

BILL NO. 2011-42

ORDINANCE NO. 6170

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

Sponsored by: Councilman Stavros S. Anthony

Summary: Updates provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments.

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

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

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

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

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

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

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

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

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

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

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

“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 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 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 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.

25 ...

26 ...

27 ...

28 ...

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 7TH day of December, 2011.

5 APPROVED:

6 By 
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST/

9 
10 ~~BEVERLY K. BRIDGES, MMC~~
11 City Clerk By: Vicky Skilbred, CMC
Acting City Clerk

12 APPROVED AS TO FORM:

13  10-19-11
14 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the 2nd day of November, 2011, and referred to a committee for recommendation;
3 thereafter the committee reported favorably on said ordinance on the 7th day of December,
4 2011, which as a regular meeting of said Council; that at said regular meeting, the
5 proposed ordinance was read by title to the City Council as first introduced and adopted by
6 the following vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Wolfson,
8 Tarkanian, Barlow and Coffin

9 VOTING "NAY": None

10 EXCUSED: None

11 ABSTAINED: None

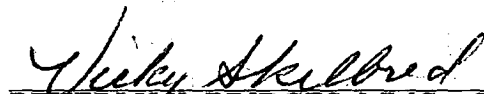
12 DID NOT VOTE: Councilmember Ross

13 APPROVED:

14 

15 CAROLYN G. GOODMAN, Mayor

16 ATTEST:

17 

18 ~~BEVERLY K. BRIDGES, MMC City Clerk~~

19 By: Vicky Skilbred, CMC
20 Acting City Clerk
21
22
23
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BUSINESS IMPACT STATEMENT
BILL NO. 2011-42
(Updates provisions of the Municipal Code pertaining to the licensing
and regulation of massage establishments)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-42, that will update provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was mailed to massage-related licensees. A number of responses were received. The responses concerning business impact that were received from representatives of businesses are summarized below, which summary is available to interested persons as part of this statement:

A. It is too costly and burdensome to require a massage establishment to have onsite at all times a manager or other person who has been the subject of a background investigation.

B. The requirement to post rates at a prominent location within an establishment is unwarranted and troublesome in a location where independent therapists each charge their own rates rather than there being only one rate schedule for all therapists.

C. The requirement to carry for each therapist to carry on his or her person the therapist's licenses while performing a massage is burdensome for therapists who work in only one room.

D. The requirement that no room in which massage is performed may have a door equipped with a lock (other than an exterior door) is burdensome for therapists who lease or otherwise occupy rooms and who use the room when not occupied for the storage or safekeeping of therapist or client valuables.

NOTE: Comments were also received: 1) regarding the ordinance's effects on locations from a land use perspective, 2) indicating that it would be burdensome to require establishments and therapists to obtain a health permit, and 3) indicating that it would be burdensome to prohibit the massage of buttocks and breasts, in cases where massage of those areas is appropriate. However, when read correctly, the ordinance does not alter the rules regarding locations, does not require health permits except if and as required by the Health District, and does not permit or prohibit the massage of any particular body part on any different basis than State law and regulations. As to the last item, in circumstances where the massage of buttocks or breasts is permitted by State law and regulations, that massage activity is also permitted under this ordinance. Some clarification of the ordinance language on that point will be undertaken.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

The ordinance would require operational and facility changes for some licensees

Beneficial effects:

The ordinance will provide more consistency with other Southern Nevada area ordinances, as well as with applicable State law

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Consideration was given to reducing or clarifying requirements regarding the posting of rates, the display of licenses, the locking capacity of massage room doors, and the draping of client areas being massaged. Modifying language to address those concerns was added. Consideration was also given to relaxing or eliminating the requirement to have on-site at all times a manager or other person who has undergone a background investigation, but it was determined not to make a corresponding change in the ordinance before it is introduced

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: October 18, 2011

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK

2296311LV

7579076

was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 11/23/2011 to 11/23/2011, on the following days:

11/23/2011

BILL NO. 2011-42

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

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

At the City Council meeting of NOVEMBER 2, 2011

BILL NO. 2011-42 WAS READ BY TITLE AND REFERRED TO A RECOMMENDING COMMITTEE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 STEWART AVENUE, LAS VEGAS, NEVADA.

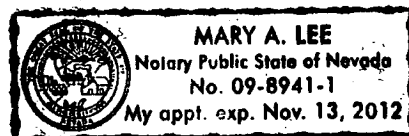
PUB: November 23, 2011
LV Review-Journal

Signed: Stacey M. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS, THE

29th day of November, 2011.

Mary Lee
Notary Public



AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

RECEIVED
CITY CLERK

2011 DEC 19 P 1:04

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK

2296311LV

7623402

was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 12/10/2011 to 12/10/2011, on the following days:

12/10/2011

BILL NO. 2011-42
ORDINANCE NO. 6170

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

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

The above and foregoing ordinance was first proposed and read by title to the City Council on the 2nd day of November 2011 and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 7th day of December 2011, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as introduced and was adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Wolfson, Tarkanian, Barlow, and Coffin
VOTING "NAY": NONE
EXCUSED: NONE
NOT VOTING: Councilman Ross

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 STEWART AVENUE, LAS VEGAS, NEVADA.

PUB: December 10, 2011
LV Review-Journal

Signed: Stacey M. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS, THE

12th day of December 2011.

Mary Lee
Notary Public

