

ORDINANCE NO. 3349

“AN ORDINANCE AMENDING THE STILLWATER CITY CODE, BY AMENDING CHAPTER 12, BUSINESSES, BY REPEALING IN ITS ENTIRETY ARTICLE VI, MASSAGE THERAPY, DELETING SECTIONS 12-234 THROUGH 12-300”

(AMENDMENTS HIGHLIGHTED BY STRIKETHROUGH AND UNDERLINING)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA THAT:

SECTION 1: That the Stillwater City Code, Chapter 12, Businesses, Article VI, Massage Therapy, be repealed in its entirety.

~~ARTICLE VI. -- MASSAGE THERAPY~~

~~DIVISION 1. -- GENERALLY~~

~~Sec. 12-234. -- Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Licensed massage therapist means any person graduated from a recognized school of not less than 500 hours which includes a minimum of 400 classroom hours and 100 practicum hours who administers massage therapy and bodywork techniques for therapeutic purposes and meets licensing requirements with the city.~~

~~Massage means the application of the art of body massage either by hands or with a mechanical or vibratory apparatus utilizing variations of touch, stroking, friction, palpation, kneading, vibration, percussion and therapeutic stretching in conjunction with the use of oil and lotion, heat lamps, salt glows, hot and cold packs, hot tub, Jacuzzi, shower or cabinet bath.~~

~~Massage intern means any person currently enrolled in a supervised course of study leading to a degree or certificate within a recognized school of not less than 500 hours with a minimum of 400 classroom hours and 100 practicum hours, who has completed a minimum of 250 classroom hours that include at least 50 hours massage technique and 40 hours anatomy and physiology who applies massage techniques as defined in this section for therapeutic purposes provided said practitioner is registered with the city and shall wear upon his person a badge designating his status as massage intern, when engaged in the practice of massage, provided said intern acts under the on-site supervision of a licensed massage therapist.~~

~~Massage therapy means the practice of a profession scientifically applied to the client by the therapist involving the systemic manipulation of the soft tissue of the body for the purpose of improving anatomical and physical systems of the body. The term "massage therapy" or "therapeutic massage" can only be used by licensed massage therapists.~~

~~Massage therapy establishment means any place of business wherein massage and massage therapy, as defined in this section, is administered by city licensed massage therapists for therapeutic purposes.~~

~~Massage therapy practice means any licensed massage therapist, which conducts a massage therapy business for profit.~~

~~Recognized school means any accredited or approved state educational program, school or institution that requires a resident course of study that utilizes licensed massage therapists and provides on-site supervision to teach the theory, method or profession of massage techniques and furnishes a diploma or certificate of graduation upon completion of a minimum of 500 hours which includes a minimum of 400 classroom hours and 100 practicum hours for massage therapist. Correspondence courses not requiring actual class attendance shall not be deemed "recognized schools."~~

~~Sec. 12-235. -- Penalty.~~

~~Any person who shall violate any of the provisions of this article, shall, upon conviction, be guilty of a Class A offense.~~

~~Secs. 12-236—12-261.—Reserved.~~

~~DIVISION 2.—LICENSES~~

~~Sec. 12-262.—Massage therapists to be licensed.~~

- ~~(a) It shall be unlawful for any person to engage in the practice, or attempt to practice massage therapy, whether for a fee or gratuitously, to conduct massage therapy, without a massage therapist license issued pursuant to the provisions of this article.~~
- ~~(b) It shall be unlawful for any person to operate or conduct any massage establishment which does not conform to the sanitary provisions herein contained, or to employ any person as massage therapist who does not hold a license, or to employ a massage intern who is not registered with the city.~~

~~Sec. 12-263.—Exemptions.~~

~~The requirements of this chapter shall have no application and no effect upon and shall not be construed as preventing or restricting the practice, services, or activities of:~~

