be issued in respect of any particular Body Rub Parlour.
- (8) No person other than an individual person may operate or be licenced as an operator of, a Body Rub Parlour.
- (9) a separate operator's licence shall be taken out by each operator of a Body Rub Parlour.

### **3. Additional Body-Rubber Regulations**

No Body-rubber shall carry on the business of a Body-rubber except in accordance with the provisions of this By-law, including the following:

- (a) Every person applying for a Body-rubber's Licence and who actually does perform or solicit body rubs, shall deliver or have delivered to the Medical Officer of Health prior to the Licence for said Body-rubber being issued or renewed, a Certificate signed by a duly qualified medical practitioner certifying that such person is free from communicable diseases, and is medically fit to perform body rubs, provided that no such Certificate shall be required by the Licensing Officer pursuant to this section more than once every year.

- (b) The Licensing Officer may at any time require any person who performs body rubs in a Body Rub Parlour to be medically examined by a medical doctor designated by the Medical Officer of Health, and the Medical Officer of Health may make a report of such examination to the Board.
- (c) If an owner or operator intends to perform body rubs in the Body Rub Parlour of which he is the owner or operator, the owner or operator must also be licenced as a Body-rubber.
- (d) No owner or operator shall cause or permit any body rub to be performed, offered or solicited in the pursuance of the business of a Body-rubber, upon or at his Body Rub Parlour or pursuant to the operation by him of the Body Rub Parlour, by any person other than a licenced Body-rubber.
- (e) No owner or operator shall cause or permit any person other than an employee of such owner or person with whom the owner has contracted in writing, to operate his Body Rub Parlour as operator, or to perform, offer or solicit body rubs in this Body Rub Parlour in pursuance of the business of a Body-rubber.
- (f) No Body-rubber or other person shall perform, offer or solicit body rubs in any Body Rub Parlour unless the owner of the said body Rub Parlour, and the operator if any of the said Body Rub Parlour is duly licenced as owner or operator respectively under this By-law.
- (g) No Body-rubber shall perform any body rubs or related services in a Body Rub Parlour unless his/her licence is posted up in compliance with the provisions hereof.
- (h) No Body-rubber shall be employed or under contract for any services to any owner or operator of a Body Rub Parlour except under a contract in writing.
- (i) No Body-rubber shall perform a body rub or any related services in a Body Rub Parlour, unless the Body-rubber who is to provide the services has first delivered to the customer an itemized bill for such services, listing the services to be provided, and the price to be paid for each service.
- (j) Upon payment of the bill referred to in the preceding subsection, the customer shall be given by the Body-rubber a written receipt for the full amount paid.
- (k) An Application for a Body-rubber's licence shall include the Applicant's social insurance number, documentation evidencing entitlement of the Applicant to work in Canada, and a letter confirming the prospective employment of the Applicant as a Body-rubber with a licenced owner or operator of a Body Rub Parlour, and proof of such person's date of birth, all in a form satisfactory to the Licensing Officer.

#### **4. Nature of Licence**

- (1) No person shall enjoy a vested right in the continuance of a licence and the value of a licence shall be the property of the Board and shall remain so irrespective of the issuance, renewal or revocation of the licence.

- (2) No person licenced to carry on any trade, calling, business or occupation pursuant to this By-law shall advertise or promote or carry on such trade, calling business or occupation under any name other than the name endorsed upon the licence.
- (3) The licences required by this By-law shall, unless they are expressed to be for a shorter or longer time, be for the period up to and including the 31<sup>st</sup> day of December in the year of issuance of a Licence, unless they are sooner forfeited or revoked.
- (4) No licence shall be transferred or assigned and if an owner sells, leases or otherwise disposes of the owner's interest in the trade, calling, business, or occupation carried on at a Body Rub Parlour, the license in respect of such Body Rub Parlour shall notwithstanding any other provision of this By-law, be revoked.
- (5)
  - (a) Every Body Rub Parlour owner's licence shall have endorsed thereon the location of the Body Rub Parlour. Such endorsement shall be for the one location only and such licence shall be valid only for the location endorsed on such licence.
  - (b) Every Body Rub Parlour operator's licence shall have endorsed thereon the location and the name of the Body Rub Parlour with respect to which it is issued. Such endorsement shall be for the one location only and such licence shall be valid only for the location and the Body Rub Parlour endorsed on such licence.
- (6)
  - (a) The requirement of obtaining any Licence under this By-law is in addition to, and not in substitution for, any other requirement to obtain a Licence or other regulatory approval under any other federal, provincial or municipal regulation.
  - (b) No licence shall be issued under this By-law in respect of any business or use of land carried on it breach of the Zoning By-law of the City, as amended, or any other law, nor shall any licence or the issuance of any licence under this By-law be deemed to authorize contravention of any such law.

