



DOUGLAS COUNTY DISTRICT ATTORNEY

Seventh Judicial District
Judicial & Law Enforcement Center
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www.dgcoda.com

Charles E. Branson
District Attorney

MEMORANDUM

TO: MIKE AMYX, MAYOR
LESLIE SODEN, VICE MAYOR
STUART BOLEY, COMMISSIONER
MATTHEW HERBERT, COMMISSIONER
LISA LARSEN, COMMISSIONER
TOM MARKUS, CITY MANAGER

FROM: CHARLES E. BRANSON, DISTRICT ATTORNEY *CB*

DATE: SEPTEMBER 28, 2016

RE: MESSAGE INDUSTRY LICENSING

Kansas continues to be one of the few states remaining that fails to regulate the massage industry on a statewide level. This has left the door open in our state to this industry being abused by those involved in human trafficking. Examples of this were recently a part of two cases filed in Douglas County District Court. In *State v. Li/15CR412*, on October 13, 2015 the defendant pleaded no contest to attempted human trafficking and promoting the sale of sexual relations. In *State v. Xiao/15CR411*, on May 20, 2016 the defendant pleaded no contest to two counts of promoting the sale of sexual relations and one count of selling sexual relations. Both defendants, through the actions of the U.S. Immigration and Customs Enforcement (ICE) are expected to ultimately be departed back to China.

Human trafficking is defined by the United States Department of Homeland Security as a modern-day form of slavery involving the illegal trade of people for exploitation or commercial gain. Furthermore, human trafficking is known as a hidden crime as victims rarely come forward to seek help because of language barriers, fear of the traffickers and/or fear of law enforcement.

I would offer that with the understanding of what human trafficking is and the toll it conveys upon its victims, there is without question no place for this unregulated industry in our city. I believe statewide massage therapy regulation would be more efficient and effective, but until that happens I would propose that the City of Lawrence adopt city code to regulate the industry. By regulating the industry, we would permit the work of the truly educated professionals working in the industry and cut-off what is currently an easy path for human traffickers.

I have researched what some Kansas cities have already implemented to regulate the industry and it appears there are areas of regulation that re-occur in many of the municipal codes. I believe these areas of regulation should be strongly considered for inclusion in any Lawrence code.

Some of the reoccurring areas of regulation are (this should not be considered an all-inclusive list):

Massage Industry Licensing Memo

- Requiring the establishment/business to complete an application for a license and the establishment of associated fees.
- Requiring each employee to complete an application for a massage therapist license and the establishment of associated fees.
- Definitions section – some of the items to include in this section would be defining the establishment/business premises, massage, massage establishment, massage therapist, patron and other relevant terms.
- Requiring background checks.
- Set minimum education standards for the massage therapists, such as requiring 500 educational hours AND being certified by either the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or the Massage and Bodywork Licensing Examination (MBLEX).
- Hands-on first aid and CPR class required and prohibiting on-line versions of those classes.
- Minimum of 12 hours of continuing education requirements each year.
- Banning table showers – an activity in which a patron lies on a table and is washed by an attendant. That practice is mostly associated with the sex industry.
- Determine what department within the City of Lawrence will be responsible for establishment/business inspections.
- The establishment of standards for the establishment/business such as for the use of mold-resistant paint in all rooms where water or steam baths are given, clean and freshly laundered towels, linens and items for the personal use of operators and patrons and that they shall not be used for more than one patron, cleanliness of floors and specifications for toilet facilities.
- Inspection of establishment/business premises; immediate right of entry.
- Establishment of identification cards – all establishment/business employees and managers shall, at all times, have in their possession a valid identification card issued by the City of Lawrence. Licensees and managers shall produce identification cards for inspection upon request of any City of Lawrence representative or person who by law may inspect the same.
- Operation regulations such as hours, no alcoholic beverages, modest attire and that patrons must be covered during the massage.
- Prohibiting services to a person under the age of 18 unless accompanied by a parent or legal guardian and the parent or guardian has authorized therapy in writing.
- List of prohibited acts.
- Limits on advertising – shall not suggest to prospective patrons that any service is available other than those services described in a definitions section of the code is available, that employees or massage therapists are dressed in any manner other than what is defined in the code, nor shall any establishment/business indicate in the text of such advertising that any service is available other than those services described in the definitions sections.
- Restriction of business to establishment/business premises – all massage therapy provided for shall be conducted on the premises of a licensed massage establishment/business.
- Procedure for revoking or suspending a license.
- Code for establishment of student massage therapy (e.g. the establishment of a practicum component for a legitimate training program.)
- Penalty section.

This is a only partial list, but I believe it provides a platform of items to consider for inclusion of code that could be adopted by the City of Lawrence. It is my belief that providing for this licensing requirement is critically important for the protection of some of our most vulnerable and exploited victims.

It is my understanding that the City is starting to look at options for regulation of this industry and I am hopeful this correspondence helps in that process.

If you have questions, please do not hesitate to contact me.

ATTACHMENTS



Massage Therapist License Application

12350 W 87 Street Pkwy
P.O. Box 14888
Lenexa, KS 66285-4888

Phone 913-477-7500
Fax 913-477-7730
www.lenexa.com

NOTE: Any failure to fully or truthfully answer any question or provide any information required herein may result in denial of this application and a one-year ineligibility to reapply. If you have any questions or are unclear about this application or the required information, review City Code (a copy of which is provided to you with this Application) and clarify with City staff prior to submitting this application.

PLEASE PRINT

☐ New ☐ Renewal

SECTION 1: THERAPIST'S PERSONAL INFORMATION

Name of Applicant _____
First Middle Last

OTHER NAMES USED (including maiden name) _____

Home Address (NOTE: home address cannot be the establishment address unless the therapist is operating a licensed in-home massage establishment.)

Number and Street City State Zip

Home Tel () Cell ()

Date of Birth _____

State-Issued ID Card (Driver's License) No.: _____ State Issuing: (circle) Kansas Missouri

Email _____ Social Security Number _____ Gender : M F

Height _____ Weight _____ Eye Color _____ Hair Color _____ Race _____

Contact for all correspondence and inspections associated with this application and/or contact assisting with the completion of this application:

First and Last Name Tel/Cell Number Driver's License #

SECTION 2: THERAPIST'S BACKGROUND INFORMATION

- List all employment held within the past three (3) years. All columns must be completed.

Dates	Employer	Employer Address	Direct Supervisor	Business's Direct Phone #
From: To:				
From: To:				
From: To:				
From: To:				
From: To:				

- **Have you been denied a Massage Therapist or Massage Establishment license or permit within the last ten (10) years?**

☐ No ☐ Yes – complete section below

For each massage therapist or establishment license/permit denied during this timeframe, please answer the following:

1. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date of denial: _____ Reason given for denial: _____
2. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date of denial: _____ Reason given for denial: _____

- **Have you been issued a Massage Therapist or Massage Establishment license or permit within the last ten (10) years?**

☐ No ☐ Yes – complete section below

For each massage therapist or establishment license/permit held during this timeframe, please answer the following:

1. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date Issued _____ License/Permit Number _____
Disposition of license/permit (i.e., expired, revoked, suspended, active) _____
2. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date Issued _____ License/Permit Number _____
Disposition of license/permit (i.e., expired, revoked, suspended, active) _____
3. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date Issued _____ License/Permit Number _____
Disposition of license/permit (i.e., expired, revoked, suspended, active) _____
4. Type of License/Permit (circle): Therapist Establishment City, State: _____
Date Issued _____ License/Permit Number _____
Disposition of license/permit (i.e., expired, revoked, suspended, active) _____

- **Have you been issued an adult entertainment business license or permit or been employed by an adult entertainment business or escort service within the past ten (10) years?**

☐ No ☐ Yes – complete section below

For each adult entertainment or escort license/permit previously held or business/service worked at during this timeframe, please answer the following (as applicable):

1. Type of License/Permit _____ Issuing City, State _____
Date Issued _____ License/Permit Number _____
Disposition of License/Permit (i.e. expired, revoked, suspended) _____
Employer name and contact info (address and telephone) _____
Type of work performed _____

2. Type of License/Permit _____ Issuing City, State _____
 Date Issued _____ License/Permit Number _____
 Disposition of License/Permit (i.e. expired, revoked, suspended) _____
 Employer name and contact info (address and telephone) _____
 Type of work performed _____

• Have you ever been convicted of, received diversion for, or received a suspended imposition of sentence for a criminal charge other than a minor traffic violation? (NOTE: "minor traffic violations" are defined by City Code as "any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-211(c), and amendments thereto." City Customer Service will have a copy of K.S.A. 8-211(c) for you to review upon request but cannot provide any advice as to whether a particular charge or offense qualifies as a minor traffic violation or not. If you are unsure of whether you should list a criminal charge or not, you should seek independent advice or err on the side of disclosing too much as opposed to too little. Failing to disclose a required charge will result in denial of this application.)

☐ No ☐ Yes (please complete the following information for each charge):

Date	Charge	Jurisdiction	Sentence/Penalty	Status of Case

SECTION 3: LENEXA LICENSE QUALIFICATION INFORMATION

• Educational Requirements (please check and complete any applicable section. One is required for license):

☐ Successful completion (certification/graduation) of a course of instruction consisting of not less than 500 hours of massage-related instruction from one or more accredited schools. (NOTE: You must provide **certified** transcripts verifying this certification/graduation signed by the school registrar, either presented with a raised seal OR faxed or emailed directly to the City by the school).

Name of School(s): _____

Address of School(s): _____

Telephone Number of School(s): _____

Certificate/Degree Received: _____

Date of Completion/Graduation: _____

☐ Successful passage of the Board Certification exam administered by the National Certification Board for Therapeutic Massage & Bodywork (proof of successful passage of the NCBTMB exam via letter or ID card.)

Date of Certification: _____

☐ Holds a current Kansas license to practice healing arts (this does not include massage therapy), is a currently licensed Kansas registered professional nurse, or is a currently licensed Kansas physical therapist (NOTE: You must provide a copy of your current license.)

Type of certificate/license _____ Date of license _____ Lic. No. _____

☐ Has been licensed by the City of Lenexa as a Massage Therapist for at least five (5) consecutive years prior to the date of this application.

- **In-person (not online) CPR Certification:** (ONLY by an American Red Cross or American Heart Association course – no equivalent courses accepted. You must provide a copy of your current certification card.)

Course Provider _____ Date of Course _____

Location of Course _____ Expiration Date of Certification _____

- **In-person (not online) First Aid Certification:** (ONLY by an American Red Cross or American Heart Association course – no equivalent courses accepted. You must provide a copy of your current certification card.)

Course Provider _____ Date of Course _____

Location of Course _____ Expiration Date of Certification _____

SECTION 4: LENEXA MASSAGE THERAPY EMPLOYMENT INFORMATION

- In a massage facility - check each location type at which you will be working and provide the requested information:

☐ In a Massage Therapy Establishment Facility ☐ In a Massage Therapy Establishment in my Home

☐ In an Otherwise Licensed Business offering massage therapy (chiropractor office, fitness center, etc.)

Name of 1st Business _____ Owner of Business _____

Business Address _____

Business Tel: _____

Business Email _____ Position Being Hired for _____

Therapies you will perform _____

Name of 2nd Business _____ Owner of Business _____

Business Address _____

Business Tel: _____

Business Email _____ Position Being Hired for _____

Therapies you will perform _____

☐ In-Client's Office. Types of therapy you will perform: _____

☐ In-Client's Home. Types of therapy you will perform: _____

I hereby swear or affirm that the information provided on this application, and any other documentation provided to the City in support of this application, is true and correct to the best of my knowledge and belief. I further acknowledge that if any information provided is determined to be incomplete, false or misleading, that alone may be grounds for the denial, suspension, or revocation of the license and any other discipline or action as allowed by City Code. I further authorize the City to conduct any and all appropriate investigation(s) into the truth of the statements set forth in this application and any other documentation submitted in support of this application.

State of KANSAS)
County of JOHNSON)

Applicant Signature _____ Date _____
(Do not sign until you are in the presence of a Notary Public.)

Notary Public signature _____ My appointment expires (Seal) _____

Subscribed and sworn to before me this _____ day of _____, 20____

FOR OFFICE USE ONLY:

■ Educational Requirements – **New therapist** – must check at least one:

- ☐ Certified transcript of at least 500 credit hours of education from successful completion of massage-related instruction from one or more accredited schools
- ☐ NCBTMB board certification
- ☐ Healing Arts license
- ☐ Lenexa massage therapist for 5 consecutive years

■ Educational Requirements – **Renewal:**

- ☐ 12 hours continuing education (must be approved by NCBTMB)

■ Other

- ☐ Current CPR
- ☐ Current First Aid
- ☐ Kansas or Missouri issued Identification Card
- ☐ Application Packet Paperwork Completed

■ Fees

- ☐ Application Fee - \$75 new \$35 renewal \$ _____
- ☐ Additional ID Card Fee - @ \$15 (first type is N/C) \$ _____

Cash / cc / Check # _____ Receipt # _____ \$ _____ Total

■ ID Numbers

Therapist License No. _____	Expiration Date _____
In Establishment or OLB PD Badge # _____	Expiration Date _____
In Client's Home PD Badge # _____	Expiration Date _____
In Client's Office PD Badge # _____	Expiration Date _____

■ PD Background Check Successfully Completed: Date _____ By _____

- ☐ Approved ☐ Denied



Massage Therapist License Application

12350 W 87 Street Pkwy
P.O. Box 14888
Lenexa, KS 66285-4888

Phone 913-477-7500
Fax 913-477-7730
www.lenexa.com

Statement of Understanding – Operations Regulations

PLEASE READ CAREFULLY

You are responsible for being familiar with and complying with the rules and regulations related to massage therapy at all times. The following is only a summary of the City's regulations of massage therapy operations, and you should refer to the Code for entirety of the regulations.

Please initial each line after reading:

____ You must have a current license issued by the City of Lenexa in order to perform any massage therapy services in the City.

____ You must have your appropriate City-issued identification card with you at all times when providing services, and shall produce the card for inspection by any City representative.

____ You have received a copy of and must comply with the provisions of City Code Chapter 2-3 at all times when providing massage therapy services or working at a massage establishment.

____ You cannot provide massage therapy on clients after 10:00 p.m. or before 6:00 a.m.

____ You cannot consume any alcoholic beverages or cereal malt beverages during business hours or while providing massage services. You cannot provide alcoholic beverages or cereal malt beverages to patrons during or as part of your massage services.

____ You must be clean, and wear clean, modest, non-transparent outer garments while providing services.

____ A patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple must be covered at all times by opaque towels, sheets, cloths, or undergarments when in your presence.

____ Any contact by you with a patron's pubic region, human genitals, perineum, anal region, or the area of the female breast that includes the areola and nipple is strictly prohibited.

____ Table showers are strictly prohibited.

____ You cannot perform massage therapy to be provided to a person under the age of 18 unless that person is accompanied to the establishment by a parent or legal guardian, and the parent or legal guardian has authorized such therapy in writing.

____ You must keep and maintain a register of services provided as in-clients' office or in-clients' home massage, listing the location type, each patron's first and last name, home address or phone number. Such register shall be open to inspection at all reasonable times by any City representative. Each year's register must be kept on file for one year after the completion of the year.

____ You cannot place, publish, or distribute any advertising that reasonably suggests to prospective patrons that any service is available or that you would provide any service or satisfy any request for actions which are prohibited under City Code Chapter 2-3.

____ You must allow City representatives immediate access to the entirety of the establishment's premises for purposes of inspection, and you shall not hinder an inspection in any manner.

____ You must notify the City of any change in employment within thirty (30) calendar days of the change. This shall include a change in the therapist's employer, or the addition or reduction of location types (i.e., establishment, in-clients' office, or in-clients' homes).

____ You are required to complete a minimum of twelve (12) hours of continuing education annually in order to qualify for a renewal of his/her license. These credits must be received from an accredited school but can be completed online.

____ You are required to maintain and provide proof of current CPR and First Aid certification at all times while you are licensed. Instruction must be in-person.

____ You are required to apply for an annual renewal of your license at least twenty-one (21) calendar days prior to the expiration date of your license by completing and submitting the renewal paperwork packet. The City will make reasonable efforts to notify licensees of an upcoming expiration of a license, but the City's failure to provide such notice or the failure to receive such notice shall not relieve the licensee from the requirement to file all required renewal paperwork at least twenty-one (21) calendar days prior to expiration of the current license to prevent any lapse.

____ Any violation of the city, state, or federal laws committed by you may be grounds for suspension or revocation of your license.

I have read and understand the City of Lenexa Code requirements listed above. I understand that there are additional requirements and regulations set out in Lenexa City Code Chapter 2-3, a copy of which I have been given, and that it is my responsibility to read and understand all of the regulations which apply to massage therapy services.

Signature

Print Name

Date

Consent to Release Student Educational Records

I, _____ of _____
(Print Student's Name) (SSN Number) (Permanent Address)

hereby consent and grant to the (print the name of all schools attended for massage licensing requirements): _____

full authority and permission to duplicate and release the following records to the City of Lenexa, Kansas, 12350 West 87th Street Parkway, Lenexa, Kansas 66215, according to the following terms:

1. Description of records to be released: Records which reflect the date(s) of admission, the date(s) of graduation, and transcript(s) of all completed classes, courses or programs.

2. Reasons for release of records: For investigation of my application to be licensed as a massage therapist in the City of Lenexa, Kansas.

Other Restrictions and Conditions:

- This Consent to Release Records is limited to the City of Lenexa, Kansas. Any further release of records to any other person, group, corporation, or other entity of any kind or nature is expressly prohibited without further written consent of the student.
- The records listed above will be released in unedited form except as otherwise provided by the Family Educational Rights and Privacy Act of 1974 and Regulations promulgated thereunder, applicable state law, and the policies and procedures of the University. The student has the right to deny access to the records listed above and/or to revoke this consent at any time. In signing this consent form, the student agrees to permit the release of these records.

Having read and understood this consent form, the student has signed below as their free act and deed.

(Signature of Student)

Dated: _____

State of KANSAS)
County of JOHNSON)

Subscribed and sworn to before me this _____ day of _____, 2____

(Notary Public)

My commission expires: _____

EMPLOYMENT RECORD RELEASE AUTHORIZATION

To (list all employers within the past three (3) years): _____

I, _____ (print name), am an applicant for massage therapy licensure with the City of Lenexa, Kansas. I have authorized the City of Lenexa, Kansas to conduct an investigation into my background for the purpose of determining my suitability for licensure. Each organization identified above is hereby authorized to release the following information related to my employment: date of hire; date of termination, position held. You are hereby authorized to release this information in writing or verbally, as requested by an employee, agent, or representative of the City of Lenexa, Kansas. This authorization shall supersede any prior request or authorization to the contrary. A photocopy or fax of this authorization will be as effective and valid as the original. This release authorization is effective as of the date set forth below for six (6) calendar months.

