

Chapter IV. Business Licenses and Regulations

ARTICLE 5. MASSAGE

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5-501. DEFINITIONS.

- (a) ***Applicant.*** A person who has applied to the City for a Massage Establishment License or a Massage Therapy License as authorized by this Article. A Massage Establishment Applicant also includes each stockholder holding more than 10% of the stock, and each director, officer, partner, limited partner, member, and any manager or other person principally in charge of the business operations of the proposed establishment.
- (b) ***Approved School.*** Any school or institute of higher learning which is accredited by a state board of education or equivalent and approved by any state massage-specific licensing organization(s) or approved by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB).
- (c) ***Establishment Representative.*** An employee, manager, independent contractor, unpaid volunteer, or anyone else holding themselves out as working at, or on behalf of, a massage establishment.
- (d) ***License.*** An authorization as provided for in this Article for a person to:
 - (1) Operate and conduct a Massage Establishment; or

- (2) Perform and provide Massage Therapy
- (e) **Licensee.** A person who has been granted a Massage Therapist and/or Massage Establishment License as provided for by this Article.
 - (f) **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.
 - (g) **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 Article, 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.
 - (i) **Massage Therapist.** A person who, for consideration, engages in the practice of Massage as defined herein.
 - (j) **Out Call.** Massage Therapy that is conducted upon the business or residential premises of a Patron as specifically provided for hereafter.
 - (k) **Patron.** A person who utilizes or receives the services of Massage Therapy.
 - (l) **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.
 - (m) **Specified Anatomical Areas.** The human genitals, pubic region, buttocks, or female breast.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-502 Massage Licenses in General: License Required.

- (a) No person shall perform and provide Massage Therapy within the City without a valid Massage Therapist License issued by the City.
- (b) No person, firm, partnership, association, or corporation shall operate a Massage Establishment within the City without a valid Massage Establishment License issued by the City.
- (c) Such Licenses shall be issued by the City pursuant to the provisions of this Article, and must be current, unrevoked and not suspended.
- (d) Licenses granted pursuant to this Article shall be valid for a period of twelve months from the date of issuance.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-503 Massage Licenses in General: Multiple Licenses.

Applicants seeking to operate and conduct multiple Massage Establishments must obtain a separate Massage Establishment License for each location.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-504 Massage Licenses in General: License Fees.

- (a) The annual filing fee for a Massage Establishment License and a Massage Therapy License shall set by the City's annual fee schedule, and shall be nonrefundable and nontransferable.
- (b) Any applications made, fees paid, and Licenses obtained under the provisions of this Article 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 Articles of this City.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-505 Massage Licenses in General: Transfer of Licenses.

No Massage Establishment License or Massage Therapy License is transferable or assignable.

(Ord. 2989; 03-02-20)
(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 advertisement that would reasonably suggest to prospective Patrons that any service is available other than those services lawfully permitted by this Article, or that employees or Massage Therapists may be dressed in any manner other than allowed for herein.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-507 Massage Licenses in General: Other Provisions. (Repealed)

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-508 Student Massage Therapy

An individual actively enrolled in and currently attending classes in a courses of instruction, consisting of not less than 500 hours, in the theory, method, or practice of massage, may conduct massage therapy as a practicum component of the training program under the direct 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 Patron 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 acknowledgement 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.

(Ord. 2989; 03-02-20)

5-509 Reserved.

(Ord. 2989; 03-02-20)
(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 Article. 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.
- (b) **Application.** Applicants for a License to perform and provide Massage Therapy within the City shall file a written application with the City Clerk and pay a nonrefundable annual 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 by providing a copy of a current state or federally issued form of identification;
 - (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) Disclosure of any adult or juvenile criminal charges, including the jurisdiction in which charged, the offense date, the final disposition date, and the final disposition (i.e. convicted, diverted, dismissed);
 - (8) The Massage Therapy license history of the applicant, including any other similar license or permit issued by any licensing jurisdiction, and whether the applicant has had any such license or similar authorization revoked or suspended or voluntarily surrendered in lieu of revocation or suspension. In such event, the applicant will provide the reason therefor, and the business activity or occupation subsequent to such action of suspension, revocation, or surrender;
 - (9) The proposed Massage Establishment for which they will work, and whether it has a current or pending Massage Establishment License with the City;
 - (10) Proof of the education and experience requirements as provided by this Article;
 - (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 shall submit a renewal application and provide the City with that information or documentation necessary to update the applicants' former application.

