

1 **BILL NO. 2011-42**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE PROVISIONS OF THE MUNICIPAL CODE PERTAINING TO
4 THE LICENSING AND REGULATION OF MASSAGE ESTABLISHMENTS, AND TO PROVIDE
FOR OTHER RELATED MATTERS.

5 Sponsored by: Councilman Stavros S. Anthony Summary: Updates provisions of the Municipal
6 Code pertaining to the licensing and regulation
of massage establishments.

7 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
8 AS FOLLOWS:

9 SECTION 1: Title 6, Chapter 52, Section 20, of the Municipal Code of the City of
10 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **6.52.020:** Unless the context otherwise requires, the following words, as they appear in this
12 Chapter, shall have the meanings ascribed to them in this Section:

13 “Chair massage therapy” means massage therapy administered by a massage therapist to the
14 neck, shoulders, back, arms, hands and feet of a fully clothed client utilizing a massage chair.

15 “Employee” means any massage therapist who is a bona fide employee of a massage
16 establishment.

17 “Independent massage therapist” means a massage therapist who is not an employee of a
18 massage establishment, is a sole practitioner, and hires no employees.

19 “Massage establishment” means any premises occupied and used for the purpose of performing
20 massage therapy.

21 “Massage establishment licensee practitioner” means the licensee of a massage establishment
22 who performs massage therapy.

23 “Massage therapist” means any person who, for consideration, performs any massage therapy
24 as defined in this Section and has been licensed by the State to perform such services.

25 “Massage therapy” has the same meaning as set forth at NRS 640C.060.

26 “Outcall massage therapy” means any massage therapy given or provided off the premises of
27 a licensed massage establishment by a massage therapist licensed by the City and State.

28 “Sexual activity” means any activity characterized as such by NRS 640C.700 or the regulations

1 adopted by the Nevada Board of Massage Therapists under NRS Chapter 640C.

2 “Specified anatomical area” means:

3 (1) Genitals;

4 (2) Pubic region;

5 (3) Buttocks, or

6 (4) Female breast.

7 SECTION 2: Title 6, Chapter 52, Section 70, of the Municipal Code of the City of
8 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9 **6.52.070:** No massage establishment granted a license under the provisions of this Chapter, or
10 principal, employee or agent thereof, shall place, publish or distribute or cause to be placed, published
11 or distributed any advertisement, picture, or statement which is known or through the exercise of
12 reasonable care should be known to be false, deceptive or misleading in order to induce any person
13 to purchase or utilize any professional massage therapy services. The prohibition in the preceding
14 sentence includes a prohibition of any false, deceptive or misleading advertising regarding the services
15 available within a massage establishment, including, without limitation, false, deceptive or misleading
16 advertising regarding the training that a massage establishment licensee, principal or employee has
17 received. All advertisements placed, published, distributed, disseminated or broadcast by a licensee
18 shall contain the business license number.

19 SECTION 3: Title 6, Chapter 52, Section 90, of the Municipal Code of the City of
20 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

21 **6.52.090:** Each massage establishment [licensee shall display the establishment’s license in an
22 open and conspicuous place on the premises of the massage establishment. The City and State license
23 of any person licensed under this Chapter to perform massage therapy must be carried on the
24 licensee(s person whenever the licensee is performing massage therapy.) shall comply with the
25 following requirements:

26 (A) At least one qualified person shall be on the premises of a massage
27 establishment at all times the establishment is in operation. For purposes of the preceding sentence,
28 a “qualified person” means a principal who has been approved for suitability pursuant to LVMC

1 6.06.060 or a manager who has been approved for suitability pursuant to that Section as in the case
2 of a principal.

3 (B) Rates for all services shall be prominently posted:

4 (1) In the reception area in a location and manner readily visible to
5 prospective and actual clients, for establishments in which all massage therapists charge the same
6 rates; or

7 (2) In each room in which massage is performed, for establishments in
8 which not all massage therapists charge the same rates.

9 (C) The licensee shall display the establishment's license in an open and
10 conspicuous place on the premises of the massage establishment.

11 (D) The City and State license of any person licensed under this Chapter to perform
12 massage therapy, whenever performing massage therapy at the massage establishment, must be:

13 (1) Carried on the licensee's person; or

14 (2) Displayed in an open and conspicuous place on the premises of the
15 massage establishment.

16 (E) Each massage establishment licensee and massage therapist employed therein
17 shall ensure that the specified anatomical areas of a client are covered during the performance of a
18 massage; provided, however, that the covering requirement shall not apply to a specified anatomical
19 area:

20 (1) The massage of which is permitted under NRS Chapter 640C and the
21 regulations adopted thereunder; and

22 (2) For the duration of the massage of that area.

23 (F) Except as otherwise specifically permitted in connection with a special use
24 permit issued to a massage establishment or by other action of the City Council, no person shall
25 operate a massage establishment outside of the hours of 6:00 a.m. to 10:00 p.m.

