

# City of Tulsa

## CHAPTER 13

### MASSAGE BUSINESS

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### SECTION 1300. PURPOSE

It is the purpose of this chapter to promote public health, safety, and welfare by providing for the regulation and control of persons engaged in the business of massage.  
*Ord. No. 20502*

### SECTION 1301. DEFINITIONS

As used in this chapter, the following words and phrases shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and words defined in upper and lower case shall have the same meaning as words in all lower case. Words used in the masculine gender comprehend, as well, the feminine gender and neuter. The words "and" and "or" may be read conjunctively or disjunctively. The words "shall" and "will" are mandatory, and "may" is permissive.

**Agent for the City of Tulsa**, includes any of the following: authorized employees of the Tulsa Police Department, Finance Department, Fire Department, Health Department, Legal Department, and Neighborhood Inspections Division of the Public Works Department.

**Certification** means certification by the National Certification Board for Therapeutic Massage and Bodywork or a board of equivalent stature, which is accredited by the National Commission for Certifying Agencies for massage and bodywork, or other state or federal agencies as approved by the Director.

**City** means the City of Tulsa, Oklahoma, a municipal corporation.

**Director** means the Director of Finance for the City of Tulsa or his authorized representative.

**Direct Supervision** means on-the-premises control and responsibility for the Massage Apprentice by the supervisor in the physical presence of the massage.

**Direct Supervisor** means the Massage Therapist or Massage Technician who signs the application for a Massage Apprentice and who performs the direct supervision of the apprentice as defined herein. A Direct Supervisor shall provide proof of twelve (12) consecutive months of actual business operations as a licensed Massage Therapist or Massage Technician as a prerequisite for sponsoring a Massage Apprentice.

**Licensee** means any Massage Therapist, Massage Technician, or Massage Apprentice appropriately licensed by the City of Tulsa.

**Massage** means any method of pressure or friction applied by stroking, rubbing, kneading, tapping, pounding, manipulating, vibrating, or stimulating external parts of the human body with the hands, feet, or otherwise, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other preparation, infrared heat, vibrator, or mechanical or electrical appliance, for any type of consideration or gratuity.

**Massage Apprentice** means any person who is directly supervised by a Massage Therapist or a Massage Technician for the purpose of learning the method and practice of massage.

**Massage Technician** means any person, other than a Massage Therapist or a Massage Apprentice, who administers to another person, for any consideration or gratuity, a massage, electric or magnetic massage procedure, manipulation of the body, or other similar procedure allowed by law.

**Massage Therapist** means any person who is certified by the National Certification Board for Therapeutic Massage and Bodywork, or a board of equivalent stature which is accredited by the National Commission for Certifying Agencies for massage and bodywork and who administers to another person, for any consideration or gratuity, a massage, electric or magnetic massage procedure, manipulation of the body or other similar procedure allowed by law.

**Patron** means any person who presents himself for or receives a massage.

**Person** means any natural person, firm, partnership, association, or corporation.

**Sexual Body Areas** means the female breast, and the genitals, pubic area, anus, or perineum of any person.

**Special Circumstances**, as used in Section 1305 hereafter, means the applicant shall have submitted proof satisfactory to the Director that his or her conviction was not for prostitution or a prostitution-related act; any act of public lewdness; any sexual offense; any act of violence or threat to the safety or health of another; or any drug-related offense; or that facts of a mitigating nature exist which, in fairness, would exempt the applicant from automatic disqualification.

*Ord. No. 20502*

### **SECTION 1302. MASSAGE LICENSE REQUIRED**

A. It shall be unlawful and an offense for any person to perform or offer or agree to perform the services of a Massage Therapist, Massage Technician, or Massage Apprentice without first having obtained a license to do so as herein provided.

B. It shall be unlawful and an offense for any Massage Apprentice to perform a massage unless acting under the direct supervision of a duly licensed Massage Therapist or Massage Technician.

C. It shall be unlawful and an offense for any Massage Therapist or Massage Technician to permit a Massage Apprentice to perform a massage unless acting under the direct supervision of a duly licensed Massage Therapist or Massage Technician.

