

**BYLAW NUMBER 53M2012**

**BEING A BYLAW OF THE CITY OF CALGARY  
TO LICENCE AND REGULATE THE  
BUSINESS OF BODY RUB  
\*\*\*\*\***

**WHEREAS** the *Municipal Government Act*, R.S.A. 2000 c. M-26, provides that the council of a municipality may pass bylaws for municipal purposes respecting businesses, business activities and persons engaged in business;

**AND WHEREAS** the *Municipal Government Act* provides that a council may in a bylaw:

- (i) regulate or prohibit;
- (ii) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways; and
- (ii) provide for a system of licences, permits or approvals;

**AND WHEREAS** Council for the City of Calgary considers it expedient to provide for the licensing and regulation of the business of body rub in Calgary;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:**

**PART I**

**GENERAL LICENSING PROVISIONS**

**Short Title**

1. This Bylaw may be cited as the "Body Rub Licence Bylaw".

**Interpretation**

2. (1) In this Bylaw:

"*applicant*" means a *person* who applies for a *licence* or renewal of a *licence*;

"*body rub*" means a *massage* performed by a *natural person* who is not a licensed *massage practitioner* pursuant to the *Massage Licence Bylaw 52M2012*;

"*body rub centre*" means any *premises* or part of a *premises* where:

- (i) a *body rub* is performed or offered to the public for a fee;
- (ii) records of a *body rub business* are maintained; or
- (ii) a member of the public may arrange for a *body rub* for a fee;

"*body rub office*" means a *business* where a *person* books *body rub* appointments and maintains the records of the *body rub business* at a *dwelling place*, but the *body rubs* are performed at another location;

"*body rub practitioner*" means any *natural person* who administers or offers to administer a *body rub* for a fee;

"*business*" means:

- (i) a commercial, merchandising or industrial activity or undertaking,
- (ii) a profession, trade, occupation, calling or employment, or
- (iii) an activity providing goods or services,

whether or not for profit and however organized or formed, including a co-operative or association of persons;

"*carry on*", "*carrying on*", "*carried on*" and "*carries on*" mean to conduct, operate, perform, keep, hold, occupy, deal in or use, for gain, whether as principal or *agent*;

"*Chief Licence Inspector*" means the *City Manager* or that person's designate;

"*City*" means The City of Calgary, a municipal corporation in the Province of Alberta, and includes the area contained within the boundaries of The City of Calgary where the context requires;

"*City Manager*" means the person designated by Council as its chief administrative officer or that person's designate;

"*Development & Building Approvals*" means the *City* business unit charged with deciding permit applications for land use and development;

"*dwelling unit*" means one or more rooms used or designed to be used as a residence by one or more *persons* and containing a kitchen, living and sleeping areas, and access to sanitary facilities;

"*employee*" means an individual employed to do work or provide a service who is in receipt of or is entitled to remuneration for the work or service;

"*employment affiliation*" means the *business* relationship which exists between a *person* and a *body rub centre* when that *person* is employed with, under contract to or an agent of the *body rub centre* to provide the service of *body rub*;

"*Land Use Bylaw*" means The City of Calgary Land Use Bylaw 1P2007;

"*licence*", "*licensed*" and "*licensing*" mean a *licence* or reference to a *licence* issued under this Bylaw;

"*Licence and Community Standards Appeal Board*" means the Licence and Community Standards Appeal Board as established by Bylaw 48M2007;

"*licence fee*" means those fees attached as Schedule A;

"*Licence Inspector*" means an inspector appointed to assist in carrying out the administration and enforcement of this Bylaw and includes the *Chief Licence Inspector*, Deputy Chief Licence Inspectors, police officers, and any *person*, inspector or *City* department whose consultation, approval or certificate is required under this Bylaw;

"*licencee*" means a *person* holding a valid and subsisting *licence* under this Bylaw;

"*massage*" means the physical external manipulation of the soft tissues of the human body, in a scientific and systematic manner by a natural person for the purpose of therapy or relaxation;

"*massage centre*" means a massage centre licensed pursuant to the Massage Licence Bylaw 52M2012;

"*massage practitioner*" means a natural person who holds a massage practitioner licence pursuant to the Massage Licence Bylaw 52M2012;

"*natural person*" means an individual human being;

"*non-resident*" means a *business* which is *carried on*, in whole or part, within the *City* but neither maintains permanent premises in the *City* nor is listed on the tax assessment rolls;

"*person*" means a *natural person* or a body corporate and includes a partnership, a group of *persons* acting in concert or an association unless the context explicitly or by necessary implication otherwise requires;

"*premises*" means a store, office, *dwelling unit*, warehouse, factory, building, enclosure or other place occupied or capable of being occupied, by any *person* for the purpose of *carrying on* any *business*.

