



## LEGISLATIVE COVER MEMO

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**Introduction:** June 6, 2022

**Public Hearing:** June 20, 2022

**Effective Date:** July 20, 2022

**Agenda Item:** **Ordinance 2022-16**

AMENDING PART SEVEN, TITLE 1 OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO AND CREATING CHAPTER 730 (MASSAGE SERVICES ESTABLISHMENTS)

**Submitted by:** Jonathan Westendorf, City Manager

**Scope/Description:** This Ordinance amends Part 7 (Business and Taxation Code), Title 1 (Business Regulation) to include a new Chapter 730 entitled “Massage Services Establishments.” The City’s Codified Ordinances do not currently provide any regulations specific to businesses that offer massage services. It is in the public interest to ensure only legitimate massage therapy services, performed by licensed massage therapists, are offered within the City limits. The new Chapter 730 provides a new City permitting process for massage services establishments (overseen by the Chief of Police), which will require such establishments to submit documentation to the City confirming they only employ licensed massage therapists to provide massage services to customers.

**Vote Required for Passage:** Per Section 4.03 of the City’s Charter, the passage of this Ordinance requires the affirmative vote of a majority of Council members present.

**Exhibits:** Exhibit A: Chapter 730

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
ORDINANCE 2022-16

**AMENDING PART SEVEN, TITLE 1 OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO AND CREATING  
CHAPTER 730 (MASSAGE SERVICES ESTABLISHMENTS)**

WHEREAS, the City of Franklin City Council is responsible for enacting laws to preserve the public health, safety and welfare of the citizens of the City of Franklin, Ohio;

WHEREAS, with the input of City Department heads and staff, Council has determined it is desirable and necessary to regulate establishments offering massage services within the City, to ensure massage services are only performed by qualified individuals, licensed to perform such services under Ohio law;

WHEREAS, Council desires to amend Part 7, Title 1 of the City's Codified Ordinances to create and include a new Chapter 730 (Massage Services Establishments), providing regulations and a permitting process for massage services establishments operating within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The City's Codified Ordinances are hereby amended to include a new Chapter 730, as set forth in Exhibit A, attached hereto.

Section 2. All ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed.

Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action occurred in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

INTRODUCED: February 7, 2022

ADOPTED: March 7, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-16 passed by that body on June 20, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_, Ben Yoder, Law Director

# FRANKLIN CODIFIED ORDINANCE

## Chapter 730 – Massage Services Establishments

### **730.01 Definitions**

As used in this chapter:

“Applicant” means a person who has applied for a permit to operate a Massage Therapy Establishment in the City of Franklin.

“Licensed Massage Therapist” means a person who holds an active license under Chapter 4731 of the Ohio Revised Code to practice Massage Therapy in the State of Ohio.

“Massage Services” means any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance in exchange for anything of value.

“Massage Therapy” means the treatment of disorders of the human body by the manipulation of soft tissue through the systematic external application of massage techniques including touch, stroking, friction, vibration, percussion, kneading, stretching, compression, and joint movements within the normal physiologic range of motion; and adjunctive thereto, the external application of water, heat, cold, topical preparations, and mechanical devices.

“Massage Services Establishment” means any business or establishment where Massage Services are offered for anything of value.

### **730.01 Permit Required**

- (a) After the effective date of this chapter, all Massage Services Establishments in the City of Franklin shall be required to obtain a permit to operate within the City limits.
- (b) It shall be a violation of this chapter for any Massage Services Establishment to offer or perform Massage Services within the City of Franklin without having in force and effect a valid permit lawfully issued by the City pursuant to this chapter.

### **730.02 Permit Application Procedure**

- (a) The City of Franklin Chief of Police, or the Chief’s designee, shall be responsible for reviewing applications for Massage Services Establishment permits. No permit shall be issued unless the Chief of Police has determined the Massage Services Establishment is in full compliance with this chapter.
- (b) Applications shall be submitted to the Chief of Police on a form approved by the City of Franklin, and shall contain or attach the following information:
  - (1) The full legal name of the Massage Services Establishment;

- (2) The full legal name, current residential address, and phone number of the Applicant;
  - (3) The address of the property on which the Massage Services Establishment shall operate;
  - (4) A copy of the Zoning Certificate issued by the City of Franklin, confirming a Massage Services Establishment is a permitted use on the subject property;
  - (5) The full legal names of all individuals who will perform Massage Services for the Massage Services Establishment;
  - (6) Copies of the license(s) issued by the State Medical Board of Ohio for each individual who will perform Massage Services for the Massage Services Establishment, certifying each individual is a Licensed Massage Therapist;
  - (7) A list of all Massage Services which will be offered at the Massage Services Establishment;
  - (8) Information regarding any prior felony or misdemeanor convictions of the Applicant and any member or officer of the Massage Services Establishment (if applicable); and
  - (9) Any other information requested at the time of the application.
- (c) The Chief of Police shall issue a written decision to the Applicant granting the permit, denying the permit, or requesting additional information within thirty (30) days following the application submission date.
- (d) All Massage Services Establishments shall display the permit required under this chapter in a conspicuous place in the Massage Service Establishment.
- (e) A permit lawfully issued in accordance with this chapter shall be valid until December 31<sup>st</sup> of the year immediately following the year of original permit issuance or renewal.
- (f) Massage Services Establishments in operation prior to the effective date of this chapter shall apply for a permit within sixty (60) days after the effective date.

### **730.03 Expiration and Renewal of Permits**

- (a) Each permit issued pursuant to this chapter shall expire on December 31<sup>st</sup> of the year immediately following the year of original permit issuance or renewal.
- (b) A permit holder shall apply to the Chief of Police to renew the holder's permit to operate a Massage Services Establishment no later than thirty (30) days prior to the expiration date

of the permit. The process outlined in Section 730.02 shall be followed for all permit renewal applications.

- (c) The City shall notify each permit holder in writing of an impending permit expiration date a minimum of ninety (90) days prior to the expiration date of the permit.

#### **730.04 No Permit Transfers; Changes in Information**

- (a) Permits issued under this Chapter are non-transferable. A permit allowing a certain Massage Services Establishment to operate on a particular property shall not be transferred with the permit holder to allow the Massage Services Establishment to operate on another property. Nor shall a permit allowing a certain Massage Services Establishment to operate on a particular property be transferred to another permit holder to allow a different Massage Services Establishment to operate on the property.
- (b) If a Massage Services Establishment ceases operations on a property, the permit allowing the Massage Services Establishment to operate on the particular property shall be deemed null and void. A new permit must be issued if the Massage Services Establishment intends to operate on another property within the City, or if a new Massage Services Establishment intends to operate on the subject property.
- (c) In the event any information submitted with a permit application to operate a Massage Services Establishment changes at any point while the permit is in effect, the Applicant shall notify the Chief of Police in writing of the change within thirty (30) days of the effective date of the change.

#### **730.05 Prohibitions**

It shall be unlawful for:

- (a) Any business or establishment to offer or perform Massage Services, unless such Massage Services are performed by a Licensed Massage Therapist.
- (b) Any business or establishment to employ any individual to perform Massage Services, unless such individual is a Licensed Massage Therapist.
- (c) Any individual to perform Massage Services for a Massage Services Establishment, unless such individual is a Licensed Massage Therapist.
- (d) A Massage Services Establishment to operate without having in full force and effect a valid permit issued by the City of Franklin Chief of Police.
- (e) Any individual or entity to violate any provision of this Chapter.

#### **730.06 Inspections; Revocation of Permit**

- (a) The City of Franklin may cause inspections of a Massage Services Establishment to be performed at any time to determine compliance with the requirements of this chapter.

(b) The following individuals may conduct an inspection of a Massage Services Establishment upon the direction of the City of Franklin:

- (1) A City of Franklin Police Officer;
- (2) Any Code enforcement officer of the City of Franklin;
- (3) The Warren County Health Commissioner, or the Commissioner's designee; and
- (4) Any other individual duly authorized by the City of Franklin to perform an inspection of a Massage Services Establishment.

(c) If the City has reasonable cause to believe a permit holder or Massage Services Establishment is in violation of any provision of this chapter, the Chief of Police may:

- (1) Provide the permit holder with notice of the violation and allow the permit holder an opportunity to remedy the violation; and/or
- (2) Revoke any permit issued to the permit holder and/or Massage Services Establishment upon written notice of revocation to the permit holder.

#### **730.07 Appeals**

- (a) Any Applicant who objects to a decision of the Chief of Police denying an original permit application or a permit renewal application shall have the right to appeal the decision to City Council.
- (b) Any permit holder who objects to a determination of any City official that the permit holder, or the Massage Services Establishment for which the permit is held, has violated any provision of this chapter shall have the right to appeal the decision to City Council.
- (c) An appeal to Council brought under this Section shall be filed with the Clerk of Council within thirty (30) days of the date the decision being appealed was rendered. Council shall set the matter for hearing at its earliest convenience.
- (d) Council shall issue a written decision affirming, modifying or reversing the decision on appeal within thirty (30) days following the appeal hearing.

#### **730.08 Exemptions**

The provisions of this chapter shall not apply to the following:

- (a) Hospitals, medical facilities and public health centers (as defined in Ohio Revised Code 3701.01);

- (b) An individual licensed or registered by the State of Ohio Medical Board (other than Licensed Massage Therapist) while engaged in his/her licensed or registered profession;
- (c) A licensed chiropractor, podiatrist or nurse, or any other licensed health professional while engaged in his/her licensed or registered profession;
- (d) A licensed cosmetologist, registered barber, registered barber apprentice or nail salon technician performing Massage Services customarily associated with his/her professional cosmetic services and administered only to the scalp, face, neck, shoulders, feet or hands;
- (e) A trainer for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, performing Massage Services customarily associated with his/her professional training services;
- (f) A person working under the direct supervision of establishments or individuals mentioned in this Section 730.08, while engaged in his/her licensed or registered profession; and
- (g) A person undertaking required course work to become a Licensed Massage Therapist, while working under the direct supervision of a currently Licensed Massage Therapist.

#### **730.09 Penalty**

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of a third degree and fined not more than five hundred dollars (\$500.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.