

CHAPTER V. BUSINESS LICENSES AND REGULATIONS

ARTICLE 5. MASSAGE

SECTIONS

5-501	DEFINITIONS
5-502	LICENSE REQUIRED
5-503	MULTIPLE LICENSES
5-504	LICENSE AND PERMIT FEES
5-505	TRANSFER OF LICENSES AND PERMITS
5-506	ADVERTISING
5-507	OTHER PROVISIONS
5-508	RESERVED
5-509	RESERVED
5-510	MASSAGE THERAPY LICENSE
5-511	MASSAGE THERAPY OUT CALLS
5-512	MASSAGE THERAPY CLASSIFICATION
5-513	MASSAGE THERAPY IDENTIFICATION CARDS
5-514	MASSAGE THERAPY PATRON REGISTERS
5-515	MASSAGE THERAPY APPLICABILITY OF EXISTING MASSAGE PROVIDERS
5-516	MASSAGE THERAPY. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT
5-517	RESERVED
5-518	RESERVED
5-519	RESERVED
5-520	MASSAGE ESTABLISHMENT LICENSE
5-521	MASSAGE ESTABLISHMENT DISPLAY OF LICENSES
5-522	MASSAGE ESTABLISHMENT INSPECTION
5-523	MASSAGE ESTABLISHMENT FACILITIES
5-524	MASSAGE ESTABLISHMENT OPERATION REGULATIONS
5-525	MASSAGE ESTABLISHMENT EMPLOYEE AND PATRON REGISTERS
5-526	MASSAGE ESTABLISHMENT RESTRICTIONS ON PLACE OF BUSINESS
5-527	MASSAGE ESTABLISHMENT REVOCATION OR SUSPENSION OF LICENSE

5-501. DEFINITIONS.

- (a) **“Applicant.”** A person who has applied to the City for a Massage Establishment License or a Massage Therapy License or Permit as authorized by this ordinance.
- (b) **“License.”** An authorization as provided for in this ordinance for a person to:
 - (1) Operate and conduct a Massage Establishment; or
 - (2) Perform and provide Massage Therapy
- (c) **“Licensee.”** A person who has been granted a License as provided for by this ordinance.

- (d) **“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 the human genitalia.
- (e) **“Massage Establishment.”** A fixed place of business within the City where Massage Therapy is administered for compensation, including, massage salons, sauna baths, steam baths, and health clubs. Such place of business shall be only upon authorized commercial premises as specifically provided for hereafter. For the provisions and requirements of this ordinance, this definition shall not be construed to include hospitals, nursing homes, medical clinics or the commercial offices of: (1) a licensed physician, surgeon, chiropractor, osteopath or physical therapist when such duly licensed person is directly supervising or administering Massage to his or her patient; (2) a licensed operator of electrolysis equipment (only with regards to the provision of electrolysis treatment); or (3) barbershops or beauty salon which perform Massage only to the scalp, the face, the neck or shoulders.
- (f) **“Massage Therapy.”** The application of Massage for consideration of any kind, including discounts and other goodwill offers. For the provisions and requirements of this ordinance, this definition shall not be construed to include: (1) any continuing instruction in martial arts, performing arts or organized athletic activities; (2) any Massage directly supervised or administered by a licensed physician, surgeon, chiropractor, osteopath or physical therapist in his or her commercial offices; (3) any provision of electrolysis by a licensed operator of electrolysis equipment; or (4) any Massage to the scalp, face, neck or shoulders by a licensed barber or beautician.
- (g) **“Massage Therapist.”** A person licensed in accordance with this ordinance who engages in the practice of Massage and performs and provides Massage Therapy.
- (h) **“Out Call.”** Massage Therapy that is conducted upon the commercial or residential premises of a Patron as specifically provided for hereafter.
- (i) **“Patron.”** A person who utilizes or receives the services of Massage Therapy. Such person shall be over 18 years of age; 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) **“Permit.”** An authorization for a student to perform Massage Therapy only as specifically provided for hereafter.
- (k) **“Person.”** Any natural or corporate person, business association or business entity including, but not limited to, a firm, a partnership, an association, a sole proprietorship a successor or assign of any of the foregoing, or any other legal entity.