- (2) Nothing in this Bylaw relieves a *person* from complying with any Federal or Provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.
- (3) Any headings or subheadings in this Bylaw are included for guidance purposes and convenience only, and do not form part of this Bylaw.
- (4) Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.
- (5) All Schedules attached to this Bylaw form part of this Bylaw.

- (6) Any reference in this Bylaw to a section, unless otherwise specified, is a reference to a section in this Bylaw.
- (7) Specific references to laws in this Bylaw are meant to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.

### Licence

- 3. (1) *A person must not carry on the business of a body rub practitioner, body rub centre or body office unless that person has a valid and subsisting licence.*
- (2) *A person must not contravene a condition of a licence.*
- (3) *Notwithstanding subsection (1), a licence is not required for medical or therapeutic massage treatments given by a qualified person, licensed to do so under the laws of the Province of Alberta.*
- (4) *A licence to carry on two or more businesses at one premises by one person may be issued on one licence form, but each business shall be deemed to hold a separate licence.*

### Licence Requirements

- 4. (1) *Every application for a licence pursuant to this Bylaw must be made to the Chief Licence Inspector.*
- (2) *A licence pursuant to this Bylaw may not be issued to a person under the age of eighteen years.*
- (3) *An applicant or licensee must not provide to a Licence Inspector false or misleading information or information intended to mislead with regard to any matter or thing arising in connection with the licensing of the business.*

### Body Rub Practitioner

- (4) *Every application for a licence to carry on the business of a body rub practitioner must include the following information:*
  - (a) *the full name, date of birth, residential address and telephone number of the applicant;*
  - (b) *two forms of identification, one of which must be government issued picture identification;*
  - (c) (i) *an original certificate of proficiency, demonstrating that the applicant has completed a minimum of 250 hours of training in massage from a recognized school or institute (a list of which is maintained by the Chief Licence Inspector); or*

- (ii) proof acceptable to the *Chief Licence Inspector* demonstrating that the *applicant* has achieved the equivalent of the 250 hours training in *massage* as determined by a recognized school or association; and
- (d) such other information as the *Chief Licence Inspector* may reasonably require.
- (5) Notwithstanding subsection (4), any *person* with a valid *massage practitioner's licence* issued under Bylaw 1M88, the *Massage Practitioners Bylaw*, is not required to provide proof of a minimum 250 hours training unless the holder of the licence allows the *licence* to expire.
- (6) A person may not hold both a *body rub practitioner licence* and a *massage practitioner licence* issued pursuant to Bylaw 52M2012.

#### Body Rub Centres and Body Rub Offices

- (7) Every application for a licence to *carry on the business* of a *body rub centre* or *body rub office* must include the following information:
  - (a) the full name, date of birth, residential address and telephone number of the *applicant*;
  - (b) the address for the proposed place of *business*;
  - (c) the full name, date of birth and residential address of the principal managing *employee* thereof;
  - (d) the full name or names of any other *person* or *persons*, their dates of birth and their residential addresses, having any financial interest in the *business* for which the application is made;
  - (e) when the *applicant* is a body corporate, the names and addresses of the officers of the corporation, its registered address and proof of incorporation;
  - (f) the trade name by which the *business* is going to operate; and
  - (g) such other information as the *Chief Licence Inspector* may reasonably require.
- (8) Where a *business* of a *body rub centre* is *carried on* in more than one *premises*, a *licence* is required for each *premises*.

#### Body Rub Offices

- 5. (1) Only a:
  - (a) *natural person* who:

- (i) holds a *body rub practitioner licence*; and
- (ii) held a *massage office licence* pursuant to Bylaw 51M97 as of December 31, 2012;

or

- (b) a corporation:
  - (i) that is owned by a sole shareholder that holds a *body rub practitioner licence*; and
  - (ii) held a *massage office licence* pursuant to Bylaw 51M97 as of December 31, 2012;

may apply for or hold a *body rub office licence*.