26 SECTION 4: Title 6, Chapter 52, Section 120, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.52.120:** It is unlawful for a massage establishment licensee, or a principal or employee thereof,

1 provide to the Department evidence of a valid health permit or health card issued by the Health
2 District, if [one is] and to the extent required by the Health District, and proof of temporary or
3 permanent licensure by the Nevada Board of Massage Therapists.

4 SECTION 6: Title 6, Chapter 52, Section 170, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **6.52.170:** (A) The Director shall refer applications for a massage establishment license to
7 Metro for investigation. Upon completion of the investigation, the Director shall refer an application
8 for a massage establishment license to the City Council for approval, denial or such other action as
9 the Council considers appropriate.

10 (B) The City Council may deny, revoke or suspend a massage establishment license
11 for good cause, which includes but is not limited to[:

12 (1) The] the grounds set forth in LVMC 6.02.090 and 6.02.330 to 6.02.360,
13 inclusive.]; or

14 (2) Two convictions of any person for solicitation of prostitution on the
15 massage establishment premises within the preceding three-year period.]

16 SECTION 7: Title 19, Chapter 12, Section 70, of the Municipal Code of the City of
17 Las Vegas, Nevada, 1983 Edition, is hereby amended by amending the entry for the use “Massage
18 Establishment” so that the Conditional Use Regulations and Minimum Special Use Permit
19 Requirements for that use read respectively as follows:

20 **Conditional Use Regulations:**

- 21 1. The use shall comply with all applicable requirements of LVMC Title 6.
- 22 2. The use must be located on a secondary thoroughfare or larger.
- 23 3. The use may not be located within 400 feet of any church, synagogue, school, City
24 park, child care facility, or any parcel zoned for residential use.
- 25 4. The use may not be located within 1000 feet of any other massage establishment.
- 26 5. The hours of operation shall be limited to the period between [8:00] 6:00 a.m. and
27 [9:00] 10:00 p.m.

28 **Minimum Special Use Permit Requirements:**

1 to do any of the following[:] within a massage establishment:

2 (A) [Within a massage establishment, engage] Engage in or solicit sexual activity
3 during the course of performing massage therapy on a person, with or without the consent of the
4 person;], including, without limitation, if the licensee, principal or employee:

5 (1) Made sexual advances toward the person;

6 (2) Requested sexual favors from the person; or

7 (3) Massaged, touched or applied any instrument to the breasts of the
8 person, unless the person has signed a written consent form provided by the Nevada Board of Massage
9 Therapists;]

10 (B) [Within a massage establishment, allow] Allow a massage therapist to engage
11 in or solicit sexual activity in violation of Subsection (A) of this Section;

12 (C) [Engage in false, deceptive or misleading advertising regarding the services
13 available within a massage establishment, including, without limitation, false, deceptive or misleading
14 advertising regarding the training that a massage establishment licensee, principal or employee has
15 received.] Utilize any audio or video recording device for any purpose in a room where massage
16 therapy is being performed;

17 (D) Equip with tinted glass or two-way mirrors any room that a client may occupy;

18 (E) Perform massage therapy within any cubicle, room, booth or other area of the
19 establishment which is fitted with a door that is capable of being locked, unless:

20 (1) That door is an exterior door; or

21 (2) With respect to a room that is leased or otherwise made available to a
22 massage therapist who is an independent contractor, the door is locked only from the outside thereof
23 by means of an exterior lock employed solely for security purposes while the room is not being
24 occupied.

25 (F) Utilize any electronic locking device on any interior door.

26 SECTION 5: Title 6, Chapter 52, Section 160, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.52.160:** An applicant for a license [to perform massage therapy] under this Chapter shall

- 1 1. The use shall comply with all applicable requirements of LVMC Title 6.
- 2 2. The use must be located on a secondary thoroughfare or larger.
- 3 3 The use may not be located within 400 feet of any church, synagogue, school, City
- 4 park, child care facility, or any parcel zoned for residential use.
- 5 4. The use may not be located within 1000 feet of any other massage establishment.
- 6 5. The hours of operation shall be limited to the period between [8:00] 6:00 a.m. and
- 7 [9:00] 10:00 p.m., unless further limited by the City Council on a case-by-case basis.

8 SECTION 8: For purposes of Section 2.100(3) of the City Charter, LVMC 19.12.070

9 is deemed to be a subchapter rather than a section.

10 SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or

11 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or

12 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or

13 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the

14 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

15 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,

16 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,

17 invalid or ineffective.

18 SECTION 10: Whenever in this ordinance any act is prohibited or is made or declared

19 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is

20 required or the failure to do any act is made or declared to be unlawful or an offense or a

21 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall

22 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than

23 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such

24 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

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1 SECTION 11: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
3 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this _____ day of _____, 2011.

5 APPROVED:

6 By _____
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 _____
10 BEVERLY K. BRIDGES, MMC
11 City Clerk

11 APPROVED AS TO FORM:

12 Val Steed 10-19-11
13 Date
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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2011, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2011, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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12 APPROVED:

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14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

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17 BEVERLY K. BRIDGES, MMC
City Clerk

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