

Licence

Chapter 0561 Body-Rub Parlour

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Article 1 - Short Title

561.1.1 Citation

This Chapter may be cited and known as the "Body-Rub Parlour By-law."

Article 2 – Interpretation

561.2.1 Body-rub - defined

"body-rub" includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means, of a person's body or part thereof but does not include medical, therapeutic or holistic treatment given by a person otherwise duly qualified, licenced or registered so to do under the laws of the Province of Ontario. By-law 9163-17 – November 3, 2017

561.2.2 Body-rub parlour - defined

"body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical, therapeutic or holistic treatment and are performed or offered by persons otherwise duly qualified, licenced or registered so to do under the laws of the Province of Ontario. By-law 9163-17 – November 3, 2017

561.2.3 Body-rub performer - defined

"body-rub performer" includes any individual who provides services by kneading, manipulating, rubbing, massaging, touching or stimulating by any means, of a person's body or part thereof but does not include medical, therapeutic or holistic treatment given by a person otherwise duly qualified, licenced or registered so to do under the laws of the Province of Ontario. By-law 9163-17 – November 3, 2017

561.2.4 Certificate of proof of age - defined

“certificate of proof of age” means an original or duly certified copy of a legal birth certificate or other certificate or card issued pursuant to a statute or regulation of the Government of Canada or of the Province of Ontario attesting to the date of birth or age of the individual referred to therein.

561.2.5 Chief of Police – defined

“Chief of Police” means the Chief of Police of the Woodstock Police Service or designate.

561.2.6 Enforcement officer - defined

“enforcement officer” means a police officer, by-law enforcement officer, special constable and any other public officer engaged in enforcement.

561.2.7 Holistic treatment - defined

“holistic treatment” means any modality used as a tool for healing and wellness purposes conducted by a practitioner who is a member of a professional holistic association. By-law 9163-17 – November 2, 2017

561.2.8 Operator - defined

“operator” means a person, who, alone or with others, operates, manages, supervises, runs or controls a body-rub parlour and “operate” and “operated” have corresponding meanings.

561.2.9 Owner - defined

“owner” means a person who, alone 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 of premises within which a body-rub parlour is located.

561.2.10 To provide - defined

“to provide” when used in relation to services includes to furnish, perform, solicit or give such services and “providing” and “provision” have corresponding meanings.

Article 3 - General Provisions

561.3.1 Licence - fee - body-rub parlour - non-refundable

The licence fee for a body-rub parlour shall be \$5,250 per year payable to the City of Woodstock for any portion of a year. The licence fee is non-refundable.

561.3.2 Licence fee - body-rub performer - non-refundable

The licence fee for a body-rub performer shall be \$105 per year payable to the Woodstock Police Services Department for a new licence or \$50 for renewal of

a licence. The licence fee is non-refundable.

561.3.3 Operation - without licence - prohibited

No person shall operate a body-rub parlour in the City of Woodstock without having obtained a licence therefore pursuant to this Chapter. A licence is required for each body-rub location. (See Set Fine)

561.3.4 Location - restriction - Zoning By-law

No person shall operate a body-rub parlour within the City of Woodstock except in any area permitted for same in the City of Woodstock Zoning By-law.

561.3.4.1 Insurance – Minimum Requirement

No person shall operate as an body rub parlour in the City of Woodstock without first having produced a certificate of insurance confirming that a general liability policy in the amount of \$2,000,000 is in force. By-law 9228-18 – August 9, 2018

561.3.5 Location - distance from residence - school – church

Notwithstanding the provisions of Section 561.3.3, no person shall own or operate a body-rub parlour closer than 280 m (918.6 ft), from a residence, a school (defined as an institution for education or instruction as defined in the *Education Act* and includes lands used in connection therewith), a day nursery (as defined by the *Day Nurseries Act* and includes lands used in connection therewith), a place of worship of a religious institution (defined as a place of worship exempt from assessment pursuant to the *Assessment Act*), a public park, or a residential, open space or park zone.