- (2) Subsection 5(1) ceases to apply:
  - (i) upon the *licence* expiring and the holder of the *body rub office licence* failing to renew the *licence*;
  - (ii) upon the *body rub office* moving to a new *business premises*; or
  - (iii) where the holder of the *body rub office licence* is a corporation, upon a change of control of the corporation.

### Licence Fees

- 6. (1) An application for a *licence* will not be considered by the *Chief Licence Inspector* unless and until the *applicant* pays the *licence fee* set out in Schedule "A" and any other fees, including fees for inspections, required by this or any other bylaw.
- (2) Fees paid by an *applicant* pursuant to this section are not refundable.
- (3) Where a *licence* has been issued in error without payment of the fees required pursuant to this section by an *applicant*, the *licence* may be revoked by the *Chief Licence Inspector*.
- (4) Where the holder of an existing *licence* applies for an additional *licence*, the fee payable for the additional *licence* will be adjusted so that the renewal date for the additional *licence* falls on the same renewal date as the *applicant's* existing *licence*.
- (5) Where the holder of an existing *licence* applies to amend that *licence* in any way the fee payable for the amended *licence* will be calculated as the *amendment fee* shown in Schedule "A".

**Non-Resident Businesses**

7. A person who holds a *body rub centre licence* or a *body rub office licence* must maintain a *business premises* within the *City*.

**Consultations and Approvals**

8. (1) The *Chief Licence Inspector* may consult, prior to issuing or renewing a *licence*, with the Calgary Police Service, Alberta Health Services and the Fire Department, as listed in Schedule "A", to determine whether they are in possession of information which, in the opinion of the *Chief Licence Inspector*, renders it inappropriate for an *applicant* to be issued a *licence*.
- (2) Where an *applicant* intends to *carry on business* at a specific *premises* or location within the *City*, the *applicant* must, prior to the *Chief Licence Inspector* issuing a *licence*, ensure that all necessary approvals required under the *Land Use Bylaw* have been obtained and must provide satisfactory proof to the *Chief Licence Inspector*.
- (3) The *Chief Licence Inspector* may determine that it is inappropriate to issue a *licence* to an *applicant* where the safety, health and welfare of the public may be at risk due to the issuance of a *licence*.
- (4) Where a *licence* has been issued in error without all the necessary approvals required pursuant to this Bylaw, the *licence* may be revoked by the *Chief Licence Inspector*.
- (5) For the purpose of a *licence* renewal, where *Development & Building Approvals* has previously confirmed that all necessary approvals required under the *Land Use Bylaw* have been obtained and:
- (a) there has not been a change in the *business* ownership since *Development & Building Approvals* gave the approval,
  - (b) the *licence* has not been previously suspended or revoked, and
  - (c) the *business* has been *carried on* continuously at the same *premises* and in the same manner,

the *Chief Licence Inspector* may renew the *licence* without requiring any further confirmation from *Development & Building Approvals*.

**Inspections**

9. (1) Where a *body rub business* requires a consultation or approval for *licensing* or is *licensed*, then the *business premises* may be inspected by a *Licence Inspector*.
- (2) A person who a *Licence Inspector* reasonably believes is *carrying on a business* requiring a *licence* under this Bylaw, or is an *applicant*, must:
- (a) permit and assist in all inspections requested by a *Licence Inspector*,

- (b) immediately furnish to a *Licence Inspector* all identification or information required and copies of anything related to the inspection or *licensing* requirement; and
  - (c) not provide to a *Licence Inspector* false or misleading information or information intended to mislead with regard to any matter or thing arising in connection with the *licensing* of the *business*.
- (3) A *person* must not attempt to prevent, obstruct or hinder a *Licence Inspector* from making an inspection authorized by this Bylaw.
- (4) During an inspection authorized under this section, a *Licence Inspector* may examine any *business* record or document for the purpose of enforcing this Bylaw, remove any relevant record or document from the *business premises* for the purpose of copying it, and must provide a receipt for any document or record so removed.
- (5) A *person* must not allow any false or misleading information to appear on any record required to be kept or prepared pursuant to this Bylaw.

