

Chapter 5.50 MESSAGE THERAPY

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- 5.50.570 Penalty.
- 5.50.580 Severability.

5.50.010 Definitions.

Repealed.

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

5.50.015 Reference to Chief of Police, Other Staff.

Repealed.

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

5.50.020 License Required.

Repealed.

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

5.50.021 Limitations on In-office Massage Therapy Licenses.

Repealed.

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

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

Repealed.

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

5.50.035 Student Massage Therapy.

Repealed.

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

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

Repealed.

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

5.50.050 Application for Massage Therapist License; Fees.

Repealed.

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

5.50.060 Education Requirements; Masseur or Masseuse.

Repealed.

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

5.50.065 Massage Therapy Business License Application Processing.

Repealed.

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

5.50.070 Identification Cards.

Repealed.

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

5.50.080 Issuance of Massage Therapy Business License.

Repealed.

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

5.50.090 Application Processing and Issuance of Massage Therapist License.

Repealed.

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

5.50.100 Revocation or suspension of business license.

Repealed.

(History: Ord. MP-2790 §30, 2008; MP-1842 §12, 94; MP-1682 §9, 91; MP862 §10, 76)

5.50.110 Revocation of Massage Therapist License.

Repealed.

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

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5.50.120 Inspection necessary.

Repealed.

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

5.50.130 Inspections, Immediate Right of Entry.

Repealed.

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

5.50.140 Operation Regulations.

Repealed.

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

5.50.150 Supervision.

Repealed.

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

5.50.160 Employee and Patron Registers.

Repealed.

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

5.50.170 Persons under Age 18 Prohibited Services.

Repealed.

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

5.50.180 Advertising.

Repealed.

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

5.50.190 Transfer of Licenses; Other Licenses and Fees.

Repealed.

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

5.50.200 Applicability to Existing Businesses.

Repealed.

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

5.50.210 Exceptions.

Repealed.

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

5.50.220 Further Regulations.

Repealed.

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

5.50.230 Restriction of Business to Premises.

Repealed.

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

5.50.240 Penalty.

Repealed.

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

5.50.250 Severability.

Repealed.

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

5.50.300 Definitions.

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

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

(History: Ord. MP-2790 §1, 2008)

5.50.310 Reference to Chief of Police, Other Staff.

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

(History: Ord. MP-2790 §2, 2008)

5.50.320 Business License Required.

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

(History: Ord. MP-2790 §3, 2008)

5.50.330 Limitations on In-office Massage Licenses.

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

(History: Ord. MP-2790 §4, 2008)

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

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

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

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

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

(History: Ord. MP-2790 §5, 2008)

5.50.350 Massage Establishment License Application Processing.

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

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

(History: Ord. MP-2790 §6, 2008)

5.50.360 Inspection Necessary.

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

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

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

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

(History: Ord. MP-2790 §7, 2008)

5.50.370 Issuance of Massage Establishment License.

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

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

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

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

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

(History: Ord. MP-2790 §8, 2008)

5.50.380 Business Identification Cards.

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

(History: Ord. MP-2790 §9, 2008)

5.50.390 Inspections, Immediate Right of Entry.

The Police Department and Community Planning & Services may from time to time make an inspection of each licensed establishment in this City, to include those locations where an in-office massage business conducts its business, for the purposes of determining that the provisions of this Chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee license.

(History: Ord. MP-2790 §10, 2008)

5.50.400 Operation Regulations.

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

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

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

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

5.50.410 Supervision.

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

(History: Ord. MP-2790 §12, 2008)

5.50.420 Persons Under Age 18 Prohibited Services.

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

(History: Ord. MP-2790 §13, 2008)

5.50.430 Employee and Patron Registers.

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

(History: Ord. MP-2790 §14, 2008)

5.50.440 Advertising.

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

(History: Ord. MP-2790 §15, 2008)

5.50.450 Applicability to Existing Businesses.

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

(History: Ord. MP-2790 §16, 2008)

5.50.460 Exceptions.

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

(History: Ord. MP-2790 §17, 2008)

5.50.470 Further Regulations.

The Deputy City Manager, City Clerk or the Chief of Police may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter.

(History: Ord. MP-2790 §18, 2008)

5.50.480 Restriction of Business to Premises.

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

(History: Ord. MP-2790 §19, 2008)

5.50.490 Revocation or Suspension of Massage Establishment License.

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

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

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

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

5.50.500 Massage Therapist License Required, Examination Requirements, Restrictions.

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

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

by a university, junior college or otherwise found to be acceptable by the Police Department. The certificate for any on-line continuing education courses must clearly depict the time required to acquire such certificate. All licensed massage therapists applying for renewal license must show proof of current in-person certification in American Red Cross first aid and American Heart Association CPR, or equivalent programs in addition to the twelve hours of continuing education. Continuing education hours are required for all license renewals after issuance of the initial license.

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

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

5.50.510 Application for Massage Therapist License; Fees.

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

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

(History: Ord. MP-2790 §22, 2008)

5.50.520 Application Processing and Issuance of Massage Therapist License.

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

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

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

5.50.530 Identification Cards.

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

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

(History: Ord. MP-2790 §24, 2008)

5.50.540 Revocation or Suspension of Massage Therapist License.

- A. The Municipal Judge, sitting as an administrative hearing officer, may, after notice and a hearing, revoke or suspend a massage therapist license where it appears that the therapist has been convicted of or diverted on any offense enumerated in Section 5.50.520A or for violation of any of the provisions of this ordinance to include the application standards.

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

- B. Before revoking or suspending any massage therapist license, the Municipal Judge shall give the massage therapist at least ten days' written notice of the hearing and specify the alleged violation of this code warranting suspension or revocation.
- C. Any massage therapist aggrieved by a revocation or suspension of their license may seek judicial review as set forth in Section 5.50.350E.

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

5.50.550 Student Massage Therapy.

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

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

(History: Ord. MP-2790 §26, 2008)

5.50.560 Transfer of Licenses; Other Licenses and Fees.

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

(History: Ord. MP-2790 §27, 2008)

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5.50.570 Penalty.

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

(History: Ord. MP-2790 §28, 2008)

5.50.580 Severability.

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

(History: Ord. MP-2790 §29, 2008)

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