

BYLAW NO. B-18/2007  
OF THE CITY OF AIRDRIE  
IN THE PROVINCE OF ALBERTA

Being a bylaw to provide for the licensing and regulating of the business of massage.

WHEREAS under the authority and subject to the provisions of the *Municipal Government Act*, Statutes of Alberta 2000, Chapter M-26 and amendments thereto, City Council may pass bylaws respecting businesses, business activities and persons engaged in business; and

WHEREAS City Council may regulate or prohibit any business and provide for a system of licenses, permits or approvals; and

WHEREAS City Council deems it desirable to provide for the licensing of massage businesses operating in Airdrie;

NOW THEREFORE the Municipal Council of the City of Airdrie in Council duly assembled enacts as follows that:

**PART I**  
**GENERAL LICENSING PROVISIONS**  
**SHORT TITLE**

1. This Bylaw may be cited as the "Massage License Bylaw".

**INTERPRETATION**

2. In this Bylaw:
  - (a) "applicant" means a person who
    - (i) applies for a license or renewal of a license under this Bylaw, or
    - (ii) appeals the refusal, revocation or suspension of a license under this Bylaw;
  - (b) "business" and "massage business" means:
    - (i) the carrying on of the business of massage
  - (c) "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;

- (c.1) "Chief Administrative Officer" means the person designated by Council as its Chief Administrative Officer, or his designate;
- (d) "Chief License Inspector" means the Chief Administrative Officer or his designate;
- (e) "City" means The City of Airdrie, a municipal corporation in the Province of Alberta, and includes the area contained within the boundaries of The City of Airdrie where the context requires;
- (e.1) "Planning" means the City business unit charged with deciding permit applications for land use and development;
- (f) "dwelling unit" is as defined by the current City of Airdrie Land use Bylaw;
- (g) "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;
- (h) "employment affiliation" means the relationship which exists between a person and a licensee at a massage centre when that person is employed with, under contract to or an agent of a licensee at a massage centre to provide the service of massage;
- (i) "Land Use Bylaw" means the current City of Airdrie Land Use Bylaw;
- (j) "license", "licensed" and "licensing" mean a license or reference to a license issued under this Bylaw;
- (l) "license fee" means those fees attached as Schedule A;
- (m) "License Inspector" means an inspector appointed to assist in carrying out the administration and enforcement of this Bylaw and includes the Chief License Inspector, peace officers, police officers and any person, inspector or City department whose consultation, approval or certificate is required under this Bylaw;
- (n) "licensee" means a person holding a valid and subsisting license under this Bylaw;
- (o) "massage" means the physical external manipulation of the soft tissues of the human body, in a scientific and systematic manner by another natural person for the purpose of therapy or relaxation;
- (p) "massage practitioner" means any natural person who administers or offers to administer a massage for a fee;

- (q) "massage centre" means any premises or part thereof where a massage is performed or offered to the public for a fee, or where records of a massage business are maintained or where a member of the public may arrange for a massage for a fee;
  - (r) "massage office" means the premises where a natural person books massage appointments and, or, maintains the records of the massage business at the premises, but performs the massage at a place other than the premises
  - (s) "natural person" means an individual human being;
  - (t) "non-resident" means a business which is carried on, in whole or part, within the City but neither maintains a permanent premises in the City nor is listed on the tax assessment rolls;
  - (u) "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;
  - (w) "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 a massage business.
3. The general licensing provisions of the Business License Bylaw No. B-52/2005 shall apply with all necessary modifications to this Bylaw and licenses issued under this Bylaw.

### **LICENSE**

- 4. (1) A person who carries on a massage business described in this Bylaw shall have a valid and subsisting license.
- (2) A person who carries on a massage business at a massage centre shall only enter into an employment affiliation with a licensed massage practitioner.
- (3) The holder of a license for a massage office shall not have any employees other than the licensee.
- (4) Notwithstanding subsection (1), a license shall not be required under this bylaw for a person who carries on an occupation which is limited solely to pedicures, manicures and facials.

## **LICENSE REQUIREMENTS**

5. (1) An applicant shall apply for a license, in a form acceptable to the Chief License Inspector, providing such information as the Chief License Inspector may reasonably require, including the following:
  - (a) a certificate, consultation or approval required under section 6 of this Bylaw;
  - (b) the applicable license fee;
- (2) Every person who is required to obtain a license under this Bylaw must be at least eighteen (18) years of age.
- (3) Every person who is required to obtain a license under this Bylaw as a massage centre or a massage office must maintain premises within the City. Non-resident massage centres or massage offices will not be permitted.
- (4) No person shall carry on as a massage practitioner without having a valid and subsisting license issued by the License Inspector, pursuant to the provisions of this Bylaw.
- (5) An applicant or licensee shall not provide to a License Inspector false or misleading information or information intended to mislead with regard to any matter or thing arising in connection with the licensing of a massage business or person.
- (5) Every application for a license to carry on as a massage practitioner shall be made to the Chief License Inspector and shall include the following information:
  - (a) The full name, date of birth, residential address and telephone number of the applicant;
  - (b) Two (2) 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 two hundred fifty (250) hours training in massage from a recognized school or institute (a list of which is maintained by the Chief License Inspector);  
or
    - (ii) Proof acceptable to the Chief License Inspector demonstrating that the applicant has achieved the equivalent of the two

hundred (250) hours training in massage as determined by a recognized school or association as defined in Schedule B which will update annually; and

- (d) Such other information as the Chief License Inspector may reasonably require.

