



BY-LAW 2004-309

A By-law to Register Holistic Practitioners

WHEREAS section 157(1) of the *Municipal Act, 2001*, **S.O. 2001, c. 25** authorizes a **municipal council** to establish and maintain a registry of businesses, and to require a business to register and maintain its registration in the registry, and;

AND WHEREAS Council deems it necessary and in the interests of consumer protection to enact a by-law to register persons engaged in carrying on the business of a holistic practitioner to recognize these businesses distinct from those licensed as adult entertainment, and to provide the municipality with contact information to facilitate communication, zoning compliance and complaint resolution;

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

1. In this By-law,

‘**Association**’ means an organization listed in Schedule A of this by-law.

‘**Holistic Health Centre**’ means any premises or part thereof in which Holistic Services are provided or offered as a trade, calling, business or occupation;

‘**Holistic Practitioner**’ means a person who provides or offers to provide Holistic Services;

‘**Holistic Services**’ means any modality approved or recognized by an Association listed in Schedule “A” of this by-law which is used as a tool for therapeutic or medical purposes and which is provided or offered by a person who is duly qualified or licensed to do so as a registered member of an Association listed in Schedule “A” of this by-law, but does not include the following service;

- (a) Body-rubs as defined by By-law 2002-292, or any successor thereof; or
- (b) Complementary Healthcare services as defined under By-law 2002-292 or any successor thereof; or
- (c) Medical or therapeutic treatment performed or offered by persons otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario.

‘**Owner**’ means a person who, alone or with others, owns or controls the trade, calling, business or occupation carried on at a Holistic Health Centre or who directs the activities of an operator and “owner” includes a person who is the tenant or registrant in respect of premises which are utilized as a Holistic Health Centre.

‘**Operator**’ means a person who, alone or with others, operates, manages, supervises, runs or directs the trade, calling, business or occupation carried on at a Holistic Health Centre.

‘**Person**’ includes a natural individual, and their heirs, executors, administrators or other legal representative, a corporation.

‘**Registration**’ means an authorization under this By-law to carry on the trade, calling, business or occupation as a Holistic Practitioner or Owner of a Holistic Health Centre.

GENERAL PROVISIONS

2. No person alone or with others may provide or offer to provide services of a Holistic Practitioner without obtaining and maintaining registration under this By-law.
3. No person alone or with others may be an owner of a Holistic Health Centre without obtaining and maintaining registration under this By-law.
4. No person on the registry or employees of owners on the registry may provide or offer to provide services in a body-rub parlour or complementary healthcare establishment licensed or required to be licensed pursuant to By-law 2002-292, as amended, or any successor by-law thereof.
5. No owner of a Holistic Health Centre or no Holistic Practitioner may provide or offer to provide any services except in accordance with a list of services pursuant to subsection 8(d) of this By-law, and as approved on the application for registration.
6. Where there is any change in any of the particulars relating to a person registered under this By-law, which particulars are required to be filed with the Town on applying for registration under this By-law, such person shall report the change to the Licensing Officer within seven (7) days of the change.

APPLICATION FOR REGISTRATION

7. Application for registration shall be made on the form provided for by the Licensing Officer.
8. Application for registration as a Holistic Practitioner shall include:
 - (a) a completed application form;
 - (b) business names registration;
 - (c) documentation which provides proof of carrying on the business, trade, calling or occupation of the type of holistic services provided by the applicant;
 - (d) list of the type of holistic services provided;
 - (e) particulars of the information to be used or contained in any sign, pamphlet, handbill, newspaper, radio or television broadcast or to be otherwise displayed, distributed, announced or published by any means for the purpose of advertising, or a sample thereof;
 - (f) certificate, diploma or other documentation satisfactory to the Licensing officer, certifying that such applicant has successfully completed a course of training that has been approved by the Association for membership in respect of the holistic services intended to be offered or provided by such applicant;
 - (g) proof that the applicant is a member in good standing and demonstrated acceptance of the procedures, practices and ethics of the Association respecting the holistic services; and
 - (h) registration fee as required in Fees and Charges By-law 2002-276, as amended.
9. In addition to the requirements in section 8 of this by-law, application for registration of the owner of a Holistic Health Centre shall include
 - (a) A list of employees providing holistic services at the Holistic Health Centre named in the application.