## **5. Application for Licence and Revocation of Licence**

- (1) Every Applicant shall appear in person before the Licensing Officer and shall complete a Body Rub Parlour Owner/Operator's/Body-rubber's Licence Application in the form prescribed by the Board from time to time, and shall provide all information requested thereon, and shall furnish to the Licensing Officer such information as the Licensing Officer or the Board may direct from time to time. In the case of a Body Rub Parlour owned by a partnership such appearance shall be made by one of the partners, provided the Application shall be signed by all of the partners and in the case of the Body Rub Parlour owned by a corporation, such appearance shall be made by an authorized officer of the corporation and not by an agent thereof.
- (2) Every Applicant for a Body Rub Parlour owner's licence, or operator's licence, where such Applicant is a natural individual, shall have his or her

photograph taken by the Licensing Officer. Where the Applicant for the Body Rub Parlour owner's licence is a corporation, such photograph shall be taken of an authorized officer of the corporation. Where the Applicant is a partnership, such photograph shall be taken of one of the partners.

- (3) No person shall apply for a Body Rub Parlour owner's or operator's licence unless, where there are to be separate owners or operators, both Applications in completed form are filed with Licensing Officer simultaneously.
  - (i) A Record of all offences, other than offences relating to motor vehicles, under any By-law, Provincial Statute or Federal Statute in respect of which the Applicant, any of the partners, if the Applicant is a partnership, and any of the Directors, Shareholders and Officers of a corporation, if the Applicant is a corporation has or have been convicted.
  - (ii) Proof satisfactory to the Licensing Officer that all the Applicants, if an individual, are at least eighteen (18) years of age.
  - (iii) The name and address of the owner of any building, premises or place in which the Body Rub Parlour is carried on or is intended to be carried on.
  - (iv) The telephone number of the Body Rub Parlour.
- (5) Written confirmation satisfactory to the Licensing Officer in the case of an Applicant for an Owner's Licence that the Applicant is the Owner of the Body Rub Parlour in respect of which the Licence is sought.
- (6) At the time of submission of the Application, every Applicant shall pay to the Board, the annual fee set forth in the Body Rub Parlour Fees By-law, provided such annual fee may not be reduced in the event that the period for which the licence is granted is for more than four months in the year in which the licence is granted. At the discretion of the Licensing Officer, a percentage of such fee is refundable in the event that an application is not accepted for licensing.
- (7)
  - (a) Receipt of the application and the licence fee by the Licensing Officer shall not constitute approval of the Application for the issuance of a licence nor shall it obligate the Licensing Officer or the Board to issue such licence.
  - (b) No Application is complete, nor will be considered by the Licensing Officer, until the total fee is paid to the Licensing Officer by the Applicant, and all requirements as herein set out for the Applications are fully complied with.
- (8)
  - (a) Without limiting the generality of any other provision in this By-law, persons associated in a partnership applying for a licence under this By-law shall file with their Application a statutory declaration, in writing, signed by all members of the partnership, which declaration shall state;



- (i) the full name of every partner and the address of his or her ordinary residence;
  - (ii) the name or names under which they carry on or intend to carry on business;
  - (iii) that the persons named in the declaration are the only members of the partnership;
  - (iv) the mailing address of the partnership;
  - (v) the identity of every person having a beneficial interest, directly or indirectly in the premises or in the business to be carried on to which this By-law relates, of every person having a right to receive income, revenue or benefit of any kind arising out of the operation of such premises or business, and of any person who in fact receives such income, revenue or benefit, and the terms upon which such interest or right is conferred; and
  - (vi) the identity of all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the Body Rub Parlour or the control or management of either or both, and the terms upon which such interest or right is conferred.
- (b) If any member of a partnership applying for a licence is a corporation, such corporation shall be deemed to be applying for an owner's licence in place and stead of the partnership.
- (c) No partnership shall be licence as an owner in respect of a Body Rub Parlour unless that partnership is also an operator or some other person is licenced as an operator in respect of that Body Rub Parlour.
- (d) Without limiting the generality of any other provision in this By-law, every corporation applying for a licence shall file with the Licensing Officer, at the time of making this Application, a copy of its' Articles of Incorporation or other incorporating documents and shall file a statutory declaration, in writing signed by an authorized officer of the corporation, which declaration shall state:
- (i) the full name of every shareholder and the address of his or her ordinary residence;
  - (ii) the name or names under which it carries on or intends to carry on business;
  - (iii) that the persons named in the declaration are the only shareholders of the corporation; and
  - (iv) the mailing address of the corporation;

