

# City of Broken Arrow

## ARTICLE VI. MASSAGE ESTABLISHMENTS\*

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**\*Editor's note:** Ord. No. 2087, § I, adopted Aug. 4, 1997, amended Art. VI of this chapter in its entirety to read as herein set out. Prior to amendment, Art. VI, §§ 7-116--7-130, pertained to similar subject matter and derived from Ord. No. 2006, § 1, adopted July 16, 1996.

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### Sec. 7-116. **Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed hereto:

- (a) *Massage* means any method of pressure on or friction against the human body:
  - 1. By stroking, rubbing, kneading, tapping, pounding, manipulating, vibrating, or stimulating the external parts of the soft connective tissue of another person
  - 2. By use of the hands, feet, or otherwise, with or without apparatus or supplementary aids such as vibrators, lotions, powders, hot or cold packs, or other preparations; and
  - 3. When such activity is taken for any type of consideration of gratuity.  
An external bath in which in which the stroking of the body of another is a significant component is also included within this definition.
- (b) *Massage establishment* means any place of business where any person regularly engages in, conducts, carries on, or permits to be conducted any business of the manipulation of the body by means of massage, as defined, either on or off the premises.
- (c) *Operator* means any person owning or operating a massage establishment, including but not limited to the manager or person in charge of a corporate business which operates a massage establishment.
- (d) *Massage technician* or *therapist* means any person who administers to another person for any consideration or gratuity, based at least on two hundred and fifty (250) training hours for technicians or five hundred (500) classroom hours for therapists of formal training and experience.
- (e) *Out-call service* means a service where massage as defined is conducted offsite of the street address of the operator's business.
- (f) *Student* means a person undertaking a course of study that is designed to qualify them for a massage technician or therapist in not more than two (2) years.

(Ord. No. 2087, § I, 8-4-97; Ord. No. 2441, § I, 4-1-02)

**Sec. 7-117. Exceptions.**

The following classes of persons and establishments are exempted from this article:

(a) Physicians, surgeons, osteopaths, physical therapists, chiropractors, podiatrists, or chiropractors licensed in the State of Oklahoma. Provided that employees or contractors of licensed physicians, surgeons, and osteopaths may, by written contract, provide an out-call service in the private residences of their patients, and such massages at the patient's home are also exempt.

(b) Registered nurses and licensed practical nurses who are licensed in the State of Oklahoma, performing such services in their usual nursing duties.

(c) Beauticians and barbers duly licensed under the laws of this state in the course of practice of their usual and ordinary vocation and profession, as defined by the laws of this state; except that this exemption shall apply solely to the massaging of the neck, face, scalp, hands or feet of a patron for cosmetic purposes.

(d) Massage practices at the athletic department of any state-accredited school, college, university, seminary, or in connection with the conduct of athletics.

(e) Hospitals, clinics, nursing and convalescent homes, and other similar institutions dedicated to medical or nursing practices, licensed under the laws of this state, where massage and baths may be given to their patients. Employees and contractors of the respective institutions shall be exempt from this article while in the normal course of their employment within the institution.

(f) Massage practiced by students in a state certified institution of learning established for such instruction.

(g) Massage of the hands, wrists, ankles, or feet only of an otherwise clothed person. Provided that furniture such as a couch or chair that contains vibratory equipment may also be used by the massage recipient contemporaneously with the massage of the named extremities.

(Ord. No. 2087, § I, 8-4-97; Ord. No. 2433, § I, 3-4-02)

**Sec. 7-118. Licensing.**

(a) It shall be unlawful and a class "B" offense for any person to operate a massage establishment or out-call service without having first obtained a current license to do so, as hereinafter provided.

(b) It shall be unlawful and a class "B" offense for any person to perform the services of a massage technician or therapist, without first having obtained a current license to do so.

(c) It shall be unlawful and a class "B" offense for an operator of a massage establishment to permit any person within the establishment to act as a massage technician or therapist, unless the said person so acting is duly licensed as hereinafter provided.  
(Ord. No. 2087, § I, 8-4-97)

Sec. 7-119. Application fees and annual license fees.

