

BILL NO. 2020-37

ORDINANCE NO. _____

AN ORDINANCE TO AMEND LVMC CHAPTER 6.69, RELATING TO THE REGULATION OF REFLEXOLOGY, TO UPDATE AND CLARIFY A NUMBER OF PROVISIONS SO AS TO BE CONSISTENT WITH STATE LAW, ESTABLISH NEW RECORDKEEPING AND OPERATIONAL REQUIREMENTS FOR REFLEXOLOGY ESTABLISHMENTS, AND PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Robert Summerfield, Director of Planning

Summary: Amends LVMC Chapter 6.69, relating to the regulation of reflexology, to update and clarify a number of provisions so as to be consistent with State law, and to establish new recordkeeping and operational requirements for reflexology establishments.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6, Chapter 69, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 5, reading as follows:

6.69.005: (A) The City Council hereby finds that reflexology establishments seriously affect the economic, social and moral well-being of the City and its residents, that such businesses must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with LVMC Chapter 6.06, as well as the provisions of this Chapter. Although the Nevada Legislature has removed the ability of the City to regulate reflexologists as to their qualifications and practices, the City retains its authority to:

(1) Require reflexologists and reflexology establishments to obtain a City business license; and

(2) Regulate the manner in which reflexology establishments themselves may operate.

(B) Except as otherwise provided in this Subsection (B) and this Chapter, the issuance and governance of individual reflexologist licenses, including those for independent reflexologists, shall be in accordance with LVMC Chapter 6.02. The issuance and governance of licenses for reflexology establishment licensee practitioners shall be in accordance with LVMC Chapter 6.06 and this Chapter.

SECTION 2: Title 6, Chapter 69, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.010: Unless the context otherwise requires, the following words, as they appear in this Chapter, shall have the meanings ascribed to them in this Section:

“Employee” means any person who performs reflexology as a bona fide employee of a reflexology business.

“Independent reflexologist” means a reflexologist who is not an employee of a reflexology establishment, is a sole practitioner, and hires no employees.

“Outcall service” means reflexology given or provided off the premises of a licensed reflexology business.

“Reflexologist” means any person who, for consideration, engages in the practice of reflexology.

“Reflexology” means a method of using the hands, thumbs or fingers to apply specific pressure to reflex points located in the hands, feet or ears.

“Reflexology establishment licensee practitioner” means the licensee of a reflexology establishment who performs reflexology.

“Sexual activity” means:

- (1) Sexual intercourse;
- (2) Rubbing against a client for sexual gratification;
- (3) Making sexual advances toward a client;
- (4) Demanding or requesting sexual favors from a client;
- (5) Kissing, hugging, touching, fondling or caressing of a sexual nature;
- (6) Encouraging masturbation or any other sex act in the presence of a licensee or other person performing reflexology;
- (7) Masturbation or any other sex act by the licensee or other person performing reflexology;
- (8) Suggesting or discussing the possibility of beginning a sexual relationship before

1 the professional relationship ends;

2 (9) Terminating the professional relationship with the client for the purpose of pursuing
3 a sexual relationship;

4 (10) Discussing the sexual history, preference or fantasies of the licensee or other person
5 performing reflexology;

6 (11) Any behavior, gesture or expression that may reasonably be interpreted as seductive
7 or sexual; or

8 (12) Showing a client sexually explicit photographs.

9 “Specified anatomical area” means:

10 (1) Genitals;

11 (2) Pubic region;

12 (3) Buttocks; or

13 (4) Female breast.

14 SECTION 3: Title 6, Chapter 69, Section 30, of the Municipal Code of the City of Las
15 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

16 **6.69.030:** [(A) Without first obtaining and thereafter maintaining a valid unexpired license for that
17 activity pursuant to this Title, no person shall engage in, conduct or carry on:

18 (1) The operation of a reflexology business; or

19 (2) The performance of reflexology services for consideration.

20 (B) A reflexology business licensee shall not permit any person to perform reflexology
21 services for consideration upon the licensee’s business premises unless that person has a valid unexpired
22 license to perform those services.] No person shall engage in, conduct or carry on, or permit to be engaged
23 in, conducted or carried on, in or upon any premises, the operation of a reflexology establishment, or the
24 performance of reflexology as a reflexologist or a reflexology establishment licensee practitioner, without
25 first obtaining and thereafter maintaining a valid unexpired license for that activity pursuant to this Chapter.

26 SECTION 4: Title 6, Chapter 69, Section 40, of the Municipal Code of the City of Las

Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.040: (A) Each reflexology [business] establishment must pay in advance an annual license fee of one hundred dollars[.], together with the additional license fees for professional employees described in LVMC 6.04.060. As an alternative to paying the license fees for professional employees, an establishment may elect to require those employees to pay a license fee as if they were independent reflexologists under Subsection (B), in which case each such employee must do so.

