

## ARTICLE XVII. - MASSAGE ESTABLISHMENTS

## Sec. 10-606. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Massage therapist* means a person, other than a person licensed as a medical doctor; chiropractor; osteopath; podiatrist; licensed nurse; physical therapist; athletic director or trainer; or beautician or barber who confines his treatment to the scalp, face and neck; who, for compensation, practices and provides therapeutic massage; and who can prove completion of a minimum of 500 hours of class credits from a recognized school in course work as required by this section.

*Massage therapy or therapeutic massage* means a scientific health care or health maintenance technique or procedure carried out by a massage therapist involving the massaging, kneading, rubbing, pressing, stroking, tapping, pounding, vibrating, or stimulating the human skin, muscles and tissues for no other purpose than physical fitness, health-care referral, healing, relaxation, or beautification.

*Massage therapy establishment* means any establishment wherein two or more massage therapists provide massage therapy or therapeutic massage to the public, other than a hospital, sanatorium, rest home, nursing home, boarding home, medical doctor's office, chiropractor's office, or other institution licensed under the provisions of M.S.A. §§ 144.50 through 144.69.

*Patron* means any person who receives a massage under such circumstances that is reasonably expected that he will pay money or give any consideration therefor.

*Recognized school* means any school or institution of learning which:

- (1) Has for its purpose the teaching of the theory, method, profession or work of massage therapists, which school requires a resident course of study of not less than 500 hours before the student shall be furnished a diploma or certificate of graduation from such school following successful completion of such course of study or learning.
- (2) Is operating legally within the locality or province in which they are located.
- (3) Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a recognized school. Any school that does not, will not, or cannot provide sufficiently reliable corroboration, in the city clerk's or designee's discretion, of a massage therapist's course work, attendance, or other relevant

criteria shall not be considered a reliable school for the purposes of this article.

(Code 1986, § 1185.01)

Sec. 10-607. - License required.

- (a) It shall be unlawful for any person to practice as a massage therapist or operate a massage therapy establishment in the city without first obtaining a license to do so. However, no license is required for any massage therapist working for or as an employee of a medical professional licensed under M.S.A. chs. 147 or 148. In addition, no license is required under this article for a person licensed by the state board of medical practices when said person provides proof of licensure to the city clerk.
- (b) The license will be effective for one year and run from July 1 through June 30 of the license year.

(Code 1986, § 1185.05)

Sec. 10-608. - License application.

- (a) *Massage therapist license.* Application for a massage therapist license shall be made on forms provided by the city clerk. The applicant shall provide the following information, as well as any other information deemed reasonably necessary by the city clerk:
  - (1) The applicant's full name (first, middle, and last);
  - (2) Any other names the applicant has been known by;
  - (3) The applicant's home address and telephone number;
  - (4) The applicant's driver's license or state ID number;
  - (5) The applicant's date of birth;
  - (6) The applicant's addresses for the past five years;
  - (7) A diploma or certificate of completion of 500 or more hours from a recognized school of message therapy;
  - (8) Proof of course work as set out in subsection (b) of this section;
  - (9) A description of any crime or other offense, including the time, place, date and disposition, for which he has been arrested.
- (b) *Proof of course work.* Each applicant for a massage therapist license shall prove, by clear and convincing evidence, that he has completed the minimum hours of course work in each of the following areas:
  - (1) One hundred fifty hours in the theory and practice of massage, including, but not

limited to, Swedish, Esalen, Shiatsu, or foot reflexology techniques;

- (2) One hundred hours of anatomy and physiology, including, but not limited to, skeletal and muscular structure and kinesiology;
  - (3) Eight hours of hygiene and sanitation; and
  - (4) Thirty hours of business practices and ethics.
- (c) *Massage therapy establishment license.* Application for a massage therapy establishment license shall be made on forms provided by the city clerk. The applicant shall provide the following information as well as any other information deemed reasonably necessary by the city clerk:
- (1) The applicant's full name (first, middle, and last);
  - (2) Any other names the applicant has been known by;
  - (3) The applicant's home address and telephone number;
  - (4) The applicant's driver's license or state ID number;
  - (5) The applicant's date of birth;
  - (6) The applicant's addresses for the past five years;
  - (7) A description of any crime or other offense, including the time, place, date and disposition, for which the applicant has been arrested;
  - (8) If the applicant is a corporation, Limited Liability Company, partnership or other entity, then the applicant shall provide the information requested in subsections (1) through (5) of this section, for each officer, director, or partner of the entity.