*Ord. No. 20502*

### **SECTION 1303. EXEMPTIONS FROM LICENSE REQUIREMENT**

This chapter shall not apply to the following persons while engaged in the personal performance of the duties of their respective professions:

A. Nurses, physician assistants, nurse practitioners, and certified nursing assistants who are registered under the laws of the state of Oklahoma;

B. Physicians, surgeons, chiropractors, chiropodists, podiatrists, osteopaths, physical therapists or athletic trainers who are duly licensed to practice their respective professions in the state of Oklahoma;

C. Barbers, cosmetologists, estheticians, facialists, and manicurists who are duly licensed under the laws of the state of Oklahoma, except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of a patron for cosmetic purposes in the case of barbers, cosmetologists, estheticians, and facialists; or in the case of manicurists, the extremities, as part of a proper pedicure or manicure; or

D. Any employee or student of any nonprofit organization such as a hospital, clinic, nursing and convalescent home, university, college or seminary licensed or accredited by the state of Oklahoma or organized as exempt from taxation by the Internal

Revenue Code of the United States, when massages are performed as part of such service or education and not for any consideration.

*Ord. No. 20502*

#### **SECTION 1304. FEES AND RENEWAL**

A. Applications for a license as a Massage Therapist, Massage Technician, or Massage Apprentice shall be accompanied by a nonrefundable processing fee of Fifteen Dollars (\$15.00) per person. In addition, every application shall be accompanied by a Nineteen Dollar (\$19.00) fingerprint fee, assessed to defray the cost of processing and investigation.

B. The following annual license fees shall be due and payable by the applicant at the time the City license is issued; provided, however, that fees for the initial applications for Massage Therapists and Massage Technicians may be prorated quarterly.

1. Massage Therapist \$ 150.00
2. Massage Technician \$ 150.00
3. Massage Apprentice \$ 135.00

C. Each licensee, except a Massage Apprentice, shall reapply for a license annually and the license shall be renewed, unless the Director determines that the licensee should be denied a license for a violation of the provisions of this chapter. Massage Apprentice licenses are eligible for one (1) twelve (12) month renewal.

D. Licenses shall expire on September 30 of each year, except for Massage Apprentice licenses, which shall expire one (1) year from date of issuance. Applications for renewal of the license shall be submitted, along with the appropriate annual license fee, thirty (30) days prior to the date of expiration. Any license which has not been renewed within ninety (90) days following its expiration shall not be renewed, and the licensee will be required to apply for a new license.

E. In the event that the licensee shall cease operation, either voluntarily or involuntarily, before the end of the period for which a license is issued, no part of the license fee shall be refunded.

*Ord. Nos. 16228, 16546, 20502*

#### **SECTION 1305. APPLICATIONS**

An applicant for a massage license shall submit to the Director a written and verified application on a form furnished by the Director. Before issuing a license, the Director shall determine that the applicant meets the following requirements:

A. **Therapist, Technician, and Apprentice.** The applicant shall be eighteen (18) years of age or older. The applicant's name, place of birth, sex, race, height, weight, color of eyes and hair, residence, and permanent business address shall be included in the application.

B. **Photograph.** An applicant shall be photographed at the time of application, one copy of the photograph shall be used for a City-furnished identification card, and

another copy shall be retained by the Department of Finance.

**C. Fingerprints.** The applicant shall be fingerprinted on all fingers on a form provided by the Tulsa Police Department, at the time of application, which fingerprints shall be retained for as long as deemed necessary by the Director. The Director may verify identification of any applicant by appropriate means.

**D. Disclosure of Prior Revocations and Criminal History.** The applicant shall disclose all prior revocations or suspensions of a massage-related license and all convictions of any and all misdemeanors and/or felonies, excluding traffic-related violations, from any jurisdiction within ten (10) years preceding the date of the application. Failure to fully disclose this information may result in revocation of any license issued under this chapter.

1. Absent special circumstances, disqualification is automatic for a misdemeanor conviction for prostitution; or a prostitution-related crime; public lewdness; any sexual offense; an act of violence such as or similar to assault and battery, stalking, domestic violence, or any other act or threat of violence for which a protective order was issued; or any drug-related crime within five (5) years preceding the date of the application.