- (v) the identity of every person having a beneficial interest, directly or indirectly in the premises or in the business to be carried on to which this By-law relates, of every person having a right to receive income, revenue or benefit of any kind arising out of the operation of such premises or business, and of any person who in fact receives such income, revenue or benefit, and the terms upon which such interest or right is conferred;
  - (vi) the identity of all persons or entities having an interest, direct or indirect, any trust arrangement, or any financial or contractual or understood arrangement, with respect to the ownership or operation of the premises or the body Rub Parlour or the control or management of either or both, and the terms upon which such interest or right is conferred; and
  - (vii) a certified copy of its most recent filing with the Ministry of Consumer and Commercial Relations listing all directors and officers and the address of the head office of the corporation;
  - (viii) a resolution of the directors of the corporation authorizing the Application for a Licence; and
  - (ix) the name and address of every person having responsibility for the operation or management of the business of the Applicant.
- (e) No corporation shall be licenced as an owner in respect of a Body Rub Parlour unless an individual person is licenced as the operator of the Body Rub Parlour.
  - (f) Every person applying for a body Rub Parlour owner's licence shall file with the Licensing Officer, documentation satisfactory to the Licensing Officer demonstrating the Applicant's right to possess or occupy the premises to be used by them as a Body rub Parlour. If an Applicant is not the registered owner or owner in fee simple of the property upon which the body Rub Parlour is to be located, such person shall file with the Licensing Officer, with the Application for a Body Rub Parlour Licence, a copy of the lease, if any, and a copy of any other document constitution or affecting the legal relationship relating to the lands or premises between the Applicant and the registered owner or owner in fee simple of the real property.
- (9) Every Application for a Licence for a Body Rub Parlour by proposed owners or operators shall include a requirement that an Applicant provide, at a minimum, the information hereinbefore set out, together with the following:
    - (a) the name of any proposed operator, and an application by such person for an operator's licence;
    - (b) a precise description of the real property upon which the business is to be carried on, and where all services are to be provided, together with information as to exactly where in the property and what parts of the premises are to be utilized for such purposes; working

drawings of the physical premises with details and size of any doors, walls, seating areas, full or partial partitions and screens;

- (c) information as to whether or not all or any part of the premises in which the services would be offered are or intended to be licenced under the *Liquor Licence Act*, or the subject matter of an Application for such a Licence, and a copy of any such Licence and any such Application;
- (d) where the property is leased, or not owned by the owner of the Body Rub Parlour, a written consent of the registered owner of the property to the use of the property as a Body Rub Parlour on a form provided by the Licensing Officer;

## **6. Duties of the Licensing Officer**

- (1) The Licensing Officer shall:
  - (a) receive and process all applications or licences and renewal of licences to be issued under this By-law;
  - (b) co-ordinate the enforcement of this By-law;
  - (c) generally perform all the administrative functions conferred upon him or her by this By-law;
  - (d) make or cause to be made all investigations which he or she deems necessary to determine whether an Applicant has or will have or continues to meet the requirements of this By-law and all applicable laws;
  - (e) made or cause to be made a circulation respecting the application which shall include circulation of the licence application to the Medical Officer of Health and Municipal and Provincial Police Departments for comments;
  - (f) issue licences to persons who meet the requirements of this By-law or after due consideration provide a report and recommendation to the Board for its disposition with respect to each application which does not meet the requirements of this By-law;
  - (g) upon receipt of the Board's disposition with respect to each application for which a report and recommendation was made to the Board pursuant to this By-law, execute and issue all licences as directed by the Board or refuse to issue a licence as directed by the Board or revoke a licence as directed by the Board;
  - (h) where a licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the licences of persons who meet the requirements of this By-law or, after due consideration, provide a report and recommendation to the Board for its disposition with respect to each application for renewal that does not meet the requirements of this By-law and after receiving the Board's disposition with respect to such licence, renew the licence

as directed by the Board or revoke the licence as directed by the Board.

