

## **ORDINANCE 25-11-01**

### **AN ORDINANCE AMENDING TITLE 16, CHAPTER 1, SECTION 18 REGARDING BUSINESS LICENSE REVOCATION APPEALS; ADOPTING A NEW CHAPTER 15 INTO TITLE 16; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Kaysville City desires to allow hearings for business license revocations to meet all constitutional due process requirements; and

**WHEREAS**, Kaysville City also desires to provide for the orderly regulation of certain businesses providing massage therapy services, and

**WHEREAS**, Kaysville City also desires to prevent and discourage the misuse of massage therapy as a front for human trafficking, prostitution, and related activities in violation of law by establishing operation standards for such businesses and application review procedures with minimum qualifications for operators and practitioners; and

**WHEREAS**, the Kaysville City Council finds that enacting the ordinance outlined below will promote public health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF KAYSVILLE, UTAH:**

**SECTION I: Repealer.** If any provisions of the City's Code previously adopted are inconsistent herewith they are hereby repealed.

**SECTION II: Amendment.** Title 16, Chapter 1, Section 18 shall be amended to read as follows:

#### **16-1-18 Appeal.**

A Licensee whose license has been revoked shall have the right to appeal to the ~~City Council or its designee (Appeals Authority)~~ city appeals authority. Any appeal must be submitted by either the Licensee or legal counsel. The following procedures and requirements shall apply:

1. Any appeal must be submitted in writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
2. Upon the request of the Licensee, within + three business days, the City will make available any information upon which it relied in making the determination to revoke the license.
3. The Appeals Authority shall ~~review, de novo, all written information submitted by the Licensee to the License Officer, any additional information relied upon by the License Officer as the basis for revocation, and any additional information supplied by the Licensee. Any additional information submitted by any party to the appeal to the Appeals Authority shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Authority regarding the additional information submitted by the opposing party~~ conduct a de novo hearing on the appeal in accordance with KCC 2-8-4.

4. The Appeals Authority will render a decision no later than thirty (30) calendar days from the date the appeal was heard, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information, the thirty (30) calendar days shall be extended to include the additional three (3) days for rebuttal.

- a. The revocation of the license shall be reversed by the Appeals Authority if upon review of the written appeal and information submitted, the Appeals Authority finds that the License Officer made a material mistake of law or fact.
- b. If the written appeal and information submitted indicates that the License Officer acted properly, the revocation of the license shall be affirmed and constitute a determination that the license is revoked.

54. After the ruling of the Appeals Authority, the Licensee is deemed to have exhausted all administrative remedies with the City.

6. ~~Nothing herein shall impede or interfere with the Licensee's or City's right to seek relief in a court of competent jurisdiction.~~

**SECTION III: Enactment.** Title 16, Chapter 15 shall be enacted to read as follows:

**Chapter 15 – Massage Establishments**

**16-15-1: Findings and Purpose.**

In enacting this chapter, the city recognizes that massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services, but that unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. It is the purpose and intent of this chapter to provide for the orderly regulation of massage establishments and to prevent and discourage the misuse of massage therapy as a front for human trafficking, prostitution, and related activities in violation of law, all in the interests of the public health, safety, and welfare, by providing certain minimum building, sanitation, and operation standards for such businesses, and by requiring certain minimum qualifications for operators and practitioners. It is the further intent of this chapter to streamline massage business license procedures, while still facilitating and advancing the ethical practice of massage therapy, by relying upon the uniform statewide regulations in the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended, and by restricting the commercial practice of massage in the city to those persons duly licensed to practice by DOPL pursuant to that act.

**16-15-2: Definitions.**

The following definitions apply in this chapter:

**Authorized Massage Professional** -- A DOPL-licensed massage professional who is identified in a license issued pursuant to this chapter as a person employed or retained by a massage establishment to practice massage.

**Compensation** -- The payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

**DOPL** -- The Utah Division of Occupational and Professional Licensing, which is included within the Utah Department of Commerce and is legislatively charged to administer and enforce specific laws and regulations related to the licensing of certain occupations and professions, including massage.

**DOPL-Licensed Massage Professional** -- Any person currently licensed by DOPL as a massage therapist, massage apprentice, massage assistant, or massage assistant-in-training pursuant to the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended.