2. Absent special circumstances, disqualification is automatic for any felony conviction within ten (10) years preceding the date of the application.

3. Revocation of a massage-related license by this or any other jurisdiction within three (3) years preceding the date of the application may disqualify the applicant.

4. The applicant shall furnish other information and identification as the Director shall require in order to verify the criteria herein specified.

**E. Qualifications and Requirements.** An applicant for a license as a Massage Therapist, Massage Technician, Massage Technician with restrictions, or Massage Apprentice shall meet the following qualifications and requirements:

1. **Massage Therapist:**

- a. The applicant shall possess a current, valid accreditation from the National Certification Board for Therapeutic Massage and Bodywork; or

- b. The applicant shall possess a current City of Tulsa Massage Technician license and submit proof of an additional two hundred fifty (250) hours of training from course(s) approved by the National Certification Board for Therapeutic Massage and Bodywork, or courses approved by the Director; or

- c. The applicant shall submit proof of completion of five hundred (500) massage-related education hours which are certified by a board equivalent in stature to the National Certification Board for Therapeutic Massage and Bodywork, or which are approved by the Director.

2. **Massage Technician:**

- a. The applicant shall submit documentation evidencing successful

completion of a school or institution of learning approved by the Director, wherein the method, profession, and art of massage is taught; or

b. If the applicant does not possess the requirement provided in paragraph a, above, the applicant shall:

(1) Submit a completed logbook, supplied by the Director, and accompanied by an Affidavit from the applicant's Direct Supervisor, which documents the completion by the applicant of two hundred fifty (250) hours of directly supervised massage. Falsification of hours of supervision may result in revocation of the license of the Direct Supervisor, as well as denial of the application; and

(2) Submit documentation evidencing successful completion of a course of at least three (3) semester hours of applied anatomy and physiology at any institution of higher learning, accredited by the state wherein such institution is located, or as otherwise approved by the Director.

### **3. Massage Technician (with restrictions).**

a. The applicant shall submit documentation evidencing extensive experience in the field or completion of a school or institution of learning approved by the Director, wherein the method, profession, and art of massage has been successfully practiced or learned; and

b. Massage Technicians licensed under this paragraph are subject to the following provisions, limitations, and restrictions:

(1) The massage shall be restricted to hands, wrists, ankles, and feet, only; and

(2) The patron shall remain fully clothed, excepting footwear; and

(3) Equipment, such as a couch or chair, a hand-held device, or movable padding, which contains a vibratory feature may also be used contemporaneously with the massage of the extremities listed in paragraph (1).

### **4. Massage Apprentice:**

a. The applicant shall submit documentation evidencing successful completion of training in contra-indicators of massage, as approved by the Director; and

b. Each application for a Massage Apprentice license shall be signed by and shall disclose the name and City license number of the Massage Therapist or Massage Technician who shall act as the applicant's Direct Supervisor, as defined herein.

*Ord. No. 20502*

## **SECTION 1306. LICENSE DENIAL, ISSUANCE, SUSPENSION, OR REVOCATION--ADMINISTRATIVE COSTS**

The Director shall review applications, conduct hearings, and make the determinations required for the proper and efficient enforcement of the requirements of this chapter. The requirements of this chapter for each license are cumulative, and the failure of the licensee to comply with any requirement shall be grounds for denial, suspension, or revocation of such license.

**A. Issuance.** The Director shall review and act upon each application within a

reasonable time after its completion and submission. The Director shall issue each and every applicant who satisfactorily complies with the license requirements of this chapter the appropriate license.

**B. Identification Card.** The Director shall issue to each person licensed under this chapter a City-furnished photo identification card.

**C. Suspension.** The Director may suspend a license for a definite period, not to exceed sixty (60) days, if he determines that the licensee has:

1. Interfered with the Director or other enforcement personnel in the performance of his duties; or
2. Intentionally or knowingly failed to comply with any of the provisions of this chapter.

