

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA

DRAFT - ORDINANCE NO. 777

**AN ORDINANCE AMENDING CHAPTER 523 OF THE WAYZATA CITY CODE
(MESSAGE SERVICES)**

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment. Chapter 523 of the Wayzata City Code (Message Services) is hereby amended to read in its entirety as follows:

CHAPTER 523

MESSAGE SERVICES

523.01 **Definitions.**

- A. “Licensed Premises” shall mean the physical location and premises of a Massage Business licensed under this Chapter, where Massage Providers licensed under this Chapter are permitted to administer massage.
- B. “Massage” shall mean any method of applying pressure on the superficial parts of the human body by manual manipulation, including the gliding, pressing, kneading, tapping & vibrating, addressing soft tissue structures (muscles, tendons, ligaments, connective tissues).
- C. “Massage Business” shall mean any business, individual or group which offers massage.
- D. “Massage Provider” shall mean any person who personally administers massage.
- E. “Operate” shall mean to own, manage or conduct.
- F. “Sanitary” shall mean free from pathogenic micro-organisms.

(7-21-81 Code; Ord. 541 [8-15-1991])

523.02 **License Required.**

A. Massage Business. No person shall operate or engage in the business of operating a Massage Business within the City without a valid and current Massage Business license issued under this Chapter. Such license shall be issued for one contiguous premises only that meets the standards of section 523.11 of this Chapter.

B. Massage Provider. No person shall engage in the business of personally providing a massage within the City without a valid and current Massage Provider license issued under this Chapter. A Massage Provider that works only for a licensed Massage Businesses under this Chapter shall not be required to hold a Massage Business license.

523.03 License Exceptions. The following persons are hereby expressly excluded from the requirements of this Chapter.

A. Persons duly licensed in the state of Minnesota to practice as a medical doctor, chiropractor, osteopath, nurse, or physical therapist provided the massage is administered in the regular course of a prescribed or authorized medical treatment and not provided as part of a separate and distinct Massage Business;

B. Beauty culturists and barbers licensed by the state of Minnesota who do not hold themselves out to give massages, other than customarily are given in the field and provided such is limited to the face, neck and scalp.

(Ord. 541 [8-15-1991]; Ord. 672 [6-20-2006])

523.04 License Fees and Other Fees. Annual fees shall be established by resolution of the City Council for the following:

A. Massage Business License.

B. Massage Provider License.

C. Massage Background Check/Investigation Fee.

D. Massage Business Establishment Plan Review. (New establishment or remodeling of existing establishment)

E. Re-inspection Fees for Massage Businesses. (New establishment or remodeling of existing establishment)

At the time of an application for any license or renewal under this Chapter, the applicant shall pay to the City the fees noted above. Fees paid for licenses, background checks, investigations, re-inspections and other City review shall not be refundable.

(7-21-81 Code; Ord. 541 [8-15-1991])

523.05 Application Form –Massage Provider License. Every application for a Massage Provider License under this Chapter shall be filed with the City Manager on a form supplied by the City. This application shall provide the following information as well as any other information deemed necessary by the City Manager:

A. Applicant's full name (First, middle and last)

- B. Whether the applicant has ever used or has been known by a name other than his/her true name; if so, what was such name(s) and information concerning the dates and places where used.
- C. Applicant's home address and telephone number
- D. Applicant's driver's license or state ID number
- E. Applicant's place and date of birth
- F. Applicant's home address(es) for the past ten (10) years
- G. The kind, name(s) and address(es) of the applicant's business(es), employer(s) and occupation(s), if any, for the preceding five years.
- H. The name of the licensed Massage Business in Wayzata that the applicant will be administering massages.
- I. A description of any crime or other offense, including the time, place, date, and disposition, for which the applicant has been arrested.
- J. Whether the applicant provides massage services; if so, where.
- K. The applicant's training and experience in performing massage services, including where the applicant has previously held a massage license(s).
- L. Whether the applicant previously has been denied a massage license by any jurisdiction; if so, the details of such denial.
- M. Information evidencing the requirements of Section 523.08.

