

Section 4.49. **Massage Therapy.**

Subd. 1. **Definitions.** The following words and terms when used in this Chapter shall have the following meanings unless the context clearly indicates otherwise.

A. "Operate" means to own, manage, or conduct.

B. "Within the City" includes physical presence as well as telephone referral situations, such as a "phone-a-message" type operations, in which the business premises, although not actually located within the City, serves as a point of assignment of employees who respond to requests for services from within the City.

C. "Massage" means the method of treating the superficial parts of the human body by rubbing, pressing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instrument.

D. "Sanitary" shall mean free from pathogenic-micro organisms.

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E. "Adequate" or "approved" shall mean acceptable to the City Health Officer or the officer's agents following the officer's determination as to the conformance with public health practices and standards.

Subd. 2. **License Required.**

A. **Massage Therapy License.** It shall be unlawful for any person to operate a massage business within the City unless such business is currently licensed under this Section. This ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, acupuncturists, occupational therapists, or physical therapists who are duly licensed to practice their respective professions in the State of Minnesota.

~~1-2.~~ Message therapists who are hired or employed by a medical professional licensed under Chapters 147 or 148 or a dental professional licensed under Chapter 150A, who provides treatment exclusively on the premises of that medical or dental professional.

23. Nurses who are registered under the laws of this State.

34. Barbers and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

B. Individual ~~Masseur~~ ~~or~~ ~~Masseuse~~ massage therapist License. It shall be unlawful for any person to perform massage services within the City unless currently licensed under this Section.

Subd. 3. **Application.** Every application for a license under this Section shall be filed with the City Clerk. Each application shall be made on a form supplied by the City and shall contain the following information:

A. Business Licenses.

1. Whether the applicant is a natural person, a corporation, a partnership, or other form of organization.

2. If the applicant is a natural person:

a. The true name, place and date of birth, and street resident address and phone number of the applicant.

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b. Whether the applicant is a citizen of the United States ~~or is otherwise legally authorized to work in the United States.~~

c. Whether the applicant has ever used or has been known by a name other than their true name; and if so, what was such name or names and information concerning dates and places where used.

d. The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant. In such case, a copy of the certification as required by M.S.A. Chapter 333, certified by the Clerk of District court, shall be attached to the application.

e. The street addresses at which applicant has lived during the preceding five years.

f. The kind, name and location of every business or occupation the applicant has been engaged in during the preceding five years.

g. The names and addresses of applicant's employer(s) and partner(s), if any, for the preceding five years.

h. Whether the applicant has ever been convicted of any felony or crime. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

i. The physical description of the applicant.

j. Whether the applicant has any training or experience in performing massage services.

3. If the applicant is a partnership:

a. The names and addresses of all partners and all information concerning each partner as is required of an individual applicant in Subparagraph 2 above.

b. The name of the managing partner(s) and the interest of each partner in the business.

c. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name under the provisions of M.S.A. Chapter 333, a copy of such certificate, certified by the Clerk of District Court, shall also be attached.

4. If the applicant is a corporation or other organization:

a. The name; and if incorporated, the state of incorporation.

b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-Laws shall be attached to the application. If a foreign corporation, a Certificate of Authority, as described in M.S.A. Chapter 303, shall also be attached.

c. The name of the manager or proprietor or other agent in charge of the business to be licensed and all information concerning said person(s) as is required in Subparagraph 2 above.

d. A list of all parties who control or own an interest in excess of five percent in such corporation or organization or who are officers of the corporation or organization and all information concerning said person(s) as is required in Subparagraph 2 above.

5. Whether the applicant is licensed in other communities to run similar businesses; and if so, where.

6. The names of those individuals to be licensed and working for the applicant who may work in the City of Alexandria.

7. Whether the applicant has previously been denied a massage therapist license.

8. The names, residences, and business addresses of three residents of Douglas County, of good moral character, not related to the applicant or financially interested in the premises or business, who may ~~be referred to~~ provide a reference as to the applicant's or manager's character.