- (2) When an application for a licence is made in accordance with the provisions of this By-law and the applicant meets all the requirements of this By-law or as otherwise directed by the board, the Licensing Officer shall issue a licence certificate which shall set out the expiry date of the licence in accordance with this By-law and the Applicant shall thereby be licensed.
- (3) Upon review of a Licence Application, including an Application for Renewal, the Licensing Officer shall prepare a report and seek the Board's direction with respect to the issuance or renewal of a licence where:
  - (a) the past or current conduct of the Applicant or licence holder affords reasonable grounds for the belief that the Applicant or licence holder will not carry on the trade, calling, business or occupation in respect of the Body Rub Parlour in accordance with the law and with integrity and honesty;
  - (b) there are reasonable grounds for the belief that the carrying on of the trade, calling, business or occupation in respect of the Body Rub Parlour by the Applicant or licence holder will result in a breach of this By-law or any other applicable law;
  - (c) the Applicant or licence holder is a corporation or a partnership and its conduct or the conduct of its officers, directors, employees, agents or partners affords reasonable grounds for the belief that its trade, calling, business or occupation in respect of the Body Rub Parlour will not be carried on in accordance with the law and with integrity and honesty;
  - (d) there are reasonable grounds for the belief that the premises, accommodations, equipment or facilities in respect of which the licence is required to not comply with the provisions of this By-law or any other applicable law;
  - (e) the conduct of the Applicant or licence holder or other related circumstances afford reasonable grounds for the belief that the carrying on by the Applicant of the trade, calling, business or occupation in respect of the premises for which the licence is sought would infringe the rights or endanger the health or safety of other members of the public.
- (4) The Licensing Officer may suspend a licence where there is reason to believe that a breach of this By-law has occurred or for any of the reasons that would form the basis of the report to seek the Board's direction with respect to the issuance or renewal of a licence. Such suspension shall take effect upon service of written notice of the suspension to the licensee and the licence shall remain suspended for no more than sixty (60) days from the date of service of the notice. The Licensing Officer shall, within sixty (60) day period, prepare a report, and receive the Board's direction in this regard.

- (5) (a) Where the investigation by the Chief of Police, or any other information available to the Chief, discloses to the Chief of Police reasonable grounds to believe that the Applicant for, or Licensee named in, any License required by this By-law, may have his/her Application refused, or License revoked, for any of the grounds set out in this By-law, the Chief of Police shall so inform the Board and the Chief of Police shall recommend to the Board that it should refuse to issue or renew the License or that the Board should suspend or revoke the License, or issue the License on terms and conditions.
- (b) Before the Board refuses to issue or refuses to renew a License or suspends or revokes a License, a written Notice advising the Applicant or Licensee of the recommendation being made by the Chief of Police to the Board with respect to the License, or any other grounds provided in this By-law for the possible refusal, suspension or revocation of the License by the Board, shall be given to the Applicant or the Licensee by the Chief of Police, by personal service, or by sending the same by prepaid mail to the address of the Applicant as shown on the Application form; service by prepaid mail shall be deemed to be received by the addressee 48 hours after mailing thereof.
- (c) The written Notice to be given under subparagraph (b) shall:
- (i) set out the grounds for the recommendation;
  - (ii) give reasonable particulars of the grounds;
  - (iii) be signed by the Chief of Police;
  - (iv) inform the Applicant or the Licensee that, before the Board renders a decision on the matter, the Applicant is entitled to a hearing before the Board if he/she delivers to the City Clerk within seven (7) days after the date of service of the written Notice a written request for a hearing before the Board;
  - (v) inform the Applicant or Licensee of the provisions of subparagraphs (f) and (g).
- (d) Where the Chief of Police receives Notice from an Applicant requiring a hearing in compliance with this paragraph, the Chief of Police shall refer the Application and related information to the Board for a hearing.
- (e) The relevant provisions of the *Statutory Powers Procedure Act* of Ontario, as amended, shall apply to all hearing conducted by the Board under this By-law.
- (f) When the Applicant or Licensee who has been given written Notice of the Hearing does not attend at the appointed time and place, the Board may treat the Application as being abandoned, and the application need not be processed further, or the Board may proceed with the Hearing in his/her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceedings.

- (g) The Board shall, after the Hearing, make its decision on the matter, and the Applicant or Licensee shall not be entitled to a further hearing on the matter before the Board, and the decision of the Board shall be Final.”
- (6) Provided a licensed Applicant is not in breach of any of the terms of this By-law, the Licensing Officer shall renew an Applicant’s licence for a period of time up to and including the 31<sup>st</sup> day of December in the year of Application for Renewal, or such shorter or longer period of time et by the licensing Officer, provided such Applicant has completed the Application or Renewal as required by this By-law and in the form approved by the Board from time to time and has provided all information requested in the Application for Renewal.
- (7) Any Licence that has not been renewed as at the 30<sup>th</sup> day of November in the year of its issuance or renewal shall expire on the 31<sup>st</sup> day of December in the year of its issuance or renewal.
- (8) Notwithstanding the provisions hereof, the Licensing Officer may extend a licence where an Application for Renewal of the license has been made, a hearing by the Board has been requested by the Applicant and the final disposition of the Application remains outstanding by December 31<sup>st</sup> of the year in which the Renewal Application was made.