523.06 **Application Form - Massage Business License.** Every application for a Massage Business License under this Chapter shall be filed with the City Manager on a form supplied by the City. The application shall provide the following information as well as any other information deemed necessary by the City Manager:

- A. The applicant contact, background and historical information required under Section 523.05 for Massage Providers.
- B. If applicant is a corporation, limited liability company, partnership or other entity, then the applicant shall provide:
 - 1. The information required in Section 523.05, subparagraphs A. – M. above, for each officer, director, partner, manager and/or other agent of the business entity.

2. A list of all parties who control or own an interest in excess of five percent (5%) in the business, the position held by each party, the interest held by each party, and all information concerning each of said person(s) as is required in Section 523.05, subparagraphs A. – M. above.
 3. A true copy of the organizational and operating documents of the entity, including Articles, Bylaws, and Company Agreements.
 4. Address, names, and telephone number of the property owner and property manager for the property upon which the Massage Business is located.
- C. The names of those individuals who provide or will provide massage for the Massage Business.

(Ord. 541 [8-15-1991])

523.07 **Licensing Procedures.** All applications for a license under this Chapter which have been filed with the City Manager shall also be referred to the Chief of Police and to such other persons as the City Manager deems appropriate for investigation and verification of the facts set forth therein. The Chief of Police and such other persons shall make a written report and recommendations to the City Council as to approval or denial of the requested license based on the background investigation, review of the application materials, and the criteria of this Chapter. The City Council then may consider approval of the license, denial of the license, or order additional investigation as it deems necessary.

523.08 **Eligibility for a License.**

- A. **All Licenses.** No license under this Chapter shall be issued to any person:
1. Who is a minor, as defined by State Statute.
 2. Who is not a citizen of the United States, unless the person is a resident alien or holds a valid work permit.
 3. Who has been arrested in connection with, charged with or convicted of prostitution or any other crime or offense involving moral turpitude or sexual misconduct.
 4. Who has been arrested in connection with, charged with or convicted of any violation of this Chapter or any violation of a State Statute or local ordinance, including a violation occurring within a Massage Business licensed under this Chapter.
 5. Who has falsified information or made a willful misstatement of fact on the license application form.
- B. **Massage Provider Licenses.** To be eligible for a Massage Provider License, the Applicant must provide the following credentials:

1. Documentation showing that applicant is currently in good standing with a national or state recognized professional therapeutic massage organization with a written and enforceable code of ethics such as the American Massage Therapy Association, Associated Bodywork & Massage Professionals, or National Certification Board for Therapeutic Massage and Bodywork.
2. Original transcript documenting that applicant has a minimum of five hundred class credit hours from a massage therapy school or program which is recognized by one of the following national or state professional therapeutic massage organizations:
 - a. MN Office of Higher Education
 - b. Accrediting Bureau of Health Education Schools (ABHES)
 - c. Accrediting Commission of Career Schools and Colleges (ACCSC)
 - d. Accrediting Council for Continuing Education and Training (ACCET)
 - e. Commission on Massage Therapy Accreditation (COMTA)
3. Certification that applicant is covered by liability insurance coverage of at least one million dollars for personal liability in the practice of therapeutic massage.

523.09 **License Restrictions and Obligations.** Every license issued under this Chapter shall be subject to the following provisions, which shall govern the issuance and continued validity of all such licenses. The violation of any of these provisions shall be cause for suspension and/or revocation of any such license, at the discretion of the City Council.

A. It shall be the continuing duty of every license holder under this Chapter to notify the City Manager in writing of any change in the information or facts required to be furnished in the licensee's application form. This duty shall continue throughout the entire period of the license and all renewals thereof.

B. No customers or patrons of a Massage Business shall be allowed to occupy any Licensed Premises after 9:00 P.M. and before 6:00 A.M. daily.