(Code 1986, § 1185.07)

Sec. 10-609. - Provisional license.

- (a) An applicant is eligible for a provisional massage therapist license if the applicant:
  - (1) Proves, by clear and convincing evidence, that the applicant has completed at least 100 classroom hours of instruction in the practice of massage therapy at a recognized school;
  - (2) Has practiced massage therapy for compensation for at least two years during the five-year period immediately preceding the date of the application; and
  - (3) Otherwise meets the criteria established by this section.
- (b) This license may be renewed up to two times after initial application, allowing the applicant three years to meet the licensing requirements of this section. Additional course work must be completed, as well as any other requirements which may be in effect at the

time of application.

(Code 1986, § 1185.09)

Sec. 10-610. - Fees.

- (a) The fees for massage therapy licenses and massage therapy establishment licenses will be set by the city council. Each license shall be issued for a period of one year, except that if the application is made during the license year, then the license fee shall be one-fourth of the fee for each three months or part thereof for the remainder of the license year.

License and investigation fees must be submitted at the time of application.

- (b) Additional fee. The initial application shall also include a non-refundable investigation fee to be set by resolution from time to time.

(Code 1986, § 1185.11)

Sec. 10-611. - Renewal.

Applications for renewal shall be submitted at least 60 days prior to the end of the license year on forms provided by the city clerk.

(Code 1986, § 1185.13)

Sec. 10-612. - License granted.

Upon receipt of an application, the city clerk shall forward the application to the city police department. The city police department shall report, in writing, to the city clerk, as to any police record of the applicant (or any of applicant's officers, directors, or partners), which may reflect upon public health, safety or moral character. When all of the conditions of this article have been met, the city clerk shall issue the license. If any of the conditions have not been met to the satisfaction of the city clerk, the license shall not be issued.

(Code 1986, § 1185.15)

Sec. 10-613. - Denial.

No license shall be issued to an applicant who is a natural person, or to an applicant who is a corporation, Limited Liability Company, or other business entity where any partner, officer, or director:

- (1) Is under 18 years of age;
- (2) Has been convicted of any crime directly related to the occupation and has not

shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S.A. § 364.03, subd. 3;

- (3) Is not of good moral character or repute;
- (4) Owes taxes, assessments, or other financial claims to any governmental agency that are due and delinquent.

(Code 1986, § 1185.17)

Sec. 10-614. - Revoking, suspending, denying or not renewing a license.

- (a) *Authority to revoke, suspend or deny renewal of license.* The city council may revoke, suspend, deny or decline to renew any massage therapist license or massage therapy establishment license issued under this article. The basis for such revocation, suspension, denial or non-renewal includes, but is not limited to, any of the following circumstances:
  - (1) The license was procured by misrepresentation of material facts.
  - (2) The applicant or one acting in his behalf made oral or written misstatements accompanying the application.
  - (3) The applicant has failed to comply with any condition set forth in any other permits granted by the city.
  - (4) The activities of the applicant or any owner/agent create or have created a danger to the public health, safety or welfare.
  - (5) Failure to pay any application, penalty or reinstatement fee required by this section and city council resolution.
  - (6) Violation of any regulation or provision of this Code reasonably related to the licensed activity for which the license has been granted, or any other state or federal regulation or law so related.
  - (7) Failure of a holder of a massage therapy establishment license to properly supervise an employee or independent contractor who has violated any ordinance or state or federal statute reasonably related to the licensed activity.
  - (8) Failure of a holder of a massage therapy establishment license to properly supervise its massage therapists, employees or independent contractors so as to prevent prostitution or prostitution-related activities, as defined in M.S.A. § 617.80.
  - (9) Any violation of this article.
- (b) *Notification.* The city manager shall notify the applicant or holder of the license in writing of the basis for the revocation, suspension, denial or non-renewal and the date upon which the city council shall review the request to revoke, suspend, deny, or not renew the

license. The notice required by this section shall be served upon the owner or the owner's agent at least 14 days before the city council hearing. Service shall be deemed sufficient if the notice is sent to the owner or the owner's agent by first class mail at the address provided in the license application; service of the notice shall be deemed effective as of the date of mailing.