- (l) ***“Specified Anatomical Areas.”*** The human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola.
(Ord. 1867C; 06-19-00)

5-502 **Massage Licenses in General: License Required.** No person shall perform and provide Massage Therapy within the City or operate and conduct a Massage Establishment within the City without a valid and separate License. Such Licenses shall be issued by the City pursuant to the provisions of this ordinance, and must be current, unrevoked and not suspended. Licenses granted pursuant to this ordinance shall be valid for a period of twelve months from the date of issuance.
(Ord. 1867C; 06-19-00)

5-503 **Massage Licenses in General: Multiple Licenses.**

(a) Applicants seeking to operate and conduct a Massage Establishment and to perform and provide Massage Therapy must obtain both a Massage Establishment License and a Massage Therapist License.

(b) Applicants seeking to operate and conduct multiple Massage Establishments must obtain a separate Massage Establishment License for each location.
(Ord. 1867C; 06-19-00)

5-504 **Massage Licenses in General: License and Permit Fees.**

(a) The annual filing fee for a Massage Establishment License, a Massage Therapy License and a Massage Therapy Student Permit shall set by the City’s annual fee schedule, and shall be nonrefundable and nontransferable.

(b) An individual applicant concurrently applying for both a Massage Establishment License and a Massage Therapy License shall only be charged the fee for a Massage Establishment License.

(c) Any applications made, fees paid, and Licenses or Permits obtained under the provisions of this ordinance shall be in addition to, and not in lieu of any other fees, taxes, permits, or licenses required to be paid or obtained under any other ordinances of this City.
(Ord. 1867C; 06-19-00)

5-505 **Massage Licenses in General: Transfer of Licenses and Permits.** No Massage Establishment License, Massage Therapy License or Massage Therapy Student Permit may be transferred to a person other than the Licensee or Permittee named therein.
(Ord. 1867C; 06-19-00)

5-506 **Massage Licenses in General: Advertising.** No Licensee 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 provided for by this ordinance, or that employees or Massage Therapists are dressed in any manner other than provided for herein, nor shall any text of such advertising indicate that any service is available other than those services authorized by this ordinance.
(Ord. 1867C; 06-19-00)

5-507 Massage Licenses in General: Other Provisions.

- (a) **Applicability to Existing Businesses.** The operators of any existing massage therapy establishment and any providers or performers of Massage Therapy within the City are required to comply with all provisions of this ordinance within ninety (90) days from the enactment of this ordinance.
- (b) **Exceptions.** The provisions of this ordinance shall not apply to a physician, surgeon, chiropractor, osteopath, physical therapist, registered professional nurse, operator of electrolysis equipment, barber or cosmetologist who is lawfully carrying out his or her particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.
- (c) **Further Regulations.** The License Clerk, the Chief of Police or the City Administrator may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out the intent of this ordinance.
- (d) **Penalty.** Any person convicted of violating any of the provisions of this ordinance shall be deemed guilty of a public offense and subject to the general penalty provisions of the Leawood City Code.
- (e) **Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance 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 ordinance or any part thereof.

(Ord. 1867C; 06-19-00)

5-508-509 Reserved.

(Ord. 1867C; 06-19-00)

5-510 Massage Therapy: License.

- (a) **Generally.** No person shall perform and provide Massage Therapy within the City without first obtaining a valid Massage Therapist License issued by the City pursuant to the provisions of this ordinance. To receive a License and to perform and provide Massage Therapy, the applicant must operate or be currently employed by a licensed Massage Establishment, and meet the requirements of a Massage Therapist as provided for hereafter. Persons qualified as a Massage Therapist may receive a Massage Therapy License to perform and provide Massage Therapy within the City subject to the eligibility requirements cited hereafter.
- (b) **Application.** Applicants for a License to perform and provide Massage Therapy within the City shall file a written application with the License Clerk and pay a nonrefundable annual filing fee. This fee shall cover the cost of processing the application, not including the current FBI and KBI fingerprint fees. The application for a Massage Therapist License shall contain the following:
 - (1) The name, address and telephone number of the applicant;
 - (2) Written evidence that the applicant is at least 18 years old;
 - (3) The applicant's weight, height, color of hair and eyes, and fingerprints (applicant will not be required to resubmit fingerprints on subsequent renewal applications);
 - (4) Two portrait photographs of the applicant (at least two inches by two inches);

