



Legislation Text

File #: Ord 17-6, **Version:** 2

Amending Chapter 412 of the Legislative Code pertaining to Massage and Bodywork Centers.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

Chapter 412 of the Saint Paul Legislative Code is hereby amended to read as follows:

Chapter 412. - Massage and Bodywork Centers

Sec. 412.01. - License required; exemptions.

(a) *License required.* No person shall engage in the business of operating a ~~therapeutic~~ massage or bodywork center, either exclusively or in connection with any other business enterprise, within the City of Saint Paul without being licensed as provided in this chapter. No license issued under this chapter shall be transferable from one (1) person, business or corporation to another.

(b) *Exemptions.* Off-site massage or bodywork locations, health/sports clubs licensed pursuant to Chapter 427 of the Legislative Code and steam room/bath houses licensed pursuant to Chapter 428 of the Legislative Code, who employ ~~therapeutic massage and bodywork practitioners~~ therapists as part of their regular course of business, shall be exempt from obtaining a license under this chapter, but shall be subject to the regulations herein.

Sec. 412.02. - Definitions.

As used in this chapter, the terms defined in this section shall have the following meanings ascribed to them:

(1) *Adequate or approved* means acceptable to the director, following his or her determination as to conformance with public health practices and standards contained in existing health, building, housing, fire, food protection, or other applicable codes.

(2) *Change of ownership* means when a licensed business is sold or transferred to another person, business or corporation. A change of ownership, as it relates to an environmental plan review, does not include the changing or adding of officers to an existing partnership or corporation or change of a mailing address.

(3) *Director* means the director of the department of safety and inspections or his/her designated agent.

(4) *Massage or bodywork* means any method of applying pressure on, or friction against, or rubbing, stroking, kneading, tapping, effleurage or gliding; petrissage or kneading; vibration and jostling; friction; tapotement or percussion; compression; fascial manipulation; passive stretching within the normal anatomical range of motion or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, appliance or device with or without such supplemental aids as rubbing (isopropyl) alcohol, liniment, antiseptic oil, powder, cream, lotion, ointment or other similar preparation. The practice of massage or bodywork shall not include and is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry. Persons duly licensed or registered to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, and nurses who work under the direction of such persons, are hereby expressly excluded from the requirements of this chapter, provided the massage or bodywork is administered in the regular course of a prescribed or authorized medical treatment and not provided as part of a separate and distinct massage or bodywork business. Beauty culturists, barbers and cosmetologists who do not give, or hold themselves out to give, massages or bodywork other than those customarily given in such shops or places of business for the purposes of beautification only, and persons who give massages or bodywork only incidentally to their general occupations and receive no compensation specifically for giving massages or bodywork, shall also be excluded from the provisions of this chapter.

(5) *Massage or bodywork centers*, as defined in Section 60.552 Section 60.522 of Saint Paul Legislative Code.

(6) *Obscene and obscene work*, as defined in Chapter 274 of this Code.

(7) *Remodel* means any reconstruction, alteration or repair that requires structural, plumbing, mechanical and/or electrical permits; changing the location of walls; expanding the area of the facility; substantially changing or expanding the character of the business. Remodel does not include replacing a piece of equipment with a like piece of equipment; replacing wall, floor or ceiling finishes; repositioning equipment; providing new equipment that does not significantly alter the character of the business. The director shall have discretion in determining when this section applies.

(8) *Therapeutic Massage and bodywork practitioner* means a person who practices massage or bodywork as defined herein and conducts massage or bodywork services from a licensed massage or bodywork center, or a licensed home location, or off-site massage or bodywork location, pursuant to Chapter 412 of the Legislative Code.

Off-site massage or bodywork location means any location where massage or bodywork services are incidental to the activities at the location. In an off-site massage or bodywork location, services do not represent a significant portion of the activity, services are incidental to the activities at the location and are infrequent. Off-site massage or bodywork service locations shall include, but not be limited to, businesses, and private homes, and other off-site locations and shall also include health/sports clubs licensed pursuant to Chapter 427 of the Legislative Code and steam room/bath houses licensed pursuant to Chapter 428 of the Legislative Code.

Sec. 412.03. - License classification.

Therapeutic Massage or bodywork centers shall require a Class A license and home locations shall require a Class B license.

Sec. 412.04. - Fee.

The required fee for a Class A, Class B license along with the fees for an environmental plan review and change of ownership review, shall be established by ordinance as specified in section ~~310.09(b)~~ 310.18(f) Enforcement Level 6 of the Legislative Code. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, is for a period of twelve (12) months.

Sec. 412.05. - License requirements.

(a) *Application.* The application for a license shall be made at the office of the inspector by filing the annual license fee and by completing an application form. The application form, which shall be prepared by the inspector and approved by the city council, shall contain the following information:

(1) A description and location of the premises to be licensed. The detailed plans of the premises and furnishings shall be attached to the application.

(2) Names and addresses of the property owner, the business owner, the lessee, the manager or operator and, if a corporation, all the names and addresses of the officers of such corporation, and any other person or corporation which may have a financial interest in the premises to be licensed.