**Inspector** – Any law enforcement officer or city employee responsible for conducting business license inspections.

**License Officer** – The employee within the Department of Community Development that is responsible for processing business license applications.

**Massage** – Has the same definition as both “massage therapy” and “bodywork” as defined in the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended.

**Massage Establishment** -- Has the same definition as found in the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended.

**Establishment Owner** -- any of the following persons:

1. Any general partner of a general or limited partnership that owns a massage establishment.
2. Any person who has a ten percent or greater ownership interest in a corporation that owns a massage establishment.
3. Any person who is a member of a limited liability company that owns a massage establishment.

**Operator or Massage Establishment Operator** -- Any person who is an owner or manager of a massage establishment.

**Patron** -- An individual on the premises of a massage establishment for the purpose of receiving massage therapy.

**Property Owner** -- The person or entity holding legal title to the real property on which a massage establishment is located. This includes individuals, partnerships, corporations, trusts, or other entities listed as the owner in the official records of the county recorder's office.

**Reception and Waiting Area** -- An area immediately inside the main entry door of the massage establishment dedicated to the reception and waiting of patrons or visitors of the massage establishment and which is not a massage therapy room or otherwise used for the provision of massage therapy services.

**Visitor** -- Any individual not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy services, excluding law enforcement personnel or governmental officials performing governmental business.

### **16-15-3: Other Permits and Authorizations Required.**

The requirements of this chapter are in addition to any permits or authorizations that may be required under other applicable laws including building, fire, zoning, and health regulations.

#### **16-15-4: Exemptions.**

1. Any individuals exempted from licensing under the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended, shall also be exempt from the licensing requirements of this chapter.
2. Any massage establishment exempted from registering under the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended, shall also be exempt from the licensing requirements of this chapter.

#### **16-15-5: DOPL License and Registration Required.**

It is unlawful for any individual to practice massage therapy for compensation within the city unless that individual is a DOPL-licensed massage professional. It is unlawful for any massage establishment to operate within the city unless that massage establishment has registered as a massage establishment with DOPL.

#### **16-15-6: Massage Business License Required—Prohibited Conduct.**

1. It shall be unlawful for any establishment owner to operate that massage establishment at any location in the city without first obtaining a massage business license. It is unlawful for a massage establishment operator to employ or retain any person to practice massage for compensation, or to allow any person to perform massage for compensation on the premises of a massage establishment, unless that person is a DOPL-licensed massage professional and is identified as an authorized massage professional on the business license application or through the notice described in Section 16-15-10.
2. It is unlawful for a massage establishment to operate under any name or conduct business under any designation not specified in the massage business license issued pursuant to this chapter.
3. It is unlawful for a massage establishment to continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an establishment owner in the massage business license application.

#### **16-15-7: Business License Application.**

The establishment owners shall file an application for a business license on a form provided by the license officer. The application shall be accompanied by a fee established by the city's fee schedule. The application shall include the following information:

1. The name, address, and telephone number of the massage establishment.
2. The name, residence address, and telephone number of each establishment operator.
3. The form of business under which the applicant will be conducting the massage establishment, i.e., corporation, general or limited partnership, limited liability company, or other form. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of its officers, directors, and each shareholders holding more than ten percent of the stock of the corporation. If the applicant is a general or limited partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the

partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply. If the applicant is a limited liability company, the application shall set forth the name and residence address of each of the members. If one or more of the members is a partnership, limited liability company, or corporation, the provisions of this section pertaining to a partnership, limited liability company, or corporate applicant shall apply, as applicable.

4. The name, address, and telephone number of the property owner.
5. A notarized acknowledgment, on a form provided by the license officer, signed by the property owner stating that:
  - a. The owner is aware a massage business is applying for a massage establishment license on the property;
  - b. The owner has a duty to exercise reasonable oversight to prevent criminal activity on the property; and
  - c. The owner may be subject to civil or criminal penalties, including a prohibition on operating massage establishments at the property, if criminal activity occurs there.
6. A business plan for the proposed massage establishment, including the type of treatments to be administered.
7. A copy of the client intake sheet template that will be used at the business that includes, at a minimum, client contact information, relevant medical history, and the client's consent and acknowledgement.
8. The name of each individual who the massage establishment employs or retains to perform massage therapy for compensation.
9. The name of each individual who is regularly employed or retained by the massage establishment to perform services on the premises other than massage therapy, and the nature of their services.
10. For each individual who the massage establishment does or will employ or retain to perform massage, a copy of that individual's current license from DOPL as a massage therapist, massage apprentice, massage assistant, or massage assistant-in-training.
11. For each establishment operator who is a DOPL-licensed massage professional, a copy of a current license from DOPL.
12. Such other information as may be required by the license officer to determine compliance with any other eligibility requirements for issuance of the massage business license as specified by federal, state, or local law.