- (5) The position or function the applicant is being hired to perform within such establishment, and the exact nature of the services to be provided under the requested License;
- (6) The business, occupation, or employment of the applicant for the three years immediately preceding the date of application;
- (7) Whether the applicant has ever been convicted of any crime (except minor traffic violations). If so, a statement must be made giving the place and court in which convicted, the offense, and the sentence imposed as a result of such conviction;
- (8) The Massage Therapy and Massage Establishment License history of the applicant, and whether the applicant has in this or any other city or state previously had such license or similar authorization revoked or suspended. In such event, the applicant will provide the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- (9) The proposed place of business and facilities therefor, including proof that such place of business currently holds a proper Massage Establishment License;
- (10) Proof of the education and experience requirements as provided by this ordinance;
- (11) 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; and
- (12) Any other information deemed necessary by the City to review and process the application.

An applicant seeking the renewal of an existing License only needs to provide the City with that information or documentation necessary to update the applicants' former application.

- (c) **Renewals.** An applicant seeking the renewal of an existing License only needs to provide the City with that information or documentation necessary to update the applicants' former application.
- (d) **Process of Application.** Applications for a Massage Therapy License shall be submitted to the License Clerk, who shall transmit copies of completed applications to the Chief of Police. With the aid and input of the Chief of Police, the License Clerk shall determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued (or reissued) the requested License. Such determination shall be made within fifteen (15) working days from the date the completed application is submitted.

- (e) **Issuance of License.** The License Clerk shall approve the issuance of a Massage Therapist License, unless it is found that:
- (1) The applicant has been convicted of, or diverted on, (i) a felony; (ii) an offense involving sexual misconduct with children; (iii) obscenity; (iv) promoting prostitution as defined by Kansas statute; (v) solicitation of a lewd or unlawful act; (vi) prostitution; (vii) pandering or other sexually related offense; or
 - (2) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the application or in any document required by the city in conjunction therewith; or
 - (3) The applicant has had a Massage Establishment License, a Massage Therapy License or any other similar license, permit or other authorization denied, revoked, or suspended by the City or any other state, city or local agency within five years prior to the date of the application; or
 - (4) The applicant has previously been issued a license, permit or other authorization for an adult entertainment business (as defined by the Leawood Development Ordinance) or escort service, or has been employed by any such establishment; or
 - (5) 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; or
 - (6) That the applicant has not successfully completed the education standards required under the provisions of this ordinance; or
 - (7) The application is for work to be performed at a Massage Establishment that is unlicensed, or whose License has been suspended or revoked; or
 - (8) Any other application requirement has not been met.
- (f) Upon approval of the application, the License Clerk shall issue the Massage Therapy License that shall be nontransferable and nonrefundable. If the application is disapproved, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant. The notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may appeal to the Governing Body within ten (10) days after notice of the disapproval, provided that such appeal shall be reviewed by the Governing Body within thirty (30) days from the date the appeal is submitted. Any applicant still aggrieved after review by the Governing Body may seek judicial review from the Johnson County District Court as provided by law within thirty (30) days after the review by the Governing Body.
- (Ord. 1867C; 06-19-00)
(Ord. 2758C; 11-02-15)

5-511

Massage Therapy: Out Calls.. Outcalls on residential premises of a Patron within the City are prohibited, unless prescribed by a licensed healing arts practitioner.

- (a) **Residential Premises.** Out Calls may only be conducted at a private residence at the direction of a licensed healing arts practitioner. In such event, the Massage Therapist shall provide to the License Clerk the name and address of the Patron, a copy of the licensed healing arts practitioner's authorization, the date and time of the service, a description of the service, and the fees charged. Prior to any service being done at a private residence, the Massage Therapist must clearly state that he or she is a Licensed Massage Therapist, and the Patron must sign a form requesting the service. All such written requests shall be kept by the Massage Therapist for a period of one year, and shall be produced for inspection when requested by any city officer.
- (b) **Commercial Premises.** Out calls may only be conducted at a commercial business when the following criteria are met.
 - 1. The business hosting the Massage Therapist is currently licensed in the City of Leawood.
 - 2. The massage is conducted by a Therapist currently licensed by the City of Leawood.
 - 3. A minimum of two (2) Licensed Massage Therapists are present at the event.
 - 4. The massage is performed in a public setting (not in an office with a door capable of being locked), and the patron is fully clothed.
 - 5. A sign-in log or register must be kept by the Licensed Massage Therapist and Massage Establishment for a period of three (3) years.

