

ORDINANCE NO. 9305

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AMENDING CHAPTER VI, ARTICLE 1, SECTION 6-108.2, CHAPTER VI, ARTICLE 2, SECTION 6-201 AND SECTION 6-210, AND ENACTING CHAPTER VI, ARTICLE 20, OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2015 EDITION, AND AMENDMENTS THERETO, PERTAINING TO THE LICENSING AND REGULATION OF MASSAGE THERAPY BUSINESSES WITHIN THE CITY OF LAWRENCE, KANSAS.

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

SECTION 1: Chapter VI, Article 1, Section 6-108.2 of the Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, is hereby amended to read as follows:

6-108.2	<u>MESSAGE THERAPY</u>			
	<u>Massage Therapy License</u>	<u>\$75</u>	<u>2 year</u>	
	<u>Massage Therapy License Renewal</u>	<u>\$50</u>		<u>2-years after date of issue</u>
	<u>Massage Therapy Business Registration</u>	<u>\$75</u>	<u>one-time</u>	
	<u>Replacement ID Card</u>	<u>\$15</u>	<u>Lost or stolen</u>	

SECTION 2: Chapter VI, Article 2, Section 6-201 of the Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, is hereby amended to read as follows:

6-201

DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the following meanings, except where the context clearly indicates:

- (A) Bathhouse means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated by a medical practitioner or professional physical therapist, licensed by the state.
- (B) Display publicly describes the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others, or from any portion of the person's store or property where items and material other than sexually oriented media are offered for sale or rent to the public.

- (C) Explicit sexual material means any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or anthropological significance shall not be deemed to be within the foregoing definition.
- (D) Gross public floor area means the total area of the building accessible or visible to the public, including showrooms, motion picture theatres, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.
- (E) ~~Massage shop means an establishment which has a fixed place of business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of, external parts of the human body with the hands or with the aid of any mechanical, electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity, provided that this term shall not include any establishment operated by a medical practitioner, professional physical therapist licensed by the State of Kansas, or a certified massage therapist.~~
- (E) Media means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything which is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.
- (F) Media store means a retail outlet offering media for sale or rent for consumption or enjoyment off the premises, provided that any outlet in which sexually oriented media constitute more than 40 percent (40%) of the stock in trade and/or occupy more than 40 percent (40%) of the gross public floor area shall be considered an "sexually oriented media store."
- (G) Modeling studio means an establishment or business which provides the services of modeling for the purposes of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise.
- (H) Motion picture arcade booth means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting motion-pictures or viewing publications

by any photographic, electronic, magnetic, digital or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines or periodicals) for observation by patrons therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth”.

- (I) Operator means any person operating, conducting or maintaining a sexually oriented business.
- (J) Primary live entertainment means that entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.
- (K) Sadomasochistic practices mean flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.
- (L) Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:
 - (1) It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its gross public floor area;
 - (2) More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or
 - (3) More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.
- (M) Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theatre; motion picture arcade; bathhouse;; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances. For purposes of this ordinance, “sexually oriented business” shall also include sexually oriented bookstores, sexually oriented media stores and sexually oriented video stores.
- (N) Sexually oriented cabaret means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the “primary live entertainment” is distinguished or characterized by an emphasis on exhibiting “specific sexual activities” or “specified anatomical areas” for observation by patrons therein.

- (O) Sexually oriented media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (separately defined).
- (P) Sexually oriented media store means an establishment that rents and/or sells media and that meets any of the following tests:
- (1) More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
 - (2) More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
 - (3) It advertises or holds itself out in any forum as “XXX,” “sexually oriented,” “sex” or otherwise as a sexually oriented business other than a sexually oriented media store, sexually oriented motion picture theatre or sexually oriented cabaret.
- (Q) Sexually oriented motion picture theater means an establishment or business which regularly and predominately features films, tapes or motion pictures to an audience which are rated NC-17 by the Motion Picture Association of America (MPAA) and contain sexually oriented material.
- (R) Sexually oriented toys or novelties mean instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
- (S) Specified anatomical areas mean and include: (1) less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (T) Specified sexual activities mean and include human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (U) Video store is defined here as an exclusive term, identifying a category of business that may include sexually oriented material but that is not regulated under the provisions of this ordinance. In that context, *video store* means a retail outlet offering video cassettes, disks or other video recordings for sale or rent, provided that any outlet in which sexually oriented media constitute more than 40 percent (40%) of the stock in trade and/or occupy more than 40 percent (40%) of the gross public floor area shall be considered an “sexually oriented media outlet.” See special conditions in applicable zoning districts for video stores in which sexually