#### **16-15-8: License Issuance.**

1. The license officer shall issue a massage business license if the applicant meets the requirements of this chapter and no grounds for denial exist under Section 16-15-9. The license officer may

impose conditions on the massage business license consistent with this chapter and applicable law.

2. A massage business license issued pursuant to the terms of this chapter shall be issued for a term not to exceed one calendar year and shall expire at midnight on the 31<sup>st</sup> day of December in the year issued.

#### **16-15-9: License Denial.**

The license officer may deny an application for a massage business license on any of the following grounds:

1. The massage establishment, as proposed by the applicant, would not comply with the requirements of this chapter.
2. The massage establishment, as proposed by the applicant, would not comply with any applicable law, including building, fire, zoning, and health regulations.
3. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the massage business license application.
4. Any establishment owner, within five years immediately preceding the date of filing of the application, has had a permit or license to practice massage or to own and/or operate a massage establishment revoked or denied in any jurisdiction.
5. Any establishment owner who currently owns or operates a massage establishment in the city that is not in good standing due to the existence of uncorrected violations or unpaid fines or fees related to the property.

#### **16-15-10: Amendments to Massage Business License.**

1. Licensees must notify the license officer of new DOPL-licensed massage professionals that are not listed on the business license application or renewal within 10 business days of the new DOPL-licensed massage professional's start date along with proof of the professional's current DOPL license.
2. Except as provided in Subsection 16-15-10.1, whenever the information provided in the application for a massage business license on file with the city changes, the operator shall file an application to amend the massage business license to reflect such change on a form provided by the license officer. The application shall be accompanied by the fee established by the city's fee schedule.
3. The application shall not be approved unless the license officer determines that the terms of the amended massage business license comply with all requirements of this chapter and all other local, state, and federal laws, and the massage establishment has no outstanding violations or unpaid citations or fees. Inspection of the massage establishment may be required prior to approval of the amendment.
4. An amendment shall not be used to change the location or establishment owner. A new massage business license application is required for a change in location or establishment owner.

**16-15-11: Referral of Massage Establishment to other Departments; Police Department Notification.**

1. Code Review: The license officer shall refer a massage establishment business license application to the building inspection, planning, police, and fire departments within 14 calendar days of receiving the application for review.
2. Law Enforcement: The license officer shall notify the Police Department of all approved and denied massage business license applications.

**16-16-12: Requirements for all Massage Establishment Facilities and Operations.**

1. Except as otherwise specifically provided in this chapter, the following operational requirements shall be applicable to all massage establishments located within the city:
  - a. No massage establishment shall be kept open for business between the hours of 10 p.m. of one day and 8 a.m. of the following day. A massage begun any time before 10 p.m. must nevertheless terminate at 10 p.m.
  - b. The hours of operation of the massage establishment shall be displayed in a front window clearly visible from outside of the massage establishment.
  - c. Patrons and visitors shall only be permitted in the massage establishment during the hours of operation.
  - d. During the posted hours of operation, patrons shall be permitted in massage therapy rooms only if at least one authorized massage professional is present on the premises of the massage establishment. Patrons shall not be permitted in any employee break room on the premises.
  - e. During the hours of operation, visitors shall not be permitted in massage therapy rooms except as follows:
    - i. The parents or guardian of a patron who is a minor child may be present in the massage therapy room with that minor child;
    - ii. The minor child of a patron may be present in the massage therapy room with the patron when necessary for the supervision of the child; or
    - iii. The conservator, aid, or other caretaker of a patron who is elderly or disabled may be present in the massage therapy room with that elderly or disabled person.
  - f. During the hours of operation, except as otherwise provided herein, no visitors shall be permitted in massage therapy rooms, break rooms, dressing rooms, showers, or any other room or part of the massage establishment premises other than the reception and waiting area or toilet rooms.
  - g. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in English and may also be described in such other languages as may be convenient. No massage establishment

operator shall permit, and no person employed or retained by the massage establishment shall offer to perform any services or request or demand fees other than those posted.