(Ord. 2561C; 08-06-12)

(Ord. 1867C; 06-19-00)

5-512 **Massage Therapy: Classification.** The following categories and educational requirements shall be applicable to all Massage Therapists as specifically provided hereafter. Proof of completion of education and training requirements required by this ordinance must be by certified transcripts. The educational and training may be received from more than one school.

- (a) Education.

Massage Therapist

- (1) To be eligible for a Massage Therapist License, the applicant must provide proof of the following:
 - (i) That the applicant has successfully completed a course of instruction, consisting of not less than five hundred (500) hours, in the theory, method or practice of Massage (An hour of instruction is defined as fifty minutes of actual instructional time). The curriculum shall include at a minimum:
 - (a) Two hundred and fifty (250) hours of theory and practice of Massage Therapy technique, to include deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatment. A maximum of fifty (50) of these hours may include time spent in a student clinic.

- (b) One hundred thirty (130) hours of anatomy, physiology and kinesiology, including palpation, range of motion, and physics of joint function. There must be a minimum of forty (40) hours of kinesiology.
- (c) Fifty-five (55) hours of clinical/business practices, to include hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, Patron interaction, state and local laws and three hours of communicable diseases.
- (d) Fifty (50) hours of pathology including indications and contraindications to Massage Therapy and palpation.
- (e) Fifteen (15) hours of hydrotherapy.
- (ii) As an alternative to the above educational requirements, the applicant may provide proof that:
 - a. The applicant is currently licensed or has been licensed within six months of the date of application for a minimum of one year with a (U.S.) state's licensing authority that requires a course of instruction, consisting of not less than five hundred (500) hours, in the theory, method or practice of Massage. The required curriculum must include anatomy, physiology, kinesiology, pathology, first aid and hygiene and practical instruction in Massage technique; or
 - b. The applicant has successfully passed the 1992 or later, National Certification Examination for Therapeutic Massage and Bodywork and has successfully completed a course of instruction, consisting of not less than three hundred (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.
- (iii) In addition to meeting the requirements of either subsection (i) or subsection (ii), the applicant must also have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent, and provide current certification.
- (2) Eligibility. A Licensed Massage Therapist may perform and provide Massage Therapy at a Massaged Establishment. A Licensed Massage Therapist may also perform and provide Out Calls only when prescribed by a licensed healing arts practitioner.
- (3) Student Massage Therapy. Student Massage Therapy is prohibited within the City unless an individual meets the qualifications of provision 5-615 of this ordinance.

(Ord. 1867C; 06-19-00)

5-513 **Massage Therapy: Identification Cards.** All Massage Therapists issued a License or Permit pursuant to the provisions of this ordinance shall at all time have in their possession a valid Identification Card when working in a Massage Establishment or performing and providing Out Calls. Such Identification Card shall be conspicuously worn on the Massage Therapist's clothing, or be posted on the wall of the massage room in a conspicuous location. Such Identification Card shall bear the Massage Therapist's name, license number, classification, physical description, and a photograph, and shall be laminated to prevent alteration. Additionally, all Massage Therapists shall keep their Licenses and Permits available for inspection at all times upon request of any person who by law may inspect the same.

(Ord. 1867C; 06-19-00)

5-514 **Massage Therapy: Patron Registers.** All Massage Therapists issued a License or Permit pursuant to the provisions of this ordinance shall keep a daily register of all Patrons in a form approved by the License Clerk. Such register shall list the Patrons' names, addresses, hours of arrival, and, if applicable, the rooms or cubicles assigned. Said register shall at all times during business hours be subject to inspection by City inspectors and police officers, and shall be kept on file for one year. Such register may be kept and supervised by the Massage Establishment as provided for hereafter.