9. The location of the business premises.

10. Such other information as the City Council may require.

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B. **Personal Service License.** All the information requested under Subd. 3 A, Subparagraphs 1, 2, 5, 7, 8 and 10 shall be required of applicants for a personal service license.

C. Any falsification of information on the license application shall result in the denial of said license.

D. It shall be the continuing duty of each licensee to properly notify the City Clerk of any change in the information or facts required to be furnished on the application for license. This duty shall continue throughout the period of such license and failure to comply with this section shall constitute cause for revocation or suspension of such license.

Subd 4. **Execution of Application.** All applications for license, whether business or personal services, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; and if by an unincorporated association by the manager or managing officer thereof.

Subd. 5. **Fees.**

A. **License Fees.** Each application for a license shall be accompanied by payment in full of the required license fee. The fee for an individual massage therapy license, and for a business license shall be set by Resolution of the City Council. Upon rejection of any application for a license, the City shall refund the amount paid. No other refunds shall be made.

B. **Investigation Fees.** At the time of each original application for a business license, there shall be paid in full an investigation fee of \$200.00. No investigation fee shall be refunded.

Subd. 6. **Persons Ineligible for a License.** No license shall be issued to an applicant who (1) is under 18 years of age, (2) is an alien not a United States citizen or otherwise legally authorized to work in the United States, (3) has been convicted of any violent crime, as that term is defined in Minn. Stat. § 609.1095,

Subd. 1(d); any sex crime, as that term is defined in Minn. Stat. § 609.3457, subd. 4; or any violation of Minn. Stat. §§ 609.2241, 609.282, 609.284, 609.322, 609.324, 609.3242, 609.3243; or any violation of any similar ordinance or law of the United States or prostitution, labor or sex trafficking, or any sex crime or any crime or violation involving moral turpitude.

Subd. 7. **Granting of Licenses.**

A. Business Licenses.

1. All applications shall be referred to the Chief of Police and to such other City Departments as the City Clerk shall deem necessary for verification and investigation of ~~08/17/18 THIS PAGE REPLACES PAGE 4-43~~
any other state.

the facts set forth in the application. The Chief of Police and other consultants shall make a written recommendation to the City Council as to issuance or non-issuance of the license. The City Council may order and conduct such additional investigation as it deems necessary.

~~2. Upon receipt of the written report and recommendation by the Chief of Police and within 20 days thereafter, the City Council shall instruct the City Clerk to cause to be published in the official newspaper notice of a hearing to be held by the City Council. The notice shall be published at least ten days in advance of the hearing; and it shall set forth the day, time, and place when the hearing will be held; the name of the applicant, the premises where the business is to be conducted, the nature of the business; and such other information as the Council may direct. A license, other than a renewal, shall not be approved by the City Council prior to the next regular meeting of the Council following such hearing.~~

~~3. **Renewal Application.** Not less than ten days nor more than 30 days after the date for submitting renewal applications, the City Council shall hold a public hearing. Notice of the time and place of such hearing and the fact that a renewal application shall be considered shall be published in the official newspaper ten days in advance of the hearing. Opportunity shall be given to any person to be heard for or against the granting of a renewal license by the City Council.~~

Subd. 8. **License Not Transferable.** Each license shall be issued to the applicant only and shall not be transferable to another holder. No licensee shall loan, sell, give or assign a

license to another person.

Subd. 9. Conditions of License.

A. **Business License.** No business licensee shall solicit business or offer or agree to perform massage services, nor shall his or her employee(s) solicit business or offer or agree to perform massage services, within the City while under suspension or revocation by the City Council.

Subd. 10. Suspension or Revocation of License.