### **CONSULTATIONS AND APPROVALS**

- 6. (1) The applicant is solely responsible for ensuring that all municipal, provincial and/or federal approvals (which approvals may include but are not limited to the Medical Health Officer, Fire, Police, Building Inspector) that are required for the carrying out of any business, trade, or occupation have been received prior to application for a license and are maintained in good standing throughout the duration of the term of the license and any renewal thereof.
- (2) For the purpose of a license renewal, where Planning 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 Planning gave the approval,
  - (b) the license 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 License Inspector may renew the license without requiring any further confirmation from Planning.

### **INSPECTIONS**

- 7. (1) A person who a License Inspector reasonably believes is carrying on a business requiring a license under this Bylaw, or is an applicant, shall,
  - (a) permit and assist in all inspections requested by a License Inspector;
  - (b) furnish to a License Inspector all identification or information required and copies of anything related to the inspection or licensing requirement; and
  - (c) not provide to a License 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.

- (2) No person shall attempt to prevent, obstruct or hinder a License Inspector from making an inspection authorized by this Bylaw.
- (3) During an inspection authorized under this section, a License Inspector may examine any business record or document and remove a record or document from a premises for the purpose of copying it.
- (4) A record or document removed from a premises by a License Inspector under subsection (4) shall be returned to the business within two (2) business days of its removal.

### **PROOF OF BUSINESS**

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

### **REFUSAL, REVOCATION, SUSPENSION**

9. (1) The Chief License Inspector may,
  - (a) convene a hearing with City Council to determine whether there are just and reasonable grounds for the refusal of an application, revocation, or suspension of a license; or
  - (b) suspend a license prior to convening a hearing to determine whether there are just and reasonable grounds for the suspension or revocation of a license where, in the sole discretion of the Chief License Inspector, the safety, health and welfare of the public may be at risk if the license is not suspended immediately.
- (2) Where any certificate, authority, license 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, then any license issued under this Bylaw based in whole or in part on the certificate, authority, license or other document of qualification, shall be automatically suspended or revoked.
- (3) A suspension of a license under this section may be
  - (a) for period of time not exceeding the unexpired term of the license,  
or

- (b) where the suspension is for non-compliance with a Bylaw, until the holder of the suspended license complies with that Bylaw.
- (4) A license may be revoked or suspended for non-compliance with any law notwithstanding that the holder of the license has not been prosecuted for contravention of that law, where the Chief License Inspector has reasonable grounds to believe that the licensee poses danger to the safety, health and welfare of people, or the protection of property.
- (5) Upon a license application being refused or a license being revoked or suspended, the Chief License Inspector shall notify the applicant or licensee of the refusal, revocation or suspension and the reasons for it:
  - (a) by delivering notice to the applicant or licensee personally; or
  - (b) by delivering notice by single registered mail to the applicant's or licensee's most recent premises or residence as shown on the license or application.
- (6) Subject to Section 10, after the delivery of the notice
  - (a) the business shall not be carried on until such time as a license is issued or the suspended license is reinstated; and
  - (b) the license shall be given upon request to a License Inspector or returned immediately to the Chief License Inspector; or,
  - (c) where the license was suspended or revoked under subsection (2), the licensee furnishes the Chief License Inspector with satisfactory proof of renewal or reissuance of any certificate, authority, license or other document of qualification referred to in subsection (2).
- (7) Where the Chief License Inspector has suspended or revoked a license pursuant to this Bylaw then, unless such suspension or revocation is overturned in whole by City Council, the licensee shall pay a fee of three hundred (\$300.00) dollars as a condition of any reinstatement or renewal of the license, including any reinstatement upon the conclusion of a suspension for a fixed term, and prior to receiving a license if the licensee applies for a new license.
- (8) A reinstatement fee is not refundable.

## **APPEAL**

10. (1) In every case where an application for a license has been refused, a license has been authorized subject to conditions, or where a license has been revoked, the person seeking the license shall be entitled to appeal to the City Council; and City Council shall be the judge of whether the refusal of a license or conditions attached thereto was just and reasonable.
- (2) Every such appeal shall be made in writing within thirty (30) days after a license has been refused or revoked otherwise the right of appeal shall be barred and extinguished.
- (3) The application to appeal must be made within 30 days.

