

ARTICLE 5. MASSAGE THERAPY

5-501. LICENSE REQUIRED.

- (a) No person shall operate an in-office massage therapy establishment, or massage establishment, as defined in this Article, without first having obtained a license therefore, issued by the City Clerk. It is unlawful to conduct such a business unless the license for said business is current, valid, and not suspended. A separate license shall be required for each and every separate place of business operated by any licensee.
- (b) Licenses are valid for a period of twelve (12) months from the date of issuance. Individuals conducting "in-office massage therapy" as defined by this Article shall be required to hold only one (1) permit; provided, however, that individuals providing massages at massage establishments on permanent premises, in addition to providing in-office massage therapy, must hold a separate permit for the in-office massage therapy and for the massage establishment conducted on premises.
(Ord. 2204, Sec. II, 2009)

5-502. MASSAGE THERAPY LICENSE REQUIRED. No person shall perform massage therapy or in-office massage therapy within the City unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Article.
(Ord. 2204, Sec. II, 2009)

5-503. REQUIREMENTS FOR THE LICENSE. To be eligible for a massage therapist license, an applicant must provide proof of the following:

- (a) That the applicant has successfully graduated from an institution with:
 - i. A course of instruction made up of not less than five hundred (500) hours, in the theory, method, or practice of massage. Proof that the applicant is certified by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) will be accepted as proof of fulfillment of this requirement of completion of a course of instruction; or
 - ii. A massage therapeutic training course of instruction consisting of not less than one hundred (100) hours, in the theory, method, or practice of massage and is a State-licensed health care professional in good standing.
(Ord. 2230, Sec. I, 2010)
- (b) That the applicant has successfully completed the requirements for certification in first aid and in cardiopulmonary resuscitation by the American Heart Association or the equivalent.
(Ord. 2204, Sec. II, 2009)

5-504. OBTAINING A LICENSE.

- (a) Proof of completion of educational and training requirements must be by certified transcript. The educational and training requirements imposed by this Article may be fulfilled by proof of attendance at more than one school; however, the applicant must be a graduate from an institution.
(Ord. 2230, Sec. II, 2010)
- (b) Individuals licensed with the City as massage therapists as of the effective date of this Section have until December 31, 2011 to satisfy the educational and training requirements of this Article; provided, however, all applicants for a massage therapist license must provide proof of successful completion of the requirements for certification in first aid and in cardiopulmonary resuscitation by December 31, 2009.
(Ord. 2204, Sec. II, 2009)

5-505. CONTINUING EDUCATION REQUIREMENT. As of December 31, 2009 all licensed massage therapists applying for a renewal license must provide proof that they have received a minimum of twelve (12) hours (50 minutes per hour) of continuing education during the preceding twelve (12) month licensing period. One (1) hour continuing education credit will be awarded for each hour of training relating to the theory or clinical application of theory of massage, to include, but not limited to, clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws. Credits to be used toward the continuing education requirement of this Article must be received from an accredited college or university. An applicant who holds a valid certification with the NCBTMB may submit their continuing education in the same manner as the NCBTMB requires as long as they meet the minimum hours required.
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. III, 2010)

5-506. APPLICATION FOR BUSINESS LICENSE.

- (a) Every applicant for a license to maintain, operate, or conduct any establishment covered by this Article shall file an application with the Office of the City Clerk and pay an annual fee as adopted by the Governing Body and on record in the Office of the City Clerk. The application for a license to operate a massage therapy business shall set forth the exact nature of the services to be provided; the proposed place of business and facilities; and the name, address, and telephone number of each applicant, including any stockholder holding more than ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager. In addition to the foregoing, any applicant for a business license shall furnish the following:
- i. Written proof that the applicant is at least eighteen (18) years of age.
 - ii. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
 - iii. The massage therapy and in-office massage therapy establishment business license history of the applicant; whether such person has previously had any massage license revoked or suspended and the reason therefore.
 - iv. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
 - v. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.
 - vi. Massage therapy establishments who employ massage therapists conducting in-office massages at a client's business facilities shall maintain an annual log (ledger) of such in-office massages which includes the therapist's name, name of business visited, physical address of the business, and date and time of appointment.
- (b) Applicants for a business license who also desire to provide massage therapy themselves, must apply for and receive a massage therapist license as provided for in Section 5-507 of this Article.
(Ord. 2204, Sec. II, 2009)

5-507. APPLICATION FOR MASSAGE THERAPIST LICENSE.