## **7. Change of Status**

- (1) Where there is any change in any of the particulars relating to a person licenced under this By-law, which particulars are required to be filed with the Board on applying for a licence under this By-law, such person shall report the change to the Licensing Officer within ten (10) days of the change or the licence issued under this By-law may be revoked.
- (2) where there is to be a change in the composition or the controlling interest of a partnership licensed under this By-law, the persons licenced under this By-law in partnership shall obtain the approval of the licensing Officer to such change prior thereto, failing which, the licence may be revoked.
- (3) Where there is to be a change in the composition or the controlling interest of the shareholders of a corporation licenced under this By-law, the corporation shall obtain the approval of the Licensing Officer to such change prior thereto, failing which the licence may be revoke. Where there has been any change in the controlling interest of the corporation, either by one transaction or a number thereof, the licence may be revoked, despite the Licencing Officer’s prior approval of any one or more such transactions.

## **8. General Regulations**

- (1) No owner shall permit or cause any person other than a licenced operator to operate a Body Rub Parlour.
- (2) No operator shall operate a Body Rub Parlour in premises for which the owner thereof has not obtained an owner’s licence under this By-law.
- (3) No person shall provide any person with a body rub, except in accordance with the provisions of this By-law.

- (4) No owner or operator of Body-rubber shall carry on any trade, calling, business or occupation at a Body Rub Parlour other than the Body Rub Parlour endorsed on the licence and at the location endorsed on the licence.
- (5) Every contract of service, contract for services or other document constituting or pertaining to the relationship between the owner, operator or Body-rubber at a Body Rub Parlour shall be in writing and shall be made available for inspection at any time during normal business hours of the Board to the Licensing Officer upon request, and shall be retained by the owner or operator or Body-rubber for a period of six months after its termination or completion.
- (6) No person shall be an owner or operator in respect of a Body Rub Parlour except in compliance with the following regulations:
  - (a) The premises shall be provided with adequate ventilation and with lighting that is adequate to ensure visibility and that is uniformly distributed throughout the premises;
  - (b) The premises and all fixtures and equipment in the premises shall be regularly washed and kept in a sanitary condition;
  - (c) The premises shall be equipped with an effective utility sink;
  - (d) Adequate toilet and washroom accommodation shall be provided in accordance with the regulations set forth under the Building Code Act, 1992, S.O. 1992, c. 23, as amended;
  - (e) Washrooms shall be equipped with:
    - (i) an adequate supply of hot and cold water;
    - (ii) an adequate supply of liquid soap in a suitable container or dispenser;
    - (iii) hot air dryers or individual towels in a suitable container or dispenser;
    - (iv) a suitable receptacle for used towels and waste material;
  - (f) No washroom, toilet, sink or basin used for domestic purposes shall be used in connection with a Body Rub Parlour;
  - (g) In all shower-bathrooms, if any, and in all sauna-bathrooms, if any:
    - (i) the floors shall be disinfected at least once a week with a disinfecting solution approved by the Medical Officer of Health;
    - (ii) all surfaces and attached accessories of the bath or shower enclosure must be self-draining;
    - (iii) all showers must have removable cleanable drain covers;