(Signature)

(Date)

(Print or type name)

(SS#)

State of KANSAS)
County of JOHNSON)

Subscribed and sworn to before me this _____ day of _____, 2____

(Notary Public)

My commission expires: _____



Massage Establishment License Application

12350 W 87th Street Pkwy
P.O. Box 14888
Lenexa, KS 66285-4888

Phone 913-477-7500
Fax 913-477-7730
www.lenexa.com

NOTE: Any failure to fully or truthfully answer any question or provide any information required herein may result in denial of this application and a one-year ineligibility to reapply. If you have any questions or are unclear about this application or the required information, review City Code (a copy of which is provided to you with this Application) and clarify with City staff prior to submitting this application.

An establishment must have a licensed Massage Therapist, approved Massage Establishment license and a Certificate of Occupancy (if not home-based) within 90 days from date of this application in order to operate. A copy of the tenant lease and State of Kansas Certificate of Good Standing must be provided with this application.

PLEASE PRINT

☐ New ☐ Renewal

Attach additional information on a separate sheet of paper, if necessary.

SECTION 1: ESTABLISHMENT INFORMATION

- ☐ Massage Therapy Establishment ☐ Massage Therapy Establishment in Owner's Home
☐ Otherwise Licensed Business Offering Massage - no charge for license

Business Ownership: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC

NOTE: If a partnership, each partner (including limited partners) must fill out an application. If a corporation, each stockholder with more than 10% ownership, each officer and each director must fill out an application. If a LLC, each member and each manager must fill out an application.

Address of location to be licensed: _____ ☐ This is applicant's residence.

Legal name of business (include DBA if applicable): _____

Business Phone _____ Business Fax _____

Business Email _____

Social Security Number (sole proprietorship only) _____ KS Tax ID (all others) _____

For In-Home Massage Therapy Establishment – List any other adults (18 and older) living in the residence:

Full Name	Date of Birth	SSN
_____	_____	_____
_____	_____	_____

List all massage therapy techniques, modalities, and/or services that will be provided at the establishment: _____

PROPERTY OWNER'S APPROVAL

AS THE UNDERSIGNED PROPERTY OWNER, I HEREBY GRANT PERMISSION FOR A MASSAGE THERAPY ESTABLISHMENT TO OPERATE IN THE ABOVE LISTED ADDRESS LOCATION AND UNDERSTAND THAT A COPY OF THE TENANT'S LEASE MUST BE SUBMITTED WITH THIS APPLICATION.

Property Owner's Full Name (printed) _____ Phone _____

Property Owner's Signature _____ Date _____

SECTION 2: ESTABLISHMENT APPLICANT'S PERSONAL INFORMATION

Full Name of Applicant: _____

OTHER NAMES USED (including maiden name): _____

Home Address: _____

Street No.

City, State

Zip

(NOTE: Home address cannot be the establishment address unless the establishment application is for an In-Home Massage Therapy Establishment.)

Home Phone _____ Cell _____ Date of Birth _____

Email _____

Social Security Number _____ Gender: M F

State-issued ID card number (driver's license) _____ State Issuing (circle one): Kansas Missouri

Height _____ Weight _____ Eye Color _____ Hair Color _____ Race _____

Applicant ☐ is ☐ is not a therapist. (Note: If applicant is a therapist, a separate therapist application must be completed, submitted, and approved before the applicant is allowed to personally perform massage therapy services.)

Please list all other individuals who are required to complete an application for this establishment license: _____

Contact for all correspondence and inspections associated with this application and/or contact assisting with the completion of this application:

Name _____ Tel. No. _____ Driver's License No. _____

Name _____ Tel. No. _____ Driver's License No. _____

SECTION 3: APPLICANT'S BACKGROUND INFORMATION

- **Employment** - List all employment held within the past three (3) years: all columns must be completed.

Dates	Employer	Employer Address	Direct Supervisor	Business's Direct Phone #
From:				
To:				
From:				
To:				
From:				
To:				

- **Have you been denied a Massage Therapist or Massage Establishment license/permit within the last 10 years?**
☐ **No** ☐ **Yes** – complete section below. Use additional paper, if necessary, for each massage therapist or establishment license/permit denied during this timeframe.

Type of license/permit (circle): Therapist Establishment City, State _____

Date of Denial _____ Reason given for denial _____

- **Have you been issued a Massage Therapist or Massage Establishment license/permit within the last 10 years?**
☐ **No** ☐ **Yes** – complete section below. Use additional paper, if necessary, for each massage therapist or establishment license/permit held during this timeframe.

1) Type of license/permit (circle): Therapist Establishment City, State _____

Date Issued _____ License/Permit Number _____

Disposition of license/permit (i.e. expired, revoked, suspended, active) _____

2) Type of license/permit (circle): Therapist Establishment City, State _____

Date Issued _____ License/Permit Number _____

Disposition of license/permit (i.e. expired, revoked, suspended, active) _____

3) Type of license/permit (circle): Therapist Establishment City, State _____

Date Issued _____ License/Permit Number _____

Disposition of license/permit (i.e. expired, revoked, suspended, active) _____

- Have you been issued an adult entertainment business license/permit or been employed by an adult entertainment business or escort service within the past 10 years?

☐ No ☐ Yes – complete section below. Use additional paper, if necessary, for each adult entertainment or escort license/permit previously held or business worked at.

Type of license/permit _____ Issuing City, State _____

Date Issued _____ License/Permit Number _____

Disposition of license/permit (i.e. expired, revoked, suspended, active) _____

Employer name, address and phone _____

Type of work performed _____

- Have you ever been convicted of, received diversion for, or received a suspended imposition of sentence for a criminal charge other than a minor traffic violation? (NOTE: "minor traffic violations" are defined by City Code as "any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-211(c) and amendments thereto." City Customer Service will have a copy of K.S.A. 8-211(c) for you to review upon request but cannot provide any advice as to whether a particular charge or offense qualifies as a minor traffic violation or not. If you are unsure of whether you should list a criminal charge or not, you should seek independent advice or err on the side of disclosing too much as opposed to too little. Failing to disclose a required charge will result in denial of this application.)

☐ No ☐ Yes – complete section below. Use additional paper, if necessary.

Date	Charge	Jurisdiction	Sentence/Penalty	Status of Case

SECTION 4: ESTABLISHMENT MANAGER INFORMATION

For each individual who will work as a manager or supervisor at the establishment, provide the following:

Full Name of Manager #1 _____

OTHER NAMES USED _____

Home Address _____

Number and Street

City, State

Zip

Date of Birth _____ Driver's License No. _____

Manager ☐ is ☐ is not a therapist. (Note: If manager is a therapist, a separate therapist application must be completed, submitted, and approved before the applicant is allowed to personally perform massage therapy services.)

Manager ☐ has ☐ has not been photographed by the Lenexa City Policy Department (if No, Manager must accompany this application).

Full Name of Manager #2 _____

OTHER NAMES USED _____

Home Address _____
Number and Street City, State Zip

Date of Birth _____ Driver's License No. _____

Manager ☐ is ☐ is not a therapist. (Note: If manager is a therapist, a separate therapist application must be completed, submitted, and approved before the applicant is allowed to personally perform massage therapy services.)

Manager ☐ has ☐ has not been photographed by the Lenexa City Policy Department (if No, Manager must accompany this application).

Full Name of Manager #3 _____

OTHER NAMES USED _____

Home Address _____
Number and Street City, State Zip

Date of Birth _____ Driver's License No. _____

Manager ☐ is ☐ is not a therapist. (Note: If manager is a therapist, a separate therapist application must be completed, submitted, and approved before the applicant is allowed to personally perform massage therapy services.)

Manager ☐ has ☐ has not been photographed by the Lenexa City Policy Department (if No, Manager must accompany this application).

Full Name of Manager #4 _____

OTHER NAMES USED _____

Home Address _____
Number and Street City, State Zip

Date of Birth _____ Driver's License No. _____

Manager ☐ is ☐ is not a therapist. (Note: If manager is a therapist, a separate therapist application must be completed, submitted, and approved before the applicant is allowed to personally perform massage therapy services.)

Manager ☐ has ☐ has not been photographed by the Lenexa City Policy Department (if No, Manager must accompany this application).

I hereby swear or affirm that the information provided on this application, and any other documentation provided to the City in support of this application, is true and correct to the best of my knowledge and belief. I further

acknowledge that if any information provided is determined to be incomplete, false or misleading, that alone may be grounds for the denial, suspension, or revocation of the license and any other discipline or action as allowed by City Code. I further authorize the City to conduct any and all appropriate investigation(s) into the truth of the statements set forth in this application and any other documentation submitted in support of this application.

State of KANSAS
County of JOHNSON

Applicant Signature _____ Date _____

Notary Public _____ My appointment expires (seal) _____

Subscribed and sworn to before me this _____ day of _____, 20____.

FOR OFFICE USE ONLY:

☐ Zoning Approval (if new license) _____

☐ Application Processing Components

■ Certifications/Submissions

- ☐ If new establishment, State of Kansas Certificate of Good Standing (for LLC or corporation)
- ☐ If new establishment, copy of signed lease provided with tenant use noted as *Massage*
- ☐ If new establishment, CO application submitted (fee to be collected later)
- ☐ Kansas or Missouri issued Identification Card
- ☐ Application Packet Paperwork Completed
- ☐ Owner of property verified

■ Fees

- ☐ Application Fee - \$300 new \$150 renewal \$_____ (No charge for OLB)
- ☐ Additional ID Card Fee - @ \$15 (first of each type is N/C) \$_____
- Cash / cc / Check # _____ Receipt # _____ \$_____ Total

■ ID Numbers

Massage Therapy Establishment License No. _____		Expiration Date _____
Owner 1 – Name _____	PD Badge # _____	Expiration Date _____
Owner 2 – Name _____	PD Badge # _____	Expiration Date _____
Manager 1 – Name _____	PD Badge # _____	Expiration Date _____
Manager 2 – Name _____	PD Badge # _____	Expiration Date _____
Manager 3 – Name _____	PD Badge # _____	Expiration Date _____
Manager 4 – Name _____	PD Badge # _____	Expiration Date _____

■ PD Background Check Successfully Completed on Owner 1: Date _____ By _____

PD Background Check Successfully Completed on Owner 2: Date _____ By _____

PD Background Check Successfully Completed on all other required establishment applicants: Date _____ By _____

☐ Approved ☐ Denied _____

Massage Establishment License Application



12350 W 87 Street Pkwy
P.O. Box 14888
Lenexa, KS 66285-4888

Phone 913-477-7500
Fax 913-477-7730
www.lenexa.com

Statement of Understanding – Operations Regulations

PLEASE READ CAREFULLY

You are responsible for being familiar with and complying with the rules and regulations related to massage therapy and establishments at all times. The following is only a summary of the City's regulations of massage establishment operations, and you should refer to the Code for entirety of the regulations.

Please initial each line after reading:

____ Your establishment must have a valid establishment license and Certificate of Occupancy issued by the City of Lenexa at all times in order to operate.

____ You must have a separate, valid therapist license issued by the City of Lenexa if you plan to personally provide massage therapy services.

____ You must have your appropriate City-issued identification card with you at all times when working in an establishment, and shall produce the card for inspection upon request of any City representative.

____ You have received a copy of and your operations must comply with the provisions of City Code Chapter 2-3 at all times.

____ The establishment walls should be clean and painted. In all areas where water or steam baths are provided, the walls shall be clean and painted with washable, mold-resistant paint.

____ No area where therapy is conducted may be fitted solely with a door that can be locked.

____ When five (5) or more establishment representatives and/or patrons are on the premises at the same time, separate toilet facilities shall be provided for men and women.

____ Lavatories or wash basins with both hot and cold running water shall be installed in either the toilet room or a vestibule, and shall include a soap dispenser and sanitary towels.

____ At least one drinking facility shall be available to employees.

____ There shall be no appliances installed in an establishment exceeding 110v with the exception of clothing dryers.

____ You must have the premises supervised at all times when open for business by yourself or an establishment representative acting as a manager. You shall not violate or permit others to violate any applicable provision of this Chapter.

____ Any violation of this Chapter by any establishment representative shall constitute a violation by you.

____ Your establishment must be closed and operations between the hours of 10:00 p.m. and 6:00 a.m. each day.

____ You and your establishment representatives shall be clean, and wear clean, modest outer garments at all times while at the establishment. Diaphanous or transparent clothing is prohibited.

____ Every portion of a licensed establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition.

____ A patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple must be covered at all times by opaque towels, sheets, cloths, or undergarments when in the presence of you or your establishment representatives.

____ Any contact by you or your establishment representatives with a patron's pubic region, human genitals, perineum, anal region, or the area of the female breast that includes the areola and nipple is strictly prohibited.

____ Clean, laundered sheets and towels must be provided to patrons for use. Such items shall be laundered after each use thereof and stored in a sanitary manner.

____ Wet and dry heat rooms, showers and other bathing compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soaking areas shall be thoroughly cleaned after each use.

____ Table showers are strictly prohibited.

____ A person under the age of 18 is allowed to receive massage therapy from a licensed massage therapist of a different sex if that person is accompanied to the establishment by a parent or legal guardian, and the parent or legal guardian has authorized such therapy in writing.

____ You must keep and maintain on the premises a current register of all establishment representatives showing each individual's name, home address, and license number, and containing a copy of the therapist's license and government-issued identification. Such register shall be open to inspection at all reasonable times by any City representative.

____ You must keep and maintain on the premises a register of services provided, listing **each patron's first and last name, home address or phone number, and the first and last name of the establishment representative who performed the service.** Such register shall be open to inspection at all reasonable times by any City representative. Alternatively, all licensed therapists may maintain their own registers.

____ No establishment shall place, publish, or distribute any advertising that reasonably suggests to prospective patrons that any service is available or that the licensee or any establishment representative would provide any service or satisfy any request for actions which are prohibited under this Chapter.

____ No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of a licensee who operates an establishment in his/her home or residence. With respect to licensees who operate an establishment out of his/her home or residence, no individual living in the home or residence shall reside, inhabit or otherwise sleep in the portion of the home or residence that is devoted to the practice of massage therapy.

____ City representatives may, from time to time, make an inspection of your establishment 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. Prior notice of the City's intention to conduct such inspections is not required. It shall be unlawful for you or your establishment representatives to fail to allow immediate access to the premises or to hinder an inspection in any manner.

____ You are required to apply for an annual renewal of your license at least twenty-one (21) calendar days prior to the expiration date of your license by completing and submitting the renewal paperwork packet. The City will make reasonable efforts to notify licensees of an upcoming expiration of a license, but the City's failure to provide such notice or the failure to receive such notice shall not relieve the licensee from the requirement to file all required renewal paperwork at least twenty-one (21) calendar days prior to expiration of the current license to prevent any lapse.

____ Any violation of the city, state, or federal laws committed by you or your establishment representatives may be grounds for suspension or revocation of your license.

I have read and understand the City of Lenexa Code requirements listed above. I understand that there are additional requirements and regulations set out in Lenexa City Code Chapter 2-3, a copy of which I have been given, and that it is my responsibility to read and understand all of the regulations which apply to massage therapy services.

Signature

Print Name

Date

EMPLOYMENT RECORD RELEASE AUTHORIZATION

To (list all employers within the past three (3) years): _____

I, _____ (print name), am an applicant for massage therapy licensure with the City of Lenexa, Kansas. I have authorized the City of Lenexa, Kansas to conduct an investigation into my background for the purpose of determining my suitability for licensure. Each organization identified above is hereby authorized to release the following information related to my employment: date of hire; date of termination, position held. You are hereby authorized to release this information in writing or verbally, as requested by an employee, agent, or representative of the City of Lenexa, Kansas. This authorization shall supersede any prior request or authorization to the contrary. A photocopy or fax of this authorization will be as effective and valid as the original. This release authorization is effective as of the date set forth below for six (6) calendar months.

(Signature)

(Date)

(Print or type name)

(SS#)

State of KANSAS)
County of JOHNSON)

Subscribed and sworn to before me this _____ day of _____, 2_____

(Notary Public)

My commission expires: _____

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-A MASSAGE ESTABLISHMENT LICENSING AND OPERATIONS

Section 2-3-A-1 ESTABLISHMENT LICENSE REQUIRED.

No person, firm, partnership, association or corporation shall operate a massage establishment, as defined in Article 2-3-D, without first having obtained a license therefor, issued by the City. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license is not transferable or refundable, and shall be valid for a period of twelve months from the date of issuance.

Section 2-3-A-2 APPLICATION FOR ESTABLISHMENT LICENSE; FEES.

A. Every applicant for a license to maintain, operate or conduct any massage establishment covered by this Chapter, hereinafter defined as an "establishment applicant" in Article 2-3-D, shall file a completed application packet, as provided by the City. Each establishment (other than otherwise licensed businesses set forth in Section 2-3-A-13 herein) shall be responsible to pay the initial application fee to the City, which is set by separate resolution of the Governing Body. The application fee shall not be refundable.

The application for an establishment license shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each establishment applicant.

In addition to the foregoing, every establishment applicant for an establishment license shall furnish all information required in the application packet including, but not limited to the following:

1. Written proof that all establishment applicant(s) and all managers are at least 18 years of age.
2. The business, occupation or employment locations and contact information for each establishment applicant and manager for the three (3) years immediately preceding the date of application.
3. The massage establishment and/or massage therapist license history of all establishment applicants and managers; whether such persons, in previously operating in this or another city or state under an establishment or therapist license, has had such license revoked or suspended, and the reason therefor.
4. For each establishment applicant and manager, disclosure of any criminal convictions or diversions, except minor traffic violations, fully disclosing the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.
5. Evidence of applicant's ability to secure a lease for the space and contact information for the landlord, where applicable.
6. A copy of the State of Kansas Certificate of Good Standing, where applicable.
7. A fully-completed application for a Certificate of Occupancy, where applicable.

8. Completion and/or execution of all documentation in the application packet and payment of the application fees.
 9. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application packet and the qualifications of the establishment applicants for the license and the managers to work in a massage establishment.
- B. In the case of any establishment applicant who intends to personally to provide massage therapy services at the establishment, as in-clients' office services, and/or in-clients' homes, each such establishment applicant must also apply for and receive a massage therapist license as provided for in Article 2-3-B.

Section 2-3-A-3 ESTABLISHMENT LICENSE APPLICATION PROCESSING.

Upon receipt of a completed application packet for a massage establishment license, a copy of the application shall be transmitted to the Chief of Police for investigation of the application. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the establishment applicants are qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the Community Development Department not later than twenty-one (21) days from the date the completed application packet is received by the City, unless good cause exists to extend this period of time.

Section 2-3-A-4 APPROVAL OF ESTABLISHMENT LICENSE; DENIAL THEREOF.

