

# City of Pawtucket

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## CHAPTER

## APPROVED

### **AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 130 OF THE CODE OF ORDINANCES OF THE CITY OF PAWTUCKET, 1996, ENTITLED “BODY WORKS SERVICES”**

*Be it ordained by the city of Pawtucket as follows:*

**SECTION 1.** Chapter 130 of the Code of Ordinances of the City of Pawtucket entitled, “Body Works Services” shall be repealed in its entirety and replaced with the following:

#### **§ 130-1. License required.**

Body works establishment license. All persons, firms, corporations, or other entities who own, operate, conduct, or manage a location used to provide body works services or that hold themselves out as being engaged in the practice of body works services, as defined in R.I. Gen. Laws § 23-20.8-1(4), at any location in the City of Pawtucket must obtain a body works establishment license for that location from the Board of License Commissioners before offering, engaging in, providing, or allowing body works services for hire, reward, or compensation at that location.

#### **§ 130-2. Authority to promulgate rules; establishment of fees.**

The City Council for the City of Pawtucket and the Board of License Commissioners is hereby authorized to formulate rules and regulations governing body works establishments and to establish fees for the issuance of licenses thereunder.

#### **§ 130-3. License fees; licenses nontransferable.**

Body works establishment license. The fee to obtain a body works establishment license and any renewal thereof shall be \$250.

#### **§ 130-4. Expiration of license; application for renewal.**

Body works establishment licenses shall automatically expire on the first day of July of each year. Applications for renewal must be submitted at least 30 days prior to expiration date.

#### **§ 130-5. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings indicated:

##### **APPLICANT**

Any person who applies for a license as required by this chapter. In the event the applicant is a nonnatural person (e.g. a corporation), the term "applicant" shall also include a natural person legally authorized to act on behalf of the applicant and the person submitting the application to the Board of licenses pursuant to this chapter.

##### **APPROVED**

Approved by the Pawtucket Board of License Commissioners in accordance with accepted standards.

## BOARD OF LICENSES

The Board of License Commissioners for the City of Pawtucket.

## BODY WORKS and BODY WORKS SERVICES

Shall encompass body rubs, body stimulations, manipulation or conditioning of any part or parts of the body, spa services, and spa treatments, by any person not licensed under title 23 of the Rhode Island General Laws.

## BODY WORKS ESTABLISHMENT LICENSE and ESTABLISHMENT LICENSE

The license required of this chapter.

## CITY

The City of Pawtucket.

## CITY INSPECTOR

Shall mean but is not limited to agents of code enforcement, employees of the Pawtucket Police Department and employees of any fire protection district or jurisdiction.

## ESTABLISHMENT

The office, place of business, premises, or location where body works are offered or provided for hire, reward, or compensation.

## PERSONNEL

Any person who performs body works services for hire, compensation, or reward or any person who is employed by or otherwise compensated by any establishment as defined herein or any person who is permitted by an establishment to conduct any type of business for reward, hire, or compensation within said establishment.

## SPA SERVICES and SPA TREATMENTS

Any service or treatment provided to treat the skin or body for remedial, hygienic, relaxation, or other purposes, including but not limited to vapor, pool, baths, saunas, dry saunas, towel treatments, showers, body scrubs, and body showers, and which include physical touching or application by personnel of any body works establishment.

## SPECIFIED ANATOMICAL AREAS

Human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola.

## SUPERVISOR

The person or persons designated by an establishment to ensure compliance with this chapter.

### **§ 130-6. Exceptions and exclusions.**

Establishment exceptions. Hospitals, nursing and convalescent homes and other similar licensed institutions where massage and baths may be given are exempt from the license requirements of this chapter. Also, any facility conducting services of a hospital, nursing and convalescent home, or other similar institutions as determined by the Pawtucket Board of License Commissioners, but due to some limiting factor is not subject to licensing, shall be similarly exempt from the license requirements section of this chapter. Additionally, any commercial establishment or business engaged in adult entertainment as defined by the Pawtucket Code of Ordinances shall be exempt from the license requirements of this chapter.

**§ 130-7. Display of licenses.**

Body works establishment license. The body works establishment license shall be conspicuously displayed in a public area of the body works establishment at all times.

**§ 130-8. Required information for advertisements; posting of price rates.**

A. No person, firm, partnership or corporation shall advertise any body works establishment unless the advertisement includes the body works establishment license number.

B. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

**§ 130-9. Required records.**

Each body works establishment shall maintain records on the premises of all personnel. Said records shall be subject to inspection upon request by any City Inspector. The records shall include the following:

A. Each personnel's full legal name, date of birth, home address, and telephone number, employment position, date first employed, and, if applicable, date terminated.

B. All current personnel records and records of all personnel associated with the establishment for the previous one year.

**§ 130-10. Supervisor required; responsibilities.**

Each body works establishment shall designate at least one supervisor who is responsible for the body works establishment's compliance with this chapter. Said Supervisor shall agree to be on the premises of any body works establishment whenever the establishment is open to the public and shall agree to be responsible for cooperating with inspections or investigations conducted by the Board of License Commissioners, its agents, or any other person or persons authorized to inspect the establishment pursuant to this chapter or any other applicable section or chapter of the Pawtucket Code of Ordinances or the Rhode Island General Laws. Upon the request of any authorized City Inspector, the Supervisor shall immediately provide personnel records that are required by this chapter to be maintained on the premise.

**§ 130-11. Application requirements for body works establishment licensee.**

Before conducting any type of business for reward, hire, or compensation within any establishment, all persons, firms, corporations, or other entities who own, operate, or conduct said establishment shall first submit applications to the Board of Licenses that includes the following information:

A. The full legal name and any other names used by the applicant. If the applicant is:

(1) An individual, the individual shall state his/her full legal name;

(2) A partnership, the name of the partnership shall be set forth exactly as shown in its partnership agreement, and the information required by this section shall be furnished for the responsible person;

(3) A corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, and the information required by this section shall be furnished for the responsible person.

B. The current residential address and the telephone number of the applicant, and the two previous residential addresses and business addresses, if any.

- C. Written proof to the satisfaction of the Board of License Commissioners that the applicant is at least 18 years of age.
- D. The applicant's occupation or employment history for the five years immediately preceding the date of the application.
- E. The body works establishment or similar business license history of the applicant; including whether such person, in previously operating in this City or another city, county or state under a license or permit, has had such license or permit revoked or suspended; the reasons and dates for any such revocation or suspension.
- F. All criminal convictions, except minor traffic violations.
- G. A statement of how many personnel the applicant intends to employ at the establishment.
- H. The full name, address, and telephone number of every personnel who will be associated with the proposed establishment.
- I. The full name, address, and telephone number of each personnel who will be designated as the supervisor for the proposed establishment.
- J. A statement as to whether the applicant intends to provide body works services off-site.
- K. Information demonstrating that the proposed establishment is consistent with the applicable land use designation and City Zoning Code.
- L. Written proof that the proposed establishment is compliant with all applicable health, safety, building, fire safety, and sanitary standards under the Pawtucket Code of Ordinances, and the Rhode Island General Laws.
- M. Where a building permit is necessary as a prerequisite to occupancy of a building, the body works establishment license application is not complete and validly filed until proof of submittal of the building permit application is provided.
- N. Such other identification and information as may be required by the Board of License Commissioners to verify the truth of the matters specified in this section, or any additional information required to show that the applicant has met the minimum qualifications to be licensed pursuant to this chapter.
- O. An application is deemed complete and validly filed when the Board of License Commissioners has received all information required by this Code, the results of the criminal background check, and any fees associated with the application.

**§ 130-12. Employee and independent contractor restrictions.**

- A. No licensee may allow non-personnel to perform any body works services under their license.
- B. No licensee may allow any personnel to perform any services which are defined as the practice of massage under Section 23-20.8-1 of the Rhode Island General Laws without the appropriate license under Section 23-20.8-3 of the Rhode Island General Laws.

**§ 130-13. Sanitation and decency requirements.**

- A. All personnel must dress in a manner that opaquely covers all specified anatomical areas as defined in this Chapter.
- B. It is unlawful for any personnel to touch directly or indirectly or offer to touch a customer's specified anatomical areas.

C. All customer's specified anatomical areas must be fully draped at all times while any personnel is in the same cubicle or room.

D. No instruments or devices designed or used for direct application to the skin shall be applied directly to the skin unless sterilized. The part of the body being treated shall be covered with a clean towel or else the instrument shall be covered in a similar manner.

E. Cleaning of hands. All personnel shall thoroughly cleanse his or her hands by washing with soap and hot water immediately before providing body works services.