- (iv) floor surfaces both within and without the enclosures shall be of non-slip type;
- (7) No person shall be an owner or operator in respect of a Body Rub Parlour unless there is maintained over the street door or in the lower front window of the premises in respect to which such person's licence is issued or in some other conspicuous place on the exterior of such premises satisfactory to the Licensing Officer, a sign issued by the Licensing Officer bearing the words, "LICENCED Body Rub Parlour No. \_\_\_\_\_", (inserted after "No." the owner's licence number) and "Comments regarding this business may be made to the Owen Sound Police Services Office."
- (8) Every owner and operator shall keep the licence issued in respect of a Body Rub Parlour posted in a conspicuous place in the premises, in a manner satisfactory to the Licensing Officer, at all times during the currency of the licence.
- (9) Every owner, operator or Body-rubber at a Body Rub Parlour in the City who is in attendance at a Body Rub Parlour, whether engaged in their respective trade, calling business or occupation at that time or not, shall upon a request made to them by any peace officer, by-law enforcement officer, Medical Officer of Health, or the Licensing Officer provide their name, residential address and licence pursuant to the provisions of this By-law.
- (10) No owner, operator, or Body-rubber shall provide or cause or permit any services to be given, performed, provided or received in any Body Rub Parlour in breach of any of the provisions contained in this By-law.
- (11) No owner or operator shall permit any person who appears to be intoxicated by alcohol or drugs to enter or remain in any Body Rub Parlour.
- (12) No owner or operator shall permit a Body Rub Parlour to be open for business or cause or permit the provision of any services at a Body Rub Parlour, unless the owner or operator is in attendance in person or is represented by a senior employee having full authority to take action on behalf of the owner or operator and no owner or operator shall cause or permit a Body Rub Parlour to open for business, or remain open for business, or any body rub to be provided at such Body Rub Parlour unless this section is complied with.
- (13) No owner, operator or Body-rubber shall take, consume or have alcohol or drugs in their possession in a Body Rub Parlour, nor shall the use or effects of alcohol or drugs by them be apparent while that Body Rub Parlour is under their charge or when they are providing services therein, as the case may be.
- (14) Every owner who operates their own Body Rub Parlour and every operator shall provide and maintain at all times at the Body Rub Parlour a first-aid kit equipped in a manner satisfactory to the Medical Officer of Health.
- (15) Every owner, operator and Body-rubber shall, while engaged in their respective trade, calling, business or occupation in a Body Rub Parlour, be



neat and clean in his or her person and civil and well-behaved to members of the public with whom he or she is dealing.

- (16) No owner or operator or Body-rubber shall use or cause or permit to be used any camera or other photographic or recording device, in, upon or at a Body Rub Parlour by any person other than:
  - (a) a public health inspector acting under the direction of the Medical Officer of Health;
  - (b) the Licensing Officer;
  - (c) a peace officer; or
  - (d) a by-law enforcement officer.
- (17) No Body-rubber, owner or operator of a Body Rub Parlour, or other person in a Body Rub Parlour shall provide any services designed to appeal to erotic or sexual appetites or inclinations.
- (18) Every owner, operator or Body-rubber or other person providing any services at a Body Rub Parlour shall be clothed in a manner such that each such person's public and genital area, and in the case of a woman, her breasts, are fully covered by opaque material.
- (19) No Body-rubber shall provide or offer to provide a body rub to any person unless the Body-rubber's breasts, public area and genital area are completely covered by an opaque material.
- (20) No owner or operator of a Body Rub Parlour shall permit any Body-rubber to be in attendance in a Body Rub Parlour at any time whether performing body rubs or not, unless the Body-rubber is dressed in accordance with the provisions of this by-law.
- (21) Every room in a Body Rub Parlour where body rubs are performed shall be equipped with a window to permit observations by third parties of the provision of body rubs. The window must be at least three (3) inches by five (5) inches clear glass, located in the door to any room in which body rubs are to be performed, the window to be at height of not less than five (5) feet, and not higher than six (6) feet, and must not be obstructed at any time in any way.

## **9. Signs and Advertisements**

### **9.1 Signs**

- (1) No person shall erect or maintain any sign advertising a Body Rub Parlour or any trade, calling business or occupation carried on at a Body Rub Parlour except in accordance with City By-laws, including the Sign By-law of the City, as amended. Notwithstanding the provisions of the Sign By-law, no person shall erect or maintain any sign advertising a Body Rub Parlour or any trade, calling, occupation or business carried on at a Body Rub Parlour except in accordance with the following additional regulations:

- (a) No person may erect or maintain any sign other than those permitted by this By-law relating to a Body Rub Parlour in the City of Owen Sound.
  - (b) No person may erect or maintain an external wall sign in respect of a Body Rub Parlour or in respect of any trade, calling, occupation or business carried on at a Body Rub Parlour, except a wall sign or signs not exceeding a total combined area of one (1) square metre and not consisting of more than two wall signs.
  - (c) No person may erect or maintain a projecting external sign in respect of a Body Rub Parlour in the City of Owen Sound.
- (2) Nothing within this By-law shall be deemed to constrain any person from erecting or maintaining any sign on any interior wall of a Body Rub Parlour, provided the content of such sign is not visible from the exterior of the Body Rub Parlour, and provided it complies with this By-law.
  - (3) No person may erect or maintain any sign in respect of a Body Rub Parlour which includes any letter, markings, symbols, pictures or representations except the name of the Body Rub Parlour as recorded on the application for licence and any registered trade mark logos or symbols, provided a copy of such logos or symbols is filed with the Licensing Officer as part of the licensing process.
  - (4) No owner, or operator or a Body Rub Parlour shall allow or permit any signage or other reproduction on film or otherwise, in a Body Rub Parlour depicting services designed to appeal to erotic or sexual appetites or inclinations, or depicting specified body areas, or specified sexual activities.
  - (5) Every owner or operator shall obliterate, withdraw, remove or destroy any sign or other depiction or illustrations advertising their Body Rub Parlour or showing material prohibited by this By-law which has been erected or is being shown contrary to the provisions of the By-law upon their property, immediately upon becoming aware of same or upon being ordered to do so by the Licensing Officer, whichever shall first occur.