- (d) **Application Process.** Applications for a Massage Therapy License shall be submitted to the City Clerk, who shall transmit copies of completed applications to the Chief of Police and the Community Development Director for review. With the aid and input of the Chief of Police, the Community Development Directors, or their designees, the City 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 twenty-one (21) days from receipt of the completed application is submitted, unless good cause exists to extend this period of time.
- (e) **Issuance of License.** The City 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 (or any similar disposition) any of the following:
 - (i) a felony;
 - (ii) an offense involving sexual misconduct;
 - (iii) an offense involving obscenity;
 - (iv) promoting prostitution;
 - (v) an offense involving a lewd or lascivious act;
 - (vi) prostitution;
 - (vii) patronizing a prostitute;
 - (viii) an offense involving a breach of privacy;
 - (vix) any sex offense as described in the Kansas Statutes Chapter 21, Article 55 (Sex Offenses) or comparable offense; or
 - (ix) any offense involving massage or Massage Therapy, or arising out of the individual's prior massage establishment(s) or individual therapist license(s) in the ten (10) years immediately preceding the date of the application;
 - (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;
 - (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, or has voluntarily surrendered the permit or license in lieu of revocation or suspension, within ten (10) years prior to the date of the application;
 - (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;
 - (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;
 - (6) That the applicant has not successfully completed the education standards required under the provisions of this Article;
 - (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 denied, 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 denial and the opportunity for review by the City Administrator or their designee. The determination of the City Administrator, or their designee, is final.

- (g) Upon denial, the applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial. A denied applicant can seek waiver of the one year ineligibility from the City Clerk, in writing, upon a showing of good cause.

(Ord. 2989; 03-02-20)

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

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

5-511

Massage Therapy: Out Calls. Outcalls on residential or business premises of a Patron within the City are prohibited, unless performed or provided pursuant to this section. In no event is a massage therapist allowed to conduct Massage Therapy in a hotel or motel room, or similar setting.

- (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) **Business Premises.** Out calls may only be conducted at a business when the following criteria are met.
 1. The business hosting the Massage Therapist is currently licensed in the City of Leawood, or is exempt from licensure;
 2. The massage is conducted by a Therapist currently licensed by the City of Leawood;
 3. The massage is performed in a public setting (i.e. not in an office with a door capable of being locked), and the Patron is fully clothed; and
 4. A sign-in log or register must be kept by the Licensed Massage Therapist and Massage Establishment for a period of one (1) year.

(Ord. 2989; 03-02-20)

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

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

5-512

Massage Therapy: Educational Requirements.

- (a) To qualify for a Massage Therapist license, an applicant must demonstrate that they have satisfied one of the following educational requirements:
 - (1) 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 approved schools (as defined in 5-501). 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 Clerk by the school; or

- (2) Proof of successful passage of the Board Certification exam administered by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB).
- (b) In addition to meeting the requirements of either subsection (a)(1) or subsection (a)(2), the applicant must have successfully completed certification in American Red Cross first aid and American Heart Association CPR or the equivalent, and provide current certification.

(Ord. 2989; 03-02-20)

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

5-513 Massage Therapy: Identification Cards.

- (a) Upon approval and issuance of a Massage Therapist License, the City shall issue the therapist an identification card.
- (b) 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.
- (c) All Massage Therapists shall at all times have the City-issued Identification Card in their possession when working in a Massage Establishment or 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.
- (d) All Massage Therapists shall keep their License available for inspection at all times upon request of any person who by law may inspect the same.

(Ord. 2989; 03-02-20)

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

5-514 Massage Therapy: Patron Registers.

All Massage Therapists issued a License 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. 2989; 03-02-20)

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

5-515 Massage Therapy: Applicability to Existing Massage Providers.

- (a) An individual licensed to perform Massage Therapy within the City at the time this ordinance is enacted, and 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:

- (1) At the time of their license renewal, such individual is currently practicing and has practiced Massage Therapy within the City during the previous twenty-four (24) months pursuant to a valid Leawood Massage Therapist license; and
 - (2) 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
 - (3) 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.
- (b) Individuals licensed with the City as a Massage Therapist for at least five (5) consecutive years immediately preceding the effective date of this ordinance may renew that license notwithstanding their inability or failure to satisfy the minimum education requirements set forth in this Article, and may 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 Article.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-516 Massage Therapy: Revocation or Suspension of License.