(Ord. 1867C; 06-19-00)

5-515 **Massage Therapy: Applicability to Existing Massage Providers.** An individual providing or performing Massage Therapy within the City at the time this ordinance is enacted who does not meet the education requirements described above may be exempted by the City from such education requirements for thirty-six (36) months past the date of enactment as long as such individual meets the following conditions:

- (a) As of the date of enactment, such individual is currently practicing and has practiced Massage Therapy within the City during the previous twenty-four (24) months and can verify this through:
 - (1) Proof of receiving a Leawood business license to provide Massage Therapy within the City during the past twenty-four (24) months, or
 - (2) Proof that the individual declared income on the individual's tax return for performing and providing Massage Therapy within the City during the past twenty-four (24) months (Such individual shall sign an affidavit stating that the individual has submitted a true and accurate copy of the tax return filed with the I.R.S. and the State of Kansas and that the Massage Therapy was performed within the City); and
- (b) Such individual will provide all future Massage Therapy in conjunction with a Licensed Massage Establishment, and has applied for and meets all other licensing requirements for a Massage Therapist; and
- (c) Such individual is actively enrolled in and currently attending classes in a course of instruction in the theory, method or practice of Massage, in order to meet the City's educational requirements, or is signed up to take the National Certification Examination for Therapeutic Massage and Bodywork, as authorized above.

(Ord. 1867C; 06-19-00)

5-516 **Massage Therapy: Revocation or Suspension of License or Permit.** A Massage Therapist License or Permit issued by the City may be revoked or suspended by the License Clerk after a public hearing before the License Clerk, or his designated representative, and a determination that:

- (a) The provisions for the issuance of a Massage Therapist License or Permit are violated; or
- (b) The Massage Therapist has been convicted of any offense discussed in this ordinance or any violent felony; or
- (c) Any of the provisions of this ordinance are violated, including, but not limited to the application standards.

Before revoking or suspending the Massage Therapist License or Permit, the License Clerk shall give the Massage Therapist at least ten (10) days written notice of the charges and the opportunity to be publically heard by the License Clerk, or his designated representative, at which time the Licensee may present evidence in response to the charges, and the relevant facts regarding the occurrence of the conviction or offense shall be determined. All revocations or suspensions by the License Clerk are appealable to the Governing Body, provided said appeal must be in writing and delivered to the License Clerk within ten (10) days of the revocation or suspension, and further provided that such appeal shall be reviewed by the Governing Body within thirty (30) days from the date the appeal is submitted. If the Governing Body upholds the revocation or suspension, an appeal may then be made to the Johnson County District Court as provided by law within thirty (30) days after the review of the Governing Body.

(Ord. 1867C; 06-19-00)

5-517-519 ***Reserved.***

(Ord. 1867C; 06-19-00)

5-520 **Massage Establishment: License.**

- (a) **Generally.** No person shall operate and conduct a Massage Establishment within the City without first obtaining a valid Massage Establishment License issued by the City pursuant to the provisions of this ordinance. To receive a License for operating and conducting a Massage Establishment, the applicant must meet the requirements as provided for hereafter. A Massage Establishment License specifically does not authorize the Licensee to perform and provide Massage Therapy without first obtaining a separate Massage Therapy License. A Massage Establishment License shall also be required to operate and conduct a business to perform and provide Out Calls.
- (b) **Application.** Applicants for a License to operate or conduct a Massage Establishment within the City shall file a written application with the License Clerk and pay a nonrefundable annual filing fee. This fee shall cover the cost of processing the application, not including the current FBI and KBI fingerprint fees. The application to operate a Massage Establishment shall contain the following:

Note: the following informational requirements for applicants shall also be provided as applicable for each stockholder holding more than 10% of the stock, and each director or officer (if the applicant is a corporation), each partner or limited partner (if the applicant is a partnership), and any manager or other person principally in charge of the business operations of the proposed establishment.

