



# City of Cambridge

In the Year One Thousand, Nine Hundred Seventy-Nine

## AN ORDINANCE

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

*Be it ordained by the City Council of the City of Cambridge as follows:*

Chapter 11, entitled: "Health and Housing" is hereby amended by adding a new paragraph entitled: "Article III. Massage Service Regulations" which will read as follows:

### ARTICLE III. MASSAGE SERVICE REGULATIONS

#### SECTION 11-10. DEFINITIONS.

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

(a) Employees. 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 reasonable 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).

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(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).

(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 given 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) Sexual or Genital Area. Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

## SECTION 11-11. 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 Commonwealth of Massachusetts.

(b) Nurses who are registered under the laws of the Commonwealth of Massachusetts.

(c) Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, 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 11-12. 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 Commissioner of Health and Hospitals or his designee upon a form provided by said Commissioner and pay a nonrefundable annual license fee, which shall be \$500 per year or any part thereof. In the case of multiple locations, a separate license will be required for each site. 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 of the corporation, the percentage of stock owned by each stockholder, 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.

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- (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. Copy of certified birth certificate shall be required.
- (h) Business, occupation, or employment of the applicant for three (3) years immediately preceding the date of application.
- (i) 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.
- (j) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.
- (k) The name and address of each massagist who is or will be employed in said establishment.
- (l) 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.
- (m) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (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) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

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

## SECTION 11-13. APPLICATION FOR MASSAGIST'S PERMITS.

Application for a massagist's business permit shall be made to the Commissioner of Health and Hospitals in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of \$25 per year or part thereof. 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 known, including the two previous addresses immediately prior to the present address of the applicant.

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(c) Social Security number, driver's license number, if any, and date and place of birth and certified copy of birth certificate.

(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) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(h) The message or similar business history and experience (10 years) prior to the date of application, including but not limited to whether or not such person in 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.

(i) A medical certificate signed by a physician, licensed to practice in the Commonwealth of Massachusetts, 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. (Results of physical, TB or chest x-ray, VDRL shall be submitted with certificate.)

(j) 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.

(k) Written declaration by the applicant, under the penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the City.

(l) Detailed description of training and experience of all employees who will be performing the massages.

## SECTION 11-14. DENIAL OF LICENSE OR PERMIT FOR A MASSAGE ESTABLISHMENT.

The City of Cambridge, acting by and through its Commissioner of Health and Hospitals shall issue a license for a massage establishment or a permit for a masseur or masseuse, 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 certified 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 and 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 Commonwealth of Massachusetts that would have constituted any of the following offenses if committed within the Commonwealth of Massachusetts.

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(1) An offense involving the use of force or 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 Cambridge may issue a license or permit to any person convicted of any of the crimes described in Subsection (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 not subsequent felony convictions of any nature and no subsequent misdemeanor convictions for the 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 revoked, or suspended by the City or any other State or local agency within five (5) years prior to the date of the application. If the application for a permit or license is denied, the applicant shall not be allowed to reapply within one (1) year from the date of denial.

(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.

(g) In making this decision, the Commissioner shall consider the number of existing and proposed massage establishments in the ward in which the instant applicant desires to locate.

(h) That ten residents within a radius of five hundred feet object to the location of the establishment, the permit shall be denied.

(i) If the Commissioner finds, pursuant to the rules and regulations established by him, that massages will not be performed exclusively by persons meeting rigorous qualifications of training and experience, the Commissioner shall have the right to deny the application.

## SECTION 11-15. APPROVAL OR DENIAL OF APPLICATION.

The Commissioner of Health and Hospitals, acting by and on behalf of the City, shall act to approve or deny an application for a license or permit under this Ordinance within ninety (90) days from the date that said application was accepted by the Commissioner. 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 11-16. 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.

(c) Every individual or establishment issued an exemption under Section 11-11 of this ordinance shall display such exemption certificate in a prominent place.

## SECTION 11-17. 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

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masseuses and their permit numbers. Such register shall be available at the massage establishment to representatives of the City of Cambridge.

## SECTION 11-18. REVOCATION OR SUSPENSION OF LICENSE.

Any license issued for a massage establishment or massagist may be revoked or suspended by the Commissioner of Health and Hospitals acting under the provisions of M.G.L.A. Chapter 140, Section 51, for any violation of this ordinance.

## SECTION 11-19. OPERATING REQUIREMENTS.

(a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operating in a sanitary condition according to rules and regulations promulgated by the Commissioner of Health and Hospitals pursuant to Chapter 140, Section 51 of M.G.L.A.

(b) 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.

(c) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(d) 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.

## SECTION 11-20. 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 11-14 provided, however, that upon the death or incapacity or the licensee or any co-licensee of the massage establishment, any heir or devisee or legatee of a deceased licensee may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for and orderly transfer of the license.

## SECTION 11-21. PERSONS UNDER AGE 18 PROHIBITED ON PREMISES.

No person shall permit any person under age 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 11-22. ALCOHOLIC BEVERAGES PROHIBITED.

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

## SECTION 11-23. HOURS.

No massage business shall be kept open for any purpose between the hours of 10:00 P. M. and 7:00 A. M.

## SECTION 11-24. 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 11-25. UNLAWFUL ACTS.**

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) It shall be further unlawful for any permittee under this Ordinance to administer massage on an outcall basis as defined in Section 11-10(f). 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 on 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 City of Cambridge shall be unlawful.

**SECTION 11-26. 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 11-27. TRANSFER OF LICENSE.**

No license or permit shall be transferable except with the consent of the Commissioner of Health and Hospitals. An application for such transfer shall be in writing and shall be accompanied by fees prescribed in Sections 11-12 and 11-13. The written application for such transfer shall contain the same information as requested herein for initial application for the license or permit.

**SECTION 11-28. 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 massages or operates a massage establishment of 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 Cambridge or shall violate any provisions of the Ordinance shall be punished by a fine not to exceed five hundred (\$500.00) dollars per violation. Each day's failure to comply with each provision of this ordinance shall constitute a separate violation.

**SECTION 11-29. SEPARABILITY.**

(a) If any section, subsection, sentence, clause, phrase or portion of the ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such provision and such holding shall not affect the validity of the remaining portions thereof.

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

(c) This ordinance shall be in full force and effect from and after its passage, provided, however, any person, partnership, corporation or association engaged in the operation of a massage business and every person engaged in the business or profession of massage, at the time of the enactment of this ordinance shall have 60 days in which to comply with the licensing provisions of this ordinance.

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In City Council October 29, 1979.

Passed to be ordained as amended by a yea and nay vote:

Yeas 9; Nays 0; Absent 0.

James L. Sullivan, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