(a) Application processing fee for any type of license (whether granted or denied):

- (1) Massage establishment . . . \$100.00
- (2) Massage technician or therapist or student . . . 45.00
- (3) Out-call service . . . 45.00

(b) The annual renewal fee of any license shall be as follows:

- (1) Massage establishment . . . 75.00
- (2) Massage technician or therapist or student . . . 30.00
- (3) Out-call service . . . 30.00

(c) Application fees and annual renewal fees are non-refundable. The application fees shall be paid at the time of the submission of an application for a license and are not prorated. If a license shall be issued, the license fee shall be due and payable on May 1st of each year thereafter. In the event that the licensee shall cease operations before the end of a period for which a license is issued, and license fees shall not be refundable or prorated.

(d) The initial establishment, technician or therapist, and out-call license shall not expire until April 30, 1998 at 11:59 p.m. Thereafter, such licenses shall expire on April 30th next following issuance.

(Ord. No. 2087, § I, 8-4-97; Ord. No. 2441, § II, 4-1-02; Ord. No. 2543, § I, 6-16-03)

Sec. 7-120. **Applications.**

(a) *Commercial massage establishment.* The operator of the massage establishment seeking to obtain a license for commercial property shall submit a written application to the finance department so that it may be determined:

- (1) That the applicant is an adult.
- (2) If the applicant is a corporation, the date and state of incorporation; name and address of the registered agent for the State of Oklahoma and names and addresses of officers and directors of said corporation shall be stated.
- (3) The applicable zoning of the property where the establishment is to be located.
- (4) That all employees involved in massage have been examined and have been issued a health certificate by a medical doctor stating that they have, within thirty (30) days immediately prior thereto, been examined and found to be free from any contagious or communicable diseases of a type transmittable during massage, as to all persons who shall have physical contact with patrons.

(5) That the applicant, and each employee thereof have not previously been convicted of any criminal violation involving moral turpitude.

(b) *Massage technician or therapist or student.* Any person seeking to obtain a license as a massage technician or therapist shall submit a written application to the finance department containing, but not limited to, the following information:

(1) The full name and present address of the applicant, and all aliases by which the applicant is or may be known.

(2) All addresses and the employment history of the applicant for the three (3) years preceding the application.

(3) The applicable zoning of the property where the business is to be located.

(4) Written proof that the applicant is an adult.

(5) Applicant's height, weight, date of birth, color of eyes and hair.

(6) Two (2) portrait photographs which meet the federal standards for passport photographs, one (1) of which shall be attached to the license issued by the finance department.

(7) The massage or similar business history of the applicant, including whether such person has ever had a similar license revoked or suspended and the reasons therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

(8) All convictions involving moral turpitude for the seven (7) years preceding the application.

(9) A certificate from a medical doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable disease which might be transmitted by personal contact of a kind customary for massage.

(10) a. An applicant for a massage technician or therapist license must furnish a diploma or certificate of graduation from an institution recognized by any state wherein the practice or profession of massage technician is taught, together with a transcript reflecting successful completion of a total of two hundred and fifty (250) hours for a technician, or five hundred (500) hours of course work for a therapist, which includes classroom work in applied anatomy, physiology, contraindications of massage and ethics at any institution of higher learning accredited by the state wherein the institution is located. The classroom hours may include up to one hundred (100) hours of practical experience as supported by a clinical practicum log. In the alternative, applicants may show that they have successfully passed an examination and are in current good standing with a certifying agency which meets the standards of and is approved by the National Commission of Certifying Agencies such as the National Certification Exam created by the National Certification Board for Therapeutic Massage and Bodywork or applicant is applying to renew a previously issued Broken Arrow license.

(11) b. An applicant for a massage student must furnish proof of age showing the student to be at least age twenty-one (21), and proof of admission as a student to a massage school or massage establishment within the city limits, for a course study or training leading to the student becoming a massage technician or therapist, together with a school transcript or training log for all massage work done by the student in the

year immediately preceding the application. Provided that in the absence of medical necessity, a student must complete at least two hundred fifty (250) hours per year until completion of the course of study or training. Provided further that a student license shall be valid only for work performed on site and under the direction of the school or establishment that is providing the course work. Such other identification and information necessary to discover the truth of the matters hereinabove specified as required to be set forth in the application.