- (a) A Massage Therapist License issued by the City may be revoked by the City Clerk where it is found that:
- (1) The Massage Therapist refused to permit, or hindered, a duly authorized police officer or City representative from conducting any lawful investigation or inspection pursuant to this Article;
 - (2) The Massage Therapist has been convicted of or entered diversion on any offense listed in Section 5-510(e); or
 - (3) Any of the provisions of this Article have been violated, including, but not limited to providing false information on the application or failure to meet application standards.
- (b) A Massage Therapist License issued by the City may be suspended by the City where it is found that the Massage Therapist has been charged with any offense listed in Section 5-510(e). The suspension shall remain in effect until a court of competent jurisdiction rules on the criminal offense, unless the massage therapist files an appeal in accordance with Section 5-516(c).
- (c) Before revoking or suspending the Massage Therapist License, the City shall give the Massage Therapist at least ten (10) days written notice and the opportunity for review by the City Administrator or their designee. If the Therapist requests review, the revocation or suspension will be stayed pending the review, but in no event more than fourteen (14) days from the original effective date of the suspension or revocation. The City Administrator, or their designee, may uphold the revocation or suspension or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations therewith. The decision of the City Administrator, or their designee, is final.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-517 Massage Therapy: Change of Employment.

A Massage Therapist shall notify the City of any change in employment within ten (10) days of the change. This shall include a change in the therapist's employer, or the addition or reduction of location types. The therapist will be required to get a new identification card from the City and pay any applicable fees.

(Ord. 2989; 03-02-20)

5-518-519 *Reserved.*

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-520 Massage Establishment: License.

- (a) **Generally.** No person shall operate a Massage Establishment within the City without first obtaining a valid Massage Establishment License issued by the City pursuant to the provisions of this Article. 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 does not authorize the Licensee to perform and provide Massage Therapy. A Massage Establishment License shall be required to operate a business to provide Out Calls.
- (b) **Application.** Applicants for a License to operate a Massage Establishment within the City shall file a written application with the City Clerk and pay a nonrefundable annual fee. The application shall provide the following information for each stockholder holding more than 10% of the stock, each director, officer, partner, limited partner, member, and any manager or other person principally in charge of the business operations of the proposed establishment, hereinafter referred to as "applicant":
 - (1) The full legal name, address and telephone number of the applicant or entity applying for licensure. If the applicant is an entity, proof it is properly registered with the Kansas Secretary of State;
 - (2) Written evidence that the applicant is at least 18 years old by providing a copy of a current state or federally issued form of identification;
 - (3) The exact nature of the services to be provided under the requested License and the proposed place of business and facilities therefor;
 - (i) Operation of an establishment in a private residence or noncommercial business establishment is prohibited.
 - (ii) Operation of an establishment in a hotel or motel is prohibited.
 - (4) The business, occupation, or employment history of each applicant for the three years immediately preceding the date of application;
 - (5) Disclosure of any adult or juvenile criminal charges for each applicant, fully disclosing the jurisdiction in which charged, the offense date, the final disposition date, and the final disposition (i.e. convicted, diverted, dismissed);
 - (6) The Massage Therapy and Massage Establishment License history of each applicant, including any other similar license or permit issued by any licensing jurisdiction, including whether any applicant has ever had any license, permit, or similar authorization revoked or suspended by the City or any other state, city, or local agency, or has voluntarily surrendered a permit or license in lieu of revocation or suspension. In such event, the applicant will provide the reason therefor, and the business activity or

- occupation subsequent to such action of suspension, revocation, or surrender;
- (7) A list of all Massage Therapists working in the Massage Establishment (if known at the time of application) and proof that such Massage Therapists are properly licensed (to be updated as necessary);
 - (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; and
 - (9) 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 shall submit a renewal application and provide the City with that information or documentation necessary to update the applicants' former application.
- (d) **Application Process.** Applications for a Massage Establishment License shall be submitted to the City Clerk, who shall transmit copies of completed applications to the Chief of Police and the Community Development Director for review, With the aid and input of the Chief of Police, the Community Development Director, the Building Official, or their designees, the City 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 twenty-one (21) days from receipt of the completed application, unless good cause exists to extend this period of time.
- (e) **Inspections.** As part of the application process, the Massage Establishment shall be subject to inspections as provided by Section 5-522.
- (f) **Issuance of License.** The City Clerk shall approve the issuance of a License for a Massage Establishment, unless it is found that:
- (1) Any applicant has been convicted of, or diverted on (or any similar disposition) any of the following:
 - (i) a felony;
 - (ii) an offense involving sexual misconduct;
 - (iii) an offense involving obscenity;
 - (iv) promoting prostitution;
 - (v) an offense involving a lewd or lascivious act;
 - (vi) prostitution;
 - (vii) patronizing a prostitute;
 - (viii) an offense involving breach of privacy;
 - (vix) any sex offense as described in the Kansas Statutes Chapter 21, Article 55 (Sex Offenses) or comparable offense; or
 - (ix) any offense involving massage or Massage Therapy, or arising out of the applicant's prior massage establishment(s) or individual therapist license(s) in the ten (10) years immediately preceding the date of the application;
 - (2) Any 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;
 - (3) Any 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, or has voluntarily surrendered the permit or license in lieu of