oriented media constitute more than 10 percent but less than 40 percent of the stock in trade or occupy more than 10 percent but less than 40 percent of the gross public floor area.

SECTION 3: Chapter VI, Article 2, Section 6-210 of the Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, is hereby amended to read as follows:

6-210 **PROHIBITIONS.**

No person shall operate or maintain a ~~massage shop~~, modeling studio, sexually oriented motion picture theater or motion picture arcade booth within the City

SECTION 4: The Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, is hereby amended by enacting Chapter VI, Article 20, which reads as follows:

6-2001 **PURPOSE.**

The practice of Massage Therapy, as defined herein, is a valued profession in which only those persons who are qualified and licensed may be permitted to professionally engage. The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate various activities, including those related to the practice of massage.

6-2002 **DEFINITIONS.**

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:

- (A) **City Clerk** shall, for purposes of this Article, mean the City Clerk, the interim City Clerk, anyone fulfilling duties of the City Clerk on either a temporary or permanent basis, or any designee of the City Clerk.
- (B) **City Code Enforcement** shall, for purposes of this Article, mean the City's Code Enforcement Division, as well as a Code Enforcement Officer, anyone fulfilling the duties of a Code Enforcement Officer on either a temporary or permanent basis, or any designee of the City Manager, the Director of the Department of Planning and Development Services, or the Code Enforcement Officer.
- (C) **Massage Therapist License** shall, for purposes of this Article, mean a certificate granting permission for an individual to work as a Massage Therapist within the City of Lawrence.
- (D) **Massage or Massage Therapy** shall, for the purposes of this Article, mean the mobilization of the soft tissue which may include skin, fascia, tendons, ligaments, and muscles, for the purpose of establishing or restoring the general health or well-being of the client, under such circumstances in which it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity. The term shall include, but is not limited to, effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold application, topical applications, or other therapy which involves

movement by either hand, forearm, elbow, or foot, for the purpose of therapeutic massage. Massage Therapy as defined herein does not include use of procedures for which a license is required to practice medicine, physical therapy, podiatry, or chiropractic medicine.

- (E) **Massage Therapist** shall, for the purposes of this Article, mean any person who, for any consideration whatsoever, engages in the practice of massage therapy as herein defined.
- (F) **Massage Therapy Business** shall, for the purposes of this Article, mean any in-office establishment where any person engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in Subsection (E) of this Section, or represents to others as providing such activities.
- (G) **Minor Traffic Violation** shall, for the purposes of this Article, mean any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.
- (H) **Parking Violation** shall, for the purposes of this Article, mean any violation classified as an ordinance parking violation pursuant to Article 17 of the Code of the City of Lawrence, Kansas or any other similar violation under the laws of another municipality.
- (I) **Client** shall, for the purposes of this Article, mean any person who utilizes or receives the services of any establishment or person subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration or gratuity.

6-2003

MESSAGE THERAPY BUSINESS REGISTRATION REQUIRED.

- (A) No person, corporation, association, or other entity, however organized, shall operate a Massage Therapy Business, as defined herein, or represent itself as a Massage Therapy Business, within the City limits without first registering his, her, or its Massage Therapy Business with the City Clerk. A separate registration is required for each business location.

6-2004

MESSAGE THERAPIST LICENSE REQUIRED.

- (A) No person shall work as a Massage Therapist, as herein defined, within the City limits without first obtaining from the City Clerk a Massage Therapist License.
- (B) No person, corporation, association, or other entity, however organized, shall employ a Massage Therapist, as herein defined, at a Massage Therapy Business, as defined herein, within City limits if such applicant for employment has not first obtained from the City Clerk a Massage Therapist License.