(7-21-81 Code; Ord. 549 [11-27-1991])

C. No person licensed hereunder shall violate any State Statute or local ordinance of the City, nor shall any such violation occur upon any premises licensed hereunder. Any conviction for prostitution or any other crime or offense involving moral turpitude or sexual misconduct shall result in the immediate revocation of any license issued under this Chapter.

D. No person licensed hereunder shall allow any alcoholic beverage, narcotic drug or controlled substance upon any premises licensed hereunder, as such terms are defined by State Statute and local ordinance. Facilities holding a valid liquor license shall not allow alcoholic beverages to be consumed in the Licensed Premises.

E. It shall be unlawful for any person in a Licensed Premises to place hands upon, or to touch with any part of the body, or to fondle in any manner, the anal or genital area of any other person, or breasts of any other person, whether or not the area is clothed.

F. It shall be unlawful for any person in a Licensed Premises to expose breasts, anal or genital area or any portion thereof to any other person, or to expose the female breasts, anal or genital area or any portion thereof of any other person.

G. It shall be unlawful for any person, while in the presence of any other person in a Licensed Premises, to fail to conceal with a fully opaque covering the breasts, anal and genital area of the body.

H. No license shall be issued to an applicant who is under 18 years of age.

I. It shall be unlawful for any person owning, operating or managing a Massage Business knowingly to cause, allow, suffer, or permit in or about the Licensed Premises any agent, employee, independent contractor or any other person under his or her control or supervision to perform or allow such acts prohibited in any section of this Chapter.

(7-21-81 Code; Ord. 549 [11-27-1991])

523.10 **Suspension or Revocation.** The City Council may suspend or revoke any license issued under this Chapter pursuant to Section 501.09 of Wayzata City Code.

523.11 **Construction and Maintenance of Licensed Premises.** The Licensed Premises of a Massage Business must conform to the following standards:

A. All massage rooms and restrooms or bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold or fungus growth. The floor-to-wall and wall-to-wall joints therein shall be constructed to provide a sanitary cove with a minimum radius of one (1) inch.

B. All restrooms used in connection with massage facilities shall be provided with mechanical ventilation with two (2) cfm per square foot of floor area, a minimum of fifteen (15) foot candles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels and a soap dispenser.

C. Each massage establishment shall have a janitor's closet, which shall be provided for the storage of cleaning supplies. Such a closet shall have mechanical ventilation with two (2) cfm per square foot of floor area and a minimum of ten foot candles of illumination. Each such closet shall include a mop sink.

D. Floors, walls and equipment in massage rooms and restrooms or bathrooms used in connection therewith shall be kept sanitary and in a state of good repair at all times. Linens and other materials shall be stored at least six (6) inches off the floor. Sanitary towels, wash cloths, cleaning agents and toilet tissue shall be made available for each customer.

- E. Hooks and/or hangers must be made available for use by patrons.
- F. Doors on massage rooms shall not be locked or be capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent its being opened by any person from either side thereof, with or without a key, shall not be present on any doors on massage rooms.

523.12 **Submission of Massage Business Plans and Specifications.** Plans and specifications for the proposed layout and arrangement, plumbing and construction schedules of the Licensed Premises, and the location, size and type of equipment and facilities proposed shall be filed by the owner with the City Building Official. This information must also be separately submitted to the City with a Massage Business Establishment Plan Review application and fees for review and approval by the City Health Officer. No Building Permit shall be issued for any such construction, remodeling or alteration until the plans and specifications also have the approval of the City Health Officer.

523.13 **Inspection by City Officials.** During any hours in which a Massage Business is open for business and/or providing massage services, the area where the service is being performed shall be open to inspection by City inspectors and police officers.

523.14 **Locations Ineligible for a Massage Business License.** No Massage Business may be located on property that is zoned residential under the Wayzata Zoning Ordinance.

Adopted by the City Council this ____ day of December, 2017.

Ken Willcox
Mayor

ATTEST:

Jeffrey Dahl
City Manager

First Reading: November 21, 2017
Second Reading:
Publication: