



ORDINANCE NO. 28401

1 AN ORDINANCE relating to general license provisions and massage businesses;
2 amending Chapter 6B.10 of the Tacoma Municipal Code to establish
3 regulations for massage businesses operating in the City, and to provide
4 additional enforcement options for businesses or employees not in
5 compliance with local, state, or federal license requirements.

6 WHEREAS, in the City, as in several other Washington jurisdictions,
7 massage businesses have opened to provide massage and reflexology by
8 non-licensed practitioners, and

9 WHEREAS some staff at these businesses are engaging in criminal activity,
10 such as prostitution, and

11 WHEREAS the Tacoma Police Department has investigated unlicensed
12 businesses and established probable cause to file criminal charges in some
13 instances; however, these investigations are very time consuming and resource
14 intensive, and

15 WHEREAS these illegitimate service providers threaten the reputation of
16 licensed massage practitioners and threaten the public health, safety, and welfare
17 of citizens, and

18 WHEREAS, in order to effectively regulate massage businesses that are
19 engaging in criminal activities, additional regulations and enforcement options are
20 being proposed for Title 6B of the Tacoma Municipal Code, as follows:

21 (1) restricting the hours that massage services can be offered to between 6:00 a.m.
22 and 10:00 p.m., and adding specific language regarding advertising of unlicensed
23 business activity; (2) adding and clarifying violations that constitute grounds for
24 revocation of a City business license or issuance of a civil penalty when a business
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or its employees are not in compliance with local, state, or federal license requirements; (3) adopting language from RCW 18.108 and 18.130 to allow the City to charge a misdemeanor/gross misdemeanor to both the business owner and practitioner when a person is providing massage services without a state practitioner’s license, and

WHEREAS, additionally, RCW 35.21.692 states that a licensed massage practitioner seeking a city or town license to operate a massage business must provide verification of his or her state massage license when applying for a city business license; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 6B.10 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit “A.”

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

**Chapter 6B.10
GENERAL LICENSE PROVISIONS**

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Sections:

- 6B.10.010 Subtitle designated as License Code.
- 6B.10.020 Application of chapter.
- 6B.10.030 License definitions.
- 6B.10.040 License required.
- 6B.10.045 Exemptions for preapproval.
- 6B.10.050 Separate licenses – When required.
- 6B.10.060 Application for license – Approval or denial – Appeal.
- 6B.10.070 Term of license.
- 6B.10.075 Director to make rules.
- 6B.10.080 Due date.
- 6B.10.090 Late payment – Renewal of license
- 6B.10.095 Cancellation of penalties.
- 6B.10.100 Method of payment.
- [6B.10.105 Advertising unlicensed premises.](#)
- 6B.10.110 Posting or carrying of license.
- [6B.10.115 Hours of operation – Massage.](#)
- [6B.10.117 Unlicensed practice – Massage – Penalties.](#)
- 6B.10.120 Mailing of notices.

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6B.10.030 License definitions

The following definitions apply to each section in this subtitle of the TMC:

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“Licensee” means any person required to be licensed under Subtitle 6B.

[“Massage” or “Massage therapy” means a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.](#)

[“Massage business” means the operation of a business where massages are given.](#)

“Peddling” means the same as door-to-door sales.

* * *

6B.10.040 License required.

[A. No person shall maintain or operate any device, vehicle, or thing, or engage in any business, calling, profession, trade, occupation, or activity specified in this subtitle without first procuring a license therefor from the City and paying the fees prescribed herein, unless the City requirement for a license is preempted by state or federal law.](#)



1 B. Persons applying for a city business license shall maintain all local, state, and federal licenses required for the operation of the business and shall remain in compliance with such licenses while the business remains in operation.

2 **6B.10.105 Advertising unlicensed premises.**

3 No person shall place on a building or property within the city limits of Tacoma any advertisement about
4 conducting a specific business activity within the building or on the property unless the person conducting the
5 activity has a valid license pursuant to local, state, or federal law. Advertising includes, but is not limited to,
6 any sign, placard, poster, banner, card, or other advertising matter placed, erected, displayed, or maintained on
7 the outside or in close proximity to any building or place, or in the inside in such a manner as it may be seen
8 from the outside thereof.

9 **6B.10.115 Hours of operation – Massage.**

10 All massage business locations or offices that offer massage therapy services, as defined by state law, shall not
11 be open between 10:00 p.m. and 6:00 a.m. daily, provided that if a licensed massage business is physically
12 located wholly within the premises of a larger business or location, including, but not limited to, such facilities
13 as a salon, spa, hotel, or health care provider, then only the area where the massage business is conducted shall
14 be closed to customers between 10:00 p.m. and 6:00 a.m.