**D. Revocation.** The Director may revoke a license if:

1. The licensee has been convicted of a felony, unless ten (10) years shall have elapsed from either the date of conviction or the release from confinement for a felony conviction; or
2. The licensee has ever been convicted of any of the following: prostitution or a prostitution-related act; public lewdness; any sexual offense; any act of violence such as assault and battery, stalking, domestic violence, had a protective order or similar judicial writ issued against him (civil or criminal); and/or any drug-related crime which was not disclosed as required in the application.
3. The licensee made a misstatement in the application which would have been grounds for the denial thereof;
4. The licensee has had his license previously suspended and a subsequent cause for suspension occurs within twelve (12) months following said suspension;
5. The licensee fails to meet the requirements of Section 1305.

**E. Administrative Costs.** Any determination by the Director regarding whether or not a licensee has intentionally or knowingly failed to comply with any of the provisions of this chapter may also include the requirement that the licensee pay a sum not to exceed FIVE HUNDRED DOLLARS (\$500.00) to defray administrative costs associated with the determination process.

**F. Administrative Hearing.** Any state or City authority, board, department, or agency shall have the right to request an administrative hearing before the Director in response to complaints against any licensee for any violation of this chapter. The procedure shall comply with all pertinent provisions of this chapter.

**G. Surrender of License.** After receipt of notice of suspension or revocation, the licensee shall, on or before the date specified in the notice, surrender his Massage Therapist, Massage Technician, or Massage Apprentice license to the Director and discontinue performing massage service.

**H. New Application.** After revocation of a license, a licensee shall not be eligible

to make application for a license for a period of three (3) years, and subsequent applications shall be made in accordance with Section 1305 of this chapter.

*Ord. Nos. 16228, 20502*

### **SECTION 1307. NOTICE OF DENIAL, SUSPENSION, OR REVOCATION**

The Director shall give notice of denial of license to the applicant by certified mail, return receipt requested, to his stated home address, or of suspension or revocation of license to any licensee by certified mail, return receipt requested, to his stated business address. Such notice shall state the reasons for denial, suspension, or revocation; the effective date of the decision; and shall advise the applicant or licensee that the Director's decision may be appealed to the Council by filing a written notice of appeal with both the Council Secretary and the Director within ten (10) working days from the date of the Director's decision. The notice filed by the applicant/licensee shall specify the grounds for the appeal. All such licenses shall be suspended pending appeal.

*Ord. No. 20502*

### **SECTION 1308. APPEALS**

Appeals to the Council from any adverse decision of the Director, when timely and properly filed, shall be heard by the Council not less than seven (7) days nor more than thirty (30) days from the date the notice of appeal is received by the Council Secretary. Notice of the date and time of the hearing before the Council shall be given to all parties concerned. At such hearing the Council shall receive any evidence it deems appropriate and shall either affirm, reverse, or modify the Director's decision.

*Ord. No. 20502*

### **SECTION 1309. IDENTIFICATION CARD**

A. Each individual licensed by the City as a Massage Therapist, Massage Technician, or Massage Apprentice, upon request, shall be able to present the City-furnished photo identification card issued to such individual, at all times when engaged in the licensed business.

B. Failure to comply with this section may be cause for suspension or revocation of the subject license, and/or may subject the licensee to an administrative fine not to exceed FIVE HUNDRED DOLLARS (\$500.00).

*Ord. No. 20502*

### **SECTION 1310. MISUSE OR ALTERATION OF LICENSE**

A. It shall be unlawful and an offense for a licensee to lend his/her license to another person or knowingly permit the use of the license by another person, or for a person to represent as one's own, any license not issued to such person.

B. It shall be unlawful and an offense for any person to alter any license issued pursuant to this chapter with intent to avoid compliance with any provision of this chapter.

C. It shall be unlawful and an offense for any person to be in possession of any

license issued pursuant to this chapter which has been altered with intent to avoid compliance with any provision of this chapter.

*Ord. No. 20502*

## **SECTION 1311. RECORDS TO BE KEPT**

A. Every Massage Therapist, Massage Technician, and Massage Apprentice shall maintain a current record of all massage treatments rendered, which record shall include the address where the massage treatment was rendered, the name and address of the patron, and the date of such treatment. Such records shall be maintained for a period of not less than one (1) year. Failure to comply with the provisions of this subsection shall be unlawful and cause for suspension or revocation of the subject license.