- (1) The name, address and telephone number of the applicant;
 - (2) Written evidence that the applicant is at least 18 years old;
 - (3) The applicant's weight, height, color of hair and eyes, and fingerprints (applicant will not be required to resubmit fingerprints on subsequent renewal applications);
 - (4) Two portrait photographs of the applicant (at least two inches by two inches);
 - (5) The position or function the applicant is being hired to (or will) perform within such establishment, and the exact nature of the services to be provided under the requested License (As applicable);
 - (6) The business, occupation, or employment of the applicant for the three years immediately preceding the date of application;
 - (7) Whether the applicant has ever been convicted of any crime (except minor traffic violations). If so, a statement must be made giving the place and court in which convicted, the offense, and the sentence imposed as a result of such conviction;
 - (8) The Massage Therapy and Massage Establishment License history of the applicant, and whether the applicant has in this or any other city or state previously had such license or similar authorization revoked or suspended. In such event, the applicant will provide the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
 - (9) The proposed place of business and facilities therefor;
 - (10) A list of all Massage Therapists working in the Massage Establishment and proof that such Massage Therapists are properly licensed (to be updated as necessary);
 - (11) 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; and
 - (12) Any other information deemed necessary by the City to review and process the application.
- (c) **Renewals.** An applicant seeking the renewal of an existing License only needs to provide the City with that information or documentation necessary to update the applicants' former application.

- (d) **Process of Application.** Applications for a Massage Establishment License shall be submitted to the License Clerk, who shall transmit copies of completed applications to the Chief of Police, the Neighborhood Services Administrator and the Building Official for their review and investigation. With the aid and input of the Chief of Police, the License Clerk shall determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued (or reissued) the requested License. Such determination shall be made within fifteen (15) working days from the date the completed application is submitted. The Neighborhood Services Administrator and the Building Official shall determine whether the structure of the proposed Massage Establishment complies with the requirements and standards of all applicable health, zoning, building code, fire and property maintenance ordinances, and all other applicable codes, standards and zoning requirements, provided the premises need not be designed or set up for the requirements of a Massage Establishment on the date of application, provided further that such requirements for a Massage Establishment are met prior to the first day of business. The Neighborhood Services Administrator and the Building Official shall report their findings to the License Clerk within ten (10) working days from the date the application is submitted. Upon the determination of the qualifications of the applicant and the receipt of the reports of the Neighborhood Services Administrator and the Building Official, the License Clerk shall schedule the application for review by the Governing Body at the earliest date possible with consideration for notice requirements established by law, provided that the application shall be approved or disapproved within forty-five (45) days from the date the application is submitted. The applicant shall be notified in writing of the date of the review by the Governing Body, and will be afforded an opportunity to be heard at such time. If inspection items related to structural design of the premises cannot be verified prior to the review by the Governing Body, the application may be approved contingent upon a final inspection prior to the issuance of the License.
- (e) **Issuance of License.** The Governing Body shall review the application and shall approve the issuance of a License for a Massage Establishment, unless it is found that:
- (1) The applicant, any stockholders holding more than 10% of the stock or any director or officer (if the applicant is a corporation), any partner or limited partner (if the applicant is a partnership), or any manager or other person principally in charge of the operation of the business, has been convicted of, or diverted on, (i) a felony; (ii) an offense involving sexual misconduct with children; (iii) obscenity; (iv) promoting prostitution as defined by Kansas statute; (v) solicitation of a lewd or unlawful act; (vi) prostitution; (vii) pandering or other sexually related offense; or
 - (2) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the application or in any document required by the City in conjunction therewith; or
 - (3) The applicant has had a Massage Establishment License, a Massage Therapy License or any other similar license, permit or other authorization denied, revoked, or suspended by the City or any other state, city or local agency within five years prior to the date of the application; or

- (4) The applicant has previously been issued a license, permit or other authorization for an adult entertainment business (as defined by the Leawood Development Ordinance) or escort service, or has been employed by any such establishment; or
 - (5) 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; or
 - (6) The operation as proposed by the applicant would not comply with all applicable laws including, but not limited to, the City's code or building, zoning, and health ordinances and regulations; or
 - (7) The manager or other person principally in charge of the operation of the business would be ineligible to receive a License under the provisions of this ordinance; or
 - (8) Any other application requirement has not been met.
- (f) Upon approval of the application by the Governing Body, the License Clerk shall issue the Massage Establishment License that shall be nontransferable and nonrefundable. If the application is disapproved, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant. The notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek judicial review from the Johnson County District Court as provided by law within thirty (30) days after the date of the disapproval.