10. Without limiting the generality of any other provision in this By-law, persons associated in a partnership applying for registration 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:
 - (a) the full name of every partner and the address of his or her ordinary residence;
 - (b) the name or names under which they carry on or intend to carry on business;
 - (c) that the persons therein named are the only members of the partnership; and
 - (d) the mailing address for the partnership.
11. If any member of a partnership applying for registration is a corporation, such corporation shall be deemed to be applying for the registration, in place and stead of the partnership.
12. Without limiting the generality of any other provision in this By-law, every corporation applying for registration shall file with the Licensing Officer, at the time of making its application, a copy of its articles of incorporation or other incorporating documents and last corporation information annual return and shall file a statutory declaration, in writing signed by an officer of the corporation, which declaration shall state:
 - (a) the full name of every shareholder and the address of his or her ordinary residence;
 - (b) the name or names under which it carries on or intends to carry on business;
 - (c) that the persons therein named are the only shareholders of the corporation; and
 - (d) the mailing address for the corporation.
13. The Licensing Officer shall:
 - (a) receive and process all applications for registration 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 and inspections which he or she deems necessary to determine whether an applicant meets the requirements of this By-law and all applicable laws; and
 - (f) issue a registration certificate to persons who meet the requirements of this By-law and suspend registrants pursuant to the requirements of this By-law.
14. Notwithstanding the foregoing section, upon review of an application for registration, the Licensing Officer shall prepare a report and seek Council's direction with respect to an application for registration where:

- (a) the past or current conduct of the applicant or registrant affords reasonable grounds for belief that he is not carrying or will not carry on the trade, calling, business or occupation in respect of the provision of holistic services in accordance with law and with integrity and honesty; or
 - (b) there are reasonable grounds for belief that the carrying on of the trade, calling, business or occupation by the applicant or registrant has or will result in a breach of this By-law or any other applicable law; or
 - (c) the applicant or registrant is a corporation or a partnership and its conduct or the conduct of its officers, directors, employees, agents or partners affords reasonable grounds for belief that its trade, calling, business or occupation in respect of the provision of holistic services has or will not be carried on in accordance with the law and with integrity and honesty; or
 - (d) the conduct of the applicant or registrant 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 provision of holistic services, would infringe the rights, or endanger the health or safety of other members of the public.
15. When an application for registration is made in accordance with the provisions of this By-law and the applicant meets all the requirements of this By-law or where the Licensing Officer has been so authorized by Council in response to a report in this regard, the Licensing Officer shall issue a registration certificate which shall set out the particulars of the registration in accordance with this By-law and the applicant shall thereby be registered.
16. The Licensing Officer may suspend a registration 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 a report to seek Council's direction with respect to the suspension or revocation of registration. Such suspension shall take effect upon service of written notice thereof to the registrant and registration shall remain suspended for no more than fifteen days from the date of service of this notice. In order to continue this suspension beyond the fifteen day period or to revoke the registration, the Licensing Officer must prepare a report and receive Council's direction in this regard. Where any registration is suspended, it shall not be reinstated until the Licensing Officer is able to confirm that the conditions leading to the suspension have been remedied.
17. At any meeting of Council called in relation to a report to determine the issuance, suspension or revocation of registration:
- (a) the applicant
 - (i) will be accorded its rights pursuant to the *Statutory Powers Procedure Act* including the right to appear and speak to the matter; and
 - (ii) when he or she has been provided with notice of the meeting and does not attend, Council may proceed with the meeting in the absence of the applicant.
 - (b) Council may,
 - (i) refuse to grant registration, revoke, or suspend registration;or

- (ii) impose special conditions as a requirement in order to obtain, or continue to hold a registration.
- (c) Council shall exercise its power under section 17(b) of this By-law,
 - (i) where the applicant has not met the requirements of this By-law; or
 - (ii) upon the grounds that the conduct of any person, including the officers, directors, employees or agents of a corporation affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity.

OFFENCE, PENALTY AND ENFORCEMENT

- 18. Any person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed herein or who performs an act prohibited herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction is liable to fines and penalties not to exceed those pursuant to the provisions of the Municipal Act, R.S.O. 1990, c. M.45 as amended.
- 19. The making of a false or intentionally misleading recital of fact, statement or representation in any agreement, statutory declaration or application form required by this By-law shall be deemed to be a violation of the provisions of this By-law.

MISCELLANEOUS

- 20. Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed here from and the remainder of the By-law shall continue in full force and effect.
- 21. All schedules referred to in this By-law are deemed to be part of this By-law.
- 22. Wherever notice or materials are required to be provided to any person pursuant to this By-law, such notice shall be deemed effective two (2) days after mailing of the materials by registered mail to the last address of that person as indicated upon the license application or upon other material filed with the Town or to the last assessed business address for the person as indicated upon the Taxation Roll Records.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
16TH DAY OF NOVEMBER, 2004.

SHEILA BIRRELL, TOWN CLERK

DON COUSENS, MAYOR

SCHEDULE A

ASSOCIATIONS for Holistic Practitioners

Canadian Trager Association
Ontario Polarity Therapy Association
Shiatsu Therapy Association of Ontario
Reflexology Registration Council of Ontario
Therapeutic Touch Network of Ontario
The Craniosacral Therapy Association of North America
Canadian Association of Acupuncture and Traditional Chinese Medicine
Canadian Federation of Aromatherapists
International Aromatherapists & Tutors Association Canada Inc.
Healing Touch Association of Canada
Healing Touch International