After the filing of a completed establishment application packet, the City shall approve the issuance of an establishment license unless the City finds that:

- A. The correct license fee has not been tendered to the City, or, in the case of a check or bank draft, it has not been honored with payment upon presentation.
- B. The establishment, as proposed by the establishment applicant(s), if permitted, would not comply with all applicable laws including, but not limited to, the City's zoning and county and State health regulations.
- C. Any establishment applicant or manager has been convicted of, or diverted on:
 1. A person felony, as defined by Kansas law;
 2. A non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;
 3. An offense involving sexual misconduct with children;
 4. Obscenity;
 5. Promoting prostitution or equivalent charge;
 6. Solicitation of a lewd or unlawful act;
 7. Prostitution;
 8. Pandering or other sexually related offense; or
 9. Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years immediately preceding the date of the application.
- D. An establishment applicant made a false, misleading, or fraudulent statement of fact in the license application packet.
- E. Any establishment applicant or manager has had a massage establishment or therapist permit or license denied, revoked or suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension by the City or any other state or local agency within ten (10) years prior to the date of application.
- F. Any establishment applicant or manager has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment.
- G. Any establishment applicant or manager has not attained the age of 18 years.
- H. The establishment applicant has failed to successfully complete the applicable Health and Safety, building

and/or fire safety inspections within ninety (90) days of filing the application.

- I. There are facts present related to a familial, personal or professional relationship between the establishment applicant and any individual who has previously been denied a license or had a license revoked, suspended or non-renewed and is unable to maintain an establishment license under this Chapter, which reasonably indicate that the establishment's operations would be influenced by that/those individual(s).

The records of the City shall show the action taken on the application.

If the application is denied, the establishment applicant(s) shall be immediately notified by United States first class mail, postage prepaid, mailed to the establishment applicant's mailing address as identified in the application packet (which cannot be the intended establishment address, with the exception of an intended establishment in the applicant's home).

Upon denial, any establishment applicant shall be ineligible to reapply for any license under this Chapter for a period of one year from the date of denial. A denied establishment applicant can seek a waiver of the one year ineligibility from the Chief of Police, in writing, upon a showing of good cause or other relevant factors.

Any establishment applicant aggrieved by a denial of an application or a denial of a request for a waiver may seek judicial review of the decision pursuant to Kansas law.

Section 2-3-A-5 MASSAGE ESTABLISHMENT HEALTH AND SAFETY REGULATIONS.

In addition to the operation provisions set forth in Section 2-3-A-8 herein, every massage establishment is subject to the following health and safety regulations:

- A. All establishment walls should be clean and painted. In all areas where water or steam baths are provided, the walls shall be clean and painted with washable, mold-resistant paint.
- B. No area where therapy is conducted may be fitted solely with a door that can be locked. If a therapy area has two or more doors of entrance, it is acceptable for one door to have a lock provided at least one door of entrance is incapable of locking.
- C. Toilet facilities shall be provided in convenient locations. When five (5) or more establishment representatives, as that term is defined in Article 2-3-D, and patrons are on the premises at the same time, separate toilet facilities shall be provided for men and women.
- D. Lavatories or wash basins with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.
- E. At least one drinking facility shall be available to employees. Drinking facilities shall be a drinking fountain, water cooler, or bottled water cooler. Drinking facilities shall not be located in toilet rooms or bathrooms.
- F. There shall be no appliances installed in an establishment exceeding 110v with the exception of clothing dryers.

Section 2-3-A-6 INSPECTIONS NECESSARY PRIOR TO OPERATION OF BUSINESS.

Prior to approval of an establishment application, the City will conduct a Health and Safety inspection of the final establishment set up. The City will confirm that the establishment set up complies with the requirements of Section 2-3-A-5 herein and any other applicable provisions of this Chapter.

In addition and as applicable, a building and/or fire safety inspection will be conducted of the premises. The license will not be approved, and the establishment will not be able to conduct business, until and unless the establishment has successfully completed all required inspections within ninety (90) days of filing the application. If all inspections are not successfully completed within this timeframe the application will be denied.

If an inspection is scheduled and the establishment applicant (or representative) fails to be present, a re-inspection fee will be assessed.

Section 2-3-A-7 ESTABLISHMENT IDENTIFICATION CARDS.

All establishment applicants and managers shall, at all times when working in an establishment, have in their possession a valid identification card issued by the City. Licensees and managers shall produce their

identification cards for inspection upon request of any City representative or person who by law may inspect the same. The holder shall not alter an identification card in any way or at any time.

Identification cards for establishment applicants and managers shall have expiration dates corresponding to the establishment licensed expiration. One (1) establishment applicant and one (1) manager card will be provided as part of the application fee. Additional cards will be charged a separate nonrefundable fee.

Section 2-3-A-8 OPERATION REGULATIONS.

The operation of any massage establishment shall be subject to the following regulations:

- A. The licensee shall have the premises supervised at all times when open for business by him/herself or an establishment representative acting as a manager. The licensee or manager shall personally supervise the business, and shall not violate or permit others to violate any applicable provision of this Chapter. Any violation of this Chapter by any establishment representative shall constitute a violation by the licensee.
- B. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day.
- C. No service shall be offered or provided which is clearly dangerous or harmful to the safety or health of any person, in the opinion of the City Administrator, after written notice has been delivered to the licensee from the City Administrator.
- D. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted, or suffered in or upon establishment premises. This restriction shall not apply to businesses where the licensed massage therapy is accessory to the predominant business purpose of the establishment, provided no alcohol is permitted on that portion of such premises where massage therapy occurs. As used in this Section, "that portion" shall mean physical, visual and audible separation by permanently installed walls and doors between the area where massage therapy occurs and the area where alcoholic beverages or cereal malt beverages are sold or consumed.
- E. Every licensee shall at all times be responsible for the conduct of business on his/her licensed premises and for any act or conduct of his/her establishment representatives, which constitutes a violation of the provisions of this Chapter, regardless of whether or not the licensee is physically present at the time of the violation. Any violation of the city, state, or federal laws committed on the licensed premises by any licensee or establishment representative affecting the eligibility or suitability of the licensee to hold a license or may be grounds for suspension or revocation of same.
- F. All licensees and establishment representatives shall be clean, and wear clean, modest outer garments while at the establishment. Diaphanous or transparent clothing is prohibited. Clothing must cover the licensee's and establishment representatives' chests, buttocks and genital area at all times.
- G. Every portion of a licensed establishment, including appliances and personnel, shall be kept clean and operated in a sanitary condition.
- H. A patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple must be covered at all times by opaque towels, sheets, cloths, or undergarments when in the presence of a licensee or establishment representative. This subsection does not apply to momentary nudity of a patron occurring in shower areas or dressing or locker rooms, outside the presence of the massage therapist.
- I. Any contact by a licensee or establishment representative with a patron's pubic region, human genitals, perineum, anal region, or the area of the female breast that includes the areola and nipple is strictly prohibited.
- J. Clean, laundered sheets and towels shall be provided to patrons for use. Such items shall be laundered after each use thereof and stored in a sanitary manner.
- K. Wet and dry heat rooms, showers and other bathing compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soaking areas shall be thoroughly cleaned after each use.
- L. Table showers are strictly prohibited.
- M. No establishment shall perform or permit any massage therapy to be provided to a person under the age of 18, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage

therapist if accompanied to the establishment by a parent or legal guardian, the parent or legal guardian remains at the establishment during the massage, and the parent or legal guardian has authorized such therapy in writing.

N. All establishments shall keep and maintain on their premises a current register of all establishment representatives showing each individual's name, home address, license number and containing a copy of the therapist's license and government-issued identification. Such register shall be open to inspection at all reasonable times by any City representative.

O. All establishments shall keep and maintain on their premises a register of services provided, listing each patron's first and last name, home address or phone number, and the first and last name of the establishment representative who performed the service. As an alternative to a single establishment register all licensed therapists can maintain their own register of services provided, listing each patron's first and last name, home address or phone number. Regardless of whether there is a single or multiple registers for the establishment, every register shall be maintained on-site. Each year's register(s) shall be kept on file for one year after the completion of the year. All registers maintained pursuant to this provision shall be open for inspection by any City representative with consent, exigency, or pursuant to an administrative search order or subpoena.

P. No establishment shall place, publish, or distribute or cause to be placed, published or distributed, any advertising that reasonably suggests to prospective patrons that any service is available or that the licensee or any establishment representative would provide any service or satisfy any request for actions which are prohibited by this Chapter.

Q. No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of a licensee who operates an establishment in his/her home or residence. With respect to licensees who operate an establishment out of his/her home or residence, no individual living in the home or residence shall reside, inhabit or otherwise sleep in the portion of the home or residence that is devoted to the practice of massage therapy.

R. The establishment shall comply at all times with the Health and Safety Regulations set forth in Section 2-3-A-5 above.

Section 2-3-A-9 OPERATIONS INSPECTIONS; IMMEDIATE RIGHT OF ENTRY.

City representatives may, from time to time, make an inspection of each licensed establishment in this 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. Prior notice of the City's intention to conduct such inspections is not required. It shall be unlawful for any licensee to fail to allow immediate access to the premises or to hinder an inspection in any manner, and any such behavior by the licensee or manager shall result in revocation or suspension of the establishment license and any appropriate therapists licenses.

Section 2-3-A-10 RESTRICTION OF BUSINESS TO PREMISES.

A. All massage therapy (excluding in-clients' office or in-clients' home massage, as those terms are defined in Article 2-3-D) provided for under this Chapter shall be conducted on the premises of a licensed massage establishment.

B. Subject to subsection C herein, all licensed massage establishments shall be operated from a commercial business location.

C. An establishment can be operated from the therapist's home or residence provided that the location is properly licensed as a massage establishment and otherwise complies with this Chapter and the City's home occupation requirements set forth in Section 4-1-B-24-F.

Section 2-3-A-11 APPLICABILITY TO EXISTING BUSINESSES.

Existing massage establishments are required to bring operations into compliance with all provisions of Article 2-3-A by August 1, 2014.

Section 2-3-A-12 RENEWAL OF LICENSES; EFFECT OF LAPSE.

Establishment licensees are required to apply for an annual renewal of the license at least twenty-one (21)

calendar days prior to the expiration date of the license by completing and submitting the renewal paperwork packet. The renewal paperwork packet is similar to the application packet, but is abbreviated and meant to provide the City with any information that has changed or been updated since the original application.

The City will make reasonable efforts to notify licensees of an upcoming expiration of a license, but the City's failure to provide such notice or the failure to receive such notice shall not relieve the licensee from the requirement to file all required renewal paperwork at least twenty-one (21) calendar days prior to expiration of the current license to prevent any lapse. The fee for an annual establishment license is set by separate resolution of the Governing Body. The renewal fee shall be nonrefundable.

If a lapse in the license term occurs, a licensee will be required to apply for a new establishment license pursuant to the provisions of this Chapter.

Section 2-3-A-13 OTHERWISE LICENSED BUSINESSES.

Businesses which provide massage therapy services as an accessory service to the predominant business purpose of the establishment, and which are categorized and qualified to operate by the City under a different business license type, must complete and provide all documentation required of a massage therapy establishment. Otherwise licensed businesses will be subjected to annual inspections of the business to ensure they are in compliance with this Chapter. Otherwise licensed business will not be subject to any establishment fees other than reinspection fees.

Section 2-3-A-14 EXCEPTIONS.

The provisions of this Article 2-3-A shall not apply to hospitals, nursing homes, or sanitariums.

Section 2-3-A-15 TRANSFER OF LICENSES. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Article 2-3-B MASSAGE THERAPIST LICENSING AND OPERATIONS

Section 2-3-B-1 THERAPIST LICENSE REQUIRED.

No person shall perform massage therapy, as defined in Article 2-3-D, in an establishment, in a client's office, or in a client's home, without first having obtained a license therefor, issued by the City. It is unlawful to perform such services unless the license issued is current, unrevoked and not suspended. Such license is not transferable or refundable, and shall be valid for a period of twelve months from the date of issuance.

Section 2-3-B-2 THERAPIST LICENSE EDUCATION REQUIREMENTS; EXEMPTION.

To qualify for a Massage Therapist license, an applicant must demonstrate that he/she has satisfied one of the following educational requirements:

- A. Successful completion of a course of instruction, consisting of not less than 500 hours, in the theory, method or practice of massage, from one or more accredited schools, as defined in Article 2-3-D. All practical and/or modality instruction must be completed as in-classroom/hands-on instruction, while theory instruction can be completed online. Proof of completion must be made by certified transcript(s) signed by the school registrar, either presented with a raised seal or faxed or emailed directly to the City by the school; or
- B. Proof of successful passage of the Board Certification exam administered by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB).

Individuals licensed with the City as a Massage Therapist for at least five (5) consecutive years as of the effective date of this Chapter may renew that license notwithstanding an inability or failure to satisfy the minimum education requirements set forth above, and continue to renew such license so long as there are no lapses in active licensure and the individual continues to satisfy all other requirements of this Chapter.

Section 2-3-B-3 CPR AND FIRST AID CERTIFICATION REQUIRED.

Every therapist license applicant must have proof of successful completion of an in-person (not online) certification program in American Heart Association CPR and American Red Cross first aid and provide current proof of certification.

Section 2-3-B-4 APPLICATION FOR THERAPIST LICENSE; FEE

- A. Any person who desires to perform or provide massage therapy in an establishment, in-clients' office or in-clients' homes, shall file a completed application packet, as provided by the City, and pay an initial application fee to the City, which is set by separate resolution of the Governing Body. This application fee shall not be refundable.
- B. Only one application packet and therapist license shall be required for a massage therapist regardless of the number of location types where he/she intends to practice - in an establishment, in-clients' office and/or in-clients' home. However, a separate identification card is required for each location type. The fee for each identification card subsequent to the initial one is set by separate resolution of the Governing Body. This identification card fee shall not be refundable.
- C. The applicant for a therapist license shall furnish all information required in the application packet including, but not limited to, the following:
1. Name, home address, and telephone number.
 2. Applicant's weight, height, color of hair and eyes.
 3. Written evidence that the applicant is at least 18 years old.
 4. The business, occupation or employment location and contact information for the applicant for the three (3) years immediately preceding the date of application.
 5. Disclosure of any criminal convictions or diversions, except minor traffic violations, fully disclosing the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.
 6. Identification of the location types where the applicant intends to provide services (in establishment, in-clients' office, in-clients' homes). If applicable, identification of the position, specific therapies and other functions for which the individual is being hired for each location type.
 7. Proof of satisfaction of the education requirements set forth in Section 2-3-B-2.
 8. Proof of satisfaction of the CPR and first aid requirements set forth in Section 2-3-B-3.
 9. A copy of valid government-issued identification card issued by the State of Kansas or Missouri.
 10. The massage establishment and/or therapist license history of the applicant whether such person, in previously operating in this or another city or state under an establishment or therapist license, has had such license revoked or suspended, and the reason therefor.
 11. Completion and/or execution of all documentation in the application packet and payment of the application fee.
 12. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application packet and the qualifications of the applicant for the license.

Section 2-3-B-5 THERAPIST LICENSE APPLICATION PROCESSING.

Upon receipt of a completed application packet for a massage therapist license, a copy of the application shall be transmitted to the Chief of Police for investigation of the application. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the Community Development Department not later than twenty-one (21) days from the date the completed application packet is received by the City, unless good cause exists to extend this period of time.

Section 2-3-B-6 APPROVAL OF THERAPIST LICENSE; DENIAL THEREOF.

After the filing of a completed therapist application packet, the City shall approve the issuance of a therapist license unless the City finds that:

- A. The correct license fee has not been tendered to the City, or, in the case of a check or bank draft, honored with payment upon presentation.
- B. The applicant has been convicted of, or diverted on:
 - 1. A person felony, as defined by Kansas law;
 - 2. A non-person felony, as defined by Kansas law, in the ten (10) years immediately preceding the date of the application;
 - 3. An offense involving sexual misconduct with children;
 - 4. Obscenity;
 - 5. Promoting prostitution or equivalent charge;
 - 6. Solicitation of a lewd or unlawful act;
 - 7. Prostitution;
 - 8. Pandering or other sexually related offense; or
 - 9. Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the ten (10) years immediately preceding the date of the application.
- C. The applicant made a false, misleading, or fraudulent statement of fact in the license application packet.
- D. The applicant has had a massage establishment or therapist permit or license denied, revoked or suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension by the City or any other state or local agency within ten (10) years prior to the date of application.
- E. The applicant has been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment within ten (10) years prior to the date of application.
- F. The applicant has not attained the age of 18 years.
- G. The applicant does not satisfy one or more of the other requirements set forth in this Chapter.

The records of the City shall show the action taken on the application.

If the application is denied, the applicant shall be immediately notified by United States first class mail, postage prepaid, mailed to the applicant's home mailing address as identified in the application packet, which cannot be the establishment address, with the exception of an establishment in the therapist's home.

Upon denial, the applicant shall be ineligible to reapply for any license under this Chapter for a period of one year from the date of denial. A denied applicant can seek a waiver of the one year ineligibility from the Chief of Police, in writing, upon a showing of good cause or other relevant factors.

Any applicant aggrieved by a denial of an application or a denial of a request for a waiver may seek judicial review of the decision pursuant to Kansas law.

Section 2-3-B-7 THERAPIST IDENTIFICATION CARDS AND FEES.

- A. Upon approval and issuance of a massage therapist license, the City shall issue the therapist an identification card bearing the therapist's license number identifier, physical description, and a photograph.
- B. A different identification card is required for each type of location a therapist practices - in-establishment, in-clients' office and in-clients' homes. Any therapist requiring more than one (1) identification card will be assessed a nonrefundable fee for each additional card.
- C. Therapists shall have their appropriate City-issued identification card in their possession at all times when working, and shall produce such identification for inspection upon request of any City representative or person who by law may inspect the same.
- D. The holder shall not alter an identification card in any way or at any time.

Section 2-3-B-8 THERAPIST REGULATIONS.