561.3.6 Location - existing - exception

Sections 561.3.4 and 561.3.5 shall not apply to a body-rub parlour which was lawfully used for such purpose on the date of passing of the enabling by-law and which has continued as such, without interruption, since that date. A cessation of such use, for any reason, of more than sixty days shall be deemed to constitute a discontinuation and an interruption of such use for the purposes of this Section.

561.3.7 Licence - number - limited - non-transferable

The number of body-rub parlour licences which may be granted in the City of Woodstock is limited to a maximum of two at any time and any such licence is not transferable. In determining the eligibility of licence applicants, priority shall be given to an applicant or the successor of an applicant who held such licence in the previous calendar year.

561.3.8 Noise by-law - Chapter 825 - contravention

No holder of a body-rub parlour licence or operator of a body-rub parlour shall operate any public address system, sound equipment, sound speaker

or similar device in such a manner as to be in contravention of the City of Woodstock Noise By-law, being Chapter 825 of the City of Woodstock Municipal Code.

561.3.9 Sign by-law - Chapter 754 - contravention

No holder of a body-rub parlour licence or operator of a body-rub parlour shall erect exterior signs unless such signs are in conformity with the provisions of the City of Woodstock Sign By-law, being Chapter 754 of the City of Woodstock Municipal Code.

561.3.10 Sign - depiction - human anatomy - restricted

No holder of a body-rub parlour licence or operator of a body-rub parlour shall erect or display within or on the exterior of a body-rub parlour any sign depicting or representing any part of the human anatomy which could be considered of an erotic or sexual nature.

561.3.11 Solicitation - persons passing by - prohibited

No holder of a body-rub parlour licence or operator of a body-rub parlour or body-rub performer shall solicit or entice patronage by shouting, speaking to, or distributing handbills to, persons passing by the establishment.

561.3.12 Admittance - minimum age - requirements

No holder of a body-rub parlour licence or operator of a body-rub parlour or body-rub performer shall permit any person under the age of eighteen years to enter or remain in a body-rub parlour.

561.3.13 Body-rub performer - minimum age

No body-rub performer shall be under the age of eighteen years of age.

561.3.14 Operation - participation - minimum age

No person under the age of eighteen years may be or act as an owner, licence holder, operator or employee of, or provide any services in, a body-rub parlour.

561.3.15 Hours of operation - restricted

No body-rub parlour may be open to the public on Christmas Day or Good Friday or Sunday between the hours of 3:01 a.m. to 11:59 a.m. Monday. In addition the hours of operation shall not exceed between the hours of 12:00 p.m. to 3:00 a.m.

Article 4 - Licence - Issue – Requirements

561.4.1 Application - circulated - for recommendations

The Clerk shall provide a copy of every application for the issuance or renewal of a body-rub parlour licence to:

- a) the Chief Building Official;
- b) the Chief Fire Prevention Officer;
- c) the Chief of Police;
- d) the Medical Officer of Health; and
- e) to such other civic departments, boards, commissions, authorities or agencies as the Clerk considers may have an interest in the application; who may submit comments or recommendations to the Clerk in respect of the application within such time as the Clerk may specify. By-law 8533-09, May 7, 2009.

561.4.2 Information - criminal records check - fee

Prior to the application being forwarded to the officials set out in Section 561.4.1, the applicant shall supply:

- a) all information which the applicant is requested to supply on the prescribed application form supplied by the Clerk's office;
- b) any additional information requested by the Clerk's office which is deemed necessary by the Clerk to evaluate the application;
- c) a current Criminal Records Check for all listed owners and managers; and
- d) the licence fee. By-law 8706-11, August 11, 2011.

561.4.3 Issuance - rejected - conditions

The Clerk shall issue a body-rub parlour licence to an applicant, except where:

- a) the past conduct of the applicant, or an individual who is a member of a partnership that is the applicant, affords reasonable grounds for belief that the business of a body-rub parlour will not be carried on in accordance with the law;
- b) the applicant is a corporation or a partnership of which a member is a corporation and the past conduct of any of its officers or directors or of a shareholder who owns or controls 10% or more of its issued and outstanding voting or non-voting shares affords reasonable grounds for belief that the business of a body-rub parlour will not be carried on in accordance with the law;
- c) the applicant is carrying on activities that are, or will be if the applicant is licenced, in contravention of this Chapter;
- d) the premises in which the body-rub parlour is, or will be located, do not comply with the provisions or requirements of this Chapter or any other by-law;
- e) the property taxes for all or any part of the premises in which the body-rub parlour will be located are in arrears; or
- f) the applicant is in default with respect to any other financial or other obligation to the City.

