

*City of Albany
Police Department*

F₁

ORDINANCE REGULATING AND LICENSING MASSAGE PARLORS

The People of City of Albany do Ordain as follows:

Section 1. Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) Employee. Any person over eighteen (18) years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
- (b) Licensee. The person to whom a license has been issued to own or operate a massage establishment as defined herein.
- (c) Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.
- (d) Massage Establishment. Any establishment having a source of income or compensation derived from the practice of massage as defined in Subsection (c) and which has a fixed place of business where any person, firm, association or corporation engages in or carries on any of the activities as defined in Subsection (c).
- (e) Massagist, Masseur or Masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as defined in Subsection (c).
- (f) Outcall Massage Service. Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in Subsection (c).

91
4023

- (g) Patron. Any person over eighteen (18) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.
- (h) Permittee. The person to whom a permit has been issued to act in the capacity of a massagist (masseur or masseuse) as herein defined.
- (i) Person. Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (j) Recognized School. Any school or educational institution licensed to do business as a school or educational institution in the State in which it is located, or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.
- (k) Sexual or Genital Area. Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

Section 2. Permit required.

- (a) Business license required. No person shall engage in or carry out the business of massage unless he has a valid massage business license issued by the City pursuant to the provisions of this ordinance for each and every separate office or place of business conducted by such person.
- (b) Massagist's permit required. No person shall practice massage as a massagist, employee or otherwise, unless he has a valid and subsisting massagist's permit issued to him by the City pursuant to the provisions of this ordinance.

Section 3. Exemptions.

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

- (a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Oregon.

- (b) Nurses who are registered under the laws of this State.
- (c) Barbers and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

Section 4. Application for Massage Establishment License.

Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application under oath with the City of Albany Recorder upon a form provided by the Department of Finance and pay a nonrefundable annual license fee, which shall be \$5,000.00 per year or any part thereof. Licensees who have already paid the license fee for the current period shall not be required to pay an additional fee hereunder. The application, once accepted, shall be referred to the Department of Police for investigation. The Department shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the Department of Finance concerning compliance with the codes of the City of Albany that they administer. The application shall further be referred to the Police Department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

- (a) A definition of service to be provided.
- (b) The location, mailing address and all telephone numbers where the business is to be conducted.
- (c) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).
 - (1) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10% of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
 - (2) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.
- (d) The two (2) previous addresses immediately prior to the present address of the applicant.

- (e) Proof that the applicant is at least eighteen (18) years of age.
- (f) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.
- (g) Copy of identification such as driver's license and social security card.
- (h) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Chief of Police or his agents.
- (i) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- (j) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another City or State has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (k) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.
- (l) The name and address of each massagist who is or will be employed in said establishment.
- (m) Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught, provided, however, that if the applicant will not himself engage in the practice of massage as defined herein, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

- (n) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (c) wherein the business or profession of massage is carried on.
- (o) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (p) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (q) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.
- (r) The names, current address and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City, then the County, then the State of Oregon and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon the completion of the above provided form and the furnishing of all foregoing information the Department of Finance shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the Department of Finance of each change in any of the data required to be furnished in this Section within ten (10) days after such change occurs.

Section 5. Application for Massagist's Permits.

Application for a massagist's business permit shall be made to the City Recorder in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of \$1,000.00 per year or part thereof. Massagists who have already paid the permit fee for the current six (6) month period shall not be required to pay an additional fee hereunder. The application shall contain but not be limited to the following:

- (a) The business address and all telephone numbers where the massage is to be practiced.
- (b) Name and residence address, and all names, nicknames and aliases by which the applicant has been know, including the two previous addresses immediately prior to the present address of the applicant.

95

- (c) Social Security number, driver's license number, if any, and date of birth.
- (d) Applicant's weight, height, color of hair and eyes, and sex.
- (e) Written evidence that the applicant is at least eighteen (18) years of age.
- (f) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.
- (g) Fingerprints of the applicant taken by the Police Department.
- (h) Two Front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches in size.
- (i) The name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than seventy (70) hours of instruction. For persons presently employed as a masseur or masseuse in the City of Albany, this Section shall not apply until six months after adoption of this Ordinance; present employment shall be established by sworn affidavit from the employer; after which time such person must be actively engaged, enrolled, or participating in a course of study designed to fulfill the requirements of this Section and which is certified to by an official of the approved school. The burden of establishing such active engagement, enrollment or participation shall be upon the person seeking a permit herein.
- (j) The massage or similar business history and experience prior to the date of application, including but not limited to whether or not such person is previously operating in this or another City or State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
- (k) The names, current addresses and written statements of at least five (5) bonafide permanent residents other than relatives of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City, then the County, then the State of Oregon and lastly from the rest of the United States.

- (l) A medical certificate signed by a physician, licensed to practice in the State of Oregon, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this Subsection shall be provided at the applicant's expense.
- (m) Such other information, identification and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.
- (n) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (o) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed by the City.

Section 6: Issuance of License or Permit for a Massage Establishment.

The City of Albany shall issue a license for a massage establishment or a permit for a masseur or masseuse, after ratification by the City Council of the City of Albany, if all requirements for a massage establishment or massagist permit described in this Ordinance are met unless it finds:

- (a) The correct permit or license fee has not been tendered to the City, and, in the case of a check, or bank draft, honored with payment upon presentation.
- (b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations.
- (c) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the State of Oregon that would have constituted

any of the following offenses if committed within the State of Oregon.