(B) Each [person licensed to perform reflexology] independent reflexologist and reflexology establishment licensee practitioner must pay in advance an annual license fee of seventy-five dollars.

SECTION 5: Title 6, Chapter 69, Section 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.050: [Except as otherwise provided in LVMC 6.69.140, no person may perform reflexology services for consideration other than on the premises of a licensed reflexology business.]

(A) An independent reflexologist license authorizes the licensee to:

(1) Administer reflexology to a client in a licensed reflexology establishment;

(2) Administer reflexology to a client at the client's temporary or permanent residence, transient lodging or at the client's place of business; and

(3) Advertise as an independent reflexologist.

(B) An independent reflexologist licensee must comply with all applicable provisions of the City zoning regulations.

SECTION 6: Title 6, Chapter 69, Section 60, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.060: Each applicant for a license [to perform a reflexology business shall submit, in connection with the license application, one of the following issued in the applicant's favor:

(A) A diploma or certification issued by a duly licensed school of reflexology:

(1) Which is accredited by an independent national reflexology association; and

1 (2) Whose curriculum includes a minimum of one hundred ten hours of
2 instruction covering theory, history, application, anatomy and physiology corresponding to reflexology,
3 business practices, and knowledge of pertinent State and local laws; and a minimum of ninety hours of
4 practicum; or

5 (B) A certification from an independent national reflexology testing entity which is not
6 aligned with any school, training program or membership.] under this Chapter shall provide to the
7 Department proof of temporary or permanent licensure by the Nevada State Board of Massage Therapy.

8 SECTION 7: Title 6, Chapter 69, Section 70, of the Municipal Code of the City of Las
9 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

10 **6.69.070:** In connection with a license application [under this Chapter,] for a reflexology
11 establishment, each principal of [a business] the reflexology establishment shall submit to investigation by
12 Metro on standard forms established by the Department and pay the standard investigation fee.

13 SECTION 8: Title 6, Chapter 69, Section 80, of the Municipal Code of the City of Las
14 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

15 **6.69.080:** (A) Upon receipt of a complete application for a reflexology establishment license and
16 a report concerning Metro's investigation for suitability, the Director shall approve, deny, or take such other
17 action concerning the license application as the Director considers appropriate. The Director may deny,
18 revoke or suspend a license for good cause, which includes but is not limited to the grounds set forth in
19 LVMC 6.02.090 and LVMC 6.02.330 to 6.02.360, inclusive.

20 (B) With regard to an application for a license for a reflexologist, the Director shall issue
21 a license to perform reflexology to an applicant upon the acceptance of a completed application, payment of
22 appropriate license fees, and proof of a valid unexpired reflexologist license issued by the Nevada Board of
23 Massage Therapy. However, the Director may deny, refuse to renew, or revoke an application for a license
24 to perform reflexology for the following reasons:

25 (1) The applicant or licensee fails to possess or maintain a valid unexpired
26 reflexologist license issued by the Nevada State Board of Massage Therapy.

1 (2) The applicant or licensee has been convicted of a charge of solicitation of
2 prostitution during the three-year period immediately preceding the Director's action.

3 SECTION 9: Title 6, Chapter 69, Section 90, of the Municipal Code of the City of Las
4 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **6.69.090:** It is unlawful for a reflexology business licensee or a person acting for the licensee to employ
6 any person, whether as an employee or under contract, to perform reflexology unless that person[:

7 (A) Is at least eighteen years of age; and

8 (B) Is in compliance with LVMC 6.69.100.] is at least eighteen years of age.

9 SECTION 10: Title 6, Chapter 69, Section 110, of the Municipal Code of the City of Las
10 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **6.69.110:** It is unlawful for any licensee, principal or employee of a reflexology establishment to:

12 (A) Operate from a residentially zoned location except in compliance with LVMC Title
13 19;

14 (B) Dispatch any person to perform outcall service unless that person is an employee of,
15 or has been contracted by, the licensee and is licensed to perform reflexology under this Chapter;

16 (C) Perform massage as defined in LVMC Chapter 6.52 unless the licensee possesses a
17 valid unexpired license to do so at the location in question;

18 (D) Advertise as a massage establishment, outcall entertainment service, or other
19 business in a manner which would be deceptive to members of the community;

20 (E) Employ to perform massage, as defined in LVMC Chapter 6.52, any massage
21 therapist or independent massage therapist who is licensed as such under that Chapter, unless the holder of
22 the reflexology business license also possesses a valid unexpired massage establishment license under that
23 Chapter;

24 (F) Engage in sexual activity with, or solicit sexual activity from, a client in connection
25 with the performance of reflexology;

26 (G) Allow a person to engage in or solicit sexual activity in violation of Subsection (F)

1 above;

2 (H) Engage in false, deceptive or misleading advertising regarding the services available
3 within a reflexology establishment, including, without limitation, false, deceptive or misleading advertising
4 regarding the training that a reflexology establishment licensee, principal or employee has received;

5 (I) Utilize any audio or video recording device for any purpose in a room where
6 reflexology is being performed;

7 (J) Fondle or touch with any part of the body, or allow any other person to fondle or so
8 touch, any specified anatomical area of a client; or

9 (K) Require or allow a client to remove any article of clothing, other than [outerwear or
10 clothing items] coats, shoes, socks and gloves whose removal is necessary for the performance of reflexology.