## **9.2 Advertisements**

No person shall display or circulate any poster, handbill, sign, card or novelty used to promote the business of a Body Rub Parlour on any lands or premises other than within the premises upon which the Body Rub Parlour is situated.

## **10. Construction of Premises**

- (1) Within any premises used as a Body Rub Parlour, the owner shall designate any room which shall be the room within which body rubs may be provided and which room shall be open at all times to all persons attending the Body Rub Parlour during the business hours of the Body Rub Parlour.
- (2) No room, cubicle or other enclosure or partitioned area located within the premises used as a Body Rub Parlour, other than the room designated pursuant to subsection (1), may be used for the provision of body rubs and

it shall be the duty of every owner and every operator and Body-rubber to ensure that this provision is complied with.

- (3) No person shall provide any body rub in any room, cubicle or other enclosure other than in the room designated pursuant to subsection (1).
- (4) No premises or part thereof used as a Body Rub Parlour shall be used by any person as a dwelling, for sleeping purposes or contain therein any furniture which is commonly used or may be used for sleeping purposes and it shall be the duty of the owner and the operator to ensure that his provision is complied with.
- (5) No door to any room or cubicle where services are or may be provided in a Body Rub Parlour, save and except one room designated by the owner and used by the owner or operator as an office and one room designated by the owner as a storage room, shall be equipped or constructed with a locking device of any kind, or with any device or structure which could delay or hinder anyone from entering or obtaining access to such a room or cubicle and it shall be the duty of the owner and the operator to ensure that this provision is complied with.
- (6) Every owner applying for a licence under this By-law shall file with the application a floor plan of the premises to be used as a Body Rub Parlour upon which the owner shall clearly designate the room or rooms which shall be used to provide body rubs, the room which shall be used as a n office by the owner and operator and the storage room, if any. In the event the owner of the operator wishes to amend the floor plan, they shall first file with the Licensing Officer a copy of the amended floor plan and shall not proceed to make any such alterations whatsoever without first obtaining approval of the Licensing Officer, failing which the licence of the owner and operator may be revoked.
- (7) No person shall provide any body rub in a room, cubicle or other enclosure which has a door or other means of access which is equipped or constructed with a locking device of any kind or which is equipped or constructed in such a way as to permit the obstruction, hindrance or delay of any person attempting to gain entry thereto, or which is not constructed or equipped in accordance with the provision of the By-law.
- (8) During the hours of business of a Body Rub Parlour, it shall be the responsibility of the owner and the operator, if any, to ensure that the door or doors or other principal means of access into the Body Rub Parlour by the public shall be kept unlocked and available so that anyone coming into the Body Rub Parlour from the street or other public place may enter therein without hindrance or delay.

## **11. Age Restriction**

No owner, operator or Body-rubber, shall permit any person under the age of eighteen (18) years to enter or remain in any part of a body Rub Parlour.

## **12. Hours of Operation**

- (1) No owner and no operator shall permit, and no Body-rubber shall perform, any body rub of any kind to be provided in any Body Rub Parlour except between the hours of 12:00 noon and 10:00 p.m. on Monday through Saturday inclusive, save and except that notwithstanding the foregoing, no body rubs of any kind shall be permitted in any Body Rub Parlour at any time on any statutory holiday, or on any Sunday, and any Body Rub Parlour shall be closed to the public on any day or at any time when body rubs are prohibited by this By-law.
- (2) No Body-rubber shall offer, perform or solicit a body rub or related services except during the hours of the days, and on the days, hereinbefore set out in subsection (1) hereof.
- (3) For the purposes of this section, during any period of time when the time commonly observed in the City is one (1) hour in advance of standard time, the times mentioned in this section shall be reckoned in accordance with the time so commonly observed and not standard time.