- (1) An offense involving the use of force and violence upon the person of another that amounts to a felony.
- (2) An offense involving sexual misconduct.
- (3) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City of Albany may issue a license or permit to any person convicted of any of the crimes described in Subsections (1), (2) or (3) of this Section if it finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crime mentioned in this Section.

- (d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.
- (e) The applicant has had a massage business, masseur, or other similar permit or license denied, revoked, or suspended by the City or any other State or local agency within five (5) years prior to the date of the application.
- (f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen (18) years.

Section 7. Approval or Denial of Application.

The City of Albany shall act to approve or deny an application for a license or permit under this Ordinance within a reasonable period of time and in no event shall the City of Albany act to approve or deny said license or permit later than ninety (90) days from the date that said application was accepted by the Department of Revenue. Every license or permit issued pursuant to this Ordinance will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked.

Section 8. Waiver of Application Requirements.

The City of Albany shall waive the requirements of Section 1 and Section 5 of this Ordinance if the applicant furnishes satisfactory

evidence of a license issued by a state authority.

Section 9. Multiple Massage Establishments.

Should any massage business have more than one location where the business of massage is pursued, then a permit, stating both the address of the principal place of business, and of the other location(s) shall be issued by the Chief of Police upon the tender of a license fee of \$5,000.00. Licenses issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance.

Section 10. Posting of License.

- (a) Every massagist shall post the permit required by this Ordinance in his work area.
- (b) Every person, corporation, partnership, or association licensed under this Ordinance shall display such license in a prominent place.

Section 11. Register of Employees.

The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time as masseurs or masseuses and their permit numbers. Such register shall be available at the massage establishment to representatives of the City of Albany during regular business hours.

Section 12. Revocation or Suspension of License.

Any license issued for a massage establishment may be revoked or suspended by the City of Albany after notice and a hearing, for good cause, or in any case where any of the provisions of this Ordinance are violated or where any employee of the licensee, including a masseur or masseuse is engaged in any conduct which violates any of the State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge by due diligence.

Section 13. Revocation of Masseur or Masseuse Permit.

A masseur or masseuse permit issued by the Chief of Police shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would be cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this Ordinance.

Section 14. Facilities Necessary.

No license to conduct a massage establishment shall be issued unless an inspection by the City of Albany reveals that the establishment complies with each of the following minimum requirements:

- (a) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Albany Building Code. Plumbing fixtures shall be installed in accordance with the City Plumbing Code.
 - (1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Albany.
 - (2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (EXCEPTION: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)
 - (3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- (b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments shall be disinfected after use on each person.
- (c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
- (d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
- (e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins

shall be provided with soap and a dispenser and with sanitary towels.

- (f) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code.

Section 15. Operating Requirements.

- (a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall be open inward and shall be self-closing.
- (d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (e) No massage establishment granted a license under the provisions of this Ordinance 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 in order to induce any person to purchase or utilize any professional massage services.

Section 16. Persons Under Age 18 Prohibited on Premises.

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

Section 17. Alcoholic Beverages Prohibited.

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

Section 18. Hours.

No massage business shall be kept open for any purpose between the hours of 5:00 p.m. and 8:00 a.m.

Section 19. Employment of Massagist.

No person shall employ as a massagist any person unless said employee has obtained and has in effect a permit issued pursuant to this Ordinance.

Section 20. Inspection Required.

The Chief of Police or his authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this Ordinance are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner.

Section 21: Unlawful Acts.

- (a) Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this Section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to Section 20. The requirements of this Subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.
- (b) It shall be unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (c) It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose

the sexual or genital parts, or any portions thereof, of any other person.

- (d) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- (e) It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (a), (b) or (c) of this Section.
- (f) It shall be further unlawful for any permittee under this Ordinance to administer massage on an outcall basis as defined in Section 1. Such person shall administer massage solely within an establishment licensed to carry on such business under this Ordinance. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business of the City of Albany shall be unlawful.
- (g) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening 6 inches by 6 inches in size capable of clear two-way viewing into and out of all cubicals, rooms, or booths. The opening shall not not less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid and

vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments.

Section 22. Sale or Transfer or Change of Location.

Upon sale, transfer or relocation of a massage establishment the license therefor shall be null and void unless approved as provided in Section 6 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or devisee of a deceased licensee, or any guardian of an heir or devisee of a deceased licensee, may continue the business of the massage establishment for a reasonable period time not to exceed sixty (60) days to allow for an orderly transfer of the license.

Section 23. Name and Place of Business.

No person granted a license pursuant to this Ordinance shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license.

Section 24. Violation and Penalty.

Every person, except those persons who are specifically exempted by this Ordinance, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives messages or operates a massage establishment or any of the services defined in this Ordinance without first obtaining a license or permit and paying a fee to do so from the City of Albany or shall violate any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction such person shall be punished by a fine not to exceed \$1,000.00 or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment.

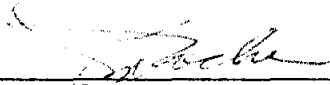
Section 25. Separability.

- (a) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held

invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

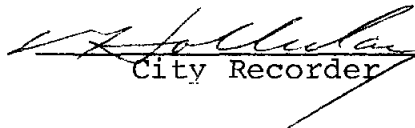
(b) All ordinances in conflict herewith are hereby repealed.

Passed by the Council:	<u>May 11, 1977</u>
Approved by the Mayor:	<u>May 11, 1977</u>
Effective Date:	<u>June 10, 1977</u>



Mayor

ATTEST:



City Recorder