(12) Classification of license desired.

(13) For renewals, proof of professional continuing education achieved during the preceding twelve (12) months. Such proof shall consist of at least four (4) hours of continuing learning experience which enhance and expand the skill, knowledge, and attitudes of practicing massage therapists and technicians to render competent professional service; such proof shall include:

- a. The name of the program;
- b. A course outline or general description of the course;
- c. Course provider and instructor;
- d. Dates of the training or instruction; and
- e. Hours awarded by the National Certification Board for Therapeutic Massage and Bodywork.

(c) *Residential massage establishment.* An operator of a massage establishment seeking to obtain a license for residential property shall submit a written application to the finance department so that it may be determined that:

- (1) The applicant is an adult.
- (2) The applicant is the actual resident of the property for which the license is sought.
- (3) No person other than actual residents of the household will perform massage as defined in this article, and then only if licensed as a massage technician or therapist.
- (4) The applicant has been examined has been issued a health certificate by a medical doctor stating that they have, within thirty (30) days immediately prior thereto, been examined and found to be free from any contagious or communicable diseases of a type transmittable during massage, as to all persons who shall have physical contact with patrons.
- (5) The applicant has not previously been convicted of any criminal violation involving moral turpitude.

(d) *Issuance.* The finance department shall investigate the validity of the statements contained in the application for a license required under this article. Refusal or failure to submit a true and accurate application, containing all information required, shall be grounds for the finance department to refuse to accept this application or refuse to issue such license until such time as the application is accurately completed.

(e) *Reciprocity based upon pre-existing practical training.* Full-time, practical experience in Tulsa or in another city with comparable regulation, which experience is based upon at least two hundred and fifty (250) hours of training, shall be considered the substantial equivalent of a diploma or certificate of graduation for the purpose of obtaining a massage technician license in Broken Arrow; provided such Broken Arrow

technician license is first obtained prior to April 30, 1998, and maintained in a current status thereafter.

(f) All records of the application shall be maintained by the Finance Department, under normal document maintenance procedures.  
(Ord. No. 2087, § I, 8-4-97; Ord. No. 2433, § II, 3-4-02; Ord. No. 2441, § III, 4-1-02)

**Sec. 7-121. Display of license.**

Every person, partnership, firm or corporation to whom a massage establishment license shall have been granted, under this article, shall display said license in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage is given. Every person to whom a massage technician or therapist license shall have been granted under this article, and who is working in a licensed establishment, shall affix a name plate or similar means of identification conspicuously to the garment of the person so that the person's identity may be readily ascertainable.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-122. Facilities.**

No massage establishment license shall be licensed or renewed on commercial property unless inspection by the City of Broken Arrow building department and fire department indicates that the establishment complies with the following minimum requirements.

(a) Minimum lighting and ventilation shall be provided in commercial facilities in accordance with the Uniform Building Code; in addition, either direct or indirect lighting of not less than forty (40) foot-candles shall be provided in such room or enclosure where services are performed on patrons, and each minimum lighting shall be in use when services are being performed.

(b) Approved storage facilities shall be provided and used for the storage of clean linens in all commercial facilities.

(c) Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing massage. Such instruments shall be sterilized after each use.

(d) Hot and cold running water shall be available at all times.

(e) Massage establishments in the massage technicians' or therapists' own residence shall have no more than two (2) patrons on the premises at any one (1) time.

(f) Adequate dressing and toilet facilities shall be provided for patrons. A minimum of one (1) toilet and one (1) wash basin, and facilities to provide a safe and secure place to keep valuables and personal items, shall be provided in every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at a commercial massage establishment, a separate massage room or rooms, and separate dressing facilities shall be provided for male and female patrons.

(g) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the massage establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and massage tables shall be thoroughly cleaned and disinfected after each use.