## **LICENSE FEES**

11. (1) An application for a license will not be considered unless and until the applicant pays any applicable fees, including license fees and fees for inspections.
- (2) Fees paid by an applicant pursuant to this section are not refundable.

## **LICENSE IDENTIFICATION**

12. (1) A license shall be issued by the City on a form bearing the identification of the City.
- (2) A license shall bear on its face the date on which it is issued and the date on which the license will expire.
- (3) The holder of a massage practitioner's license under this Bylaw shall be issued an identification card bearing the photograph, name and of the holder and its expiry date.
- (4) A licensee who holds a license which applies to a specific premises shall keep it posted in public view in the premises.
- (5) A licensee who does not carry on business at specific premises shall carry or have immediately available, the license and shall, upon request, immediately produce the license to a License Inspector, or any person with whom they are carrying on business.
- (6) No person shall reproduce, alter, or deface a license.
- (7) A licensee may obtain a replacement license for a license that has been lost or destroyed by paying to the City the replacement license fee of \$25.



## **TERM, TRANSFER AND EXPIRY OF LICENSES**

13. (1) A license is not transferable from one person to another.
- (2) a license issued to a massage practitioner issued pursuant to this bylaw shall expire at midnight on December 31<sup>st</sup> of the year stated on the license, unless earlier revoked or suspended by the License Inspector during that year, or surrendered by the Licensee.

## **PART II** **RESPONSIBILITY OF LICENSEE** **GENERAL**

14. (1) (a) The holder of a license for a massage centre shall be responsible for the act or acts of its employees or persons having an employment affiliation with the licensee 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 licensee.
- (b) When the information required to be provided to the Chief License Inspector becomes inaccurate, updated and accurate information shall be promptly provided by the licensee to the Chief License Inspector.

## **EMPLOYEE LISTS**

- (2) Every person carrying on a massage centre shall keep on the premises an accurate and current list of all persons employed in the massage centre including all massage practitioners with an employment affiliation to the massage centre, and the record shall 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 license number as it appears on the business license of each massage practitioner.

## **EMPLOYMENT AFFILIATION**

- (3) A massage practitioner may have more than one employment affiliation.

## **ADVERTISING**

- (4) (a) No person shall advertise or arrange for any form of advertising that suggests to the prospective client that the service of massage may be provided without a license under this Bylaw.
- (b) A licensee who advertises or causes advertising to be placed, or distributed, respecting the licensee or the services offered by the licensee, must include in the advertisement, in a readable manner, the valid license number of each licensee referenced in the advertisement.
- (c) No licensee shall arrange for the distribution, publication or posting of any advertisement that describes or depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than a massage.

## **RESTRICTED ACTIVITIES**

- (5) (a) No licensee under this bylaw shall permit any person to perform or contract to perform, a massage without a license under this Bylaw.
- (b) Notwithstanding subsection (a) any school offering a Provincially licensed program in massage may, as part of that program, allow a registered student to observe and perform a massage in the presence of an instructor.

## **PART III** **OFFENCES AND PENALTIES** **GENERAL PENALTY PROVISION**

15. (1) 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.

- (2) Any person who is convicted of an offence pursuant to subsection (1) is liable on summary conviction to a fine not exceeding ten thousand (\$10,000.00) dollars and in default of payment of any fine imposed, to a period of imprisonment not exceeding six (6) months..

**MINIMUM PENALTIES AND SUBSEQUENT OFFENCES**

16. (1) The minimum penalty that may be imposed in respect of a violation of any provision of this Bylaw is five hundred (\$500.00) dollars

**VIOLATION TICKET AND SPECIFIED PENALTIES**

17. (1) Where a License Inspector reasonably believes that a person has contravened any provision of this Bylaw, the License Inspector may direct a Bylaw or Peace Officer to 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) The specified penalty payable in respect of a violation of any provision of this Bylaw shall be five hundred (\$500.00) dollars.

**SEVERABILITY**

18. Each provision of this Bylaw is independent of all other provisions. If any provision is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

**PART IV**  
**MISCELLANEOUS**  
**SCHEDULE**

19. The documents attached to this Bylaw marked as Schedule "A" shall form part of this Bylaw.

**REPEAL**

20. (1) Bylaw No. 34/90, the Massage Practitioners Bylaw, is hereby repealed.

**COMMENCEMENT OF BYLAW**

21. This Bylaw comes into force and effect as of January 1, 2008

Read first time this 7<sup>th</sup> day of May, 2007.

Read second time this 7<sup>th</sup> day of May, 2007.

Read third time this 7<sup>th</sup> day of May, 2007.

Executed this 5th day of December, 2007.

“L. Bruce”  
MAYOR

“S. Pollyck”  
CITY CLERK

**SCHEDULE "A"**  
**LICENSE FEES**

Application Fee: \$75.00

Replacement License: \$25.00