

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING CHAPTER 625 MASSAGE ESTABLISHMENTS - ARTICLE SECTIONS 625.010 DEFINITIONS, 625.030 RULES AUTHORIZED, 625.040 INSPECTIONS, 625.050 FACILITIES NECESSARY, 625.060 GENERAL OPERATING REQUIREMENTS, 625.080 APPLICATION, 625.090 NOTICE OF HEARING, 625.100 ISSUANCE, 625.120 REVOCATION OR SUSPENSION, 625.130 TRANSFER, 625.140 REQUIRED, 625.150 APPLICATION,

Section 625.010 **Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

EMPLOYEE

Any and all persons, other than the ~~masseurs, masseuses or~~ massage therapists, who render any service to the permittee, who received compensation directly from the permittee, and who have no physical contact with the customers or clients.

MASSAGE ESTABLISHMENT

Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in this Chapter.

~~MASSEUR, MASSEUSE OR~~ MASSAGE THERAPIST

Any person ~~not~~ licensed by the State of Missouri as a massage therapist who, for any consideration whatsoever, engages in the practice of massage.

RECOGNIZED SCHOOL

Any school or educational institution licensed to do business as a school or educational institution and which is accredited by the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study not less than three (3) months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study of learning.

Section 625.030 **Rules Authorized.**

The ~~Chief of Police~~ Police Chief ~~or the Health Officer~~ **or the Building Official or their designee** may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter.

Section 625.040 **Inspections.**

The Police ~~Department~~ **Chief** ~~and the Health Officer~~ **or the Building Official or their designee** shall from time to time and at least ~~twice~~ **once** a year make an inspection of each massage establishment in the City for the purposes of determining that the provisions of this Chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

Section 625.050 **Facilities Necessary.**

A. No license to ~~conduct~~ **operate** a massage establishment shall be issued unless an inspection by the building official reveals that the establishment complies with each of the following minimum requirements:

1. *Construction of rooms for toilets, tubs, steam baths and showers.* Construction of rooms used for

toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City Plumbing Code:

- a. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings **and shall be provided with ventilation/exhaust as per the adopted International Mechanical Code.**
 - b. Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer. Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.
 - c. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
2. *Disinfecting and sterilizing equipment.* The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.
 3. *Closed storage areas.* Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
 4. *Toilet facilities.* Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided **when the total occupant load for the establishment exceeds 15 occupants, as per the adopted International Plumbing Code.** ~~for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.~~
 5. *Lavatories or washbasins.* Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.
 6. *Electrical equipment.* All electrical equipment shall be installed in accordance with the requirements of the ~~City Electrical Code~~ **National Electrical Code.**

The ~~Health Officer~~ **Building Official or his/her designee** shall certify whether a proposed massage establishment complies with this Section and shall forward such certification to the ~~Chief of Police~~ **Police Chief.**

Section 625.060 **General Operating Requirements.**

- A. Every portion of a massage establishment, including appliances, apparatus, and personnel shall be kept clean and operated in a sanitary condition.
- B. All employees shall be clean and wear clean outer garments whose use is restricted to the massage establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- C. All employees, ~~masseurs, and masseuses~~ **massage therapists** must be modestly attired. ~~Diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. Clothing must cover the employees', masseurs', or masseuses' massage therapist chest at all times.~~

- D. Towels, cloths, or undergarments must cover the private parts of patrons, when in the presence of an employee, ~~masseur or masseuse massage therapist~~. Any contact with a patron's genital area is prohibited.
- E. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and the sheets and towels shall be laundered after each use thereof and stored in approved, sanitary manner.
- F. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- G. *Advertising.* No massage establishment granted a permit under provisions of this Chapter shall place, publish, or distribute or cause to be placed, published, or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than massage services, nor shall any massage establishment indicate in the text of such advertising that any service is available other than massage services.
- H. All massage services must be carried on in one (1) cubicle, room, booth, or area within the massage establishment. No massage service shall be carried on in any other cubicle, room, booth, or area except where such cubicle, room, booth, or area has transparent doors or walls, such that all activity within the cubicle, room, booth, or area is visible from outside the same.
- I. ~~A massage establishment shall not carry on, engage in, or conduct business on Sunday and on other days shall not carry on, engage in, or conduct business between 6:00 P.M. and 8:00 A.M..~~ The facility shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.

Section 625.080 **Application.**

- A. The application for a business license to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therein and the name and address of each applicant. In addition to the foregoing, each applicant for a permit shall furnish the following information:
 - 1. Written proof that the applicant is at least eighteen (18) years of age.
 - 2. Two (2) portrait photographs at least two (2) inches by two (2) inches, and fingerprints.
 - 3. Business, occupation, or employment of the applicant for the three (3) years immediately proceeding the date of application.
 - 4. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another City or State under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
 - 5. Any criminal convictions, except minor traffic violations.
 - 6. **Criminal Background performed by Missouri Highway Patrol.**
- B. A non-refundable filing fee of fifteen dollars (\$15.00) shall accompany the application.

Section 625.090 **Notice of Hearing.**

When an application is filed for a business license for a massage establishment the ~~Chief of Police~~ **Police Chief** shall fix a time and place for a public hearing when applicant may present evidence upon the question of his/her application. Not less than ten (10) days before the date of such hearing, the ~~Chief of~~

~~Police~~**Police Chief** shall cause to be posted a notice of such hearing in a conspicuous place on the property in which or on which the proposed massage establishment is to be operated. The applicant shall maintain the notice as posted for a required number of days.