- (C) It is unlawful to work as a Massage Therapist in the City after such person's License has been revoked by the City.

6-2005

FEEES FOR MASSAGE THERAPY BUSINESS REGISTRATION; MASSAGE THERAPIST LICENSE.

- (A) The fee for registering a Massage Therapy Business with the City Clerk shall be \$75.00 per business location, and shall only be renewed once unless the provisions of Secton 6-2006(2) apply. The fee shall not be pro-rated or refunded for any reason.
- (B) The fee for a Massage Therapist License shall be \$75.00 per person, and shall be valid for two years from the date of issue. The fee shall not be pro-rated or refunded for any reason, including denial of an application, revocation of a License, or loss or destruction of the License.

6-2006

MASSAGE THERAPY BUSINESS REGISTRATION REQUIRED.

- (1) Any person, principal, or registered agent of an entity, desiring to operate a Massage Therapy Business within the City of Lawrence must register such Business with the City Clerk before operating. In addition to paying the Massage Therapy Business Registration fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information:
 - (A) The applicant's full legal name, along with any nicknames or aliases.
 - (B) The applicant's mailing address, telephone number, and email address(es), if any. If the applicant is not a natural person, the mailing address, telephone number, and email address(es) of the applicant and any person named as principal or registered agent.
 - (C) A copy of the applicant's government-issued identification, showing that the applicant is at least 18 years of age, such as a state-issued driver's license.
 - (D) The exact nature of the services to be provided, the proposed place of business and facilities therefor, business name, business mailing address, telephone number, and e-mail address of the business, if any.
 - (E) A list of all jurisdictions in which the applicant currently holds a license or registration for Massage Therapy, and all jurisdictions in which the applicant has held a license or registration for Massage Therapy within the previous three (3) years.
 - (F) The business, occupation, or employment of the applicant for the three years immediately preceding the date of the registration application.

- (G) A statement indicating whether or not the applicant has ever been convicted, under the laws of the State of Kansas or any other jurisdiction, of a crime, except that minor traffic infractions and parking violations shall not be required to be disclosed.
 - (H) A statement indicating whether or not the applicant has had a license related to Massage Therapy revoked by the City or another jurisdiction within the preceding two (2) years and the reason for the revocation.
 - (I) A copy of the business's current professional massage therapy liability insurance policy, indicating minimum coverage in the amount of \$100,000 per occurrence, and any other liability insurance policy required by state law.
 - (J) The applicant's signature and the date of the application.
 - (K) 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, including authorization for the City to conduct a background check.
- (2) Applicants for registration shall only be required to register once, provided however, that if any of the applicant's information required for initial registration changes or needs updating at any time after initial registration, the applicant must immediately provide the new information to the City Clerk, who may require that the registrant re-register.
 - (3) The City Clerk shall, during review of each application for registration, determine whether the business complies with zoning regulations. Non-compliance with zoning regulations shall be grounds for the application's denial.
 - (4) In the case of registrants who intend personally to provide Massage Therapy, the registrant must also apply for and receive a Massage Therapist License as provided for in Section 6-2008.

6-2007

CONFIRMATION OF REGISTRATION; APPEARANCE; DISPLAY.

- (A) Upon proper registration of an applicant, the City Clerk shall issue to the applicant a confirmation, verifying that such person or entity has properly registered the business. Such confirmation shall contain the seal of the City, the name of the person operating the business, a registration number, and any additional information deemed necessary by the City Clerk.
- (B) Each business holding a valid confirmation of registration must prominently display such confirmation at the place of businesses for which the registration is confirmed, such that it shall be within plain view of any client or other person.

- (C) Registration confirmation shall be made available for inspection upon request of any person who by law may inspect the same.

6-2008

APPLICATION FOR MASSAGE THERAPIST LICENSE.