- revocation or suspension, within ten (10) years prior to the date of the application;
- (4) Any 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;
 - (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;
 - (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;
 - (7) Any applicant would be ineligible to receive a License under the provisions of this Article;
 - (8) The applicant has failed to successfully complete any applicable health, safety, building, and/or fire inspections; or
 - (9) There are facts present related to a familial, personal, or professional relationship between any applicant or Establishment Representative and any individual who has previously been denied a license or had a license revoked, suspended, non-renewed, or voluntarily surrendered in lieu of suspension or revocation, and is unable to maintain an establishment license under this Article, which reasonably indicate that the establishment's operations would be influenced by that/those individual(s); or
 - (10) Any other application requirement has not been met.
- (g) Upon approval of the application, the City shall issue the Massage Establishment License that shall be nontransferable. If the application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to address as provided on the application. The notice shall state the basis for the denial and the opportunity for review by the City Administrator or their designee. The determination of the City Administrator, or their designee, is final.
 - (h) Upon denial, the applicant shall be ineligible to reapply for any license under this Article for a period of one year from the date of denial. A denied applicant can seek waiver of the one year ineligibility from the City Clerk, in writing, upon a showing of good cause.

(Ord. 2989; 03-02-20)
 (Ord. 2758C; 11-02-15)
 (Ord. 1867C; 06-19-00)

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.

(Ord. 2989; 03-02-20)
 (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 Community Development Director, Building Official, or their designees, has been completed. The Community Development Director, Building Official, or their designees, shall certify that the proposed Massage Establishment complies with all of the

requirements of the Leawood City Code, the Leawood Development Ordinance, and this Article and shall give such certification to the City Clerk; provided, however, that nothing contained herein shall be construed to eliminate other requirements of law concerning the maintenance of the premises, nor to preclude authorized inspections thereof.

- (b) **Supplemental Inspections.** The Police Department, the Community Development Director, the Building Official, or their designees, 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 Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any Licensee or Establishment Representative 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 Establishment Representative to grant immediate access to such inspector shall be grounds for the revocation of the Massage Establishment License and Massage Therapist License, as applicable.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-523

Massage Establishment: Facilities. The operation of a Massage Establishment and the provision and performance of Massage Therapy shall be subject to the following regulations:

- (a) **Massage Rooms.** Rooms in which Massage Therapy is to be practiced or administered shall:
- (1) Have at least fifty (50) square feet of clear floor area;
 - (2) Maintain a light level of not less than two (2) foot-candles as measured three (3) feet above the floor;
 - (3) Contain a door incapable of being locked from the exterior or interior; and
 - (4) Be equipped with 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. Doors to such dressing rooms shall open inward and shall be self-closing. The dressing room can be the therapy room, provided that no Establishment Representative is present during dress or undressing.
- (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. Table showers and bathtubs are prohibited.
- (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 steam is used.
 - (2) Floors shall be free from any accumulation of dust, dirt, or refuse.

- (3) All equipment used in the business's operation shall be maintained in a clean and sanitary condition.
- (4) Wet and dry heat rooms, showers and toilet rooms shall be thoroughly cleaned each day the business is in operation.
- (f) **Towels and Linen.** Clean, laundered sheets and towels shall be provided to Patrons for use. Such items shall be laundered after each use and stored in a sanitary manner. Towels, cloths and sheets shall not be used for or by more than one Patron.

(Ord. 2989; 03-02-20)
 (Ord. 2548C; 07-02-12)
 (Ord. 1867C; 06-19-00)

