

SUMMARY OF PROPOSED CHANGES TO STANDARDS AND REGULATIONS FOR MASSAGE ESTABLISHMENTS

DIVISION 1. GENERALLY

The following updates are proposed to the definitions. See Section 18-311 in the attached document.

- A definition for Administrator is added. This includes the building official and any other person appointed by the city manager to administer the provisions of the code.
- The definitions for massage establishment, massage therapy, and massage therapist are modified to mirror the definition in the State code.
- The definitions for health officer, masseur, and chief of police are deleted.
- The definition for crime of moral turpitude is updated.
- A new definition for other massage services is added.

DIVISION 2. CERTIFICATE OF OCCUPANCY

The following updates are proposed to regulations regarding the issuance of certificates of occupancy for massage establishments. See Section 18-331 through 18-339 in the attached document.

18-331 – CERTIFICATE OF OCCUPANCY

- A copy of the State license for the establishment and any massage therapist employed by the establishment must be provided with certificate of occupancy application.
- An annual inspection by the administrator is established to verify compliance with State licensing requirements and all applicable City ordinances and regulations.

18-332 – LICENSE DISPLAY

- The reference to the license that must be displayed is updated to refer to the State license. This replaces the requirements for a separate license from the City.
- A requirement for sign posting about directing complaints to the Department of State Health Services is added.

18-333 – AUTHORIZATION FOR CRIMINAL BACKGROUND CHECKS

- This section is updated to require the Administrator to verify with the Department of State Health Services that the applicant has successfully passed a background check.
- The authorization for the Administrator to conduct a criminal history background check is retained from the current regulations. An applicant would not be eligible for a certificate of occupancy if they were finally convicted of a misdemeanor involving moral turpitude or a felony.

18-334 – EMPLOYEE NAMES AND LICENSES

- This new section requires that applicants applying for a certificate of occupancy provide a list of the names and addresses of all employees of the establishment, a copy of the current State license for each massage therapist, and a copy of the massage establishment license for the facility.

18-335 – FEE; PRORATION; REFUND

- This new section references the standard fee for the certificate of occupancy. The fee can be found online at Appendix A.

18-337 – ISSUANCE OR REVOCATION OF CERTIFICATE OF OCCUPANCY

- The requirements and standards related to approving the issuance of or revoking a certificate of occupancy is updated. References to licenses issued by the City are deleted.
- A process is established for the notification of applicants related to decisions to deny issuance or revoke a certificate of occupancy. An appeals process is also established.

18-338 – INSPECTION OF MESSAGE ESTABLISHMENTS

- This revised section authorizes the Administrator to inspect an establishment to determine or ensure compliance with the standards and regulations during normal hours of operation of the establishment. The language related to the processes for gaining access to the building when occupied or unoccupied is revised.

18-339 – ENFORCEMENT; PENALTY FOR VIOLATION

- This section establishes enforcement responsibility with the Administrator. Other officers of the City, as designated by the city manager, may share in that responsibility.
- Standard provisions for enforcement powers and penalties for violation are added.

DIVISION 3. STANDARDS OF OPERATION

The following updates are proposed to the standards of operation for massage establishments. Generally, the existing section is reorganized and updated to remove standards that are already provided by the Department of State Health Services. Proposed new standards are noted below.

18-361 - GENERAL STANDARDS

Existing standards that are retained or modified include:

- The massage therapist must be clothed from shoulder to knees at all times.
- The customer must be covered, at a minimum, from the waist down, at all times during massage or in presence of therapist.
- A list of procedures, treatment, and services with associated costs must be displayed and made easily accessible for the public.
- The doors to rooms where massage is performed must remain unlocked at all times.
- Rooms that could be construed as used as sleeping or living quarters are prohibited.

New standards that are proposed include:

- The hours of operation are set from 8 AM to 10 PM. The existing code established hours from 6 AM to 10 PM.
- The number of rooms where massage services are performed or provided cannot exceed number of licensed therapists employed and working at establishment. This standard will vary depending on the number of massage therapists working at any given time.

Existing standards that are deleted include:

- Specific requirements that limit rooms for massage to cubicle areas or having partial doors.

18-362 – EMPLOYEE LISTS

- This section is revised to require that the list of all employees' names and addresses, as required by the Department of State Health Services, be readily available for inspection by the Administrator or any law enforcement officer.

18-363 – ACCESS

- This new section declares massage establishments to be public places. Entrance and exit doors must remain unlocked and unobstructed.

18-364 – SANITARY REQUIREMENTS

- Most existing standards are replaced with a general requirement that the establishment be maintained in accordance with applicable sanitary and health codes and regulations governing massage establishments.
- The requirement for therapists and operators to wash their hands thoroughly before administering massage is retained.

18-366 – REGISTRATION OF CUSTOMERS

- The existing requirement for maintaining a daily written register of customers is retained.
- A new section is added that requires the register to be kept for two years, as required by the Department of State Health Services.
- A new section is added that requires an initial consultation for clients and retention of the form, as required by the Texas Administrative Code.

MISCELLANEOUS

The following existing standards or regulations are proposed to be deleted.

- Location restrictions that prohibit the operation of a massage establishment within 1,000 feet of a church, public or private elementary or secondary school, residential zoning district, or public park (Location of massage establishments will be addressed in the Zoning Code).
- Requirements for separate dressing areas for female and male customers.
- Sanitary requirements related to towels, linens, and sanitizing equipment.
- References to communicable diseases.