#### **Proof of Business**

10. (1) Proof of one transaction of a *massage* or *body rub* or offer to administer a *massage* or *body rub* is sufficient to establish that the *business* of *body rub* is being *carried on*.
- (2) Any advertising of the *business* of *body rub* referred to in this Bylaw is sufficient to establish that the *person* advertising is *carrying on* the *business* of *body rub*.

#### **Refusal, Revocation, Suspension**

11. (1) Subject to an appeal to the *Licence and Community Standards Appeal Board*, if in the *Chief Licence Inspector's* opinion there are just and reasonable grounds to do so, the *Chief Licence Inspector* may:
- (a) refuse to grant any *licence* required by this Bylaw;
  - (b) impose conditions on a *licencee* or *licence* issued pursuant to this Bylaw; or
  - (c) suspend or revoke any *licence* issued pursuant to this Bylaw.
- (2) The *Chief Licence Inspector* may:
- (a) convene a hearing to determine whether there are just and reasonable grounds for the refusal of an application, a revocation or a suspension of a *licence*, or for imposing conditions on the *licence* or *licencee*; or
  - (b) suspend a *licence* prior to convening a hearing to determine whether there are just and reasonable grounds for the suspension or revocation of



a *licence* where, in the sole discretion of the *Chief Licence Inspector*, the safety, health or welfare of the public may be at risk if the *licence* is not suspended immediately. In the case of such suspension, the date scheduled for a hearing must be within ten days of the suspension.

- (3) Where any certificate, authority, licence or other document of qualification under this or any other bylaw, or under any statute of Canada or the Province of Alberta is suspended, cancelled, terminated or surrendered, the *Chief Licence Inspector* must suspend any *licence* issued under this Bylaw based in whole or in part on the certificate, authority, licence or other document of qualification without convening a hearing.
- (4) Upon a *licence* application being refused, a *licence* being revoked or suspended, or conditions being applied to a *licence*, the *Chief Licence Inspector* must notify the *applicant* or *licensee* of the refusal, revocation, suspension or conditions and the reasons for it:
  - (a) by delivering a notice to the *applicant* or *licensee* personally; or
  - (b) by mailing a registered letter to *applicant's* or *licensee's* place of *business* or residence as shown on the *licence* or *licence* application;

and after the delivery of such notice, the *business* or occupation, as the case may be, must not be *carried* on until such time as the period of suspension ends or a new *licence* is issued to replace the *licence* which was revoked or the conditions of the *licence* are complied with.

- (5) A suspension of a *licence* issued pursuant to this Bylaw may be:
  - (a) for a period of time not exceeding the unexpired term of the *licence*; or
  - (b) where the suspension is for non-compliance with a bylaw, until the holder of the suspended *licence* has, in the opinion of the *Chief Licence Inspector*, complied with that bylaw.
- (6) A *licence* may be suspended or revoked for a non-compliance with any bylaw of the City of Calgary notwithstanding that the holder of the *licence* has not been prosecuted for a contravention of that bylaw.
- (7) The *Chief Licence Inspector*, after providing the *applicant* the opportunity for a fair hearing, may refuse to renew a *licence* if the *applicant* or a corporation named in the application has outstanding fines owing to the *City* for an offence under this Bylaw relating to the operation of the same category of *business* for which the renewal is sought.
- (8) Where the *Chief Licence Inspector* has suspended or revoked a *licence* pursuant to this Bylaw, then, unless such suspension or revocation is overturned in the whole by the *Licence and Community Standards Appeal Board*, the *licensee* must pay a reinstatement fee as set out in Schedule "A" as a condition of any reinstatement or renewal of the *licence*, including any reinstatement on the

conclusion of a suspension for a fixed term, and prior to receiving a *licence* if the *licencee* applies for a new *licence*.

- (9) Fees paid by an *applicant* pursuant to this section are non-refundable.
- (10) Where a *licence* is suspended or revoked by the *Chief Licence Inspector*, pursuant to this Bylaw, the *licencee* must surrender the *licence* to the *Chief Licence Inspector* immediately.
- (11) A *person* must not carry on the *business* of *body rub practitioner*, *body rub centre* or *body rub office* while that *person's licence* is suspended.