11 SECTION 11: Title 6, Chapter 69, Section 120, of the Municipal Code of the City of Las
12 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

13 **6.69.120:** The following requirements apply to all reflexology establishments:

14 (A) Every reflexology establishment and all licensed reflexologists shall post the
15 licenses required by this Chapter in a prominent place in the reception area of the establishment.

16 (B) The licensee, or a person designated by the licensee of a reflexology establishment,
17 shall maintain a current register of all persons employed or contracted by the establishment [as reflexologists
18 and their license numbers. Such register shall be open for inspection by agents of the Department, Metro and
19 the Health District at all times the establishment is open for the conduct of business.] to perform any function
20 or service within the establishment, whether or not related to the provision of reflexology. The register must
21 show each such person's full legal name, as well as each alias or nickname used by that person; the person's
22 date of birth; the person's title or function; and each applicable State and City license and registration held
23 by that person. The register must be updated to include any such person before the person is allowed on the
24 premises. At all times the establishment is open for business, the register shall be made available upon request
25 to representatives of the Department, Metro, and any other regulatory agency having jurisdiction. In addition,
26 each reflexology establishment is responsible for ensuring that any person entering the establishment in any

1 capacity is in possession of valid identification issued by a government entity to and regarding that person.

2 (C) At least one qualified person shall be on the premises of a reflexology establishment
3 at all times the establishment is in operation. For purposes of the preceding sentence, a “qualified person”
4 means a principal who has been approved for suitability pursuant to LVMC 6.69.070 and 6.69.080 or a
5 manager who has been approved for suitability pursuant to those Sections as in the case of a principal.

6 (D) Rates for all services shall be prominently posted in the reception area in a location
7 and manner readily visible to prospective and actual clients.

8 (E) Each reflexologist shall wear a uniform similar in nature and appearance to medical
9 scrubs.

10 (F) Exterior windows shall not be tinted or covered in any manner that prevents a view
11 of the inside of the establishment from the exterior.

12 (G) All front reception, hallway and front exterior doors (except back or rear exterior
13 doors used only for employee entrance to and exit from the reflexology establishment) shall be kept unlocked
14 during business hours. No electronic locking device may be utilized on any interior door.

15 (H) [No reflexology may be performed within any cubicle, room, booth or other area of
16 the reflexology establishment which is fitted with a door, unless that door is an exterior door. Establishments
17 in existence on the effective date of the ordinance codified in part in this Section must comply with this
18 Section by removing doors to rooms or areas where reflexology is performed, and the doorways shall remain
19 unobstructed.

20 (I) Reflexology establishments licensed after the effective date of the ordinance
21 codified in part in this Section shall provide or permit reflexology only within an unenclosed room defined
22 by walls not taller than three feet in height, as measured from the finished floor of the occupied space.

23 [(J)] (I) Except as otherwise specifically permitted by action of the City Council, no person
24 shall operate a reflexology establishment or perform reflexology for consideration (whether outcall service
25 or otherwise) outside of the hours of 6:00 a.m. to 10:00 p.m.

26 SECTION 12: Title 6, Chapter 69, Sections 100, 130 and 140, of the Municipal Code of

1 the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

2 SECTION 13: If any section, subsection, subdivision, paragraph, sentence, clause or phrase
3 in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by
4 any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the
5 remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby
6 declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase
7 thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs,
8 sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

9 SECTION 14: Whenever in this ordinance any act is prohibited or is made or declared to
10 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required
11 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of
12 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon
13 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of
14 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation
15 of this ordinance shall constitute a separate offense.

16 SECTION 15: All ordinances or parts of ordinances or sections, subsections, phrases,
17 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
18 Edition, in conflict herewith are hereby repealed.

19 PASSED, ADOPTED and APPROVED this ____ day of _____, 2020.

20 APPROVED:

21 By _____
22 CAROLYN G. GOODMAN, Mayor

23 ATTEST:

24 _____
25 LUANN D. HOLMES, MMC
26 City Clerk

APPROVED AS TO FORM:

25 Val Steed
26 Val Steed,
Deputy City Attorney

11-2-2020
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the ____ day
2 of _____, 2020, and referred to a committee for recommendation, the committee being
3 composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2020, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as first
7 introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

12
13 By _____
CAROLYN G. GOODMAN, Mayor

14 ATTEST:

15 _____
16 LUANN D. HOLMES, MMC
City Clerk