- (c) *Hearing.* The applicant or holder of the license (or his agent) and the city manager or designee shall be given an opportunity to be heard and may be represented by counsel. Both sides may be permitted to examine the other side's witnesses. The council shall hear all relevant evidence and arguments and shall review all testimony, documents, and other evidence submitted. The council shall record the hearing and keep a record of documentary evidence submitted.
- (d) *Decision.* The city council shall make findings based on the evidence and shall make a decision on the recommendation to revoke, suspend, deny, or non-renew a license based on the findings. The city council shall issue a written decision within 30 days following the date of the hearing by first class mail. The decision shall specify the license to which it applies (whether massage therapist licenses, massage therapy establishment license, or both), the duration of the revocation, suspension, denial or non-renewal (whether permanent or temporary), and the conditions that must be met before the license may be reissued or reinstated (if any). Thereafter, and until a license is reissued or reinstated, no massage therapist that has had his license revoked, suspended, denied, or non-renewed may perform therapeutic massage in the city; and no massage therapy establishment that has had its license revoked, suspended, denied, or non-renewed may offer therapeutic massage in the city, or allow another to do so.
- (e) *License process after revocation, suspension, denial or renewal declination.* After the city council revokes, suspends, denies or declines to renew a license, no license shall be issued until the city manager determines that the applicant/licensee has remedied the conditions identified by the city council as the basis for its action. The re-issuance of a license after suspension, revocation, denial or non-renewal is discretionary. Any application to obtain a massage therapist license or massage therapy establishment license after the city council has revoked, suspended, denied or declined to renew a license must be accompanied by all fees required by this section.
- (f) *Temporary suspension.* The city manager may temporarily suspend a massage therapist license or a massage therapy establishment license for not more than 21 days pending a hearing before the city council for any conduct reasonably believed to violate the provisions of this article or constitute a crime of moral turpitude related to the license.

(Code 1986, § 1185.19)

Sec. 10-615. - Effect of revocation, suspension, denial, or non-renewal.

If a license is revoked, suspended, denied or not renewed by the city council, it shall be unlawful for a massage therapist or a massage therapy establishment to offer therapeutic massage until such time as a valid license has been issued.

(Code 1986, § 1185.20)

Sec. 10-616. - License posted.

A massage therapist license and a massage therapy establishment license must be posted in a conspicuous place where all patrons may see it.

(Code 1986, § 1185.21)

Sec. 10-617. - Hours of operation.

A massage therapist may not give to any patron any massage treatment between the hours of 10:00 p.m. and 8:00 a.m. Any treatment in process at 10:00 p.m. must end at 10:00 p.m.

(Code 1986, § 1185.23)

Sec. 10-618. - Inspection by city officials.

- (a) During any hours in which a licensee is performing massage therapy treatments, the area where the service is being performed shall be open to inspection by city inspectors and police officers.
- (b) Each licensed massage therapist shall be responsible for adhering to the following minimum requirements for the health and safety of all patrons:
  - (1) The massage table shall have a washable surface.
  - (2) The massage table shall be covered with a disposable paper cover or with a sheet that is washable.
  - (3) A clean paper cover or washable sheet must be used for each patron and the massage therapist must have enough clean covers on hand to accommodate the number of patrons scheduled on one day.
  - (4) Used washable covers shall be placed in covered containers until they are washed.
  - (5) Used paper covers shall be placed in covered waste containers.
  - (6) Lotions used in the treatment shall be stored in covered containers.
  - (7) The massage therapist shall wash his hands with soap and warm water immediately

before beginning a treatment on each patron and use paper towels for hand wiping.

Paper towels must be stored in a covered container.

- (8) Bathroom facilities shall be made available to patrons. Paper towels, which shall be stored in covered containers, shall be provided for hand drying.
  - (9) Bathrooms shall be kept in clean repair.
  - (10) The floor shall be kept free of dust and debris.
  - (11) No food or drink shall be allowed in the treatment area.
  - (12) Implements used directly on the skin shall be cleaned and sanitized after use on each patron. Such implements shall be stored in closed containers with a dry sanitizer.
- (c) Massage therapists that are licensed by the city shall follow and adhere to the code of ethics for massage therapists as published by the National Certification Board for Therapeutic Massage and Bodywork. This shall in no way require membership with American Massage Therapy Association.
- (d) The holder of a massage therapy establishment license is responsible for supervising the conduct of all massage therapists providing therapeutic massage at that establishment and ensuring they conform to the requirements of this section.

(Code 1986, § 1185.27)

#### Sec. 10-619. - Penalties.

A person who violates any of the provisions of this article may be charged with a misdemeanor or be subject to the issuance of an administrative citation, as provided in article VII of chapter 2, or both. Each day that a violation continues shall be deemed a separate offense. The city manager or designee may post notice at the business location notifying the public of the license suspension, revocation, or non-renewal of a massage therapist license or massage therapy establishment license.

(Code 1986, § 1185.29)