### Appeal

- 12. (1) The provisions of the Licence and Community Standards Appeal Board Bylaw Number 48M2007 apply to an appeal of a decision of the *Chief Licence Inspector* to refuse, suspend or revoke or attach conditions to a *Licence*.
- (2) Where a *Licencee* has given notice of an intention to appeal the revocation, suspension or condition of a *licence*, the *Chief Licence Inspector* may, in the *Chief Licence Inspectors* sole discretion, stay the revocation, suspension or condition pending the hearing of the appeal if the continued operation of the *business* does not create a danger to the safety, health or welfare of the public.
- (3) All notices of appeal must be accompanied by a notice of appeal deposit in the amount specified in the Licence and Community Standards Appeal Board Bylaw.

### Licence Identification

- 13. (1) A *licence* must be issued by the *City* on a form bearing the identification of the *City* and all *licences* issued pursuant to this Bylaw are and will remain the property of the *City*.
- (2) A *licence* must bear on its face the date on which it is issued and the date on which the *licence* will expire.
- (3) The holder of a *body rub practitioner licence* under this Bylaw must be issued an *licence* bearing the photograph, name and signature of the holder and its expiry date.
- (4) A *licencee* who holds a *licence* which applies to a specific *premises* must keep it posted in public view in the *licensed premises*.
- (5) A *licencee* who does not *carry on business* at specific *premises* must carry or have immediately available, the *licence* and must, upon request, immediately produce the *licence* to a *Licence Inspector*, or any *person* with whom they are *carrying on business*.
- (6) A *person* must not reproduce, alter, or deface a *licence*.

- (7) A *licencee* may obtain a replacement *licence* for a *licence* that has been lost or destroyed by paying to the *City* the replacement *licence fee* set out in Schedule "A".
- (8) A *person* must not be in possession of:
  - (i) a reproduction of a *business licence*;
  - (ii) an altered *business licence*; or
  - (iii) a *business licence* that has been defaced.

### **Transfer of Licences**

- 14. A *licence* is not transferable from one *person* to another or from one *person's business premises* to another.

### **Corporate Licencees**

- 15. (1) For the purposes of this Bylaw,
  - (a) control of a corporation means holding at least 50% of the voting shares issued by that corporation; and
  - (b) a change in control of a corporation means:
    - (i) a change in the ownership of at least 50% of the voting shares issued by that corporation; or
    - (ii) a change to at least 50% of the directors of the corporation.
- (2) If there is a change in control of a corporation which holds a *licence* issued pursuant to this Bylaw,
  - (a) the corporate licencee must notify the Chief Licence Inspector of the change of control; and
  - (b) any *licence* issued pursuant to this Bylaw that is held by the corporation is cancelled.

## **PART II**

### **RESPONSIBILITIES OF LICENCEE**

#### **General**

- 16. (1) A *licencee* must maintain, on a continuous basis, the standards and requirements necessary to obtain a *licence* or any standards that are imposed by bylaw after the *licence* is issued.

- (2) When the information required to be provided to the *Chief Licence Inspector* becomes inaccurate, updated and accurate information must be promptly provided by the *licencee* to the *Chief Licence Inspector*.

### Body Rub Practitioners

17. (1) A *body rub practitioner* must not enter into an *employment affiliation* with more than one *body rub centre*.
- (2) A *body rub practitioner* must immediately advise the *Chief Licence Inspector* of any change in *employment affiliation*.
- (3) A *body rub practitioner* must undergo a police check annually.

### Body Rub Centres

18. (1) In this section, "*business operator*" means the *natural person* having care and control of the *premises* at which the *business* is *carried on*.
- (2) The:
  - (i) holder of a *massage centre licence*, and
  - (ii) the *business operator* of the *massage centre*are responsible for the acts of the *employees* of and persons having an *employment affiliation* with the *licencee* in the *carrying on* of the *business* in the same manner and to the same extent as though the acts were done by the *licencee* or the *business operator*.
- (3) Where the holder of a *body rub centre licence* is a corporation, the directors of that corporation are responsible for the act or acts of the corporation's *employees* or *persons* having an *employment affiliation* with the *licencee* or *business operator* in the *carrying on* of the *business* in the same manner and to the same extent as though the act or acts were done by the *licencee* or *business operator*.