561.4.4 Inspection - obstruction - refusal - prohibited

No person shall obstruct a person inspecting a body-rub parlour or withhold, destroy, conceal or refuse to furnish any information or thing

required by a person inspecting for the purposes of this Chapter.

561.4.5 Licence - expires - February 15 - exception

Each licence granted under this Chapter shall be for one year from February 15 in the current year and expire on the 15th of February one year after issue unless sooner revoked.

561.4.6 Licence - expiry - body-rub performer

Every body-rub performer's licence shall expire one year from the date of issuance.

561.4.7 Licence - valid - building - room - area - as issued

Every body-rub parlour and/or body-rub performer licence shall be valid only in respect of the building, room or area for which it was issued.

561.4.8 Licence - displayed - location - visible

Every body-rub parlour and/or body-rub performer licence shall be displayed within the body-rub parlour in a location which is clearly visible to the public.

561.4.9 Licence - revocation - circumstances

Every body-rub parlour and/or body-rub performer licence shall be subject to revocation should any of the provisions of this Chapter be contravened.

561.4.10 Information - changed - notification - seven days

The holder of a body-rub parlour and/or body-rub performer licence shall notify the Clerk and the Chief of Police of any subsequent change of the information which was supplied under Article 4 of this Chapter within seven days of the change.

561.4.11 Non-compliance - dispute - referral - Appeal Tribunal

Where a licence holder or applicant disputes in writing the non issuance of a licence or the revoking of a licence, the disputed matter shall be referred by the Clerk to the Appeal Tribunal which shall hear representations from the applicant and determine the matter.

Article 5 - Licence – Requirement

561.5.1 Operation - licence - required

Every person carrying on or engaged in, or intending to carry on or engage in, the business of:

- a) body rub performer; or
- b) operator of a body rub parlour; or
- c) owner of a body rub parlour;

shall obtain a licence prior to commencement of the business.

561.5.2 Licence - issue - requirements - body-rub performer

The Chief of Police shall be responsible for the issuance of a licence to body-rub performers. Prior to the application being considered by the Police Chief, the applicant shall supply:

- a) all information which the applicant is requested to supply on the prescribed application form supplied by the Chief of Police's office;
- b) two passport size photos of the applicant;
- c) proper identification which can be verified; and
- d) the licence fee.

561.5.3 Issuance - rejected - conditions - body-rub performer

The Police Chief shall issue a body-rub parlour performer licence to an applicant, except where:

- a) the past conduct of the applicant affords reasonable grounds for belief that the business of a body-rub parlour performer will not be carried on in accordance with the law;
- b) the applicant is carrying on activities that are, or will be if the applicant is licenced, in contravention of this Chapter;
- c) the premises in which the body-rub parlour performer is, or will be located, do not comply with the provisions or requirements of this Chapter or any other by-law. By-law 8533-09, May 7, 2009.

Article 6 - Refusal - Revocation - Suspension Of Licence

561.6.1 Notice - issued - conditions set out

The Clerk shall provide a notice of refusal to issue a licence to an applicant if the conditions for issuance have not been met, the Clerk determines that, the information on the licensee's application for a licence is inaccurate, the applicant has contravened a Section of this Chapter or if the applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall provide the applicant with the written notice of refusal to issue a licence setting out the reasons for refusal, when the right to review will expire and how to apply for a review.

561.6.2 Notice - how served

The notice shall be served personally or by registered mail to the applicant at the address shown on the application.

561.6.3 Application - not filed - expired without notice

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to a review will expire without further notice.