- (a) Any person who desires to perform massage therapy or in-office massage therapy shall file a written application with the Office of the City Clerk and pay an annual filing fee as adopted by the Governing Body and on record in the Office of the City Clerk. A

massage therapist license shall be valid for a period of twelve (12) months from the date of issuance. This fee shall cover the cost of processing the application. Only one (1) massage therapy license shall be required for a massage therapist regardless of the activity or activities, permitted by this Article, in which the therapist engages.

- (b) Any applicant for a massage therapist license shall furnish the following:
- i. The applicant's name, home address, and home phone number, and description of the individual, including height, weight, race, and color of hair and eyes.
 - ii. Written proof that the applicant is at least (18) year of age.
 - iii. Date of Birth and Social Security number for the purpose of processing a background check.
 - iv. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
 - v. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
 - vi. The position or function the applicant is expected to perform within the business.
 - vii. Proof of completion of the educational requirements for a massage therapist license, as set forth in Section 5-504 of this Article.
 - viii. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.
 - ix. Provide a copy of any current license(s) held in any other jurisdiction.
- (Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. IV, 2010)

5-508. PROCESSING OF APPLICATIONS. Upon receipt of an application for a massage therapy business license, the City Clerk shall immediately transmit (1) copy of the application to the Chief of Police or his or her designee to investigate the applicant. In addition, the City Clerk shall transmit a copy of the application to the Building Official. It shall be the duty of the Police Department to investigate the applicant and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a license. The Chief of Police shall report the results of such investigation to the City Clerk no later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Building Official to determine whether the structure where the business will be located complies with the requirements of the applicable zoning, building, fire and property maintenance codes of the City for any new massage therapy business applications. The Building Official shall report the results of his investigation to the City Clerk. Upon receipt of the reports from the Chief of Police and the Building Official, the City Clerk shall issue a license to the applicant provided it is in compliance with Section 5-510. Items relating to the structural design of the building in which the business will be located which the Building Official cannot verify prior to consideration by the City Clerk may be verified by approving the application contingent on a final inspection.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. V, 2010)

5-509. IDENTIFICATION CARDS. All massage therapists holding licenses under the provisions of this Article shall, at all times when working in a massage therapy establishment or providing any service regulated by this Article, have in their possession valid identification cards issued by the City and bearing the massage therapist's license number and photograph. All persons granted licenses under the provisions of this Article shall, at times, keep their licenses available for inspection upon

request by any person authorized by law to inspect the same. All new applicants must come to the Office of the City Clerk to have their photograph taken for their identification card.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. VI, 2010)

5-510. ISSUANCE OF BUSINESS LICENSES.

- (a) Upon receipt of an application for a business license, in the proper form, the City Clerk shall issue a license; unless upon examination of the application, it finds that:
- i. The correct license fee has not been tendered to the City, or, in the case of a check or bank draft, it has not been honored with payment on presentation;
 - ii. The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;
 - iii. The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation; or any of the officers or directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person principally responsible for the operation of the business, has been convicted of, or diverted on, any of the following:
 - a. A felony;
 - b. An offense involving sexual misconduct with children;
 - c. An offense involving obscenity;
 - d. Prostitution;
 - e. Promoting prostitution;
 - f. Solicitation for prostitution;
 - g. Battery; or
 - h. Any sex-related offense.
 - iv. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
 - v. The applicant has had a massage therapy establishment or other similar permit or license denied, suspended, or revoked for any of the above listed causes by this City or any other state or local jurisdiction within five (5) years of the date of the application;
 - vi. The applicant has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment;
 - vii. The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person primarily responsible for the operation of the business, has not attained the age of eighteen (18) years; or
 - viii. The manager or other person primarily responsible for the operation of the business would be ineligible to receive any license under the provisions of this Article.

(Ord. 2230, Sec. VII, 2010)

- (b) If approved, the City Clerk shall issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in a conspicuous place on the premises of the licensee. If an applicant is disapproved, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek a review by the City Council.