### Employee Lists

- (4) Every *person carrying on the business* of a *body rub centre* must keep on the *premises* an accurate and current list of all *persons employed* in the *body rub centre* including all *body rub practitioners* with an *employment affiliation* to the *body rub centre*, and the record must contain the following information:
  - (a) the true full name of each *employee* and any alias and common nickname by which that person is known or uses for advertising purposes;
  - (b) the birth date of the *employee*;
  - (c) the residential address and telephone number of each *employee*;
  - (d) the job title of the *employee*; and

- (e) the *business licence* number as it appears on the *business licence* of each *massage practitioner*.

Register

- (5) Every *person carrying on the business of a body rub centre or a body rub office* must keep at the *body rub centre or body rub office* a register, kept in a form satisfactory to the *Chief Licence Inspector*, in which must be permanently and legibly recorded the following:
  - (a) the name of the practitioner performing the *body rub* or *massage*;
  - (b) the time, day, date and location of the appointment; and
  - (c) the name of the client booked for the *body rub* or *massage*.
- (6) The information set out in subsection (5) must be entered into the register prior to the *body rub* being performed.

Services to be performed at Body Rub Centre premises

- (7) A *body rub centre* must not book appointments for a *body rub* or *massage* to be performed at a location other than the *premises* of the *body rub centre*.
- (8) Subsection 17(7) does not apply to a *body rub centre* that was licensed as a *massage centre* pursuant to the former *Massage Licence Bylaw 51M97* as of December 31, 2012.
- (9) Subsection 17(8) ceases to apply:
  - (a) upon the *licence* expiring and the holder of the *body rub centre licence* failing to renew the *licence*;
  - (b) upon the *body rub centre* moving to a new *business premises*; or
  - (c) where the holder of the *body rub centre licence* is a corporation, upon a change of control of the corporation.

Location of Body Rub Centres

- (10) A *body rub centre* must not be located within 300.0 metres of any other *body rub centre*, as measured from the closest point of a parcel on which a *body rub centre* is located to the closest point of another parcel on which a *body rub centre* is located.
- (11) Subsection 17(10) does not apply to a *body rub centre* was previously licensed as a *massage centre* pursuant to the former *Massage Licence Bylaw 51M97* as of December 31, 2012.

- (12) Subsection 17(11) ceases to apply:
- (a) upon the *licence* expiring and the holder of the *body rub centre licence* failing to renew the *licence*;
  - (b) upon the *body rub centre* moving to a new *business premises*; or
  - (c) where the holder of the *body rub centre licence* is a corporation, upon a change of control of the corporation.
- (13) A *body rub centre* must not operate out of a *dwelling unit*.
- (14) Subsection 17(13) does not apply to a *body rub centre* was previously licensed as a *massage centre* pursuant to the former Massage Licence Bylaw 51M97 as of December 31, 2012.
- (15) Subsection 17(14) ceases to apply:
- (i) upon the *licence* expiring and the holder of the *body rub centre licence* failing to renew the *licence*;
  - (ii) upon the *body rub centre* moving to a new *business premises*; or
  - (iii) where the holder of the *body rub centre licence* is a corporation, upon a change of control of the corporation.
- (16) A *body rub centre* and a *massage centre* must not operate in the same *premises*.

### Body Rub Office

19. A *body rub* may not be performed at a *body rub office*.

### Employment Affiliation

20. (1) A person who carries on the business of a *body rub centre* must only enter into an *employment affiliation* with a *licensed body rub practitioner* or a *licensed massage practitioner*.
- (2) The holder of a *body rub office licence* must not have any *employees* other than the *licensee*.
- (3) Notwithstanding subsection (2), if the holder of a *body rub office licence* is a corporation, the holder of the *body rub office licence* must not have any *employees* other than the shareholder of the corporation.

### Advertising

21. (1) A person carrying on a business described in this Bylaw must not advertise or arrange for any form of advertising that includes the word *body rub* or that suggests to the prospective client that the service of *body rub* may be provided,

unless *licensed* under this Bylaw, with the exception of a *person* who is exempted from the requirement for a *licence* under section 3(3) of this Bylaw.

- (2) A *licencee* who advertises or causes advertising to be placed, or distributed, respecting the *licencee* or the services offered by the *licencee*, must include in the advertisement, in a readable manner, the valid *business licence* number of each *licencee* referenced in the advertisement.
- (3) A *licencee* must not arrange for the distribution, publication or posting of any advertisement that describes or depicts any portion of the human body:
  - (a) that would reasonably suggest to prospective clients that any service is available other than a *body rub*; or
  - (b) that depicts or displays the nudity or semi-nudity of any person.