F. Working hours. No establishment shall offer or provide body works services between the hours of 10:00 p.m. and 8:00 a.m.

G. Designation of name. No licensed person shall operate under any name or conduct his or her business under any designation not specified in his or her license.

H. It is a violation of this chapter for any person, partnership, corporation, establishment, owner, or any other entity to conduct, cause to be conducted, or allow to be conducted any activity prohibited by Title 11, Chapters 11-1 et seq., of the Rhode Island General Laws in any establishment.

I. Change of address. Every licensee shall notify the Board of License Commissioners not longer than 10 days after any change of address, home or business, or name. Any new license or amendment to an existing license required because of the foregoing shall be issued with a set fee charge at the discretion of the Board of License Commissioners.

J. Invalidation. If any section, paragraph, sentence, clause or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decisions shall not affect the remaining portions of these regulations, which shall remain in full force and effect, and to this end the provisions of these regulations are hereby declared severable.

K. Minors on premises. No person shall permit any person under the age of 18 years to come or remain on the premises of any massage business establishment as masseur, employee or patron, unless such persons is on the premises on lawful business.

L. Alcoholic beverages. No person shall sell, give, dispense, provide, keep or cause to be sold, given, dispensed, provided or kept any alcoholic beverage on the premises of any massage business.

#### **§ 130-14. Standards for facilities.**

Every establishment shall meet the following standards:

A. It shall be connected to the public sewerage system, or an approved private sanitary sewage system in the event public sewerage is not available.

B. It shall be well lighted, well ventilated and properly heated when seasonally indicated.

C. No room used by personnel or an establishment to provide body works may be used as a residence or sleeping quarters.

D. There shall be an adequate supply of hot and cold running water at all times.

E. There shall be approved toilet and washing facilities within the premises, readily available to the patrons and affording sufficient privacy.

F. Adequate dressing rooms, toilets and washing facilities shall be provided.

G. All rooms and furniture and equipment therein shall be kept clean at all times.

H. There shall be installed a heat-and-smoke-detecting system approved by the Fire Marshal of the Fire Department of Pawtucket.

I. There shall be adequate facilities for the cleaning and sterilizing to prevent infectious organisms.

J. All rooms shall be arranged so as to afford adequate fire protection and shall have satisfactory means of egress in case of fire as approved by the Building Inspector and Fire Marshal.

K. All equipment, instruments, devices, robes, sheets, blankets, pillow cases, wearing apparel, towels and other materials which may come in direct contact with the body shall be properly cleaned and sterilized.

**§ 130-15. Violations and penalties.**

A. Revocation of license. Every license issued under the provisions of this chapter shall be subject to suspension or revocation by the Board of License Commissioners for the breach by the holder thereof of any provision of this chapter, any rules and regulations pertaining thereto which have been established by the Board of License Commissioners, or for any violation of any other provision of this Code of Ordinances, of the Rhode Island General Laws, or of any other applicable municipal, state, or federal rule or regulation. Revocation shall be in addition to any other penalty which may be imposed as a result of a violation.

B. Separate offense for each day. Any person, firm, corporation, or other entity who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such entity commits, continues, permits, or causes a violation thereof.

C. Public nuisance. Any use or condition caused or permitted to exist in violation of any of the provisions in this chapter shall be and is hereby declared a public nuisance and shall, at the discretion of the City, be a cause of action pursuant to Sections 10-1-1 et seq. of the Rhode Island General Laws.

D. Criminal penalties. In addition to any applicable provision of this chapter or of the Rhode Island General Laws, any violation of this chapter may be prosecuted as a misdemeanor and punishable as follows: upon a first conviction, by a fine not exceeding \$250; and upon a second or subsequent conviction within one year of a prior conviction, by a fine not exceeding \$500 and by imprisonment not exceeding 30 consecutive days.

E. Civil injunction. The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create cause for injunctive relief.

**§ 130-16. Severability.**

If any section, clause, paragraph, sentence or phrase of this ordinance shall, for any reason, be held to be invalid or unconstitutional, such invalid section, clause, paragraph, sentence or phrase is hereby declared to be severable; and any such invalid or unconstitutional section, clause, paragraph, sentence or phrase shall in no way affect the remainder of this ordinance; and it is hereby declared to be the intention of the City Council that the remainder of this ordinance would have been passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence or phrase thereof.

**SECTION 2.** This ordinance shall take effect upon final passage.