### **13. Restrictions On Location and Limitation on Number of Licences**

- (1) No person shall own or operate or cause or permit to be operated a Body Rub Parlour, and no Body-rubber shall perform body rubs, within the geographic limits of the City, except upon such lands as are zoned to expressly permit the use of a Body Rub Parlour thereon, as provided in the Zoning By-law, or any Interim Control By-law, of the City as amended from time to time.
  - (a) one hundred (100) metres from any drinking establishment or adult entertainment facility;
  - (b) eight hundred (800) metres from an institutional use including a school, daycare or church;
  - (c) five hundred (500) metres from any residential zone; and
  - (d) five hundred (500) metres from another Body Rub Parlour.
- (2) No person shall own or operate or cause or permit to be operated a Body Rub Parlour on any land or premises except in a single use building on a single lot or block upon which no other buildings are located and which lot or block may be conveyed in compliance with the provisions of the Planning Act, R.S.O. 1990, C. P.13, as amended, without the requirement of subdivision or consent approval.
- (3) The number of Body Rub Parlour owner's licences, which may be granted in respect of a Body Rub Parlour within the City shall be limited to two (2).
- (4) No person shall own or operate or cause or permit to be owned or operated a Body Rub Parlour from any premises except upon such lands as are zoned to expressly permit the use of a Body Rub Parlour as defined within the Comprehensive General Zoning By-law of the City of Owen Sound, as amended from time to time.

#### **14. Miscellaneous**

- (1) The making of a false or intentionally misleading recital of fact, statement or representation verbally to the Licensing Officer, or in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.
- (2) Every person shall comply with the provisions of this By-law applicable to that person whether or not that person is licenced under this By-law.
- (3) This By-law shall be known as the Body Rub Parlour By-law.
- (4) Every owner and every operator and Body-rubber shall during the regular operating hours of the Body Rub Parlour make available for inspection by the Licensing Officer, a Peace Officer, the Medical Officer of Health, a Provincial Offences Officer, or a By-law Enforcement Officer the original of any document or record referred to in this By-law.
- (5) Every owner and every operator o a Body Rub Parlour and every Body-rubber shall, at all times during the regular operating hours of the Body Rub Parlour, permit the entry by and the inspection of the Body Rub Parlour by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer, the Medical Officer of Health, or a Peace Officer.
- (6) No person shall obstruct or hinder the entry or the inspection of a Body Rub Parlour by a By-law Enforcement Officer, a Provincial Offences Officer, the Licensing Officer, the Medical Officer of Health, or a Peace Officer.
- (7) Wherever notice or materials are required to be served upon or provided to any person pursuant to this By-law, such service or provision shall be deemed effective upon the mailing of such materials by registered mail to the last address of that person as indicated upon the licence or other material filed with the Licensing Officer.

#### **15. Offences and Penalty**

- (1) Every person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed by this By-law or who performs an act prohibited by this By-law and every director or officer of a corporation who concurs in such contravention is guilty of an offence and, upon conviction is liable to a fine exclusive of costs not to exceed \$25,000.00;
- (2) A penalty in the case of a corporation, not to exceed \$50,000, exclusive of costs; and
- (3) An order closing the premises, which are the subject of the contravention for a period not to exceed two (2) years.

#### **16. Regulations-Supplied-Instructions-to all Employees**

Every owner and operator shall, before permitting any person to provide body robs or other services at a Body Rub Parlour provide to such person a copy of the regulations in this By-law, and instruct such person with respect to each of the regulations.

**17. Intention to Maintain Valid Provisions by Severance**

The Board hereby declares and confirms its intent that should any provision or any part of any provision of this By-law be held by a court of competent jurisdiction to be invalid, or of no force and effect, it is the intent of the Board in enacting this By-law, that each and every other provision of the By-law, and every part of any provision, authorized by law, stand and be applied and enforced in accordance with its terms to the extent possible according to law.

**18. Notice-Delivery and Service**

- (1) Any notice, order or other document required or authorized to be given under this by-law is sufficiently given if delivered personally or sent by prepaid ordinary mail addressed to the person to whom delivery is required to be made at the last address for delivery appearing on the records of the Licensing Officer.
- (2) Where service or delivery is effected by prepaid ordinary mail, it shall be deemed to be made on the third day after the date of mailing, unless the person on whom service is being made establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the notice, order or document until a later date.

This By-law shall come into full force and effect upon the final passing hereof.

Read a first and second time this            day of            , 2008.

Read a third and finally passed this            day of            , 2008.

\_\_\_\_\_  
G. Pierce, Chair

\_\_\_\_\_  
KJ. Calver, Secretary