A. The City Council may suspend or revoke a license issued under this Chapter upon finding a violation of any of the conditions set forth in Subd. 9 or any provision upon violation of any other state statute regulating massage services. Any conviction for ~~prostitution or any other crime or violation involving moral turpitude~~ any crime listed in Subdivision 6 of this section shall result in the revocation of any license issued hereunder. The following shall also be considered cause
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for revocation:

1. It shall be grounds for ~~rescinding~~ revoking a license granted to any person, partnership or corporation under this ordinance if they fail to comply with any of the ordinances of the City of Alexandria or statutes of the State of Minnesota.

2. It shall be grounds for ~~rescinding~~ revoking a license granted to any person, partnership or corporation under this ordinance if the owner, manager, lessee, or any of the employees are found to be in control or possession of any alcoholic beverages or narcotic drugs and controlled substances on the premises, possession of which is illegal as defined by Minnesota Statutes or City of Alexandria Ordinances.

Subd. 11. Construction and Maintenance of Premises.

A. All massage therapy rooms and all restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold or fungus growth. The floor-to-wall and wall-to-wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch.

B. All restrooms used in connection with massage therapy rooms shall be provided with mechanical ventilation with 2 cfm per square foot of floor area, a minimum of 15 foot candles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels and a soap dispenser.

C. Each massage therapy establishment shall have a janitor's closet which shall be provided for the storage of cleaning supplies. Such a closet shall have mechanical ventilation with 2 cfm per square foot of floor area and a minimum of 10 foot candles of illumination. Such closet shall include a mop sink.

D. Floors, walls, and equipment in massage therapy rooms, restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and sanitary at all times. Linens and other materials shall be stored at least 6 inches off the floor. Sanitary towels, wash cloths, cleaning agents and toilet tissue must be made available for each customer.

E. Individual lockers shall be made available for use by patrons. Such lockers shall have separate keys for locking.

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F. Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches, or other devices intended to secure a door so as to prevent its being opened by any person from either side of the door with or without a key cannot be present on any doors of massage therapy rooms. All massage therapy rooms shall be constructed with air space between partitions and the ceiling, and be clearly identified by signs.

Subd. 12. ~~Masseurs and Masseuses~~ Massage Therapists
Employed in the Business.

A. No such business shall employ or use any person as a ~~masseur or masseuse~~ massage therapist unless such person is licensed by the City of Alexandria.

B. Any person acting as a ~~masseur or masseuse~~ massage therapist in any such business shall have their registration certificate or a true copy thereof displayed in a prominent place on the licensed premises.

~~C. Saunas and/or massage parlors shall discriminate on grounds of race, creed, color, sex, national origin or ancestry in performing services establishment.~~

D. Whenever a massage is given, it shall be required by the ~~masseur or masseuse~~ massage therapist that the person who is receiving the massage shall have breasts, buttocks, anus and genitals covered with an appropriate non-transparent covering.

~~E. Any masseur massage therapist performing any massages shall at all times have his anus, buttocks and covered with a non-transparent material.~~

F. Any ~~masseuses~~ massage therapist performing massages shall be fully clothed at all times, and shall have his/her breasts, nipples, buttocks, anus and genitals covered with a non-transparent material.

G. No person shall engage in providing services as a ~~masseur or masseuse~~ massage therapist without being licensed by the City Council of the City of Alexandria.

H. A ~~masseur or masseuse~~ massage therapist shall apply to the City Council of the City of Alexandria for a license to provide services by paying the initial license fee, set by Resolution of the City Council, at the Office of City Clerk and by completing an application form prepared by the City Clerk. Such application shall include:

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1. The name, age and address of the applicant.

2. The length of experience in this occupation and the past places of employment and position held; and

3. A description of any crime including the time, place, date and disposition for which the applicant has been arrested or convicted. Such application shall be accompanied by the following:

a. Photographs of the applicant taken

by the City of Alexandria Police Department showing both the front and side view; and

b. A complete set of fingerprints taken by the Alexandria Police Department.