- (c) Any license issued under the provisions of this Article shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.
(Ord. 2204, Sec. II, 2009)

5-511. PROCESSING OF MASSAGE THERAPIST APPLICATIONS. The City Clerk shall issue a massage therapist license within twenty-one (21) days of receiving a completed application unless, upon examination of the application, it is determined that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on, any of the following:
 - i. A felony;
 - ii. An offense involving sexual misconduct with children;
 - iii. An offense involving obscenity;
 - iv. Prostitution;
 - v. Promoting prostitution;
 - vi. Solicitation for prostitution;
 - vii. Battery; or
 - viii. Any sex-related offense.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document by the City in conjunction therewith.
- (c) The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation.
- (d) The applicant has not successfully completed the educational requirements under the provisions of this Article. In any case in which the applicant is refused a massage therapist license for failure to provide proof of successful completion of the educational requirements, the applicant will be afforded the opportunity for a hearing before the City Council.
- (e) Applicant has not provided all required documentation.
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. VIII, 2010)

5-512. REVOCATION OF BUSINESS LICENSE.

- (a) Any license issued for an in-office massage therapy establishment may be revoked or suspended by the City Clerk where it is found that any of the provisions of this Article are violated or the licensee or any employee of the licensee, including a massage therapist, has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee refused to permit any duly authorized police officer or employee of the City to enter upon and inspect the premises or the operations of the licensee.
- (b) The City Clerk, before revoking or suspending any license, shall give the licensee at least ten (10) days' written notice of the charges against him and the opportunity for a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocation or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension.

(Ord. 2204, Sec. II, 2009)

5-513. REVOCATION OF THERAPIST LICENSE.

- (a) A massage therapist license issued by the City Clerk may be revoked or suspended upon determination by the City Clerk that the therapist has been convicted of any offense which would make the therapist ineligible to receive a license or that the therapist has violated any of the provisions of this Article.
- (b) The City Clerk, before moving to revoke or suspend any massage therapist license, shall give the therapist at least ten (10) days' written notice of the inquiry into the therapist's eligibility and the opportunity for a hearing before the City Administrator. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocations or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension.

(Ord. 2204, Sec. II, 2009)

5-514. TRANSFER OF LICENSES.

- (a) No massage therapy business license, in-office massage therapy business license, or massage therapist license is transferable and such authority as a license confers shall be conferred only on the individual named therein.
- (b) Any application made, fee paid, and license obtained under the provisions of this Article shall be in addition to and not as a substitute for any other fee, permit or license required under the provisions of this Code.

(Ord. 2204, Sec. II, 2009)

5-515. INSPECTION NECESSARY. No business shall be conducted on licensed premises unless, after an initial inspection, the Building Official certifies that the establishment complies with each of the following requirements:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the operation of the business shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Towels, cloths, and sheets shall not be used for more than one (1) patron. Heavy white paper may be substituted for sheets; provided, that such paper is changed for each patron. No service or practice shall be carried on within any cubicle, room, booth, or other area within any licensed premises which is fitted with a door that can be locked.
- (b) Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons are on the premises at the same time, separate toilet facilities shall be provided for men and women.
- (c) Lavatories or wash basins with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. IX, 2010)

5-516. RIGHT OF ENTRY. The Chief of Police or his or her designee and Building Official may, from time to time, make an inspection of each licensed massage therapy establishment in the City, including locations where an in-office massage therapy

establishment provides services, for the purposes of determining that the provisions of this Article are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. Any failure on the part of any licensee or employee to permit immediate access to an inspector shall be grounds for revocation or suspension of any business license or therapist license.
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. X, 2010)

5-517. REGULATIONS PERTAINING TO OPERATIONS. Operation of any in-office massage therapy establishment or massage therapy establishment shall be subject to the following regulations:

- (a) Hours of Operation: Businesses shall be closed and operations shall cease between the hours of ten (10:00) P.M. and six (6:00) A.M. each day, with the exception that in-office massage therapy may be provided during those hours on the premises of a business which has evening and night shifts.
- (b) Separation of Sexes: It shall be unlawful for a massage therapy business to provide treatment for customers of the opposite sex in the same room at the same time.
- (c) Alcoholic Beverages: No consumption of alcoholic beverages shall be permitted in or upon any premises licensed under the provisions of this Article.
- (d) Conduct on Premises: All licensees licensed under the provisions of this Article shall, at all times, be responsible for the conduct of business on the premises and for any act or conduct on the part of the employees of the business which constitutes a violation of the provisions of this Article. Any violation of any State or Federal laws committed on the premises by any such licensee or employee touching upon the eligibility of or sustainability of the person to hold a license may be grounds for suspension or revocation of a license.