(Ord. 1867C; 06-19-00)

(Ord. 2758C; 11-02-15)

5-521

Massage Establishment: Display of Licenses. A Massage Establishment shall at all times display in an open and conspicuous place its Massage Establishment License. It shall also display in an open and conspicuous place either a copy of the Identification Card of all Massage Therapists working at the Massage Establishment, or an identified color picture (at least 4 inches by 4 inches) of each Massage Therapist that provides the same information.

- (a) **Inspection of Proposed Massage Establishment.** No business shall be operated or conducted at any proposed Massage Establishment, nor shall any Massage Establishment License be issued until an inspection by the Neighborhood Services Administrator, or the Building Official, or his/her authorized representative has been completed. . The Neighborhood Services Administrator, or the Building Official, or his/her authorized representative shall certify that the proposed Massage Establishment complies with all of the requirements of this ordinance and shall give such certification to the License Clerk; provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of the premises, nor to preclude authorized inspection thereof.

- (b) **Supplemental Inspections.** The License Clerk, the Police Department, the Neighborhood Services Administrator, the Building Official or his/her authorized representative may from time to time make an inspection of each Licensed Massage Establishment in this City for the purposes of determining that the provisions of this ordinance 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 inspector immediate access to the premises or to hinder such inspector in any manner. Any failure on the part of a Licensee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee License.

(Ord. 1867C; 06-19-00)

5-522 **Massage Establishment: Inspection.**

- (a) **Inspection of Proposed Massage Establishment.** No business shall be operated or conducted at any proposed Massage Establishment, nor shall any Massage Establishment License be issued until an inspection by the Neighborhood Services Administrator, or the Building Official, or his/her authorized representative has been completed. . The Neighborhood Services Administrator, or the Building Official, or his/her authorized representative shall certify that the proposed Massage Establishment complies with all of the requirements of this ordinance and shall give such certification to the License Clerk; provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of the premises, nor to preclude authorized inspection thereof.

- (b) **Supplemental Inspections.** The License Clerk, the Police Department, the Neighborhood Services Administrator, the Building Official or his/her authorized representative may from time to time make an inspection of each Licensed Massage Establishment in this City for the purposes of determining that the provisions of this ordinance 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 inspector immediate access to the premises or to hinder such inspector in any manner. Any failure on the part of a Licensee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee License.

(Ord. 1867C; 06-19-00)

5-523 **Massage Establishment: Facilities.** No business shall be operated or conducted at any Massage Establishment without first complying with the following with the minimum requirements:

- (a) **Massage Rooms.** Rooms in which Massage Therapy is to be practiced or administered shall have at least fifty (50) square feet of clear floor area and shall maintain a light level of not less than two (2) foot-candles as measured three (3) feet above the floor. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such rooms, or rooms immediately adjacent thereto, shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen.
- (b) **Dressing Rooms.** Provisions for a separate dressing room for each sex must be available within all Massage Establishments, with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

- (c) **Toilet Facilities.** 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. Urinals may be substituted for water closets after one water closet has been provided. The separate toilet facilities shall be designated as to the sex accommodated therein.
- (d) **Lavatories or Wash Basins.** Lavatories or wash basins shall be provided in either the toilet room or a vestibule with both hot and cold running water. Soap in a dispenser and sanitary towels shall also be provided.
- (e) **Cleanliness of Establishment.** Every portion of a Massage Establishment, including appliances, shall be kept clean and operated in a sanitary condition.
 - (1) The walls shall be clean, and the walls shall be 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.
 - (2) 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.
- (f) **Towels and Linen.** When applicable, all Massage Establishments shall provide clean, laundered sheets and towels in sufficient quantity, and such items shall be laundered after each use thereof and stored in a sanitary manner. Towels, linen, and items for the personal use of employees and Patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for or by more than one Patron.

(Ord. 2548C; 07-02-12)
(Ord. 1867C; 06-19-00)

5-524 **Massage Establishment: Operation Regulations.** The operation of a Massage Establishment and the provision and performance of Massage Therapy 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. Out Calls prescribed by a licensed healing arts practitioner shall cease between the hours of 9:00 p.m. and 8:00 a.m. each day.
- (b) **Supervision.** The premises shall be 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 ordinance. The violation of any such provision by any agent or employee of the Licensee shall constitute a violation by the Licensee.
- (c) **Patron Attire.** No owner, manager, Massage Therapist or employee, while performing any task or service associated with the Massage Therapy, shall be present in any room with a Patron, or allow any other person to be present in a room with a Patron (excluding bathrooms, dressing rooms, or any room utilized for dressing purposes), unless the Patron's Specified Anatomical Areas are fully covered by towels, cloths or undergarments. Any contact with a Patron's genital area is strictly prohibited.