5-524

Massage Establishment: Operation 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 are not permitted between the hours of 9:00 p.m. and 8:00 a.m. each day.
- (b) **Supervision.** The Massage Establishment Licensee or a manager shall personally supervise the premises all times when open for business and shall not violate or permit others to violate any applicable provision of this Article. Any violation of any provision of this Article by any Establishment Representative shall constitute a violation by the Licensee.
- (c) **Conduct of Business.** The Massage Establishment Licensee shall at all times be responsible for the conduct of business at their Massage Establishment and for any act or conduct of their Establishment Representatives which constitutes a violation of the provisions of this Article, regardless of whether or not the Licensee is physically present at the time of violation. Any violation of city, state, or federal laws committed on the premises by any licensee or Establishment Representative affecting the eligibility or suitability of such person or entity to hold a License may be grounds for suspension or revocation of same.
- (d) **Patron Attire.** No Establishment Representative shall be present in any room or area with a Patron, or allow any other person to be present in a room or area with a Patron (except as may be required under the provisions of the Americans with Disabilities Act) unless the Patron's Specified Anatomical Areas are fully covered by opaque towels, cloths, or undergarments.
- (e) **Illegal Contact.** Any contact by a Licensee or Establishment Representative with a Patron's pubic region, genital area, perineum, anal region, or the area of the female breast that includes the areola and nipple is strictly prohibited.
- (f) **Employee Attire.** All Establishment Representatives 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 that covers the chest, buttocks, and genital area at all times. Diaphanous or transparent clothing is prohibited.
- (g) **Identification Card.** All Massage Therapists shall at all times have the City-issued Identification Card in their possession 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.

- (h) **Danger to Safety or Health.** No service shall be given which is clearly dangerous or harmful to the safety or health of any person.
- (i) **Alcoholic Beverages.** No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed 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.
- (j) **Overnight Sleeping Prohibited.** No individual shall sleep, reside, or inhabit a Massage Establishment between the hours of 10:00 p.m. and 6:00 a.m. Prima facie evidence of violating this provision includes, but is not limited to, the presence of a cot, sleeping bag, air mattress, bed mat, or bed.
- (k) **Minors.** No Massage Therapist or Employee Representative shall perform or permit any 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, the parent or legal guardian remains at the establishment during the massage, and the parent or legal guardian has authorized such therapy in writing.

(Ord. 2989; 03-02-20)
 (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 Establishment Representatives showing such individual's full name, home address, position, and will include a copy of a government-issued photo identification and a copy of each Massage Therapy License (if applicable). Such register shall be open to inspection at all reasonable times by any city representative or police officer, and shall be kept on file for one year.
- (b) **Patrons.** A Massage Establishment shall keep and maintain on the premises a daily register of all Patrons in a form approved by the City. Such register shall list each Patron's first and last name, home address, phone number, and time of arrival. The Massage Establishment shall make every effort to verify the Patron's name by viewing a government issued photo ID. If no photo ID is produced, the log shall so indicate. The Patron register shall also include the service(s) received, and the full name of the Establishment Representative who performed the service(s). Said register shall be subject to inspection by City inspectors and police officers at all times during business hours, and shall be kept on file for one year.

(Ord. 2989; 03-02-20)
 (Ord. 1867C; 06-19-00)

5-526 Massage Establishment: Restrictions on Place of Business. (Repealed)

(Ord. 2989; 03-02-20)
 (Ord. 1867C; 06-19-00)

5-527 Massage Establishment: Revocation or Suspension of License.

- (a) A Massage Establishment License may be revoked by the City where it is found that:

- (1) Any Establishment Representative refused to permit, or hindered, a duly authorized police officer or City representative from conducting any lawful investigation or inspection pursuant to this Article;
 - (2) The Licensee, or any applicant required to be disclosed per Section 5-520, has been convicted of or entered diversion on any offense listed in Section 5-520(f); or
 - (3) Any of the provisions of this Article have been violated, including, but not limited to providing false information on the license application, or failure to meet application standards.
- (b) A Massage Establishment License issued by the City may be suspended by the City where it is found that the Licensee, or any applicant required to be disclosed per Section 5-520, has been charged with any offense listed in Section 5-520(f). The suspension shall remain in effect until a court of competent jurisdiction rules on the criminal offense, unless the massage therapist files an appeal in accordance with Section 5-516(c).
- (c) Before revoking or suspending the Massage Establishment License, the City shall give the Massage Establishment at least ten (10) days written notice of the charges and the opportunity for review by the City Administrator or their designee. If the Establishment requests review, the revocation or suspension will be stayed pending the review, but in no event more than fourteen (14) days from the original effective date of the suspension or revocation. The City Administrator, or their designee, may uphold the revocation or suspension or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations therewith. The decision of the City Administrator, or their designee, is final.

(Ord. 2989; 03-02-20)
(Ord. 1867C; 06-19-00)

5-528

Penalty

Any person convicted of violating any of the provisions of this Article shall, upon conviction thereof, be punished by a fine of not less than One Hundred dollars (\$100.00) nor more than One Thousand dollars (\$1,000.00), or by imprisonment not exceeding 180 days, or by both such fine and imprisonment.

(Ord. 2989; 03-02-20)