Massage therapists shall be subject to the following regulations when providing services:

- A. The therapist shall not violate any applicable provision of this Chapter.
- B. A therapist shall not provide massage therapy on clients between the hours of 10:00 p.m. and 6:00 a.m. each day.
- C. No service shall be offered or provided which is clearly dangerous or harmful to the safety or health of any person, in the opinion of the City Administrator; after notice in writing has been delivered to the therapist from the City Administrator.
- D. A therapist shall not consume any alcoholic beverages or cereal malt beverages during business hours or while providing massage services. A therapist shall not provide alcoholic beverages or cereal malt beverages to patrons during or as part of the massage services.
- E. Any violation of the city, state, or federal laws committed by a therapist affecting his/her eligibility or suitability to hold a license may be grounds for suspension or revocation of same.
- F. All therapists shall be clean, and wear clean, modest outer garments while providing services. Diaphanous or transparent clothing is prohibited. Clothing must fully cover the therapist's chest at all times.
- G. A patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple must be covered at all times by opaque towels, sheets, cloths, or undergarments when in the presence of a therapist.
- H. Any contact by a therapist with a patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple is strictly prohibited.
- I. Table showers are strictly prohibited.
- J. No therapist shall perform or permit any massage therapy to be provided to a person under the age of 18 unless that individual is accompanied to the establishment by a parent or legal guardian, the parent or legal guardian remains at the establishment during the massage, and the parent or legal guardian has authorized such therapy in writing.
- K. All therapists shall keep and maintain a register of services provided as in-clients' office or in-clients' home massage, listing the location type, each patron's first and last name, home address or phone number. All registers maintained pursuant to this provision shall be open for inspection by any City representative with consent, exigency, or pursuant to an administrative search order or subpoena. Each year's register shall be kept on file for one year after the completion of the year.
- L. No therapist shall place, publish, or distribute or cause to be placed, published, or distributed, any advertising that reasonably suggests to prospective patrons that any service is available or that the therapist would provide any service or satisfy any request for actions which are prohibited under this Chapter.

Section 2-3-B-9 THERAPIST INSPECTIONS; IMMEDIATE RIGHT OF ENTRY.

City representatives may, from time to time, make an inspection of each licensed establishment in this City, for the purposes of determining that the provisions of this Chapter are complied with. That may include inspection of areas where a therapist performs massage therapy. Such inspections shall be made at reasonable times and in a reasonable manner. Prior notice of the City's intention to conduct such inspections is not required. It shall be unlawful for a therapist to fail to allow immediate access to the establishment premises (or any area therein) or to hinder an inspection in any manner, and any such behavior by the therapist shall result in revocation or suspension of the therapist's license pursuant to Section 2-3-C-4.

The City also may, from time to time, conduct inspections into in-clients' office and in-clients' home locations where a therapist provides services. Such inspections shall be made at reasonable times and in a reasonable manner. Prior notice of the City's intention to conduct such inspections is not required. It shall be unlawful for a therapist to hinder any such inspection in any manner, and any such behavior by the therapist shall result in revocation or suspension of the therapist's license pursuant to Section 2-3-C-4.

Section 2-3-B-10 CHANGE OF EMPLOYMENT OR LOCATION TYPE.

For up-to-date recordkeeping, a therapist shall notify the City of any change in employment within thirty (30) calendar days of the change. This shall include a change in the therapist's employer, or the addition or reduction of location types (i.e. establishment, in-clients' office, or in-clients' homes). The therapist will be required to get a new badge from the City and pay all applicable fees.

Section 2-3-B-11 CONTINUING EDUCATION REQUIREMENT.

Upon completion of a therapist's first year of City licensure, he/she will thereafter be required to complete a minimum of twelve (12) hours (50 minutes per hour) of continuing education annually in order to qualify for a renewal of his/her license. Continuing education credit will be awarded for each hour of training completed in the theory and clinical application of massage, clinical business practices, hygiene, record keeping, professional ethics, and other similar courses. Credits to be used toward this continuing education requirement must be received from an accredited school, as defined in Article 2-3-D, but can be completed as online coursework.

Section 2-3-B-12 RENEWAL OF LICENSE; EFFECT OF LAPSE.

Therapists are required to apply for an annual renewal of his/her license at least twenty-one (21) calendar days prior to the expiration date of the license by completing and submitting the renewal paperwork packet.

The City will make reasonable efforts to notify licensees of an upcoming expiration of a license, but the City's failure to provide such notice or the failure to receive such notice shall not relieve the licensee from the requirement to file all required renewal paperwork at least twenty-one (21) calendar days prior to expiration of the current license. If the application cannot be approved by the expiration date because it was not submitted at least twenty-one (21) days prior to the expiration date, the licensee must cease all operations on the expiration date until notification that the application has been approved by the City.

Approval of a renewal application is subject to satisfaction of the requirements of Section 2-3-B-6. Upon denial of a renewal application, any therapist shall be ineligible to reapply for any license under this Chapter for a period of one year from the date of denial. A denied therapist can seek a waiver of the one year ineligibility from the Chief of Police, in writing, upon a showing of good cause or other relevant factors. Any therapist aggrieved by a denial of an application or a denial of a request for a waiver may seek judicial review of the decision pursuant to Kansas law.

If a therapist does not file renewal paperwork prior to the license's expiration date the license will lapse and he/she must cease all operations. If a lapse occurs, the therapist will be required to apply for a new therapist license pursuant to the provisions of this Chapter.

The fee for an annual therapist license renewal is set by separate resolution of the Governing Body. The renewal fee shall be non-refundable.

Section 2-3-B-13 APPLICABILITY TO EXISTING THERAPISTS.

Existing massage therapists must bring his/her practice into compliance with all provisions of Article 2-3-B upon the date of his/her next annual renewal or August 1, 2014, whichever is sooner.

Section 2-3-B-14 EXCEPTIONS.

The education provisions of Section 2-3-B-2 and the CPR and First Aid provisions of Section 2-3-B-3 shall not apply to persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of this state, or persons licensed to practice as a physical therapist under the laws of this state. All other provisions of this Article 2-3-B apply to these individuals.

Article 2-3-C VIOLATIONS OF CHAPTER; PENALTY

Section 2-3-C-1 BASIS FOR ESTABLISHMENT LICENSE REVOCATION OR SUSPENSION.

Any license issued for a massage therapy establishment may be revoked or suspended by the City where it is found that any of the provisions of this Chapter are violated or the licensee or any establishment representative has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered, any City representative from conducting any investigation or inspection provided for in this Chapter.

Section 2-3-C-2 ESTABLISHMENT REVOCATION AND SUSPENSION PROCEEDINGS.

- A. The City, before revoking or suspending any establishment license, shall give the licensee at least ten (10) calendar days' written notice of the charges against him/her and the opportunity to request a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- B. Upon request of a hearing pursuant to Subsection A. herein, the hearing will be set by the City as soon as is reasonably practicable, and the rules, regulations and procedures for the hearing will be provided to the licensee.
- C. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- D. Any establishment licensee aggrieved by the City Administrator's decision under this Section may seek judicial review of the decision pursuant to Kansas law.

Section 2-3-C-3 BASIS FOR THERAPIST LICENSE REVOCATION OR SUSPENSION.

Any massage therapist license issued may be revoked or suspended by the City where it is found that any of the provisions of this Chapter are violated or the therapist has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the therapist refused to permit, or hindered, any City representative from conducting any investigation or inspection provided for in this Chapter.

Section 2-3-C-4 THERAPIST REVOCATION AND SUSPENSION PROCEEDINGS.

- A. The City, before revoking or suspending any therapist license, shall give the licensee at least ten (10) calendar days' written notice of the charges against him/her and the opportunity to request a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. The charges shall be specific and in writing.
- B. Upon request of a hearing pursuant to Subsection A. herein, the hearing will be set by the City as soon as is reasonably practicable, and the rules, regulations and procedures for the hearing will be provided to the licensee.
- C. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- D. Any massage therapist aggrieved by the City Administrator's decision under this Section may seek judicial review of the decision pursuant to Kansas law.

Article 2-3-D DEFINITIONS AND MISCELLANEOUS PROVISIONS

Section 2-3-D-1 DEFINITIONS.

When used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

ACCREDITED SCHOOL: any school or institute of learning which is accredited by a state board of education or equivalent, and approved by any state massage-specific licensing organization(s). For schools located in

states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board for Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Chapter.

ESTABLISHMENT APPLICANT: In regard to the "applicant" for an establishment license, this term shall refer to each individual owner, if applying as an individual or a group of individuals; each stockholder holding more than 10% of the stock of the corporation and each officer and director, if the applicant is a corporation; each partner, including limited partners, if the applicant is a partnership.

ESTABLISHMENT REPRESENTATIVE: an employee, manager, independent contractor, unpaid volunteer or anyone else holding him/herself out as working at, or on behalf of, a massage establishment.

CERTIFICATE TO PRACTICE THE HEALING ARTS a license issued to an individual pursuant to K.S.A. 65-2801 et seq. to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

IN-CLIENTS' HOME MASSAGE: massage therapy conducted at a client's home or residence.

IN-CLIENTS' OFFICE MASSAGE: massage therapy conducted on the business premises of a therapist's clients, but in no event is a massage therapist allowed to conduct massage therapy in a hotel or motel room or similar setting.

MASSAGE THERAPY (or MASSAGE): any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. The regulation of massage therapy in this Chapter includes, but is not limited to, subspecialties of massage therapy such as acupressure, aromatherapy, healing touch, cupping, reiki, reflexology, rolfing and trigger point. Massage therapy does not include the touching in any fashion of a patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple.

MASSAGE THERAPIST (or THERAPIST): a person who, for consideration, engages in the practice of massage therapy as defined herein.

MASSAGE THERAPY ESTABLISHMENT (or MASSAGE ESTABLISHMENT or ESTABLISHMENT): Any establishment where any person, firm, partnership, association or corporation primarily engages in offering massage therapy services. An establishment may operate from a business or corporate location or in the establishment licensee's home, subject to the requirements of this Chapter.

MINOR TRAFFIC VIOLATIONS: any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

Section 2-3-D-2 MISCELLANEOUS PROVISIONS.

- A. As used in this Chapter, any City employee title or name means the incumbent or his/her designee.
- B. The City Administrator may, after presentation to the Governing Body, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter.

Article 2-3-E REGULATIONS ON OPERATIONS Rep. Ord. 5373, eff. 05/27/2014

Section 2-3-E-1 PERSONS UNDER EIGHTEEN PROHIBITED FROM PREMISES. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Section 2-3-E-2 RESTRICTION TO LICENSED PREMISES. Rep. Ord. 5373, eff.

05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

**Article 2-3-F PENALTY FOR VIOLATIONS Rep. Ord. 5373, eff.
05/27/2014**

Section 2-3-F-1 PENALTY. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Article 2-3-G DEFINITIONS Rep. Ord. 5373, eff. 05/27/2014

Section 2-3-G-1 DEFINITIONS. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-C VIOLATIONS OF CHAPTER; PENALTY

Section 2-3-C-1 BASIS FOR ESTABLISHMENT LICENSE REVOCATION OR SUSPENSION.

Any license issued for a massage therapy establishment may be revoked or suspended by the City where it is found that any of the provisions of this Chapter are violated or the licensee or any establishment representative has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered, any City representative from conducting any investigation or inspection provided for in this Chapter.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-C VIOLATIONS OF CHAPTER; PENALTY

Section 2-3-C-2 ESTABLISHMENT REVOCATION AND SUSPENSION PROCEEDINGS.

- A. The City, before revoking or suspending any establishment license, shall give the licensee at least ten (10) calendar days' written notice of the charges against him/her and the opportunity to request a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.
- B. Upon request of a hearing pursuant to Subsection A. herein, the hearing will be set by the City as soon as is reasonably practicable, and the rules, regulations and procedures for the hearing will be provided to the licensee.
- C. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- D. Any establishment licensee aggrieved by the City Administrator's decision under this Section may seek judicial review of the decision pursuant to Kansas law.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-C VIOLATIONS OF CHAPTER; PENALTY

Section 2-3-C-3 BASIS FOR THERAPIST LICENSE REVOCATION OR SUSPENSION.

Any massage therapist license issued may be revoked or suspended by the City where it is found that any of the provisions of this Chapter are violated or the therapist has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the therapist refused to permit, or hindered, any City representative from conducting any investigation or inspection provided for in this Chapter.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-C VIOLATIONS OF CHAPTER; PENALTY

Section 2-3-C-4 THERAPIST REVOCATION AND SUSPENSION PROCEEDINGS.

- A. The City, before revoking or suspending any therapist license, shall give the licensee at least ten (10) calendar days' written notice of the charges against him/her and the opportunity to request a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. The charges shall be specific and in writing.
- B. Upon request of a hearing pursuant to Subsection A. herein, the hearing will be set by the City as soon as is reasonably practicable, and the rules, regulations and procedures for the hearing will be provided to the licensee.
- C. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- D. Any massage therapist aggrieved by the City Administrator's decision under this Section may seek judicial review of the decision pursuant to Kansas law.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-D DEFINITIONS AND MISCELLANEOUS PROVISIONS

Section 2-3-D-1 DEFINITIONS.

When used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

ACCREDITED SCHOOL: any school or institute of learning which is accredited by a state board of education or equivalent, and approved by any state massage-specific licensing organization(s). For schools located in states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board for Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Chapter.

ESTABLISHMENT APPLICANT: In regard to the "applicant" for an establishment license, this term shall refer to each individual owner, if applying as an individual or a group of individuals; each stockholder holding more than 10% of the stock of the corporation and each officer and director, if the applicant is a corporation; each partner, including limited partners, if the applicant is a partnership.

ESTABLISHMENT REPRESENTATIVE: an employee, manager, independent contractor, unpaid volunteer or anyone else holding him/herself out as working at, or on behalf of, a massage establishment.

CERTIFICATE TO PRACTICE THE HEALING ARTS a license issued to an individual pursuant to K.S.A. 65-2801 et seq. to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

IN-CLIENTS' HOME MASSAGE: massage therapy conducted at a client's home or residence.

IN-CLIENTS' OFFICE MASSAGE: massage therapy conducted on the business premises of a therapist's clients, but in no event is a massage therapist allowed to conduct massage therapy in a hotel or motel room or similar setting.

MASSAGE THERAPY (or MASSAGE): any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. The regulation of massage therapy in this Chapter includes, but is not limited to, subspecialties of massage therapy such as acupressure, aromatherapy, healing touch, cupping, reiki, reflexology, rolfing and trigger point. Massage therapy does not include the touching in any fashion of a patron's pubic region, human genitals, perineum, anal region, and the area of the female breast that includes the areola and nipple.

MASSAGE THERAPIST (or THERAPIST): a person who, for consideration, engages in the practice of massage therapy as defined herein.

MASSAGE THERAPY ESTABLISHMENT (or MASSAGE ESTABLISHMENT or ESTABLISHMENT): Any establishment where any person, firm, partnership, association or corporation primarily engages in offering massage therapy services. An establishment may operate from a business or corporate location or in the

establishment licensee's home, subject to the requirements of this Chapter.

MINOR TRAFFIC VIOLATIONS: any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-E REGULATIONS ON OPERATIONS Rep. Ord. 5373, eff. 05/27/2014

Section 2-3-E-1 PERSONS UNDER EIGHTEEN PROHIBITED FROM PREMISES. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Section 2-3-E-2 RESTRICTION TO LICENSED PREMISES. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-F PENALTY FOR VIOLATIONS Rep. Ord. 5373, eff. 05/27/2014

Section 2-3-F-1 PENALTY. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.

Title 2 BUSINESS REGULATIONS, LICENSE TAXES AND FEES

Chapter 2-3 MASSAGE THERAPY AND LICENSING REQUIREMENTS

Article 2-3-G DEFINITIONS Rep. Ord. 5373, eff. 05/27/2014

Section 2-3-G-1 DEFINITIONS. Rep. Ord. 5373, eff. 05/27/2014

Repealed by Ordinance No. 5373, effective 05/27/2014.



Massage Therapy License

Massage Establishment

A license is required by any person, firm, partnership, association or corporation who wishes to operate a massage establishment in the City of Overland Park.

The application and a **\$300 annual fee** can be dropped off at the City Clerk's Office or mailed to: City Clerks Office, City Hall, 8500 Santa Fe Drive, Overland Park, KS, 66212.



913-895-6150
cityclerk@opkansas.org

Massage Therapist

Therapists must file a separate application with the City Clerk, pay a fee* and meet specific educational requirements:

- National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB), 1992 or later; or Massage and Bodywork Licensing Examination (MBLE), 2007 or later.
- Certified transcript consisting of not less than 500 hours, in theory, method or practice of massage. The required curriculum must include the subjects of anatomy, physiology, kinesiology, pathology, first aid and hygiene and practical instruction in massage technique.
- American Red Cross First Aid
- American Heart Association CPR

* Licensing fees: \$75 for new applications, \$50 for renewals, \$15 for additional applications. An application/identification card is required for each work location. After a license has expired, a "new" application under the current education and testing standards will be required. Twelve (12) hours of continuing education is required for all license renewals.

Places

Arboretum
Community Centers
Farmers' Market
Farmstead
Golf Courses
Parks
Municipal Court
Pools
Scheels Overland Park Soccer Complex

Online Services

OPCares
Pay a Fine or Fee
Make a Police Report
Find an Accident Report
Online Development
Reserve a City Facility
Traffic Cameras
Documents & Forms

Popular Contacts

Main Line city@opkansas.org 913-895-6000
Police 913-895-6300
Municipal Court 913-327-6800
Public Information Officers 913-895-6109
Property Maintenance property@opkansas.org 913-895-6270
Animal Control 913-895-6300
Soccer Complex 913-685-1512



TYPE: NEW - \$75 ☐ , RENEWAL - \$50 ☐ , ADDITIONAL - \$15 ☐ (All fees are nonrefundable.)

Therapist License Effective _____

License No. _____

Receipt No. _____

CITY OF OVERLAND PARK

APPLICATION FOR MASSAGE THERAPIST LICENSE

All applicants must submit written proof of age (copy of driver's license) and two recent passport photographs at least 2" x 2".

1. NAME: _____
(first) (middle) (last)
2. ADDRESS: _____
(City, State and Zip Code)
3. Phone No. _____
(home) (business)
4. Weight: _____ 5. Height: _____
6. Color of Eyes: _____ 7. Color of Hair: _____
8. Birth Date: _____ 9. Race/Sex: _____
10. Social Security #: _____ 11. Driver's License #: _____
12. Name and Address of establishment where you are seeking employment: _____

Verification of employment at the above establishment must be made by obtaining signature of Manager:

Name of Manager: _____
Please Print Legible

Signature of Manager _____ Date _____

13. Specific position, function or duties you are being hired to perform within such establishment: _____

14. Are you a citizen of the United States? Yes ☐ , No ☐

If not, are you authorized to work in the United States? Yes ☐ , No ☐ (Please provide documentation for this authorization.)

15. List all business, occupations, or employments for the three (3) years immediately preceding the filing of this application. Show all periods of unemployment. (Gaps in employment will delay the application process and cause the application to be returned.)

Previous Employer of Business	Dates	Address	Position or Nature of Duties
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16. Have you ever previously been issued an employee's license or permit to perform massage therapy services in a massage establishment?
 Yes ☐, No ☐. If so,
 Where? _____ When? _____
 How long did you have such license or permit? _____
 Was such license or permit ever suspended or revoked? Yes ☐, No ☐. If so,
 Why? _____ How long? _____
 Was it reinstated? Yes ☐, No ☐.
17. Have you ever been convicted, diverted, or given a suspended imposition of sentence (SIS) of a criminal offense (other than minor traffic violations¹)? Yes ☐, No ☐. If yes, list city, state, date, offense for which convicted, diverted, or SIS imposed.