561.6.4 Licence fee returned - not granted - review expired

The Clerk shall return the licence fee paid at the time of the application if the licence is not granted and the applicant's right to a review has expired.

561.6.5 Revocation or suspension of a licence

The Clerk shall provide a notice to revoke or suspend a licence if the licensee no longer complies with the conditions for issuance after the licence is issued, the Clerk determines that, the information on the licensee's application for the licence is inaccurate, the licensee has contravened a Section of this Chapter or if the licensee or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall give the licensee notice of the revocation or suspension in writing setting out the reasons for revocation or suspension, when the right to a review will expire and how to apply for a review. The notice shall be served personally or by registered mail to the licensee's address last on file with the Clerk.

561.6.6 Application for review - expiry

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the applicant's right to review will expire without further notice.

561.6.7 Licence - fee - refund - pro-rated

The Clerk shall return a pro-rated portion of the licence fee (based on the length of time the licence was in effect) of a revoked or suspended licence.

561.6.8 Application for review - procedure - deadline

An applicant or licensee in receipt of a notice to refuse, revoke or suspend a licence, may, within fourteen days after service of notice apply in writing for a review of notice to refuse, revoke or suspend a licence by filing the application for review with the Clerk and the provisions of Sections 561.6.10 to 561.6.21, inclusive shall apply.

561.6.9 Report for a review of status of licensee

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the licensee of this Chapter or other relevant considerations.

561.6.10 Review hearing - date of

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after the receipt of the application for review.

561.6.11 Review hearing - notice of

Upon determination of the review hearing date, the Clerk shall give notice in writing to the applicant or licensee, said notice to:

- a) include a statement,
 - (i) as to the time, date, place and purpose of the review hearing,
- and

- (ii) that, if the applicant or licensee does not attend the review hearing, the Review Tribunal shall proceed in the absence of the applicant or licensee and the applicant or licensee will not be entitled to any further notice;
- b) be served personally or by registered mail to the applicant or licensee at the address last on file with the Clerk; and
- c) where the good character, propriety of conduct or competence of an applicant or licensee is an issue, contain reasonable information of any allegation with respect thereto.

561.6.12 Review hearing - by Review Tribunal – procedure

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The applicant or licensee may be represented at the review hearing by counsel, and the applicant or licensee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

561.6.13 Review hearing - City - represented

The City shall be represented at the review hearing by either the Clerk or the City Solicitor, who is entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the applicant or licensee.

561.6.14 Review hearing - onus upon applicant

At the review hearing, the onus shall be upon the applicant or licensee to show cause why:

- a) the licence should be granted;
- b) the licence should not be suspended or revoked; or
- c) conditions should not be imposed on the licence.

561.6.15 Review hearing - open to public - exception

All review hearings shall be public hearings unless the applicant or licensee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

561.6.16 Review hearing - applicant absent - decision rendered

Where notice of the review hearing has been served on the applicant or licensee and the applicant or licensee does not attend the hearing, the Review Tribunal may proceed with the review hearing and render a decision in the absence of the applicant or licensee.

561.6.17 Review hearing - completion - decision rendered

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a) confirm the Clerk’s decision to refuse, revoke or suspend the licence;
- b) reject the Clerk’s decision and order the Clerk to issue a licence; or

- c) reject the Clerk's decision to revoke or suspend the licence.

561.6.18 Licence - conditions - imposed

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the applicant or licensee as a requirement to hold a licence on such terms as are deemed just.

561.6.19 Review Tribunal - decision final - binding

The Review Tribunal's decision shall be final and binding.

561.6.20 Review Tribunal - decision in writing

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

561.6.21 Waiver of hearing

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a) without a hearing; or
- b) without compliance with any other requirements of the *Statutory Powers Procedure Act*, as amended, or of this Chapter,

where the applicant or licensee has waived such hearing or compliance.

561.6.22 Review Tribunal - decision - notification procedure

The Clerk shall notify the applicant or licensee of the decision by serving a copy personally or by registered mail to:

- a) the applicant or licensee at the address shown on the application, or last on file with the Clerk; or
- b) the counsel or agent of the applicant or licensee, if any, at the address as stated to the Review Tribunal.