- (d) **Employee Attire.** While performing or available to perform Massage Therapy or related services, all employees and Massage Therapists shall be fully clothed and covered, modestly attired, clean, and wearing clean outer garments. For purposes of this subsection, fully clothed and covered means a state of dress in which the covering shall be of an opaque material. Diaphanous or transparent clothing is prohibited. Additionally, the clothing must cover the employees and the Massage Therapists' chests at all times, and extend from a point not to exceed four (4) inches above the center of the knee cap to the base of the neck. Finally, the clothing shall be maintained in a clean and sanitary condition.
- (e) **Identification Card.** All Massage Therapists shall be required to conspicuously display their valid Identification Card as required above.
- (f) **Danger to Safety or Health.** No service shall be given which is clearly dangerous or harmful in the opinion of the Chief of Police, the Neighborhood Services Administrator or the Building Official, to the safety or health of any person, and after such notice in writing has been delivered to the Licensee from such director or officer.
- (g) **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 Licensed Massage Establishment, or during any Out Call; 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 that no alcohol is permitted on that portion of the premises where the Massage Therapy occurs.
- (h) **Conduct of Business.** All Licensees licensed under the provisions of this ordinance shall at all times be responsible for the conduct of business at their Massage Establishment and for any act or conduct of their employees which constitutes a violation of the provisions of this ordinance. Any violation of the city, state, or federal laws committed on the premises by any such Licensee or employee affecting the eligibility or suitability of such person to hold a License may be grounds for suspension or revocation of same.

(Ord. 2391C; 04-20-09)

(Ord. 1867C; 06-19-00)

5-525 Massage Establishment: Employee and Patron Registers.

- (a) **Employees.** A Massage Establishment shall keep and maintain on the premises a current register of all employees showing such employee's name, address, position and license number (if applicable). Such register shall be open to inspection at all reasonable times by any city inspector or police officer.
- (b) **Patrons.** A Massage Establishment shall keep a daily register of all Patrons in a form approved by the License Clerk. Such register shall list the Patrons' names, addresses, hours of arrival, and, if applicable, the rooms or cubicles assigned. Said register shall at all times during business hours be subject to inspection by City inspectors and police officers, and shall be kept on file for one year.

(Ord. 1867C; 06-19-00)

5-526

Massage Establishment: Restrictions on Place of Business.

- (a) **Operation of Massage Establishment.** Any commercial premises meeting the requirements herein may be licensed as a Massage Establishment to perform and provide Massage Therapy. Operation of such an establishment in a private residence or noncommercial business establishment is prohibited.
- (b) **Hotels** **and** **Motels.**

No hotel or motel may receive a Massage Establishment License.

(Ord. 1867C; 06-19-00)

5-527

Massage Establishment: Revocation or Suspension of License.

A Massage Establishment License may be revoked or suspended by the Governing Body after a public hearing before the Governing Body, and a determination that:

- (a) A provision for the issuance of a Massage Establishment License has been violated; or
- (b) The Licensee or its employee, including a Massage Therapist, has been convicted of any offense discussed in this ordinance or any violent felony, and the Licensee has actual or constructive knowledge of the violation or conviction; or
- (c) The Licensee refused to permit a duly authorized police officer or city employee to inspect the premises or the operations of the Licensee; or
- (d) Any of the provisions of this ordinance are violated, including, but not limited to the application standards.

Before revoking or suspending a Massage Establishment License, the Governing Body shall give the Licensee at least ten (10) days written notice of the charges and the opportunity to be heard by the Governing Body, at which time the Licensee may present evidence in response to the charges. A Licensee aggrieved by the decision of the Governing Body may appeal the decision to the Johnson County District Court as provided by law within thirty (30) days after the date of the revocation or suspension.

(Ord. 1867C; 06-19-00)