(3) A description of any crime or other offense, including the time, place, date and disposition, for which any of the persons named in subparagraph (2) of this paragraph (a) have been arrested and convicted.

(4) A description of the services offered.

(5) The business, occupation or employment of each of the persons named in subparagraph (2) of the paragraph (a) for the three (3) years immediately preceding the date of application.

(6) The previous experience of the persons named in subparagraph (2) of this paragraph (a) in a therapeutic massage or bodywork center or similar business.

(7) A statement as to whether the persons named in subparagraph (2) of this paragraph (a) have had any license denied, revoked or suspended in the City of Saint Paul or the State of Minnesota, the reason therefor, and the business activity or occupation of the individual subsequent to such suspension, revocation

or denial.

Such application will then be reviewed by the department of safety and inspections police department, and such other departments as shall be deemed necessary. Such departments will thereafter submit their reports and recommendations to the office of the inspector, who will submit all of the reports and recommendations of the other departments together with the inspector's report and recommendation to the city council for all class A or B licenses. Class A and B licenses shall be class I licenses as set out in the Legislative Code. Class B activity shall comply with the home occupation zoning regulations set out in section 60.412 of the Legislative Code.

Sec. 412.06. - Construction and maintenance requirements.

(a) *Class A.* The following requirements shall apply to the construction and maintenance of all Class A therapeutic massage or bodywork centers:

(1) All therapeutic massage or bodywork centers and restrooms and 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 shall be constructed to provide a sanitary cove with a minimum radius of one (1) inch.

(2) All restrooms used in connection with all therapeutic massage or bodywork centers shall be provided with mechanical ventilation with two (2) cubic feet per minute per square foot of floor area, a minimum of fifteen (15) footcandles of illumination, a hand-washing sink equipped with hot and cold running water under pressure, sanitary towels and a soap dispenser.

(3) Each therapeutic massage or bodywork center established shall have a janitor's closet, which shall be provided for the storage of cleaning supplies. Such closet shall have mechanical ventilation with two (2) cubic feet per minute per square foot of floor area and a minimum of ten (10) footcandles of illumination. Such closet shall include a mop sink.

(4) Floors, walls and equipment in therapeutic massage or bodywork centers, restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and sanitary 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 must be made available for each customer.

(5) If individual lockers are made available for use by patrons, such lockers shall have separate keys for locking.

(6) Doors on massage or bodywork rooms shall not be locked during the giving of a massage. All massage or bodywork rooms shall be clearly marked by signs.

(7) All massage or bodywork tables, bath tubs, shower stalls, bath areas and floors shall have surfaces which can be readily disinfected.

(8) Facilities for bathing, dressing, locker, toilet and massage or bodywork shall be provided in such a way as to ensure privacy for female and male patrons.

(9) The premises shall have adequate equipment for disinfecting and sanitizing nondisposable instruments and materials used in administering massages or bodywork. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(b) *Class B.* The following requirements shall apply to the construction and maintenance of all Class B home location licenses:

(1) A room for conducting massages or bodywork must be separate from normal living spaces.

(2) The massage or bodywork room must be provided with a closable door that separates it from normal living space.

(3) A bathroom with a handsink must be easily accessible to the massage or bodywork room for use for the massage therapist and patron.

(4) The handsink must be equipped with hot and cold running water under pressure, sanitary hand towels, a nail brush and soap.

(5) The floors and walls located in the bathroom and massage or bodywork room must be made of material that is impervious to moisture, bacteria and mold growth.

(6) The floors and walls must be easy to clean and sanitize and must be kept in a state of good repair at all times.

(7) All equipment and fixtures used in conjunction with this license must be made of materials that are impervious to moisture, bacteria and mold growth.

(8) All equipment and fixtures must be easy to clean and sanitize and must be kept in good working order at all times.

(9) A minimum of fifteen (15) footcandles of illumination must be supplied to the bathroom and massage or bodywork room.

(10) All cleaners and sanitizers shall be stored separate and away from the bathroom and

massage or bodywork room.

(11) Sanitizers shall be a disinfectant approved by the department of safety and inspections.

(12) All supplies or equipment must be stored at least six (6) inches off the floor on approved shelving or in a closed cabinet.

(13) All linens, towels, etc., shall be changed between uses.

(14) All equipment shall be cleaned and sanitized between uses.

(15) All linens and towels shall be machine washed. All linens and towels shall be washed separate from personal articles.

(c) *Class B.* The following requirements shall apply to storage of equipment only in any and all Class B home location licenses;

(1) All equipment and supplies shall be stored so as to prevent contamination and accumulation of soil.

(2) All equipment and supplies shall be stored separately from personal belongings and normal dwelling space.

(3) Equipment and supplies shall be stored at least six (6) inches off the floor on approved shelving or stored in a closed cabinet.

(4) All equipment shall be made out of materials that are impervious to moisture, bacteria and mold growth.

(5) Equipment must be made to be easy to clean and sanitize and must be sanitized between uses.

(6) All equipment, tables, etc., shall be sanitized with a disinfectant solution approved by the director.

(7) All cleaners and sanitizer shall be stored away from other equipment and supplies used in conjunction with this license.