18. New applicants must include proof of education (Certified/Embossed Transcripts), proof of National Certification Examination for Therapeutic Massage and Bodywork or Massage & Bodywork Licensing Examination, first aid card, CPR card, and fingerprints as provided in Overland Park Municipal Code 5.50.500.
- Applicants renewing must provide proof of a minimum of 12 hours continuing education, first aid card and CPR card as provided in Overland Park Municipal Code 5.50.500.
19. I have been provided a copy of OPMC Chapter 5.50. Yes ☐ No ☐
20. Please read and sign the following.

APPLICATION MUST BE COMPLETED IN FULL

I declare (or verify, certify or state) under penalty of perjury that the above information is true and correct to the best of my knowledge and belief and that any knowingly made false, misleading or fraudulent statement in this application or in any document required by the City of Overland Park, Kansas, in conjunction therewith will be grounds for the rejection of this application, or grounds for the revocation or suspension of any license issued by the City of Overland Park, Kansas, on the basis of such information.

Further, I hereby authorize the City of Overland Park, Kansas, its agents and employees to seek any further information and conduct an investigation into the truth of the statements set forth in this application and my qualifications for a permit covered by this application.

 Signature

FOR POLICE DEPARTMENT USE ONLY

Identification Card: Date Issued _____

Effective Dates: From _____ to _____

APPROVED BY _____

¹. "Minor Traffic Violations" mean any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

LICENSE TYPE: NEW ☐ RENEWAL ☐

License Effective Date:

From _____
To _____

License No. _____
Receipt No. _____

CITY OF OVERLAND PARK, KANSAS
APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE

FEE: \$300 Nonrefundable

I. Business Establishment

1. Date of Application: _____
2. Name of Business or Establishment: _____
3. Address of Business: _____
4. Name and Address for Owner of Premises upon which establishment is to be located: _____
5. Business Premise Telephone Number: _____
6. Specific nature of business or services to be provided: _____

II. Applicant or Manager

All applicants must submit written proof of age (copy of driver's license), two 2"x2" passport photographs, and a full set of fingerprints (new applicants).

1. Applicant's Name: _____
2. Home Address: _____
City, State and Zip Code _____
3. Home Telephone #: _____
4. Alternate Phone #: _____
5. Date of Birth: _____
6. Race / Sex: _____
7. Color of Eyes: _____
8. Color of Hair: _____
9. Social Security #: _____
10. Driver's License #: _____

11. Are you a citizen of the United States? Yes ☐, No ☐
If not, are you authorized to work in the United States? Yes ☐, No ☐ (Please provide documentation for this authorization.)

12. Name, address, phone number, driver's license number, social security number and date of birth of all owners (if other than applicant), partners (if partnership), stockholders holding 10% or more of the stock of any corporation or manager if different from any of the foregoing:

(Use additional sheets if necessary.)

13. List all businesses owned, occupations held, and employment for three (3) years immediately preceding the filing of this application. (Gaps in employment will delay the application process and will cause the application to be returned.)
Show all periods of unemployment.

Previous Business or Employer	Dates	Address	Position or nature of duties

14. Have you previously been issued a license or permit to operate a massage therapy establishment? Yes ☐ No ☐ If so,
Where: _____ License No.: _____
15. Have you previously been issued a license or permit to operate an adult entertainment business? Yes ☐ No ☐ If so,
Where: _____ License No.: _____
16. Have you previously been issued a license or permit to operate an escort service, or have you been employed by any such establishment: Yes ☐ No ☐ If so,
Where: _____ License No.: _____
17. If you answered yes to Question 14, 15 or 16, how long has business operated?
Was any license or permit previously issued suspended or revoked? Yes ☐ No ☐ If so,
Why: _____ How Long: _____
Was any revoked or suspended license(s) or permit(s) reinstated? Yes ☐ No ☐
18. Have you ever been convicted, diverted, or given a suspended imposition of sentence (SIS) of a criminal offense (other than minor traffic violations¹)? Yes ☐, No ☐. If yes, list city, state, date, offense for which convicted, diverted, or SIS imposed.

19. Has any owner, partner (if partnership), stockholder holding 10% or more of the stock of any corporation or manager ever been convicted, diverted, or given a suspended imposition of sentence (SIS) of a criminal offense (other than minor traffic violations¹)? Yes ☐, No ☐. If yes, list city, state, date, offense for which convicted, diverted, or SIS imposed.

20. I have been provided a copy of OPMC Chapter 5.50. Yes ☐ No ☐
21. Please read and sign the following.

APPLICATION MUST BE COMPLETED IN FULL

I declare (or verify, certify or state) under penalty of perjury that the above information is true and correct to the best of my knowledge and belief and that any knowingly made false, misleading or fraudulent statement in this application or in any document required by the City of Overland Park, Kansas, in conjunction therewith will be grounds for the rejection of this application, or grounds for the revocation or suspension of any license issued by the City of Overland Park, Kansas, on the basis of such information.

Further, I hereby authorize the City of Overland Park, Kansas, its agents and employees to seek any further information and conduct an investigation into the truth of the statements set forth in this application and my qualifications for a permit covered by this application.

Signature

FOR OFFICE USE ONLY:

Date (approved) (rejected) _____

City Clerk

¹ . "Minor Traffic Violations" mean any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

Chapter 5.50 MESSAGE THERAPY

Sections:

- 5.50.010 Definitions. (Repealed)
- 5.50.015 Reference to Chief of Police, Other Staff. (Repealed)
- 5.50.020 License Required. (Repealed)
- 5.50.021 Limitations on In-office Massage Therapy Licenses. (Repealed)
- 5.50.030 Massage Therapist License Required, Categories, Educational Requirements, Restrictions. (Repealed)
- 5.50.035 Student Massage Therapy. (Repealed)
- 5.50.040 Application for Massage Therapy and In-office Massage Therapy Business License; Fees. (Repealed)
- 5.50.050 Application for Massage Therapist License; Fees. (Repealed)
- 5.50.060 Education Requirements; Masseur or Masseuse. (Repealed)
- 5.50.065 Massage Therapy Business License Application Processing. (Repealed)
- 5.50.070 Identification Cards. (Repealed)
- 5.50.080 Issuance of Massage Therapy Business License. (Repealed)
- 5.50.090 Application Processing and Issuance of Massage Therapist License. (Repealed)
- 5.50.100 Revocation or Suspension of Business License. (Repealed)
- 5.50.110 Revocation of Massage Therapist License. (Repealed)
- 5.50.120 Inspection Necessary. (Repealed)
- 5.50.130 Inspections, Immediate Right of Entry. (Repealed)
- 5.50.140 Operation Regulations. (Repealed)
- 5.50.150 Supervision. (Repealed)
- 5.50.160 Employee and Patron Registers. (Repealed)
- 5.50.170 Persons under Age 18 Prohibited Services. (Repealed)
- 5.50.180 Advertising. (Repealed)
- 5.50.190 Transfer of Licenses; Other Licenses and Fees. (Repealed)
- 5.50.200 Applicability to Existing Businesses. (Repealed)
- 5.50.210 Exceptions. (Repealed)
- 5.50.220 Further Regulations. (Repealed)
- 5.50.230 Restriction of Business to Premises. (Repealed)
- 5.50.240 Penalty. (Repealed)
- 5.50.250 Severability. (Repealed)
- 5.50.300 Definitions.
- 5.50.310 Reference to Chief of Police, Other Staff.
- 5.50.320 Business License Required.
- 5.50.330 Limitations on In-office Massage Licenses.
- 5.50.340 Application for Massage Establishment and In-office Massage License; Fees.
- 5.50.350 Massage Establishment License Application Processing.
- 5.50.360 Inspection Necessary.
- 5.50.370 Issuance of Massage Establishment License.
- 5.50.380 Business Identification Cards.

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- 5.50.390 Inspections, Immediate Right of Entry.
- 5.50.400 Operation Regulations.
- 5.50.410 Supervision.
- 5.50.420 Persons Under Age 18 Prohibited Services.
- 5.50.430 Employee and Patron Registers.
- 5.50.440 Advertising.
- 5.50.450 Applicability to Existing Businesses.
- 5.50.460 Exceptions.
- 5.50.470 Further Regulations.
- 5.50.480 Restriction of Business to Premises.
- 5.50.490 Revocation or Suspension of Massage Establishment License.
- 5.50.500 Massage Therapist License Required, Examination Requirements, Restrictions.
- 5.50.510 Application for Massage Therapist License; Fees.
- 5.50.520 Application Processing and Issuance of Massage Therapist License.
- 5.50.530 Identification Cards.
- 5.50.540 Revocation or Suspension of Massage Therapist License.
- 5.50.550 Student Massage Therapy.
- 5.50.560 Transfer of Licenses; Other Licenses and Fees.
- 5.50.570 Penalty.
- 5.50.580 Severability.

5.50.010 Definitions.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §1, 94; MP-1682 §1, 91; MP-862 §1, 76)

5.50.015 Reference to Chief of Police, Other Staff.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2208 §1, 2000)

5.50.020 License Required.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §2, 94; MP-1734 §1, 92; MP-1682 §2, 91; MP-862 §2, 76)

5.50.021 Limitations on In-office Massage Therapy Licenses.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §3, 94; MP-1682 §3, 91)

5.50.030 Massage Therapist License Required, Categories, Educational Requirements, Restrictions.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2045 §1, 97; MP-1971 §1, 96; MP-1911 §1, 95; MP-1842 §4, 94; MP-862 §3, 76)

5.50.035 Student Massage Therapy.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1971 §2, 96)

5.50.040 Application for Massage Therapy and In-office Massage Therapy Business License; Fees.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §5, 94; MP-1734 §2, 92; MP-1682 §4, 91; MP-862 §4, 76)

5.50.050 Application for Massage Therapist License; Fees.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2103 §1, 98; MP-1842 §6, 94; MP-1734 §3, 92; MP-1682 §5, 91; MP-1482 §1, 87; MP-862 §5, 76)

5.50.060 Education Requirements; Masseur or Masseuse.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §7, 94; MP-1682 §6, 91; MP-862 §6, 76)

5.50.065 Massage Therapy Business License Application Processing.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2065 §1, 97; MP-2045 §2, 97; MP-1842 §8, 94)

5.50.070 Identification Cards.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §9, 94; MP-862 §7, 76)

5.50.080 Issuance of Massage Therapy Business License.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §10, 94; MP-1682 §7, 91; MP-862 §8, 76)

5.50.090 Application Processing and Issuance of Massage Therapist License.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §11, 94; MP-1682 §8, 91; MP-862 §9, 84)

5.50.100 Revocation or suspension of business license.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §12, 94; MP-1682 §9, 91; MP-862 §10, 76)

5.50.110 Revocation of Massage Therapist License.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §13, 94; MP-1682 §10, 91; MP-862 §11, 76)

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5.50.120 Inspection necessary.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2065 § 2, 97; MP-2045 § 3, 97; MP-1842 §14, 94; MP-1682 §11, 91; MP-862 §12, 76)

5.50.130 Inspections, Immediate Right of Entry.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2045 § 4, 97; MP-1842 §15, 94; MP-1682 §12, 91; MP-862 §13, 76)

5.50.140 Operation Regulations.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2117 §1, 98; MP-2045 § 5, 97; MP-1842 §16, 94; MP-1682 §13, 91; MP-862 §14, 76)

5.50.150 Supervision.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §17, 94; MP-862 §15, 76)

5.50.160 Employee and Patron Registers.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §18, 94; MP-862 §16, 76)

5.50.170 Persons under Age 18 Prohibited Services.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §19, 94; MP-1682 §14, 91; MP-862 §17, 76)

5.50.180 Advertising.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §20, 94; MP-862 §18, 76)

5.50.190 Transfer of Licenses; Other Licenses and Fees.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §21, 94; MP-1682 §15, 91; MP-862 §19, 76)

5.50.200 Applicability to Existing Businesses.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §22, 94; MP-1682 §16, 91; MP-862 §20, 76)

5.50.210 Exceptions.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1911 §2, 95; MP-1812 §1, 93; MP-1682 §17, 91; MP-862 §21, 76)

5.50.220 Further Regulations.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-2045 § 6, 97; MP-1842 §23, 94; MP-1682 §18, 91; MP-862 §22, 76)

5.50.230 Restriction of Business to Premises.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §24, 94; MP-1734 §4, 92; MP-1682 §19, 91; MP-862 §23, 76)

5.50.240 Penalty.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-862 §24, 76)

5.50.250 Severability.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-862 §25, 76)

5.50.300 Definitions.

- A. "Business premises." Those premises where a private or public commercial enterprise is conducted.
- B. "In-home massage." Massage that is conducted in a private residence of a massage client or a therapist's home or residence that is permitted as a home occupation and is licensed as a massage establishment.
- C. "In-office massage." Massage that is conducted on the business premises of a massage client and is limited to massage therapy applied only above the massage client's waist.
- D. "In-office massage establishment." Any establishment having a place of business where any person, firm, partnership, association, or corporation engages in the activities mentioned in Section 5.50.300E for compensation.
- E. "Massage." Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. Massage as defined herein does not include the touching in any fashion of human genitalia.
- F. "Massage establishment." Any establishment where any person, firm, partnership, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in Section 5.50.300E for compensation but does not include "in-office massage establishments."
- G. "Minor Traffic Violations" mean any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

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- H. "Massage therapist." Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.
- I. "Patron" means any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this Chapter and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.
- J. "Table shower." An activity in which a patron lies on a table and is washed by an attendant.

(History: Ord. MP-2790 §1, 2008)

5.50.310 Reference to Chief of Police, Other Staff.

Any reference in this Chapter to the Chief of Police, City Clerk, Community Planning & Services Director, Director of Planning & Development, Deputy City Manager or Fire Inspector shall include those persons' designees and any individuals designated by the City Manager.

(History: Ord. MP-2790 §2, 2008)

5.50.320 Business License Required.

No person, firm, partnership, association or corporation shall operate a massage establishment or an in-office massage business, as defined herein, without first having obtained a license therefor, issued by the City Clerk. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business conducted by any one licensee. Such license shall be valid for a period of twelve months from the date of issuance.

(History: Ord. MP-2790 §3, 2008)

5.50.330 Limitations on In-office Massage Licenses.

The authority granted a licensee issued an in-office massage license is limited to the authority to conduct massage therapy on the non-permanent office premises of the licensee's clients and specifically does not include the authority to conduct massage therapy at a permanent premises operated by the licensee; provided the licensee must have a permanent business office located within the City.

(History: Ord. MP-2790 §4, 2008)

5.50.340 Application for Massage Establishment and In-office Massage License; Fees.

Every applicant for a license to maintain, operate or conduct any establishment covered by this Chapter shall file an application with the City Clerk and pay an annual filing fee to the City Clerk of \$300 per business. The fees shall not be refundable.

The application for a license to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address, and telephone number of each applicant, including any stockholder holding more than 10% of the stock of the corporation, any partner, when a partnership is involved, and any manager.

In addition to the foregoing, any applicant for an establishment license shall furnish the following information:

- A. Written proof that the applicant is at least 18 years old.
- B. Two passport photographs at least two inches by two inches, and fingerprints, provided once an applicant has submitted an application containing their fingerprints, they will not have to submit fingerprints in any subsequent renewal application for that person.
- C. The business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
- D. The massage establishment and in-office massage 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.
- E. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- F. In the case of applicants who intend personally to provide in-office massage or massage therapy, the applicant must also apply for and receive a massage therapist license as provided for in Section 5.50.500.
- G. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
- H. Applicants for renewal of an existing license need provide only that information or documentation necessary to insure up-to-date renewal application processing.

(History: Ord. MP-2790 §5, 2008)

5.50.350 Massage Establishment License Application Processing.

- A. Upon receipt of a complete application for a massage establishment license, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Community Planning & Services Manager, the Director of Planning & Development Services and the Fire Inspector.
- B. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the City Clerk not later than 21 days from the date the application is received by the City Clerk.

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- C. It shall be the duty of the Community Planning & Services Manager, the Director of Planning & Development Services and the Fire Inspector to determine whether the structure where the massage therapy business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, and fire ordinances of the City. All standards for premises set forth in Section 5.50.360 must be met prior to the first day the premises are open for business. The Community Planning & Services Manager, the Director of Planning & Development Services and the Fire Inspector shall report the results of their investigation to the City Clerk not later than 21 days from the date the application is received by the City Clerk.
- D. Upon receipt of the reports from the Chief of Police, the Community Planning & Services Manager, the Director of Planning & Development Services and the Fire Inspector, or whenever 21 days have elapsed after the filing of the application, whichever occurs first, the City Clerk shall grant or deny the license consistent with the notification requirements established by law, provided the license shall be issued or denied within 45 days from the date of filing of a completed application with the clerk's office. Any applicant aggrieved by denial of a license may seek judicial review in accordance with subsection E.
- E. Any person aggrieved by denial, suspension or revocation of a license application may seek judicial review pursuant to K.S.A. 60-2101(d), and amendments thereto.

(History: Ord. MP-2790 §6, 2008)

5.50.360 Inspection Necessary.

No business shall be conducted on a licensed premises unless an inspection by the Community Planning & Services Manager or his authorized representative reveals that the establishment complies with each of the following minimum requirements:

- A. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked. These provisions are not applicable to an in-office massage business.
- B. Toilet facilities shall be provided in convenient locations. When five or more massage establishment employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein. These provisions are not applicable to an in-office massage business.

- C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels. These provisions are not applicable to an in-office massage business.

The Community Planning & Services Manager shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk and Chief of Police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

(History: Ord. MP-2790 §7, 2008)

5.50.370 Issuance of Massage Establishment License.

After the filing of an application in the proper form, the City Clerk shall examine the application, and after such examination, shall approve the issuance of a license for an in-office massage establishment or a massage establishment, unless the City Clerk finds that:

- A. The correct license fee has not been tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation.
- B. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws including, but not limited to, the City's zoning, and health regulations.
- C. The applicant, if an individual; or any of the stockholders holding more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, having been convicted of, or diverted on:
 - 1. a felony in the 20 years immediately preceding the date of the application;
 - 2. an offense involving sexual misconduct with children;
 - 3. obscenity;
 - 4. promoting prostitution as defined by K.S.A. 21-3513;
 - 5. solicitation of a lewd or unlawful act;
 - 6. prostitution;
 - 7. pandering or other sexually related offense; or
 - 8. Any violation of this Chapter during the last five years.
- D. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith.
- E. The applicant has had a massage establishment or other similar permit or license denied, revoked, or suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension for any of the above causes by the City or any other state or local agency within five years prior to the date of the application.
- F. The applicant has previously been issued a license for an adult entertainment business (as defined in this Code) or escort service, or has been employed by any such establishment.

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- G. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, has not attained the age of 18 years.
- H. The manager or other person principally in charge of the operation of the business would be ineligible to receive any license under the provisions of this Chapter.

The records of the City Clerk shall show the action taken on the application. The license shall state that it is not transferable or refundable. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the denial. Any applicant aggrieved by the disapproval may seek judicial review as set forth in Section 5.50.350E.

Any license issued under the provisions of this Chapter shall at all times be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.

(History: Ord. MP-2790 §8, 2008)

5.50.380 Business Identification Cards.

All license applicants or managers issued a license pursuant to the provisions of this Chapter shall, at all times when working in an establishment have in their possession a valid identification card issued by the City. Such identification cards shall be laminated to prevent alteration. Licensees or managers shall produce their identification cards for inspection upon request of any person who by law may inspect same.

(History: Ord. MP-2790 §9, 2008)

5.50.390 Inspections, Immediate Right of Entry.

The Police Department and Community Planning & Services may from time to time make an inspection of each licensed establishment in this City, to include those locations where an in-office massage business conducts its business, 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 licensee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license.

(History: Ord. MP-2790 §10, 2008)

5.50.400 Operation Regulations.

The operation of any massage establishment or in-office massage business shall be subject to the following regulations:

- A. Hours. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day provided the hours of operation for in-office massage may be extended on premises having bona fide evening and night shifts.

- B. Danger to safety or health. No service shall be given which is clearly dangerous or harmful in the opinion of the Deputy City Manager or Community Planning & Services Manager, to the safety or health of any person, and after such notice in writing has been delivered to the licensee from such director.
- C. Alcoholic beverages. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted, or suffered to be done in or upon any premises licensed under the provisions of this Chapter or during in-office massage. Provided this restriction shall not apply to businesses where the licensed massage therapy is accessory to the predominant business purpose of the establishment, provided further, no alcohol is permitted on that portion of such premises where massage therapy occurs. As used in this Section, "that portion" shall mean physical, visual and audible separation by permanently installed walls and doors between the area where massage therapy occurs and the area where alcoholic beverages or cereal malt beverages are sold or consumed. Any currently-licensed establishments are exempt from the physical, visual and audible separation requirements as long as they remain validly licensed.
- D. Conduct of premises. All licensees licensed under the provisions of this Chapter shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or her employees which constitutes a violation of the provisions of this Chapter. Any violation of the city, state, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or may be grounds for suspension or revocation of same.
- E. Every portion of a licensed establishment, including appliances, and personnel shall be kept clean and operated in a sanitary condition.
- F. All employees shall be clean and wear clean outer garments. On all premises except in-office massage, 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.
- G. All licensed employees and massage therapists must be modestly attired. Diaphanous or transparent clothing is prohibited. Clothing must cover the licensee's employees' or massage therapists' chests at all times.
- H. The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is strictly prohibited.
- I. All licensed establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and such items shall be laundered after each use thereof and stored in a sanitary manner.
- J. 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.
- K. Table showers are strictly prohibited.

(History: Ord. MP-2890 §1, 2010; MP-2790 §11, 2008)

5.50.410 Supervision.

A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed as a Massage Therapist shall personally supervise the business, and shall not violate or permit others to violate, any applicable provision of this Chapter. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee.

(History: Ord. MP-2790 §12, 2008)

5.50.420 Persons Under Age 18 Prohibited Services.

No licensee shall perform or permit any massage therapy to be provided to a person under the age of 18, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.

(History: Ord. MP-2790 §13, 2008)

5.50.430 Employee and Patron Registers.

- A. All operators licensed under the provisions of this Chapter shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and license number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the City police department.
- B. Every person who engages in or conducts a licensed establishment shall keep a daily register of all patrons, with first and last names, addresses, hours of arrival and departure, the rooms or cubicles assigned, and the first and last name of the employee who performed the massage. Said daily register shall at all times during business hours be subject to inspection by City health officials and by the police department and shall be kept on file for one year.

(History: Ord. MP-2790 §14, 2008)

5.50.440 Advertising.

No person, firm, partnership, association or corporation, including but not limited to an establishment granted a license under provisions of this Chapter shall place, publish, or distribute or cause to be placed, published, or distributed any advertising that reasonably suggests to prospective patrons that any service is available other than those services as described in Section 5.50.300E, or that employees or massage therapists are dressed in any manner other than described in Section 5.50.400, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in Section 5.50.300E.

(History: Ord. MP-2790 §15, 2008)

5.50.450 Applicability to Existing Businesses.

The operators of any existing massage establishment or in-office massage business are required to comply with all provisions of this Chapter, subject to the educational and experience requirements set forth in Section 5.50.500.

(History: Ord. MP-2790 §16, 2008)

5.50.460 Exceptions.

The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of this state, persons licensed to practice as a physical therapist under the laws of this state, persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, or barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.

(History: Ord. MP-2790 §17, 2008)

5.50.470 Further Regulations.

The Deputy City Manager, City Clerk or the Chief of Police 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.

(History: Ord. MP-2790 §18, 2008)

5.50.480 Restriction of Business to Premises.

- A. All massage therapy (not to include in-office massage) provided for under this Chapter shall be conducted on the premises of a licensed massage establishment.
- B. Subject to subsection C, all licensed massage establishments shall be operated from a commercial business premise. Sole practitioners (therapists who work alone), are required to have both a massage therapist license and massage establishment license and to work from a commercial business premise.
- C. Licensed massage therapists may perform their services on behalf of clients in clients' homes or residences or other designated places, or in the therapist's home or residence provided that the therapist's home is licensed as a massage establishment and provided that any place where massage therapy is performed is subject to the inspection as set out in Sections 5.50.360 and 5.50.390, operated in accordance with the regulations set out in Section 5.50.400, and if conducted in a therapist's home or residence, subject to the home occupation requirements in Title 18.

(History: Ord. MP-2790 §19, 2008)

5.50.490 Revocation or Suspension of Massage Establishment License.

- A. Any license issued for a massage establishment or an in-office massage business may be revoked or suspended by the Municipal Judge, sitting as an administrative hearing officer, after notice and a hearing where the Municipal Judge finds that any of the provisions of this Chapter are or were violated, or the provisions for issuance of any license are or were violated, or where the licensee or any employee of the licensee, including a massage therapist, has been convicted of or diverted on any offense found in Sections 5.50.370 and 5.50.520 herein and the licensee has actual or constructive knowledge of the violation or conviction, or in any case where the licensee refused to permit any duly authorized police officer or employee of the City to inspect the premises or the operations of the licensee.

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Convictions or diversions for any offense found in Sections 5.50.370 and 5.50.520 shall result in revocation unless the Municipal Judge determines by clear and convincing evidence that such licensee or employee of the licensee will not pose a threat to the public in such person's capacity as a licensee or employee thereof and that such person has been sufficiently rehabilitated to warrant the public trust.

- B. Before revoking or suspending any license, the Municipal Judge shall give the licensee at least ten days' written notice of the specific charges against the licensee and the opportunity for a public hearing before the Municipal Judge, at which time the licensee may present evidence bearing upon the question. A licensee aggrieved by the decision of the Municipal Judge may seek judicial review as set forth in Section 5.50.350E.

(History: Ord. MP-2950 §1, 2012; MP-2790 §20, 2008)

5.50.500 Massage Therapist License Required, Examination Requirements, Restrictions.

No person shall perform massage therapy or in-office massage within the City, unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Chapter, provided massage therapy may be performed by a student massage therapist subject to the provisions of Section 5.50.550.

- A. To be eligible for issuance of a Massage Therapist license, an applicant must: 1. Submit an application on a form provided by the City Clerk, and; 2. Submit acceptable proof that the applicant has successfully passed the 1992 or later National Certification Examination for Therapeutic Massage and Bodywork (NCBTMB), or the 2007 or later Massage & Bodywork Licensing Examination (MBLEx). The applicant must also have successfully completed a course of instruction, consisting of not less than 500 hours, in the theory, method or practice of massage. The required curriculum must include the subjects of anatomy, physiology, kinesiology, pathology, first aid and hygiene and practical instruction in massage technique. Proof of completion of educational and training requirements must be by certified transcripts. The educational and training requirements required by this Chapter may be received from more than one school. Training hours from a school that has had its NCBTMB Assigned School Code denied, suspended or revoked will not be accepted. The applicant must also have successfully completed an in-person certification program in American Red Cross first aid and American Heart Association CPR, or equivalent programs, and provide current certification, and; 3. Pay the applicable license fee(s).
- B. All licensed massage therapists applying for a renewal license must show proof that they have received a minimum of twelve hours (fifty minutes per hour) of professional massage continuing education during the preceding twelve-month licensing period. One hour continuing education credit will be awarded for each hour attendance at programs relating to the theory or clinical application of theory pertaining to the practice of massage to include, but not limited to, clinical business practices, hygiene, record-keeping, medical terminology, professional ethics, business management, human behavior, client interaction and state and local laws that are sponsored by a university, junior college or otherwise found to be acceptable by the Police Department. The certificate for any on-line continuing education courses must clearly depict the time required to acquire such certificate. All licensed massage therapists

applying for renewal license must show proof of current in-person certification in American Red Cross first aid and American Heart Association CPR, or equivalent programs in addition to the twelve hours of continuing education. Continuing education hours are required for all license renewals after issuance of the initial license.

- C. Individuals licensed with the City as massage therapists as of the effective date of this ordinance may renew that license notwithstanding failure to satisfy the minimum education and testing provisions in Section 5.50.500A, and continue to renew such license so long as there are no lapses in active licensure status. If active licensure status lapses, the person will be required to apply for a new massage therapist license and meet the qualifications in Section 5.50.500A, and continuing education hours meeting the requirements set forth in Section 5.50.500B.

(History: Ord. MP-3033 §1, 2014; MP-2890 §2, 2010; MP-2790 §21, 2008)

5.50.510 Application for Massage Therapist License; Fees.

- A. Any person who desires to perform or provide massage or in-office massage or to perform any massage services in a massage establishment, as defined herein, shall file a written application with the City Clerk and pay an annual filing fee to the City Clerk of \$75 for a new application, or \$50 for a renewal application, neither of which shall be refundable. No privilege to provide massage therapy shall exist until an application for renewal has been approved. After a license has expired, a "new" application under the current education and testing standards is required. A massage therapist license shall be valid for a period of 12 months from the date of issuance. This application fee shall cover the cost of processing the application to include the current KBI fingerprint fee. Only one massage therapy license shall be required for a massage therapist regardless of the activity or activities the therapist engages in that are permitted by this Chapter. Identification cards as provided in Section 5.50.530 are required for each massage establishment in which the therapist works. The fee for each identification card subsequent to the initial one is \$15.
- B. The application for a massage therapist license shall contain the following:
1. Name, address, and telephone number.
 2. Two passport photographs at least two inches by two inches.
 3. Applicant's weight, height, color of hair and eyes, and fingerprints, provided once an applicant has submitted fingerprints, they shall not be required to submit new fingerprints for any renewal application for that person.
 4. Written evidence that the applicant is at least 18 years old.
 5. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
 6. Whether such person has ever been convicted of any crime except minor traffic violations. If any person mentioned in this subsection 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.

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7. The position or function the applicant is being hired to perform within such establishment. (If applicable).
8. Authorization for the City, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
9. Proof of the education requirements set forth at Section 5.50.500 herein.
10. Verification of employment by signature of the manager of the licensed massage establishment.

(History: Ord. MP-2790 §22, 2008)

5.50.520 Application Processing and Issuance of Massage Therapist License.

The City Clerk shall issue a massage therapist license within 21 days following application, unless he/she finds that:

- A. The applicant for the massage therapist license has been convicted of, or diverted on:
 1. a felony within the 20 years immediately preceding the date of the application;
 2. an offense involving sexual misconduct with children;
 3. obscenity;
 4. promoting prostitution as defined by K.S.A. 21-3513;
 5. solicitation of a lewd or unlawful act;
 6. prostitution;
 7. pandering or other sexually related offense; or
 8. any violation of this Chapter in the last year, or any revocation of their therapist license within the last year.
- B. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith.
- C. That the correct license fee has not been tendered to the City, and in the case of a check or bank draft, honored with payment upon presentation.
- D. That the applicant has not successfully completed the examination or education standards required under the provisions of this Chapter.
- E. That the applicant is not legally present in the United States.
- F. Any applicant aggrieved by denial of a license may seek judicial review in accordance with Section 5.50.350E.

(History: Ord. MP-2890 §3, 2010; MP-2790 §23, 2008)

5.50.530 Identification Cards.

- A. Upon issuance of a massage therapist license, the City Clerk shall issue the massage therapist an identification card bearing the massage therapist's license number, physical description, and a photograph. Such identification cards shall be laminated to prevent alteration.
- B. All massage therapists issued a license pursuant to the provisions of this Chapter shall have their City-issued identification card in their possession at all times when working in an establishment, and shall produce such identification for inspection upon request of any person who by law may inspect same.

- C. Licensees shall, when conducting in-office massage, conspicuously display their City-issued identification card on their clothing.

(History: Ord. MP-2790 §24, 2008)

5.50.540 Revocation or Suspension of Massage Therapist License.

- A. The Municipal Judge, sitting as an administrative hearing officer, may, after notice and a hearing, revoke or suspend a massage therapist license where it appears that the therapist has been convicted of or diverted on any offense enumerated in Section 5.50.520A or for violation of any of the provisions of this ordinance to include the application standards.
Convictions or diversions for any offense found in Section 5.50.520 shall result in revocation unless the Municipal Judge determines by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.
- B. Before revoking or suspending any massage therapist license, the Municipal Judge shall give the massage therapist at least ten days' written notice of the hearing and specify the alleged violation of this code warranting suspension or revocation.
- C. Any massage therapist aggrieved by a revocation or suspension of their license may seek judicial review as set forth in Section 5.50.350E.

(History: Ord. MP-2950 §2, 2012; MP-2790 §25, 2008)

5.50.550 Student Massage Therapy.

An individual actively enrolled in and currently attending classes in a course of instruction, consisting of not less than 300 hours, in the theory, method or practice of massage, may conduct massage therapy as a practicum component of the training program under the supervision of the massage school instructor, provided the following conditions are met:

- A. All advertisements for massage therapy that will be performed by a student will clearly inform the customer that the massage therapy will be performed by a student under the supervision of the massage school instructor.
- B. Prior to conducting any massage therapy, the student massage therapist will require the customer sign and acknowledge he/she has been informed the massage therapy will be conducted by a student under the supervision of the massage school instructor. These acknowledgment documents will be maintained by the school for a period of one year and will be produced at the request of any law enforcement officer or City official.

(History: Ord. MP-2790 §26, 2008)

5.50.560 Transfer of Licenses; Other Licenses and Fees.

- A. No massage establishment or in-office massage business, or massage therapist licenses are transferable and such authority as a license confers shall be conferred only on the licensee named therein.
- B. Any applications made, fees paid, and licenses obtained under the provisions of this Chapter shall be in addition to and not in lieu of any other fees, permits, or licenses required to be paid or obtained under any other ordinances of this City.

(History: Ord. MP-2790 §27, 2008)

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5.50.570 Penalty.

Any person, firm, partnership, association or corporation convicted of violating any of the provisions of this Chapter shall be deemed guilty of a public offense and subject to the general penalty provisions of Section 1.12.010.

(History: Ord. MP-2790 §28, 2008)

5.50.580 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

(History: Ord. MP-2790 §29, 2008)

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Overland
Park

Chapter 1.12
GENERAL PENALTY¹

Sections:

1.12.010 Designated.

1.12.010 Designated.

Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of the ordinances of the city for which another penalty is not specifically provided is guilty of a public offense and punishable by a fine of not more than five hundred dollars or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person; and he shall be punished accordingly.

(History: Added during codification in accordance with K.S.A. 12-3015). (Ord. POC-625 34, 72)

1. For statutory provisions indicating that certain sections of K.S.A. 13-101 *et seq.* (mayor-council first class cities) are applicable to cities operating under the commission form, see K.S.A. 13-2904; for statutory provision authorizing a first class city to impose fines, forfeitures and penalties for violation of its ordinances, see K.S.A. 13-424.

[Next Page is 1-500]

ARTICLE 4. BATH HOUSES; MESSAGE ESTABLISHMENTS

5-401. DEFINITIONS. For the purpose of this article, the following words shall mean:

(a) Bath House. - The occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

(b) Body Painting Studios. - The occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.

(c) Employee. - Any person, other than masseurs or masseuses, who renders any service to a permittee under this article, who receives compensation from the permittee or patron.

(d) Establishment. - Any establishment having a place of business where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned herein for compensation.

(e) Massage. - Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(f) Massage therapist. - Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined. Any reference herein to "masseuse" or "masseur" shall mean and apply to a "massage therapist."

(g) Modeling studio. - The occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.

(h) Patron. - Any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this chapter and under such circumstances that it is reasonably expected that he or she will pay money to give any other consideration therefor.

(i) Recognized school. - Any school or institution of learning 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 seventy hours to be given in not more than three calendar 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.

(Ord. 856, Sec. 1; Ord. 598; Code 2008)

5-402. PERMIT REQUIRED. No person, firm, partnership, association or corporation shall operate a bath house, message establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit

from the governing body. A separate permit shall be required for each and every separate place of business conducted by any one permittee. Such permit shall be valid only from January 15 to January 14 of a calendar year. However, the fee may be prorated to the nearest month if an application is made after July 1 of any year.

(Ord. 856, Sec. 2; Code 2008)

- 5-403. **PERMIT FEES.** Every applicant for a permit to maintain or operate any such an establishment or to perform massage therapy services in any such establishment shall file an application with the Chief of Police on a form approved by the Chief of Police.

Each establishment shall pay an annual fee of \$50.00. Each individual massage therapist shall pay an annual fee of \$25.00. Any individual who operates an establishment and who also personally provides massage therapy shall only pay the \$50.00 establishments fee, and shall not have to pay an additional permit fee by virtue of also providing massage therapy services.

(Ord. 856, Sec. 3; Code 2008)

- 5-404. **APPLICATION.** The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than 10 percent of the stock of the corporation, any partner, when a partnership is involved, and any manager. (Ord. 598; Code 1993, 5-504)

- 5-405. **SAME; STOCKHOLDERS.** The applicant, employee, manager, partner and any stockholder holding more than ten percent of the stock of applicant corporation shall in addition furnish:

(a) Name, address, telephone number and written proof applicant is at least eighteen years of age.

(b) Two portrait photographs, at least two inches by two inches, and fingerprints.

(c) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.

(d) History of person or applicant in such business or businesses, 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 of occupation subsequent to such action of suspension or revocation.