- (h) Clean and sanitary linens shall be provided for the use of each patron. The table shall be provided with clean and sanitary linen, paper towel or sheet for each patron.
  - (i) A price schedule for all services shall be prominently posted in the reception area or otherwise readily available to all prospective patrons.
  - (j) In a commercial environment, all massages shall be performed in a massage room designed for such purpose. No doorway to such room shall be locked during a massage session.
  - (k) All massage establishments shall be located in conformity with the Broken Arrow Zoning Code, within commercial districts, or as a home occupation within residential districts.
  - (l) All massage technicians and therapists shall thoroughly wash or otherwise cleanse their hands prior to each massage.
- (Ord. No. 2087, § I, 8-4-97)

**Sec. 7-123. Records to be kept.**

- (a) The operator of each massage establishment shall keep and maintain up-to-date a register of all employees, including their address, date of birth, sex, and duties.
  - (b) Every operator shall keep a record of all treatments rendered either on or off the business site, and shall describe the address of the patron, the technician, therapist or student rendering such treatment, and the date of such treatment. Said records shall be maintained for a period of one (1) year, and shall be available for inspection during normal business hours by officials of the city.
- (Ord. No. 2087, § I, 8-4-97; Ord. No. 2441, § IV, 4-1-02)

**Sec. 7-124. Unlawful acts.**

- (a) Any operator of any massage establishment, or any other employee of such massage establishment, or any massage technician or therapist, is hereby prohibited from:
    - (1) Engaging in prostitution, oral copulation, masturbation, sexual intercourse, or any other act designed or intended to arouse or gratify the sexual desires of any massage patron; or
    - (2) Soliciting, directly or indirectly, any person to engage in prostitution, oral copulation, masturbation, deviant sexual intercourse, or other act designed or intended to arouse or gratify the sexual desires of any massage patron, whether such acts are intended to occur on or off the premises of the massage establishment;
    - (3) Engaging in a display amounting to indecent exposure.
  - (b) Any operator who knows or reasonably should know that any acts prohibited by this section have occurred, or are occurring in or upon the premises of the establishment, shall be deemed guilty of committing such act and shall also be held liable as a principal.
  - (c) Any person convicted under this section shall be punished for a violation of a class "A" offense.
- (Ord. No. 2087, § I, 8-4-97)

**Sec. 7-125. Inspections.**

- (a) At least twice a year the city may make an inspection of each massage establishment in the city to determine compliance with the provisions of this article. Nothing herein shall preclude authorized city employees or agents from making inspections of the premises and records at any reasonable time during the hours of operation. It shall be unlawful and a class "B" offense for any operator of a massage establishment to refuse to allow the aforementioned inspection.
- (b) Inspection of the premises shall be limited to those areas not in actual use at the time of inspection; provided, nothing herein shall be construed to preclude a peace officer from inspecting any area pursuant to a warrant, or as otherwise authorized by applicable law.
- (Ord. No. 2087, § I, 8-4-97)

**Sec. 7-126. Revocation and suspension.**

- (a) Any license issued pursuant to this article shall be subject to revocation or suspension, whenever the holder thereof shall violate any of the provisions of this article or other applicable ordinances of the City of Broken Arrow relating to massage establishments.
- (b) Upon commencement of revocation and suspension proceedings, the council shall set a time and place for the hearing of the matter.
- (c) The licensee shall be given notice of the time, place, nature of the revocation or suspension hearing to be held, and a description of the violation asserted. Such notice shall be served personally or by mailing by first class U.S. Postal Service mail, certified, with return receipt requested to the last address furnished to the city by the licensee, said mailing occurring at least ten (10) days prior to the hearing.
- (d) The city council may preside over the hearing, or in the alternative, may appoint a hearing officer, who may be a council member, a municipal judge, or a special committee of the council, to preside over such hearing.
- (e) The hearing officer or the chairman of the special committee shall have the power to administer oaths and issue subpoenas.
- (f) All evidence shall be recorded stenographically or by electronic recording device. If the hearing is before a hearing officer, the officer shall prepare a summary of the evidence and shall make recommendations in writing to the city council within ten (10) days after the close of the hearing. A copy of this summary and recommendation shall be transmitted to the licensee. At its next regularly scheduled meeting following the receipt of such summary and recommendations, the council shall consider same. In its discretion, the council may reject the hearing officer's recommendation, or may refer the matter back

for further proceedings, or may adopt the recommendation, with or without modification, or may order a new hearing, before the entire council.