(8) All linens and towels shall be changed between uses.

(9) All linens and towels shall be machine washed. If done at home, linens and towels shall be washed according to standards set by the director.

(10) The location where cleaning is to be done must have at least ten (10) footcandles of illumination.

Sec. 412.07. - ~~Therapeutic m~~Massage and bodywork practitioners employed in the business.

The following provisions shall apply to ~~therapeutic massage~~ massage or bodywork practitioners under the regulations of this chapter:

(1) No business licensed under this chapter shall employ or use any person as a ~~therapeutic massage~~ massage or bodywork practitioner unless such person is licensed by the City of Saint Paul.

(2) Any person acting as a ~~therapeutic massage~~ massage or bodywork practitioner in any such licensed business shall have his or her license or a true copy thereof displayed in a prominent place on the licensed premises.

(3) ~~Therapeutic m~~Massage or bodywork centers shall not discriminate on grounds of race, color, color, sex, national origin or ancestry in performing service offered by the the licensed establishment.

(4) No ~~therapeutic massage~~ massage or bodywork center for which a license has been granted by the city shall be open for business unless and until any ~~therapeutic massage~~ massage or bodywork practitioners employed or contracted by the business have first complied with the licensing requirement of Chapter 414.

Sec. 412.08. - Submission of plans and specifications.

(a) Environmental plan review required. A person shall not begin to construct, extensively remodel, or alter a ~~massage~~ massage or bodywork center until the director has reviewed and approved the plans and specifications required by this subsection. The ~~massage~~ massage or bodywork center shall be constructed and finished in conformance with the approved plans. The director may inspect the ~~massage~~ massage or bodywork center as frequently as deemed necessary during construction to ensure that construction occurs in conformance with this chapter. The director shall conduct a final inspection prior to the start of operations and issuance of an approved license. If work has commenced prior to approval of plans when required, the director may issue orders to halt the construction, extensive remodeling, expansion, or alteration, or may issue orders, including demolition or removal, if reasonably necessary to determine compliance with the standards of this chapter.

b) All persons who hereafter construct, remodel or convert buildings or facilities for use as a

massage or bodywork center shall conform and comply in their construction, erection or alteration with the requirements of this chapter. Two (2) copies of plans and specifications for such layout, arrangement, and plumbing and construction materials of the massage or bodywork areas, and location, size and type of equipment and facilities shall be filed by the owner to the department of safety and inspections. The plans will be reviewed and retained by the department of safety and inspections. A building permit shall not be issued for any such construction, remodeling or alteration until such permit shall have the approval of the director.

Sec. 412.09. - Inspection by city officers and identification of employees.

(a) During any hours in which any person is present on the licensed premises, all ~~therapeutic~~ massage or bodywork centers shall be open to inspection by city environmental health, fire, zoning, building and license inspectors, and police officers. Upon demand by any police officer, any person engaged in providing services in any licensed premises shall identify himself/herself giving his/her true legal name and his/her correct address.

(b) Change of ownership review required. Upon a change of ownership of a massage or bodywork center, the director shall conduct a change of ownership review of the premises to determine compliance with the requirements of this chapter.

Sec. 412.10. - Rules and regulations; director of department of safety and inspections may promulgate.

The director may upon notice and hearing promulgate such rules as he or she deems necessary to carry out the provisions and purposes of this chapter, to protect the public health and to provide for safe and sanitary operation of massage or bodywork equipment. Notice of promulgation of such rules and the hearing date shall be given to all licensees and notice of the hearing date published once in the legal newspaper. The notice shall advise that at the hearing written or oral comments on proposed rules will be received, and how a copy of the proposed rules can be obtained. Such rules shall be effective after such hearing when filed in the office of the city clerk. Violations of such rules shall be sufficient grounds for adverse action against licenses issued under this chapter.

Sec. 412.11. - Unlawful acts.

[It shall be unlawful for:]

(1) Anyone to engage in, conduct or carry on a massage or bodywork establishment without a valid license issued pursuant to this chapter.

(2) Anyone to administer a massage or bodywork in a licensed establishment or an off-site massage or bodywork location without a valid license issued pursuant to Chapter 414 of this Code.

(3) Any person in a licensed massage or bodywork establishment or an off-site massage or bodywork location to place his or her hands upon, or touch with any part of his or her body, or to fondle in any manner, or to massage, the genital area of any other person.

(4) Any person in a licensed massage or bodywork establishment or an off-site massage or bodywork location to expose his or her genital area or any portion thereof to any other person, or to expose the genital area or any portion thereof of any other person.

(5) Any person, while in the presence of any other person in a licensed massage or bodywork establishment or an off-site massage or bodywork location, to fail to conceal with a fully opaque covering the genital area of his or her body.

(6) Any person owning, operating or managing a licensed massage or bodywork establishment or an off-site massage or bodywork location knowingly to cause, allow or permit in or about such licensed massage or bodywork establishment or off-site massage or bodywork location any agent, employee or any other person under his or her control or supervision to perform such acts prohibited in subparagraphs (1) through (6) of this section or any obscene act.

SECTION 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.