B. Every Massage Therapist, Massage Technician, and Massage Apprentice shall maintain all consent forms or physicians' prescriptions for patrons under eighteen (18) years of age for a period of three (3) years from the date of last treatment.

C. The records required by this section shall be maintained in a confidential manner by the licensee and provided only to an agent of the City of Tulsa, or as otherwise authorized by the patron. It shall be unlawful and an offense, and cause for suspension or revocation of any license issued under this chapter, for any person or licensee to refuse to provide to said agent such records.

*Ord. No. 20502*

## **SECTION 1312. OPERATING REQUIREMENTS**

A. **General Requirements.** The following operating requirements shall apply to Massage Therapists, Massage Technicians, and Massage Apprentices, alike. A violation of any of the following requirements shall be unlawful and an offense. Any violation shall be cause for suspension or revocation of the subject license and shall subject the licensee to the requirement to reimburse the City an amount not to exceed FIVE HUNDRED DOLLARS (\$500.00) to apply toward the costs of the administrative hearing. Any person responsible for such violation shall be subject to prosecution before the Tulsa Municipal Court. Each violation and each day that such violation exists or occurs shall constitute a separate offense.

1. Every Massage Therapist, Technician, and Apprentice while engaged in the activity for which he is licensed, shall be clean and shall wear clean, nontransparent outer garments, covering the sexual body areas.

2. No Massage Therapist, Technician, or Apprentice while engaged in the activity for which he is licensed, shall sell, give, dispense, consume, provide or keep, or cause to be sold, given, dispensed, provided or kept any controlled drug, alcoholic beverage, or beer.

3. No Massage Therapist, Technician, or Apprentice while engaged in the activity for which he is licensed, or patron shall massage or touch, or agree or offer to massage or touch any person's sexual body areas, including his own. It shall also be unlawful to continue a massage if the sexual body areas of the licensee, patron, or any other person become exposed.

4. No Massage Therapist, Technician, or Apprentice while engaged in the activity for

which he is licensed, or patron shall expose or agree or offer to expose to the view of any other person his or her sexual body areas or the sexual body areas of any other person. It shall be the responsibility of each licensee to ensure that the sexual body areas of the patron remain covered at all times. Should the sexual body areas of the patron become intentionally or unintentionally exposed, the physical contact between the licensee and the patron shall cease until compliance is regained.

5. Acts of prostitution, lewdness, or related unlawful or improper sexual behavior shall not be performed or permitted by any licensee. The possession by a licensee of any sexual paraphernalia such as but not limited to condoms, vaginal lubricants, adult toy devices designed for sexual gratification, or the like, while performing a massage shall constitute a rebuttable presumption of improper sexual behavior.

6. No Massage Therapist, Massage Technician, or Massage Apprentice shall operate under a name not specified on the license, without prior approval from the Director.

7. Each Massage Therapist, Massage Technician, or Massage Apprentice, prior to providing massage services to a patron under eighteen (18) years of age and not emancipated, shall obtain written permission from the patron's parent or legal guardian and/or a written physician's prescription directing treatment.

8. Each patron shall be provided clean and sanitary linens, sheets, and towels. Each massage table shall be equipped with clean and sanitary linens, sheets, and towels.

9. All instruments, apparatus, equipment, or appliances of a non-disposable nature shall be disinfected after each use.

10. All advertising for massage services shall clearly state that the massage provider is currently licensed as a Massage Therapist, Massage Technician, or Massage Apprentice, whichever is applicable.

11. No Massage Therapist, Massage Technician, or Massage Apprentice shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive, or misleading.

12. No Massage Therapist or Massage Technician shall be designated as the Direct Supervisor for more than two (2) Massage Apprentices at any one time.