- h. The massage establishment shall keep on the premises a complete and current roster of all establishment operators, all authorized massage professionals, and other persons employed or retained by the massage establishment. The roster shall include the name, residence address, and phone number of each individual. The roster shall be available for inspection by city officials charged with the enforcement of this chapter.
- i. Patrons' genitals and female patrons' breasts must be fully draped at all times while any individual employed or retained by the massage establishment is in the massage room or cubicle with the patron. No massage shall be provided to a patron that results in intentional contact, or occasional and repetitive contact, with the genitals or anal region of a patron, or of a female patron's breasts without the written consent of the person receiving the massage and a referral from a licensed health care provider.
- j. No alcoholic beverages shall be sold, served, or furnished to any patron; nor shall any alcoholic beverages be kept or possessed on the premises of a massage establishment.
- k. Except for a patron who is inside a massage therapy room for the purpose of receiving a massage, massage practitioners and massage establishment employees shall remain fully clothed. Attire shall not include lingerie, swim attire, or any attire that is transparent, see-through or substantially exposes the individual's undergarments, breasts, buttocks, or genitals:

  - l. The DOPL issued massage establishment registration and the city issued massage business license shall be displayed in an open and conspicuous place on the premises visible from the reception and waiting area of the massage establishment.
  - m. Each authorized massage professional shall display a valid current photograph-bearing identification card issued to that employee by the license officer. A copy of each identification card and the person's original DOPL license shall also be displayed in an open and conspicuous place visible from the reception and waiting area of the massage establishment. The home address of any employee need not be displayed.
  - n. Human Trafficking Information Notices: Massage establishments must post in a conspicuous place near the public entrance of the massage establishment or in another conspicuous location in clear view of the public and employees, the following notice provided by the city:

*"If you or someone you know is being forced to engage in any activity and cannot leave- whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity-text 233733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the Utah Human Trafficking Tipline at 801-200-3443 to access help and services."*

2. Except as otherwise specifically provided in this chapter, the following physical facility and building code requirements shall be applicable to all massage establishments located within the city:

- a. Main entry door and reception and waiting area required. One main entry door shall be provided for patron entry to the massage establishment, which shall open to an interior patron reception and waiting area immediately. Except in emergencies, all patrons and any persons

other than individuals employed or retained by the massage establishment shall be required to enter and exit through the main entry door. The main entry door shall be unlocked at all times during business hours.

- b. All interior doors, including massage therapy rooms or cubicles, but excluding individual dressing rooms, showers, and toilet rooms, shall be incapable of being locked and shall not be blocked to prevent opening. Draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner massage therapy rooms or cubicles.
- c. A massage table or professional massage chair specifically designed for seated massage shall be used for all massage, with the exception of "Thai," "Shiatsu," and similar forms of massage, which may be provided on a padded mat on the floor, provided the patron is fully attired in loose clothing, pajamas, scrubs, or similar style of garment.
- d. Beds, mattresses, and camping mats are not permitted on the premises of the massage establishment, and no massage establishment shall be used for residential or sleeping purposes, which may be shown by circumstantial evidence such as the presence of bedding, pillows, sleeping bags, suitcases, clothing, toiletries or other personal belongings, cooking appliances, utensils or food in excess of a business establishment's normal requirements.
- e. The massage establishment shall comply with all applicable state and local building and fire codes.

#### **16-15-13: Massage Establishment Inspections.**

1. An inspector shall have the right to enter any massage establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this chapter or for the purpose of providing educational materials to employees of the massage establishment in culturally and linguistically appropriate languages regarding employee rights and information on a variety of resources, including linkage to health care services, victim services, and emergency numbers and hotlines to call for information and assistance.
2. The massage establishment operator shall take immediate action to correct each violation noted by the inspector. The inspector shall perform a reinspection to ensure that each violation has been corrected.