### **Hours of Work**

22. A *licencee* must not *carry on* the *business of body rub* between the hours of 11:00 pm and 6:00 am.

### **Restricted Activities**

23. (1) A *licencee* under this Bylaw must not permit an *unlicensed person* to perform, contract to perform, or observe a *body rub* being conducted.
- (2) Notwithstanding subsection (1), any Provincially licensed school offering a program in *massage* may, as part of that program, allow a registered student to observe and perform a *body rub* in the presence of an instructor.
- (3) An *employee* must not allow himself or herself to be touched by a client.
- (4) A *person carrying on* the *business of body rub centre* or *body rub office* must not permit any *person* to perform a *body rub* unless clothed in non-transparent clothing covering the area from neck to mid-thigh.
- (5) A *person* must not perform a *body rub* unless clothed in non-transparent clothing covering the area from neck to mid-thigh.
- (6) A *person* must not permit a person under eighteen of years of age to enter or remain on or in the premises of a *body rub centre*.

## **PART III**

### **OFFENCES AND PENALTIES**

#### **Offences**

24. Any *person* who contravenes any provision of this Bylaw by:

- (a) doing any act or thing which the *person* is prohibited from doing, or
  - (b) failing to do any act or thing the *person* is required to do,
- is guilty of an offence.

**Violation Ticket**

25. (1) Where a *Licence Inspector* reasonably believes that a *person* has contravened any provision of this Bylaw, the *Licence Inspector* may commence proceedings against the *person* by issuing a violation ticket pursuant to Part 2 of the *Provincial Offences Procedure Act*, allowing for the voluntary payment in the amount of the specified penalty as provided in this Bylaw in respect of the said offence.
- (2) This section does not prevent any *Licence Inspector* from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedure Act*, or from laying an information in lieu of issuing a violation ticket.

**Penalties**

26. (1) Every *person* who is convicted of an offence pursuant to this Bylaw is subject to one of the following penalties:
- (a) a fine amount of not more than \$10,000.00;
  - (b) imprisonment for not more than 1 year;
  - (c) both (a) and (b).
- (2) The specified penalty on conviction of an offence pursuant to this Bylaw is the fine amount set out in Schedule “B” in respect of the offence.
- (3) The minimum penalty on conviction of an offence pursuant to this Bylaw is the fine amount set out in Schedule “B” in respect of the offence.
- (4) Despite subsection (2) and subsection (3), a *person* who is convicted for a second offence of the same provision within a 12 month period is liable on conviction:
- (a) for twice the fine amount of the specified penalty set out in Schedule “B”;  
or
  - (b) for twice the fine amount of the minimum penalty set out in Schedule “B”.
- (5) Despite subsection (2) and subsection (3), a *person* who is convicted for a third offence of the same provision within a 12 month period is liable on conviction:
- (a) for three times the fine amount of the specified penalty set out in Schedule “B”;



- (b) for three times the fine amount of the minimum penalty set out in Schedule "B".
- (6) On conviction of an offence that is of a continuing nature, the penalty is the fine amount set out in Schedule "B" of this Bylaw in respect of the offence for each day, or part of a day, that the offence continues.

**PART IV**

**MISCELLANEOUS**

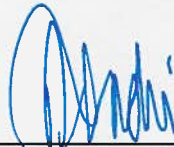
**Commencement of Bylaw**

27. This Bylaw comes into force on January 1st, 2013.

READ A FIRST TIME THIS 17<sup>TH</sup> DAY OF DECEMBER, 2012.

READ A SECOND TIME THIS 17<sup>TH</sup> DAY OF DECEMBER, 2012.

READ A THIRD TIME THIS 17<sup>TH</sup> DAY OF DECEMBER, 2012.



\_\_\_\_\_  
MAYOR  
SIGNED THIS 17<sup>TH</sup> DAY OF DECEMBER, 2012.



\_\_\_\_\_  
CITY CLERK  
SIGNED THIS 17<sup>TH</sup> DAY OF DECEMBER, 2012.