I. ~~Masseur or Masseuse~~Massage Therapist License.

Each massage therapist license shall be subject to the following conditions:

1. The licensee shall carry, and display upon request, his/her license while working within the City.

2. No licensee shall perform or offer to perform massage services within the City while under suspension or revocation by the City Council.

3. No person shall solicit business in any public place or in any licensed liquor establishment within the City.

J. No massage therapy establishment for which a license has been granted by the City shall be open for business unless and until any ~~masseurs or masseuses~~massage therapists employed in the business have first complied with the registration of this ordinance.

K. A license for a masseuse or masseur~~massage therapist~~ may be denied or ~~rescinded~~ revoked upon any one of the following grounds.

1. Fraud or deception in the license application.

2. Applicant/licensee has a history of violations of laws and ordinances that apply to health, safety or ~~moral turpitude~~are listed in Subdivision 6 of this Section.

3. Applicant/licensee is of bad ~~repute; 08/17/18~~ repute; THIS PAGE REPLACES PAGE 4-47

4. Applicant/licensee is convicted of an ordinance or State statute violation arising within the business establishment to which a sauna and/or massage parlor license was granted under this ordinance; and

5. Applicant/licensee has been convicted of

crimes or offenses involving sexual misconduct.

L. The license issued by the City of Alexandria providing services as a masseur or masseuse unless revoked, is for the calendar year or part thereof for which it has been issued. A renewal application shall be made in the same manner as provided for the original application with the exclusion of fingerprints and photographs. The annual license fee shall be set by Resolution of the City Council.

Subd. 13. **Submission of Plans and Specifications.** All persons who hereafter construct, extensively remodel or convert buildings or facilities for use as a massage therapy room shall conform and comply in their construction, erection or alteration with the requirements of this ordinance. Plans and specifications for such layout, arrangement and plumbing and construction materials of the sauna and massage areas, and locations, size, and type of equipment and facilities shall be filed by the owner in the Office of the City Clerk. A building permit shall not be issued for any such construction, remodeling, or alteration until such permit shall have the approval of the City Health Officer or the officer's agents.

Subd. 14. **Hearing.**

A. **Business License.** Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. No suspension shall exceed 60 days.

B. ~~Masseur or Masseuse~~ **Massage Therapist License.** Within 30 days of a written request by the suspended or revoked licensee, a public hearing before the City Council shall be held concerning the reasons for suspension or revocation.

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Subd. 15. **Duration of License.**

A. All licenses issued pursuant to this Chapter shall be effective up to two years. All licenses shall expire on December 31 of the year following the year of issuance, regardless of the date a license is issued. There shall be no pro-rata adjustment for licenses issued after January 1.

B. When a licensee makes application for renewal of a current license and pays the required fee to the issuing authority on or before the termination date, the licensee is authorized to operate until such a time as the City Council acts upon the applicant's renewal application and the license is either renewed or denied.

Subd. 16. **Inspection of Premises.** During business hours, all saunas and/or massage parlors shall be open to inspection by City Health, Building Inspectors, Police, or other duly designated officers. Upon demand by any police officer, any person engaged in providing services in any licensed premises shall identify himself giving his or her true legal name and correct address.

Source: Ord. 335-2nd Series
Effective Date: 12/28/92

Subd. 17. **Hours of Operation.** No customers or patrons shall be allowed to enter the licensed premises after 9:00 p.m. and before 8:00 a.m. daily.

Source: Ord. 580-2nd Series
Effective Date: 2/27/06

Subd. 18. **Penalty.** Every person who commits or attempts to commit, conspires to commit, or aid or abets in the commission of any act constituting a violation of this ordinance, whether individually or in connection with one or more other persons or as principal agent, or accessory, shall be guilty of a misdemeanor and every person who falsely, fraudulently, forcibly or willfully induced, causes, coerces, permits or directs another to violate any of the provisions of this ordinance is likewise guilty of a misdemeanor.