**B. Specific Requirements.** The following operating requirements shall apply to Massage Therapists, Massage Technicians, and Massage Apprentices, alike. A violation of any of the following requirements shall be unlawful and an offense. Any violation may be cause for suspension or revocation of the subject license and shall subject the licensee to the requirement to reimburse the City an amount not to exceed FIVE HUNDRED DOLLARS (\$500.00) to apply toward the costs of the administrative hearing. Any person responsible for such violation may be charged and tried accordingly before the Tulsa Municipal Court. Each violation and each day that such violation exists or occurs shall constitute a separate offense. Each violation and each day that such violation exists or occurs shall constitute a separate offense.

**1. Massage Therapists:**

a. All Massage Therapists who are required to provide evidence of

certification shall maintain current certification as a condition of continued licensing.

b. All Massage Therapists shall, on an ongoing basis, complete the minimum continuing education requirements that would be necessary to maintain certification from either the National Certification Board for Therapeutic Massage and Bodywork or a board of equivalent stature which is accredited by the National Commission for Certifying Agencies for massage and bodywork, or comply with the Director's requirements for continuing education. Continuing education is meant to include college credit and/or non-college credit hours in massage-related education. Each class hour attended of a college credit course shall count toward the total number of "in-class" hours the licensee is required to attend in order to maintain board certification.

**2. Massage Apprentices:**

a. Every Massage Apprentice shall work at all times under the direct supervision of a licensed Massage Therapist or Massage Technician.

b. No Massage Apprentice shall work more than six (6) hours in any one (1) day and no more than thirty (30) hours in any one (1) week. A week is defined for these purposes as a period of seven (7) days running Sunday through Saturday.

*Ord. No. 20502*

**SECTION 1313. INSPECTIONS**

Any licensee shall be subject to inspection at any time while engaged in the practice for which he is licensed by any authorized agent of the City of Tulsa to determine compliance with the provisions of this chapter. It shall be unlawful and an offense and cause for suspension or revocation of the subject license for any person or licensee to refuse to allow such inspections.

*Ord. No. 20502*

**SECTION 1314. ENFORCEMENT**

Any applicant who has been denied a license, or any licensee whose license has been revoked or suspended hereunder who acts in violation of such denial, revocation, or suspension shall be guilty of an offense, and each day constituting such violation is a separate and distinct offense with a separate and distinct penalty.

*Ord. No. 20502*

**SECTION 1315. TRANSFER PROHIBITED**

No license issued pursuant to this chapter shall be transferred. No more than one (1) license per individual may be issued at any one time by the City under the provisions of this chapter.

*Ord. No. 20502*

**SECTION 1316. BOGUS CHECKS**

The license of any applicant or licensee who pays any fee with a check which is subsequently dishonored for any reason shall be automatically suspended without further notice until payment satisfactory to the Director is made. This provision shall not prevent the filing of criminal charges if and when applicable.

*Ord. No. 20502*

## **SECTION 1317. LICENSES CURRENTLY ISSUED**

A. Each Massage Technician and Massage Apprentice currently licensed by the City on the date of passage of this ordinance shall continue to be licensed, and shall comply with all requirements of this chapter.

B. All new applications, including existing licenses which are not renewed, for Massage Therapists, Massage Technicians, and Massage Apprentices shall be in compliance with the terms and requirements of this chapter.

*Ord. No. 20502*

## **SECTION 1318. PENALTY**

Any person, patron, licensee, or individual found guilty of violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than FIVE HUNDRED DOLLARS (\$500.00) excluding costs and assessments, and/or by imprisonment in the City Jail for not more than ninety (90) days or by both such fine and imprisonment, for each violation.

*Ord. No. 20502*

## **SECTION 1319. REMEDIES CUMULATIVE**

The conviction and punishment of any person for operating hereunder without the appropriate license shall not relieve such person from paying any appropriate license fee due, nor shall conviction and punishment prevent the Director from denying the issuance of any license, nor shall the payment of any license fee prevent a criminal prosecution for the violation of any of the provisions of this chapter. The conviction and punishment of any person for violating any of the operating requirements herein shall not prevent the Director from suspending or revoking any existing license for such violation, nor shall the suspending or revoking of the license prevent a criminal prosecution for the violation of any of the provisions of this chapter. The Director shall take appropriate action when evidence of a violation of this chapter is presented, whether or not criminal prosecution occurs. All remedies prescribed hereunder shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

*Ord. No. 20502*