

ORDINANCE NO. 731

AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA MESSAGE THERAPIST AND MESSAGE ESTABLISHMENT CITY CODE SECTION 6.40 & 6.41

The Council of the City of Austin ordains:

Section 1. Austin City Code Chapter 6, Section 6.40 and 6.41, are hereby repealed in their entirety.

Section 2. A new Section 6.41 is hereby enacted and should read as follows:

§ 6.41 MESSAGE THERAPIST AND MESSAGE ESTABLISHMENT

Subd. 1. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. **MASSAGE THERAPY.** The use of pressure, friction, stroking, tapping or kneading on the human body, or the use of vibration or stretching on the human body by manual or mechanical means for the purpose of, but not limited to, maintain good health and establishing and maintaining good physical condition.
- B. **MASSAGE ESTABLISHMENT.** Any enterprise, establishment, or operation, licensed under this section, whether under the control of an individual or legal entity, providing or offering to provide massage therapy within the city for a fee or other consideration paid either directly or indirectly, that has one or more massage therapists, other than the owner, employed or utilizing space within the massage establishment to provide massage therapy services.
- C. **MASSAGE THERAPIST.** A person licensed under this section to administer massage therapy as described by a recognized school for consideration.
- D. **PATRON.** Any person who receives massage therapy under such circumstances that is reasonably expected that he or she will pay money or give any consideration therefor.
- E. **RECOGNIZED SCHOOL.** Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage therapists, which school requires a resident course of study of not less than 500 hours before the student shall be furnished a diploma or certificate of graduation from the school following successful completion of the course of study or learning. The school must show current membership in good standing in the American Massage Therapy Association or other recognized professional massage organization. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a **RECOGNIZED SCHOOL.**

Subd. 2. *Exceptions.* This section shall not apply to the following classes of individuals while engaged in the duties of their professions:

- A. Any medical professional or medical facility that is licensed, certified, or registered by the State of Minnesota under Minnesota Statutes Chapters 147, 148, or 150A;
- B. Any massage therapist hired or employed by, and exclusively providing massage therapy on the premises of any facility operated by a medical professional or medical facility licensed by the State of Minnesota under Minnesota Statutes Chapters 147, 148, or 150A, whether or not the Patron is a patient of such medical professional or medical facility;
- C. Barbers and beauticians licensed under the laws of the State of Minnesota, provided that the massage is limited to the head and scalp, or hands and feet for manicure or pedicure services; or
- D. Coaches and trainers of educational institutions acting within the scope of their employment.

Subd. 3. *License required; application fee, investigation; issuance; inspection; denial; revocation; suspension.*

- A. Massage therapists and massage establishments shall be licensed as provided in this section.
- B. Applications for licenses required by this section shall be in writing in such form as required by the City Administrator.
- C. In addition to the information required pursuant to § 6.02 hereof, the application shall require the following:
 - 1. The applicant's full name, address, social security number, written proof that the age of the applicant is at least 18 years
 - 2. The applicant's two previous addresses and dates of residences;
 - 3. Occupation for three years preceding date of application;
 - 4. Diploma or certificate of graduation from a recognized school; and
 - 5. A verified statement signed by the applicant that all information contained therein is true and correct.
- D. Each application for a license under this section shall be accompanied by a fee as specified by resolution to defray the cost of required Police Department investigation and administration.

- E. After investigation, the Council shall issue to the applicant a license; provided that, a license may be denied to any applicant who has within the previous two years been convicted of an action for which a license could be revoked or suspended as set forth in § 6.09.
- F. The issuing authority, or his or her designee, shall have the right to enter and inspect the licensed premises during the hours in which the licensed premises is open to ensure compliance with all provisions of the code.
- G. The Council may revoke or suspend a license issued under this section for any one of the following:
 - 1. Violation of any provision of this section or applicable license requirements of this section;
 - 2. Conviction of any crime or offense involving dishonesty, fraud, deceit or immorality; or
 - 3. If the Council has reasonable grounds to believe that any licensee is infected with a contagious or communicable disease.

Subd. 4. *Massage therapist's regulations.* Licensees shall comply with the following regulations:

- A. The therapist shall prominently and publicly display his or her license at all times during massages.
- B. Massages shall not be given unless patrons are wearing clothing fully covering their genitals.
- C. Massages shall not be given to patrons who have open sores or other visible signs of communicable diseases.
- D. The therapist shall report any change of facts regarding any information which was required in his or her license application to the City Administrator, within ten days after the change.
- E. It is unlawful for a massage therapist to touch or massage, with his or her hands or body, a sexual or genital part of a patron or to allow to touch or massage with his or her hands or body a sexual or genital part of the therapist.
- F. It is unlawful for a massage therapist or patron to expose his or her genital parts to any other person.
- G. No beer, liquor, narcotic drug or controlled substances, or cannabinoid products as defined in § 6.60, subd. 1(C), as such terms are defined by state statutes or the City Code, shall be permitted on the licensed premises.
- H. No massage therapy services shall be provided between the hours of 11:00 p.m. and 6:00 a.m.

Subd. 5. Additional Provisions.

- A. Massage establishments shall be located in areas zoned by the Zoning Chapter in R-O, B-1, B-2, B-3 and I-1 districts; provided, however, that individual massage therapists may engage in business as a home occupation, as defined by § 11.031, subd. 13 of this City Code, in residential districts as a conditional use. An inspection by the Building Inspector shall be conducted of all premises where massage therapy takes place before consideration by the Council.
- B. Massage therapists may practice massage therapy at hospitals, nursing homes, hospices and other health care providers, if approved by the healthcare facility.
- C. Massage establishments which are not home occupations shall comply with all relevant local, state and federal health and building regulations which govern the design, construction, maintenance and sanitation of health spas or similar establishments.
- D. The provisions of this section do not apply to locations where massage is practiced by persons excepted from this section under Subd. 2 of this section.

Subd. 6. *Penalty.* It is unlawful for any person to practice massage therapy for consideration, except as provided in this section. Violation of this section shall be a misdemeanor. Each day of violation shall constitute a separate offense.

Passed by a vote of yeas and nays this 1st day of July, 2024

YEAS 5

NAYS 0

APPROVED:

Stephen M. King, Mayor

ATTEST:

Tom Dankert, City Recorder

This ordinance was introduced on July 1, 2024; approved on July 1, 2024; was published in the Austin Daily Herald on July 6, 2024, and becomes effective July 13, 2024.