Every applicant for a Massage Therapist License shall file an application with the City Clerk on an application form made for that purpose. In addition to paying the Massage Therapist License fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information:

- (A) The applicant's full legal name, along with any nicknames or aliases.
- (B) The applicant's address, telephone number, and email address(es).
- (C) A copy of the applicant's government-issued identification, showing that the applicant is at least 18 years of age, such as a state-issued driver's license.
- (D) A list of all jurisdictions in which he or she currently holds a license for Massage Therapy, and all jurisdictions in which he or she has held a license for Massage Therapy within the previous three (3) years.
- (E) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- (F) Written proof of the requirements set forth at Section 6-2009 herein, or where applicable, written proof of the requirements set forth at Section 6-2010.
- (G) A statement indicating whether or not the applicant has ever been convicted, under the laws of the State of Kansas or any other jurisdiction, of a crime, except that minor traffic infractions and parking violations shall not be required to be disclosed.
- (H) A statement indicating whether or not the applicant has had a Massage Therapist License denied, revoked, or suspended by the City or another jurisdiction within the preceding two (2) years and the reason for the denial, suspension, or revocation.
- (I) The applicant's signature and the date of the application.
- (J) 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, including authorization for the City to conduct a background check.

Only one Massage Therapy License shall be required for a Massage Therapist for activities the Massage Therapist engages in that are permitted by this Article.

6-2009

EDUCATION AND EXAMINATION REQUIREMENTS; RECIPROCITY.

- (1) In addition to the requirements set out in Section 6-2008, all applicants for a Massage Therapy License must provide acceptable proof of the following requirements:
 - (A) Successful passage of a nationally recognized competency examination in massage, including but not limited to the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or the Massage & Bodywork Licensing Examination (MBLEx). The passage of such exam may have occurred prior to the effective date of this Article; and
 - (B) Successful completion of 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, from one or more accredited or state-approved schools, signed by the school registrar, either presented with a raised seal or faxed or emailed directly to the City Clerk by the school. The passage of such course may have occurred prior to the effective date of this Article.
- (2) Alternatively, a person who is licensed to practice Massage Therapy, as herein defined, in another jurisdiction within the United States may seek licensure by providing evidence satisfactory to the City Clerk that the applicant is currently licensed and in good standing in another state, territory, or jurisdiction and has actively practiced for at least two (2) of the previous three (3) years in such other state, territory, or jurisdiction, in addition to fulfilling the requirements set out in Section 6-2007. The City Clerk may assess a reasonable fee for costs incurred to the City Clerk in verifying such information.

6-2010

LICENSURE FOR EXISTING MASSAGE THERAPISTS.

Within 6-months of the effective date of this Article, the City Clerk shall issue a Massage Therapy License to any individual who meets the requirements of Section 6-2008, and amendments thereto, and one of the following requirements verified to the City Clerk by affidavit:

- (A) The individual has completed a minimum of 500 hours of instruction relating to massage therapy at a massage school or comparable legal authority in Kansas or another state;
- (B) The individual has regularly taught core technique courses at a massage therapy education program in Lawrence, Kansas within the previous three (3) years, and such education program includes, at a minimum, 500 hours of massage therapy curriculum acceptable to an accrediting body recognized by the U.S. Department of Education;

- (C) The individual has regularly practiced Massage Therapy in Lawrence, Kansas for the previous two (2) of the last three (3) years, and provides written verification of such practice; or
- (D) The individual has successfully passed an examination meeting the requirements of section 6-2009, and amendments thereto, or passed a nationally recognized certification examination.

6-2011

MESSAGE THERAPIST LICENSE ISSUANCE; DENIAL.

- (A) The City Clerk shall review each application for a Massage Therapist License. Within twenty one (21) days of the application, the City Clerk shall approve the application and shall issue to the applicant a Massage Therapist License unless:
 - (1) The application is incomplete.
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
 - (3) The applicant has had a Massage Therapist License, or similar license or permit, revoked by the City or any other jurisdiction for any reason within the preceding two (2) years.
 - (4) The applicant has ever been convicted, under the laws of the State of Kansas, or any other jurisdiction, of a sexually-related felony, or any of the following violations within the preceding five (5) years:
 - a. Any other felony;
 - b. A person misdemeanor; or
 - c. Any violation of this Article.
 - (5) The applicant has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or any other jurisdiction.
 - (6) The applicant does not meet the requirements of Section 6-2009 or such education and examination requirements could not be verified, or does not meet the requirements under Section 6-2010.
 - (7) The applicant has not paid all applicable fees.