- ~~(1) Licensed persons. Any person separately licensed in this state or city under any other law engaging in the health profession for which he is duly licensed who while in the course of his primary profession may utilize massage techniques, but that massage is not the primary or sole activity of that otherwise licensed profession.~~
- ~~(2) Hospital employees. Any person employed or acting under the authority of a duly qualified hospital.~~
- ~~(3) Massage students. Any person, currently enrolled in a supervised course of study leading to a degree or certificate within a recognized school, that practices massage for training as a part of course requirements on the school premises under the on-site supervision of a licensed massage therapist school instructor.~~
- ~~(4) Barbers or cosmetologists. Any person duly licensed under the laws of this state, except that this exemption shall apply solely for the massaging of the neck, upper back, shoulders, upper torso, face, scalp, hair, hands, arms, legs and feet of the customer for cosmetic or relaxation purposes.~~

~~Sec. 12-264.—Application procedure; fee.~~

- ~~(a) Any person desiring to obtain a license to establish a massage therapy practice or operate a massage therapy establishment shall make application to the city clerk, who shall refer all such applications to the chief of police for an appropriate investigation.~~
- ~~(b) Each initial application shall be accompanied by a license fee of \$100.00. The license shall expire one year from date issued.~~
- ~~(c) In the event that the licensee shall cease operation, either voluntarily or involuntarily, prior to license expiration, the license fee shall not be refundable.~~
- ~~(d) Each application for a renewal license shall be accompanied by a license fee of \$100.00. License renewal fees shall not be prorated, but are due in full prior to renewal. The licenses shall be renewed annually on or before the expiration date.~~
- ~~(e) Any person, otherwise qualified to be licensed as a massage therapist, who has been granted a license to operate a massage therapy establishment shall also be granted a massage therapy license without the necessity of paying an additional license fee.~~
- ~~(f) Each application for intern registration shall be accompanied by a fee of \$100.00.~~

~~Sec. 12-265.—Application contents.~~

~~Applicants for a license or intern registration shall submit the following information where applicable:~~

- ~~(1) Full name and current address.~~
- ~~(2) The two previous addresses of the applicant.~~

- ~~(3) Applicant's height, weight, and color of eyes and hair.~~
- ~~(4) One current photograph at least two inches by two inches in size.~~
- ~~(5) Applicant shall list all felony and misdemeanor convictions other than traffic violations within five years preceding the date of application or any felony conviction for which a pardon has been granted.~~
- ~~(6) Previous business, occupation or employment history of the applicant.~~
- ~~(7) Massage therapy business license history of the applicant including full disclosure of any prior revocation or suspension of said licenses and the reason therefor.~~
- ~~(8) Valid identification to prove applicant is 18 years old.~~
- ~~(9) A certificate from a medical doctor designating that the applicant has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.~~
- ~~(10) Applicant must furnish a diploma or certificate of graduation from a recognized school. The city clerk shall have the right to confirm that an applicant has actually attended classes and matriculated in a recognized school.~~

~~Sec. 12-266. -- Inspection requirements for massage establishment.~~

~~No license to conduct a massage establishment shall be issued unless an inspection discloses that the establishment complies with each of the following minimum requirements:~~

- ~~(1) All signs shall comply with the general requirements of this Code.~~
- ~~(2) Minimum lighting shall be provided in accordance with the International Building Code, 2003 edition, and additionally, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth where massage services are being rendered.~~
- ~~(3) Minimum ventilation shall be provided in accordance with the building code adopted in section 10-52.~~
- ~~(4) Adequate equipment shall be provided for disinfection and sterilization of instruments and materials used to administer massage therapy.~~
- ~~(5) Hot and cold running water shall be provided.~~
- ~~(6) Separate closed cabinets shall be utilized for the storage of clean and soiled linen, towels, and other materials used in connection with administering massage.~~
- ~~(7) Adequate dressing and toilet facilities shall be provided for patrons.~~
- ~~(8) All walls, ceilings, floors, steam rooms, and all other physical facilities for the establishment shall be kept in good repair, maintained in a clean and sanitary condition.~~
- ~~(9) Clean and sanitary towels and linens shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.~~