#### **16-15-14: Violations.**

1. For the purpose of enforcing the requirements of this chapter, all establishment operators shall be jointly and severally responsible for the conduct of all massage establishment employees, agents, independent contractors, or other representatives while such persons are on the premises of the massage establishment.
2. Any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor, unless a different penalty is provided under state law. Each day's violation shall be deemed a separate offense.
3. In addition to any other remedy available to the city under applicable law, a massage business license may be revoked as provided in KCC 16-1-17. Upon revocation, the massage establishment shall immediately cease operation, and no other massage establishment shall be

permitted to operate at that location by any person for three years ("the moratorium period"). If the operator is not also the property owner, notice of such revocation and the three-year prohibition shall be provided by the license officer to the property owner, and the prohibition shall apply to all property owned by that property owner at that location.

4. In addition to any other remedy available to the city under applicable law, a massage business license may not be renewed or amended unless and until all due and unpaid citations issued pursuant to this chapter are paid in full, and all outstanding violations have been corrected.
5. Notwithstanding any other provision of this chapter, where a business license has been revoked pursuant to KCC 16-1-17, the license officer shall not process or grant an application for a massage business license for a new massage establishment at the same premises unless and until a final determination is made pursuant to that chapter that the current operator's massage business license is not or should not be revoked; or any moratorium period imposed pursuant to this chapter has expired.

#### **16-15-15: Revocation Or Suspension.**

All massage establishment operators shall be deemed to know and understand the requirements and prohibitions of this chapter. Any massage business license issued pursuant to this chapter may be revoked pursuant to KCC 16-1-17 where the license officer finds that any of the following have occurred on even a single occasion:

1. The licensee or any person employed or retained by the massage establishment has violated any provision of this chapter including refusal to permit an inspection authorized by Section 16-15-13 or interfering with an inspector by threatening them, touching them, or intentionally delaying their entry into the massage establishment.
2. The licensee has engaged in unlawful conduct or unprofessional conduct as defined in the Massage Therapy Practice Act in Utah Code Annotated Title 58, Chapter 47b, as amended.
3. The licensee has been subject to a permanent injunction against the conducting or maintaining of a nuisance pursuant to this code.
4. The licensee or any person employed or retained by the massage establishment has engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact while working in or for the massage establishment.
5. The licensee has continued to operate the massage establishment after the massage business license has been revoked.
6. Massage has been performed on the premises of the massage establishment, with or without the licensee's actual knowledge, by any person who is not an authorized massage professional.
7. The licensee or any person employed or retained by the massage establishment or any other person on the premises of the massage establishment has engaged in conduct or committed acts that a reasonable person in the patron's position would understand as an offer to perform or engage in acts that are sexual in nature or that involve touching of genitals, the anal region, or female breasts.
8. The use or possession of adult-oriented merchandise is found at the massage establishment.

9. The licensee or any person employed or retained by the massage establishment has engaged in sexually suggestive advertising related to massage services on the premises of the massage establishment, including displaying photographs of individuals clothed in lingerie, swim attire, or any attire that is transparent, see-through or substantially exposes the individual's undergarments, breasts, buttocks, or genitals; describing the massage services as "erotic," "sensual" or similarly sexual in nature; being listed in adult media or a sexually oriented website; or describing the appearance or age of massage providers.
10. If the licensee has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state, and local wage and hour laws, including, the Federal Fair Labor Standards Act. For purposes of this subsection, a final court order or administrative action is one in which there is no pending appeal and the time for filing an appeal has passed.

**16-15-16: Appeals.**

If the license is denied or revoked, the applicant or licensee may file an appeal. The appeal shall be processed in accordance with the procedures set forth in KCC 16-1-18, as amended.

**16-15-17: Undertaking for the General Welfare.**

In regulating massage establishments and massage services as provided in this chapter, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

**16-15-18: Severability.**

If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.

**16-15-19: No Conflict with State or Federal Law.**

Nothing in this chapter shall be interpreted or applied to create any requirement, power, or duty in conflict with any federal or state law.

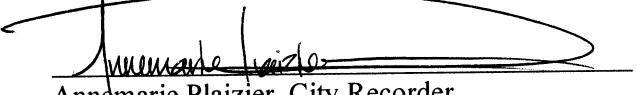
**SECTION IV: Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

**SECTION V: Effective Date.** This ordinance being necessary for the peace, health and safety of the City, shall become effective immediately upon posting.

PASSED AND ADOPTED by the City Council of Kaysville, Utah, this 6th day of November, 2025.

  
Tamara Tran, Mayor

ATTEST:

  
Annemarie Plaizier, City Recorder