For purposes of this section, a conviction shall include, in addition to a guilty plea or conviction after trial, being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest.

- (B) If review of the application discloses that any of the criteria of Section 6-2011(A)(1) through (7), inclusive, are met, then the City Clerk shall deny the application, by giving Notice of Denial to the applicant. Notice of

Denial shall be in writing, shall be mailed to the applicant by certified mail at the given address, shall inform the applicant of the reason for denial, and shall state that the applicant has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of the application to the City Manager or his or her designee. The City Clerk shall maintain a copy of the Notice of Denial in his or her files and shall transmit a copy of the Notice of Denial to the Chief of Police.

- (C) Any applicant, whose application is denied for any reason, except for the failure to fulfill the requirements of the application under Sections 6-2011 (A)(1), (6) & (7), is hereby prohibited from filing with the City Clerk an application for a Massage Therapy Business License or Massage Therapist License for a period of one (1) year, commencing the date after the Notice of Denial. An applicant, whose application is denied for any other reason, may file a subsequent application at any time during normal business hours.

6-2012

MESSAGE THERAPIST IDENTIFICATION CARD; DISPLAY.

All Massage Therapists issued a Massage Therapist License by the City Clerk pursuant to this Article, shall, at all times when working in a Massage Therapy Business, have in their possession a valid identification card issued by the City Clerk. The cost of such identification cards shall be incorporated as part of the massage therapist licensure fee, provided however, that if a licensee requires replacement of such card the cost shall be \$15. The identification card shall include information the City Clerk deems appropriate, and shall be laminated to prevent alteration. Massage Therapists shall produce their identification cards for inspection upon request of any person who by law may inspect the same.

6-2013

MESSAGE THERAPIST LICENSE, REGISTRATION NON-TRANSFERABLE.

- (1) No Massage Therapist License issued in accordance with the provisions of this Article shall be used by any person other than the person in whose name it was issued.
- (2) No Registration confirmation issued in accordance with the provisions of this Article shall be used by any person or entity other than the person or entity in whose name it was issued.

6-2014

MESSAGE THERAPIST LICENSE RENEWAL.

- (A) In order to retain a Massage Therapist License, the person holding such license(s) must renew said license on a biennial basis from the date the license was originally effective. To renew a Massage Therapist License, the Licensee must, BEFORE the expiration date of that License or Permit, remit to the City Clerk the appropriate Massage Therapist License fee, and any information necessary to insure up-to-date renewal application processing, as determined by the City Clerk.
- (B) There shall be assessed a \$25.00 late fee for any Massage Therapist License that is not renewed BEFORE the expiration date of said

license(s) and the holder of said license(s) seeks to renew after the license's or permit's expiration date.

6-2015

MASSAGE THERAPIST LICENSE REVOCATION.

- (A) The City Clerk may revoke any Massage Therapist License issued under this Article for one or more of the following reasons:
 - (1) Fraud, misrepresentation, or false statement contained in any application for a License or Permit;
 - (2) Any violation of the provisions of this Article or any other ordinance, rule or regulation by the City of Lawrence, state or federal law, excluding minor traffic violations and parking violations; or
 - (3) Aiding or abetting the commission of, or knowingly allowing or encouraging any act which is a violation of this Article or any other ordinance, rule or regulation by the City of Lawrence or state or federal law.
- (B) Notice of Revocation shall be in writing, shall be mailed by certified mail to the licensee, shall inform the licensee of the reason for revocation, and shall state that the license holder has fourteen (14) days from the date of the Notice of Revocation is received to appeal the revocation to the City Manager, as provided for in Section 6-2016. Such Notice of Revocation shall be effective on the date it is received by certified mail. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files and shall transmit a copy of the Notice of Revocation to the Chief of Police.

6-2016

APPEAL.