(e) All criminal citations, arrests, or charges (except for minor traffic offenses), whether resulting in a dismissal, conviction, diversion, suspended imposition of sentence, or other resolution; the jurisdiction in which cited, arrested, or charged; and the offense for which a citation, arrest, or charge was made, as well as the circumstances surrounding any such incident.

(f) Authorization for the city to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(g) The position or function the applicant is to perform within such establishment.

(Ord. 856, Sec. 4; Ord. 598; Code 2008)

- 5-406. **EDUCATION REQUIREMENTS.** (a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the

practice of massage shall, upon making application for a permit, supply 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 300 hours of instruction in the theory, method, or practice of massage.

(b) Applicants for a masseur or masseuse permit may substitute one year's continuous experience as a masseur or masseuse 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 or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.
(Ord. 856, Sec. 5; Ord. 598; Code 2008)

5-407. IDENTIFICATION CARDS. All or any employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. All persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person, who by law may inspect same.
(Ord. 598; Code 1993, 5-507)

5-408. ISSUANCE OF PERMIT. After the filing of an application in the proper form, the governing body shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio or employee permit, unless:

- (a) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;
- (b) The operation fails to comply with state and local laws, including, but not limited to, the city's building, zoning and health regulations.
- (c) Any of the following have been convicted of any crime, including, but not limited to, any felony, misdemeanor, code violation, ordinance violation, or other violation of the laws of the United State or of any state or city of the United States where such conviction was for an offense involving force or threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude or where such conviction was for a violation of this ordinance or a substantially similar ordinance or enactment of any other jurisdiction, unless such conviction occurred at least five years prior to the date of the application:
 - (1) The applicant, if an individual;
 - (2) Any of the stockholders holding more than ten percent of the stock of the corporation;
 - (3) Any of the officers and directors, if the applicant is a corporation;
 - (4) Any of the partners, including limited partners, if the applicant is a partnership; and
 - (5) The manager or other person principally in charge of the operation of the business.
- (d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(e) The applicant has had a massage establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license, denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application.

(f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen years;

(g) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article; and

(h) In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study from a recognized school as required under the provisions of this article.

(Ord. 856, Sec. 5; Ord. 598; Code 2008)

5-409. PERMIT DISPLAYED. Any permit issued under the provisions of this article shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

(Ord. 598; Code 1993, 5-409)

5-410. REVOCATION OR SUSPENSION OF PERMIT. (a) Any permit issued for an employee or for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the governing body where it is found that any of the provisions of this article are violated.

(b) The governing body, before revoking or suspending any permit, shall give the permittee at least ten days written notice of the charges against him or her and the opportunity for a public hearing before the governing body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(Ord. 598; Code 1993, 5-510)

5-411. FACILITIES. No permit to conduct such establishment shall be issued unless an inspection by the city or its authorized representative reveals that the establishment complies with the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given, floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth or any area within any permitted establishment which is fitted with a door capable of being locked.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one

water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(d) Massage therapy may also be offered as a home occupation provided that all facilities are clean and safe, and all other ordinances of the City are complied with including, but not limited to, all City ordinances and requirements pertaining to home occupations.

(Ord. 856, Sec. 6; Ord. 598; Code 2008)

5-412. CERTIFICATION. The City or the City's authorized representative shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Nothing contained herein shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. (Ord. 856, Sec. 7; Ord. 598; Code 2008)

5-413. INSPECTIONS. The City or the City's authorized representative shall from time to time make an inspection of each permitted establishment in this city for the purposes of determining compliance with the provisions of this article. 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 immediate access to the premises or to hinder such officer in any manner. Any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.
(Ord. 856, Sec. 7; Ord. 598; Code 2008)

5-414. OPERATION REGULATIONS. The following regulations shall apply to any such establishment:

(a) Such business shall be closed to the public and operations shall cease between the hours of 12:00 a.m. and 6:00 a.m. each day.

(b) No service shall be given which is clearly dangerous or harmful in the opinion of the City or the City's authorized health or safety representative, and after such notice in writing to the licensee from such director.

(c) All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his or any of his employees which constitutes a violation of the provisions of this chapter. Any violation of the city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of the same.
(Ord. 856, Sec. 8; Code 2008)

5-415. SAME; EQUIPMENT; ATTIRE. (a) Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition.

- (b) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees, masseurs or masseuses chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.
 - (c) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.
 - (d) All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in approved, sanitary manner.
 - (e) 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.
- (Ord. 856, Sec. 9; Ord. 596; Code 2008)

5-416. **SUPERVISION.** A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open. The permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (Ord. 598; Code 1993, 5-516)

5-417. **EMPLOYEE REGISTERS.** All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employees name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department. (Ord. 596; Code 2008)

5-418. **MINORS PROHIBITED.** No person shall permit any person under the age of 18 years to come or remain on the premises of any permitted business establishment, as masseur, employee or patron, unless such person is on the premises on lawful business. (Ord. 598; Code 1993, 5-518)

5-419. **ADVERTISING.** No establishment granted a permit under provisions of this article 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 those services as described in section 5-401 or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-415 nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-401. (Ord. 598; Code 1993, 5-519)

5-420. **TRANSFER OF PERMITS.** (a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, and such authority as a permit confers shall be conferred only on the permittee named therein.

(b) Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any ordinances of this city.
(Ord. 598; 1993, 5-520)

5-421. EXCEPTIONS. The provisions of this article shall not apply to hospitals; nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in an such establishment. Nor shall this article apply to health care professionals, barbers, aestheticians, manicurists, cosmetologists, or other licensed professionals carrying out their particular profession or business and holding a valid, un-revoked license or certificate of registration issued by this state.
(Ord. 856, Sec. 10; Ord. 598, Code 2008)

5-422. The City or the City's authorized representative may make and enforce reasonable rules and regulations not in conflict with but to carry out the intent of this article. (Ord. 856, Sec. 11; Code 2008)

5-423. RESTRICTION TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises. However, bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patients home, residence or other designated place, or such permittee or employee may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location. All such services so rendered shall have received the prior approval of the City or its authorized representative.
(Ord. 598; Code 1993, 5-523; Code 2008)

CITY OF WESTWOOD, KANSAS
4700 RAINBOW BOULEVARD
WESTWOOD, KS 66205
913.362.1550

MASSAGE THERAPY PERMIT APPLICATION CHECK LIST

- ☐ Completed Massage Therapy Permit Application
- ☐ Application Fee:
 - \$25.00 fee for masseur/masseuse employee permit
 - \$50.00 fee for Owner/Manager permit
- ☐ If applying for masseur/masseuse permit – Diploma or Certificate of Graduation showing applicant has successfully completed not less than 300 hours of instruction in theory, method, or practice of massage
- ☐ Written proof applicant is at least 18 years of age (copy of Driver's License)
- ☐ Fingerprints taken by the Westwood Police Department
- ☐ A portrait photo will be taken at City Hall.

After you have submitted your application to City Hall:

All Massage Therapy Applications are reviewed and either approved or denied by City Council, which meets on the second Thursday of every month at 7:00 p.m.

If approved by the Westwood City Council a photo ID and Massage Therapy permit will be provided by Westwood City Hall. The photo ID must be in your possession at all times while working. The Massage Therapy permit must be displayed in an open and conspicuous place on premises where the permitted business is conducted

Your permit must be renewed January 15th of each year. If you have any questions about application or permit process, you may contact Abby Schneweis, Assistant City Clerk at abby.schneweis@westwoodks.org or 913.362.1550

CITY OF WESTWOOD, KANSAS
4700 RAINBOW BOULEVARD
WESTWOOD, KS 66205
913.362.1550

APPLICATION FOR PERMIT FOR MASSAGE THERAPY ESTABLISHMENT, HEALTH SPA, BATH
HOUSE OR MODELING STUDIO OR EMPLOYEE THEREOF

All questions on this application must be answered. Additional pages may be attached where necessary to provide complete answers. Failure to comply will result in disqualification. Return this application to Westwood City Hall.

1. Name: _____
First Middle Last Maiden (if applicable)
2. Present address: _____
3. Phone Number: Primary _____ Alternate _____
4. Weight: _____
5. Height: _____
6. Eye Color: _____
7. Hair Color: _____
8. Date of Birth: _____
9. Place of Birth: _____
10. SSN#: _____
11. Are you a citizen of the United States? YES ☐ NO ☐
If naturalized, give details (date of application, date of approval of citizenships, etc). Use separate sheet of paper if necessary.

12. Driver's License Number and State of Issuance: _____
13. List all charges for which you have been arrested (including traffic arrests). ALSO, give the DATES and DISPOSITION of the case(s). Use a separate sheet of paper if necessary.

14. Name and address of establishment where applicant will be employed:

15. Circle all titles that apply: Owner Manager Employee
16. Briefly explain the duties you will be performing: _____
17. List all business, occupations, or employment for the three (3) years immediately preceding the filing of this application. Include all periods of unemployment.

Employer	Address	Phone Number	Nature of Duties

18. Have you ever previously been issued an employee's license or permit to perform any services in a massage therapy establishment, health spa, bath house, modeling studio, or similar establishment? YES ☐ NO ☐

If Yes, where and when? _____

19. How long did you have such license or permit? _____

20. Was such license or permit ever suspended or revoked? YES ☐ NO ☐

21. If yes, please explain why and for how long:

22. Was such license or permit reinstated? YES ☐ NO ☐

Certification:

I hereby certify that there are no willful misrepresentations in, or falsifications of, the above statements and answers to questions. I am aware that, should an investigation disclose any misrepresentations or falsifications, I will be disqualified from obtaining an operator's/employee's permit. I understand that I will be fingerprinted, my prints will be kept on file with this application, and they may be submitted to the Kansas Bureau of Investigation for a criminal history check. I also authorize my former employers to give any information regarding my employment, together with any information they may have regarding me, whether or not it is on their records. I hereby release them and their company for any damage whatsoever for issuing same.

Signature of Applicant

Date

Witness

Date

FOR OFFICE USE ONLY	
Check #	Receipt #
Received:	Date:
Approved/Issued:	Date:

Police Dept. Report:

Signature of Officer

Date

DRAFT

Published in the Wichita Eagle April 29, 2016

CLEAN

ORDINANCE NO. 50-248
4/11/16

AN ORDINANCE CREATING NEW CHAPTER 3.55 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE LICENSING OF MASSAGE THERAPY BUSINESSES WITHIN THE CITY OF WICHITA AND REGULATING THE CONDUCT OF PARTICIPANTS THEREIN, AND REPEALING THE ORIGINAL OF CHAPTER 3.56.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

SECTION 1. Section 3.55.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this chapter, have the meaning indicated in this section:

- (1) “Accredited institution” means a post-secondary institution that is accredited by one of the Regional Agencies of the Higher Learning Commission or an institution recognized by the Kansas Board of Regents to provide vocational, technical or post-secondary education in the state of Kansas.
- (2) “Chief of Police” means the Chief of Police of the City of Wichita or a designated representative.
- (3) “City” means the City of Wichita, Kansas.
- (4) “Clean” means the absence of soil, dirt, and debris.

- (5) "Client" means any person who receives any service of a massage therapy business.
- (6) "Council" means the Wichita City Council.
- (7) "Crimes involving moral turpitude" includes charges of sale of sexual relations, prostitution, buying sexual relations, patronizing a prostitute, human trafficking, promoting prostitution, aggravated human trafficking, sodomy, soliciting for immoral purposes, public nudity, lewd and lascivious behavior, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, any crime set forth in Article 55 of Chapter 21 of the Kansas Statutes Annotated, possession, sale or distribution of any illegal drug or controlled substance or any other offenses similar to those listed herein that are contrary to the laws of any city, state or of the United States.
- (8) "Disinfect" means to use an EPA-registered product effective against Methicillin Resistant Staphylococcus aureus (MRSA) and Vancomycin Resistant Enterococcus faecalis or faecium (VRE) according to manufacturer's instructions.
- (9) "Employee" means any and all persons employed in any capacity by the operator of a massage therapy business, including independent contractors, who work in, at, or render any services to the patrons of a massage therapy business or who render any service directly related to the operation of a massage therapy business.
- (10) "EPA" means the United States Environmental Protection Agency.
- (11) "Health Officer" means the Director of Public Works of the City of Wichita or a designated representative.

- (12) “Laundered” means using either regular commercial laundering or a noncommercial laundering process in which the towels, robes, bandages, pads or other articles are washed on a hot water setting with detergent and at least one (1) cup of bleach or an antibacterial agent used in accordance with product label instructions in a clothes washer and dried on a high heat setting in a dryer; or a noncommercial laundering process in which the towels, robes, linens, or other articles are immersed in water with a temperature of at least 140 degrees Fahrenheit for at least 15 minutes during the washing or rinsing operation.
- (13) “License” means the license issued by the City to operate a massage therapy business.
- (14) “Massage therapist” means any person who administers massage therapy, except as exempted in Section 3.55.020.
- (15) “Massage therapist school” means an approved massage therapy education program that meets the criteria established in this Chapter, and any amendments thereto, and is both authorized in the jurisdiction in which it is located and that reflects a curriculum acceptable to an accrediting body recognized by the United States Department of Education. Education received outside of the United States must be substantially equivalent to the criteria of this Chapter and must be recognized by the jurisdiction in which it is located.
- (16) “Massage therapy” or “massage” means care and services provided in a system of therapeutic, structured touch, palpation or movement of the skin, muscle, tendons, fascia and the lymphatic system of another person’s body in order to enhance or restore the general health and well-being of the recipient. Such a

system includes, but is not limited to techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction, vibration, compression; stretching within the normal anatomical range of movement; hydrotherapy; or such techniques which may be applied with or without the aid of lubricants, salt or herbal preparations, water, hot and cold application or a massage device that mimics or enhances the actions possible by human hands.

Massage therapy shall not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required, and does not include the laying on of hands performed within the context of religious or spiritual beliefs.

- (17) "Massage therapy business" means any business offering or providing massage therapy for consideration except as exempted in Section 3.55.020; and whether at a fixed place of business or at a location designated by the customer or client through outcall massage services. The term "massage therapy business" includes a massage therapist who is the sole owner, operator and employee of a massage therapy business operating as a sole proprietorship.
- (18) "Offer" includes any form of communication, by any medium.
- (19) "Official transcript" means a document certified by a school on a form approved and prescribed by the United States Department of Education or other regulating authority, indicating the hours and types of coursework, examinations and scores that were completed by the student.

- (20) "Operator" means the person to whom a massage therapy business license is issued.
- (21) "Outcall massage" means the engaging in or carrying on of massage therapy for compensation in a location other than the business operations address set forth in the massage establishment's massage therapy business license.
- (22) "Permit" means the permit issued by the City to a massage therapist.
- (23) "Person" means any individual, corporation, partnership, association, firm, joint venture, company or other state franchised business entity such as a professional association, limited liability company, limited liability partnership or other organization of any kind.
- (24) "Sole proprietorship" means and includes any legal form of business organization where the business owner (sometimes referred to as the "sole proprietor") is the only person employed by that business to provide massage services."

SECTION 2. Section 3.55.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Exceptions.**

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

- (1) Persons holding an unrevoked license or certificate to practice any of the healing arts under the laws of the state of Kansas; persons licensed under the laws of this state to practice any of the following: podiatry, as a physical therapist, as a professional nurse or as a practical nurse while such persons are engaged in their licensed practice; and all persons working under the supervision and control of such licensed persons while engaged in their licensed practice;

- (2) any medical care facility as defined and licensed under the laws of this state applicable to such medical care facility or persons employed thereby, while engaged in their usual duties for such medical care facility;
- (3) any adult care home as defined and licensed under the laws of this state applicable to such adult care home or persons employed thereby, while engaged in their usual duties for such adult care home;
- (4) any person engaged in barbering or in the practice of cosmetology or apprentice while carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued under the laws of this state applicable to such barbering or cosmetology practice;
- (5) employees of schools supported primarily by taxation, of schools exempt from payment of property taxes, and of "proprietary schools," approved by the Kansas Board of Regents while engaged in their usual duties for the school;
- (6) any person providing massage therapy to a person related to them by blood or marriage when there is no charge for such massage therapy;
- (7) massage therapy students enrolled in a proprietary school approved by the Kansas Board of Regents while under the direct supervision of a licensed massage therapist; or
- (8) A trainer of any duly constituted athletic team while in the normal course of his or her duties."

SECTION 3. Section 3.55.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"License required.**

It is unlawful for any person to operate a massage therapy business without a valid license as required by this chapter.”

SECTION 4. Section 3.55.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Application for license.**

- (a) Any person desiring to obtain a license to operate a massage therapy business shall make written application to the City Treasurer’s office.
- (b) The application shall be verified and accompanied by the license fee.
- (c) All applicants shall provide the following information under oath:
 - (1) The full true name and any other aliases used by the applicant;
 - (2) If the applicant is an individual, the name, date of birth, race, sex, address, telephone number and email address of the proposed licensee;
 - (3) The name, address and telephone number of the business and type of business organization (individual, partnership, corporation or limited liability company). If the business is a partnership, corporation or limited liability company, the same information required of an individual applicant in Subsections (2), (8), (9) and (10) is required of all partners, officers, directors, managers, members or persons owning more than 5% of the common or preferred stock of the business;
 - (4) The proposed address and name or names of the premises upon which the massage therapy business for which a license is sought will be located and any name under which the applicant plans to conduct business (“dba” name);

- (5) The hours that the massage therapy business service will be open to the public, including such times that the door or doors providing entry to the massage therapy business may be locked as allowed in Subsection 3.55.170(e) and amendments thereto;
- (6) The name of the owner of the premises upon which the message therapy business is to be located;
- (7) A Certificate of Good Standing from Kansas, or other state of incorporation or registration, if the applicant is a corporation, partnership or limited liability company;
- (8) A statement that the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business has not within five (5) years preceding the date of application been convicted of, or on diversion or deferred judgment for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (9) A statement that the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business is currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (10) A statement as to whether the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business is a registered sex offender;

- (11) Information as to whether such individual or business has ever been refused any similar license or permit, or has had any similar license or permit issued to such individual or business in Wichita or elsewhere revoked or suspended, and the reason thereof; and
- (12) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying and will comply with them.”