**SCHEDULE "A"**

**Licence Fees**

<b><u>Business</u></b>	<b><u>Consultation or Approval</u></b>	<b><u>New Application Fee</u></b>		<b><u>Renewal Fee</u></b>	
		<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2013</u></b>	<b><u>2014</u></b>
Body Rub Centre	Fire Planning Police	\$161.00	\$170.00	\$123.00	\$130.00
Body Rub Office	Planning Police	\$161.00	\$170.00	\$123.00	\$130.00
Body Rub Practitioner	Police	\$161.00	\$170.00	\$123.00	\$130.00

**Other Fees**

<b><u>Section</u></b>	<b><u>Fee</u></b>	<b><u>2013</u></b>	<b><u>2014</u></b>
5(6)	Amendment Fee	\$30.00	\$32.00
11(8)	Reinstatement Fee	\$1104.00	\$1165.00
11(8)	Reinstatement Fee if licence was suspended or revoked pursuant to subsection 11(3)	\$331.00	\$349.00
13(7)	Replacement Licence	\$30.00	\$32.00

**SCHEDULE "B"**

**Minimum and Specified Penalties**

<b><u>Section</u></b>	<b><u>Offence</u></b>	<b><u>Minimum Penalty</u></b>	<b><u>Specified Penalty</u></b>
3(1)	<i>Carry on business without a licence</i>	\$300.00	\$1000.00
3(2)	Contravene a condition of a <i>licence</i>	\$300.00	\$2000.00
4(3)	Provide false or misleading information	\$300.00	\$1000.00
9(2)(a)	Fail to permit and assist in inspection	\$300.00	\$1000.00
9(2)(b)	Fail to furnish identification, information or documentation	\$300.00	\$1000.00
9(2)(c)	Provide false or misleading information	\$300.00	\$1000.00
9(3)	Prevent, obstruct or hinder a <i>Licence Inspector</i>	\$300.00	\$1000.00
9(5)	Allow false or misleading information to appear on any record	\$300.00	\$1000.00
11(11)	<i>Carry on business while licence suspended</i>	\$300.00	\$1000.00
13(4)	Fail to post <i>licence</i> in public view	\$300.00	\$1000.00
13(5)	Fail to produce <i>licence</i>	\$300.00	\$1000.00
13(6)	Reproduce, alter or deface a <i>licence</i>	\$300.00	\$1000.00
13(8)	Possess reproduced, altered or defaced <i>licence</i>	\$300.00	\$1000.00
15(2)(a)	Fail to notify of change of control	\$300.00	\$1000.00
16(1)	Fail to maintain standards and requirements	\$300.00	\$1000.00
16(2)	Fail to promptly update information	\$300.00	\$1000.00
17(1)	Enter into multiple <i>employment affiliations</i>	\$300.00	\$1000.00
17(2)	Fail to advise of change of <i>employment affiliation</i>	\$300.00	\$1000.00
18(4)	Fail to keep <i>employee</i> list	\$300.00	\$1000.00
18(5)	Fail to keep register	\$300.00	\$1000.00
18(6)	Fail to enter information prior to <i>body rub</i> being performed	\$300.00	\$1000.00
18(7)	Book appointments at location other than <i>body rub centre</i>	\$300.00	\$1000.00
20(1)	Enter into <i>employment affiliation</i> with unlicensed <i>person</i>	\$300.00	\$1000.00
20(2), (3)	<i>Body rub office</i> with multiple <i>employees</i>	\$300.00	\$1000.00

<u>Section</u>	<u>Offence</u>	<u>Minimum Penalty</u>	<u>Specified Penalty</u>
21(1)	Advertise <i>body rub</i> service without <i>licence</i>	\$300.00	\$1000.00
21(2)	Fail to include <i>licence number</i> in advertisement	\$300.00	\$1000.00
21(3)	Improper advertising	\$300.00	\$1000.00
22	<i>Carry on business</i> during prohibited hours	\$300.00	\$1000.00
23(1)	Permit unlicensed <i>person</i> to perform or observe a <i>body rub</i>	\$300.00	\$1000.00
23(3)	Permit touching by client	\$300.00	\$1000.00
23(4)	Permit person to perform <i>body rub</i> with improper clothing	\$300.00	\$1000.00
23(5)	Perform <i>body rub</i> with improper clothing	\$300.00	\$1000.00
23(6)	Allow underaged <i>person</i> on <i>premises</i>	\$300.00	\$1000.00