15 **6B.10.117 Unlicensed practice – Massage – Penalties.**

16 The following penalties may be imposed upon an owner of a massage business where the unlicensed practice
17 of massage therapy has been committed:

18 A. Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of
19 massage therapy to be committed within his/her massage business by another per RCW 18.108.035 is guilty of
20 a misdemeanor for a single violation.

21 Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor
22 punishable according to chapter 9A.20 RCW.

23 B. Unlicensed practice of massage therapy pursuant to RCW 18.130.190(7)(a), constitutes a gross
24 misdemeanor for a single violation.

25 Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony
26 punishable according to chapter 9A.20 RCW.

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6B.10.140 Suspension or revocation – Appeal.

A. The Director shall have the power and authority to suspend or revoke any registration or license issued under the provisions of Title 6. The Director shall notify such licensee in writing by certified mail or hand delivery of the suspension or revocation of his or her license or registration and the grounds therefor. Any license or registration issued under this title may be suspended or revoked based on one or more of the following grounds:

1. The registration was procured by fraud or false representation of fact, including, but not limited to, the existence of owners who were not identified on the application.
2. The licensee has failed to comply with any provisions of this title.
3. The licensee has failed to comply with any provisions of the TMC.
4. The licensee is in default in any payment of any license fee or tax under Title 6.
5. The licensee or employee has been convicted of a crime involving the business.
6. Licensee’s continued conduct of the business for which the license or registration was issued will result in a danger to the public health, safety, or welfare by reason of any of the following:



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a. The licensee, his/her employee or agent has committed a crime or other violation of law, which bears a direct relationship to the conduct of the business under the license or registration issued pursuant to this title. The Director may consider any relevant violation of law regardless of whether the same act was charged as a civil infraction or crime or resulted in a finding of committed or conviction or if it is deferred or subject to pretrial diversion. If a licensee appeals such a suspension, revocation, or denial of a license or registration under this subsection, the violation must be proved by a preponderance of the evidence. Provided, however, that a finding of not committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a basis for a violation under this chapter.

b. The licensee, or his/her agents or employees, have in the conduct of the business, violated any local, state, or federal law ~~or ordinance~~ relating to public health or safety.

c. The conduct of the business for which the license or registration was issued has resulted in the creation of a public nuisance as defined in the TMC or in state law.

d. The tolerance of a public nuisance or criminal activity, as defined in ~~TMC-local, or in~~ state, or federal law, for which the business owner or operator can reasonably control or prevent.

7. For any reason that would justify denial or disqualification of a license under Section 6B.10.170.

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6B.10.170 Grounds for disqualification of licensees.

Pursuant to the provisions of this subtitle, no license shall be issued to the following persons:

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D. The Director may deny a license if:

1. The applicant or his or her employee or agent has committed a series of crimes or other violations of law that show a disregard for the law and the Director reasonably concludes, based on this conduct, that the applicant will not comply with the provisions of this title or other applicable laws applicable to the operation of the business. The Director may consider any relevant violation of law, regardless of whether the same act was charged as a civil infraction or crime or resulted in a conviction or finding of committed, or if it is deferred or subject to pretrial diversion. If a licensee appeals such a denial of a license under this subsection, the violation must be proved by a preponderance of the evidence. Provided, however, that a finding of not committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a basis for a violation under this chapter.

2. For any reason that would justify denial of the license under Section 6B.10.140 or Section 6B.10.145;

3. When the Director reasonably concludes that the applicant will not comply with the provisions of this title or other applicable local, state, or federal laws applicable to the operation of the business or that the operation of the business is likely to endanger public health or safety. The Director may consider any relevant matter, including illegal activity associated with the applicant’s operation of another business, or the conduct of the applicant’s patrons or employees inside or outside a similar business operated by the applicant.

6B.10.180 Inspection.

All licensees shall be open to inspection, including records required to be maintained pursuant to this chapter, by the Director, during licensee’s normal business hours and, in any event, from 8:00 a.m. to 5:00 p.m., Monday through Friday. The licensee, business owner, manager, or other responsible party shall allow entry by City of Tacoma officials for the purposes of ensuring for public safety or inspecting for compliance of Title 6 at any time the facility is open. Denial of entry is cause for summary suspension of the license.