(Ord. 2204, Sec. II, 2009)

5-518. SUPERVISION. A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise on the premises, and not violate or permit others to violate any applicable provision of this Article. The violation of any provisions of any section of this Article by any employee of the licensee shall be deemed a violation by the licensee.
(Ord. 2204, Sec. II, 2009)

5-519. EMPLOYEE REGISTERS. All operators licensed under the provisions of this Article shall keep and maintain on the premises a current register of all employees, showing the employees' names, addresses, and license numbers. Such register shall be open to inspection at all reasonable times by any City inspector or the Police Department.
(Ord. 2204, Sec. II, 2009)

5-520. REGULATION OF DRESS.

- (a) All employees who provide massage therapy services must wear sanitary outer garments. Provisions must be made for separate dressing rooms for each sex, on the premises, with individual lockers for each employee who provides massage therapy services.
- (b) All licensed employees and massage therapists must be modestly clothed while providing massage therapy services, and both male and female therapists must cover their upper torso while providing services.

(c) Patrons' genitalia must be covered by sanitary towels, cloths, or undergarments while in the presence of an employee or massage therapist. Contact by an employee or massage therapist with a patron's genital area is strictly prohibited.
(Ord. 2204, Sec. II, 2009)

5-521. RESTRICTIONS ON ADVERTISING. No establishment granted a license under the provisions of this Article shall place, publish, or distribute any advertisement for the business that depicts any activity or any portion of the human body that would suggest to any reasonable person who viewed such advertising that the business provides any service other than those permitted under this Article, or that the employees of the business will be dressed in any manner inconsistent with the regulations set forth in Section 5-520(c) of this Article, nor shall any massage therapy business licensed under the provisions of this Article indicate in the text of any advertising promulgated by that business that any service is available other than those services permitted under this Article.
(Ord. 2204, Sec. II, 2009)

5-522. PERSONS UNDER EIGHTEEN PROHIBITED FROM PREMISES. No licensee shall perform any massage therapy for or permit any massage therapy to be provided to any person under the age of eighteen (18) years of age unless accompanied by a parent or legal guardian.
(Ord. 2204, Sec. II, 2009)

5-523. RESTRICTION OF BUSINESS TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that massage therapy business licensees or masseurs or masseuses employed by a licensee may perform their services in behalf of patients in such patient's home, residence or other designated place, provided that they are licensed under this article.
(Ord. 2204, Sec. II, 2009)

5-524. FURTHER REGULATIONS. The Chief of Police may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article.
(Ord. 2204, Sec. II, 2009)

5-525. FALSE INFORMATION.

(a) It shall be unlawful for any person to give false information either in writing or orally for the obtaining of any license to operate a business license pursuant to this Article.

(b) Any person convicted of a violation of subsection (a) shall be punished by a fine not to exceed \$250 nor less than \$100, or by imprisonment in the city jail for a period not to exceed 90 days, or by both such fine and imprisonment.

(Ord. 2204, Sec. II, 2009)

5-526. PENALTY. Any person convicted of a violation of any of the provisions of this Article shall be deemed guilty of a public offense and subject to the provisions of Section 5-116 of this code.

(Ord. 2204, Sec. II, 2009)

5-527. DEFINITIONS. When used in this Article, the following words and terms shall have the meanings ascribed to them in this Section:

- (a) Accredited College or University: An institution of higher education offering undergraduate or graduate degrees.
- (b) Healing Arts Practitioner: A person who has been licensed pursuant to K.S.A. 65-3801 *et seq.* to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.
- (c) In-office Massage Therapy: Massage therapy conducted on the premises of the license massage therapist's clients as opposed to a single permanent location or in a private residence.
- (d) Massage Therapist: A person who applies 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 therapy, as defined herein, does not include the touching in any fashion of human genitalia. A massage therapist must also successfully complete at least the minimum educational and practical requirements as set out specifically in this Code.
- (e) Massage Therapy: 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 therapy, as defined herein, does not include the touching in any fashion of human genitalia.
- (f) Massage Therapy Establishment (Also referred to as Massage Establishment): any establishment, operation or business primarily engaged in offering the services of massage therapy and licensed under Chapter 5 of the Code of the City of Prairie Village.
- (g) Medical or Dental Clinic: An establishment where patients, who are not lodged overnight except for observation or emergency treatment, are admitted for examination and treatment by a person or group of persons practicing any form of healing or health-building services, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State, and also includes establishments which provide massage therapy subject to the licensing provisions in this Code.
(Ord. 2204, Sec. II, 2009)