561.6.23 Licence - continued until expired

If the decision rendered is to reject the Clerk's decision, the licence shall be issued or in the case of a notice to suspend or revoke the licence shall continue until its expiry date.

561.6.24 Licence - suspended or revoked - authority

If the decision is to confirm the Clerk's decision to suspend or revoke the licence, the licensee shall within twenty-four hours of service of notice by registered mail, or immediately if the notice is personally served, return the licence to the Clerk and the Clerk shall have access to any premises or other property of the licensee for the purpose of receiving or taking the same.

561.6.25 Conditions - imposed - acceptance confirmed

If the decision is to confirm the Clerk's decision to impose conditions on the licence, the licensee shall within twenty-four hours of service of notice by registered mail or immediately if the notice is personally served, advise the

Clerk as to his or her acceptance of the conditions.

561.6.26 Service of notice - by registered mail

Service of a notice by registered mail is effective on the fifth day after the document is mailed. By-law 8771-12, June 7, 2012.

Article 7 – Revocation

561.7.1 Information - inaccurate - notice to licensee

The Clerk shall notify the holder of a body-rub parlour licence by registered mail when he/she has cause to believe, on reasonable grounds, that any of the information which an applicant or holder of a body-rub parlour licence is obliged to supply or has supplied is inaccurate that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.2 Requirements - non-compliance - notice to licensee

The Clerk shall notify the holder of a body-rub parlour licence by registered mail when he/she receives information that the body-rub parlour does not comply with all applicable requirements under a statute, regulation or by-law that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.3 Order - disobeyed - notice to licensee

The Clerk shall notify the holder of a body-rub parlour licence when he/she has cause to believe that an order issued under the authority of a court with competent jurisdiction has been disobeyed by the holder of the body-rub parlour licence that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.4 Non-compliance - notice to licensee

Unless the matter giving rise to the notice issued has been corrected within the time allowed, the Clerk shall forthwith revoke the body-rub parlour licence and notify the licence holder of same by registered mail at the licence holder's last address of record.

561.7.5 Information - inaccurate - performer - notice

The Chief of Police shall notify the holder of a body-rub parlour performer licence by registered mail when he/she has cause to believe, on reasonable grounds, that any of the information which an applicant or holder of a body-rub parlour licence is obliged to supply or has supplied is inaccurate that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.6 Non-compliance - notice to licensee

The Chief of Police shall notify the holder of a body-rub parlour licence by registered mail when he/she receives information that the body-rub parlour performer does not comply with all applicable requirements under a statute, regulation or by-law that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.7 Order - disobeyed - performer - notice to licensee

The Chief of Police shall notify the holder of a body-rub parlour performer licence when he/she has cause to believe that an order issued under the authority of a court with competent jurisdiction has been disobeyed by the holder of the body-rub parlour licence that, unless the inaccuracy, non-compliance or contravention is corrected within thirty days, the licence shall be revoked.

561.7.8 Non-compliance - not corrected - performer – notice

Unless the matter giving rise to the notice issued has been corrected within the time allowed, the Chief of Police shall forthwith revoke the body-rub parlour performer licence and notify the licence holder of same by registered mail at the licence holder's last address of record.

Article 8 – Enforcement

561.8.1 Fine - for contravention - individual

Any person who contravenes any of the provisions of this Chapter, and every director or officer of a corporation, who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

561.8.2 Fine - for contravention - corporation

Where a corporation is convicted of an offence under this Chapter, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided in Section 561.8.1.

561.8.3 Continuation - restrained - court order

A court wherein an information is first laid and any court of competent jurisdiction thereafter may issue an order prohibiting the continuation or repetition of an offence by a person convicted of any offence under this Chapter and such order shall be in addition to any other penalty which may be imposed on the person convicted.

Article 9 - Repeal – Enactment

561.9.1 By-law - previous

All previous by-laws regarding body rub parlour licensing are hereby repealed.

561.9.2 Effective date

This Chapter shall come into force and take effect as of third and final reading of the enabling by-law. By-law 8533-09, May 7, 2009.