Section 625.100 **Issuance.**

- A. The City Clerk shall not issue a business license to a massage establishment without the approval of the ~~Chief of Police~~**Police Chief**.
- B. The ~~Chief of Police~~**Police Chief** shall approve the issuance of the license within fourteen (14) days following a hearing if all requirements for a massage establishment described in this Chapter are met unless he/she finds:
 1. The operation as proposed by the application if permitted will not have complied with all applicable laws and ordinances.
 2. The applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of:
 - a. A felony; or
 - b. Any offense involving sexual misconduct.

The ~~Chief of Police~~**Police Chief** may approve the issuance of a business license to any person convicted of any of the above crimes if he/she finds that such conviction occurred at least three (3) years prior to the date of the application and the applicant has had no subsequent convictions.

3. The issuance is contrary to the public health, safety, and welfare.

Section 625.120 **Revocation or Suspension.**

- A. A massage establishment business license may be revoked or suspended by the ~~Chief of Police~~**Police Chief** if:
 1. The licensee violates any of the provisions of this Chapter;
 2. The licensee is convicted of an offense enumerated in Section **625.100(B)**;
 3. A ~~masseur or masseuse~~**massage therapist** working in the establishment is convicted of an offense enumerated in Section **625.100(B)** and the licensee has actual or constructive knowledge of the violation or conviction; or
 4. Where the licensee or a person in his/her employ refuses to permit any duly authorized City officer or employee to inspect the licensed premises.
- B. Before revoking or suspending a license the ~~Chief of Police~~**Police Chief** shall give the licensee at least ten (10) days' written notice of the charges against him/her and an opportunity for a public hearing before the ~~Chief of Police~~**Police Chief**, at which hearing the licensee may present evidence on his/her own behalf. All charges shall be specific and in writing.

Section 625.130 **Transfer.**

No massage establishment business license shall be transferable without the written consent of the ~~Chief of Police~~**Police Chief** and the approval of the ~~Health Officer~~**Building Official**; provided however, that upon the death or incapacity of the licensee the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the license.

Article III

~~Masseur's or Masseuse's~~ **Massage Therapist Permit**

Section 625.140 **Required.**

~~No person shall act as a masseur, masseuse or massage therapist without a permit issued by the Chief of Police subject to approval of the Board of Aldermen.~~

No person shall act as massage therapist without valid Massage Therapy License issued by the State of Missouri.

Section 625.150 **Application.**

- A. An application for the permit required by this Article shall be made to the ~~Chief of Police~~ **Police Chief** upon a form provided by the ~~Chief of Police~~ **City Clerk**.
- B. The application for a permit shall contain the following:
1. The applicant's name and residence address.
 2. The applicant's social security number.
 3. The applicant's weight, height, color of hair and eyes, and fingerprints.
 4. Written evidence that the applicant is at least eighteen (18) years of age.
 5. The business, occupation, or employment of the applicant for three (3) years immediately proceeding the date of application.
 6. Whether such person has ever been convicted of any crime except minor traffic violations. If such person has been so convicted, a statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
 7. ~~The name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than seventy (70) hours of instruction.~~
 8. ~~The Chief Law Enforcement Officer in the area where the application originates must sign the affidavit in Subsection (C).~~
- C. Applicants for a ~~masseur, masseuse or~~ massage therapist permit may substitute one (1) year's continuous experience as a ~~masseur, masseuse or~~ massage therapist in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such ~~masseur, masseuse or~~ massage therapist must obtain an affidavit attesting to such experience occurred. If after diligent effort the ~~masseur, masseuse or~~ massage therapist is unable to obtain an affidavit from the owner, such ~~masseur, masseuse or~~ massage therapist may submit an affidavit from a person who had firsthand knowledge of his/her continuous year of experience. Said affidavit subject to approval and acceptance of the proper authority of the City of Osage Beach.
- D. Applicant for ~~masseur, masseuse, and~~ massage therapist permit may substitute a certificate from the American Massage and Therapy Association in lieu of the requirements of Subsection (C).

Section 625.170 **Issuance.**

- A. The ~~Chief of Police~~ **Police Chief** may **instruct the City Clerk to** issue a permit within twenty-one (21) days following application, unless he/she finds that:

1. The applicant under this Article has been convicted of a felony or any offense involving sexual misconduct. The ~~Chief of Police~~ **Police Chief may instruct the City Clerk to** ~~may~~ issue a permit to a person convicted of any of these crimes if he/she finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has not had subsequent convictions.
2. The issuance of the permit would be contrary to the public health, safety or welfare.

Section 625.180 **Revocation or Suspension.**

- A. A permit issued under this Article by the ~~Chief of Police~~ **Police Chief** shall be revoked or suspended after a public hearing before the ~~Chief of Police~~ **Police Chief** where it appears that the ~~masseur, masseuse or~~ massage therapist has been convicted of any offenses enumerated in Section **625.100(B)**.
- B. The ~~Chief of Police~~ **Police Chief**, before revoking or suspending any ~~masseur, masseuse or~~ massage therapist permit, shall give the ~~masseur, masseuse or~~ massage therapist at least ten (10) days' written notice of the examination into his/her conviction record and the opportunity for a public hearing before the ~~Chief of Police~~ **Police Chief**, at which hearing the ~~Chief~~ **Police Chief** shall determine the relevant facts regarding the occurrence of the conviction.

Section 2. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 3. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 4. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: August 3, 2023

READ SECOND TIME: August 17, 2023

I hereby certify that Ordinance No.23.63 was duly passed on August 17, 2023, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 5 Nays: 0 Abstentions: 0 Absent: 1

This Ordinance is hereby transmitted to the Mayor for his signature.

August 17, 2023
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury
Cole Bradbury, City Attorney

I hereby approve Ordinance No.23.63.

Michael Harmison
Michael Harmison, Mayor

August 17, 2023
Date

Tara Berreth
Tara Berreth, City Clerk