- (A) Any person aggrieved by the action of the City Clerk in denying an application for a Massage Therapist License or in revoking the same shall have the right to appeal that action to the City Manager. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal must be in writing and must set forth why the applicant, permit holder, or licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the City Manager shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant, permit holder, or licensee in the same manner as the Notice of Denial or the Notice of Revocation. The City Manager's decision and order on such appeal shall be the final order of the City. Any person aggrieved by the decision of the City Manager may seek redress in the District Court of Douglas County, Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal shall not stay the denial or revocation of the license, or any modification imposed by the City Manager.

6-2017

HOURS OF OPERATION.

No Massage Therapy Business shall operate between the hours of 10:00 p.m. and 5:00 a.m., Central Standard Time, each day.

6-2018

OPERATIONS.

Any Massage Therapy Business licensed under this Article shall comply with each of the following minimum requirements:

- (A) The walls and floors, and every other portion of a Massage Therapy Business shall be clean and safe, and free from any accumulations dangerous to human health. All property maintenance and development code standards apply.
- (B) All equipment used in the business's operation shall be maintained in a clean and sanitary condition.
- (C) Towels, linen, and items for personal use shall be clean and freshly laundered, and shall not be used for more than one client without being washed after each use.
- (D) The door or doors providing entry into the Massage Therapy Business by the public shall remain unlocked during business hours when the business is open or when clients are present, except that if a Massage Therapist operates as a sole proprietor and does not have staff available to assure the safety of clients while providing massage therapy services to a client, the door or doors providing entry to the business may be locked for the duration of time the Massage Therapist provides a massage.
- (E) Exposure of the genitalia or chest of any employee while engaged in a service is prohibited, and must be covered by towels, cloths, or undergarments when in the presence of an employee or Massage Therapist. Any contact with a client's genital area is prohibited.

6-2019

INSPECTIONS, IMMEDIATE RIGHT OF ENTRY.

The City's Code Enforcement officers and police officers may from time to time make an inspection of each Massage Therapy Business in this City, along with all relevant licenses, identification cards, and/or confirmation of registration, for the purposes of determining that the Massage Therapy Business is in compliance with this Article. Such inspections shall be made at reasonable times and in a reasonable manner, and where some notice is provided in advance to the business, unless providing such notice would impede legitimate Code or law enforcement purposes. It shall be unlawful for any licensee to fail to allow such officer immediate access to the premises or to hinder such officer in any manner. Any failure on the part of any licensee to grant immediate access to such officer shall be grounds for the revocation of any license issued pursuant to this Article.

6-2020

EMPLOYEE AND CLIENT REGISTERS.

- (A) Every Massage Therapy Business shall keep at its place of business a clean and legible register showing all Massage Therapists practicing at that location, and the Massage Therapists' name, address, and license number.
- (B) Every Massage Therapy Business shall keep a daily register in which a written log of all client's entering the premises for a service is kept. Such register shall include the client's name and address, the service requested and service provided, the room in which service was provided, the name of the employee providing such service, and the time and date of service. Every entry shall be made in ink, and shall not in any manner be erased, obliterated or effaced. 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.

6-2021 **APPLICABILITY TO EXISTING BUSINESSES.**

The operators of any existing Massage Therapy Business are required to comply with all provisions of this Article.

6-2022 **MUNICIPAL OFFENSE.**

Operating a Massage Therapy Business without properly registering such business with the City Clerk, or working as a Massage Therapist without a valid Massage Therapist License, or any violation of the provisions of this Article shall be a municipal offense. Any person, upon an adjudication of guilt or the entry of a plea of no contest, shall be subject to a fine of a minimum of \$500.00 and a maximum of \$1,000.00, or imprisoned for a period not exceeding six (6) months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 5. If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 6. After passage and publication as provided by law, this ordinance shall be in full force and effect commencing July 1, 2017.

PASSED by the Governing Body of the City of Lawrence, Kansas, this ____ day of March, 2017.

APPROVED:

Leslie Soden, Mayor

ATTEST:

Sherri Riedemann, City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler, City Attorney

NOTICE TO PUBLISHER

Publish once and return one Proof of Publication to the City Clerk and one to the City Attorney.

DRAFT