SECTION 5. Section 3.55.050 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Standards for issuance of license.**

- (a) To receive a license to operate a massage therapy business, all applicants must meet the following standards:
 - (1) The required fees must be paid;
 - (2) The application must be complete and provide all information required by Section 3.55.040;
 - (3) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;
 - (4) The applicant must be at least eighteen years of age;
 - (5) The applicant must not, within five years immediately preceding the date of the filing of the application, have been convicted in any jurisdiction of a felony or crime involving moral turpitude as defined in this chapter. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest;

- (6) The applicant must not be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
 - (7) The applicant must not be a registered sex offender with any federal, state or local government;
 - (8) The applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five years immediately preceding the date of the filing of the application; and
 - (9) The operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws, including compliance with Article IV.E of the Wichita-Sedgwick County Unified Zoning Code when located in a residence. Additionally, any business operating out of a residence shall obtain a Home Occupation License as required by Chapter 3.96 of the City Code.
- (b) If the applicant is a partnership, corporation, limited liability company or other type of organization where two or more persons have a financial interest the following standards must be met:
- (1) All persons having financial interest in the partnership, corporation or other type of organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent (5%) of the stock of a corporation;

- (2) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall, in any jurisdiction, have been convicted of, pled no contest to, or participated in a diversion or deferred judgment program, after having been charged with a felony or any crime involving moral turpitude as defined in Section 3.55.010(7) within the immediate five years preceding the date of the application;
- (3) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7); and
- (4) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall be a registered sex offender with any federal, state or local government.”

SECTION 6. Section 3.55.060 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Permit required, exception.**

It is unlawful for any individual person to practice massage therapy without a valid massage therapist permit as required by this chapter. Provided, however, permits are not required for students enrolled in a massage therapy program at an accredited institution during the time such student is completing a clinical requirement for graduation and is practicing massage therapy while under the direct supervision of a massage therapist who holds a valid permit under this chapter. Direct supervision requires the presence of the massage therapist

holding a permit under this chapter to be on the same premises as the student providing massage therapy services.”

SECTION 7. Section 3.55.070 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Application for permit.**

(a) Any person desiring to secure a permit to practice massage therapy shall make written application to the City Treasurer on a form provided for that purpose. The application shall be accompanied by the required licensee fee and shall provide the following information:

- (1) The applicant’s full name, address, date of birth, any other used aliases, gender, present and previous employment for the past five years and current phone number and current email address, if available;
- (2) The applicant’s city, state and country of residence for the five years immediately preceding the date of the application;
- (3) A statement that the applicant is a citizen or lawful resident of the United States and is not less than eighteen years of age;
- (4) A statement that the applicant has not been convicted of a felony or any crime involving moral turpitude as defined in Section 3.55.010(7) within five years immediately preceding the date of the application. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest;

- (5) A statement that the applicant is not currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (6) A statement that the applicant is not a registered sex offender with any federal, state or local government;
- (7) Proof of any education, training and experience the applicant may have had qualifying applicant to administer the service of a massage therapist as required by Section 3.55.080(5) or, if applicable, Section 3.55.085(2) of this Code;
- (8) Information as to any prior permit or license allowing the practice of massage therapy issued to the applicant within the past five years.
Specifically, the applicant shall provide information as to the type of license, the issuing agency or jurisdiction, the address and phone number of the issuing agency or jurisdiction, the time period covered by the prior license and whether any such license issued to applicant in any jurisdiction was ever revoked or suspended and the reason or reasons for such revocation or suspension; and
- (9) Information as to whether applicant has ever been refused or denied any permit or license allowing the practice of massage therapy within the past five years and the specific date of such refusal or denial, the jurisdiction where such refusal or denial occurred, the address and phone number of the agency denying or refusing such license or permit and reason for such refusal or denial.”

SECTION 8. Section 3.55.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Standards for issuance of permit.**

To receive a permit to provide services as a massage therapist an applicant must meet the following standards:

- (1) The applicant must be at least eighteen years of age and a lawful citizen or resident of the United States.
- (2) The applicant must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five years immediately preceding the date of application. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest.
- (3) The applicant must not be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (4) The applicant must not be a registered sex offender with any federal, state or local government.
- (5) The applicant must provide one of the following:
 - (a) Proof the applicant has sat for and passed the Massage and Bodywork Licensure exam (MBLEx); or
 - (b) Proof the applicant has sat for and passed the National Certificate of Therapeutic Massage and Bodywork exam (NCTMB) prior to February 1, 2015; or

- (c) An official transcript showing the applicant has successfully completed a minimum of five hundred (500) instructor taught classroom hours within a recognized massage therapist school; or
 - (d) Proof of one hundred fifty (150) hours of education from an accredited institution, at least twelve (12) hours of continuing education units in the last five (5) years, and membership in a nationally recognized massage therapy association.
- (6) The applicant must not have had a similar type of permit or license suspended or revoked in any jurisdiction within five years immediately preceding the date of the filing of the application.”

SECTION 9. Section 3.55.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Licensing of Existing Massage Practitioners.**

For a period of one (1) year after the effective date of this Chapter, an applicant may obtain a renewable permit to provide services as a massage therapist by meeting the following standards:

- (1) The applicant must meet the requirements contained in Subsection (1), (2), (3), (4) and (6) of Section 3.55.080, and amendments thereto; and
- (2) The applicant meets one of the following requirements:
 - (a) The applicant has completed a minimum of five hundred (500) hours of instruction relating to massage therapy at a massage school or comparable legal authority in another state verified by affidavit; or
 - (b) The applicant has completed at least three hundred (300) hours of training in massage therapy during the past three (3) years; or

- (c) The applicant has practiced for at least ten (10) hours per week for five (5) years verified by affidavit and at least one additional form of documentation including, but not limited to tax returns, gross tax receipts, business advertising literature or monthly client receipts; or
- (d) The applicant has successfully passed a nationally recognized certification examination provided by the National Certification Board for Therapeutic Massage and Bodywork.”

SECTION 10. Section 3.55.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Fees.**

- (a) For every massage therapy business there shall be a two (2) year license fee of two hundred (\$200). This fee shall accompany all initial and renewal license applications and no license shall be issued until the fee is paid in full.
- (b) For every massage therapist permit there shall be a two (2) year permit fee of seventy-five dollars (\$75). This fee shall accompany all initial and renewal applications for a permit and no permit shall be issued until the fee is paid in full.
- (c) There shall be a fee of five dollars (\$5.00) for replacement of the identification card required in Section 3.55.110.
- (d) All fees set forth in this section are non-refundable and no fees shall be pro-rated.”

SECTION 11. Section 3.55.100 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Display of license – massage therapy business.**

The license issued pursuant to the requirements of this chapter shall be displayed in a conspicuous public place within the premises licensed as a massage therapy business. Failure to

display such license shall be deemed a violation of this chapter and punishable as set forth in Section 3.55.220.”

SECTION 12. Section 3.55.110 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Display of permits and identification cards – massage therapist.**

All massage therapists holding a permit under the provisions of this chapter shall, at all times when working in a massage therapy business or providing any service regulated by this chapter, have in their possession a valid identification card issued by the City and bearing the massage therapist’s permit number and photograph. Such identification card shall be laminated to prevent alteration. All persons granted permits under this chapter shall at all times keep their permits available for inspection upon request by any law enforcement officer, Health Officer, or designated representative thereof. It is unlawful for any permit holder to engage in any activity within the purview of this chapter without having such permit in his or her possession and failure to do so shall be punishable as set forth in Section 3.55.220.”

SECTION 13. Section 3.55.120 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Duration of license or permit, renewal thereof.**

A license to operate a massage therapy business and a permit to perform services as a massage therapist issued pursuant to the provisions of this chapter are both valid for a term of two years. Such license and permits must be renewed to continue operation of a massage therapy business or before performing services as a massage therapist in the following year. Application for renewal must be made not later than thirty days prior to the date of expiration of the license.”

SECTION 14. Section 3.55.130 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Suspension or revocation of license or permit, notice.**

- (a) A license or permit issued pursuant to this chapter may be suspended for up to thirty (30) days by the Health Officer or the Chief of Police. Any suspension shall be upon five (5) days' written notice of the permit holder or licensee, or if the licensee is a corporation or other business entity, any of its officers, directors, partners, associates, managers, persons owning more than five percent of a corporation's stock or any employee thereof has:
- (1) failed to provide complete information as requested on any application or if any data is not updated as required by this chapter; or
 - (2) failed to pay the license fee; or
 - (3) violated any provision of this chapter or any other ordinance, rule or regulation by the City Council of the City of Wichita which is not specified in subsection (b) below as grounds for revocation of a license or permit; or
 - (4) has aided or abetted the commission of, or knowingly allowed or encouraged any act which is a violation of this chapter which is not specified in subsection (b) below as grounds for revocation of a license or permit; or
 - (5) A license or permit issued under this chapter may be suspended if the premises are in violation of the sanitary requirements set forth in Section 3.55.150 of this chapter, or are in violation of the health, fire, zoning or building codes of the City of Wichita, or the State of Kansas.
- (b) A license or permit issued pursuant to this chapter may be revoked by the Health Officer or the Chief of Police. Any revocation shall be upon five (5) days' written

notice of the licensee or permit holder, or if the licensee is a corporation or other business entity, any of its officers, directors, partners, associates, managers, persons owning more than five percent of a corporation's stock or any employee thereof:

- (1) has knowingly made any false statement or given any false information in connection with an application for a permit or license or a renewal of a permit or license; or
 - (2) has been convicted of, or is under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7) or any act which would be grounds for denial of an application for a permit or license, or otherwise becomes ineligible for a license or permit; or
 - (3) has failed to allow the entry upon and inspection of the premises as required by Section 3.55.160 of this chapter; or
 - (4) A license or permit issued under this chapter may be revoked upon the commission by the licensee or permit holder of four or more offenses as set forth in subsection (a) above within a two (2) year period. For the purposes of this provision, it is irrelevant whether an offense occurred before or after suspension for a previous offense or whether the offense or offenses occurred on or upon the same licensed premises.
- (c) For the purposes of this section, 'conviction' shall include being placed on diversion or deferred judgment or being adjudged guilty upon entering a plea of no contest, and the filing of charges or a conviction in a court of law is not

required to establish that a licensee or permit holder has violated any provision of this chapter or any other ordinance, rule or regulation by the City Council of the City of Wichita. A certified copy of conviction from any local or state court is prima facie evidence of a violation.

- (d) For the purposes of subsections (a) and (b) of this section, the Health Officer or the Chief of Police shall provide written notice of the intent to revoke, suspend or deny a massage therapy business license or a massage therapist permit by personal service or by certified mail, return receipt requested. The notice shall be sent to the mailing address of the licensee on file with the City Treasurer. The notice shall provide the effective date of the revocation or suspension of the license or permit. Such notice shall detail the reasons or basis for the suspension or revocation of the license or permit and shall specify the rights of the licensee to appeal any such revocation or suspension.”

SECTION 15. Section 3.55.140 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Appeal Procedure.**

- (a) Any applicant, licensee or permit holder aggrieved by the denial, suspension or revocation of a massage therapy business license or a massage therapist permit may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Health Officer or Chief of Police or his or her designee. The Notice of Appeal shall specify:
 - (1) the name and address of the appellant;
 - (2) the date of application;

- (3) the date of the denial, suspension or revocation of the license, permit or application; and
- (4) the factual basis for the appeal.
- (b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license or permit until the matter is heard by the City Council.
- (c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension, or revocation or modify the decision of the Health Officer or the Chief of Police.
- (d) In any hearing before the City Council pursuant to this section, a certified copy of a conviction from any local, state, or federal court for any violation, is prima facie evidence of such violation.
- (e) The City Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, suspension or revocation of the license, or any modification imposed thereupon by the City Council."

SECTION 16. Section 3.55.150 of the Code of the City of Wichita, Kansas is hereby created to read as follows: **"Sanitary requirements.**

All massage therapy business facilities and equipment must comply strictly with the following sanitary conditions:

- (a) All surfaces of floors, walls, and ceilings and all equipment used in massage therapy must be capable of being cleaned easily.
- (b) All surfaces subject to dermal contact used in the treatment of clients must be completely cleaned and disinfected after every use or covered with a fresh, sanitary, disposable liner or cover or with a cloth sheet or cover that has not been previously used for a different client since laundering.
- (c) Towels, robes, bandages, pads, paper, or other articles that come into contact with any part of the client's body must be laundered, cleaned and disinfected, or disposed of after each use and before being used by a different client.
- (d) Covers, liners, or sheets designated in subsection (c) of this section must be stored prior to use in a sanitary dustproof environment.
- (e) Lavatory and toilet facilities must be provided, along with adequate and convenient hand-washing facilities, including hot and cold running water, soap and towels, which are accessible to employees.
- (f) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation.

Bathtubs shall be thoroughly cleaned and disinfected after each use."

SECTION 17. Section 3.55.160 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Inspection of premises; immediate right of entry.**

The premises of a massage therapy business shall be open to inspection by any Health, Fire, Zoning, and License and Building code enforcement personnel of the City of Wichita, as well as Wichita Police Officers or personnel from other law enforcement agencies during any hours in which any person is present thereon. Such inspections shall be for the purposes of

determining compliance with the provisions of this chapter. Failure by any person to allow any code enforcement inspector or law enforcement official immediate access to the premises or to hinder such inspector or officer in any manner shall be grounds for revocation or suspension of any massage therapy business license and/or employee permit.”

SECTION 18. Section 3.55.170 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Operating requirements - massage therapy business.**

- (a) Written receipts to clients available. A massage therapy business shall make available upon request by a patron a written receipt of payment for massage therapy services. The receipt shall clearly state the type of services performed and the total amount of money such services cost the client.
- (b) Employee registers required. The owner, operator, supervising employee or anyone in control of a massage therapy business shall maintain a daily register/time sheet for all employees of the massage therapy business on a form approved by the Chief of Police and shall contain the identifying information for all employees, including the name, address, birth date, gender and duties of each employee, the hours of employment on a daily basis of each employee, and such other information as may be required by the Health Officer or Chief of Police. The daily register required in this subsection shall be kept on file upon the same premises as the licensed business for a period of one year, and shall be kept for all persons deemed “employees” as that term is defined in Section 3.55.010(9) and amendments thereto.

- (c) The owner, operator, supervising employee or anyone in control of a massage therapy business shall maintain a copy of the massage therapist permit for all employees who are required to be licensed by this chapter.
- (d) Hours of operation. A licensed massage therapy business shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.
- (e) The door or doors providing entry to a massage therapy business by the public shall remain unlocked during business hours when the establishment is open for business or when clients are present. Provided, however, if a massage therapy business is operating as a sole proprietorship and does not have staff available to assure security and safety for clients and massage staff behind closed doors, the door or doors providing entry area to the massage therapy business may be locked during business hours.
- (f) Conduct of premises. All licensees licensed under the provisions of this chapter shall at all times be responsible for the conduct of all employees, independent contractor massage therapists and the employees of an independent contractor massage therapist while on the licensed premises and for any act or omission constituting a violation of the provisions of this chapter. Any violation of city, state or federal laws committed on the licensed premises by such licensee, employee, independent contractor massage therapist or the employee of an independent contractor massage therapist affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of the same.

- (g) Supervision of licensed premises. A licensee shall have the premises supervised at all times when open for business. The licensee, the licensee's resident agent if a corporation, or a person employed and permitted as a massage therapist shall be personally upon the premises and supervising the business at all such times and shall not violate or permit others to violate any applicable provision of this chapter. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee.

SECTION 19. Section 3.55.180 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Prohibited acts.**

It shall be unlawful and punishable as set forth in Section 3.55.220 for any operator, agent or employee of an operator, massage therapist, independent contractor massage therapist, or employee of an independent contractor massage therapist to commit any of the following acts:

- (a) permit to be performed, offer to perform or perform with any client any sexual act prohibited by state statute or city ordinance; including sale of sexual relations; or
- (b) permit to be performed, offer to perform or perform with any client an act of sexual intercourse, oral-genital contact, anal copulation, the touching of the sexual organs, pubic region, female breast of a person, or manual or other contact stimulation of the genitalia for the purpose of arousing or gratifying the sexual desires of the operator, agent, employee, massage therapist or client; or
- (c) expose while administering massage therapy for compensation the human male or female genitals, anus, anal cleft or cleavage; the female breast below a horizontal line across the top of the areola at its highest point, which includes the entire lower portion of the human female breast, but does not include any portion of the

cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part; or covered male genitals in a discernibly turgid state; or

- (d) while in the presence of any person, or while administering or receiving massage therapy fail to cover with a fully opaque covering the human male or female genitals, anus, anal cleft or cleavage; the female breast below a horizontal line across the top of the areola at its highest point, which includes the entire lower portion of the human female breast, but does not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part; or
- (e) for any person who owns, rents, leases, operates or manages a massage business to cause, allow, or permit in or about said massage business, any person to engage in the acts prohibited in this section.”

SECTION 20. Section 3.55.190 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Persons under age 18 prohibited services.**

No licensee or permit holder shall perform or permit any massage therapy to be provided to a person under the age of 18 years, provided a person under the age of 18 years may utilize or receive massage therapy from a massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.”

SECTION 21. Section 3.55.200 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Transfer of license or permit.**

No massage therapy business license or massage therapist permit is transferable or assignable and such authority as a license or permit confers shall be conferred only on the licensee or permit holder and the location named therein. Additionally, if a massage therapy business or the business entity that holds the license of such a business changes either the name of the business entity or the name under which the entity is doing business ("dba" name), the existing license shall not transfer and a new license shall be required to continue to conduct a massage therapy business."

SECTION 22. Section 3.55.210 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Applicability to existing businesses and providers of massage therapy.**

- (a) The provisions of this chapter shall be applicable to all existing massage therapy establishments or businesses currently participating in the activities described and regulated by this chapter, regardless of when established. All existing massage therapy businesses at the time of the passage of the ordinance codified in this chapter must submit an application for a license within 120 days of the effective date thereof.
- (b) The provisions of this chapter shall also apply to all persons who are currently engaged in the provision of massage therapy or are participating in the provision of activities described and regulated by this chapter. Such persons must submit an application for a massage therapist permit within 120 days of the effective date of the ordinance codified in this chapter."

SECTION 23. Section 3.55.220 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Penalties.**

Any person who violates any of the provisions of this chapter within the corporate limits of the City of Wichita shall be deemed guilty of a misdemeanor and upon conviction hereof shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment for not more than one (1) year or by both such fine and imprisonment, however, upon a conviction of an offense related to the conduct of a massage business, the court shall impose a mandatory minimum fine of no less than two hundred fifty dollars (\$250). Upon a conviction of an offense relating to the conduct of an individual massage therapist, the court shall impose a mandatory minimum fine of no less than one hundred dollars (\$100)."

SECTION 24. Section 3.55.230 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Invalidity of part.**

Should the court declare any section, clause or provision of this chapter to be unconstitutional such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter."

SECTION 25. Section 3.55.240 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Injunctive relief or civil remedies.**

In addition to any other legal remedy provided in this ordinance, the operation of a massage therapy business without a license or the violation of this chapter is deemed a public nuisance and may be enjoined by the City."

SECTION 26. The original of Chapter 3.56 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 27. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of April,
2016.

Jeff Longwell, Mayor

Attest:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magaña, City Attorney and
Director of Law