(g) The finance department may summarily suspend any license now or hereafter issued to any person pursuant to this article whenever the holder thereof shall be convicted of a violation of any provisions of this chapter under which such license was issued or whenever, in the judgment of the finance department, the public welfare requires the same. Any person may appeal to the city council from the action of the department in summarily suspending any such license. Appeal from the department's suspension of the license shall be to the city council under the procedures hereinbefore stated.

(h) It shall be unlawful and a class "A" offense for any person to carry on or engage in the business as herein described in this article, while any suspension or revocation is in effect.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-127. Sale or transfer.**

(a) No license shall be transferable from one (1) license holder to another. A new application shall be made by any transferee desiring to own or operate a presently licensed massage establishment.

(b) Any sale or transfer, or any interest in an existing massage establishment, or any application for an extension or expansion of the premises or removal of the massage establishment to another location, shall require inspection and shall require compliance with all applicable provisions of this article and all other applicable provisions of the Broken Arrow Municipal Code.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-128. Existing operations.**

The provisions of this article shall be applicable to all persons and businesses described herein, whether the herein described activities were established before or after the effective date of this article, and shall include any person or persons whose application is presently under consideration or investigation by the city; provided, however, that those massage establishments in actual existence and operation prior to the date of adoption of this article shall have a two (2) month grace period from the effective date hereof, within which to comply with all the conditions and requirements of this article as set out herein, including but not limited to all licensing, structural and sanitation provisions.

Notwithstanding any provisions to the contrary, any existing massage establishment shall have a fulltime massage technician who has met the licensing requirements of this article, on their staff not later than thirty (30) days from the effective date of this article.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-129. Operation contrary to provisions.**

Any massage establishment operated, conducted, or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. At the discretion of the city council, the city attorney, in addition to all other remedies set forth hereunder, may commence an action or actions for the abatement, removal and enjoinder thereof, in the manner provided by law to such court or courts as may have jurisdiction to grant such relief.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-130. Massages as employee benefit on periodic basis.**

When a business which does not provide massages to the public, but chooses to provide massages to its own employees as an employee benefit on a periodic basis, such a business shall not be required to be licensed as a massage establishment so long as such massages are given under written contract with the licensed massage technician with a copy filed in the office of the finance director, and the massage technician provides massages only through the clothing of the employee benefitted.

(Ord. No. 2087, § I, 8-4-97)

**Sec. 7-131. Out-call service.**

No massage technician or therapist shall provide service by providing massages at a private location, except under the following circumstances:

- (a) The massage technician or therapist must specify in the application for a license that an out-call service will be provided.
- (b) No out-call massage service shall be provided after 9:00 p.m. nor before 7:00 a.m.; nor may any patron of an out-call service be less than eighteen (18) years of age, unless such service is based on parental consent or a physician's instructions as shown by a written instrument.
- (c) All towels, linens, and paper products shall be clean, and shall be laundered or disposed of after each use.
- (d) All instruments, apparatus, and equipment of a non-disposable nature shall be disinfected after each use.
- (e) The massage technician or therapist shall maintain a written log of all out-call services, including the date, time, and location of the service provided, plus the name and home address of each patron served, and the fee paid. Such record shall be available for inspection by any authorized representative of the city, during normal business hours, on demand. Such record shall be preserved by the massage technician or therapist for not less than eighteen (18) months.
- (f) Students shall not be used in any out-call service, but may observe a technician or therapist in an out-call service.

(g) The out-call service must have an address within the city limits of Broken Arrow, where all applicable records are kept. Such a record location may be separate, or combined with other facilities associated the lawful business.

(Ord. No. 2087, § I, 8-4-97; Ord. No. 2441, § V, 4-1-02)

Secs. 7-132--7-143. Reserved.