~~Sec. 12-267. -- License procedures.~~

- ~~(a) Upon payment of the application fee, submission of completed application, and upon proper inspection, a license shall be issued, if all requirements herein are met, and unless it appears that any such applicant has deliberately falsified the application, or the record of such applicant reveals a conviction of a felony or crime of moral turpitude.~~
- ~~(b) Any person denied a license pursuant to these provisions may appeal to the city council in writing stating reasons why the license should be issued. The city council may grant or deny the request for issuance of a license. The city council may also review any determination of the city clerk on its own motion.~~
- ~~(c) All licenses issued hereunder are nontransferable; provided, however, that a change of location of a massage therapy establishment may be permitted pursuant to the provisions hereof.~~

~~Sec. 12-268. -- Display of license.~~

~~All licensees shall display said licenses on the premises of the establishment and visible to the public or available upon demand during operational hours of the massage therapy practice.~~

~~Sec. 12-269. -- Change of location.~~

~~It shall be the duty of the licensee to notify the city clerk of any change of location. The licensee shall comply with all general ordinances at the new location. Failure to notify the city clerk of the change of location within 30 days will result in a fine of \$25.00.~~

~~Sec. 12-270. -- Employees and independent contractors.~~

- ~~(a) It shall be the responsibility of each licensee to ascertain that each person employed as a massage therapist by the licensee is fully licensed pursuant to this article or that each intern is duly registered.~~
- ~~(b) All independent contractors shall maintain responsibility for current and valid licensing pursuant to this article.~~

~~Sec. 12-271. -- Inspection.~~

~~An annual inspection for massage establishments may be made for the purpose of determining that the provisions of this article are met.~~

~~Sec. 12-272. -- Grounds for revocation.~~

~~The license of a massage therapist may be revoked upon one or more of the following grounds:~~

- ~~(1) That the holder is guilty of fraud in the practice of massage therapy, or fraud or deceit in being licensed to practice massage therapy.~~
- ~~(2) That the holder has been convicted in a court of competent jurisdiction of a felony. The conviction of a felony shall be the conviction of any offense which, if committed within this state, would constitute a felony under the laws thereof.~~
- ~~(3) That the holder is engaged in the practice of massage therapy under a false or assumed name, or is impersonating another massage therapist of a like or different name.~~
- ~~(4) That the holder is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person for the performance of his professional duties.~~
- ~~(5) That the holder is guilty of fraudulent, false, misleading or deceptive advertising, or that he is guilty of diagnosing or treating classified diseases, practicing spinal or joint manipulations, or prescribing medicine, drugs or engages in the practice of any other licensed profession without legal authority thereof.~~
- ~~(6) That the holder is guilty of willful negligence in the practice of massage therapy or has been guilty of employing, allowing or permitting any unlicensed or unregistered person to perform massage therapy in his establishment.~~

~~Sec. 12-273. -- Revocation of license.~~

- ~~(a) No license shall be revoked until due notice and a hearing shall have been held before the city council to determine whether just cause exists for such revocation. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such license, and shall designate the time and place where such hearing will be held.~~

~~(b) Said notice shall be served upon the license holder by delivering the same personally by registered or certified mail (return receipt requested) addressed to the license holder at his place of business or residence at least ten days prior to the date of such hearing.~~

~~Sec. 12-274. — Those practicing when chapter becomes effective.~~

~~Any person who has been licensed by the city under the previous ordinance (Ord. No. 2198, adopted July 8, 1985) and meets the requirements of this article as to physical conditions, adequacy of facilities and completed application shall, upon payment of the prescribed fee, be granted a license.~~

~~Sec. 12-275. — Reciprocity.~~

~~Any person who has been duly licensed in another state or municipality to practice massage therapy, which state or municipality has and maintains a standard or practice substantially the same as that maintained under this article and who has been lawfully and continuously engaged in such practice for one or more years immediately before filing an application to practice hereunder, and who shall submit a duly attested certificate from the licensing authority of the state or municipality in which he is registered, certifying registration, may, upon paying the license fee, be granted a license to practice in the city without being required to otherwise qualify.~~

~~Secs. 12-276 — 12-300. — Reserved.~~

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF SEPTEMBER, 2016.

GINA J. NOBLE, MAYOR

(SEAL)
ATTEST:

ELIZABETH CHRZ, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS 19TH DAY OF SEPTEMBER, 2016.

JOHN E. DORMAN, CITY ATTORNEY

First Reading: 9-12-16
Second Reading: 9-19-16